

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Bentley D. Price

Appellate Case No. 2020-01104
Trial Court Case No. 2018-CP-10-04284

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SC Court of Appeals

BONITA STEED and BERNARD STEED,

Respondents,

v.

ANTOINE HEYWARD, RUBY HEYWARD
And also all other persons unknown, claiming
Any right, title, estate, interest in or lien upon
The real estate described in the amended
Complaint herein,

Appellants.

RECORD ON APPEAL

s/Karen M. DeJong
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Attorney for Respondents

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INDEX

Order Granting Motion to Compel and Sanctions filed on September 13, 2019...	4
Hon. Bentley D. Price's Form 4 Order Granting Plaintiff Steed's Motion for Sanctions; granting Plaintiff's Motion for Summary Judgment; and denying Plaintiff's Motion to Amend Complaint filed on July 1, 2020.....	6
Court's Order Granting Summary Judgment to Plaintiffs signed by Hon. Bentley D. Price and filed on July 13, 2020.....	9
Plaintiffs/Respondents' Complaint filed August 29, 2018.....	20
Defendant/Appellant's Antoine Heyward's Answer/Counterclaim/ Crossclaim filed October 4, 2018.....	24
Plaintiffs' Amended Complaint filed October 5, 2018.....	30
Defendant Antoine Heyward's Amended Answer/Counterclaim/Crossclaim filed October 10, 2018.....	34
Plaintiffs' Answer to Counterclaim of Defendant Antoine Heyward filed on November 16, 2018.....	41
Defendant Ruby Heyward's Answer/Counterclaim/Crossclaim filed on February 14, 2019.....	45
Plaintiffs' Answer to Counterclaim of Defendant Ruby Heyward filed on February 22, 2019.....	52
Plaintiffs' Motion to Compel Attendance at Depositions and For Sanctions For Failure to Attend Noticed Depositions filed on May 21, 2019.....	56
Alice F. Paylor's Affidavit in Support of Plaintiffs' Motion to Compel Attendance at Depositions and For Sanctions For Failure to Attend Noticed Depositions filed on May 21, 2019.....	60
Affidavit of Defendant Antoine Heyward in Opposition to Plaintiffs' Motion to Compel Attendance at Depositions filed on August 12, 2019.....	79
Plaintiffs' Motion for Sanctions regarding appointment of a Conservator for Defendant Ruby Heyward and to compel mediation as to Defendant Antoine Heyward filed on January 10, 2020.....	80
Plaintiffs' Motion to Amend Complaint filed on March 10, 2020 to add additional Plaintiffs as "Second Amended Complaint".....	94

Plaintiffs' Motion for Summary Judgment filed on April 23, 2020.....	100
Affidavit of Robert Steed filed on April 23, 2020 in support of Plaintiffs' Motion for Summary Judgment.....	108
Affidavit of Ernest Steed filed on April 23, 2020 in support of Plaintiffs' Motion for Summary Judgment.....	111
Affidavit of Plaintiff Bernard Steed filed on April 23, 2020 in support of Plaintiffs' Motion for Summary Judgment.....	114
Affidavit of Plaintiff Bonita Steed filed on April 23, 2020 in support of Plaintiffs' Motion for Summary Judgment.....	118
Defendants' Opposition to Plaintiff's Motion for Summary Judgment with Memorandum in Support filed on May 21, 2020.....	121
Plaintiffs' Reply in Support of their Motion for Summary Judgment filed on May 28, 2020.....	157
Defendants' Notice of Appeal filed August 10, 2020.....	161
Deposition Transcript of Defendant Antoine Heyward dated November 14, 2019.....	164
Emails and Proposed Order from Plaintiff's counsel to the Court dated July 8, 2020.....	245
Letter to Court wherein Defendant Antoine Heyward consented to being appointed Conservator of Defendant Ruby Heyward, with Letter notifying the Court that Plaintiffs' counsel was neutral on this appointment, filed on November 20, 2019.....	258
Emails between Plaintiffs' counsel and Defendants' counsel re: Judge McCoy telephone conference and parties' agreement to hold Plaintiffs' Motion for Sanction in abeyance until <u>after</u> Plaintiff's Motion for Summary Judgment was decided, dated July 24, 2020.....	259

THE UNDERSIGNED HEREBY CERTIFIES THAT THE RECORD ON APPEAL CONTAINS ALL MATERIAL PROPOSED TO BE INCLUDED BY ANY OF THE PARTIES AND NOT ANY OTHER MATERIAL.

Dated: December 10, 2020

s/Karen M. DeJong
KAREN M. DEJONG, ESQ.

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) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
) CASE NO.: 2018-CP-10-04284

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CLERK OF COURT

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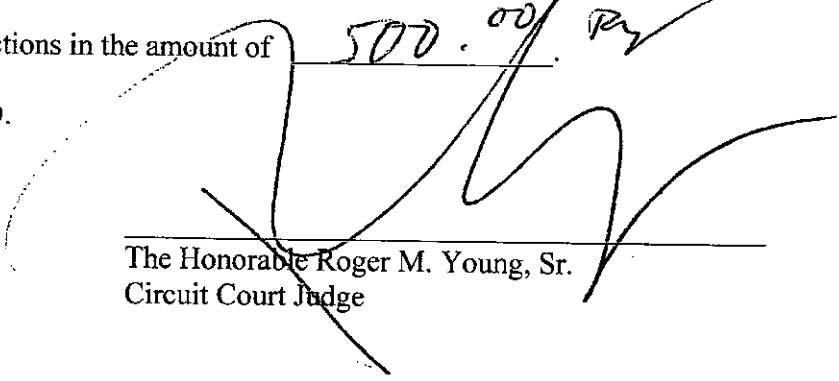
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not require Ruby Heyward to physically appear for her deposition or mediation. However, the Court hereby GRANTS Plaintiffs' Motion to Compel the Depositions of Defendant Antoine Heyward in Charleston County and GRANTS Plaintiffs' Motion to Compel Defendant Antoine Heyward to appear for a mediation in Charleston County.

Plaintiffs requested sanctions, the costs and fees associated with this Motion, for Defendants failure to attend their depositions and mediation. The Court reviewed Plaintiffs' counsel's affidavit that details the time and costs associated with Defendants' failure to comply with South Carolina Rules of Civil Procedure and ADR. The Court finds the affidavit to be fair and reasonable and GRANTS sanctions in the amount of 500.00 *PR*

AND IT IS SO ORDERED.



The Honorable Roger M. Young, Sr.
Circuit Court Judge

Charleston, South Carolina
August 5/6, 2019

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1004284

Bonita Steed et al
PLAINTIFF(S)

Antoine Heyward et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

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

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

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

Plaintiff Bonita Steed's Motion for Sanctions is granted. Plaintiff's counsel is to send an affidavit to us. Plaintiff's Motion to Amend Complaint is denied. Plaintiff's Motion for Summary Judgment is granted.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/29/2020 .

Antoine Heyward
Antoine Heyward Conservator

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

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



Charleston Common Pleas

Case Caption: Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al
Case Number: 2018CP1004284
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-06-29 13:12:02 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	ORDER GRANTING SUMMARY
	)	JUDGMENT TO PLAINTIFFS
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

The Plaintiffs' Motion for Summary Judgment came before the Court for a hearing during the week of June 22, 2020. Plaintiffs and Defendants agreed to have the Court rule on the briefs and evidence submitted without a hearing. Having reviewed the evidence presented as well as the briefs submitted by both parties, I have determined that there is no genuine issue of material fact, and that Plaintiffs are entitled to summary judgment as a matter of law in accordance with SCRCP 56.

BACKGROUND

Plaintiffs brought this action to claim title of the property located at 516 Bank Street, Mt. Pleasant, SC, based on adverse possession. Defendants counterclaimed asserting ownership of the property through a series of deeds to and from Louise Brown Heyward, Plaintiffs' great-grandmother and Defendant Antoine Heyward's grandmother. There is no question that Mrs. Louise Heyward owned the property prior to her death in

2000. This action concerns the ownership after that time and whether Plaintiffs have met the requirements to establish title by adverse possession. Based on the undisputed facts and the law, I have concluded the Plaintiff have met the required burden and are entitled to title of the property.

In 1999, Mrs. Louise Heyward signed a deed to her son Robert Heyward (father and husband of the Defendants). Mr. Heyward died in 2014 without disclosing to the Plaintiffs, who have resided on the property in question from 1966 to the present, that he had been deeded the property by Mrs. Heyward. In 2015, Antoine Heyward contacted the Plaintiffs and demanded that they start paying rent to him, and they refused. Plaintiffs commenced this action in 2018 seeking to have title vested in them by adverse possession. The evidence show that Plaintiffs have continuously and exclusively under right of title occupied the property from 2000 to the present day, and that Defendants have never occupied, improved, or maintained the property occupied by the Plaintiffs during this 20 year period.

FINDINGS OF FACTS¹

The subject real property, located at 516 Bank Street, Mt. Pleasant, South Carolina (hereinafter "Property") is more fully described as follows:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.

¹ The Court is required to take the facts in the light most favorable to the non-moving party, so I have relied primarily on Defendant Antoine Heyward's deposition testimony.

BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

Defendant Antoine Heyward has lived his entire life in Chicago, Illinois, with his mother, Defendant Ruby Heyward. Neither Defendant has ever occupied, or resided at, the Property. Antoine Heyward Deposition, p. 5. The Plaintiffs are cousins of Antoine Heyward. He testified that he met them when he was younger and came to visit them at "their home," the Property. The Plaintiffs have always lived at the Property to Antoine's knowledge. *Id.* at pp. 6-7. Antoine Heyward last visited the Property in 2014 when Plaintiffs allowed the repass for the funeral service of his father to be held there. *Id.* at p. 9. Antoine testified that he does not have, and has never had, a key to the Property. *Id.* at pp. 9-10.

In 2015, after his father died, Antoine hired an attorney who sent a letter to Plaintiffs requesting that they pay rent to Antoine for 516 Bank Street. Robert Heyward had never requested rent from Plaintiffs, and Antoine decided that things were going to change when he inherited the Property. Plaintiffs refused to pay rent, and the conversation did not go well. *Id.* at pp. 15-16. Robert Heyward, who received the property from his mother just prior to her death, had never told the Plaintiffs of his claim to ownership of the Property, and Plaintiffs believed that they owned the Property. *Id.* at pp. 17-18; Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed. Robert Heyward lived in Chicago at the time of his mother's death in 2000 until his death in 2014, and he would only go to the

Property approximately once a year in the summers while his mother was still alive. After her death in 2000, Robert Heyward went to the Property less frequently. He always contacted the Plaintiffs prior to coming and asked them if he could stay on the property. *Id.* at pp.19-20. Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed.

The residential structure on the Property is made up of two rectangles attached to each other. The Plaintiffs lived in both rectangles. Plaintiffs' mother built one of the rectangles after the death of her husband, Plaintiffs' father. In addition to their family building one-half of the structure, Plaintiffs made substantial improvements to the property over the years, including the purchase and installation of a central air unit and appliances; installation of a fence, gutters, insulation, hardwood floors, cabinets, and tile flooring; and the construction of a new roof and a room to house the new washer and driver. Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed. Neither Antoine nor Robert Heyward had anything to do with constructing, improving or maintaining the structures or the Property. Heyward Deposition, pp. 21-23; 57-58. Antoine Heyward never paid for insurance on the Property. He tried but the insurance company cancelled it. *Id.* at p. 26. To Antoine Heyward's knowledge, no one from his family ever told the Plaintiffs that Plaintiffs did not own the Property until he talked to Plaintiff Bonita Steed in 2015 or 2016. *Id.* at pp. 30-31. Antoine Heyward acknowledged that during the last 20 years, the Steeds had no reason to believe that they did not own the Property—where they had lived for over 50 years. *Id.*

Antoine Heyward had no knowledge of who paid the taxes on the Property while his father was alive. After his father's death, Defendants received the tax bill and had the Plaintiffs pay half of it. *Id.* at pp. 31-32.

Plaintiffs have a plat, dated September 18, 1998, showing that Alethia Steed, Plaintiffs' mother, owned the Property. Antoine Heyward has no knowledge of the plat or who created it. Antoine Heyward does not know when his father claimed to have taken ownership of the Property. *Id.* at pp. 34-36. Antoine Heyward acknowledged that Plaintiffs had built the structure on the Property and stated that he would not build a structure on property that he did not own. *Id.* at pp. 37-38.

