

THE SOUTH CAROLINA SUPREME COURT

Shemuel Nahum Ben Yisrael and Plantation
Yisrael, Appellants,

v.

Roy Hughes, Sr.; Margaret Hughes; Hughes
General Merchandise; Town of Yemassee;
Yemassee Police Department; Gregory
Alexander, Police Chief; Law Office of
Darrell Thomas Johnson, Jr., LLC; Mills
Lane Morrison, Jr., Attorney; Fulcher Hagler,
LLP; Elizabeth McLeod, Attorney; Peters,
Murdaugh, Parker, Eltzroth & Detrick;
Randolph Murdaugh, III, Attorney; Duffy
Stone Law Firm, LLC; Duffy Stone,
Attorney; Vaux & Marscher Law Firm, LLC;
Roberts Vaux; Republic Services; F & ME
Consultants; CSX Transportation, Inc.;
David Poston, Road Master; Kirby Peeples;
Ross Gregorie Estate; Joseph L. Goodwin,
Former Mayor; Beaufort County 911
Emergency Dispatch; Hampton County 911
Emergency Dispatch; Jerry's Auto Parts;
Jerry Cook; Colin Morre; Jackie Moore; and
Jerry Thompson, Respondents.

And

Shemuel Nahum Ben Yisrael, Appellant,

v.

Judge Griffith, Town of Yemassee, Darrell
Thomas Johnson, Jr. LLC, Peters,
Murdaugh, Parker, Eltzroth & Detrick,
Griffith Freeman & Liipfert, LLC, Vauz &
Marscher Law Firm, LLC, Vauz Marscher
Berglind, P.A., Respondents.

Appellate Case No: 2020-000797

RECEIVED

JUN 23 2020

S.C. SUPREME COURT

Response of Defendants Beaufort County
911 Emergency Dispatch, Duffie Stone,
Judge Griffith, and Griffith, Freeman, &
Liipfert, LLC to Appellant's Motion to
Reinstate Petition for Writ of Certiorari
and Proceed *in Forma Pauperis*

TO: SHEMUEL NAHUM BEN YISRAEL, PRO-SE APPELLANT, AND
ATTORNEYS FOR PARTIES ABOVE-NAMED:

The Plaintiff has filed a motion to proceed *in forma pauperis* and to reinstate his petition for a writ of certiorari to the South Carolina Supreme Court. The Defendants Beaufort County 911 Emergency Management, Duffie Stone, Judge Griffith, and Griffith, Freeman, & Liipfert, LLC respectfully request that the Court deny this motion on the grounds that the appeal and the underlying matters are frivolous and duplicative. See Richardson v. Stewart, 386 S.C. 282, 688 S.E.2d 124 (2010).

I. Background

In 2000, Mr. Yisrael filed a suit against the town of Yemassee claiming several parcels of land by adverse possession, and Beaufort County Magistrate Judge Kimmerlin dismissed this case, holding that Mr. Yisrael did not own the land in question.¹ In 2001, the Town of Yemassee filed suit to quiet title to these parcels, and Judge Gregory ruled that Town of Yemassee owned the land, and the Plaintiff was restrained from going on them or placing anything on them.² Since that time, Mr. Yisrael continued to claim that he owns these parcels and has filed many lawsuits against various governmental entities, elected officials, police officers, judges, and their attorneys related to this land. These cases have been summarily dismissed.³ Mr. Yisrael currently has several civil suits against various governmental entities and actors, two of which are involved in the current appeal.

II. Procedural History

In the current appeal, Mr. Yisrael has appealed four orders in two related cases. The first case on appeal, civil action number 2017-CP-07-1519, was filed against Respondents

¹ See Order in C/A 00-CP-07-1843, attached as "Exhibit A."

² See Order in C/A 01-CP-07-1121, attached as "Exhibit B;"

³ See Complaint and Order C/A 02-CP-07-1028, attached as "Exhibit C;" Complaint and order in C/A 02-CP-07-1954, attached as "Exhibit D;" Order and Judgment in C/A 05-CP-07-1381, attached as "Exhibit E;" Order in C/A 08-CP-07-1954, attached hereto as "Exhibit F."

Duffy Stone, the Beaufort County solicitor, and Beaufort County 911 Emergency Dispatch, among others, on July 21, 2017. Mr. Yisrael alleged in 2017-CP-07-1519 that the Defendants maliciously conspired against him in July of 2017 to trespass on his property and unlawfully imprison him.⁴

On November 2, 2017, Co-Respondent CSX and related entities were dismissed by the order of Judge Buckner.⁵ Mr. Yisrael did not appeal the dismissal of these parties. After Co-Respondent CSX was dismissed, it filed a motion for sanctions that was granted by Judge Dukes on January 8, 2018.⁶ Mr. Yisrael is appealing Judge Dukes' sanctions order in the current appeal. Mr. Yisrael did not file his appeal within thirty days of this order.

On January 26, 2018, Judge Dukes dismissed Co-Respondent Yemassee and related parties.⁷ Mr. Yisrael is appealing this order. Mr. Yisrael did not file his appeal within thirty days of this order.

On January 5, 2018, Defendant Beaufort County 911 was dismissed with prejudice from case 2017-CP-07-1519 by Judge Dukes.⁸ Mr. Yisrael did not appeal this order. After Beaufort County 911 Emergency Dispatch was dismissed, it filed a motion for sanctions against Mr. Yisrael to prevent him from continuing to file frivolous claims against various governmental agencies and their attorneys.⁹ Respondent Stone filed a motion to dismiss on December 14, 2018. After hearings in front of Judge Dukes and Judge Buckner were cancelled and they recused themselves based on Mr. Yisrael threatening to sue them, a

⁴ See Complaint in C/A 2017-CP-07-1519, attached as "Exhibit G."

⁵ See Judge Buckner's 11/2/17 order in C/A 2017-CP-07-1519 dismissing CSX, attached as "Exhibit H."

⁶ See Judge Dukes' 1/8/18 order in C/A 2017-CP-07-1519 CSX sanctions order attached as "Exhibit I."

⁷ See Judge Dukes' 1/26/18 Order in C/A 2017-CP-07-1519 dismissing Yemassee Respondents, attached as "Exhibit J."

⁸ See Judge Dukes' Order in C/A 2017-CP-07-1519 dismissing Beaufort 911, attached as "Exhibit K."

⁹ See Beaufort 911's motion for sanctions, attached as "Exhibit L."

hearing on Beaufort 911's motion for sanctions and Respondent Stone's motion to dismiss, among others, was set before Judge Griffith on January 1, 2019. Judge Griffith ruled from the bench that Respondent Stone's motion to dismiss was granted, and he took Beaufort County 911's motion for sanctions under advisement. Judge Griffith's written order dismissing Respondent Stone was entered January 29, 2019.¹⁰ Mr. Yisrael did not appeal the order dismissing Respondent Stone.

On January 9, 2019, two days after the motions hearing in front of Judge Griffith, the Appellant filed the second case on appeal, case 2019-CP-07-0052, against Respondent Judge Griffith and Respondent Griffith, Freeman, & Liipfert, LLC, among others.¹¹ This suit alleges that Judge Griffith was grossly negligent by ruling in case 2017-CP-07-1519 that Yemassee owned the land involved in the Plaintiff's 2000 adverse possession case, and it alleged that Griffith Freeman & Liipfert engaged in grossly negligent actions in its representation of Respondents Beaufort 911 and Stone during the hearing before Judge Griffith in case 2017-CP-07-1519. Respondents believe Mr. Yisrael did this to prevent Judge Griffith from ruling on Beaufort 911's motion for sanctions. After Judge Griffith was sued in case 2019-CP-07-0052, he recused himself from ruling on Beaufort 911's motion for sanctions that he had taken under advisement in case 2017-CP-07-1519. Beaufort 911's motion for sanctions was reset in front of Judge Dickson, and the motion was granted by Judge Dickson on June 10, 2019.¹² Later that same day, the Appellant filed a motion to

¹⁰ See Judge Griffith's Order in C/A 2017-CP-07, attached hereto as "Exhibit M."

¹¹ See Complaint in C/A 2019-CP-07-0052, attached as "Exhibit N."

¹² See 6/10/19 Order of Judge Dickson granting Beaufort 911 sanctions in C/A 2017-CP-07-1519, attached as "Exhibit O."

amend the Complaint in case 2019-CP-07-00052 to add Judge Dickson as a Defendant.¹³

On June 12, 2019, Judge Dickson entered an order denying the Plaintiffs motion to amend

on the grounds that it failed to comply with the sanctions order in case 2017-CP-07-1519.¹⁴

The Plaintiff has appealed Judge Dickson's order granting sanctions in case C/A 2017-CP-07-1519 and Judge Dickson's order denying his motion to amend to add Judge Dickson in case 2019-CP-07-00052.

III. Argument

As discussed above, the Plaintiff has a long history of filing frivolous suits against the government, only to have these cases summarily dismissed. The cases currently on appeal are two more frivolous claims. The claims in 2017-CP-07-1519 are frivolous because Respondents Stone and Beaufort 911 were dismissed with prejudice pursuant to Rule 12(b)(6), SCRCF, and Mr. Yisrael did not appeal the dismissals. Cases that fail to survive a motion to dismiss pursuant to Rule 12(b)(6), SCRCF, are frivolous by definition. In this case, the only order that Mr. Yisrael appealed timely was the order granting sanctions to Beaufort 911 to prevent exactly the conduct Mr. Yisrael is using in this case. When the case was before the Court of Appeals, he failed to order the transcript after multiple requests to do so. Ultimately, his appeal was dismissed by the Court of Appeals.

In case 2019-CP-07-00052, Mr. Yisrael has sued Judge Griffith for ruling against him in case 2017-CP-07-1519. While Judge Griffith's motion to dismiss is still pending and is not before the court, it is axiomatic that judges cannot be sued based on their rulings. See O'Laughlin v. Windham, 330 S.C. 379, 382, 498 S.E.2d 689, 691 (Ct.App. 1998); Williams v.

¹³ See Plaintiff's motion to amend in C/A 2019-CP-07-00052, attached hereto as "Exhibit P."

¹⁴ See Judge Dickson's order denying motion to amend in C/A 2017-CP-07-1519 "Exhibit Q."

Condon, 347 S.C. 227, 234-5, 553 S.E.2d 496, 500 (Ct.Ap. 2001); SC Code Ann. §15-78-60(1)&(2). In one of Mr. Yisrael's prior suits, 2002-CP-07-1954, Judge Gregory dismissed Mr. Yisrael's claims against a judge and a mayor citing O'Laughlin, Williams, and SC Code Ann. §15-78-60(1) and (2). In light of this prior order, Mr. Yisrael cannot claim that as a pro-se litigant, he was unaware suits against judges are frivolous, yet he continues to attempt to sue judges. It is clear from this conduct that Mr. Yisrael is abusing the legal system.

IV. Conclusion

Mr. Yisrael continues to bring claims related to property he claims to own by adverse possession even though there are two orders from twenty years ago showing he does not own the property. These suits, including the two cases on appeal, "have resulted in a waste of judicial time and resources and have interfered with the fair administration of justice," and the Respondents respectfully request that the Court prevent Mr. Yisrael from continuing to pursue these frivolous claims by denying his motion to reinstate his appeal and proceed *in forma pauperis*. Richardson v. Stewart, 386 S.C. 282, 688 S.E.2d 124 (2010).

GRIFFITH, FREEMAN & LIIPFERT, LLC

By:



O. Edworth Liipfert, III
600 Monson Street
PO Drawer 570
Beaufort, SC 29901
843-521-4242
843-521-4247 (fax)
worth@griffithfreeman.com

ATTORNEYS FOR BEAUFORT COUNTY
911 EMERGENCY DISPATCH, DUFFIE
STONE, JUDGE GRIFFITH, AND
GRIFFITH, FREEMAN, & LIIPFERT, LLC

June 19, 2020
Beaufort, South Carolina

Exhibit A

Ex. 8

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	CASE NO.: 00-CP-07-1843
SHEMUEL NAHUM BEN	)	
YISRAEL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
THE TOWN OF YEMASSEE,	)	
	)	
Defendant.	)	

FINDINGS OF FACT

1. The pro se Plaintiff brought his complaint against the Town of Yemassee. A copy of the Summons and Complaint is attached hereto as Exhibit A. The Town timely answered. A copy of the Answer is attached hereto as Exhibit B. The Town then filed a summary judgment motion based upon the affidavit of Thomas G. Stanley, Jr., a registered land surveyor, the motion and affidavit being attached hereto as Exhibit C. The response to summary judgment is attached hereto as Exhibit D. Note that Exhibit D is not an affidavit. But even if it was, it states no effective argument against the matters related in the affidavit of Mr. Stanley.

2. The Plaintiff asserts in his complaint that certain real property in the Town of Yemassee now owned by the town is his by virtue of adverse possession.

Certified - A True Copy
Mildred Fields
 Beth M. Smith - Clerk of Court
 Beaufort County, SC

3. The complaint alleges that "... since August of 1990, I have been in possession of these lots as my home ... I claim title to the same through the laws of adverse possession."

4. The Town produced a deed to the property claimed by the Plaintiff, which deed is from Delta-Beaufort Partnership to the Town of Yemassee, dated June 30, 1999, recorded August 21, 1999 in Book 1208, page 1377, Office of the Register of Deeds for Beaufort County.

5. While the description of the property is difficult to follow, the affidavit of Mr. Stanley proves that the property which he platted includes the property which the Plaintiff claims as shown on the tax map attached to his complaint.

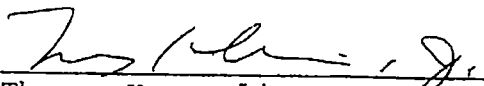
CONCLUSIONS OF LAW

1. Any finding of fact which in fact is a conclusion of law is here so adopted.

2. The Plaintiff had not held the property for the requisite ten years when title changed to Beaufort County, and even if he could tack his time to get the ten years (which, of course, he cannot), adverse possession does not run against the state or its subdivisions of which the Town of Yemassee is one. See Davis v. Monteith, 289 S.C. 176, 345 S.E.2d 724 (1986).

MOTION GRANTED.

The Complaint is dismissed with prejudice.


Thomas Kemmerlin, Jr., Master in
Equity and Special Circuit Judge
for the Court of Common Pleas of
Beaufort County

Beaufort, South Carolina

This 30th day of January, 2001.

State Of South Carolina
 Beaufort County Court
 Of Common Pleas

2000-CP-07-1843

Civil Case Number
 00 NOV 22 PM 4: 03

BEAUFORT COUNTY
 CLERK OF COURT
 BEAUFORT, S.C.

Shemuel Nahum Ben Yisrael.....Plaintiff

V.

The Town Of Yemassee.....Defendant

Complaint and Affidavit

On Friday October 26, 2000, I was ordered by Yemassee Police Chief

Jack Hagy, not to enter upon the property upon which is located my home and business property at and about 18 Wall Street in the Sheldon, and or Yemassee Townships. The disputed property is known as lots numbered 1, 3, and 11 on the Beaufort County Tax Maps. (See Exhibit One).

Since August of 1990, I have been in possession of, used and maintained these lots as my home and as a means of livelihood. I operated a flea market on the site. I claim title to the same through the laws of adverse Possession.

On Friday November 17, 2000, I was arrested and imprisoned for trespassing on the above described property. I have no place to live nor to conduct my business other than the property described above.

There is probably another warrant waiting for me when I return home!

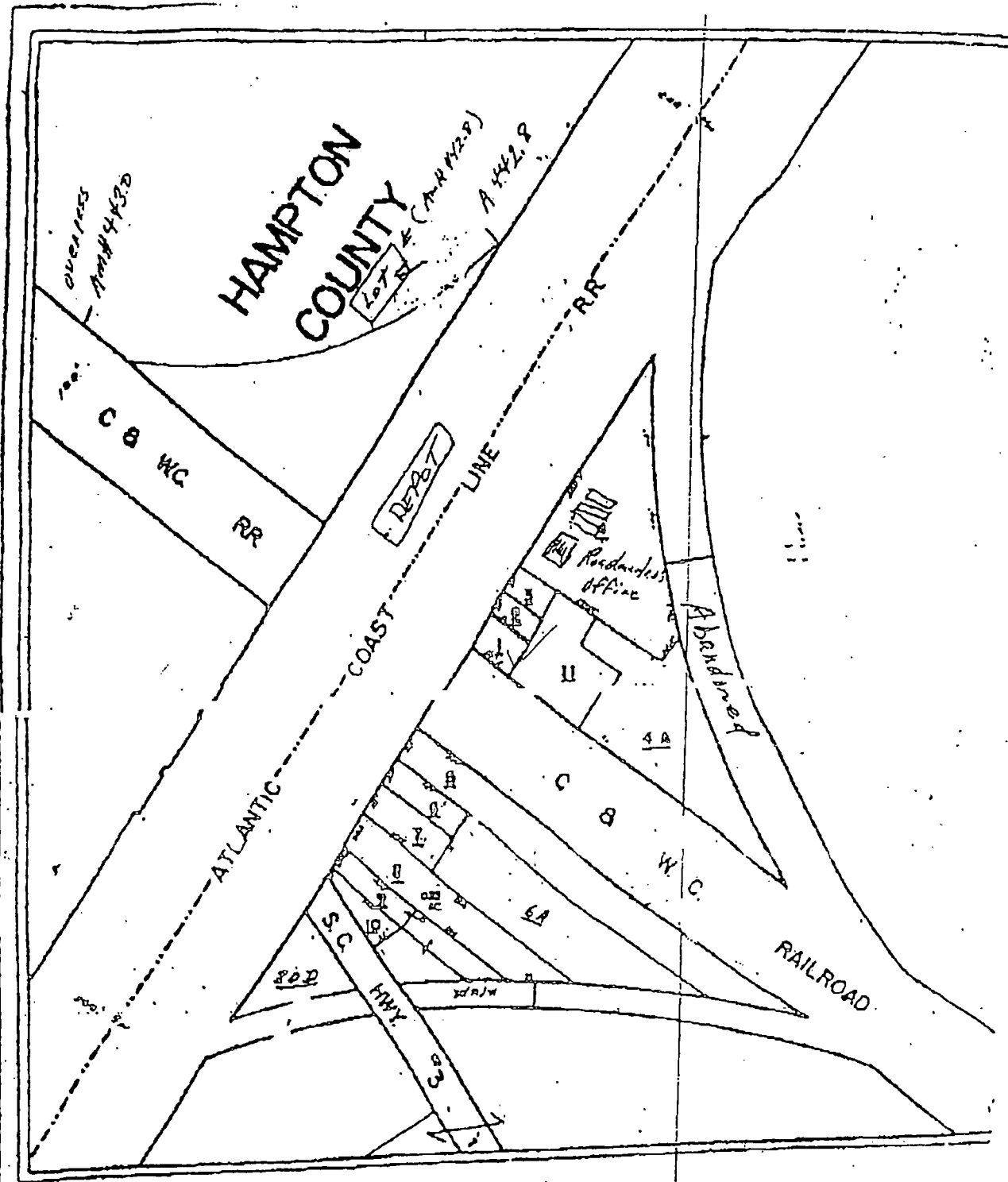
My land above mentioned is my only source of income and the money lost from being illegally ousted is lost forever! For the sake of living quarters and a place to earn a living I ask that a temporary restraining order be issued against the Town Of Yemassee forbidding the Town arrest plaintiff on trespassing charges when plaintiff enters upon property described above, and that any current warrant issued in this matter be voided until further notice from the Court.

I, the undersigned, swear that the above statements are true.

Shemuel Nahum Ben Yisrael

90 071 R. M. M. J.

Exhibit
 A



YEMASSEE
SCALE 1" = 100'

23361

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
SHEMUEL NAHUM BEN YISRAEL,

Plaintiff,

vs.

THE TOWN OF YEMASSEE,
Defendant.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 00-CP-07-1843

ANSWER

CLERK OF COURT
BEAUFORT S.C.

COLLEC-4 PM 4:59

Defendant, answering Plaintiff's Complaint, alleges:

FOR A FIRST DEFENSE

1. Plaintiff fails to allege facts sufficient to constitute a cause of action and this matter should be dismissed with prejudice. Further answering, Defendant alleges,

FOR A SECOND DEFENSE

2. Defendant re-alleges Paragraph 1.
3. Defendant denies all allegations made by Plaintiff excepting those matters admitted herein.
4. Defendant admits Plaintiff was ordered by its police chief not to enter upon property which is owned and posted by Defendant.
5. Defendant admits it has sought and continues to seek criminal prosecution of Plaintiff for trespass and/or littering on Defendant's property. Further answering, Defendant alleges,

FOR A THIRD DEFENSE

6. Defendant re-alleges Paragraphs 1 through 5.
7. Defendant is a duly constituted subdivision of the State of South Carolina known as the

Town of Yemassee and located within Hampton and Beaufort counties.

8. Attached to this Answer is a certified copy of the deed over which Plaintiff alleges to assert an adverse claim beginning in August of 1990.
9. Based on the above, as a matter of law, Plaintiff's Complaint should be dismissed with prejudice.

WHEREFORE, Defendant prays this Court inquire into these matters and dismiss with prejudice Plaintiff's Complaint as a matter of law and for failing to allege facts sufficient to constitute a cause of action or, upon a trial of the case, deny Plaintiff's claim and require Plaintiff to pay Defendant's costs and attorneys fees in this matter.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

By: 

Clyde A. Eltzroth, Jr.
Post Office Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

Hampton, South Carolina

November 29, 2000

47038

1208

1377

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS, THAT DELTA-BEAUFORT PARTNERSHIP, in the State aforesaid, for and in consideration of the sum of NO DOLLARS (\$0.00), to it in hand paid at and before the sealing of these presents by THE TOWN OF YEMASSEE, Post Office Box 577, Yemassee, South Carolina 29945, in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold and released, and by these Presents do grant, bargain, sell and release unto the said Grantee, THE TOWN OF YEMASSEE, its Successors and Assigns, the following described real property, to-wit:

CERTIFIED TRUE COPY
of the document recorded in the Office of
The Register of Deeds for
Beaufort County, South Carolina

Book 1208
Page 1377
document consists of 101 pages
J. B. B. 121
Register of Deeds
Seal (raised)

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

TO HAVE AND TO HOLD, all and singular the said Premises before mentioned unto the said Grantee, THE TOWN OF YEMASSEE, its Successors and Assigns.

AND, Grantor does hereby bind itself and its Successors, Assigns, Executors and Administrators, to warrant and forever defend, all and singular, the said Premises unto the said Grantee, THE TOWN OF YEMASSEE, its Successors and Assigns, against Grantor, its Successors and Assigns.

R 10-1-1-0
11-0

1378

WITNESS Grantor's Hand and Seal this 30 day of June, 1999.SIGNED SEALED AND DELIVERED
IN THE PRESENCE OF:

THE DELTA-BEAUFORT PARTNERSHIP

Barbara H. Shepherd
Julian S. KurinBY: Christine M. Demosthenes
CHRISTINE M. DEMOSTHENES
Managing PartnerAl Redding exp. 6-16-2003
Stephen C. CreekBY: Mary Ellen D. Blanding
MARY ELLEN D. BLANDING
Managing Partner

STATE OF SOUTH CAROLINA

) PROBATE

COUNTY OF BEAUFORT

PERSONALLY appeared before me the undersigned witness who made oath that s/he saw the within named THE DELTA-BEAUFORT PARTNERSHIP by CHRISTINE M. DEMOSTHENES, Managing Partner, sign, seal and as her act and deed, deliver the within written Deed, and that s/he with the other witness above named witnessed the execution thereof.