Antoine Heyward has never visited the Property without the consent of the Plaintiffs. *Id.* at p. 38. No one has lived at the property since 1999 or 2000 after Mrs. Heyward died other than the Plaintiffs. *Id.* at p. 42. Plaintiffs have always taken the position that they own the Property based on their living there for 54 continuous years with exclusive possession since the death of Louise Brown Heyward in 2000.

The Plaintiffs and their two brothers gave affidavits in which they all said neither Antoine, Ruby, nor Robert Heyward ever gave them permission to live on the property, and, instead, it was Robert who would seek permission from Plaintiffs to stay there when he was alive. Antoine Heyward testified that he "consented" to Plaintiff living there but, when asked what he meant by "consent," he testified that he was aware that they were living there. He stated that the Plaintiffs had never asked his permission to live there and he had no knowledge or evidence of them asking Robert Heyward if they could live there. In other words, Antoine failed to present any evidence that Plaintiffs possessed the property with the title owner's consent, because his family never told Plaintiffs of their ownership claim. Heyward Deposition, p. 72. When Antoine told the Plaintiffs that he owned the Property, Plaintiffs expressly opposed the claim. *Id.*, p. 33. Antoine testified that he never

saw his father do anything on the Property that an owner would do: "Everything was already up and – it's not his..." *Id.*, p. 57.

CONCLUSIONS OF LAW

This Court has jurisdiction over the subject matter of this action and of the parties hereto. In Taylor v. Heirs of Taylor, 419 S.C. 639, 799 S.E.2d 919 (S.C. Ct. App. 2017), the Court of Appeals handled a case similar to the one before the Court and reversed the trial court's decision that adverse possession had not been proved and set forth a thorough discussion of the evidence required:

The party asserting adverse possession must show continuous, hostile, open, actual, notorious, and exclusive possession for a certain period of time." *Id.* In South Carolina, the statutory period for adverse possession is ten years. S.C. Code Ann. § 15-67-210 (2005) ; *Jones* , 384 S.C. at 10, 681 S.E.2d at 11. A party asserting ownership by adverse possession must show he has met the elements by clear and convincing evidence. *Jones* , 384 S.C. at 10–11, 681 S.E.2d at 11.

To claim title by adverse possession, a party must show the extent of his possession even when entering under color of title. *Clark v. Hargrave* , 323 S.C. 84, 87, 473 S.E.2d 474, 476 (Ct. App. 1996) (per curiam). Color of title alone is not evidence of adverse possession, and "it does not follow that adverse possession can be proved by less evidence when the entry is under color of title than when it is not." *Id.* at 87, 473 S.E.2d at 477 (quoting *Butler v. Lindsey* , 293 S.C. 466, 470, 361 S.E.2d 621, 623 (Ct. App. 1987)). However, color of title is evidence of the extent of the claim and should be considered with the other facts in the case. *Woodle v. Tilghman* , 252 S.C. 138, 144–45, 165 S.E.2d 702, 705 (1969) (internal quotation omitted). Color of title need not be a deed; "[i]t is anything which shows the extent of [the] occupant's claim." *Id.* at 145, 165 S.E.2d at 705. "It is by no means necessary that the paper should be in the form of a deed. A bond or even a receipt would be sufficient." *Id.* "The principle purpose of color of title in adverse possession proceedings is not to show actual grant of land or interest therein, but to designate [the] boundary of possessor's claim." *Id.*

For possession to be open and notorious, "the legal owner need not have actual knowledge the claimant is claiming property adversely, [but] the hostile possession should be so notorious that the legal owner by ordinary diligence should have known of it." *Jones* , 384 S.C. at 13–14, 681 S.E.2d

at 13: "[A]cts of ownership of open land for purposes of adverse possession need not include actual residency or occupancy." *Id.* at 14, 681 S.E.2d at 13. "Moreover, activities that do not involve the creation of permanent structures on the land can be sufficiently open and notorious as to put the legal owner on notice that his land is being adversely possessed." *Id.*

For possession to be continuous, a party "claiming adverse possession must have personally held the property for ten years." *Id.* at 15, 681 S.E.2d at 14. "Occasional and temporary use or occupation does not constitute adverse possession. However, the rule requiring continuity of possession does not mean the person in possession must be actually on the land during the whole of the statutory period." *Id.* at 16, 681 S.E.2d at 14 (citation omitted).

To show the possession was hostile, the adverse claimant is required to show only that his possession was actual, exclusive, open, notorious, and without the consent of the title owner. *Knox v. Bogan*, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App. 1996). The mistaken belief rule, which requires the possessor to be aware he does not have title and intend to dispossess the true owner, is not applicable in disputes over entire tracts of land. *Id.*; see also *Perry v. Heirs at Law & Distributees of Gadsden*, 316 S.C. 224, 226, 449 S.E.2d 250, 251 (1994) (per curiam) (finding the mistaken belief rule does not apply in a dispute over an entire tract of land, rather it applies in a boundary line dispute). Thus, for the possession to be hostile when an entire tract of land is at issue, the adverse claimant need not show a conscious intent to dispossess the true owner. *McDaniel v. Kendrick*, 386 S.C. 437, 442–43, 688 S.E.2d 852, 855 (Ct. App. 2009). The claimant may establish hostile possession by showing he occupied the property without the title owner's consent even if he occupied the property under the mistaken belief that it belonged to him. *Id.*

419 S.C. at 650-652, 799 S.E.2d 924-925.

Plaintiffs presented clear and convincing evidence to this Court that their possession of this property was actual, open, notorious, hostile, exclusive and continuous between 2000 when Louise Heyward died and today. Defendants argued in their brief only that Plaintiffs did not prove that their occupation was hostile. However, as set forth above, the Plaintiffs "may establish hostile possession by showing [they] occupied the property without the title owner's consent even if [they] occupied the property under the mistaken belief that it belonged to [them]." *Id.* In *Taylor*, the Court held that "there was no evidence

in the record indicating [claimants] possessed [the property with title owner's] permission or consent.”

As the Plaintiffs have all stated in their affidavits, neither Defendants nor Robert Heyward ever gave them permission to live on the property and, instead, Plaintiffs gave Robert Heyward permission to stay there when he was alive. See Bernard Steed Affidavit, para. 8. Defendants have not put forth any evidence that the Plaintiffs possessed the Property with the title owner's consent. As set forth in Taylor, Defendants' awareness that Plaintiffs lived on the Property is not sufficient to show that Plaintiffs lived there with consent. The evidence before the Court is that Plaintiffs lived there under the belief that they owned the Property.

Defendant Antoine Heyward's testimony that he never saw his father do anything on the Property that an owner would do unequivocally shows that Plaintiffs treated this property as their own for the statutory period: “Everything was already up and –it's not his...” Id., p. 57. Clearly, Defendants either knew, or should have known, that Plaintiffs claimed ownership, and Defendants' actions towards Plaintiffs (at least until 2015) acknowledged Plaintiffs' ownership of the Property. Because Plaintiffs have presented clear and convincing evidence that they have met all the requirements to own the Property by adverse possession, Plaintiffs are entitled to summary judgment as a matter of law.

As an additional sustaining ground, I find that Defendants' claim to the Property is barred by the equitable doctrine of laches. A party asserting adverse possession in a quiet title action can establish the defense of laches. See Jones v. Leagan, 384 S.C. 1, 20, 681 S.E.2d 6, 16 (Ct. App. 2009) (“The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances, and (3) prejudice.”). As in Jones, the

Plaintiffs here have invested a significant amount of time and money improving the Property during the twenty year period that Defendants claim they have owned the Property. At no point during that period did any of the Defendants or Robert Heyward tell Plaintiffs that they had a deed to the Property, nor did they make any improvements to the Property. It would be inequitable to permit the Defendants to make an ownership claim to the Property after twenty years of inaction and failing to inform Plaintiffs of their claim, despite knowing the substantial time and money that Plaintiffs had and were investing in the Property. I find that because the Defendants had twenty years to take steps to protect their rights in the Property, yet failed to do so, the doctrine of laches bars Defendants from claiming ownership to the property.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the following property is quieted and confirmed onto Plaintiffs Bernard Steed and Bonita Steed and that Bernard Steed and Bonita Steed are vested with fee simple title, free and clear of the claims of all others, to the following described real property:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.

BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

Upon request by Plaintiffs, and upon payment of the applicable fee, this Court shall issue a Master's Deed consistent with the terms of this Order.

AND IT IS ORDERED this ____ day of July, 2020, at Charleston, South Carolina

Bentley Price
Circuit Court Judge



Charleston Common Pleas

Case Caption: Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al
Case Number: 2018CP1004284
Type: Order/Summary Judgment

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-07-13 15:11:20 page 11 of 11

COUNTY OF CHARLESTON)
STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Civil Action #: 2018-CP-10- 4284

BONITA STEED and BERNARD STEED,)
Plaintiffs,)

v.)

ANTOINE HEYWARD, as)
Personal Representative of the)
Estate of Robert James Heyward,)
And ALSO ALL OTHER PERSONS)
UNKNOWN, Claiming any right,)
title, estate, interest in or lien upon)
the real estate described in the)
complaint herein,)
Defendants.)

**COMPLAINT
(JURY TRIAL DEMANDED)**

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JULIE J. ARISTORIO
CLERK OF COURT

Plaintiffs, complaining of the Defendants, files this Complaint and would show unto the Court:

1. Plaintiffs reside at and are and have been, for more than 10 years, in possession of 516 Bank Street, Mt. Pleasant, South Carolina, ("the Property") and are bringing this action to declare that Plaintiffs are the lawful owners of said property and that they are entitled to have title conferred to them.

2. Defendant Heyward is a resident of Chicago, Illinois, and claims title to the Property through a deed, dated January 11, 1999, from Louise Brown Heyward to Robert James Heyward, deceased.

3. The Unknown Defendants are persons, unknown to Plaintiffs and who may claim title to the Property.

4. Plaintiffs bring this action under the Uniform Declaratory Judgment Act, S.C.Code §§ 15-67-10 *et seq.*, and S.C.Code §§ 15-67-10 *et seq.*, which deals with Possession and Adverse Possession of real property.

5. Under claim of ownership, Plaintiffs have possessed for greater than ten (10) years the real property located at 516 Bank Street, Mt. Pleasant, South Carolina (hereafter "the Property"), and further described as follows:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.
BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

6. Plaintiffs have had exclusive, complete, actual, open, notorious, hostile and continuous undisputed possession of the Property adverse to Defendants for more than ten (10) years.

7. Defendant Heyward and the deceased Robert Heyward have never been in possession of the Property, never used their money to pay taxes on the Property, never had insurance on the Property or any other indicia of ownership other than the aforesaid deed.

8. Defendant Heyward's claim is without any right, and he has no estate, right, title, lien or interest in or to the Property, or any part of the Property.

9. Plaintiffs have paid real estate taxes and homeowner's insurance on the Property for more than ten (10) years.

10. Plaintiffs have made substantial improvements to the Property over the last twenty (20) years.

11. The Property includes a substantial enclosure, a house, in which Plaintiffs live and have lived for more than forty (40) years.

12. Defendant Heyward has only visited the Property on one occasion during the last ten (10) years, for the funeral of his father held at the Property after seeking and receiving permission of Plaintiffs to have the funeral there.

13. Plaintiffs have always claimed ownership and title to the Property and have never paid rent to the Defendant or any other person.

14. Plaintiffs are entitled to a declaratory judgment that they are fee simple owners by adverse possession of the Property and the issuance of a deed to them reflecting their ownership.

WHEREFORE, Plaintiffs request judgment as follows:

1. For a decree declaring that Plaintiffs own absolutely as joint tenants and are entitled to the quiet and peaceful possession of the Property as against Defendant and all persons claiming under Defendant, that Defendant and all persons claiming under Defendant have no estate, right, title, lien or interest in or to the Property or any part of it, and that title to the Property be quieted in Plaintiffs against all claims of Defendant and all persons claiming under Defendant;
2. For a decree permanently enjoining Defendant and all persons claiming under Defendant from asserting any estate, right, title, lien or interest in or to the Property or any part of it adverse to Plaintiffs;
3. For the issuance of a deed vesting fee simple title in Plaintiffs as tenants in common;
4. For costs of this action; and
5. For such other and further relief as the Court deems appropriate.

ROSEN, ROSEN & HAGOOD, LLC

By: Alice F. Paylor
Alice F. Paylor
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726
apaylor@rrhlawfirm.com

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
August 29, 2018

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
)
) CASE NO. 2018-CP-10-04284

BONITA STEED and BERNARD STEED,

Plaintiffs,

vs.

ANTOINE HEYWARD, as Personal
Representative of the Estate of Robert James
Heyward, and Also all Other Persons Unknown,
Claiming any right, title, estate, interest in or lien
Upon the real estate described in the complaint
Herein.

Defendants.

ANSWER,
COUNTERCLAIM
AND CROSS-CLAIM

FILED
2018 OCT -4 PM 1:40
JULIE J. ARMSTRONG
CLERK OF COURT

The Defendant, ANTOINE HEYWARD, formerly Personal Representative of the Estate of Robert James Heyward, responds to the allegations in Plaintiffs' Complaint as follows:

FOR A FIRST DEFENSE

(General Denial)

1. All of the allegations contained in Plaintiffs' Complaint that are not specifically denied or otherwise modified are denied and strict proof thereof demanded.
2. Defendant denies the allegations of Paragraphs 1 of Plaintiffs' Complaint.
3. Defendant admits the allegations of Paragraph 2 of Plaintiffs' Complaint and he also claims title to the property by recorded Deed of Distribution.
4. Defendant denies the allegations of Paragraph 3, 4 and 5 of Plaintiffs' Complaint.
5. Defendant denies the allegations of Paragraph 6 of Plaintiffs' Complaint.
6. Defendant denies the allegations of Paragraphs 7, 8, 9, 10, 11, 12, 13, and 14 of Plaintiffs' Complaint.

GENERAL & AFFIRMATIVE DEFENSES

7. Defendant re-alleges and incorporates by reference the responses to the allegations of the preceding paragraphs as if set verbatim herein.

FOR A SECOND DEFENSE

8. Plaintiffs have failed to state facts sufficient to constitute any cause of action against the Defendant Antoine Heyward, as required by Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

9. Plaintiffs lack standing to assert causes of action and demands for relief.

FOR A FOURTH DEFENSE

10. Plaintiffs' causes of action and/or demands for relief are barred in whole or in part by Plaintiffs' failure to prove adverse possession.

FIRST COUNTERCLAIM (Quiet Title Action)

Defendant, Antoine Heyward, for his Counterclaim against Plaintiffs, Bonita Steed and Bernard Steed, states as follows:

11. That by virtue of the subject property being located in the County of Charleston, State of South Carolina, Defendant alleges that this Court is possessed with subject matter and personal jurisdiction in this action.

12. That the Defendant asserts this Counterclaim against the Plaintiffs who are claiming adverse possession of this property and any claim of right title, estate, interest in or lien upon, the parcel of real estate that is the subject matter of the Complaint.

13. That any claim of an interest in the real property by the Plaintiffs would be adverse to the interest of the Defendant, Antoine Heyward.

14. That the Defendant's desire to have this Court determine the respective interests in the subject property located at 516 Banks Street, Mount Pleasant, Charleston County, South Carolina.

15. Said property is designated as owned by Defendant Antoine Heyward and Ruby Heyward, each with 50% undivided interest as tenants in common, by Deed of Distribution from Antoine Heyward, Personal Representative of the Estate of Robert Heyward dated April 1, 2016 and recorded in the Charleston County Register of Deeds on May 27, 2016 in Book 0556, Page 830.

16. That the Estate of Robert Heyward was properly probated in the Charleston County Probate Court, Case No. 2015-ES-10-00947.

17. That the subject property is too small and incapable of being partitioned in kind without harm to the other co-tenant, Ruby Heyward.

18. That Defendant has retained legal counsel to prosecute this quiet title action and asks to be reimbursed for his attorney fees and court costs in this matter.

FIRST CROSSCLAIM
(Quiet Title Action)

19. That the Defendants asserts this Crossclaim against the other Defendants, "Also all other Persons Unknown, claiming any right, title, estate, interest in or lien upon the real estate described in the complaint herein", more particularly against John Doe, adults and Mary Roe, infants, insane persons, incompetents, being fictitious names designating a class of persons, known or unknown, who may be heirs, distributees, devisees, legatees, widow, widower, assignees, executors, administrators, creditors, successors, issue and alienees of any deceased persons herein, and any other persons or entity, known or unknown, claiming any right title,

estate, interest in or lien upon, the parcel of real estate that is the subject matter of this action, and that it is proper for the Court to appoint a Guardian Ad Litem, during the pendency of this action to protect any such interests that may exist as to these parties.

20. That the Defendant does not know the true names of any unknown Defendants, all persons unknown, claiming any legal or equitable right, title, estate, lien or interest in the property described in the Complaint adverse to Defendant's title or any cloud on Defendant's title and therefore sues them by those fictitious names. Defendant is informed and believes, and on that basis alleges, that each such Defendant claims, or may claim, some interest in the real property described in the Complaint.

21. That any claim of an estate or interest in the real property by the unknown Defendants would be adverse to the interest of the Defendant, Antoine Heyward.

22. That the Defendant's desire to have this Court determine the respective interests in the subject property located at 516 Banks Street, Mount Pleasant, Charleston County, South Carolina.

23. Said property is designated as owned by Defendant Antoine Heyward and Ruby Heyward, each with 50% undivided interest as tenants in common, by Deed of Distribution from Antoine Heyward, Personal Representative of the Estate of Robert Heyward dated April 1, 2016 and recorded in the Charleston County Register of Deeds on May 27, 2016 in Book 0556, Page 830.

24. That the Estate of Robert Heyward was properly probated in the Charleston County Probate Court, Case No. 2015-ES-10-00947.

25. That the subject property is too small and incapable of being partitioned in kind without harm to the other co-tenant.

26. That Defendant has retained legal counsel to prosecute this quiet title action and asks to be reimbursed for his attorney fees and court costs in this matter.

WHEREFORE, Defendant, Antoine Heyward, respectfully requests that the Court dismiss Plaintiffs' Complaint and adjudicate as follows:

A. That the parties, Defendant Antoine Heyward and Ruby Heyward, are each vested in 50% undivided interest in and to the subject property and are tenants in common.

B. That there are no liens or adverse claims whatsoever to the title or chain of title and that, the above-named persons are the owners in fee simple of the property described in Paragraph 5 of the Complaint, as tenants in common, with a fee simple interest thereto.

C. That Plaintiffs and any and all persons or entities joined as Defendants in this action under the fictitious name of John Doe, adults and Mary Roe, infants, insane persons and incompetents, be declared forever barred of and from any claim, right, title, estate, interest in or lien upon the parcel of real estate above described or any part thereof, and that they be declared barred from claiming any right, title, estate interest in or lien thereon.

D. That the Court adjudge and decree and forever bar Plaintiffs' adverse claims and any adverse claim whatsoever to the property and adjudge and declare that Antoine Heyward and Ruby Heyward are owners as tenants in common with all the right, title, and interest in and to the subject property that is described in Paragraph 5 of the Complaint, and more specifically designated as having TMS No. 532-05-00-113, with the respective percentages as enumerated above.

E. That all the parties joined in this cause of action who may claim any rights, title, interest in or lien therein or thereto shall be forever barred from asserting the same.

F. That Defendant, Antoine Heyward, be reimbursed for his attorney fees and costs of court from Plaintiffs and other Defendants.

G. And for such other relief as the Court may deem just and proper.

Dated: October 4, 2018

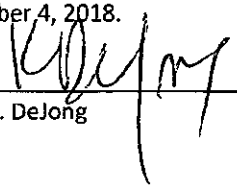
DEJONG LAW FIRM, LLC

By: 

Karen M. DeJong, Esq.
222 West Coleman Blvd., Ste. 110
Mount Pleasant, SC 29464
Tel. No. 843-216-6161
karen@dejonglawfirm.com
Attorney for Defendant
Antoine Heyward

Certificate of Mailing

A copy of the Answer was emailed and hand-delivered
To Alice F. Paylor, Rosen, Rosen & Hagood, LLC
On October 4, 2018.



Karen M. DeJong

COUNTY OF CHARLESTON)
STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Civil Action #: 2018-CP-10- 04284

BONITA STEED and BERNARD
STEED,)

Plaintiffs,)

v.)

ANTOINE HEYWARD, RUBY
HEYWARD, and ALSO ALL
OTHER PERSONS UNKNOWN,
Claiming any right, title, estate,
interest in or lien upon the real
estate described in the amended
complaint herein,)

Defendants.)

**AMENDED COMPLAINT
(JURY TRIAL DEMANDED)**

FILED
2018 OCT -5 PM 3:21
JULIE J. HANSTING
CLERK OF COURT
BY 

Plaintiffs, complaining of the Defendants, files this Amended Complaint and would show unto the Court:

1. Plaintiffs reside at and are and have been, for more than 10 years, in possession of 516 Bank Street, Mt. Pleasant, South Carolina, ("the Property") and are bringing this action to declare that Plaintiffs are the lawful owners of said property and that they are entitled to have title conferred to them.

2. Defendants Antoine Heyward and Ruby Heyward are residents of Chicago, Illinois, and claim title to the Property through deeds, dated January 11, 1999, from Louise Brown Heyward to Robert James Heyward, deceased, and the Estate of Robert James Heyward to Antoine Heyward and Ruby Heyward.

3. The Unknown Defendants are persons, unknown to Plaintiffs and who may claim title to the Property.

4. Plaintiffs bring this action under the Uniform Declaratory Judgment Act, S.C.Code §§ 15-67-10 *et seq.*, and S.C.Code §§ 15-67-10 *et seq.*, which deals with Possession and Adverse Possession of real property.

5. Under claim of ownership, Plaintiffs have possessed for greater than ten (10) years the real property located at 516 Bank Street, Mt. Pleasant, South Carolina (hereafter “the Property”), and further described as follows:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.

BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

6. Plaintiffs have had exclusive, complete, actual, open, notorious, hostile and continuous undisputed possession of the Property adverse to Defendants for more than ten (10) years.

7. Defendants Antoine and Ruby Heyward and the deceased Robert Heyward have never been in possession of the Property, never used their money to pay taxes on the Property, never had insurance on the Property or any other indicia of ownership other than the aforesaid deeds.

8. Defendants Antoine and Ruby Heyward's claims are without any right, and they have no estate, right, title, lien or interest in or to the Property, or any part of the Property.

9. Plaintiffs have paid real estate taxes and homeowner's insurance on the Property for more than ten (10) years.

10. Plaintiffs have made substantial improvements to the Property over the last twenty (20) years.

11. The Property includes a substantial enclosure, a house, in which Plaintiffs live and have lived for more than forty (40) years.

12. Defendants Antoine and Ruby Heyward have only visited the Property on one occasion during the last ten (10) years, for the funeral of Robert Heyward held at the Property after the Heywards sought and received permission of Plaintiffs to have the funeral there.

13. Plaintiffs have always claimed ownership and title to the Property and have never paid rent to the Defendants or any other person.

14. Plaintiffs are entitled to a declaratory judgment that they are fee simple owners by adverse possession of the Property and the issuance of a deed to them reflecting their ownership.

WHEREFORE, Plaintiffs request judgment as follows:

1. For a decree declaring that Plaintiffs own absolutely as joint tenants and are entitled to the quiet and peaceful possession of the Property as against Defendants Heyward and all persons claiming under Defendants, that Defendants and all persons claiming under Defendants have no estate, right, title, lien or interest in or to the Property or any part of it, and that title to the Property be quieted in Plaintiffs against all claims of Defendants and all persons claiming under Defendants;
2. For a decree permanently enjoining Defendants and all persons claiming under Defendants from asserting any estate, right, title, lien or interest in or to the Property or any part of it adverse to Plaintiffs;
3. For the issuance of a deed vesting fee simple title in Plaintiffs as tenants in common;
4. For costs of this action; and

5. For such other and further relief as the Court deems appropriate.

ROSEN, ROSEN & HAGOOD, LLC

By: Alice F. Paylor
Alice F. Paylor
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726
apaylor@rrhlawfirm.com

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
October 5, 2018

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 5th day of October, 2018, a true and correct copy of Amended Complaint was placed in an envelope with first class postage prepaid and affixed thereto and mailed to the following.

Alice F. Paylor

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
)
) CASE NO. 2018-CP-10-04284

BONITA STEED and BERNARD STEED,

Plaintiffs,

vs.

ANTOINE HEYWARD, as Personal
Representative of the Estate of Robert James
Heyward, and Also all Other Persons Unknown,
Claiming any right, title, estate, interest in or lien
Upon the real estate described in the complaint
Herein.