SWORN TO BEFORE ME, this 20th day of July, 1999.Julian S. KurinBarbara H. Shepherd

Notary Public for South Carolina

My Commission Expires: 1/10/2001

1379

STATE OF SOUTH CAROLINA
COUNTY OF SUMTER

PROBATE

PERSONALLY appeared before me the undersigned witness who made oath that s/he saw
the within named THE DELTA-BEAF FORT PARTNERSHIP by MARY ELLEN D. BLANDING,
Managing Partner, sign, seal and as her act and deed deliver the within written Deed, and that s/he
with the other witness above named witnessed the execution thereof

SWORN TO BEFORE ME, this 30th day of June 1999

A. R. Ridgely Jr.
Notary Public for South Carolina
My Commission Expires
6-16-2003

Stephen A. Cline

1380

SCHEDULE A

ALL that certain piece, parcel or lot of land, situate, lying and being in the Town of Yemassee, Beaufort County, South Carolina, and being bounded on the Northeast sixty-five (65') feet, more or less, by land now or formerly of the Estate of John Gregory; on the Southeast eighty-two (82') feet, more or less, by lands now or formerly of the Estate of John Gregory; on the Southwest eight (8') feet, more or less, by the Right-of-Way of the C & WC Railroad (this line runs N49-30W); on the Northwest seventy-five (75') feet, more or less, (the line running S36-10W) by property of the lot now or formerly of R. E. Baker Estate, which was conveyed by E. P. Ellis, Probate Judge for Hampton County, SC and further on the Northwest three (3') feet, more or less, (the line running S36-10W) by the said lot now or formerly of R. E. Baker Estate.

AND ALSO, ALL that certain lot of land, situate, lying and being in Beaufort County, South Carolina, at the intersection of the Right-of-Way of the Port Royal and Augusta Railway and the Charleston and Savannah Railroad, measuring fifty (50') feet on the Right-of-Way of the said Augusta and Port Royal Railway and sixty-six (66') feet on the Right-of-Way of the Charleston and Savannah Railway and measuring from said Right-of-Way sixty-six (66') feet on line directly from lot now or formerly of Richard Smith to the line of property now or formerly of the Estate of Levi Robinson, thence on the line of Levi Robinson sixty-six (66') feet to the corner on the Right-of-Way of the Augusta and Port Royal Railway

SAVE AND EXCEPT all of that certain lot of land situate, lying and being in the Town of Yemassee, County of Beaufort, State of South Carolina, said lot being twenty-five (25') feet by fifty (50') feet and measuring and bounding as follows: On the North by lot now or formerly of R. C. Smith fifty (50') feet; on the East by lands now or formerly of the Estate of Levi Robinson twenty-five (25') feet; on the South by lot formerly of William N. Pinckney fifty (50') feet, and West twenty-five (25') feet on the Right-of-Way of the Atlantic Coast Line Railway, which said last mentioned lot was cut off by William N. Pinckney from the first lot and sold by William N. Pinckney to the Bank of Yemassee, S.C., on December 6, 1912, same being recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, in Book 31 at Page 716, on December 10, 1912. This being the lot conveyed from B. M. Mixon on July 17, 1922, to Ben Josselson and J. W. Hill, conveyed to John Demosthenes on September 14, 1927, by deed recorded in Book 45 of Deeds, Page 768, Office of the Register of Deeds for Beaufort County, South Carolina.

SAVE AND EXCEPT all that certain piece, parcel or lot of land, situate, lying and being in the Town of Yemassee, County of Beaufort, State of South Carolina, and bounded and described as follows: North by property now or formerly of The Community Bank of South Carolina and measuring thereon fifty (50') feet; East by property now or formerly of Christine M. Demosthenes, Patricia A. Demosthenes, John M. Demosthenes, Harry Paul Demosthenes AND Mary Ellen D. Blanding, and measuring thereon two (2') feet; South by property now or formerly of Christine M. Demosthenes, Patricia A. Demosthenes, John M. Demosthenes, Harry Paul Demosthenes and Mary Ellen D. Blanding, and measuring thereon fifty (50') feet, and West by the Right-of-Way of the Successor to the ACL Railroad, and measuring thereon two (2') feet. Said property lies South of

1381

and adjoins the property now or formerly of the Community Bank of South Carolina, and is more fully shown on a plat prepared for First Carolina Bank, filed of record in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 24, at Page 179

An undivided one-half (1/2) interest in the property intended to be conveyed herein was devised to Christine M. Demosthenes under the Last Will and Testament of Stratton A. Demosthenes, dated April 9, 1987, as evidenced by Deed of Distribution recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 783 at Page 1354. The other undivided one-half (1/2) interest in said property was devised to Patricia A. Demosthenes, John M. Demosthenes, Harry Paul Demosthenes and Mary Ellen D. Blanding under the Last Will and Testament of Anna J. Demosthenes, as evidenced by Deed of Distribution dated April 8, 1993, and recorded in the Office of the Register of Deeds for Beaufort County in Record Book 622, at Page 2132. Hereafter, on June 27, 1996, Christine M. Demosthenes, Patricia A. Demosthenes, John M. Demosthenes, Harry Paul Demosthenes and Mary Ellen D. Blanding conveyed the above described property to The Delta Beaufort Partnership by deed recorded in the Office of the Register of Deeds for Beaufort County, South Carolina in Record Book 877 at Page 593.

This deed was prepared by the law firm of Levin & Gilley, 811 Craven Street, Beaufort, South Carolina 29902, without benefit of title examination.

BEAUFORT COUNTY TAX MAP REFERENCE: R710-001-000-0001-0000
R710-001-000-0011-0000

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF BEAUFORT

JAN 12 PM 3:07

CIVIL ACTION NO.: 00-CP-07-1843

SHEMUEL NAHUM BEN YISRAEL

COUNTY
BEAUFORT S.C.

Plaintiff,

vs.

THE TOWN OF YEMASSEE,

Defendant.

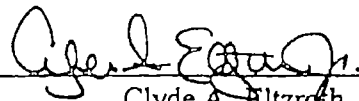
NOTICE OF MOTION
AND MOTION FOR
SUMMARY JUDGMENT

TO: SHEMUEL NAHUM BEN YISRAEL, PLAINTIFF:

YOU WILL PLEASE TAKE NOTICE that Defendant, by and through its undersigned attorney, will move before the Court at a time and place to be set, for an Order pursuant to Rule 12(b) and Rule 56 of the South Carolina Rules of Civil Procedure dismissing Plaintiff's claim with prejudice and granting judgment for Defendant. Said Motion is based upon the pleadings on file and the Affidavit filed and served with this Motion.

PETERS, MURDAUGH, PARKER, ELTZROTH
& DETRICK, P.A.

By:



Clyde A. Eltzroth, Jr.
Post Office Box 457
Hampton, SC 29924
(803) 943-2111

ATTORNEYS FOR PLAINTIFF

Hampton, South Carolina

January 3, 2001.

Exhibit C

I, Shemuel Yisrael, PLAINTIFF IN THE ABOVE
CITED CASE DO CERTIFY THAT THE EVIDENCE AND STATEMENTS
MADE BY PLAINTIFF ARE TRUE FACTS AND FORM THE BASIS FOR
WHICH THE COURT SHOULD DENY DEFENDANTS MOTION FOR
SUMMARY JUDGMENT.

DATE Monday January 22, 2001

SIGNED, Shemuel Yisrael

SHEMUEL YISRAEL

POST OFFICE BOX 1740

YEMASSEE, SOUTH CAROLINA 29945

(NO PHONE)

PRO SE

PETERS, MURDAUGH,

PARKER, ELTZROTH AND DETRICK, P.A.

BY

CLYDE A. ELTZROTH, JR.

POST OFFICE BOX 457

HAMPTON, SOUTH CAROLINA 29924

(803) 943-2111

ATTORNEYS FOR DEFENDANT?

IN THE COURT OF COMMON PLEAS

01 JUN 12 PM CIVIL ACTION NO.: 00-CP-07-1843

ST. COLUMB COUNTY
CLERK OF COURT
BEAUFORT, S.C.

VS.

AFFIDAVIT OF
THOMAS G. STANLEY, JR.

Defendant.

1. He is a professional land surveyor licensed in the State of South Carolina.
2. Attached to this Affidavit is his plat dated October 10, 2000 (Exhibit "A"); which was prepared on behalf of the Town of Yemassee.
3. The plat depicts property owned by the Town of Yemassee as reflected in a deed to the town dated June 20, 1999 and recorded in the office of the Clerk of Court for Beaufort County on August 21, 1999 in Book 1208 at Page 1377 (Exhibit "B").

THOMAS G. STANLEY, JR.

2nd day of ^{January 2001} December, 2000.

Carolyn L Brown
Notary Public for South Carolina

My Commission Expires: 2-17-16

Exhibit C

STATE OF SOUTH CAROLINA
BEAUFORT COUNTY
COURT OF COMMON PLEAS

2000-CP-07-1843
CIVIL CASE NUMBER

SHEMUEE NAHUM BEN YISRAEL, plaintiff

V.

TOWN OF YEMASSEE, ET AL, defendant

JAN 22 REC'D
2001
81

TOWN OF YEMASSEE
101 TOWN HALL CIRCLE
P.O. BOX 577
YEMASSEE, SC 29946

PLAINTIFF'S MOTION TO DENY DEFENDANTS

MOTION FOR SUMMARY JUDGMENT

I, SHEMUEL YISRAEL, PLAINTIFF IN THE ABOVE CITED CASE,
MAKE MOTION TO THE COURT TO DENY DEFENDANTS MOTION FOR
SUMMARY JUDGMENT BASED ON THE FOLLOWING FACTS:

(1) LACK OF ATTORNEY'S SIGNATURE

NO ATTORNEY FROM THE LAW FIRM OF PETERS, MURDAUGH,
PARKER, ELTZROTH AND DETRICK, P.A. HAVE
SIGNED FOR THE DEFENDANT. FOR REASONS KNOWN ONLY TO
THEM, ATTORNEY, CLYDE A. ELTZROTH, JR., HAS SIGNED AS
THE ATTORNEY FOR THE PLAINTIFF AND NEVER FOR THE
DEFENDANT. SEE DEFENDANTS ANSWER DATED NOVEMBER 29,

2000, AND DEFENDANTS NOTICE OF MOTION AND MOTION FOR
SUMMARY JUDGMENT DATED JANUARY 3, 2001, AND CERTIFICATE
OF SERVICE DATED JANUARY 3, 2001, LINE 2, and NOTICE
OF HEARING DATED JANUARY 10, 2001.

Exhibit
D

(2) FILING TWO (2), FALSE AFFIDAVITS OF SERVICE OF
DEFENDANTS ANSWER TO PLAINTIFFS ORIGINAL COMPLAINT

IN DEFENDANT'S 1st SWORN AFFIDAVIT OF SERVICE, DATED NOVEMBER 30, 2000, CPL, (CORPORAL), FREEMAN STATED THAT SHEMUEL YISRAEL SERVED SHEMUEL YISRAEL. SUCH AN AFFIDAVIT IS FALSE, IF NOT IMPOSSIBLE.

IN DEFENDANT'S 2nd AFFIDAVIT OF SERVICE, DATED DECEMBER 1, 2000, CPL, (CORPORAL), EYVONNE FREEMAN STATED THAT

"he" SERVED THE PAPER ON PLAINTIFF, SHEMUEL YISRAEL.

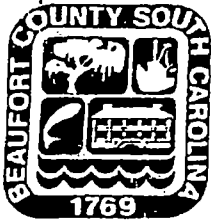
PLAINTIFF KNOWS THAT CPL, FREEMAN, EYVONNE, IS FROM ALL EXTERNAL APPEARANCES, A BLACK WOMAN, AND NOT A MAN, AND THAT SHE DID NOT SERVE ANY DOCUMENTS ON THE PLAINTIFF AT ANY TIME. BOTH AFFIDAVITS CLAIM SERVICE OF ONE AND THE SAME DOCUMENT.

(3) FILING FRAUDULENT AFFIDAVIT WITH NOTICE OF
MOTION FOR SUMMARY JUDGMENT

IN STATEMENT NUMBER 3, OF THE AFFIDAVIT OF THOMAS G. STANLEY, JR., SURVEYOR, HE COMMITTS FRAUD WHEN HE STATES THAT HIS PLAT DEPICTS PROPERTY OWNED BY THE TOWN OF YEMASSEE AS REFLECTED IN THEIR DEED. EXAMINATION OF THE PLAT AND DEED WILL SHOW THE OBVIOUS TRUTH THAT THE PLAT AND DEED MEASUREMENTS DO NOT AND CANNOT MATHEMATICALLY MATCH.

(4) DEFENDANTS SURVEY MEASUREMENTS OBTAINED ILLEGALLY

THE COURT SHOULD VOID THE PLAT PRESENTED BY DEFENDANTS SURVEYOR, THOMAS G. STANLEY, BECAUSE HE TRESPASSED AFTER NOTICE BY PLAINTIFF. DEFENDANTS CONTRACTOR ALSO DESTROYED CULTIVATED PLANT LIFE DESPITE PLAINTIFFS CRIES NOT TO CHOP DOWN THE TREES. VANDALISM WAS COMMITTED IN ADDITION TO THE TRESPASSING AND INVASION OF PLAINTIFFS PRIVACY. A BEAUFORT COUNTY SHERIFFS INCIDENT REPORT, NUMBER 2000 1006 035, WAS FILED IN THE MATTER.



MASTER IN EQUITY

Thomas Kemmerlin, Jr.
P.O. DRAWER 1228
BEAUFORT, SOUTH CAROLINA 29901

01 JAN 30 6 11:03
CLERK OF COURT
BEAUFORT, S.C.

(843) 470-5295

30

Date: January ~~29~~, 2001

Re: Shemuel Nahum Ben Yisrael vs. The Town of
Yemassee

Number: 00-CP-07-1843

Honorable Elizabeth Smith
Clerk of Court
Beaufort County Courthouse
Beaufort, South Carolina 29902

Dear Liz:

Please file the attached order. By copy of this memo,
I send copies of the order to the persons below. This
should serve as their notice of filing.

Thank you for your assistance.

Yours truly,


Thomas Kemmerlin, Jr.

TKjr:lh
Enclosure

Copy: Clyde A. Eltzroth, Jr., Esq.
Mr. Shemuel Nahum Ben Yisrael

Exhibit B

Ex. 10

1394

STATE OF SOUTH CAROLINA)

COUNTY OF BEAUFORT)

THE TOWN OF YEMASSEE,)
A BODY POLITIC AND A)
SUBDIVISION OF THE STATE)
OF SOUTH CAROLINA,)

Plaintiff,

vs.

JAMES T. CHRISTOPHER, a/k/a)
SHEMUEL NEHUN BEN)
YISRAEL,)

Defendant.

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CIVIL ACTION NO.: 01-CP-07-1121

ORDER

03 MAR -4 PM 12:54
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

This case is one of several that concern certain lands in the Town of Yemassee and Mr. Yisrael. Mr. Yisrael began the matter with a law suit against the Town (00-CP-07-1843), alleging that he was the rightful owner of certain lands in the Town of Yemassee by adverse possession. Judge Kemmerlin heard the matter as the Master in Equity and ruled that the Town of Yemassee owned the property. Mr. Yisrael appealed the matter and the Court of Appeals issued an Order dismissing the appeal. No appeal was taken by Mr. Yisrael to the Supreme Court. Accordingly, Judge Kemmerlin's Order of January 30, 2001 is the law of the case.

Between the first case referenced above, and this matter the Town changed attorneys and not realizing that the matter had been heard in the case above, the Town then brought this action to confirm its ownership. Mr. Yisrael Counter Claimed. I have ruled previously dismissing the Counter Claims on the grounds of res judicata, the parties being the same and the subject matter being the same.

The case at bar matter originally came before Judge Kemmerlin and was transferred to the Non-jury Roster from the Master in Equity's Roster, on an Order signed by Judge Kemmerlin recusing himself on his own motion. Thereafter a hearing was held before me seeking to determine the status of the matter. At that hearing, I obtained the Defendant's consent to have Thomas Stanley, Jr. confirm that his survey was accurate, set the monuments in accordance with the Plat Mr. Stanley prepared, confirm the survey prepared by Mr. Stanley and most importantly, the Defendant agreed to be bound by the results.

On November 19, 2002 representatives of the Town, Mr. Stanley, one of the Town's attorneys and the Defendant were present while Mr. Stanley was to confirm the survey and place the monuments. Shortly before the meeting, the Defendant filed suit.

Certified - A True Copy

Jerri Ann Roseneau - Clerk of Court
Beaufort County, SC - Melissa Kilby

1395

against the Town, Mr. Stanley and others; see 2002-CP-07-1954. Mr. Stanley would not proceed with the job due to the suit and tried to explain about closure. What the Defendant refuses to acknowledge is the process that a surveyor goes through to perform a survey. The Defendant refuses to acknowledge two items that are critical to this case and any resolution about the title to the land:

1. First, the Defendant (as the Plaintiff) sued the Town of Yemassee (00-CP-07-1743) over the title to the land that is in question; he lost that case; he appealed the matter and lost the appeal; there is nothing further for the Courts to hear about a dispute between the Defendant in this case and the Town of Yemassee concerning the land in question.
2. Secondly, the Defendant does not understand the survey process, in that as a part of the process surveyors use more than a particular deed, such as other deeds and plats in the public records for Beaufort County.

After the Plaintiff made arrangements for T-square Surveying, Inc. to confirm the survey, place the monuments, and to draw a plat, all of which have been done, and a certified copy of the plat is attached with the surveyor's affidavit. It is obvious to the Court that the Defendant has no intention of complying with the agreement he made with the Court to be bound by the monuments set by Mr. Stanley and which monument location and survey have been confirmed by a second survey and surveyor. Accordingly,

IT IS ORDERED, JUDGED AND DECREED, that the two parcels of property shown on the attached survey as are hereby decreed to belong to the Town of Yemassee; and,

IT IS FURTHER ORDERED, JUDGED AND DECREED, that the Defendant is hereby restrained from going onto these lands, using the lands or placing anything on the lands herein designated as belonging to the Town of Yemassee.

AND IT IS SO ORDERED.

Jackson V. Gregory
 JACKSON V. GREGORY
 Resident Judge of the Court of Common Pleas
 For the Fourteenth Judicial Circuit

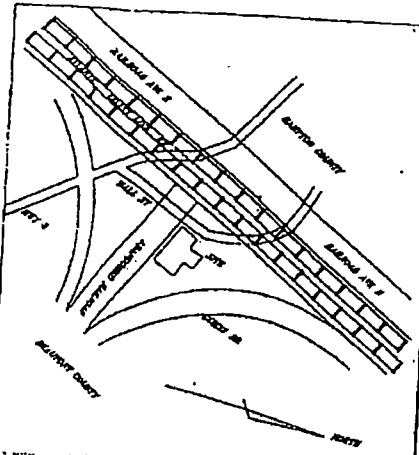
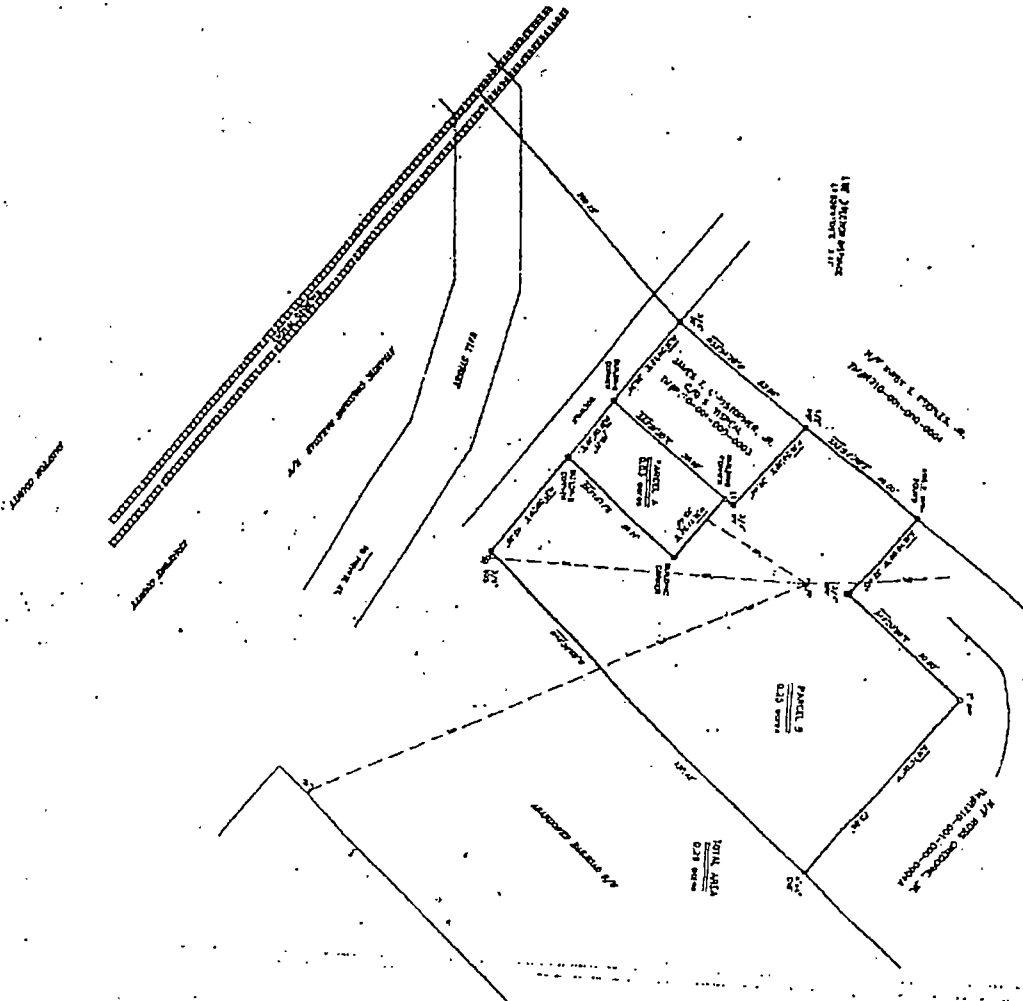
gwb
 March 4
 February 2003

1396



CRDICE DATA :
T BOOK 31 PAGE 76
T BOOK 31 PAGE 76
D BOOK 31 PAGE 179
D BOOK 31 PAGE 1145
D BOOK 31 PAGE 7478
D BOOK 31 PAGE 1998

CONVEYANCE
BY
DEED
TO
BEAUFORT COUNTY
SOUTH CAROLINA



GRAPHIC SCALE
1 inch = 100 feet



C:\Land Projects\B2\2000BVG\BVG\02-2008.dwg 12/04/2002 04:37:38 PM EST

Y-SQUARE ENGINEERING
PROFESSIONAL LAND SURVEYOR
No. 100-100-100
Date: 10-10-10
By: 10-10-10
101 N. 101-101-101

I HEREBY CERTIFY THAT THE ABOVE PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE SURVEY AND THE DATA THEREON, AND THAT I AM A LICENSED SURVEYOR IN THE STATE OF SOUTH CAROLINA.
[Signature]
101 N. 101-101-101



THE ABOVE PLAT PREPARED BY ME AT THE REQUEST OF
TOWN OF YEMASSEE
A BOUNDARY SURVEY OF THE TOWN OF YEMASSEE, BEAUFORT COUNTY, SOUTH CAROLINA.
ADJACENT TO THE TOWN OF YEMASSEE, BEAUFORT COUNTY, SOUTH CAROLINA.

NOTE: This plat is subject to the provisions of the South Carolina Code of Laws, Title 10, Chapter 10, Section 10-10-10, which requires that a plat be filed with the county clerk of the county in which the land is located.
RECORDING PLAT
PLAT BOOK 31 AT PAGE 179
FILED DECEMBER 2, 2002

Exhibit C

2487

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
MAGISTRATES COURT

02-CP-7-1028

Civil Case Number

(JURY TRIAL REQUESTED)

SUMMONS

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

2002 JUN 17 AM 10 02

Shemuel Nahum Ben Yisrael.....Plaintiff
V.