Defendants.

**AMENDED ANSWER,
COUNTERCLAIM
AND CROSS-CLAIM**

FILED
2018 OCT 10 AM 11:03
CLERK OF COURT
BY
SB

The Defendant, ANTOINE HEYWARD, responds to the allegations in Plaintiffs'

Amended Complaint as follows:

FOR A FIRST DEFENSE

(General Denial)

1. All of the allegations contained in Plaintiffs' Complaint that are not specifically denied or otherwise modified are denied and strict proof thereof demanded.
2. Defendant denies the allegations of Paragraphs 1 of Plaintiffs' Complaint.
3. Defendant admits the allegations of Paragraph 2 of Plaintiffs' Complaint.
4. Defendant denies the allegations of Paragraph 3, 4 and 5 of Plaintiffs' Complaint.
5. Defendant denies the allegations of Paragraph 6 of Plaintiffs' Complaint.
6. Defendant denies the allegations of Paragraphs 7, 8, 9, 10, 11, 12, 13, and 14 of Plaintiffs' Complaint.

GENERAL & AFFIRMATIVE DEFENSES

7. Defendant re-alleges and incorporates by reference the responses to the allegations of the preceding paragraphs as if set verbatim herein.

FOR A SECOND DEFENSE

8. Plaintiffs have failed to state facts sufficient to constitute any cause of action against the Defendant Antoine Heyward, as required by Rule 12(b)(6), SCRPC.

FOR A THIRD DEFENSE

9. Plaintiffs lack standing to assert causes of action and demands for relief.

FOR A FOURTH DEFENSE

10. Plaintiffs' causes of action and/or demands for relief are barred in whole or in part by Plaintiffs' failure to prove adverse possession.

FIRST COUNTERCLAIM
(Quiet Title Action)

Defendant, Antoine Heyward, for his Counterclaim against Plaintiffs, Bonita Steed and Bernard Steed, states as follows:

11. That by virtue of the subject property being located in the County of Charleston, State of South Carolina, Defendant alleges that this Court is possessed with subject matter and personal jurisdiction in this action.

12. That the Defendant asserts this Counterclaim against the Plaintiffs who are claiming adverse possession of this property and any claim of right title, estate, interest in or lien upon, the parcel of real estate that is the subject matter of the Complaint.

13. That any claim of an interest in the real property by the Plaintiffs would be adverse to the interest of the Defendant, Antoine Heyward.

14. That the Defendant's desire to have this Court determine the respective interests in the subject property located at 516 Banks Street, Mount Pleasant, Charleston County, South Carolina.

15. Said property is designated as owned by Defendant Antoine Heyward and Ruby Heyward, each with 50% undivided interest as tenants in common, by Deed of Distribution from Antoine Heyward, Personal Representative of the Estate of Robert Heyward dated April 1, 2016 and recorded in the Charleston County Register of Deeds on May 27, 2016 in Book 0556, Page 830.

16. That the Estate of Robert Heyward was properly probated in the Charleston County Probate Court, Case No. 2015-ES-10-00947.

17. That the subject property is too small and incapable of being partitioned in kind without harm to the other co-tenant, Ruby Heyward.

18. That Defendant has retained legal counsel to prosecute this quiet title action and asks to be reimbursed for his attorney fees and court costs in this matter.

FIRST CROSSCLAIM
(Quiet Title Action)

19. That the Defendants asserts this Crossclaim against the other Defendants, "Also all other Persons Unknown, claiming any right, title, estate, interest in or lien upon the real estate described in the complaint herein", more particularly against John Doe, adults and Mary Roe, infants, insane persons, incompetents, being fictitious names designating a class of persons, known or unknown, who may be heirs, distributees, devisees, legatees, widow, widower, assignees, executors, administrators, creditors, successors, issue and alienees of any deceased persons herein, and any other persons or entity, known or unknown, claiming any right title,

estate, interest in or lien upon, the parcel of real estate that is the subject matter of this action, and that it is proper for the Court to appoint a Guardian Ad Litem, during the pendency of this action to protect any such interests that may exist as to these parties.

20. That the Defendant does not know the true names of any unknown Defendants, all persons unknown, claiming any legal or equitable right, title, estate, lien or interest in the property described in the Complaint adverse to Defendant's title or any cloud on Defendant's title and therefore sues them by those fictitious names. Defendant is informed and believes, and on that basis alleges, that each such Defendant claims, or may claim, some interest in the real property described in the Complint.

21. That any claim of an estate or interest in the real property by the unknown Defendants would be adverse to the interest of the Defendant, Antoine Heyward.

22. That the Defendant's desire to have this Court determine the respective interests in the subject property located at 516 Banks Street, Mount Pleasant, Charleston County, South Carolina.

23. Said property is designated as owned by Defendant Antoine Heyward and Ruby Heyward, each with 50% undivided interest as tenants in common, by Deed of Distribution from Antoine Heyward, Personal Representative of the Estate of Robert Heyward dated April 1, 2016 and recorded in the Charleston County Register of Deeds on May 27, 2016 in Book 0556, Page 830.

24. That the Estate of Robert Heyward was properly probated in the Charleston County Probate Court, Case No. 2015-ES-10-00947.

25. That the subject property is too small and incapable of being partitioned in kind without harm to the other co-tenant.

26. That Defendant has retained legal counsel to prosecute this quiet title action and asks to be reimbursed for his attorney fees and court costs in this matter.

WHEREFORE, Defendant, Antoine Heyward, respectfully requests that the Court dismiss Plaintiffs' Complaint and adjudicate as follows:

A. That the parties, Defendant Antoine Heyward and Ruby Heyward, are each vested in 50% undivided interest in and to the subject property and are tenants in common.

B. That there are no liens or adverse claims whatsoever to the title or chain of title and that, the above-named persons are the owners in fee simple of the property described in Paragraph 5 of the Complaint, as tenants in common, with a fee simple interest thereto.

C. That Plaintiffs and any and all persons or entities joined as Defendants in this action under the fictitious name of John Doe, adults and Mary Roe, infants, insane persons and incompetents, be declared forever barred of and from any claim, right, title, estate, interest in or lien upon the parcel of real estate above described or any part thereof, and that they be declared barred from claiming any right, title, estate interest in or lien thereon.

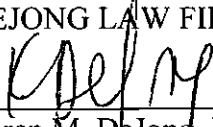
D. That the Court adjudge and decree and forever bar Plaintiffs' adverse claims and any adverse claim whatsoever to the property and adjudge and declare that Antoine Heyward and Ruby Heyward are owners as tenants in common with all the right, title, and interest in and to the subject property that is described in Paragraph 5 of the Complaint, and more specifically designated as having TMS No. 532-05-00-113, with the respective percentages as enumerated above.

E. That all the parties joined in this cause of action who may claim any rights, title, interest in or lien therein or thereto shall be forever barred from asserting the same.

F. That Defendant, Antoine Heyward, be reimbursed for his attorney fees and costs of court from Plaintiffs and other Defendants.

G. And for such other relief as the Court may deem just and proper.

Dated: October 8, 2018

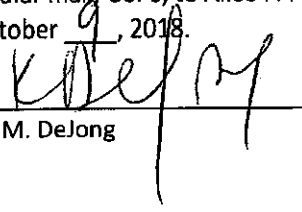
DEJONG LAW FIRM, LLC
By: 
Karen M. DeJong, Esq.
222 West Coleman Blvd., Ste. 110
Mount Pleasant, SC 29464
Tel. No. 843-216-6161
karen@dejonglawfirm.com
Attorney for Defendant
Antoine Heyward

Certificate of Mailing

A copy of the Amended Answer was emailed and mailed

By regular mail, USPS, to Alice F. Paylor, Rosen, Rosen & Hagood, LLC

On October 9, 2018.


Karen M. DeJong

DeJong Law Firm
222 West Coleman Boulevard
Suite 110
Mount Pleasant, SC 29464

Telephone: (843) 216-6161

Fax: (843) 216-300-1080

October 9, 2018

Charleston County Court of Common Pleas
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Bonita Steed, et al. v. Antoine Heyward
Case No. 2018-CP-10-04284

Dear Sir/Madam:

Enclosed for filing please find the Amended Answer, Counterclaim and Cross-Claim of Defendant, along with one copy and a self-addressed, stamped envelope. Please return the date-stamped copy of the Answer to us in the envelope provided.

Thank you for your assistance in this matter. Please let us know if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "Karen M. DeJong". The signature is fluid and cursive, with the first name "Karen" being more legible than the last name "DeJong".

Karen M. DeJong

Enclosures

Cc: Alice Paylor, Esquire

COUNTY OF CHARLESTON) IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA) FOR THE NINTH JUDICIAL CIRCUIT
Civil Action #: 2018-CP-10- 04284

BONITA STEED and BERNARD
STEED,

Plaintiffs,

v.

ANTOINE HEYWARD, RUBY
HEYWARD, and ALSO ALL
OTHER PERSONS UNKNOWN,
Claiming any right, title, estate,
interest in or lien upon the real
estate described in the amended
complaint herein,

Defendants.

**PLAINTIFFS' ANSWER TO
COUNTERCLAIM OF DEFENDANT
ANTOINE HEYWARD**

FILED
2018 NOV 16 PM 3:29
JULIE J. ARNSTADT
CLERK OF COURT

TO: DEFENDANT ANTOINE HEYWARD AND HER COUNSEL:

Plaintiffs answer the Counterclaim of Antoine Heyward and state as follows:

FOR A FIRST DEFENSE

1. Each and every allegation which is not hereinafter specifically admitted, modified, or explained is hereby denied.

2. Paragraphs 1 through 10 constitute Defendant's Answer and Affirmative Defenses to which no response is required.

AS TO THE FIRST COUNTERCLAIM

3. Paragraph 11 is a legal conclusion to which no response is required.

4. Paragraphs 12 and 13 are admitted.

5. Paragraph 14 is admitted upon information and belief.

6. Answering Paragraph 15, Plaintiffs refer to the deed referenced in said paragraph for the terms thereof and deny any allegations inconsistent therewith.

7. Plaintiffs lack sufficient information to admit or deny the allegations of Paragraph 16 and, therefore, deny same and demand strict proof thereof.

8. Answering Paragraph 17, Plaintiffs refer to the Amended Complaint which asserts that Plaintiffs claim ownership of the entire property, including ownership of any interests claimed by Antoine Heyward and Ruby Heyward, and deny that they are seeking to partition the property.

9. Answering Paragraph 18, Plaintiffs deny that Defendants are entitled to attorney fees or costs in this matter.

AS TO THE FIRST CROSS-CLAIM

10. Paragraphs 18 through 26 constitute Defendant's Cross-Claim to which no response is required.

AS A SECOND DEFENSE **(Waiver)**

11. By their actions of failing to visit the property or pay for maintenance, upkeep and taxes on the property or to assert ownership of the property over an 18 year period, Defendants have knowingly and voluntarily waived their legal rights under which they seek damages and remedies in this action.

AS A THIRD DEFENSE **(Failure to State a Claim)**

12. Pursuant to SCRCP 12(b)(6), Defendant has failed to state facts sufficient to constitute a cause of action against Plaintiffs.

AS A FOURTH DEFENSE **(Reservation of Additional and Further Defenses)**

13. Plaintiffs reserve any additional and further defenses as may be revealed by additional information through the course of discovery and investigation in a manner that is consistent with the South Carolina Rules of Civil Procedure.

AS A FIFTH DEFENSE
(Laches)

14. Plaintiffs have possessed, claimed ownership, and acted as owners of the Property without dispossession or adverse claim of right for more than ten (10) years. Defendants have unreasonably delayed enforcing their rights during the last twenty years.

AS A SIXTH DEFENSE
(Adverse Possession)

15. Plaintiffs have held their property adversely for a period in excess of 10 years, which possession has been continuous, hostile, open, adverse, notorious, exclusive and uninterrupted, and they are owners by virtue of said adverse possession.

AS A SEVENTH DEFENSE
(Presumption of a Grant)

16. Plaintiffs have held their property in peaceful possession in excess of 20 years and are entitled to an irrebuttable presumption of grant.

AS AN EIGHTH DEFENSE
(40-Year Statute of Limitations)

17. Defendants nor their grantor have been in actual possession of Plaintiffs property. Therefore, Defendants' action is barred by §15-3-380.

WHEREFORE, Plaintiffs pray that this counterclaim be dismissed; that they be awarded the relief they requested in the Amended Complaint; that they be awarded their attorneys' fees and costs; and that they be awarded such other and further relief as the Court deems appropriate.

ROSEN, ROSEN & HAGOOD, LLC.

By: Alice F. Paylor
Alice F. Paylor
Bijan Ghom
P.O. Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
November 16, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16th day of Nov., 2018 a true and correct copy of Plaintiffs' Answer to Counterclaim was placed in an envelope with first class postage prepaid and affixed thereto and mailed to the following.

Alice F. Paylor

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) NINTH JUDICIAL CIRCUIT
)
) CASE NO. 2018-CP-10-04284

BONITA STEED and BERNARD STEED,

Plaintiffs,

vs.

ANTOINE HEYWARD, RUBY HEYWARD,
And ALSO ALL OTHER PERSONS UNKNOWN
Claiming any right, title, estate, interest in or lien
Upon the real estate described in the amended
Complaint herein,

Defendants.

ANSWER,
COUNTERCLAIM
AND CROSS-CLAIM
OF RUBY HEYWARD

FILED
2019 FEB 14 PM 12:38
JULIE J. ARMSTRONG
CLERK OF COURT

The Defendant, RUBY HEYWARD, responds to the allegations in Plaintiffs' Amended
Complaint as follows:

FOR A FIRST DEFENSE

(General Denial)

1. All of the allegations contained in Plaintiffs' Complaint that are not specifically denied or otherwise modified are denied and strict proof thereof demanded.
2. Defendant denies the allegations of Paragraphs 1 of Plaintiffs' Complaint.
3. Defendant admits the allegations of Paragraph 2 of Plaintiffs' Complaint.
4. Defendant denies the allegations of Paragraph 3, 4 and 5 of Plaintiffs' Complaint.
5. Defendant denies the allegations of Paragraph 6 of Plaintiffs' Complaint.
6. Defendant denies the allegations of Paragraphs 7, 8, 9, 10, 11, 12, 13, and 14 of Plaintiffs' Complaint.

GENERAL & AFFIRMATIVE DEFENSES

7. Defendant re-alleges and incorporates by reference the responses to the allegations of the preceding paragraphs as if set verbatim herein.

FOR A SECOND DEFENSE

8. Plaintiffs have failed to state facts sufficient to constitute any cause of action against the Defendant Ruby Heyward, as required by Rule 12(b)(6), SCRCP.

FOR A THIRD DEFENSE

9. Plaintiffs lack standing to assert causes of action and demands for relief.

FOR A FOURTH DEFENSE

10. Plaintiffs' causes of action and/or demands for relief are barred in whole or in part by Plaintiffs' failure to prove adverse possession.

FIRST COUNTERCLAIM (Quiet Title Action)

Defendant, Ruby Heyward, for her Counterclaim against Plaintiffs, Bonita Steed and Bernard Steed, states as follows:

11. That by virtue of the subject property being located in the County of Charleston, State of South Carolina, Defendant alleges that this Court is possessed with subject matter and personal jurisdiction in this action.

12. That the Defendant asserts this Counterclaim against the Plaintiffs who are claiming adverse possession of this property and any claim of right title, estate, interest in or lien upon, the parcel of real estate that is the subject matter of the Complaint.

13. That any claim of an interest in the real property by the Plaintiffs would be adverse to the interest of the Defendant, Ruby Heyward.

14. That the Defendant's desire to have this Court determine the respective interests in the subject property located at 516 Banks Street, Mount Pleasant, Charleston County, South Carolina.

15. Said property is designated as owned by Defendants Antoine Heyward and Ruby Heyward, each with 50% undivided interest as tenants in common, by Deed of Distribution from Antoine Heyward, Personal Representative of the Estate of Robert Heyward dated April 1, 2016 and recorded in the Charleston County Register of Deeds on May 27, 2016 in Book 0556, Page 830.

16. That the Estate of Robert Heyward was properly probated in the Charleston County Probate Court, Case No. 2015-ES-10-00947.

17. That the subject property is too small and incapable of being partitioned in kind without harm to the other co-tenant, Defendant Antoine Heyward.

18. That Defendant has retained legal counsel to prosecute this quiet title action and asks to be reimbursed for her attorney fees and court costs in this matter.

FIRST CROSSCLAIM
(Quiet Title Action)

19. That the Defendant asserts this Crossclaim against any unknown Defendants (All other Persons Unknown, claiming any right, title, estate, interest in or lien upon the real estate described in the complaint herein", more particularly against John Doe, adults and Mary Roe, infants, insane persons, incompetents, being fictitious names designating a class of persons, known or unknown, who may be heirs, distributees, devisees, legatees, widow, widower, assignees, executors, administrators, creditors, successors, issue and alienees of any deceased persons herein, and any other persons or entity, known or unknown, claiming any right title,

estate, interest in or lien upon, the parcel of real estate that is the subject matter of this action), and that it is proper for the Court to appoint a Guardian Ad Litem, during the pendency of this action to protect any such interests that may exist as to these parties.

20. That the Defendant does not know the true names of any unknown Defendants, all persons unknown, claiming any legal or equitable right, title, estate, lien or interest in the property described in the Complaint adverse to Defendant's title or any cloud on Defendant's title and therefore sues them by those fictitious names. Defendant is informed and believes, and on that basis alleges, that each such Defendant claims, or may claim, some interest in the real property described in the Complaint.

21. That any claim of an estate or interest in the real property by the unknown Defendants would be adverse to the interest of the Defendant, Ruby Heyward and Defendant Antoine Heyward.

22. That the Defendant's desire to have this Court determine the respective interests in the subject property located at 516 Banks Street, Mount Pleasant, Charleston County, South Carolina.

23. Said property is designated as owned by Defendants Antoine Heyward and Ruby Heyward, each with 50% undivided interest as tenants in common, by Deed of Distribution from Antoine Heyward, Personal Representative of the Estate of Robert Heyward dated April 1, 2016 and recorded in the Charleston County Register of Deeds on May 27, 2016 in Book 0556, Page 830.

24. That the Estate of Robert Heyward was properly probated in the Charleston County Probate Court, Case No. 2015-ES-10-00947.

25. That the subject property is too small and incapable of being partitioned in kind without harm to the other co-tenant.

26. That Defendant has retained legal counsel to prosecute this quiet title action and asks to be reimbursed for his attorney fees and court costs in this matter.

WHEREFORE, Defendant, Ruby Heyward, respectfully requests that the Court dismiss Plaintiffs' Complaint and adjudicate as follows:

A. That the parties, Defendants Antoine Heyward and Ruby Heyward, are each vested in 50% undivided interest in and to the subject property and are tenants in common.

B. That there are no liens or adverse claims whatsoever to the title or chain of title and that, the above-named persons are the owners in fee simple of the property described in Paragraph 5 of the Complaint, as tenants in common, with a fee simple interest thereto.

C. That Plaintiffs and any and all persons or entities joined as Defendants in this action under the fictitious name of John Doe, adults and Mary Roe, infants, insane persons and incompetents, be declared forever barred of and from any claim, right, title, estate, interest in or lien upon the parcel of real estate above described or any part thereof, and that they be declared barred from claiming any right, title, estate interest in or lien thereon.

D. That the Court adjudge and decree and forever bar Plaintiffs' adverse claims and any adverse claim whatsoever to the property and adjudge and declare that Defendant Antoine Heyward and Defendant Ruby Heyward are owners as tenants in common with all the right, title, and interest in and to the subject property that is described in Paragraph 5 of the Complaint, and more specifically designated as having TMS No. 532-05-00-113, with the respective percentages as enumerated above.

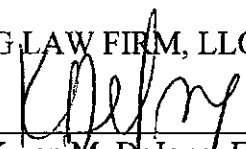
E. That all the parties joined in this cause of action who may claim any rights, title, interest in or lien therein or thereto shall be forever barred from asserting the same.

F. That Defendant, Ruby Heyward, be reimbursed for her attorney fees and costs of court from Plaintiffs.

G. And for such other relief as the Court may deem just and proper.

Dated: February 13, 2019

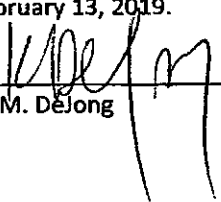
DEJONG LAW FIRM, LLC

By: 

Karen M. DeJong, Esq.
222 West Coleman Blvd., Ste. 110
Mount Pleasant, SC 29464
Tel. No. 843-216-6161
karen@dejonglawfirm.com
Attorney for Defendant
Ruby Heyward

Certificate of Mailing

A copy of the Answer/Counterclaim/Crossclaim were emailed and mailed
By regular mail, USPS, to Alice F. Paylor, Rosen, Rosen & Hagood, LLC
On February 13, 2019.



Karen M. DeJong

DeJong Law Firm
222 West Coleman Boulevard
Suite 110
Mount Pleasant, SC 29464

Telephone: (843) 216-6161

Fax: (843) 300-1080

February 13, 2019

SENT VIA OVERNIGHT MAIL

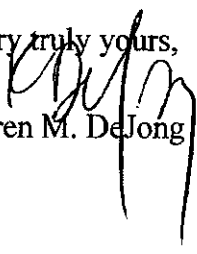
Charleston County Court of Common Pleas
100 Broad Street, Suite 106
Charleston, SC 29401

Re: Steed, et al. v. Heyward, et al.
Case No. 2018-CP-10-04284

Dear Sir/Madam:

Enclosed for filing please find the Answer, Counterclaim and Cross-Claim of Defendant Ruby Heyward, along with one copy and a self-addressed, stamped envelope. Please return the date stamped copy of the Answer to us in the envelope provided.

Thank you for your assistance in this matter. Please let us know if you have any questions.

Very truly yours,

Karen M. DeJong

Enclosures
Cc: Alice Paylor, Esquire

COUNTY OF CHARLESTON)
STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
Civil Action #: 2018-CP-10- 04284

BONITA STEED and BERNARD
STEED,)

Plaintiffs,)

v.)

ANTOINE HEYWARD, RUBY
HEYWARD, and ALSO ALL
OTHER PERSONS UNKNOWN,)
Claiming any right, title, estate,)
interest in or lien upon the real)
estate described in the amended)
complaint herein,)

Defendants.)

**PLAINTIFFS' ANSWER TO
COUNTERCLAIM OF DEFENDANT
RUBY HEYWARD**

TO: DEFENDANT RUBY HEYWARD AND HER COUNSEL:

Plaintiffs answer the Counterclaim of Ruby Heyward and state as follows:

FOR A FIRST DEFENSE

1. Each and every allegation which is not hereinafter specifically admitted, modified, or explained is hereby denied.
2. Paragraphs 1 through 10 constitute Defendant's Answer and Affirmative Defenses to which no response is required.

AS TO THE FIRST COUNTERCLAIM

3. Paragraph 11 is a legal conclusion to which no response is required.
4. Paragraphs 12 and 13 are admitted.
5. Paragraph 14 is admitted upon information and belief.

FILED
2019 FEB 22 PM 2:25
JULIE J ARMSTRONG
CLERK OF COURT

6. Answering Paragraph 15, Plaintiffs refer to the deed referenced in said paragraph for the terms thereof and deny any allegations inconsistent therewith.

7. Plaintiffs lack sufficient information to admit or deny the allegations of Paragraph 16 and, therefore, deny same and demand strict proof thereof.

8. Answering Paragraph 17, Plaintiffs refer to the Amended Complaint which asserts that Plaintiffs claim ownership of the entire property, including ownership of any interests claimed by Antoine Heyward and Ruby Heyward, and deny that they are seeking to partition the property.

9. Answering Paragraph 18, Plaintiffs deny that Defendants are entitled to attorney fees or costs in this matter.

AS TO THE FIRST CROSS-CLAIM

10. Paragraphs 19 through 26 constitute Defendant's Cross-Claim to which no response is required.

AS A SECOND DEFENSE
(Waiver)

11. By their actions of failing to visit the property or pay for maintenance, upkeep and taxes on the property or to assert ownership of the property over an 18 year period, Defendants have knowingly and voluntarily waived their legal rights under which they seek damages and remedies in this action.

AS A THIRD DEFENSE
(Failure to State a Claim)

12. Pursuant to SCRCP 12(b)(6), Defendant has failed to state facts sufficient to constitute a cause of action against Plaintiffs.

AS A FOURTH DEFENSE
(Reservation of Additional and Further Defenses)

13. Plaintiffs reserve any additional and further defenses as may be revealed by additional information through the course of discovery and investigation in a manner that is consistent with the South Carolina Rules of Civil Procedure.