- (1) The Town Of Yemassee
 - (2) Mayor Joseph L. Goodwin
 - (3) Yemassee Police Department
 - (4) Police Chief Jack Hagy
 - (5) Sergeant William Steve Adams....Defendants
 - (6) Beaufort County Sheriff's Office
- To The Defendants Above Named:

You are hereby Summoned And Required to answer the Complaint in this action. a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiff at his home located at 18 Wall Street, Sheldon, South Carolina, or at his mailing address at, Post Office Box, 1740 Yemassee, South Carolina, 29945, within thirty, (30), days after service thereof, exclusive of the day of such service, and if you fail to appear and defend against the said action then judgment by default will be rendered against you for the relief demanded in the Complaint.

Date: Monday, June 17, 2002

Sig. Shemuel Yisrael

P.O. BOX 1740

Yemassee, S.C. 29945

2488

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
MAGISTRATES COURT

02-CP-7-1028
Civil Case Number

(JURY TRIAL REQUESTED)

Shemuel Nahum Ben Yisrael.....Plaintiff
V.

- (1) The Town Of Yemassee
- (2) Mayor Joseph L. Goodwin
- (3) Yemassee Police Department
- (4) Police Chief Jack Hagy
- (5) Sergeant William Steve Adams.....Defendants.
- (6) Beaufort County Sheriff's Office

COMPLAINT

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

2002 JUN 17 AM 10 02

TO THE DEFENDANTS NAMED ABOVE:

I, Shemuel Nahum Ben Yisrael, the Plaintiff in the above cite case, and appearing Pro Se, would respectfully allege and show unto this Honorable Court as follows:

General Allegations Applicable To All Causes Of Action:

- (1) The Plaintiff is a resident of the Sheldon Township, within Beaufort County, South Carolina. Plaintiff's residence address is:

Shemuel Yisrael
18 Wall Street
Sheldon, South Carolina 29945

Plaintiff's mailing address is:

Shemuel Yisrael
Post Office Box 1740
Yemassee, South Carolina 29945

2489

GENERAL ALLEGATIONS APPLICABLE TO ALL CAUSES OF ACTION
...continued

- (2) The Defendant, (#1), The Town Of Yemassee, is a body politic, a subdivision of the State Of South Carolina, incorporated in Hampton County only, and not in Beaufort County, and has illegally annexed a portion of the Sheldon Township within Beaufort County. (See Charter Of Yemassee, Exhibits E6A through E6G.)
- (3) The Defendant, (#2), Mayor Joseph L. Goodwin is the Mayor of the Town Of Yemassee.
- (4) The Defendant, (#3), the Yemassee Police Department, is the law enforcement agency of the Town Of Yemassee.
- (5) The Defendant, (#4), Police Chief Jack Hagy is the Poice Chief of the Yemassee Police Department.
- (6) The Defendant, (#5), Sergeant William Steve Adams is a sergeant for the Yemassee Police Department.
- (7) That this matter concerns unlawful acts of the Defendants committed within the Sheldon Township within Beaufort County.
- (8) That the Plaintiff has not committed any crime in Beaufort County within the Sheldon Township or anywhere else.

2490

FOR A FIRST CAUSE OF ACTION ... ASSAULT

(9) The Plaintiff realleges Paragraphs One through Eight of this Complaint as if fullset forth herein.

(10) That the Defendants did assault Plaintiff by chasing Plaintiff in a Yemassee Police Department patrol car driven by Sergeant William Steve Adams. This assault occurred at about 9 o'clock PM, on Saturday December 9, 2000. (See Exhibit #1, Supplementary Report.)

(11) That the Defendant's assault caused the Plaintiff to be in fear and barricade himself in his home. Defendant, Sergeant Adams began banging and shaking Plaintiff's front fence at 18 Wall Street, and began shouting out at Plaintiff's front fence at 18 Wall Street, and began shouting out that the Plaintiff was under arrest. (See Exhibit E1, Supplementary Report).

(12) That the Defendant, Sergeant Adams, had no probable cause to assault and announce that Plaintiff was under arrest. Plaintiff was cleared of any criminal acts by the, "directed for the defence" verdict issued by circuit court judge the Honorable Victor Rawl. (See Exhibit #2A, Indictment and Exhibit #3, Arrest Warrant).

FOR A SECOND CAUSE OF ACTION...DEFAMATION AND
INFLECTION OF EMOTIONAL DISTRESS

(13) The Plaintiff realleges Paragraph One through Twelve of this Complaint as if fully set forth herein.

(14) That the Defendant, Sergeant Adams, did defame and inflict great emotional harm on the Plaintiff by issuing slanderous statements on his police radio on the night of Saturday December 9, 2000, between the hours of 9 o'clock PM, and 10 o'clock PM, to the effect that the Plaintiff was a dangerous criminal, and that other officers were needed to arrest Plaintiff.

(15) Plaintiff began to be in an extreme state of emotional distress at seeing four Hampton County Sheriff's Deputy police cars and two Yemassee Police cars in the front of his home. They set up spot lights and demanded Plaintiffs surrender.

(16) That the Defendant had no legal basis to issue statements that Plaintiff was a threat and had committed crimes. Plaintiff was cleared of any criminal acts by the, "directed for the defence", verdict issued by circuit court judge, the Honorable Victor Rawl.
(See Exhibit E2A, Indictment).

2492

FOR A THIRD CAUSE OF ACTION...TRESPASS

(17) The Plaintiff realleges Paragraph One through Sixteen of this Complaint as if fully set forth herein.

(18) That the Defendants, Yemassee Police Chief, Jack Hagy and Sergeant Adams, did trespass upon, and break into the lands and dwelling of the Plaintiff without a warrant and without probable cause.
(See Exhibit E1, Supplementary Report).

(19) That the Plaintiff was cleared of any criminal acts by the, "directed for the defence", verdict issued by circuit court judge the Honorable Victor Rawl.
(See Exhibit E2A, Indictment.)

2493

FOR A FOURTH CAUSE OF ACTION...UNLAWFUL ARREST AND
BATTERY

(20) The Plaintiff realleges Paragraph One through
Nineteen of this Complaint as if fully set forth herein.

(21) That the Defendant, Vemassee Police Chief, Jack
Hagy, after unlawfully breaking into Plaintiff's home,
proceeded to handcuff and yank the Plaintiff out of
his home, thus effecting an unlawful arrest and battery.

(22) That the Plaintiff was cleared of any criminal
acts by the, "directed for the defence", verdict, issued
by circuit court judge, the Honorable, Victor Rawl.
(See Exhibit E 2A, Indictment).

2494

FOR A FIFTH CAUSE OF ACTION...UNLAWFUL IMPRISONMENT

(23) The Plaintiff realleges Paragraph One through Twenty-Two of this Complaint as if fully set forth herein.

(24) That the Defendant, Yemassee Police Chief Jack havy, did unlawfully imprison Plaintiff by placing him into a Yemassee Police car for about an hour's duration.

(25) That the Plaintiff was unlawfully imprisoned is a fact established by the evidence that the Plaintiff was cleared of any criminal acts by the, "directed for the defence", verdict, issued by circuit court judge, the Honorable Victor Rawl. (See Exhibit E 2A, Indictment.)

2495

FOR A SIXTH CAUSE OF ACTION...UNLAWFUL IMPRISONMENT

(26) The Plaintiff realleges Paragraphs One through Twenty-Five of this Complaint as if full set forth herein.

(27) That the Defendant, the Yemassee Police Department, did have Plaintiff unlawfully imprisoned under the false charge of, resisting arrest, at the Beaufort County Detention Center on the following four days, Saturday, Sunday, Monday and Tuesday, or December 9th, 10th, 11th, and 12th of the year 2000.

(28) That the Plaintiff was unlawfully imprisoned is a fact established by the evidence that the Plaintiff was cleared of criminal acts by the, "directed for the defence", verdict, issued by circuit court judge, the Honorable Victor Rawl. (See Exhibit E 2A, Indictment).

FOR A SEVENTH CAUSE OF ACTION...DEFAMATION

(29) The Plaintiff realleges Paragraph One through Twenty-Eight of this Complaint as if full set forth herein.

(30) That the Defendant, Sergeant Adams, did defame the Plaintiff by his libelous and slanderous statements made orally and in a written affidavit before Magistrate Joseph N. Kline that, "Plaintiff resisted arrest". Magistrate Kline then believed the Plaintiff to be a flight risk and imposed a bond of, \$2000.00. (See See Exhibit E 4, Bail Proceeding Form 2.)

(31) That the Plaintiff did not leave jail until after he had borrowed the money to post bond.

(32) That the Defendant's did libel and maliciously prosecute the Plaintiff at the bond hearing on Sunday December 10, 2000, is a fact, in that Plaintiff was cleared of any criminal acts by the, directed for the defence verdict, issued by circuit court judge, the Honorable Victor Rawl. (See Exhibit E 2A, Indictment.)

2497

FOR AN EIGHTH CAUSE OF ACTION...MALICIOUS PROSECUTION
AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

(33) The Plaintiff realleges Paragraph One through Thirty-Two of this Complaint as if fully set forth herein.

(34) That the Defendant, Sergeant Adams, did maliciously prosecute and intentionally inflicted emotional distress on the Plaintiff by refusing to state the details as to the reasons why the plaintiff was initially arrested, at the preliminary hearing of Monday January 29, 2001, before Magistrate C. L. Smith. CSX Railroad Police Officer Mr. Fisher accompanied Sergeant Adams to the preliminary hearing.

(35) Magistrate C. L. Smith bound over Plaintiff's case to General Sessions Court. (See Exhibit E 5, Preliminary Examination Record.)

(36) Plaintiff was cleared of any criminal acts by the, " directed for the defence verdict," issued by circuit court judge, the Honorable Victor Rawl.
(See Exhibit E 2A, Indictment.)

FOR A NINTH CAUSE OF ACTION...MALICIOUS PROSECUTION
AND ABUSE OF PROCESS

(37) The Plaintiff realleges Paragraphs One through Thirty-Six of this Complaint as if fully set forth herein.

(38) That the plaintiff attended General Sessions Court on Monday, Tuesday, and Wednesday. or April 9th, 10th. and 11th of 2001. Plaintiff's case was tried on Thursday, April 12, 2001, the fourth day.

(39) That the Defendants, The Town Of Yemassee, The Yemassee Police Department, Police Chief Jack Hagy and Sergeant Adams, presented no evidence that the Plaintiff committed any crime, thus their prosecution of the Plaintiff was malicious and an abuse of process.

(40) After Judge Victor Rawl dismissed the jury midway during the trial, his verdict was directed for the defense, the Plaintiff, Shemuel Nahum Ben Yisrael.

2499

RELIEF SOUGHT

- (41) Lost wages during:
- (1) unlawful imprisonment in a Yemassee Police patrol car for one hour, \$50.00.
 - (2) unlawful imprisonment in the Beaufort County Detention Center for four days, \$200.00.
 - (3) appearance at preliminary hearing, \$50.00.
 - (4) appearances at the Beaufort County Court Of General Sessions for four days, \$200.00.
- Total Minimum Lost Wages = \$500.00.
- (42) Bail Bondsman Fee:
Plaintiff paid 10%, of the Court ordered, \$2000.00, bail requirement to a bonding company for a total amount of \$200.00.
- (43) Filing Fees, notary and photocopying costs, \$75.00.
- (44) Plaintiff seeks, \$ 10,000,000.00, or whatever is adequate from the Defendants for the following unlawful acts: (a) Assault, (b) Battery, (c) Defamation; Libel and Slander, (d) Intentional Infliction Of Emotional Distress, (e) Trespassing, (f) Breaking and Entering, (g) Unlawful Arrest, (h) Malicious Prosecution, (i) Abuse of Process.
- (45) Plaintiff seeks punitive damages from the Defendant in an adequate amount.

2500

State Of South Carolina
County Of Beaufort
Magistrates Court

02-CP-7-1028

Civil Case Number

(Jury Trial Requested)

Shemuel Nahum Ben Yisrael.....Plaintiff

V.

- (1) The Town Of Yemassee
- (2) Mayor Joseph L. Goodwin
- (3) Yemassee Police Department
- (4) Police Chief Jack Hagy
- (5) Sergeant William Steve Adams.....Defendants

BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

2002 JUN 17 AM 10 02

Affidavit Of Plaintiff

I, Shemuel Nahum Ben Yisrael, the Plaintiff in the above cited case, do affirm that the statements made in this Complaint are true.

Date: Monday June 17, 2002 Sig. Shemuel Yisrael

Shemuel Yisrael

P.O. Box 1740

Yemassee, S.C. 29945

(No Phone)

PRO SE

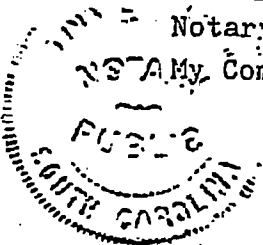
Sworn to before me this

17th day of June 2002

Lina L. Miller

Notary Public for South Carolina

My Commission Expires: My Commission Expires December 21, 2008
My Commission Expires December 21, 2008



2621

124704

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SHEMUEL NAHUM BEN YISRAEL,

Plaintiff,

v.

THE TOWN OF YEMASSEE,

Defendant.

) IN THE COURT OF COMMON PLEAS

) FOURTEENTH JUDICIAL CIRCUIT

) Civil Action No. 02-CP-07-1028

) ORDER

04 APR 29 AM 11:21
J. A. ORI COUNTY
CLERK OF COURT
BEAUFORT, S.C.

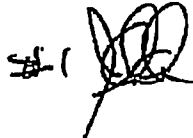
This matter came before the Court on the Defendant's Motion for Summary Judgment. The motion was argued by Marshall H. Waldron, Jr., Esquire, for the Defendant and Shemuel Nahum Ben Yisrael, Plaintiff *pro se*.

Having heard the parties' argument and after a careful review of the affidavit, pleadings, Rules and cases presented, the Court finds that there is no genuine issue of material fact and grants the Defendant's Motion for Summary Judgment.

The Defendant offered two theories in support of its motion: first, a party may not serve his own process, and second, the Plaintiff failed to serve the Defendant. The Court finds both persuasive.

The Plaintiff's attempt to serve his own summons and complaint is ineffective to give the Court jurisdiction. Rule 4(c) of the South Carolina Rules of Civil Procedure limits those who may actually serve the papers: "Service of summons may be made by the sheriff, his deputy, or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action."

With regard to service upon a governmental subdivision, such as the Defendant, Rule 4(d)(6) of the South Carolina Rules of Civil Procedure states, "Service shall be made...by



delivering a copy of the summons and complaint to the chief executive officer or clerk thereof...."

The plaintiff has the burden to show that service of process was correctly made. *Jensen v. Doe*, 292 S.C. 592, 594, 358 S.E.2d 148 (Cl. App. 1987). When service is challenged, the record must show affirmatively that service of process was correctly made. *Ibid*; see also *Matheson v. McCormac*, 186 S.C. 93, 195 S.E.2d 122 (1938). Compliance with the service of process requirements must be strict, and approximations will not be effective. *Jensen, supra*, at 595.

In order to meet his burden, Mr. Yisrael need only show compliance with the rules. *Moore v. Simpson*, 322 S.C. 518, 523, 473 S.E.2d 64, 66 (S.C.App. 1996), *Roche v. Young Bros., Inc. of Florence*, 456 S.E.2d 897 (1995).

The Town presented the Affidavit of Jerra N. Rivers, formerly Jerra N. Lyons. Mr. Yisrael moved to strike the Affidavit, arguing that Josephine M. Roberts has a conflict of interest and may not notarize the signature of another Town employee. I denied Mr. Yisrael's Motion. Ms. Rivers' affidavit states that she personally knows Mr. Yisrael, that she is the Clerk of Court for the Town of Yemassee and that she is not authorized to accept service for or on behalf of the Town of Yemassee. In her affidavit, Ms. Rivers' states that on June 18, 2002, Mr. Yisrael personally presented the Summons and Complaint, asked her to sign a receipt, and she did. The Plaintiff asserts that someone else actually handed the summons and complaint to Ms. Rivers, but he did not present any evidence in support of his contention. The Plaintiff argued further that Ms. Rivers is, in fact, the Clerk of the Town of Yemassee, but he presented no evidence to document this argument.

I find that in the instant case the Plaintiff did not comply with the Rules. He attempted to serve the Summons and Complaint himself. In so doing, he failed to invoke personal jurisdiction over the person or entity he attempts to bring before this Court. Even if some other person

2623

actually handed process to Ms. Rivers, I find no evidence that she is one of the persons identified in Rule 4(d)(6), and therefore, service upon Ms. Rivers as the Clerk of Court is not effective.

There being no genuine issue of material fact, the Defendant is entitled to summary judgment as a matter of law.

IT IS SO ORDERED.


John M. Milling, Presiding Judge

This 26 day of April, 2004
Beaufort, South Carolina

3 

Exhibit D

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS

02-CP-07-1954
F- 744209
2666
(JURY TRIAL DEMANDED)

Shemuel Nahum Ben Yisrael.....Plaintiff
V.

- | | |
|---------------------------------------|--------------|
| (1) State Of South Carolina |) Defendants |
| (2) Charles M. Condon | |
| (3) County Of Beaufort | |
| (4) Tom Taylor | |
| (5) Town Of Yemassee | |
| (6) Mayor Joseph L. Goodwin | |
| (7) Yemassee Police Department | |
| (8) Jack Hagy | |
| (9) Officer Gregory Alexander | |
| (10) Yemassee Municipal Court | |
| (11) Judge Joseph W. Nix | |
| (12) Beaufort County Magistrate Court | |
| (13) Judge Darlene R. Smith | |
| (14) TGS Land Surveying | |
| (15) Thomas G. Stanley, Jr. | |

2002 NOV 13 PM 4 38
CLERK OF COURT
BEAUFORT COUNTY

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(continued)

F- 744209

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Arrest Warrant # F- 744209	
Thursday November 16, 2000	1A
Summons, # NO: 17267	
Friday November 17, 2000	1B
Bail Proceeding Form I (front side)	
Friday November 17, 2000	2A
Bail Proceeding Form I (reverse side)	
Friday November 17, 2000	2B
Jury Selection Notice	
Friday January 11, 2002	3
Charter Of Yemassee	
July 8, 1924	4A-4F
Voter Registration Notification	
September 21, 1999	5
Update Disposition Notice	
Wednesday October 23, 2002	6
Notice Of Motion And Motion For Summary Judgment	
Wednesday January 3, 2001	7A- 7J
Affidavit Of Thomas G. Stanley, Jr.	
Tuesday January 2, 2001	7B
Plat by Thomas G. Stanley, Jr.	
Tuesday October 10, 2000	7C
Title To Real Estate (Book 1208 at Page 1380)	
June 30, 1999	7H
Order of Master In Equity - Thomas Kemmerlin, Jr.	
Wednesday January 23, 2002	8A- 8E
South Carolina Rules Of Civil Procedure	
Section 15 - 67 - 430	9
Vaux & Marscher - letter -	
Thursday October 31, 2002	10
Yemassee Police Department - letter	
Monday November 11, 2002	11

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS

Civil Case Number

2668

(JURY TRIAL DEMANDED)

SUMMONS

2002 NOV 13 PM 4 38
CLERK OF COURT
BEAUFORT COUNTY

Shemuel Nahum Ben Yisrael.....Plaintiff,
V.

(1) State Of South Carolina	} Defendants:
(2) Charles M. Condon	
(3) County Of Beaufort	
(4) Tom Taylor	
(5) Town Of Yemassee	
(6) Mayor Joseph L. Goodwin	
(7) Yemassee Police Department	
(8) Jack Hagy	
(9) Officer Gregory Alexander	
(10) Yemassee Municipal Court	
(11) Judge Joseph W. Nix	
(12) Beaufort County Magistrate Court	
(13) Judge Darlene R. Smith	
(14) TGS Land Surveying	
(15) Thomas G. Stanley, Jr.	

To: The Defendants Above Named:

You are hereby Summomed, and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to the said Complaint on the Plaintiff at his home located at 18 Wall Street, Sheldon, South Carolina, or at his mailing address at, Post Office Box, 1740, Yemassee, South Carolina, 29945, within thirty, (30), days after service thereof, exclusive of the day of such service, and if you fail to appear and defend against the said action then judgment by default will be rendered against you for the relief demanded in the Complaint.

Date: _____ Sig. _____
P.O. Box 1740
Yemassee, S.C. 29945

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS

CIVIL CASE NUMBER

2669

(JURY TRIAL DEMANDED)

COMPLAINT

Shemuel Nahum Ben Yisrael.....Plaintiff,

V.

(1) State Of South Carolina) Defendants.
(2) Charles H. Condon)
(3) County Of Beaufort)
(4) Tom Taylor)
(5) Town Of Yemassee)
(6) Mayor Joseph L. Goodwin)
(7) Yemassee Police Department)
(8) Jack Hagy)
(9) Officer Gregory Alexander)
(10) Yemassee Municipal Court)
(11) Judge Joseph W. Nix)
(12) Beaufort County Magistrate Court)
(13) Judge Darlene R. Smith)
(14) TGS Land Surveying)
(15) Thomas G. Stanley, Jr.)

To The Defendants Above Named:

I, Shemuel Nahum Ben Yisrael, the Plaintiff in the above cited case, and appearing Pro Se, would respectfully allege and show unto this Honorable Court as follows:

General Allegations Applicable To All Causes Of Action:

(1) The Plaintiff is a resident of the Sheldon Township, within Beaufort County, South Carolina. Plaintiff's residence address is:

Shemuel Yisrael

18 Wall Street

Sheldon, South Carolina 29945

(See Exhibit # 5, Voter Registration Notification - September 23, 1999).

2002 NOV 13 PM 4 38
BEAUFORT COUNTY
CLERK OF COURT
C. H. ... J.C.

F744209

General Allegations Applicable To All Causes Of Action:
(continued)

2670

(2) Plaintiff's mailing address is:

Shemuel Yisrael

Post Office Box 1740

Yemassee, South Carolina 29945

(3) The Defendant, (#1), The State Of South Carolina is referred to as, the State, or Defendant, #1, in this Complaint unless otherwise noted.

(4) The Defendant, (#2), Charles M. Condon, is the Attorney General for the State Of South Carolina, and is referred to as, the Attorney General, or Mr. Condon, or Defendant #2 in this Complaint unless otherwise noted.

(5) The Defendant, (#3), the County Of Beaufort, is a governmental subdivision of the State Of South Carolina, and is referred to as Beaufort County, or Beaufort or, Defendant #3, in this complaint unless otherwise noted.

(6) The Defendant, (#4), Tom Taylor , is the Chairman of The Beaufort County Council, and is referred to as, the Chairman, or Mr. Taylor, or Defendant #4, in this Complaint unless otherwise noted.

(7) The Defendant, (#5), the Town of Yemassee, is a body politic, a subdivision of the State Of South Carolina, incorporated in Hampton County only, and not in Beaufort County, and has illegally annexed a portion of the Sheldon Township within Beaufort County. (See Charter Of Yemassee, Exhibits 4A - 4F, July 8, 1924 .) It is referred to as the Town Of Yemassee, the Town, or Defendant #5, in this Complaint unless otherwise noted.

(8) The Defendant, (#6), Mayor Joseph L. Goodwin, is the Mayor of the Town Of Yemassee, and is referred to as, Mayor Joseph L. Goodwin, Mr. Goodwin, or Defendant #6, in this Complaint unless otherwise noted.

F744209

GENERAL ALLEGATIONS APPLICABLE TO ALL CAUSES OF ACTION:
(continued)

2071

- (9) The Defendant, (#7), the Yemassee Police Department, is the law enforcement agency of the Town Of Yemassee, and is referred to as, the Yemassee Police Department, or the Police, in this Complaint, unless otherwise noted.
- (10) The Defendant, (#8), Jack Hagy, is the Police Chief of the Yemassee Police Department, and is referred to as, the The Police Chief of the Town Of Yemassee, The Chief, or Mr. Hagy, in this Complaint, unless otherwise noted.
- (11) The Defendant, (#9), Officer Gregory Alexander, is a police officer for the Yemassee Police Department, and is referred to as, Officer Alexander, or Mr. Alexander, in this Complaint, unless otherwise noted.
- (12) The Defendant, (#10), the Yemassee Municipal Court, is the municipal court for the Town Of Yemassee, and is referred to as the Yemassee Municipal Court, or the Town Court in this Complaint.
- (13) The Defendant, (#11), Judge Joseph W. Nix, is the presiding judge of the Yemassee Municipal Court, and is referred to as, Judge Joseph W. Nix, or Judge Nix, in this Complaint unless otherwise noted.
- (14) The Defendant, (#12), the Beaufort County Magistrate's Court, is the magistrate's court for the County Of Beaufort, and is referred to as the Beaufort County Magistrate's Court, or the Magistrate's Court, or Defendant #12, in this Complaint unless otherwise noted.
- (15) The Defendant, (#13), Judge Darlene R. Smith, is a magistrate for the Beaufort County Court, and is referred to as Judge Darlene R. Smith, or Magistrate Darlene R. Smith, in this Complaint, unless otherwise noted.
- (16) The Defendant, (#14), TGS Land Surveying, is the hired surveying company for the Defendant #5, the Town Of Yemassee, and is referred to as TGS Land Surveying, or the surveyors, in this Complaint, unless otherwise noted.

F744209

GENERAL ALLEGATIONS APPLICABLE TO ALL CAUSES OF ACTION:
(continued)

2572

(17) The Defendant, (#15), Thomas G. Stanley, Jr., is the hired surveyor for the Defendant #5, The Town Of Yemassee, under state license, PLS # 18269, and is referred to as, Thomas G. Stanley, Jr., PLS # 18269, or Mr. Stanley, or the surveyor, or Defendant #15, in this Complaint unless otherwise noted.

(18) The positions of authority and, the positions of employment, of any named Defendant in this action is true as of the time of the cause of action, and may or may not be true at the commencing of this action.

(19) The address of the initial cause of action which resulted in this instant case is, 18 Wall Street, Sheldon, South Carolina. The Sheldon Township is located within Beaufort County and therefore it is located within the jurisdiction of the Beaufort County Court Of Common Pleas to try this case.

(20) There is an ongoing, and unresolved conflict between the counties of Beaufort, Hampton, and Colleton, as to the proper jurisdiction of Wall Street.

FOR A FIRST CAUSE OF ACTION
AGAINST THE STATE OF SOUTH CAROLINA
UNLAWFUL ARREST

- (21) That the Defendant #1, the State of South Carolina, did on Friday November 17, 2000, have the Plaintiff, Shemuel Yisrael, unlawfully arrested. (See Exhibit #1 - Arrest Warrant # F-744209, dated Thursday November 16, 2000)
- (22) That the Defendant, the State, did falsely charge the plaintiff with Trespassing After Notice- Section 16-11-600.
- (23) That the Defendant, the State failed to appear to try criminal case #F-744209 as scheduled for Tuesday, January 9, 2001, at 9:30AM, at the Beaufort County Magistrate's Court, before Magistrate Andrew Dudley, and failed to notify the court the reason for their absence. (See Exhibit #2A-Bail Proceeding Form, dated Friday November 17, 2000)
- (24) That the Defendant, the State, failed to appear to try criminal case # F-744209 as rescheduled for Monday, January 8, 2002, at 9:00AM, in the County Council Chambers, before Magistrate Joseph Mc Domick, and failed to notify the court as to the reason for their absence. (See Exhibit # 3- Jury Selection Notice, dated Friday January 11, 2002).
- (25) That the Defendant, the State, has not prosecuted, nor dismissed the criminal case, # F-744209, and such inappropriate actions by the Defendant indicates that a false arrest had been made by the Defendant against the Plaintiff.
- (26) The Plaintiff realleges Paragraph 1, through 20, of this complaint as if fully set forth on this page.

F-744209.

FOR A FIRST CAUSE OF ACTION
AGAINST CHARLES M. CONDON.
DERELICTION OF DUTY

2374

(27) That the Defendant #2, Charles M. Condon, has not finalized case number, F-744209, after nearly two years, and is therefore derelict in duty, and such dereliction has, is, and shall cause harm to the Plaintiff.

(See Exhibit # 6, Update Disposition Notice- Wednesday October 23, 2002).

(28) The Plaintiff realleges Paragraph 1, through 26, of this complaint as if fully set forth on this page.

.....
F-744209

2675

FOR A FIRST CAUSE OF ACTION
AGAINST THE COUNTY OF BEAUFORT
UNLAWFUL ARREST

(29) That the Defendant #3, the County Of Beaufort, did on Friday, November 17, 2000, have the Plaintiff, Shemuel Yisrael, unlawfully arrested. (See Exhibit #1A- Arrest Warrant # F-744209, dated Thursday November 16, 2000)

(30) That the Defendant, the County Of Beaufort, did falsely charge the Plaintiff with Trespassing After Notice - Section 16-11-600.

(31) That the Defendant, the County Of Beaufort, failed to appear to try criminal case # F-744209 as scheduled for Tuesday, January 9, 2001, at 9:30AM, at the Beaufort County Magistrates Court, before Magistrate Andrew Dudley, and failed to notify the court as to the reason for their absence. (See Exhibit #2A- Bail Proceeding Form, dated Friday November 17, 2000)

(32) That the Defendant, the County Of Beaufort, failed to appear to try case # F-744209 as rescheduled for Monday January 8, 2002, at 9:00AM, in the County Council Chambers, before Magistrate Joseph Mc Domick, and failed to notify the court as to the reason for their absence. (See Exhibit #3 - Jury Selection Notice, dated Friday January 11, 2002).

(33) That the Defendant, the County Of Beaufort, has not prosecuted, nor dismissed the criminal case, # F-744209, and such inappropriate actions by the Defendant indicates that a false arrest had been made by the Defendant against the Plaintiff.

(34) The Plaintiff realleges Paragraph 1, through 28, of this Complaint, as if fully set forth on this page.

F-744209

FOR A FIRST CAUSE OF ACTION
AGAINST TOM TAYLOR
DERELICTION OF DUTY

2676

(35) That the Defendant # 4, Tom Taylor, the Beaufort County Council Chairman, has not finalized case number, F-744209, after nearly two years, and is therefore derelict in duty, and such dereliction has, is, and shall cause harm to the Plaintiff.

(See Exhibit # 6, Update Disposition Notice- Wednesday October 23, 2002).

(36) The Plaintiff realleges Paragraph 1, through 34, of this Complaint as if fully set forth on this page.

F-744209;

2677

FOR A FIRST CAUSE OF ACTION
AGAINST THE TOWN OF YEMASSEE
UNLAWFUL ARREST

(37) That the Defendant # 5, the Town Of Yemassee, did on Friday November 17, 2000, have the Plaintiff, Shemuel Yisrael, unlawfully arrested. (See Exhibit #1A- Arrest Warrant # F-744209, dated Thursday November 16, 2000)

(38) That the Defendant, the Town Of Yemassee, did falsely charge the Plaintiff with Trespassing After Notice - Section 16-11-600..

(39) That the Defendant, the Town Of Yemassee, failed to appear to try criminal case # F-744209; as scheduled for Tuesday, January 9, 2001, at 9:30AM, at the Beaufort County Magistrate's Court, before Magistrate Andrew Dudley, and failed to notify the court as to the reason for their absence. (See Exhibit # 2A- Bail Proceeding Form, dated Friday November 17, 2000.).

(40) That the Defendant, the Town of Yemassee, failed to appear to try case # F-744209 as rescheduled for Monday January 8, 2002, at 9:00AM, in the County Council Chambers, before Magistrate Joseph Mc Domick, and failed to notify the court as to the reason for their absence. (See Exhibit # 3- Jury Selection Notice, dated Friday January 11, 2002).

(41) That the Defendant, the Town Of Yemassee, has not prosecuted, nor dismissed the criminal case, # F-744209, and such inappropriate actions by the Defendant indicates that a false arrest had been made by the Defendant against the Plaintiff.

(42) The Plaintiff realleges Paragraph 1, through 36, of this Complaint as if fully set forth on this page.

.....
F-744209:

2678

FOR A FIRST CAUSE OF ACTION
AGAINST MAYOR JOSEPH L. GOODWIN
DERELICTION OF DUTY

(43) That the Defendant # 6, Mayor Joseph L. Goodwin, the Mayor of the Town Of Yemassee,, has not finalized case number, F-744209,. after nearly two years,, and is therefore derelict in duty,, and such dereliction has, is, and shall cause harm to the Plaintiff.

(See Exhibit # 6, Update Disposition Notice - Wednesday October 23, 2002).

(44) The Plaintiff realleges Paragraph 1, through 42, of this complaint as if fully set forth on this page.

F-744209

2679

FOR A FIRST CAUSE OF ACTION
AGAINST THE YEMASSEE POLICE DEPARTMENT
UNLAWFUL ARREST

(45) That the Defendant # 7, the Yemassee Police Department, did on Friday November 17, 2000, have the Plaintiff, Shemuel Yisrael, unlawfully arrested. (See Exhibit # 1A- Arrest Warrant # F-744209, dated Thursday November 16, 2000).

(46) That the Defendant # 7, the Yemassee Police Department, did falsely charge the Plaintiff with Trespassing After Notice - Section 16-11-600. (See Exhibit # 1A- Arrest Warrant # F-744209, dated Thursday November 16, 2000).

(47) That the Defendant, the Yemassee Police Department, failed to appear, to try criminal case # F-744209, as scheduled for Tuesday, January 9, 2001, at 9:30AM, at the Beaufort County Magistrate's Court, before Magistrate Andrew Dudley, and failed to notify the court as to the reason for their absence. (See Exhibit # 2A- Bail Proceeding Form, dated Friday November 17, 2000).

(48) That the Defendant, the Yemassee Police Department, failed to appear, to try case # F-744209, as rescheduled for Monday, January 8, 2002, at 9:00AM, in the County Council Chambers, before Magistrate Joseph Mc Domick, and failed to notify the court as to the reason for their absence. (See Exhibit # 3 - Jury Selection Notice, dated Friday January 11, 2002).

(49) That the Defendant, the Yemassee Police Department, has not prosecuted, nor dismissed the criminal case, # F-744209, and such inappropriate actions by the Defendant indicates that a false arrest had been made by the Defendant against the Plaintiff.

(50) The Plaintiff realleges Paragraph 1, through 44, of this Complaint as if fully set forth on this page.

.....
F-744209

2680

FOR A FIRST CAUSE OF ACTION
AGAINST JACK HAGY
DERELICTION OF DUTY

(51) That the Defendant # 8, Jack Hagy, the Police Chief of the Town Of Yemassee, has not finalized case number, F-744209, after nearly two years, and is therefore derelict in duty, and such dereliction has, is, and shall cause harm to the Plaintiff.

(See Exhibit # 6, Update Disposition Notice- Wednesday October 23, 2002).

(52) The Plaintiff realleges Paragraph 1, through 50, of this Complaint as if fully set forth on this page.

F-744209

2681

FOR A FIRST CAUSE OF ACTION AGAINST
OFFICER GREGORY ALEXANDER
DERELICTION OF DUTY

(53) The Plaintiff realleges Paragraph 1, through 52,
of this Complaint, as if fully set forth herein.

(54) That the Defendant, # 9, Officer Gregory Alexander, of
the Yemassee Police Department, has not finalized case
number, F-744209, after nearly two years, and is therefore
derelict in duty, and such dereliction, has, is, and shall
cause harm to the Plaintiff.

F-744209

2582

FOR A FIRST CAUSE OF ACTION AGAINST
THE YEMASSEE MUNICIPAL COURT
UNLAWFUL ARREST

(55) The Plaintiff realleges Paragraph 1, through 54, of this Complaint as if fully set forth herein.

(56) That the Defendant # 10, the Yemassee Municipal Court, did issue Warrant # F-744209, which did result in the Plaintiff being unlawfully arrested. (See Exhibit # 1A- Arrest Warrant # F-744209, dated Thursday November 16, 2000).

(57) That the Defendant, the Yemassee Municipal Court, is incorporated in Hampton County, within the incorporated limits of the Town Of Yemassee. And as such, had no authority to arrest the Plaintiff on allegations of criminal conduct committed within the unincorporated area of the Sheldon Township, within Beaufort County. (See Exhibit # 4A- Charter Of Yemassee, dated August 1924).

(58) That the Plaintiff was unlawfully arrested at 18 Wall Street in Beaufort County, within the Sheldon Township, is an established fact. (See Exhibit # 5- Plaintiff's Voter Registration Notification card dated September 21, 1999.)

F-744209

2683

FOR A FIRST CAUSE OF ACTION AGAINST
JUDGE JOSEPH W. NIX
UNLAWFUL ARREST

(59) The Plaintiff realleges Paragraph 1, through 58, of this Complaint as if fully set forth herein.

(60) That the Defendant, # 11, Judge Joseph W. Nix had the Plaintiff unlawfully arrested is an established fact in that he signed the warrant, and that he, being a Yemassee Municipal Judge, had, and has no legal authority to issue warrants for crimes allegedly committed by the Plaintiff, in Beaufort County. The warrant lacks the endorsement of a Beaufort County Judge, which is necessary for validation of the warrant. (See Exhibit # 1A- Warrant- dated Thursday November 16, 2000).

(61) That Judge Joseph W. Nix acted outside of his jurisdiction, and is therefore not protected by immunity laws.

F-744209

2684

FOR A FIRST CAUSE OF ACTION AGAINST
THE BEAUFORT COUNTY MAGISTRATE'S COURT
DERELICTION OF DUTY

(62) That the Defendant, #12, the Beaufort County Magistrate's Court, has failed to dispose of the case, # F-744209, now pending against the Plaintiff, in a timely manner. (See Exhibit # 6- Update Disposition Notice- Wednesday October 23. 2002).

(63) That the Defendant's delay in this matter has, is, and shall continue to cause damage to the Plaintiff.

(64) That the Plaintiff realleges Paragraph 1, through 61, of this Complaint as if fully set forth herein on this page.

F- 744209

2685

For A First CAUSE OF ACTION AGAINST
JUDGE DARLENE R. SMITH
DERELICTION OF DUTY

(65) The Plaintiff realleges Paragraph 1, through 64, of this Complaint as if fully set forth herein.

(66) That the Defendant, # 13, Judge Darlene R. Smith, was derelict in duty when, at the Plaintiff's bond hearing held Friday November 17, 2000, she failed to dismiss the unlawfully issued arrest warrant, # F-744209, which was not signed by a Beaufort County judge. (See Exhibits # 1A-Warrant, and Exhibit # 2, Bail Form).

(67) That the Defendant, # 13, Judge Darlene R. Smith, was derelict in duty when at the Plaintiff's bond hearing held Friday November 17, 2000, she failed to dismiss the unlawfully issued arrest warrant, # F-744209, which she knew involved matters of title to real estate, and being such could not be prosecuted in the Magistrate's Court, but only in the Court of Common Pleas. (See Exhibit # 9, South Carolina Rules Of Civil Procedure- Section 15-67-430).

F-744209

FOR A FIRST CAUSE OF ACTION AGAINST
TGS LAND SURVEYING
FRAUD

2686

(68) The Plaintiff realleges Paragraph 1, through 67, of this Complaint as if fully set forth herein.

(69) That it is the seal of, TGS Land Surveying, which appears on the plat used by Yemassee Municipal Judge Joseph W. Nix, and Beaufort County Judge Darlene Smith, in their determination of the criminal charge of, "Trespassing After Notice", against the Plaintiff. (See Exhibit # 7C - Plat, dated, Tuesday October 10, 2000).

(70) That the Plat is false and fraudulent, along with its' accompanying fraudulent affidavit, signed by Mr. Stanley, is evident by the following facts. (See Exhibit # 7B- Affidavit Of Thomas G. Stanley, Jr.- Tuesday January 2, 2001).

(71) The Plat does not depict property owned by the Town Of Yemassee as reflected in a deed to the Town dated, June 30, 1999, and recorded in the office of the Clerk Of Court for Beaufort County on August 27, 1999, in Book 1208, at Page 1380. (See Exhibit # 7H - Title To Real Estate - dated August 27, 1999).

(72) The measurements on page 1380 of the two, (2), lots sold to the Town of Yemassee, and cited in paragraph one, (1), are: 65' x 82' x 8' x 75' + 3'. The measurements cited in paragraph two, (2), are: 50' x 66' x 66' x 66'. The measurements on the Plat are 40.35' x 50.11' x 25.40' x (3.70' ?) x 34.44' x 46.00' x 32.60' x 50.00' x 75.04' x 150.12'. There is obviously no reflection of the measurements cited in the title deed, and of those measurements cited in the Plat. (See Exhibit 7C for Plat).

(73) The Order of Master In Equity, Thomas J. Kemmerlin, Jr., dated Wednesday January 23, 2002, at page 3, and item (B), states: "...the property which is disputed as to ownership between the parties is to be surveyed." If the Plat of TGS Surveying, dated Tuesday October 10, 2000 reflected the land
(next page)

F-744209

FOR A FIRST CAUSE OF ACTION AGAINST
TGS LAND SURVEYING

2687

FRAUD

(continued from previous page)

owned by the Town Of Yemassee, the Order of January 23, 2002, would not have been necessary. (See Exhibit 8C for Order - dated Wednesday January 23, 2002). This same Order reflects an agreement, and an acknowledgement of Mayor Joseph L. Goodwin, for the Town Of Yemassee, that a survey and a plat were needed, due to the fact that the Plat submitted to the Master In Equity, by TGS Land Surveying did not, and does not, reflect the size and the location of the land sold to the Town Of Yemassee as described on page 1380, of their deed.

(74) On Thursday November 7, 2002, at 10:00 AM, no representative of TGS Land Surveying presented themselves at the designated place and time to survey the property owned by the Town. (See Exhibit 10 - Vaux & Marscher - Thursday October 31, 2002).

(75) TGS Land Surveying was rescheduled to survey the land belonging to the Town Of Yemassee, on the appointment date of Tuesday November 12, 2002, at 8:00 AM. Thus after well over two years, (25 months since October 10, 2000 when first plat was submitted in court), TGS has yet to file a plat reflecting the location and size of the land sold to the Town of Yemassee as described in the Town's deed at page 1380, in Book 1208 at the Beaufort County Registry Of Deeds. (See Exhibit # 7H - Title Deed - dated June 30, 1999).

FOR A FIRST CAUSE OF ACTION AGAINST

THOMAS G. STANLEY, JR.

FRAUD

(76) The Plaintiff realleges Paragraph 1, through 75, of this Complaint as if fully set forth herein.

(77) That it is the signature of, Thomas G. Stanley, Jr., which appears on the plat used by Yemassee Municipal Judge Joseph W. Nix, and Beaufort County Judge Darlene Smith, in their determination of the criminal charge of, "Trespassing After Notice", against the Plaintiff. (See Exhibit # 7C - Plat, dated, Tuesday October 10, 2000).

(78) That the Plat is false and fraudulent, along with its' accompanying fraudulent affidavit, signed by Mr. Stanley, is evident by the following facts. (See Exhibit # 7B - Affidavit Of Thomas G. Stanley, Jr. - Tuesday January 2, 2001).

(79) The Plat does not depict property owned by the Town Of Yemassee as reflected in a deed to the Town dated, June 30, 1999, and recorded in the office of the Clerk Of Court for Beaufort County on August 27, 1999, in Book 1208, at Page 1380. (See Exhibit # 7H - Title To Real Estate - dated August 27, 1999).

(80) The measurements on page 1380 of the two, (2), lots sold to the Town of Yemassee, and cited in paragraph one, (1), are: 65' x 82' x 8' x 75' + 3'. The measurements cited in paragraph two, (2), are: 50' x 66' x 66' x 66'. The measurements on the Plat are 40.35' x 50.11' x 25.40' x (3.70' ?) x 34.44' x 46.00' x 32.60' x 50.00' x 75.04' x 150.12'. There is obviously no reflection of the measurements cited in the title deed, and of those measurements cited in the Plat. (See Exhibit 70 for Plat).

(81) The Order of Master In Equity, Thomas J. Kemmerlin, Jr., dated Wednesday January 23, 2002, at page 3, and item (B), states: "...the property which is disputed as to ownership between the parties is to be surveyed." If the Plat of TGS Land Surveying, dated Tuesday October 10, 2000 reflected the land

(next page)

F-744209

2689

FOR A FIRST CAUSE OF ACTION AGAINST
THOMAS G. STANLEY, JR.

FRAUD

(continued from previous page)

owned by the Town Of Yemassee, the Order of January 23, 2002, would not have been necessary. (See Exhibit 80 for Order - dated Wednesday January 23, 2002). This same Order reflects an agreement, and an acknowledgement of Mayor Joseph L. Goodwin, for the Town Of Yemassee, that a survey and a plat were needed, due to the fact that the Plat submitted to the Master In Equity, by Thomas G. Stanley, Jr., did not, and does not, reflect the size and the location of the land sold to the Town Of Yemassee as described on page 1380, of their deed.

(82) On Thursday November 7, 2002, at 10:00 AM, Thomas G. Stanley, Jr., did not present himself at the designated place and time to survey the property owned by the Town. (See Exhibit 10 - Vaux & Marscher - Thursday October 31, 2002).

(83) Mr. Stanley was rescheduled to survey the land belonging to the Town Of Yemassee, on the appointment date of Tuesday November 12, 2002, at 8:00 AM. Thus after well over two years, (25 months since October 10, 2000 when first plat was submitted in court), Mr. Stanley has yet to file a plat reflecting the location and size of the land sold to the Town Of Yemassee as described in the Town's deed at page 1380, in Book 1208 at the Beaufort County Registry Of Deeds. (See Exhibit # 7H - Title Deed - dated June 30, 1999).

RELIEF SOUGHT

- (84) Lost Wages = \$50.00
- (85) Filing Fees =\$100.00
- (86) Punitive Damages = \$11,000.000.00, (eleven million dollars), or whatever is adequate.
- (87) An Order for a title search to be performed on the properties sold to the Town Of Yemassee through the, Title To Real Estate, as recorded in Book 1208, at Page 1377, 1378, 1379, 1380, 1381, and 1382, in the Beaufort County Registry Of Deeds. (See Exhibit 7E, through 7I, - for Deed).
- (88) An Order for a survey to be performed on the Town's property as described in Book 1208, at page 1380, in the Beaufort County Registry Of Deeds.
- (89) An Order for a plat to be drawn which reflects the location and size of the Town's property as described in Book 1208, at page 1380, in the Beaufort County Registry Of Deeds.
- (90) An Order that the surveyor file an affidavit listing any and all difficulties encountered in performing the Court's Order.
- (91) An Order that all named Defendants share the responsibility for the costs involved in performing the Court's Orders sought on this page.

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS

F-744209

2691

(JURY TRIAL DEMANDED)

Shemuel Nahum Ben Yisrael.....Plaintiff,

V.

- (1) State Of South Carolina
- (2) Charles M. Condon
- (3) County Of Beaufort
- (4) Tom Taylor
- (5) Town Of Yemassee
- (6) Mayor Joseph L. Goodwin
- (7) Yemassee Police Department
- (8) Jack Hagy
- (9) Officer Gregory Alexander
- (10) Yemassee Municipal Court
- (11) Judge Joseph W. Nix
- (12) Beaufort County Magistrate Court
- (13) Judge Darlene R. Smith
- (14) TGS Land Surveying
- (15) Thomas G. Stanley, Jr.

Defendants.

2002 NOV 13 PM 4 38
CLERK OF COURT
BEAUFORT COUNTY

AFFIDAVIT OF PLAINTIFF

I, Shemuel Nahum Ben Yisrael, the Plaintiff in the above cited case, do affirm that the statements made in this Complaint are true.

Date: Wednesday November 13, 2002 Sig. Shemuel Yisrael

Shemuel Yisrael

P.O. Box 1740

Yemassee, S.C. 29945

(No Phone)

PRO SE

Sworn to before me this

13th day of November 2002

Derris Witter
Notary Public for South Carolina

My Commission Expires: 11-26-2011

2743

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

IN THE COURT OF COMMON PLEAS

CASE NO.: 02 -CP-07- 1954JUDGMENT ROLL NO.: 119994

JAN 31 2003

PLAINTIFF(S)

Shomuel Nahum Ben
Yisrael

DEFENDANT(S)

State of S.C. ect.

- () JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- () DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- (x) ACTION DISMISSED. (x) Rule 12(b), SCRCF; () Rule 41 (a), SCRCF (Vol. Nonsuit); () Rule 43(k), SCRCF (Settled); () Other
- () ACTION STRICKEN. () Rule 40 (j) SCRCF; () Bankruptcy; () Binding arbitration, subject to right to restore, to confirm, vacate or modify arbitration award; () Other

IT IS ORDERED AND ADJUDGED: () See attached Order; () Statement of Judgment by the Court

Dated at Beaufort, South Carolina this 15 day of Jan, 2003.S. Jackson V. Stegory
PRESIDING JUDGEThis Judgment was entered on the 23 of Jan, 2003, and a copy mailed this 31 day of Jan, 2003 to attorneys of record or the pro-se parties as follows:Shomuel Yisrael

Attorney(s) for the Plaintiff(s)

Marshall H. Waldron, Jr.

Attorney(s) for the Defendant(s)

Op J. Pender
CLERK OF COURT

2744

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

SHEMUEL NAHUM BEN YISRAEL,

Plaintiff,

vs.

- (1) State of South Carolina
- (2) Charles M. Condon
- (3) County of Beaufort
- (4) Tom Taylor
- (5) Town of Yemassee
- (6) Mayor Joseph L. Goodwin
- (7) Yemassee Police Department
- (8) Jack Hagy
- (9) Officer Gregory Alexander
- (10) Yemassee Municipal Court
- (11) Judge Joseph W. Nix
- (12) Beaufort County Magistrate Court
- (13) Judge Darlene R. Smith
- (14) TGS Land Surveying
- (15) Thomas G. Stanley, Jr.

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2002-CP-07-1954

119994

ORDER

2003 JUN 23 PM 11 18
BEAUFORT COUNTY
CLERK OF COURT
JRT
S.C.

This matter came before the Court on Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) SCRPC. On Wednesday, January 8, 2003, the Court held a hearing and heard argument from the parties; present were the Plaintiff, Shemuel Nahum Ben Yisrael, pro se, and Marshall H. Waldron, Jr., Esq., attorney for the Defendants. The Court finds that the Defendants' Motion should be granted.

Considering the Complaint in the light most favorable to the Plaintiff, the Court finds that on October 26, 2000, Defendant Jack Hagy, then Yemassee Police Chief, and Yemassee Police Officer Gregory Alexander warned the Plaintiff not to trespass on Town of Yemassee

Handwritten initials

2745

property. On November 16, 2000, Hagy observed the Plaintiff enter Town land with his pickup truck. Hagy presented an affidavit to Municipal Judge Joseph W. Nix, who found probable cause and issued an arrest warrant. The Yemassee Police Department then arrested the Plaintiff. Prosecution for the offense is pending. The Plaintiff filed the instant lawsuit presenting causes of action against the Defendants based upon this arrest.

No suit may be brought against Judge Joseph W. Nix, the Yemassee Municipal Court, Judge Darlene R. Smith and the Beaufort County Magistrate Court because they are immune from suit. Judicial immunity "acts as a bar to suit, not just as an ultimate bar to relief...[and] renders a complaint alleging judicial misconduct meritless." O'Laughlin v. Windham, 330 S.C. 379, 382, 498 S.E.2d 689, 691 S.C.App. 1998. The Complaint must be dismissed, therefore, because the Plaintiff is not entitled to relief.

As to the allegations against Charles M. Condon, Tom Taylor, Mayor Joseph L. Goodwin, the Yemassee Police Department, Jack Hagy and Officer Gregory Alexander, the Complaint does not state a cause of action and the Plaintiff is not entitled to relief. The police arrested the Plaintiff pursuant to a warrant issued by Judge Nix based upon his finding of probable cause. Sections 15-78-60 (1) through (5) of the Tort Claims Act bar an action against these Defendants. The Complaint presents allegations for dereliction of duty. "Whenever duties of a judicial nature are imposed upon a public officer, the due execution of which depends upon his own judgment, he is exempt from all responsibility by action for the motives which influence him and the manner in which said duties are performed." Williams v. Condon, 347 S.C. 227, 234-235, 553 S.E.2d 496 S.C.App. 2001. If the public official is corrupt, he may be impeached or indicted, "but he cannot be prosecuted by an individual to obtain redress for the wrong which may have been done. No public officer is responsible in a civil suit for a judicial determination, however erroneous it may be,

27-16

and however malicious the motive which produced it." Ibid. Even if the Complaint were viewed as alleging negligence, the Plaintiff must show a duty of care owed by the Defendant to the Plaintiff, breach of that duty and damages resulting from the breach. Tanner v. Florence County Treasurer, 336 S.C. 552, 521 S.E.2d 153 (1999). The Plaintiff has failed to demonstrate that the Defendants owed any duty to the Plaintiff and the Complaint fails to state sufficient facts to constitute a cause of action.

The causes of action alleging unlawful arrest are dismissed for failure to state a claim and because the Plaintiff is not entitled to relief. In order to sustain an action for false arrest, the Plaintiff must allege and prove that the Defendant restrained the Plaintiff, that the restraint was intentional and unlawful. Because the restraint was conducted pursuant to a valid arrest warrant issued by a neutral judge, the restraint was lawful, and therefore, the elements of false arrest cannot be made out.

The Plaintiff complains that Defendants TGS Land Surveying and Thomas G. Stanley, Jr. committed fraud. "Fraud is not presumed, but must be shown by clear, cogent, and convincing evidence." Ardis v. Cox, 314 S.C. 512, 515, 431 S.E.2d 267, 269 (S.C.App.1994); Rule 9(b) SCRPC. A complaint is fatally defective if it fails to allege all nine elements of fraud. Inman v. Ken Hyatt Chrysler Plymouth, Inc., 294 S.C. 240, 363 S.E.2d 691 (1988). Although the Complaint, by implication, alleges the first two elements, it fails to state with particularity any of the remaining elements of fraud, and therefore, the Complaint against TGS Land Surveying and Thomas G. Stanley, Jr. is fatally defective.

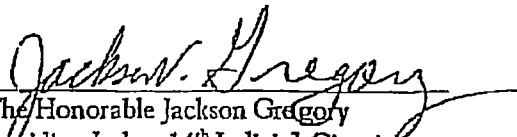
Under Rules 12(a) and 12(b)(6), SCRPC, a defendant, in lieu of filing an answer, may make a motion to dismiss based on a failure to state facts sufficient to constitute a cause of action. In considering the motion, the court must base its ruling solely upon allegations of the

2747

complaint. Baird v. Charleston County, 333 S.C. 519, 527, 511 S.E.2d 69, 73 (1999). If the facts and inferences drawn from the facts alleged in the complaint would entitle the Plaintiff to relief on any theory, then the grant of a motion to dismiss for failure to state a claim is improper. Id. at 527, 511 S.E.2d at 73.

Having heard the arguments of the parties and considering the allegations of the Complaint in the light most favorable to the Plaintiff, the Court grants the Defendants' Motion to Dismiss.

IT IS SO ORDERED.


The Honorable Jackson Gregory
Presiding Judge, 14th Judicial Circuit

Beaufort, South Carolina
This 15th day of January, 2003.

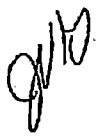


Exhibit E

Y.

JOSEPH L. GOODWIN, MAYOR
TOWN OF YEMASSEE
YEMASSEE POLICE DEPARTMENT
JACK HAGY, POLICE CHIEF
WILLIAM BILL WEIR, P.A.
VAUX & MARSCHER, P.A.
ROBERTS VAUX
LAW OFFICE OF DUFFIE STONE, LLC
ISAAC MCDUFFIE STONE, III
MARSHALL H. WALDRON, JR.
CAROLINA LITIGATION ASSOCIATES, LLC
TGS LAND SURVEYING, P.A.
THOMAS G. STANLEY, JR.
JACKSON V. GREGORY, CHIEF
ADMINISTRATIVE JUDGE

) IN THE COURT OF COMMON PLEAS
)
) CIVIL ACTION NO.: 05-CP-07-1381

ORDER

07 MAR 28 PM 2:33
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

This matter came before the Court on the Defendant's Motion for Summary Judgment pursuant to Rule 56(c), SCRPC. The basis of the Defendant's motion is that there is no genuine issue as to any material fact and that the Defendant is immune under S.C. Code Sections 15-78-60(4) and 15-78-60(9). On Monday, March 19, 2007, the Court heard argument from the parties; present were the Plaintiff, Shemuel Nahum Ben Yisrael, pro se, and Marshall H. Waldron, Jr., Esq., attorney for the Defendant. The Court finds that the Defendant's Motion should be granted.

FACTS AND PROCEDURAL HISTORY

On July 25, 1990, Shemuel Nahum Ben Yisrael, then known as James T. Christopher, purchased real property located at 18 Wall Street in Yemassee, South Carolina. On September 18, 1995, the Town of Yemassee (the Town) purchased real estate in Yemassee immediately adjacent to Mr. Yisrael. On June 30, 1999, the Town took title to two additional pieces of real estate in Yemassee. These parcels front on Wall Street and run adjacent to the Town's 1995 purchase and behind Mr. Yisrael's real estate. Mr. Yisrael maintains his residence and operates a business on his property at 18 Wall Street, Yemassee. On November 22, 2000, Mr. Yisrael filed a lawsuit against the Town in the Circuit Court for Beaufort County, Docket No. 00-CP-07-1843, alleging ownership of the Town property on Wall Street by adverse possession. On January 30, 2001, the Court granted summary judgment and quieted title in favor of the Town. The Court of Appeals denied Mr. Yisrael's Appeal.

When Mr. Yisrael continued to utilize Town land to conduct his business and display signs in violation of Town ordinances, the Town filed Case No. 2001-CP-07-1121, seeking an order restraining Mr. Yisrael from displaying certain signs and from entering onto or trespassing upon Town land. On September 5, 2001, Special Circuit Court Judge Kemmerlin upheld the Town of Yemassee sign ordinance. The Court's Order identified certain signs and ordered Mr. Yisrael to remove them. On March 4, 2003, the Court entered an Order that affirmed Town ownership of the real property adjacent to Mr. Yisrael and restrained Mr. Yisrael from entering the lands or placing any of his property thereon. The Court of Appeals denied Mr. Yisrael's Appeal.

On February 13, 2006, Mr. Yisrael filed the instant lawsuit and attempted service upon some of the Defendants listed in the caption. On February 23, 2006, the Defendants listed in

the caption filed a Motion to Dismiss. On April 17, 2006, this Court dismissed all parties and all causes of action except for the trespass and conversion cause of action against the Town of Yemassee.

The Plaintiff alleges in his Complaint that the Defendant Town of Yemassee, through its Mayor, Joseph Goodwin, unlawfully removed his personal property and business equipment. The Plaintiff in his Third Answer to Defendant's Interrogatories, Numbers 12 and 14(D), subsequently withdrew his allegation regarding the business equipment taken from his property. The only remaining claim is for four protest signs made out of plywood. The Plaintiff alleges that the Town of Yemassee issued an unlawful letter ordering him to remove his protests signs, that he refused to comply and the Town officials trespassed on his property and took them. At oral argument, the Plaintiff conceded that he has not filed an application for a sign permit, but he contends that Judge Kemmerlin's September 5, 2001, Order constitutes his permit. The Plaintiff concedes that three of the signs were erected after the effective date of the Town sign ordinance but argued that the remaining sign, pertaining to Mayor Goodwin, existed prior to the ordinance taking effect and, therefore, was lawfully displayed and not subject to the Ordinance.

The Defendant filed affidavits from J.L. Goodwin, Mayor of Yemassee, and Jack Hagy, Yemassee Chief of Police. Mayor Goodwin's affidavit introduced the Town of Yemassee's Unified Land Development Ordinance (the Ordinance) which went into effect in 2000. His testimony is that Section 5.3 of the Ordinance requires a permit to display a sign and Section 5.7.4 governs orders to remove non-conforming signs. The Mayor's testimony is that for the dates preceding September 16, 2005, the Plaintiff failed to apply for a sign permit pursuant to Section 5.3 of the Ordinance, that by written notice dated September 16, 2005, the

Town ordered the Plaintiff to remove his signs and informed him that failure to remove the signs and materials would result in removal by the Town of Yemassee.

Chief Hagy's testimony is that on September 13, 2005, he delivered a copy of the Town of Yemassee's Unified Land Development Ordinance to the Plaintiff. Chief Hagy's affidavit confirms that on September 16, 2005, at 8:45 a.m., he delivered written notice to the Plaintiff informing him that his signs violated the Town's Ordinance and he must remove the signs by 10:00 a.m. on September 16, 2005, and that if he failed to remove the signs the Town would remove them. The affidavit states that when the Plaintiff failed to remove the signs, Chief Hagy escorted Town employees to the Plaintiff's property and removed the signs pursuant to the Town Ordinance, Section 5.7.4.

LAW AND ARGUMENT

Summary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Strother v. Lexington County Recreation Comm'n.*, 332 S.C. 54 (1998). A motion for summary judgment shall be granted if the pleadings, depositions, answers to interrogatories and admissions on file, together with affidavits, if any, show there is no genuine issue as to any material fact and moving party is entitled to judgment as matter of law. *Standard Fire Ins. Co. v. Marine Contracting and Towing Co.*, 301 S.C. 418 (1990).

Rule 56(c), SCRCP, mandates entry of summary judgment against a party who fails to make a showing sufficient to establish the existence of an element essential to its case. Under Rule 56(c), the Town of Yemassee has the initial responsibility of demonstrating the absence of a genuine issue of material fact. Once the Town of Yemassee carries its burden, as it did with the Goodwin and Hagy affidavits, the Plaintiff must, under Rule 56(e), come forward with

specific facts showing that there is a genuine issue for trial. *Baughman v. AT&T*, 410 S.E.2d 537, 545 (1991).

S.C. Code Section 15-78-60(4) provides that, "the governmental entity is not liable for a loss resulting from... (4) adoption, enforcement, or compliance with any law or failure to adopt or enforce any law, whether valid or invalid, including but not limited to any charter, provision, ordinance, resolution, rule, regulation, or written policies." S.C. Code Section 15-78-60(9) states, "the governmental entity is not liable for a loss resulting from... (9) entry upon any property where the entry is expressly or impliedly authorized by law." I find that the Defendant Town of Yemassee removed the Plaintiff's signs pursuant to the Town's sign ordinance and, therefore, it is entitled to summary judgment as a matter of law.

Mr. Yisrael's reliance on Judge Kemmerlin's September 5, 2001, Order as a sign permit is without basis. The Order upholds the Ordinance. Mr. Yisrael must comply with the terms of the Ordinance and I find that he failed to do so.

Although the Plaintiff initially argued that he placed all four signs at issue prior to the effective date of the Ordinance, he conceded that three of the signs clearly were erected after the year 2000 and, therefore, require a permit. Mr. Yisrael contends that the sign naming Mayor Goodwin was permanently affixed to his building in 1997, which exempts it from the Ordinance. The Court finds that the date and manner of its placement do not matter, because Judge Kemmerlin's Order specifically identifies the Mayor Goodwin sign and requires Mr. Yisrael to remove it. The Defendant is entitled to summary judgment as a matter of law.

The Court finds that Mr. Yisrael has not applied for or obtained a permit as required by a valid Town Ordinance. The Defendant Town of Yemassee lawfully removed the signs pursuant to its Ordinance. The Defendant is not liable for the Plaintiff's conversion claim,

pursuant to S.C. Code Section 15-78-60(4). Neither is the Town liable for trespass, pursuant to S.C. Code Section 15-78-60(9). The Defendant is entitled to summary judgment as a matter of law.

IT IS SO ORDERED.



Hon. Carmen T. Mullen
Presiding Judge, 14th Judicial Circuit

Beaufort, South Carolina

This 27th day of March 2007

Plaintiff,

y.

JOSEPH L. GOODWIN, MAYOR
TOWN OF YEMASSEE
YEMASSEE POLICE DEPARTMENT
JACK HAGY, POLICE CHIEF
WILLIAM BILL WEIR, P.A.
VAUX & MARSCHER, P.A.
ROBERTS VAUX
LAW OFFICE OF DUFFIE STONE, LLC
ISAAC MCDUFFIE STONE, III
MARSHALL H. WALDRON, JR.
CAROLINA LITIGATION ASSOCIATES, LLC
TGS LAND SURVEYING, P.A.
THOMAS G. STANLEY, JR.
JACKSON V. GREGORY, CHIEF
ADMINISTRATIVE JUDGE

Defendants.

) IN THE COURT OF COMMON PLEAS
)
) CIVIL ACTION NO.: 05-CP-07-1381

JUDGMENT

2007 AUG -8 PM 1:50
BEAUFORT COUNTY
CLERK OF COURT
BEAUFORT, S.C.

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
SHEMUEL NAHUM BEN YISRAEL,

Plaintiff,

y.

JOSEPH L. GOODWIN, MAYOR)
TOWN OF YEMASSEE)
YEMASSEE POLICE DEPARTMENT)
JACK HAGY, POLICE CHIEF)
PETERS, MURDAUGH, PARKER, ELTZROTH)
& DETRICK, P.A., JACK CLYDE ELTZROTH,)
VAUX & MARSCHER, P.A.)
ROBERTS VAUX)
LAW OFFICE OF DUFFIE STONE, LLC)

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO.: 07-CP-07-218

JUDGMENT

ISAAC MCDUFFIE STONE, III)
 MARSHALL H. WALDRON, JR.)
 CAROLINA LITIGATION ASSOCIATES, LLC)
 ALTON SEARSON)
 CHARLES MARSHALL)
 BENJAMIN JOSSELLSON)
 TAMMY LANE)

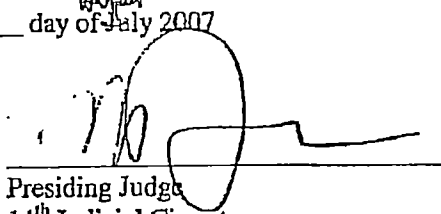
Defendants.

The South Carolina Court of Appeals having issued an Order of Dismissal. The South Carolina Court of Appeals forwarded the Remittitur on June 6, 2007, and granted the Defendant Town of Yemassee's Motion to Award Costs on June 24, 2007, all as appearing in the attached Notice and Exhibit attached hereto,

IT IS ORDERED AND ADJUDGED:

That Shemuel Nahum Ben Yisrael pays to the Town of Yemassee the sum of \$275.00.

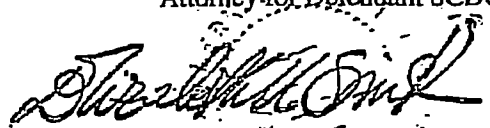
Dated at Beaufort, South Carolina, this 6th day of August 2007


 Presiding Judge
 14th Judicial Circuit

This Judgment was entered on the 8th day of August 2007 and a copy mailed first class this 21st day of July 2007 to the *Pro-Se* Plaintiff and attorney of record as follows:

Shemuel Nahum Ben Yisrael
 Post Office Box 1740
 Yemassee, South Carolina 29945
 Plaintiff *Pro-Se*

Marshall H. Waldron, Jr.
 Post Office Box 1880
 Bluffton, South Carolina 29910
 Attorney for Defendant SCDOT


 Elizabeth M. Smith
 CLERK OF COURT

By David M. Smith



The South Carolina Court of Appeals

KENNETH A. RICHSTAD
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMNER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1850
FAX: (803) 734-1839
WWW.SCCOURTS.ORG

July 24, 2007

Marshall H. Waldron, Jr., Esquire
Mark S. Berglind, Esquire
Carolina Litigation Associates
P.O. Box 1880
Bluffton, SC 29910

Re: Yisrael, Shemuel v. Town of Yemassee (2)

Dear Counsel:

The following Order has been endorsed on your Motion for Costs on Appeal in the above entitled case on appeal.

"Granted in the amount of \$275.00 (Two hundred seventy-five dollars).

Kaye G. Hearn, C.J.
For the Court

By s/ Kenneth A. Richstad
Clerk

July 24, 2007."

Please be advised the respondent, Town of Yemassee, will be awarded costs under South Carolina Appellate Court Rule 222(D). A copy of the itemized statement of costs will be sent to the Clerk of Court for Charleston County.

Very truly yours,

A handwritten signature in cursive script, reading "Elizabeth A. Carter".

Elizabeth A. Carter
Docketing Specialist

Handwritten initials "ec" in cursive script.

cc: Shemuel Nahum Ben Yisrael
Roberts Vaux, Esquire
The Honorable Julie J. Armstrong

Exhibit F

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF **HAMPTON**
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. **2008-CP-25-408**

**SHEMUEL NAHUM BEN
YISRAEL**
PLAINTIFF(S)

TOWN OF YEMASSEE, ETAL
DEFENDANT(S)

CHECK ONE:

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

IT IS ORDERED AND ADJUDGED: ☒ See attached order; ☐ Statement of Judgment by the Court:
PURSUANT TO RULE 77 (D), PLEASE FIND THE ATTACHED ORDER
GRANTING DEFENDANT MOTION TO DISMISS FILED ON 12/04/2008

Dated at **HAMPTON**, South Carolina, this **5TH** day of **DECEMBER**, 2008.

PRESIDING JUDGE

FILED
2008 DEC - 5 AM 11:03
MYLINDA D. HETTES
CLERK OF COURT
HAMPTON COUNTY, S.C.

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

SHEMUEL YISREAL

ATTORNEY(S) FOR THE PLAINTIFF(S)

MARSHALL H WALDRON JR

STEVEN T MOON

R. ALEXANDER MURDAUGH

ATTORNEY(S) FOR THE DEFENDANT(S)

My Linda D. Hettes

CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF HAMPTON

Shemuel Nahum Ben Yisrael,

Plaintiff,

vs.

- (1) Town of Yemassee
- (2) Joseph L. Goodwin, Mayor
- (3) Cindy Pittinger, Clerk
- (4) Yemassee Planning Commission
- (5) Harry Bennett, Codes Enforcer
- (6) Hampton County Tax Collector
- (7) Ira Brooks, Tax Collector
- (8) Peggy Bing-O'Banner
- (9) Nathaniel "Shine" O'Banner
- (10) Successful Bidder of
Tax Map # 198-00-00-082
- (11) CSX Corporation
- (12) David Poston, Road Master,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 08-CP-25-408

ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS

BY _____
MYRNA D. HETTLER
CLERK OF COURT
HAMPTON COUNTY, S.C.

2008 DEC -4 PM 2:00

FILED

This matter came before the Court in Hampton County on Thursday, October 9, 2008, on Motions to Dismiss filed by the Defendants. The Plaintiff appeared pro se. Marshall H. Waldron, Jr., Esquire, appeared on behalf of Defendants Town of Yemassee, Mayor Joseph L. Goodwin, Clerk Cindy Pittinger, the Yemassee Planning Commission, Codes Enforcer Harry Bennett, Hampton County Tax Collector Ira Brooks, Peggy Bing-O'Banner in her official capacity and Nathaniel "Shine" O'Banner in his official capacity. Steven T. Moon, Esquire, was present on behalf of Defendants CSX Corporation and Road Master David Poston. R. Alexander Murdaugh, Esquire, appeared on behalf of Defendants Nathaniel "Shine" O'Banner and Peggy Bing-O'Banner in their individual capacities.

The Court considered the full argument from all parties, reviewed motions and

supporting material presented by the Defendants, including the Complaint, Motion to Dismiss, Defendant's Memorandum of Law and the Affidavit of Ira Brooks, Hampton County Tax Collector, and grants the Defendants' Motion to Dismiss.