AS A FIFTH DEFENSE
(Laches)

14. Plaintiffs have possessed, claimed ownership, and acted as owners of the Property without dispossession or adverse claim of right for more than ten (10) years. Defendants have unreasonably delayed enforcing their rights during the last twenty years.

AS A SIXTH DEFENSE
(Adverse Possession)

15. Plaintiffs have held their property adversely for a period in excess of 10 years, which possession has been continuous, hostile, open, adverse, notorious, exclusive and uninterrupted, and they are owners by virtue of said adverse possession.

AS A SEVENTH DEFENSE
(Presumption of a Grant)

16. Plaintiffs have held their property in peaceful possession in excess of 20 years and are entitled to an irrebuttable presumption of grant.

AS AN EIGHTH DEFENSE
(40-Year Statute of Limitations)

17. Defendants nor their grantor have been in actual possession of Plaintiffs property. Therefore, Defendants' action is barred by §15-3-380.

WHEREFORE, Plaintiffs pray that this counterclaim be dismissed; that they be awarded the relief they requested in the Amended Complaint; that they be awarded their attorneys' fees and costs; and that they be awarded such other and further relief as the Court deems appropriate.

ROSEN, ROSEN & HAGOOD, LLC.

By: Alice F. Paylor
Alice F. Paylor
Bijan Ghom
P.O. Box 893
Charleston, SC 29402
(843) 577-6726

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina

February 22, 2019.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 22nd day of February, 2019 a true and correct copy of Plaintiffs' Answer to Counterclaim was placed in an envelope with first class postage prepaid and affixed thereto and mailed to the following: Karen Dejong.

Alice F. Paylor

2. Defendants' counsel responded on March 12, 2019, stating that she did not "think that they will be able to fly to Charleston for depositions" and asked whether the depositions could take place by telephone. Paylor Affidavit, Exhibit 2.

3. Plaintiffs' counsel responded, on March 12, 2019, that, because the case was filed here and the property in question is located here, she had the right to take their depositions in person and would not consent to taking them by telephone. She further asked if she should just notice them and, if they didn't show up, she could move to dismiss for lack of prosecution. Paylor Affidavit, Exhibit 3.

4. Defendants' counsel did not respond, so, on April 3, 2019, Plaintiffs' counsel properly noticed the Defendants to attend their depositions on May 20, 2019, at Rosen, Rosen, & Hagood 151 Meeting Street, Suite 400 Charleston, SC. Paylor Affidavit, Exhibit 4.

5. In the interim, on March 26, 2019, the Court served Notice of ADR on the parties requiring that a mediation be conducted before May 25, 2019. Paylor Affidavit, Exhibit 5.

6. Defendants' counsel did not make any motions regarding the deposition notices served on her. Paylor Affidavit.

7. On May 9, 2019, Plaintiffs' counsel inquired of Defendants' counsel as to where her clients planned to attend the depositions scheduled for May 20 and, if they did, whether they wanted to schedule a mediation while they were here. Paylor Affidavit, Exhibit 6.

8. Receiving no response, Plaintiffs' counsel sent another email asking if the depositions would be going forward and whether she wanted to schedule the mediation within the time requirement. Paylor Affidavit, Exhibit 7.

9. On May 14, 2019, Defendants' counsel stated that the Defendants "will not be able to appear for depositions on Monday" and that Antoine Heyward could be deposed by

telephone on certain limited days and times. She stated that she would also like to conduct the mediation with her clients on the telephone. Paylor Affidavit, Exhibit 8.

10. On May 15, 2019, Plaintiffs' counsel informed Defendants' counsel that she has the right to take Defendants' depositions in person and that, if she did not intend to call either of them as a witness, she should remove them from the witness list. She further informed Defendants' counsel that the ADR rules required that parties appear in person. Paylor Affidavit, Exhibit 9.

11. Plaintiffs did not appear for their depositions on May 20, 2019, and Defendants' counsel did not move for a protective order.

12. The Heywards have asserted that they own the Mount Pleasant property claimed to be owned by the Plaintiffs and have listed as witnesses only the two of them.

13. Plaintiffs served a notice for the depositions in writing to Antoine and Ruby Heyward in excess of the ten (10) days prior to the examination in accordance with Rule 30(b)(1) SCRPC.

14. Plaintiffs' counsel did not and does not consent to a telephonic deposition under Rule 30(b)(7) SCRPC, and Defendants' counsel never made a motion to the Court to require that a deposition be taken by telephone or for a protective order.

15. The South Carolina Rules of Civil Procedure, Rule 30(a)(2) provides that "[a] party may be compelled to attend [a deposition] in the county in which the subject civil action is pending."

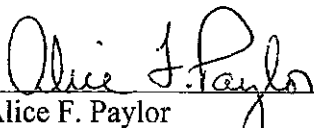
16. In addition, the Alternative Dispute Resolution Rules require in Rule 6 that all individual parties "shall physically attend a mediation settlement conference unless otherwise agreed to by the mediator and all parties or as ordered or approved by the Chief Judge for

Administrative Purposes of the circuit...” Plaintiffs’ counsel has attempted to schedule a mediation with Defendants’ counsel, but she has refused to schedule such conference or to ensure that he clients will be physically present.

17. The Plaintiffs respectfully request this Court, pursuant to SCRCP Rule 37 to issue an Order requiring Antoine Heyward and Ruby Heyward to attend a deposition in Charleston, South Carolina and a mediation in Charleston, South Carolina, and, if they refuse to do so, to order that they be struck as witnesses and/or or that their answer and counterclaim be struck; and to sanction them for violating the South Carolina Rules of Civil Procedure by ordering them to pay all of the Plaintiffs’ attorney’s fees and costs associated with the noticing of the depositions and the filing and hearing of this motion; and for such other relief as the court deems just and appropriate.

Respectfully submitted,

ROSEN HAGOOD, LLC

By: 
Alice F. Paylor
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726

ATTORNEY FOR PLAINTIFF

May 21, 2019
Charleston, South Carolina

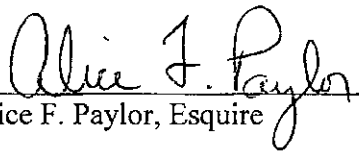
telephone. I further asked if I should just notice them and, if they didn't show up, I could move to dismiss for lack of prosecution. A copy of that email is attached as **Exhibit 3**.

5. Defendants' counsel did not respond, so, on April 3, 2019, I properly noticed the Defendants to attend their depositions on May 20, 2019, at Rosen, Rosen, & Hagood, LLC, 151 Meeting Street, Suite 400 Charleston, SC. A copy of the notices are attached as **Exhibit 4**.
6. In the interim, on March 26, 2019, the Court served Notice of ADR on the parties requiring that a mediation be conducted before May 25, 2019. A copy of the notice is attached as **Exhibit 5**.
7. On May 9, 2019, I inquired of Defendants' counsel as to whether her clients planned to attend the depositions scheduled for May 20 and, if they did, whether they wanted to schedule a mediation while they were here. A copy of that email is attached as **Exhibit 6**.
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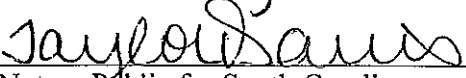
11. On May 20, 2019, the Defendants failed to appear for their properly noticed depositions.

FURTHER AFFIANT SAYETH NOT.



Alice F. Paylor, Esquire

SWORN to before me this
21 day of may, 2019



Notary Public for South Carolina
My commission expires: 4/1/25

Alice Paylor

From: karen@dejonglawfirm.com
Sent: Tuesday, March 5, 2019 1:14 PM
To: Alice Paylor
Subject: RE: Steed v. Heyward

I will check with them.

TO ALL: I HAVE MOVED MY OFFICE TO THE COLEMAN EXECUTIVE CENTER, 222 West Coleman Blvd., Ste. 110, Mt. Pleasant, SC. It is very close to my current location and on the first floor. PLEASE note my new fax number.

Karen M. DeJong, Esq.
DeJong Law Firm, LLC
222 West Coleman Blvd., Ste. 110
Mt. Pleasant, SC 29464-5652
Tel. No. (843) 216-6161
Fax No. (843) 300-1080
karen@dejonglawfirm.com
Complex Civil Litigation, Corporate
Law, Real Estate and Probate Law

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----- Original Message -----

Subject: Steed v. Heyward
From: Alice Paylor <apaylor@rrhlawfirm.com>
Date: Mon, March 04, 2019 2:53 pm
To: "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>

Karen, could you give me some dates for the deposition of Mr. Heyward and Mrs. Heyward in May. I would like to get those scheduled and taken. Thanks. Alice

Alice Paylor

|Attorney at Law|

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8105
|direct fax| (843) 266-2223
apaylor@rrhlawfirm.com
V-Card
www.rrhlawfirm.com



Alice Paylor

From: karen@dejonglawfirm.com
Sent: Tuesday, March 12, 2019 11:32 AM
To: Alice Paylor
Subject: Steed v. Heyward

Hi, Alice: Antoine Heyward works and his mother is elderly. I don't think that they will be able to fly to Charleston for depositions. However, I have asked if they would be available for a telephone deposition. Is this ok with you?

TO ALL: I HAVE MOVED MY OFFICE TO THE COLEMAN EXECUTIVE CENTER, 222 West Coleman Blvd., Ste. 110, Mt. Pleasant, SC. It is very close to my current location and on the first floor. PLEASE note my new fax number.

Karen M. DeJong, Esq.
DeJong Law Firm, LLC
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Mt. Pleasant, SC 29464-5652
Tel. No. (843) 216-6161

Fax No. (843) 300-1080

karen@dejonglawfirm.com
Complex Civil Litigation, Corporate
Law, Real Estate and Probate Law

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To: apaylor@rrhlawfirm.com [Remove this sender from my allow list](#)
From: karen@dejonglawfirm.com

You received this message because the sender is on your allow list.



Alice Paylor

From: Alice Paylor
Sent: Tuesday, March 12, 2019 11:46 AM
To: 'karen@dejonglawfirm.com'
Subject: RE: Steed v. Heyward

No. The case is filed here, the property is located here and I want to see them in person. Should I just notice their depositions and, if they don't show up, I can move to dismiss for lack of prosecution? Just let me know. Alice

Alice Paylor

|Attorney at Law|

151 Meeting Street, Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8105
|direct fax| (843) 266-2223
apaylor@rrhlawfirm.com
V-Card
www.rrhlawfirm.com



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From: karen@dejonglawfirm.com <karen@dejonglawfirm.com>
Sent: Tuesday, March 12, 2019 11:32 AM
To: Alice Paylor <apaylor@rrhlawfirm.com>
Subject: Steed v. Heyward

Hi, Alice: Antoine Heyward works and his mother is elderly. I don't think that they will be able to fly to Charleston for depositions. However, I have asked if they would be available for a telephone deposition. Is this ok with you?

TO ALL: I HAVE MOVED MY OFFICE TO THE COLEMAN EXECUTIVE CENTER, 222 West Coleman Blvd., Ste. 110, Mt. Pleasant, SC. It is very close to my current location and on the first floor. PLEASE note my new fax number.

Karen M. DeJong, Esq.
DeJong Law Firm, LLC



222 West Coleman Blvd., Ste. 110
Mt. Pleasant, SC 29464-5652
Tel. No. (843) 216-6161

Fax No. (843) 300-1080

karen@dejonglawfirm.com

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To: apaylor@rrhlawfirm.com

[Remove](#) this sender from my allow list

From: karen@dejonglawfirm.com

You received this message because the sender is on your allow list.

Alice Paylor

From: Alice Paylor
Sent: Wednesday, April 3, 2019 9:46 AM
To: 'karen@dejonglawfirm.com'
Subject: FW: Steed - NODs
Attachments: NOD of Ruby Heyward.pdf; NOD of Antoine Heyward.pdf

Karen, here are the deposition notices. I will be happy to schedule the required mediation around this date to accommodate your clients. Alice

Alice Paylor

|Attorney at Law|

151 Meeting Street, Suite 400
Charleston, SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8105
|direct fax| (843) 266-2223
apaylor@rosenhagood.com
V-Card
www.rosenhagood.com

OUR WEBSITE AND EMAIL HAVE CHANGED.

PLEASE CHANGE YOUR RECORDS ACCORDINGLY.

ROSEN | HAGOOD

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From: Taylor Davis <tdavis@rosenhagood.com>
Sent: Wednesday, April 3, 2019 9:45 AM
To: Alice Paylor <apaylor@rosenhagood.com>
Subject: Steed - NODs

Please see attached.