INTRODUCTION

The Defendants argued that the Complaint should be dismissed because the Plaintiff lacks standing to bring the suit, because the Plaintiff failed to properly serve the Summons and Complaint, because the Court, sitting in the Hampton County Court of Common Pleas, lacks jurisdiction over matters involving real estate in Beaufort County and over pending prosecutions and because the Complaint fails to allege sufficient facts to state a claim. In support of their argument, the Defendants presented the Affidavit of Ira Brooks, Tax Collector for Hampton County, South Carolina. Ms. Brooks' Affidavit states that she searched the Hampton County tax records on October 9, 2008, and confirmed that the real property involved in the instant litigation is titled in the name of Cynthia Bing, Yolanda Bing and the Sandra Barnwell Estate and that Shemuel Nahum Ben Yisrael has no recorded interest in the real estate.

The Plaintiff alleges that on May 8, 2008, he went to the Tax Collector's office with a money order, intending to redeem real estate identified as Tax Map # 198-00-00-082 in Hampton County, South Carolina. He stated that the Tax Collector refused to take his payment and asked the Court for an Order requiring her to accept his money. Mr. Yisrael claims that he is a cousin to Cynthia Bing and Yolanda Bing and that he has assumed the duties of personal representative of the Barnwell Estate. He presented no Order from the Probate Court or any other material to document his contention. He also alleges ownership of the parcel by adverse possession and claims that he has paid taxes on the parcel in prior years.

DISCUSSION

"Service of summons may be made by the sheriff, his deputy, or by any other person not less than eighteen (18) years of age, not an attorney in or a party to the action." Rule 4(c), SCRCP. The plaintiff has the burden to establish that the court has personal jurisdiction over the defendant, that service of process was correctly made. *Jensen v. Doe*, 292 S.C. 592, 594 (Ct. App. 1987); *Moore v. Simpson*, 322 S.C. 518, 523 (Ct. App. 1996).

Mr. Yisrael told the Court that he completed service through an acquaintance, Mr. Vick, and described in detail how he accompanied Mr. Vick to various locations, identified the individuals to receive the papers and directed Mr. Vick to actually make service upon the Town of Yemassee, Joseph L. Goodwin, Cindy Pittinger, the Yemassee Planning Commission, Harry Bennett the Hampton County Tax Collector, Peggy Bing-O'Banner and Nathaniel O'Banner. The Court declines to dismiss the Complaint against these Defendants on this ground.

Mr. Yisrael offered no proof of service for Defendants David Poston and CSX. He claims to have served these parties by leaving a copy of the Complaint on the windshield of a motor vehicle in the vicinity of Mr. Poston's office. This does not comply with the requirements of Rule 4, SCRCP, and the Court finds that the Plaintiff failed to serve Defendants David Poston and CSX.

"Standing to sue is a fundamental requirement in instituting an action." *Joytime Distributors and Amusement Co., Inc. v. State*, 338 S.C. 634, 639, 528 S.E.2d 647, 649 (1999). To have standing requires a personal stake in the subject matter of the lawsuit. The Plaintiff must be a real party in interest. "A real party in interest is one who has a real, material, or substantial interest in the subject matter of the action, as opposed to one who has only a nominal

WMC
2/3

or technical interest in the action." *Mulherin-Howell v. Cobb*, 362 S.C. 588, 597-598, 608 S.E.2d 587, 592 (Cl. App. 2005).

Mr. Yisrael claims that he has standing to sue and that he has an interest in the real property. On the one hand, he claims to act as personal representative of the estate of a family member. On the other, he claims that he owns the property by adverse possession. The Court finds the two statements inconsistent. Further, the evidence before the Court, from the Affidavit of the Tax Collector, is that the only persons who have a legal interest in the property are Cynthia Bing, Yolanda Bing and the Sandra Barnwell Estate. The Tax Collector's Affidavit, given on the date of the motions hearing, presents testimony that she searched the Hampton County records on October 9, 2008, and found that Shemuel Nahum Ben Yisrael has no legal interest in the property identified as Tax Map No. 198-00-00-082, and the Court so finds.

§12-51-90(A), S.C. Code, states, "The defaulting taxpayer, any grantee from the owner, or any mortgage or judgment creditor may within twelve months from the date of the delinquent tax sale redeem each item of real estate by paying to the person officially charged with the collection of delinquent taxes, assessments, penalties, and costs, together with interest as provided in subsection (B) of this section." Mr. Yisrael cannot satisfy the statute's requirements and, therefore, may not redeem the real estate. The Plaintiff has not established any legal interest in the property and lacks standing to bring the instant action.

The Court grants the Defendants' Motion as to all claims with regard to real estate identified as Tax Map # 198-00-00-082 in Hampton County, South Carolina.

The Plaintiff described the activities of David Poston as stalking and asked the Court to order Mr. Poston to leave him alone. "A plaintiff's entitlement to an injunction requires the complaint to allege facts sufficient to constitute a cause of action for injunction while also

showing an injunction must be reasonably necessary to protect the legal rights of the plaintiff pending in the litigation." *Transcont'l Gas Pipe Line Corp. v. Porter*, 252 S.C. 478, 480-81, 167 S.E.2d 313, 315 (1969). To obtain an injunction, Mr. Yisrael must demonstrate irreparable harm, a likelihood of success on the merits, and an inadequate remedy at law. *County of Richland v. Simpkins*, 348 S.C. 664, 669, 560 S.E.2d 902, 904 (Ct. App. 2002).

The Court finds that that the Complaint lacks the specificity required for injunctive relief. Further, the Plaintiff has not presented any fact to demonstrate that injunctive relief is necessary. Finally, because Mr. Yisrael has an adequate remedy at law, the Court may not issue the order requested by the Plaintiff. *Scratch Golf Co. v. Dunes West Residential Golf Properties, Inc.*, 361 S.C. 117, 122, 603 S.E.2d 905, 908 (2004).

Although the Complaint attempts to articulate claims for civil conspiracy, abuse of process, misrepresentation, fraud and gross negligence, the Plaintiff's mere statements do not satisfy the pleading requirements of Rule 8, SCRPC. Identifying a potential cause of action is not enough. The Plaintiff must plead ultimate facts to state a cause of action. *Food Lion, Inc. v. United Food & Commercial Workers Intern. Union*, 351 S.C. 65, 79, 567 S.E.2d 251, 258 (Ct.App. 2002); Rule 8, SCRPC.

THEREFORE, IT IS ORDERED that the Complaint is dismissed, pursuant to Rules 12(b) and 56, SCRPC.

IT IS SO ORDERED.


 Hon. Doyet A. Early, III
 Presiding Judge, 14th Judicial Circuit


 _____, South Carolina
 This 13 day of November, 2008

Exhibit G

2017-07-15/19

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS JUL 21 PM 1:24
CIVIL ACTION NUMBER:

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Shemuel Nahum Ben Yisrael.....Plaintiff,

Plantation Yisrael.....

- V -

- (1) Roy Hughes, Sr.,..... Defendants
- (2) Margaret hughes
- (3) Hughes General Merchandise
- (4) Town Of Yemassee
- (5) Yemassee Police Department
- (6) Gregorie Alexander, Police Chief
- (7) Law Office Of Darrell Thomas Johnson, Jr. ,LLC
- (8) Mills Lane Morrison, Jr., Attorney
- (9) Fulcher Hagler, LLP
- (10) Elizabeth McLeod, Attorney
- (11) Peters, Murdaugh, Parker, Eltzroth & Detrick
- (12) Randolph Murdaugh, III, Attorney
- (13) Duffy Stone Law Firm, LLC
- (14) Duffy Stone, Attorney
- (15) Vaux & Marscher Law Firm, LLC
- (16) Roberts Vaux
- (17) Republic Services
- (18) F & ME Consultants
- (19) CSX Transportation, Inc.
- (20) David Poston, Road Master
- (21) Kirby Peeples
- (22) Ross Gregorie Estate
- (23) Joseph L. Goodwin, Former Mayor
- (24) Beaufort County 911 Emergency Dispatch
- (25) Hampton County 911 Emergency Dispatch
- (26) Jerry's Auto Parts
- (27) Jerry Cook
- (28) Colin Moore
- (29) Jackie Moore
- (30) Jerry Thompson

S U M M O N S and COMPLAINT

To The Defendants:

You are hereby summoned to appear and defend, within thirty,
(30), days, this action, at the Beaufort County Courthouse
located at 101 Ribaut Road, Beaufort, South Carolina. Your
failure to appear as scheduled by the court shall result in
judgement by DEFAULT, FOR THE RELIEF DEMANDED in the Complaint.

(Summons and Complaint continued from previous page)

A copy of your answer to the attached Complaint should be mailed to the Plaintiff to the address cited below.

DATE: Friday July 21, 2017 SIG. Shemuel Yisrael

Shemuel N. B. Yisrael

18 Wall Street

Yemassee, South Carolina 29945

(843) 589-3033

PRO SE

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS
CIVIL ACTION NUMBER:

2017 JUL 21 PM 1:24

JERRI ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

2017-CP 07-1519

Shemuel Nahum Ben Yisrael.....Plaintiff,
Plantation Yisrael.....

- V -

- (1) Roy Hughes, Sr.,..... Defendants
- (2) Margaret hughes
- (3) Hughes General Merchandise
- (4) Town Of Yemassee
- (5) Yemassee Police Department
- (6) Gregorie Alexander, Police Chief
- (7) Law Office Of Darrell Thomas Johnson, Jr. ,LLC
- (8) Mills Lane Morrison, Jr., Attorney
- (9) Fulcher Hagler, LLP
- (10) Elizabeth McLeod, Attorney
- (11) Peters, Murdaugh, Parker, Eitzroth & Detrick
- (12) Randolph Murdaugh, III, Attorney
- (13) Duffy Stone Law Firm, LLC
- (14) Duffy Stone, Attorney
- (15) Vaux & Marscher Law Firm, LLC
- (16) Roberts Vaux
- (17) Republic Services
- (18) F & ME Consultants
- (19) CSX Transportation, Inc.
- (20) David Poston, Road Master
- (21) Kirby Peeples
- (22) Ross Gregorie Estate
- (23) Joseph L. Goodwin, Former Mayor
- (24) Beaufort County 911 Emergency Dispatch
- (25) Hampton County 911 Emergency Dispatch
- (26) Jerry's Auto Parts
- (27) Jerry Cook
- (28) Colin Moore
- (29) Jackie Moore
- (30) Jerry Thompson

COMPLAINT

- (1) This Complaint involves Plaintiff's real and personal property located on or near the following streets, namely, Wall Street, Castle Hall Road, LeCreuset and River Roads, and is known collectively as PLANTATION YISRAEL.

(Complaint continued from previous page)

(2) The Defendants have knowingly and willfully entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff's personal property.

(3) This lawsuit refers to incidents occurring in July 2017, and not limited to said month.

(4) Plaintiff seeks, \$ 1,000,000.00, from each defendant.

DATE: Friday July 21, 2017 SIG. Shemuel G. G. G.

STATE OF SOUTH CAROLINA

COUNTY OF Beaufort

Shemuel Rahim Ben Yisrael
Plantation Yisrael Plaintiff(s)

vs.

Roy Hughes, Jr Et Al Defendant(s)

Submitted By: Plaintiff Pro Se
Address: 19 Wall Street
Hennacel, S.C. 29945

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP-07-1519

SC Bar #: Pro Se Plaintiff
Telephone #: (843)
Fax #: /
Other: /
E-mail: /

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

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

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

NATURE OF ACTION (Check One Box Below)

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

Submitting Party Signature: Shemuel Yisrael

Date: Friday July 21, 2017

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

Exhibit H

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT) CASE NO: 2017-CP-07-1519

Shemuel Nahum Ben Yisrael, Plantation
Yisrael,

Plaintiff,

vs.

Roy Hughes Sr., Margaret Hughes,
Hughes General Merchandise; Town of
Yemassee; Yemassee Police Department;
Gregorie Alexander, Police Chief; Law
Office of Darrell Thomas Johnson, Jr.,
LLC; Mills Lane Morrison, Jr., Attorney;
Fulcher Hagler, LLP; Elizabeth McLeod,
Attorney; Peters Murdaugh, Parker,
Eltzroth & Detrick; Randolph Murdaugh,
III. Attorney; Duffy Stone Law Firm,
LLC; Roberts Vaux; Republic Services;
F & ME consultants; CSX
Transportation, Inc.; David Poston, Road
Master; Kirby Peebles; Ross Gregorie
Estate; Joseph L. Goodwin, Former
Mayor; Beaufort County 911 Emergency
Dispatch; Hampton County 911
Emergency Dispatch; Jerry's Auto Parts;
Jerry Cook; Colin Moore; Jackie Moore;
and Jerry Thompson

Defendants.

**ORDER DISMISSING WITH
PREJUDICE DEFENDANTS CSX
TRANSPORTATION, INC., DAVID
POSTON, ROADMASTER,
FULCHER HAGLER, LLP, AND
ELIZABETH MCLEOD,
ATTORNEY**

THIS MATTER comes before the Court on a Motion to Dismiss filed on behalf of Defendants CSX Transportation, Inc., David Poston, Roadmaster, Fulcher Hagler LLP (incorrectly identified in the Complaint as "Fulcher Hagler, LLP"), and Elizabeth McLeod, Attorney. On October 10, 2017, the Court heard argument on the instant motion in the Beaufort County Courthouse. Based on the pleadings and filings of record. and the arguments of the parties or their counsel at the October 10, 2017 hearing, the Court orders as follows:

I. Plaintiffs' Claims and History of Prior Complaints Alleging the Same Claims

The Plaintiff Shemuel Nahum Ben Yisrael proceeded *pro se*. In the Plaintiffs' Complaint initiating the instant lawsuit, Plaintiffs Shemuel Nahum Ben Yisrael and Plantation Yisrael allege that the thirty Defendants they sued entered “into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff’s lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff’s personal property.” (Compl. at 4.) Plaintiffs seek \$1,000,000.00 from each Defendant.

#2
A.B.

As Defendants noted in their motion, and as Plaintiff Yisrael acknowledged at the hearing conducted on Defendants’ motion, Plaintiffs’ claims are the same allegations Mr. Yisrael previously asserted on behalf of himself and Plantation Yisrael in prior cases— which have been dismissed with prejudice. Of note in this regard, the record confirms that in *Yisrael et al. v. Hughes et al.*, Case No. 2016-CP-07-02588, Plaintiffs Shemuel Ben Yisrael and Plantation Yisrael alleged that twelve defendants—including CSX Transportation, Inc. and David Poston, Roadmaster— “entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff’s lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff’s personal property.” (Complaint at 1, *Yisrael et al. v. Hughes et al.*, Case No. 2016-CP-07-02588, Court of Common Pleas, County of Beaufort, State of South Carolina.)¹ Those two Defendants, represented by Elizabeth McLeod, Esq. and the law firm Fulcher Hagler LLP, obtained a dismissal with prejudice of Plaintiffs’ claims and a default judgment on their counterclaim against the Plaintiffs for

¹ “A court can take of judicial notice of its own records, files[,] and proceedings for all proper purposes including facts established in its records.” *Wise v. Wise*, 394 S.C. 591, 601 (S.C. Ct. App. 2011) (alteration in original) (quoting *Freeman v. McBee*, 280 S.C. 490 (S.C. Ct. App. 1984)). At the hearing conducted on Defendants’ motion, Plaintiffs have not contested either the substance of their allegations in *Yisrael et al. v. Hughes et al.* or that, as discussed herein, Defendants CSX Transportation, Inc. and David Poston, Roadmaster, were granted a dismissal with prejudice from that litigation and awarded a default judgment on their counterclaim for attorney’s fees and costs in defending against Plaintiffs’ claims in that suit.

attorney's fees and costs in the amount of \$6,138.00 incurred in the defense of Plaintiffs' claims. That judgement has not been set aside, and thus is binding on the parties to that proceeding.

II. Order Dismissing With Prejudice Defendants CSX Transportation, Inc., David Poston, Roadmaster, Fulcher Hagler LLP, and Elizabeth McLeod, Attorney

Plaintiffs do not dispute either the existence of that prior judgment (which Defendants attached as an exhibit to their motion) or the substance of the Court's previously entered Order dismissing Plaintiffs' claims with prejudice in *Yisrael et al. v. Hughes et al.* In short, Plaintiffs cannot re-litigate claims which have been the subject of a dismissal with prejudice by simply initiating another lawsuit. Plaintiffs are bound by the prior judgment, and this Court lacks subject matter jurisdiction to adjudicate Plaintiffs' claims at this juncture. *First Carolinas Joint Stock Land Bank of Columbia v. Knotts*, 191 S.C. 384 (S.C. 1939); *Turner v. Malone*, 24 S.C. 398 (S.C. 1886); see also *Holmes v. East Cooper Comm. Hosp., Inc.*, 408 S.C. 138, 155 (S. C. 2014).

Moreover, Plaintiffs' conclusory allegation of a "malicious civil and criminal conspiracy" against thirty defendants, which Plaintiffs fail to allege with any factual particularity, does not state a sufficient basis of relief as to these defendants in light of the previous adjudication in *Yisrael et al. v. Hughes et al.*, 2016-CP-07-02588. Nor have Plaintiffs specifically listed their special damages, as is necessary when pleading a claim of civil conspiracy. *Hackworth v. Greywood At Hammett, LLC*, 385 S.C. 110 (S.C. Ct. App. 2009). Accordingly, Defendants CSX Transportation, Inc., David Poston, Roadmaster, Fulcher Hagler LLP, and Elizabeth McLeod, Attorney are hereby **DISMISSED WITH PREJUDICE.**²

² Defendants raise as alternative grounds in support of their motion the defenses of insufficiency of process, insufficiency of service of process, and lack of personal jurisdiction. In light of the Court's ruling granting Defendants' requested relief, the Court need not address these alternative grounds.

III. Order Denying Without Prejudice Defendants' Request for a Screening of Future Complaints Filed By or On Behalf of Plaintiffs

In addition to requesting their dismissal with prejudice from the instant case, Defendants' motion also seeks entry of an order requiring by way of injunctive relief a screening of any future complaints filed by, or on behalf of, either Plaintiff. The Plaintiff has filed multiple actions against CSX Transportation, Inc. and David Poston. Of note, the record establishes that Plaintiff was recently ordered to pay costs and attorney's fees for work which Elizabeth McLeod and Fulcher Hagler LLP expended in their successful defense of CSX Transportation, Inc. and David Poston in *Yisrael et al. v. Hughes et al.*, Case No. 2016-CP-07-02588.

#4
P.B.
Under S.C. Code Ann. § 15-36-10, an attorney or pro se party can be sanctioned for seeking to advance a frivolous position, or for taking a position which "a reasonable attorney presented with the same circumstances would believe . . . was intended merely to harass or injure the other party[.]" *Id.*, § 15-36-10(A)(4)(a)(iii). The relief which the Court may award in such circumstance is broad—and includes, but is not limited to, reasonable attorney's fees and costs, as well as injunctive relief designed to deter the filing of future frivolous or bad faith actions. *Id.*, § 15-36-10(G). As noted, the statute applies to *pro se* litigants. *Id.*, § 15-36-10(A)(4) (listing conduct for which "[a]n attorney or pro se litigant . . . may be sanctioned").

Notwithstanding the above, the relief Defendants request is premature at this juncture. Although not entirely without argument to the contrary,³ the most defensible reading of § 15-36-10 contemplates that the issue of sanctions should be addressed only after the Court has ruled on the merits. *See id.*, § 15-36-10(C)(1); *Holmes*, 408 S.C. at 495 ("Motions made pursuant to the FCPSA [Frivolous Civil Proceedings Sanctions Act] are post-trial motions."). In any event, a party

³ *See id.*, § 15-36-10(D) (indicating that a person confronted with a motion has thirty days to respond "as that person considers appropriate including, but not limited to, by filing a motion to withdraw the pleading, motion, motion, document, or argument, or by offering an explanation of mitigation").

has ten days from the filing of the Court's judgment to pursue a claim under the FCPSA. *Holmes*, 408 S.C. at 160-61. Even if there exists some doubt about whether the Court may proceed with issuance of a sanction under the FCPSA at this time, the Court finds it most suitable in the circumstances at bar to take up the issue—and appropriateness—of any sanction by way of a separate motion, after a Court has definitively resolved the merits of the instant pleadings. Accordingly, Defendants' request for injunctive relief is **DENIED WITHOUT PREJUDICE** to the filing of a motion urging such relief at the appropriate time.

Pursuant to Rule 54(b), SCRCP, the Court hereby **FINDS** there is no just reason for delay and, accordingly, expressly **DIRECTS** entry of a **FINAL JUDGMENT** in favor of Defendants CSX Transportation, Inc., David Poston, Roadmaster, Fulcher Hagler LLP, and Elizabeth McLeod, Attorney consistent with the terms of this Order.

IT IS SO ORDERED, this 1ST day of ^{November} October, 2017.

Walters, J.C.

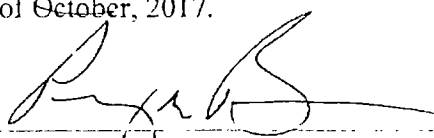

The Honorable Perry M. Buckner

Exhibit I

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
CASE NO: 2017-CP-07-1519

Shemuel Nahum Ben Yisrael, Plantation)
Yisrael,)

Plaintiff,)

vs.)

**ORDER GRANTING DEFENDANTS'
MOTION FOR SANCTIONS**

Roy Hughes Sr., Margaret Hughes,)
Hughes General Merchandise; Town of)
Yemassee; Yemassee Police Department;)
Gregorie Alexander, Police Chief; Law)
Office of Darrell Thomas Johnson, Jr.,)
LLC; Mills Lane Morrison, Jr., Attorney;)
Fulcher Hagler, LLP; Elizabeth McLeod,)
Attorney; Peters Murdaugh, Parker,)
Eltzroth & Detrick; Randolph Murdaugh,)
III, Attorney; Duffy Stone Law Firm,)
LLC; Roberts Vaux; Republic Services;)
F & ME consultants; CSX)
Transportation, Inc.; David Poston, Road)
Master; Kirby Peeples; Ross Gregorie)
Estate; Joseph L. Goodwin, Former)
Mayor; Beaufort County 911 Emergency)
Dispatch; Hampton County 911)
Emergency Dispatch; Jerry's Auto Parts;)
Jerry Cook; Colin Moore; Jackie Moore;)
and Jerry Thompson)

Defendants.)

This matter comes before the Court on a Motion for Sanctions filed on behalf of Defendants CSX Transportation, Inc.; David Poston, Roadmaster; Fulcher Hagler LLP (incorrectly identified in the Complaint as "Fulcher Hagler, LLP"); and Elizabeth McLeod, Attorney (collectively "Defendants"). To deter Plaintiffs' filing of any frivolous actions against them in the future, Defendants request entry of an order requiring Shemuel Nahum Ben Yisrael and/or Plantation Yisrael to post a \$50,000.00 bond or letter of credit simultaneously with their

filing of any complaints or amended complaints naming as defendants CSX Transportation, Inc. or its employees, David Poston, Elizabeth McLeod, or Fulcher Hagler LLP or its attorneys. Subject to the conditions and terms set forth below, the Court **GRANTS** Defendants' motion.

I. Background

Plaintiffs are no strangers to the litigation process; they are frequent filers of complaints in this Court. As Defendants' motion and accompanying documents substantiate, Plaintiffs have sued CSXT and/or its Roadmaster David Poston in at least four prior actions, not including the instant case. Those claims generally allege a malicious civil and criminal conspiracy among defendants to unlawfully trespass upon Plaintiffs' lands, to unlawfully imprison and arrest Plaintiffs, and to steal Plaintiffs' personal property. See generally Defs.' Mot, Ex. 1 (composite exhibits containing several previously filed Complaints). In fact, Plaintiffs' claims in the instant case are the same allegations Mr. Yisrael previously asserted on behalf of himself and Plantation Yisrael in prior cases—and which previously were dismissed with prejudice. Of note in this regard, the record confirms that in *Yisrael et al. v. Hughes et al.*, Case No. 2016-CP-07-02588, Plaintiffs Shemuel Ben Yisrael and Plantation Yisrael alleged that twelve defendants—including CSX Transportation, Inc. and David Poston, Roadmaster—"entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff's personal property." (Complaint at 1, *Yisrael et al. v. Hughes et al.*, Case No. 2016-CP-07-02588, Court of Common Pleas, County of Beaufort, State of South Carolina.)¹ Those two Defendants, represented by Elizabeth McLeod, Esq. and the law firm Fulcher Hagler LLP, obtained a dismissal with prejudice of Plaintiffs' claims and a default judgment on their counterclaim against the Plaintiffs for attorney's fees and costs in the amount

¹ "A court can take of judicial notice of its own records, files[,] and proceedings for all proper purposes including facts established in its records." Wise v. Wise, 394 S.C. 591, 601 (Ct. App. 2011) (alteration in original) (quoting Freeman v. McBee, 280 S.C. 490 (Ct. App. 1984). A copy of the subject complaint is attached to composite Ex. 1 to Defendants' motion for sanctions.

of \$6,138.00 incurred in the defense of Plaintiffs' claims. That judgement has not been set aside and remains binding on the parties to that proceeding. Plaintiffs have not satisfied the judgment entered against them for the attorney's fees and costs defendants CSXT and Poston incurred in their defense of that litigation.

Subsequent to the entry of that judgment in favor of CSXT and David Poston, Plaintiffs Shemuel Nahum Ben Yisrael and Plantation Yisrael filed another action—against thirty defendants, including CSXT, David Poston, and their attorney, Elizabeth McLeod, and Ms. McLeod's law firm, Fulcher Hagler LLP—alleging the Defendants entered “into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff's personal property.” (Compl. at 4.) Plaintiffs sought \$1,000,000.00 from each Defendant. On November 2, 2017, Judge Buckner entered an order dismissing with prejudice Defendants CSXT, David Poston, Elizabeth McLeod, and Fulcher Hagler LLP. On November 6, 2017, these Defendants filed their instant motion for sanctions. Defendants' motion is based on S.C. Code Ann. § 15-36-10 and the Supreme Court's recent interpretation of that statutory provision in *Holmes v. East Cooper Comm. Hosp., Inc.*, 408 S.C. 138 (2014).

II. Analysis

Under S.C. Code Ann. § 15-36-10, an attorney or pro se party can be sanctioned for seeking to advance a frivolous position, or for taking a position which “a reasonable attorney presented with the same circumstances would believe . . . was intended merely to harass or injure the other party[.]” *Id.*, § 15-36-10(A)(4)(a)(iii). The relief which the Court may award in such circumstance is broad—and includes, but is not limited to, reasonable attorney's fees and costs, as well as injunctive relief designed to deter the filing of future frivolous or bad faith actions.

Id., § 15-36-10(G). As noted, the statute applies to pro se litigants. *Id.*, § 15-36-10(A)(4) (listing conduct for which “[a]n attorney or pro se litigant . . . may be sanctioned”).

Upon consideration, the Court finds that Defendants’ motion for sanctions raises precisely the sort of concerns that § 56-36-10 was designed to address. Plaintiff was on notice that his civil and conspiracy claims against CSXT and David Poston were meritless and had been adjudicated in favor of those defendants. Notwithstanding that knowledge, Plaintiffs nonetheless filed a subsequent action against CSXT, David Poston, and others, including the attorney (Ms. McLeod) and law firm (Fulcher Hagler LLP) who represented CSXT and Mr. Poston in connection with those now-dismissed claims—raising precisely the same claims as those previously dismissed. Plaintiffs’ claims against these Defendants meet any conceivable definition of frivolous, and Plaintiffs have not advanced a good-faith basis for their claims against these Defendants.

Accordingly, the Court **GRANTS** Defendants’ motion for sanctions. To protect against further abuse of the litigation process, Plaintiffs Shemuel Nahum Ben Yisrael and Plantation Yisrael are each enjoined from filing future complaints (or amended complaints) naming as defendants CSX Transportation, Inc. or its employees; David Poston; Elizabeth McLeod; or the law firm Fulcher Hagler LLP or its attorneys, absent either: (1) the posting of a \$50,000.00 bond or letter of credit with the Clerk of Court contemporaneously with the filing of any such pleadings, *see Holmes v. East Cooper Comm. Hosp., Inc.*, 408 S.C. 138 (2014), or (2) the filing of any such pleading signed by an attorney licensed to practice law by (and in good standing with) the South Carolina Bar, which complies with the requirements of Rule 11, SCRCP. Further, in any action in which either Plaintiff brings claims against CSX Transportation, Inc. or its employees; David Poston; Elizabeth McLeod; or the law firm Fulcher Hagler LLP or its attorneys; and fails to comply with the terms and conditions of this Order, the Clerk of any trial

court in this State in which said action is pending shall summarily **DISMISS** that action upon the presentation to such Clerk of a copy of this Order.

IT IS SO ORDERED, this ____ day of _____, 2017.

Hon. Marvin H. Dukes, III

CERTIFICATE OF SERVICE

I hereby certify that on this date, December ____, 2017 a true copy of the forgoing was served by U.S. Mail, postage prepaid, upon the following:

David A. Anderson
James B. Robey, III
Richardson, Plowden, & Robinson, P.A.
1900 Barwell Street, Post Office Drawer 7788
Columbia, South Carolina 29202

Darrell Thomas Johnson, Jr.
Mills Lane Morrison, Jr.
Law Office of Darrell Thomas Johnson, Jr.
P.O. Box 1125
Hardeeville, SC 29927

Shemuel Yisrael
Plantation Yisrael
18 Wall Street
Yemassee, SC 29945

Kirby T. Peebles, Jr.
1295 South 6th Street
Fernandina Beach, FL 32034

Michael N. Loeb



Beaufort Common Pleas

Case Caption: Shemuel Nahum Ben Yisrael , plaintiff, et al VS Roy Hughes Sr ,
defendant, et al
Case Number: 2017CP0701519
Type: Order/Sanctions

So Ordered:

s/Marvin H. Dukes III #3069

Exhibit J

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO. 2017-CP-07-1519

Shemuel Nahum Ben Yisrael and)
Plantation Yisrael,)

Plaintiffs,)

v.)

ORDER DISMISSING YEMASSEE
DEFENDANTS

Roy Hughes, Sr., Margaret Hughes,)
Hughes General Merchandise, Town)
Of Yemassee, Yemassee Police)
Department, Gregory Alexander,)
Police Chief, Law Office of Darrell)
Thomas Johnson, Jr., LLC, Mills)
Lane Morrison, Jr., Attorney, Peters,)
Murdaugh, Parker, Elzroth &)
Detrick, Randolph Murdaugh, III,)
Attorney, Duffy Stone Law Firm,)
Duffy Stone, Attorney, Vaux &)
Marscher Law Firm, LLC, Roberts)
Vaux, Republic Services, F & ME)
Consultants, CSX Transportation,)
Inc., David Poston, Road Master,)
Kirby Peeples, Ross Gregorie Estate,)
Joseph L. Goodwin, Former Mayor,)
Beaufort County 911 Emergency)
Dispatch, Hampton County 911)
Emergency Dispatch, Jerry's Auto)
Parts, Jerry Cook, Colin Moore,)
Jackie Moore & Jerry Thompson,)

Defendants.)

This matter came before the Court for hearing on several Motions filed by the various Defendants, including one filed by the Town of Yemassee and related Defendants (Roy Hughes, Sr., Margaret Hughes, Hughes General Merchandise, Town of Yemassee, Yemassee Police Department, Gregory Alexander, Police Chief, Law Office of Darrell Thomas Johnson, Jr., LLC,

Mills Lane Morrison, Jr., Attorney, Joseph L. Goodwin, Former Mayor, Jerry's Auto Parts, Collin Moore, Jackie Moore, Jerry Thompson and Jerry Cook) (hereinafter referred to as the "Yemassee Defendants"). The Yemassee Defendants based their Motion to Dismiss on Rule 12(b)(6). In addition, the Yemassee Defendants noted that many or all of the Defendants had not been properly served. After hearing arguments of all parties, the Yemassee Defendants' Motion to Dismiss is hereby GRANTED and the Plaintiffs' Complaint against these Defendants is hereby dismissed without prejudice.

SO ORDERED.

Dated: _____, 2018
Beaufort, South Carolina

Marvin H. Dukes, III
Master in Equity for Beaufort County

Exhibit K

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Shemuel Nahum Ben Yisrael,

PLAINTIFF,

v.

Roy Hughes, Sr.; Margaret Hughes; Hughes General Merchandise; Town of Yemassee; Yemassee Police Department; Gregory Alexander, Police Chief; Law Office of Darrell Thomas Johnson, Jr., LLC; Mills Lane Morrison, Jr., Attorney; Fulcher Hagler, LLP; Elizabeth McLeod, Attorney; Peters, Murdaugh, Parker, Eltzroth & Detrick; Randolph Murdaugh, III, Attorney; Duffy Stone Law Firm, LLC; Duffy Stone, Attorney; Vaux & Marscher Law Firm, LLC; Roberts Vaux; Republic Services; F & ME Consultants; CSX Transportation, Inc.; David Poston, Road Master; Kirby Peebles; Ross Gregorie Estate; Joseph L. Goodwin, Former Mayor; Beaufort County 911 Emergency Dispatch; Hampton County 911 Emergency Dispatch; Jerry's Auto Parts; Jerry Cook; Colin Morre; Jackie Moore; and Jerry Thompson,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2017-CP-07-1519

**Order Dismissing Beaufort County 911
Emergency Dispatch with Prejudice**

This matter is before me for hearing on December 13, 2017, on the motion to dismiss of Beaufort County 911 Emergency Dispatch ("Beaufort") pursuant to Rule 12(b)(5)&(6), SCRCF. Present at the hearing were O. Edworth Liipfert, III, attorney for Beaufort, and the *Pro Se* Plaintiff.

LEGAL STANDARD

A trial judge in the civil setting may dismiss a claim when the defendant demonstrates the plaintiff has failed “to state facts sufficient to constitute a cause of action” in the pleadings filed with the court. Rule 12(b)(6), SCRCPP. The trial court’s ruling on a Rule 12(b)(6) motion must be bottomed and premised solely upon the allegations set forth by the plaintiff. Holy Loch Distribs. v. Hitchcock, 332 S.C. 247, 503 S.E.2d 787 (Ct.App.1998), *rev’d on other grounds*, 340 S.C. 20, 531 S.E.2d 282 (2000); Berry v. McLeod, 328 S.C. 435, 492 S.E.2d 794 (Ct.App.1997). The motion will not be sustained if the facts alleged and the inferences reasonably deducible from the pleadings would entitle the plaintiff to relief on any theory of the case. Brown v. Leverette, 291 S.C. 364, 353 S.E.2d 697 (1987); McCormick v. England, 328 S.C. 627, 494 S.E.2d 431 (Ct.App.1997). The question to be considered is whether, in the light most favorable to the plaintiff, the pleadings articulate any valid claim for relief. Toussaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987); Cowart v. Poore, 337 S.C. 359, 523 S.E.2d 182 (Ct.App.1999).

Williams v. Condon, 347 S.C. 227, 232–33, 553 S.E.2d 496, 499–500 (Ct. App. 2001). An affirmative defense may be asserted in a motion to dismiss when “the allegations of the complaint demonstrate the existence of the affirmative defense.” Spence v. Spence, 368 S.C. 106, 123, 628 S.E.2d 869, 878 (2006).

FACTS

The Plaintiff alleges that in July of 2017, and at other times, Beaufort County 911 Emergency Dispatch (“Beaufort”) and the other Defendants “have knowingly and willfully entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff’s lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff’s personal property [Compl. Para 2-3]. These are the sole factual allegations in the four-paragraph Complaint.

DISCUSSION

Beaufort moves to dismiss on several different grounds. The first is that The Plaintiff’s Complaint fails to state a cause of action pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure and SC Code Ann. §15-17-60(17) on the grounds that the

Plaintiff has failed to state a claim upon which relief can be granted. SC Code Ann. §15-17-60(17) provides that a governmental agency cannot be held liable for “employee conduct... which constitutes actual malice, intent to harm, or a crime involving moral turpitude.” The sole allegation in the Complaint is that Beaufort County Dispatch “knowingly and willfully entered into a malicious civil and criminal conspiracy....” “The elements of a civil conspiracy in South Carolina are (1) the combination of two or more people, (2) for the purpose of injuring the plaintiff, (3) which causes special damages.” Pye v. Estate of Fox, 369 S.C. 555, 566–67, 633 S.E.2d 505, 511 (2006). “The ‘essential consideration’ in civil conspiracy ‘is not whether lawful or unlawful acts or means are employed to further the conspiracy, but whether the primary purpose or object of the combination is to injure the plaintiff.’” Id. at, 567, 511 (citing Lee v. Chesterfield General Hosp., Inc., 289 S.C. 6, 13, 344 S.E.2d 379, 383 (Ct.App.1986)). Beaufort argues that it is clear from both the allegations in the Complaint and the elements of civil conspiracy that the Plaintiff’s claim is barred by the plain language of SC Code Ann. §15-17-60(17). The Plaintiff cannot prove his case for civil conspiracy without proving an intent to harm him on the part of an employee of Beaufort County, and the County is immune from suits involving employee conduct which constitutes an intent to harm.

While there is no appellate case on point, the South Carolina Circuit Court has addressed the issue. Judge Keesley held:

The above-cited statute (SC Code Ann. §15-78-60(17)) clearly exempts from the waiver of sovereign immunity any tort involving “intent to harm.” There is no question that civil conspiracy and “aiding and abetting,” at least in the present context, constitute torts that would involve intent to harm. The tort of civil conspiracy has been held by at least one circuit court to be one for which the Tort Claims Act does not waive sovereign immunity. Byrd v. City of

Hartsville, 365 S.C. 650, 620 S.E.2d 76 (2005) (the Supreme Court noted that that circuit court holding had not been appealed). Civil conspiracy is unquestionably an intentional tort. CJS Conspiracy § 14 (“[a] civil conspiracy is an intentional tort requiring a specific intent to accomplish the contemplated wrong”).

Health Promotion Specialists, LLC v. South Carolina Bd. of Dentistry, 2010 WL 11199641 (S.C.Com.Pl., 2010), (affirmed by South Carolina Supreme Court on unrelated grounds, 403 S.C. 623 (2013)).

The Plaintiff responded by arguing facts that were not in the record. His argument failed to address the statutory bar to proceeding against Defendant Beaufort, a governmental entity, for an intentional act.

Having carefully considered the arguments of both sides, I find as an initial matter that considering the immunity provided by the Tort Claims Act is proper in this motion to dismiss. The Plaintiff's Complaint plainly states that Beaufort knowingly and willingly conspired to harm him, and the plain language of the Tort Claims Act bars suits against governmental entities for the conduct of its employees that constitutes “intentional harm.” The general rule against addressing an affirmative defense in a motion to dismiss “arises out of the notion that consideration of an affirmative defense usually requires reference to factual allegations and matters which are beyond the scope of allegations set forth in the complaint.” Spence v. Spence, 368 S.C. 106, 123, 628 S.E.2d 869, 878 (2006). In this case, no additional factual development is necessary to determine the applicability of SC Code, Ann. §15-78-60(17) to the plain allegations of the Complaint, and therefore it is proper to address this at this time.

I find that the Complaint asserts an intent to harm against Beaufort, and that the

intent to harm is an element of a cause of action for civil conspiracy. I find that pursuant to SC Code Ann. §15-78-60(17), Beaufort is entitled to immunity from suit for any conduct of its employees that constitutes and intent to harm. I find that Plaintiff's claim against Beaufort County is barred as a matter of law by the SC Code Ann. §15-78-60(17), and the Plaintiff's Complaint should be and is hereby dismissed with prejudice.

The Defendant also raises that the Complaint fails to state a cause of action pursuant to Rule 12(b)(6) of the South Carolina Rules of civil procedure because it fails to state specific factual allegations sufficient to support a cause of action. I agree. The Complaint contains merely the conclusory statement that the Defendants conspired against the Plaintiff. It fails to state any facts at all to show how this occurred. Rule 8(a) of the South Carolina Rules of Civil Procedure provides that a Complaint must contain "a short plain statement of facts showing that the pleader is entitled to relief." The Plaintiff's Complaint fails to do this. Therefore, the Complaint should properly be dismissed on these grounds as well.

The Defendant argues that the Complaint should be dismissed pursuant to Rule 5 of the South Carolina Rules of Civil Procedure because it was not served on the Defendant. The Plaintiff admitted during the hearing that he did not serve the Complaint on the Defendant, but he argued that by filing the motion to dismiss, Beaufort appeared in the case voluntarily and waived its service defense. Rule 12(h)(1) of the South Carolina Rules of Civil Procedure specifically provides that the defense of insufficiency of service of process is waived "if it is neither made by motion under this rule nor included in a responsive pleading...." Beaufort properly raised the service defense in its motion to dismiss, and therefore it did not waive this defense, and as the Plaintiff has failed to serve Beaufort, the

Complaint should be dismissed on these grounds as well.

Therefore as discussed above, it is:

ORDERED that the Defendant Beaufort County 911 Emergency Dispatch's motion to dismiss is GRANTED, and Beaufort County 911 Emergency Dispatch is hereby DISMISSED WITH PREJUDICE from this action.

IT IS SO ORDERED.

The Honorable Marvin M. Dukes,
Beaufort County Special Circuit Court Judge

Beaufort, South Carolina

December ____, 2017



Beaufort Common Pleas

Case Caption: Shemuel Nahum Ben Yisrael , plaintiff, et al VS Roy Hughes Sr ,
defendant, et al
Case Number: 2017CP0701519
Type: Order/Dismissal

So Ordered:

s/Marvin H. Dukes III #3069

Exhibit L

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Shemuel Nahum Ben Yisrael and Plantation
Yisrael,

PLAINTIFF,

v.

Roy Hughes, Sr.; Margaret Hughes; Hughes
General Merchandise; Town of Yemassee;
Yemassee Police Department; Gregory
Alexander, Police Chief; Law Office of
Darrell Thomas Johnson, Jr., LLC; Mills
Lane Morrison, Jr., Attorney; Fulcher Hagler,
LLP; Elizabeth McLeod, Attorney; Peters,
Murdaugh, Parker, Eltzroth & Detrick;
Randolph Murdaugh, III, Attorney; Duffy
Stone Law Firm, LLC; Duffy Stone,
Attorney; Vaux & Marscher Law Firm, LLC;
Roberts Vaux; Republic Services; F & ME
Consultants; CSX Transportation, Inc.;
David Poston, Road Master; Kirby Peeples;
Ross Gregorie Estate; Joseph L. Goodwin,
Former Mayor; Beaufort County 911
Emergency Dispatch; Hampton County 911
Emergency Dispatch; Jerry's Auto Parts;
Jerry Cook; Colin Morre; Jackie Moore; and
Jerry Thompson,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2017-CP-07-1519

**Defendant Beaufort Co. 911 Emergency
Dispatch's Motion for Sanctions**

**TO: SHEMUEL NAHUM BEN YISRAEL AND PLANTATION YISRAEL, PRO
SE PLAINTIFFS:**

YOU WILL PLEASE TAKE NOTICE that, pursuant to S.C. Code Ann. § 15-36-10,
Defendant Beaufort County Emergency 911 Dispatch ("the Defendant") will move before

the Presiding Judge for the Fourteenth Judicial Circuit, Beaufort County, at such time as the Court may designate, for an Order granting sanctions against the Plaintiffs Shemuel Nahum Ben Yisrael and/or Plantation Yisrael ("the Plaintiffs"), and requiring the Plaintiffs to either post a \$50,000.00 bond or letter of credit simultaneously with their filing of any complaints or amended complaints naming Beaufort County, or any other entity of this state, including any of their related and affiliated agencies and employees, or to file any such pleadings only with the signature of an attorney licensed to practice law by (and in good standing with) the South Carolina Bar, which complies with the requirements of Rule 11, SCRCP.

The Plaintiffs have repeatedly filed frivolous actions in the courts of this state in the past against numerous state entities, and in particular against the cities of Yemasee and Beaufort, and an Order on the matter is necessary to deter the Plaintiffs from filing further frivolous actions in the future. Both Plaintiffs have a practice of frequently filing actions that contain meritless allegations, which often include allegations of civil and criminal conspiracy, unlawful trespassing, and unlawful arrests by various governmental organizations and employees, including various Beaufort County and Town of Yemasee agencies. The Plaintiffs have sued Beaufort County entities at least four (4) times, not including the instant matter, and each time the Plaintiffs alleged some form of conspiracy similar to "a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal Plaintiff's personal property." (Compl. ¶ 4); see also Shemuel Nahum Ben Yisrael v. Joseph L. Goodwin, et. al., 2005-CP-07-01381, Ct. of Common Pleas, Beaufort Cnty.; Shemuel Nahum Ben Yisrael v. Allen Lt. Horton, et. al.,

2003-CP-07-01450, Ct. of Common Pleas, Beaufort Cnty.; Shemuel Yisrael v. State of South Carolina, et. al., 2002-CP-07-01954, Ct. of Common Pleas, Beaufort Cnty.; Shemuel Yisrael v. Town of Yemassee, et. al., 2002-CP-07-01028, Ct. of Common Pleas, Beaufort Cnty. (Exhibits 1-4, respectively). On each prior occasion, the Plaintiffs' allegations against Beaufort County have been dismissed. The Plaintiffs are well aware at this time that each previous action against state government entities was found to be meritless and was adjudicated in favor of the governmental entity, yet the Plaintiffs continue to pursue frivolous claims against these various entities, raising the same allegations each time.

Based on the foregoing, the Defendant seeks an order under S.C. Code Ann. § 15-36-10 enjoining the Plaintiffs from filing any action against the Defendant, including all Beaufort County entities, agencies, and employees, absent the posting of a \$50,000.00 bond or letter of credit, to be filed simultaneously with any complaint or amended complaint, and that should the Plaintiffs fail to post bond, that any future action may be summarily dismissed, pursuant to Order of the Court, or that the Plaintiff be required to file any such pleadings only with the signature of an attorney licensed to practice law by (and in good standing with) the South Carolina Bar, which complies with the requirements of Rule 11, SCRPC. The Defendant respectfully asks the Court for such relief in order to ensure the Defendant can seek reimbursement of the costs and fees associated in defending against any of the Plaintiffs' future frivolous claims. See Holmes v. East Cooper Comm. Hosp., Inc., 408 S.C. 138, 758 S.E.2d 483 (2014).

This motion will be further based on the case law, statutes or other evidence that may

be presented at the hearing of this motion.

GRIFFITH, FREEMAN & LIIPFERT, LLC

By: s/ O. Edworth Liipfert III
O. Edworth Liipfert III (SC Bar No. 72675)
600 Monson Street
PO Drawer 570
Beaufort, SC 29901
843-521-4242
843-521-4247 (fax)
worth@griffithfreeman.com

ATTORNEYS FOR DEFENDANT
BEAUFORT COUNTY 911 EMERGENCY
DISPATCH

January 23, 2018
Beaufort, South Carolina

Exhibit M

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Shemuel Nahum Ben Yisrael,

PLAINTIFF,

v.

Roy Hughes, Sr.; Margaret Hughes; Hughes General Merchandise; Town of Yemassee; Yemassee Police Department; Gregory Alexander, Police Chief; Law Office of Darrell Thomas Johnson, Jr., LLC; Mills Lane Morrison, Jr., Attorney; Fulcher Hagler, LLP; Elizabeth McLeod, Attorney; Peters, Murdaugh, Parker, Eltzroth & Detrick; Randolph Murdaugh, III, Attorney; Duffy Stone Law Firm, LLC; Duffy Stone, Attorney; Vaux & Marscher Law Firm, LLC; Roberts Vaux; Republic Services; F & ME Consultants; CSX Transportation, Inc.; David Poston, Road Master; Kirby Peebles; Ross Gregorie Estate; Joseph L. Goodwin, Former Mayor; Beaufort County 911 Emergency Dispatch; Hampton County 911 Emergency Dispatch; Jerry's Auto Parts; Jerry Cook; Colin Morre; Jackie Moore; and Jerry Thompson,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2017-CP-07-01519

Order Granting Defendant Duffy Stone's
Motion to Dismiss with Prejudice

This matter came before me on January 7, 2019, on the motion of Defendant Duffy Stone, to be dismissed with prejudice from this suit pursuant to Rule 12(b)(6), SCRCP. Present at the hearing were O. Edworth Liipfert, III, attorney for the Defendant, and the *Pro Se* Plaintiff, along with counsel for several of the other Defendants.