Taylor Davis

*|Legal Assistant to Andrew Gowdown, Alice Paylor, Richard
Rosen & Elizabeth Palmer|*



151 Meeting St., Suite 400
Charleston SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8125
tdavis@rosenhagood.com
V-Card
www.rosenhagood.com

**OUR WEBSITE AND EMAIL HAVE CHANGED.
PLEASE CHANGE YOUR RECORDS ACCORDINGLY.**



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ROSEN HAGOOD, LLC

By: Alice F. Paylor
Alice F. Paylor
Bijan Ghom
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
April 3, 2019

CERTIFICATE OF SERVICE

I certify that on 4/3, 2019, I caused
to be:

- ☐ mailed
- ☐ hand delivered
- ☐ faxed
- ☒ e-mailed

a true copy of the foregoing pleading(s) to
each counsel of record.

Alice F. Paylor

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED,	)	
	)	
Plaintiffs,	)	NOTICE OF DEPOSITION OF
	)	ANTOINE HEYWARD
vs.	)	
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

TO: KAREN DEJONG, ESQUIRE, ATTORNEY FOR DEFENDANTS

YOU WILL PLEASE TAKE NOTICE that, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, counsel for the Plaintiffs will take the deposition of **Antoine Heyward** on **May 20, 2019**, beginning at **9:00 a.m.** at **Rosen Hagood, LLC, 151 Meeting Street, Suite 400, Charleston, South Carolina, 29401**, before a Notary Public or some other officer authorized by law to take depositions. The deposition will continue from day to day until completed.. The deposition is to be taken either for discovery purposes or for evidence at trial. You are invited to attend and take part as you see fit.

[SIGNATURE ON FOLLOWING PAGE]

ROSEN HAGOOD, LLC

By: Alice F. Paylor
Alice F. Paylor
Bijan Ghom
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726

ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
April 3, 2019

CERTIFICATE OF SERVICE

I certify that on 4/3, 2019, I caused
to be:

- ☐ mailed
- ☐ hand delivered
- ☐ faxed
- ☒ e-mailed

a true copy of the foregoing pleading(s) to
each counsel of record.

Alice F. Paylor

NOTICE OF ADR

Bonita Steed
Bernard Steed

2018CP1004284

PLAINTIFF(S)

Filing Date: August 29, 2018

Vs

Antoine Heyward
Ruby Heyward

DEFENDANT(S)

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR), you are required to participate in the following methods of Alternative Dispute Resolution (ADR): mediation or arbitration (binding or non-binding); on or before 300 days from the date of filing of this action. The parties have a right to mutually agree upon the form of ADR and a neutral person(s) to conduct that ADR process. In the event the parties are unable to agree upon the form of ADR, the court hereby designates mediation as the default process of ADR. In the event the parties are unable to agree upon a mediator, the court hereby appoints

Charles B. Macloskie, Macloskie Law Firm, PO Box 280, 1506 Prince St., Beaufort, SC 29901-2990, Phone (843) 524-0909

to serve as mediator. In the event the aforementioned mediator has a conflict of interest or is unable to serve, the alternate mediator is

Eugene P. Corrigan III, PO Box 1702, , Charleston, SC 29402, Phone (843) 327-7187

The parties and/or their lawyers shall contact the court-appointed mediator directly regarding scheduling and payment of the court-mandated fee.

A Rule to Show Cause why sanctions should not be imposed may be issued in all cases that fail to file a Proof of ADR or Exemption form indicating evidence of participation in or exemption from an ADR process within 300 days from the date of filing of the action or 90 days from the date of this notice .

Date: March 26, 2019

Notice of this Order was given by First Class Mail, E-mail, Fax or by the E-Filing Notice of Electronic Filing (NEF). Pro-Se parties were notified by first class mail on 03/26/2019

Plaintiff Attorney:

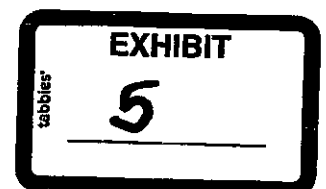
Alice F. Paylor
PO Box 893
Charleston, SC 29402

Defendant Attorney:

Karen Marie DeJong
222 West Coleman Boulevard
Suite 110
Mt. Pleasant, SC 29464

ADR Coordinator
Caroline Leonard
(843) 958-5013
(843) 958-5020
ccleonard@charlestoncounty.org

CP18
SCADR 102 (11/2012)



Alice Paylor

From: Alice Paylor
Sent: Thursday, May 9, 2019 1:17 PM
To: karen@dejonglawfirm.com
Subject: RE: Steed v. Heyward

Karen, do your clients plan to show up for their depositions on 5/20? Do you want to schedule the mandatory mediation while they are here? Alice

Alice Paylor

|Attorney at Law|

151 Meeting Street, Suite 400

Charleston, SC 29401

|office| 843-577-6726

|fax| 843-724-8036

|direct phone| (843) 266-8105

|direct fax| (843) 266-2223

apaylor@rosenhagood.com

V-Card

www.rosenhagood.com

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ROSEN | HAGOOD

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From: karen@dejonglawfirm.com <karen@dejonglawfirm.com>

Sent: Tuesday, March 12, 2019 11:32 AM

To: Alice Paylor <apaylor@rrhlawfirm.com>

Subject: Steed v. Heyward

Hi, Alice: Antoine Heyward works and his mother is elderly. I don't think that they will be able to fly to Charleston for depositions. However, I have asked if they would be available for a telephone deposition. Is this ok with you?

TO ALL: I HAVE MOVED MY OFFICE TO THE COLEMAN EXECUTIVE CENTER, 222 West Coleman Blvd., Ste. 110, Mt. Pleasant, SC. It is very close to my current location and on the first floor. PLEASE note my new fax number.



Alice Paylor

From: Alice Paylor
Sent: Tuesday, May 14, 2019 2:30 PM
To: karen@dejonglawfirm.com
Subject: Steed v. Heyward

Karen, are we on for depositions on Monday? Are your clients going to show up? We have to have a mediation prior to the end of May. When do you want to schedule that?

Alice Paylor
|Attorney at Law|

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Charleston, SC 29401
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Alice Paylor

From: karen@dejonglawfirm.com
Sent: Tuesday, May 14, 2019 3:16 PM
To: Alice Paylor
Cc: Antoine Heyward
Subject: RE: Steed v. Heyward

Hi, Alice: The Heywards will not be able to appear for depositions on Monday. Antoine Heyward has advised me that he is the only one to take care of his mother, she is 83 years old and in failing health. Ruby Heyward is not able to travel long distances in comfort and is suffering from arthritis and memory loss. We can conduct a deposition of Antoine Heyward by telephone. He states that he is available any Tuesday or Thursday at either 10:00 a.m. or 11:00 a.m. CST. With regard to mediation, I can attend on the Heywards' behalf and have Antoine available by phone.

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Karen M. DeJong, Esq.
DeJong Law Firm, LLC
222 West Coleman Blvd., Ste. 110
Mt. Pleasant, SC 29464-5652
Tel. No. (843) 216-6161
Fax No. (843) 300-1080
karen@dejonglawfirm.com
Complex Civil Litigation, Corporate
Law, Real Estate and Probate Law

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----- Original Message -----

Subject: Steed v. Heyward
From: Alice Paylor <apaylor@rosenhagood.com>
Date: Tue, May 14, 2019 2:30 pm
To: "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>

Karen, are we on for depositions on Monday? Are your clients going to show up? We have to have a mediation prior to the end of May. When do you want to schedule that?

Alice Paylor
|Attorney at Law|

151 Meeting Street, Suite 400
Charleston, SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8105



Alice Paylor

From: Alice Paylor
Sent: Wednesday, May 15, 2019 9:09 AM
To: karen@dejonglawfirm.com
Cc: Taylor Davis
Subject: RE: Steed v. Heyward

Karen, I have the right to take the parties' depositions. If Ruby is incapacitated and will not be a witness, I need to know that and have you remove her from your witness list. If Antoine is not going to be witness, then similarly you need to remove him from your witness list. If he is going to be a witness, I want to see him and depose him in person as required by the rules for a party to a proceeding. Mr. Heyward has asserted ownership over a South Carolina property. You have not moved for a protective order so I will not cancel the depositions scheduled and noticed for this Monday. IN addition, the Court requires that parties be present at the required mediation, so Mr. Heyward must appear at a mediation as well. From your emails, I assume that Mr. Heyward will not appear for his deposition on Monday as noticed well over a month ago with no communication from you until I reached out on several occasions to you to confirm his appearance. In addition, I assume that he will not appear at a mediation as required by the rules. Please let me know by close of business today if my assumptions are not correct. If I don't hear from you, I will proceed based on my assumptions being correct.

Based on your response or lack thereof, I will cancel the court reporter scheduled to appear on Monday and take appropriate action with the Court.

Alice

Alice Paylor
|Attorney at Law|

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Charleston, SC 29401
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|fax| 843-724-8036
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ROSEN | HAGOOD

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From: karen@dejonglawfirm.com <karen@dejonglawfirm.com>
Sent: Tuesday, May 14, 2019 3:16 PM
To: Alice Paylor <apaylor@rosenhagood.com>
Cc: Antoine Heyward <antoine1million@gmail.com>
Subject: RE: Steed v. Heyward

Hi, Alice: The Heywards will not be able to appear for depositions on Monday. Antoine Heyward has advised me that he is the only one to take care of his mother, she is 83 years old and in failing health. Ruby Heyward is not able to travel long distances in comfort and is suffering from arthritis and memory loss. We can conduct a deposition of Antoine Heyward by telephone. He states that he is available any Tuesday or Thursday at either 10:00 a.m. or 11:00 a.m. CST. With regard to mediation, I can attend on the Heywards' behalf and have Antoine available by phone.

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----- Original Message -----

Subject: Steed v. Heyward
From: Alice Paylor <apaylor@rosenhagood.com>
Date: Tue, May 14, 2019 2:30 pm
To: "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>

Karen, are we on for depositions on Monday? Are your clients going to show up? We have to have a mediation prior to the end of May. When do you want to schedule that?

Alice Paylor
|Attorney at Law|

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apaylor@rosenhagood.com
V-Card

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

BONITA STEED AND BERNARD STEED,

Plaintiffs,

v.

ANTOINE HEYWARD, RUBY HEYWARD and ALSO
OTHER PERSONS UNKNOWN, claiming any right,
title, estate, interest in or lien upon the real estate
described in the amended complaint herein,

Defendants.

IN THE COURT OF COMMON PLEAS FOR
THE NINTH JUDICIAL CIRCUIT

CASE NO. 2018-CP-10-04284

**AFFIDAVIT OF ANTOINE HEYWARD
IN SUPPORT OF OPPOSITION TO MOTION
TO COMPEL ATTENDANCE AT DEPOSITIONS**

FILED
19 AUG 12 PM 3:10
CLERK OF COURT
DR

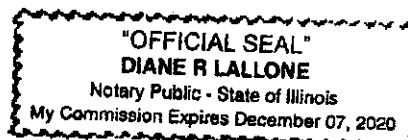
1. I am a Defendant in this action and I have personal knowledge of the facts in this Affidavit as well as in the Complaint and my Answer.
2. I am over the age of 18 years.
3. I am employed full time and work Monday through Friday.
4. My mother, Ruby Heyward, is 83 years old and is in poor health. She suffers from arthritis and memory loss. It is very difficult for her to testify accurately and consistently. She suffers from mental and physical ailments that make it impossible for her to travel long distances in comfort.
5. In addition to working full time, I am the sole caregiver to my mother, Ruby Heyward. Therefore, it is not possible for me to travel away from home leaving my mother without a caregiver.