LEGAL STANDARD

In considering a motion to dismiss a complaint based on a failure to state facts sufficient to constitute a cause of action, the trial court must base its ruling solely on allegations set forth in the complaint. Spence v. Spence, 368 S.C. 106, 116, 628 S.E.2d 869, 874 (2006). If the facts alleged and inferences reasonably deducible therefrom, viewed in the light most favorable to the plaintiff, would entitle the plaintiff to relief on any theory, then dismissal under Rule 12(b)(6) is improper. Baird v. Charleston County, 333 S.C. 519, 511 S.E.2d 69 (1999); Stiles v. Onorato, 318 S.C. 297, 457 S.E.2d 601 (1995). "The question is whether, in the light most favorable to the plaintiff, and with every doubt resolved in his behalf, the complaint states any valid claim for relief." Gentry v. Yonce, 337 S.C. 1, 5, 522 S.E.2d 137, 139 (1999). The complaint should not be dismissed merely because the court doubts the plaintiff will prevail in the action. Toussaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987).

FACTS

The Complaint consists of only four paragraphs, and it asserts that "in July 2017, and not limited to that month" (Complaint, Para. 3), the "Defendants... knowingly and willfully entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal the Plaintiff's property" (Complaint, Para. 2). The Court takes judicial notice that Defendant Stone has been the Solicitor for the 14th Judicial Circuit since 2006.

DISCUSSION

Defendant Stone argued that as solicitor, he is entitled to absolute prosecutorial immunity pursuant to South Carolina common law, and so he is immune from suit for

allegedly conspiring to have the Plaintiff unlawfully arrested and imprisoned. South Carolina common law is clear that prosecutors are entitled to absolute immunity for all civil suits in which the prosecutor is serving as an advocate for the state, including deciding “whether and when to prosecute, whether to dismiss an indictment against particular defendants,” and for “preparation... for the initiation of the criminal process.” See Williams v. Condon, 347 S.C. 227, 243, 553 S.E.2d 496, 505 (SC Ct.App. 2001) (citing Imbler v. Pachtman, 424 U.S. 409, 96 S.Ct. 984 (1976)). The Plaintiff’s Complaint fails to cite any facts which would take Defendant Stone’s conduct outside the broad scope of this immunity, and the Court finds Defendant Stone’s argument persuasive on this issue.

Defendant Stone also argued that suits against the solicitor are barred pursuant to SC Code Ann. §15-78-60(1) & (2), which provide “(1) legislative, judicial, or quasi-judicial action or inaction; and (2) administrative action or inaction of a legislative, judicial, or quasi-judicial nature.” This immunity also clearly applies to prosecutors under South Carolina law. See Id. at 248-250, 508-509. The Court finds this argument persuasive as well.

The Plaintiff argued at the hearing that he is not suing Defendant Stone for events that took place in 2017, but for events that took place when Defendant Stone was in private practice before becoming solicitor. This argument fails for two reasons. First, the Complaint itself states that the events at issue took place in 2017, so the Complaint cannot possibly be read to include events before 2017. Second, Defendant Stone has been the solicitor since 2006. Defendant Stone argued in response to the Plaintiff that suit for any events that took place before Mr. Stone became solicitor are barred by the applicable statutes of limitations. SC Code Ann. §15-3-530(3) and (5) are the applicable statutes of limitations

in this case, and they require that suit be brought within three years of when the Plaintiff first knew of the wrong. The Court also finds this argument persuasive.

Defendant Stone raised several other grounds in his motion, including immunity pursuant to SC Code Ann. §15-78-70, which requires suits the government to be brought against the agency, not the employee; insufficiency of the Complaint pursuant to Rule 8(a), SCRCF because the Complaint fails to set forth “a short plain statement of the facts showing that the Plaintiff is entitled to relief;” insufficiency of the Complaint pursuant to Rule 9(g), SCRCF because the Complaint fails to plead special damages for civil conspiracy; and insufficiency of service of process pursuant to Rule 4(d)(5) on the grounds that the Plaintiff failed to serve the Complaint on both Defendant Stone and the South Carolina Attorney General’s Office. The Court agrees with Defendant Stone that §15-78-70 of the South Carolina Tort Claims Act bars suit against him. The Court agrees with Defendant Stone that the Complaint is insufficient pursuant to Rule 8(a), SCRCF, in that fails to provide a short plain statement of facts showing that the Plaintiff is entitled to relief. The Court agrees with Defendant Stone that the Complaint fails to allege special damages as required by Rule 9(g), SCRCF. See AJG Holdings LLC v. Dunn, 392 S.C. 160 (2011). The Court agrees with Defendant Stone that solicitors are full-time state employees pursuant to SC Code Ann. §1-7-325. As such, service of process against a solicitor must be made on the solicitor’s office and the South Carolina Attorney General pursuant to Rule 4(d)(5), SCRCF, and the Plaintiff has failed to provide any evidence of proper service under this rule. All of these arguments provide alternate sustaining grounds to grant Defendant Stone’s motion to dismiss.

THEREFORE, AS DISCUSSED ABOVE:

IT IS ORDERED that Defendant Stone's motion to dismiss with prejudice is GRANTED on the grounds that he is entitled to prosecutorial immunity pursuant to South Carolina common law;

IT IS FURTHER ORDERED that Defendant Stone's motion to dismiss with prejudice is GRANTED on the grounds that he is entitled to prosecutorial immunity pursuant to SC Code Ann. §15-78-60(1) & (2);

IT IS FURTHER ORDERED that the Defendant Stone's motion to dismiss with prejudice is GRANTED on the grounds that he is entitled to immunity pursuant to SC Code Ann. §15-78-70;

IT IS FURTHER ORDERED that Defendant Stone's motion to dismiss with prejudice is GRANTED on the grounds that the Complaint is insufficient pursuant to Rule 8(a), SCRC, in that fails to provide a short plain statement of facts showing that the Plaintiff is entitled to relief;

IT IS FURTHER ORDERED that Defendant Stone's motion to dismiss with prejudice is GRANTED on the grounds that the Complaint fails to allege special damages as required by Rule 9(g), SCRCP;

IT IS FURTHER ORDERED that Defendant Stone's motion to dismiss with prejudice is GRANTED on the grounds that the Plaintiff has failed to provide evidence of service on both the solicitor's office and the South Carolina Attorney General pursuant to Rule 4(d)(5), SCRCP.

IT IS FURTHER ORDERED that Defendant Stone's motion to dismiss with

prejudice is GRANTED on the grounds that the Plaintiff has failed to provide evidence of service on both the solicitor's office and the South Carolina Attorney General pursuant to Rule 4(d)(5), SCRCP.

IT IS FURTHER ORDERED that the Defendant, Duffy Stone, is hereby DISMISSED WITH PREJUDICE from this Suit.

IT IS SO ORDERED.

The Honorable Eugene C. Griffith, Presiding
Judge for the Fourteenth Judicial Circuit

_____, South Carolina

January _____, 2019



Beaufort Common Pleas

Case Caption: Shemuel Nahum Ben Yisrael , plaintiff, et al VS Roy Hughes Sr ,
defendant, et al
Case Number: 2017CP0701519
Type: Order/Dismissal

It is so ordered

Eugene C. Griffith, Jr. 2154

Exhibit N

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS
Civil Action # 2019-CP-07-0052

2019-CP-07-0052

Ex. 1

2019 JAN -9 PM 3:49

Shemuel Nahum Ben Yisrael.....Plaintiff,
-V-

CLERK OF COURT

- (1) Judge Griffith
- (2) Town Of Yemassee
- (3) Darrell Thomas Johnson, Jr. LLC
- (4) Peters, Murdaugh, Parker, Eltzroth
& Detrick
- (5) Griffith Freeman Liipfert, LLC
- (6) Vaux & Marscher Law Firm, LLC
- (7) Vaux Marscher Berglind, P.A.

COMPLAINT

- (1) Gross Negligence:

At a motions hearing held Monday January 7, 2019, the defendant ruled and specified that the Town Of Yemassee owns, " PARCEL B ". The case number is, 2017-CP-07-1519.

(2) In so doing Judge Griffith totally disregarded the law of this case which is Judge Kemmerlin's order, January 30, 2001. That order did not specify that, PARCEL B, belonged to the Town Of Yemassee, therefore neither Judge Griffith nor any other circuit court judge legally grant the Town Of Yemassee, PARCEL B, as depicted on the plat dated October 10, 2000, by surveyor Thomas G. Stanley, Jr., for civil action case number, 2000-CP-07-1843. His plat is attached to this complaint as the sole exhibit for now.

(3) Remaining defendants numbers, 2, 3, 4, 5, 6, and 7, all engaged in gross negligence actions, before and during the motions hearing aforementioned. Said actions led to the illegal negligent actions of Judge Griffith.

RELIEF SOUGHT

- (4) That Judge Griffith not sign an order stating that the Town Of Yemassee owns, PARCEL B.
(5) That each defendant pay one million dollars in actual, and or, punitive damages to plaintiff Yisrael whether or not the plaintiff gets to keep, PARCEL B>

DATE: Wed. 1-9-2019 SIG: Shemuel Yisrael

Shemuel Yisrael
18 Wall Street
Yemassee, South Carolina
29945

(843) 589-3033
(843) 510-3063
PRO SE

Exhibit O

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Shemuel Nahum Ben Yisrael,

PLAINTIFF,

v.

Roy Hughes, Sr.; Margaret Hughes; Hughes General Merchandise; Town of Yemassee; Yemassee Police Department; Gregory Alexander, Police Chief; Law Office of Darrell Thomas Johnson, Jr., LLC; Mills Lane Morrison, Jr., Attorney; Fulcher Hagler, LLP; Elizabeth McLeod, Attorney; Peters, Murdaugh, Parker, Eltzroth & Detrick; Randolph Murdaugh, III, Attorney; Duffy Stone Law Firm, LLC; Duffy Stone, Attorney; Vaux & Marscher Law Firm, LLC; Roberts Vaux; Republic Services; F & ME Consultants; CSX Transportation, Inc.; David Poston, Road Master; Kirby Peebles; Ross Gregorie Estate; Joseph L. Goodwin, Former Mayor; Beaufort County 911 Emergency Dispatch; Hampton County 911 Emergency Dispatch; Jerry's Auto Parts; Jerry Cook; Colin Morre; Jackie Moore; and Jerry Thompson,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2017-CP-07-1519

Order Granting Defendant Beaufort
County 911 Emergency Dispatch's
Motion for Sanctions

This matter is before me on the motion of Defendant Beaufort County 911 Emergency Dispatch ("Beaufort County 911 Emergency Dispatch"), dated January 23, 2018, for sanctions pursuant to SC Code Ann. §15-36-10. Present at the hearing were, attorney O. Edworth Lüpfert, III, of Griffith, Freeman, & Lüpfert, LLC for the Defendant, and the *Pro*

Se Plaintiff, and Darrell T. Johnson, Esq., represent the Town of Yemassee and ~~and~~ related defendants.

LEGAL STANDARD

"The decision of whether to impose sanctions is generally entrusted to the sound discretion of the trial court." Rickerson v. Karl, 412 S.C. 215, 219, 770 S.E.2d 767, 770 (Ct. App. 2015).

(C)(1) At the conclusion of a trial and after a verdict for or a verdict against damages has been rendered or a case has been dismissed by a directed verdict, summary judgment, or judgment notwithstanding the verdict, upon motion of the prevailing party, the court shall proceed to determine if the claim or defense was frivolous. An attorney, party, or pro se litigant shall be sanctioned for a frivolous claim or defense if the court finds the attorney, party, or pro se litigant failed to comply with one of the following conditions:

(a) a reasonable attorney in the same circumstances would believe that under the facts, his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;

(b) a reasonable attorney in the same circumstances would believe that his procurement, initiation, continuation, or defense of the civil suit was intended merely to harass or injure the other party; or

(c) a reasonable attorney in the same circumstances would believe that the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was merely brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

(2) Unless the court finds by a preponderance of the evidence that an attorney, party, or pro se litigant engaged in advancing a frivolous claim or defense, the attorney, party, or pro se litigant shall not be sanctioned.

(G) Sanctions may include: (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith.

S.C. Code Ann. § 15-36-10.

PROCEDURAL HISTORY

The Plaintiff filed the current suit against the Defendant and 29 other parties alleging only that "The Defendants have knowingly and willfully entered into a malicious civil and criminal conspiracy to unlawfully trespass upon Plaintiff's lands, and unlawfully imprison and unlawfully arrest, and steal the Plaintiff's personal property." [Compliant, Para. 2]. The Defendant was dismissed with prejudice by Judge Dukes on January 5, 2018, on several grounds, including that the South Carolina Tort Claims Act, SC Code Ann. §15-78-60(17), bars suit against governmental entities for the intentional conduct of their employees.

On January 23, 2018, the Defendant filed the pending motion for sanctions. This motion was originally set for hearing before Judge Dukes on March 2, 2018. On March 1, 2018, the day before the motion was to be heard, the Plaintiff filed a motion to amend the Complaint to add Judge Dukes to the motion, and Judge Dukes cancelled the motion hearing. The motion for sanctions was then set in front of Judge Buckner on April 18, 2018. On the same day as the hearing, the Plaintiff attempted to file a new suit suing Judge Buckner and all of the attorneys present for the motion for sanctions hearing, among others. The Clerk of Court refused to accept this suit for filing because it also attempted to name CXS as a defendant, and the Plaintiff was prevented from suing CXS without first retaining counsel or posting a \$50,000 bond by order of Judge Dukes dated January 8, 2018. Judge Buckner recused himself from this case on April 18, 2018. Judge Mullen had also previously recused herself from this case, so Judge Keesley was appointed as the administrative judge for this case. A third hearing was set before Judge Griffith on January 7, 2019. Judge Griffith heard oral arguments and took the motion for sanctions under advisement. On January 9, 2019, the Plaintiff filed another suit suing Judge Griffith and all counsel present at

the January 7 hearing [2019-CP-07-0052]. Therefore, Judge Griffith declined to rule on the motion for sanctions, which now comes before this court for the fourth time.

FACTS

In 2000, the Plaintiff filed a suit against the Town of Yemassee seeking an order that he owed several parcels of land by adverse possession. [00-CP-07-1843]. Judge Kemmerlin dismissed the case, holding that the Plaintiff did not own the land in dispute. In 2001, the Town filed suit to quiet title to these properties, and Judge Gregory held that Yemassee owned the parcels, and the Plaintiff was restrained from going onto them of placing anything on them. [01-CP-07-1121]. Since that time, the Plaintiff has filed many lawsuits against various governmental entities, judges, elected officials, police officers, government employees, and attorneys who are representing them in the various suits. [02-CP-07-1028; 02-CP-07-1954; 05-CP-07-1381; 08-CP-07-1954; 12-CP-07-4204; 16-CP-07-02588]. These suits all generally allege some form of conspiracy similar to the allegations in the current Complaint. All of these suits have been dismissed. Additionally, the Plaintiff has filed two more suits since the current case making similar allegations [19-CP-07-00052; 19-CP-07-00894].

DISCUSSION

The Defendant takes the position that no reasonable attorney would engage in the conduct the Plaintiff has used in this case of suing opposing counsel and judges, and this conduct was clearly designed to harass the Defendant and delay the current case. This conduct alone is sufficient to enter sanctions limiting the Plaintiff's access to filing suits in the future. Additionally, the Defendant takes the position that in light of the Plaintiff's past

suits, it is clear that the Plaintiff should have known the current suit was meritless, and the pattern of suing the government for frivolous claims is clear. See Holmes v. East Cooper Comm. Hosp., Inc., 408 S.C. 138, 758 S.E.2d 483 (2014).

The Court agrees with both contentions, and finds that preventing the Plaintiff from filing additional frivolous suits against governmental entities, employees, judges, elected officials, and all of their counsel, is warranted pursuant to SC Code Ann. § 15-36-10

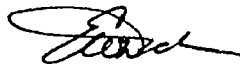
Therefore as discussed above, it is:

ORDERED that the Plaintiff is hereby enjoined from filing any lawsuits against any governmental entity, governmental employee, elected official, judge, or any counsel for them unless he also:

a) posts a \$50,000.00 bond or letter of credit with the Clerk of Court contemporaneously with the filing of any such pleadings, or

b) files pleadings signed by counsel licensed and in good standing in the state of South Carolina which comply with Rule 11, SCRCP.

IT IS SO ORDERED.



JUDGE DICKSON

Beaufort

, South Carolina

June 10

, 2019

Exhibit P

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS

Civil Action # ~~2019-06-10cp-07-0052~~ ^{2019-CP-07-00052}

2019 JUN 10 PM 4:59
JENN ANN ROSENEAU
BEAUFORT COUNTY, S.C.
CLERK OF COURT

Shemuel Nahum Ben Yisrael..... Plaintiff,
- V -

- (1) Judge Griffith Defendants.
- (2) Town Of Yemassee
- (3) Darrell Thomas Johnson, Jr., LLC
- (4) Peters, Murdaugh, Parker, Eltzroth
& Detrick
- (5) Griffith Freeman Liipfert, LLC
- (6) Vaux & Marscher Law Firm, LLC
- (7) Vaux Marscher Berglind, P. A.
- (8) Judge Edgar Warren Dickson

*Motion to Amend
Complaint
on the grounds stated below.*

AMENDED COMPLAINT

Gross Negligence :

- (1) This Complaint is amended to include the Honorable Edgar Warren Dickson, as defendant number 8, who through, gross neglect, (and possibly unjust hidden motives), made the following verbal unjust rulings against the Plaintiff Yisrael, at a motions hearing held, Monday June 10, 2019, at the Beaufort County Courthouse under civil action case # 2017 - CP - 07 - 01519 :
- (2) Judge Dickson unjustly denied the Plaintiff the right to tape record court proceedings, and for that reason alone is recused from Plaintiff's cases immediately.
- (3) Judge Dickson rejected the law of this real estate dispute, as finalized by Judge Thomas Kemmerlin, Jr., dated, January 30, 2001, and, substituted it with a contradictory order of Judge Gregory, dated in 2002, thus possibly causing Plaintiff lost of realty held now for over 29, years.
- (4) Judge Dickson also, unjustly formulated his verbal order in such a way that the Plaintiff loses his constitutional right file suit for civil rights violations when he is beaten by Yemassee Police Chief Gregory Alexander, the Town Of Yemassee. And developers Gavigan Builders, and many others who use many unlawful means to force Plaintiff Yisrael to give his land to them without suitable payment.

DATE: Monday June 10, 2019 SIG. Shemuel Yisrael

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT
COURT OF COMMON PLEAS

2019-CP-07-00052

Civil Action # ~~2019-06-10cp-07-0052~~

Shemuel Nahum Ben Yisrael..... Plaintiff,
- V -

- (1) Judge Griffith Defendants.
- (2) Town Of Yemassee
- (3) Darrell Thomas Johnson, Jr., LLC
- (4) Peters, Murdaugh, Parker, Eltzroth
& Detrick
- (5) Griffith Freeman Liipfert, LLC
- (6) Vaux & Marscher Law Firm, LLC
- (7) Vaux Marscher Berglind, P. A.
- (8) Judge Edgar Warren Dickson

2019 JUN 10 PM 4:59
JERRI ANN ROSEHEAD
BEAUFORT COUNTY, S.C.
CLERK OF COURT

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 - (4) Judge Dickson also, unjustly formulated his verbal order in such a way that the Plaintiff loses his constitutional right file suit for civil rights violations when he is beaten by Yemassee Police Chief Gregory Alexander, the Town Of Yemassee. And developers Gavigan Builders, and many others who use many unlawful means to force Plaintiff Yisrael to give his land to them without suitable payment.
- DATE: Monday June 10, 2019 SIG. Shemuel Yisrael

Exhibit Q

STATE OF SOUTH CAROLINA
COUNTY OF BEAUFORT

Shemuel Nahum Ben Yisrael,

Plaintiff,

v.

Judge Griffith, Town of Yemassee,
Darrell Thomas Johnson, Jr., LLC,
Griffith Freeman Liipfert, LLC,
Vaux & Marscher Law Firm, LLC,
Vaux Marscher Berglind, P.A.,
Peters, Murdaugh, Parker, Eltzroth, &
Detrick.

Defendant(s).

IN THE COURT OF COMMON PLEAS

Case No(s). 2019-CP-07-00052

**ORDER DENYING PLAINTIFF'S
MOTION TO AMEND COMPLAINT**

This matter came before the Court on June 10, 2019 on the Defendant's Motion to Amend his complaint. The Court makes its ruling based on the following:

The Plaintiff's timeframe to amend his complaint has expired. A party may amend his pleading once as a matter of course at any time before or within 30 days after a responsive pleading is served or, if the pleading is one to which no responsive pleading is required and the action has not been placed upon the trial roster, he may so amend it at any time within 30 days after it is served. Rule 15(a), SCRPC. The Plaintiff filed his complaint on January 9, 2019. The Plaintiff filed his motion to amend his complaint on June 10, 2019. More than thirty (30) days have elapsed since the filing of this case. Further, since the Plaintiff's thirty day timeframe has expired the Plaintiff may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires and does not prejudice any other party. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within fifteen days after service of the named amended pleading, whichever period may be the longer, unless the court otherwise orders Id. The Plaintiff did not obtain the written consent of the adverse parties already named and it is in this Court's opinion that to amend the pleading outside of the allowed timeframe would prejudice all adverse parties named in the Plaintiff's complaint. Additionally, the Plaintiff's motion to amend acts as a request to the court to allow such action, which the Court declines to do. "A motion to amend or supplement is addressed

1/2 

to the discretion of the trial judge" Stanley v. Kirkpatrick, 357 S.C. 169, 592 S.E.2d 296 (2004); City of North Myrtle Beach v. Lewis-Davis, 360 S.C. 225, 599 S.E.2d 462 (Ct.App.2004).

Moreover, even if the Plaintiff's timeframe had not expired, his motion would have been deficient on procedural grounds. While his motion to amend is in writing and states with particularity the grounds therefor, it does *not* set forth the relief or order sought. Rule 7(b)(1), SCRPC.

THEREFORE, based on the above stated reasons, the Plaintiff's motion to amend his complaint is DENIED.

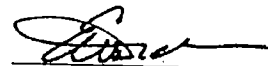
IT IS FURTHER ORDERED that, in the interest of justice and preserving the Plaintiff's Constitutional rights, this case and the filed action with the case number 2019-CP-07-00849 must comply with the Court's order on June 10, 2019¹. On June 10, 2019, the Court ordered that the Plaintiff is enjoined from filing any lawsuits against any governmental entity, governmental employee, elected official, judge, or any counsel for them unless he also:

- a.) Posts a fifty-thousand (\$50,000.00) bond or letter of credit with the Clerk of Court contemporaneously with the filing of any such pleadings, or
- b.) Files pleadings signed by counsel licensed and in good standing in the state of South Carolina which comply with Rule 11, SCRPC.

IT IS FURTHER ORDERED that, in the interest of justice and preserving the Plaintiff's Constitutional rights, the Plaintiff may not file to amend existing actions nor may he file supplemental pleadings unless he also meets the above listed conditions in subsections (a) and (b) of this order and of the June 10, 2019 order.

IT IS SO ORDERED.

Beaufort, South Carolina
June 11, 2019



Edgar W. Dickson, Presiding Judge

¹ Civil Action Number 2017-CP-07-01519, Order Granting Defendant Beaufort County 911 Emergency Dispatch's Motion for Sanctions.