Antoine Heyward
ANTOINE HEYWARD

SWORN TO before me this 1 day
of June, 2019

July

Diane R. Lallone
Notary Public of Illinois
My Commission Expires:



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS FOR
	)	THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED,	)	
	)	
Plaintiffs,	)	
	)	MOTION FOR SANCTIONS
vs.	)	
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

TO: KAREN DEJONG, ESQUIRE, ATTORNEY FOR DEFENDANTS

YOU WILL PLEASE TAKE NOTICE that the Plaintiffs, by and through their undersigned counsel, will move before the presiding Judge of the Ninth District Judicial Court, for an order pursuant to Rule 37(b)(2)(C) of the South Carolina Rules of Civil Procedure ("SCRCP") striking out Defendants' Answer and Counterclaims, rendering a judgment by default against Defendants because of Defendant Antoine Heyward's failure to comply with this Court's Order dated September 13, 2019 (hereinafter "Order"), and for fees and costs caused by the failure to comply. See Exhibit A. This Order, in part, compelled Defendant Antoine Heyward's attendance for mediation in Charleston County, and, also, to have a conservator appointed for Defendant Ruby Heyward due to Defendants' counsel statement at the hearing that Defendant Ruby Heyward is incompetent and unable to travel or testify. See Exhibit A. Similarly, Defendant Antoine Heyward testified that he believed his mother, Defendant Ruby Heyward, was incompetent. See Exhibit B, Transcript of Antoine Heyward p. 12-13.

Plaintiffs' counsel has a long history of attempting to schedule mediation in this case. Despite the Order requiring Defendant Antoine Heyward to appear for a mediation in Charleston County and the fact that this case is on the jury trial roster, Defendant Antoine Heyward will not submit to a mediation in Charleston County. After the Order compelling mediation was granted, Plaintiffs' counsel sent an email on November 14, 2019, requesting dates for a mediation in Charleston County. See Exhibit C, Emails of Counsel. Likewise, on December 5, 2019, Plaintiffs' counsel again sent an email to Ms. DeJong again stating that we need a mediation. Defendants' counsel never gave Plaintiffs' counsel dates for a mediation.

In the November 14, 2019 email, Plaintiffs' counsel sent an email to Ms. DeJong expressing the need for a conservator pursuant to Judge Young's Order. At that time, given that the case was already on the trial roster, Plaintiffs' counsel informed Ms. DeJong that Plaintiffs would file a motion for contempt of the Order if a conservator was not sought, and that Plaintiffs would seek appropriate sanctions. In fact, Plaintiffs' counsel specifically mentioned that Plaintiffs would seek an order striking the answer and counterclaim. See Exhibit C, Emails of Counsel. In response, Defendants' counsel sent an email stating that she would "send the Consent Order appointing Conservator to you by Monday." According to the email of Defendants' counsel, the delay in seeking a conservator was that she "had hoped to settle this matter before now." This statement from counsel was alarming because, if Ruby Heyward is incapacitated as Defendants' counsel professed to the Court, she would not have the ability to consent to a settlement. Accordingly, counsel for Plaintiffs sent an email that same day informing Defendants' counsel that we cannot settle this matter *until* a conservator is appointed for Ms. Heyward. See Exhibit C. On November 20, 2019, two days *after* the date in which Defendants' counsel stated that she would comply with the Order, counsel for Defendants sent a letter to the Charleston County Clerk

informing the Court that she had unilaterally appointed her client, Defendant Antoine Heyward, as Conservator for her *other* client, Defendant Ruby Heyward. Due to the obvious potential for a conflict and the risk to Plaintiffs that Defendant Ruby Heyward was not adequately represented in this lawsuit, Plaintiffs' counsel *again* reached out to Defendants' counsel by email explaining that there is a procedure that must be followed to appoint a conservator for Defendant Ruby Heyward. See Exhibit D. The email even referenced § 62-5-303 and § 62-5-405, the relevant statutes. By email, dated December 9, 2019, Defendants' counsel stated: "Just got this email, I will comply with statute." See Exhibit D. No conservator has been appointed, and this case continues to be on the trial calendar.

Since Defendants have failed to comply with the Order, Plaintiffs respectfully request this Court, pursuant to SCRCP Rule 37 to issue an Order striking their answer and counterclaim, entering judgment for the Plaintiffs, and sanctioning them for violating the South Carolina Rules of Civil Procedure by ordering them to pay all of the Plaintiffs' attorney's fees and costs associated with this action and for such other relief as the court deems just and appropriate. In the alternative, if the Court does not strike Defendants' answer due to Defendants' failure to comply with the Order, Plaintiffs request a protective order preventing this case from being called for trial until Defendant Ruby Heyward has a conservator appointed and a date certain by which time Defendants will comply with the order.

[SIGNATURE ON FOLLOWING PAGE]

Respectfully submitted,

ROSEN HAGOOD, LLC

By: s/ Alice F. Paylor

Alice F. Paylor

Bijan Ghom

151 Meeting Street, Suite 400

Charleston, SC 29401

(843) 577-6726

ATTORNEYS FOR PLAINTIFFS

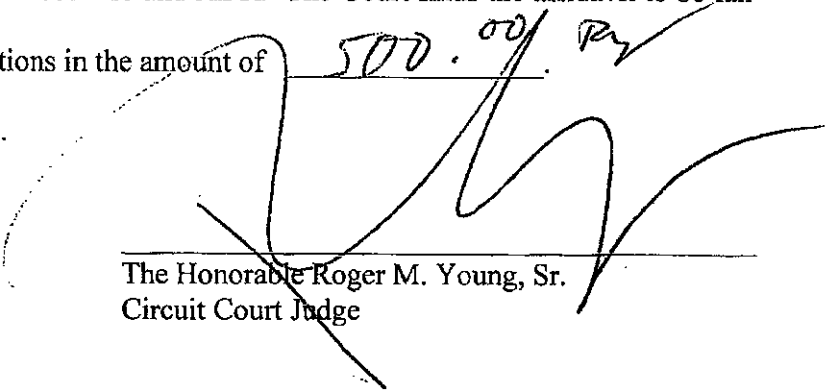
January 10, 2020

Charleston, South Carolina

not require Ruby Heyward to physically appear for her deposition or mediation. However, the Court hereby GRANTS Plaintiffs' Motion to Compel the Depositions of Defendant Antoine Heyward in Charleston County and GRANTS Plaintiffs' Motion to Compel Defendant Antoine Heyward to appear for a mediation in Charleston County.

Plaintiffs requested sanctions, the costs and fees associated with this Motion, for Defendants failure to attend their depositions and mediation. The Court reviewed Plaintiffs' counsel's affidavit that details the time and costs associated with Defendants' failure to comply with South Carolina Rules of Civil Procedure and ADR. The Court finds the affidavit to be fair and reasonable and GRANTS sanctions in the amount of 500.00 *Per*

AND IT IS SO ORDERED.


The Honorable Roger M. Young, Sr.
Circuit Court Judge

Charleston, South Carolina
August 5/6, 2019

Deposition of Antoine Heyward

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 CHARLESTON COUNTY

4 DEPOSITION OF ANTOINE HEYWARD

5 BONITA STEED and BERNARD STEED,
6

7 Plaintiffs,

Case No. 2018-CP-10-04284

8 vs.

9 ANTOINE HEYWARD, RUBY HEYWARD, and ALSO ALL OTHER
10 PERSONS UNKNOWN, Claiming any right, title,
estate, interest in, or lien upon the real estate
described in the Amended Complaint herein,

11 Defendants.
12

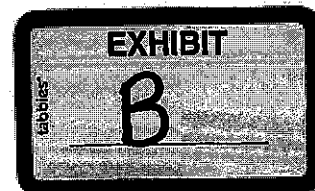
13 DEPONENT: ANTOINE HEYWARD

14 DATE: November 14, 2019

15 TIME: 8:53 AM

16 LOCATION: ROSEN HAGOOD
17 CHARLESTON, SOUTH CAROLINA

18
19 REPORTED BY: TERI L. KENNELLY, RPR, CRR
20 CLARK & ASSOCIATES, INC.
21 P.O. Box 73129
22 Charleston, SC 29415
23 843-762-6294
24 WWW.CLARK-ASSOCIATES.COM
25 Teri@Clark-Associates.com



Deposition of Antoine Heyward

1 dealing with?

2 A. I mean, she has dementia, arthritis, low
3 blood pressure. She's just an old lady now,
4 older lady now.

5 Q. Have you moved to appoint a conservator
6 for her?

7 A. No, I have not.

8 Q. Do you know if she has the capacity to
9 testify?

10 A. Not well.

11 Q. Well, she's -- so she's listed as a
12 witness in this case.

13 A. Correct.

14 Q. Do you believe that she's going to be
15 able to testify in this case?

16 A. No. I mean, if I have to drag her down
17 here, then possibly so.

18 Q. Well, are you aware that your attorney
19 represented to the Court in our last hearing that
20 she was not competent to testify at trial?

21 A. That's correct.

22 Q. Do you disagree with your attorney's
23 statement?

24 A. No, I don't.

25 Q. So it's your contention that she doesn't

Deposition of Antoine Heyward

1 have the capacity to testify?

2 A. She does not have good capacity to
3 testify, that's correct.

4 Q. Okay. Little bit more background. What
5 do you currently do for a living?

6 A. Well, I'm an intermodal clerk at Norfolk
7 Southern Railroad.

8 Q. And how long have you been doing that
9 for?

10 A. I've been there since 2004.

11 Q. Did you go to college?

12 A. Yes, sir.

13 Q. And where --

14 A. DePaul University. I graduated in 1994.

15 Q. So to do your job, do you have any
16 professional licenses?

17 A. No, no. It's nothing like that.

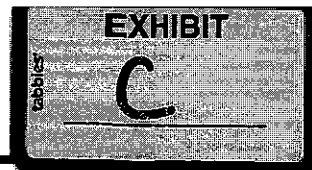
18 Q. Any kind of certificates? Anything like
19 that?

20 A. No, nothing needed.

21 Q. Have you ever been subject to any kind
22 of disciplinary action?

23 A. No, no.

24 Q. So I believe you kind of already touched
25 upon this, but -- so you've known the Steeds



FILED ELECTRONICALLY - 2020 Jan 10 2:40 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004284

Taylor Davis

From: Bijan Ghom
Sent: Thursday, November 14, 2019 2:09 PM
To: karen@dejonglawfirm.com; Alice Paylor
Subject: RE: Conservator

We will wait to hear from you on Monday (regarding both proposed orders). While I understand your point re wanting to settle, we cannot settle this matter *until* a conservator is appointed for Ms. Heyward. We need to make sure that Ms. Heyward has the capacity to consent to any proposed settlement.

Bijan Ghom
|Attorney at Law|

151 Meeting St., Suite 400
Charleston, SC 29401
|office| 843-577-6726
|fax| 843-724-8036
|direct phone| (843) 266-8145
|direct fax| (843) 266-2258
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From: karen@dejonglawfirm.com [mailto:karen@dejonglawfirm.com]
Sent: Thursday, November 14, 2019 12:27 PM
To: Bijan Ghom <bghom@rosenhagood.com>; Alice Paylor <apaylor@rosenhagood.com>
Subject: RE: Conservator

He will be speaking to his cousin, Alexis, with regard to conservator once he returns to Chicago. I will have an answer by Monday. As you know, he is flying back to Chicago today. You are aware that the Steeds were to be deposed this afternoon but Alice had to fly out to Florida? I graciously consented to delaying the Steeds' depositions. Their depositions need to be conducted first before mediation. What dates do you have available for the Steeds' depositions? The delay in appointing a conservator was that we had hoped to settle this matter before now. Alice and I contemplated mediation on today's date with the depositions of all parties in an attempt to settle this matter. It now appears that this is not possible. I will send the Consent Order appointing Conservator to you by Monday.

Alice: I would prefer to work directly with you. Do we need to prepare a Scheduling Order re: trial roster?

Karen M. DeJong, Esq.

DeJong Law Firm, LLC

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Complex Civil Litigation, Corporate

Law, Real Estate and Probate Law

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----- Original Message -----

Subject: Conservator

From: 'Bijan Ghom' <bghom@rosenhagood.com>

Date: 11/14/19 11:34 am

To: 'karen@dejonglawfirm.com' <karen@dejonglawfirm.com>

Cc: 'Alice Paylor' <apaylor@rosenhagood.com>

Ms. DeJong,

As you likely know, we are on the trial roster (subject to Alice's Order of Protection). As Judge Young stated in his Order, a conservator must be appointed for Ruby Heyward so that her interests in this action may be protected. Your client testified today that no action has been taken to do so. Accordingly, we are moving for contempt of the Order if a conservator is not appointed. We will ask for appropriate sanctions, including striking the answer and counterclaim. We plan to file this by tomorrow afternoon.

The Order also requires Defendant Antoine Heyward to appear for a mediation in Charleston County. Please give us a list of dates that will work for you and your client.

Thanks,

Bijan

Bijan Ghom

|Attorney at Law|

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ROSEN | HAGOOD

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Alice Paylor

From: karen@dejonglawfirm.com
Sent: Monday, December 9, 2019 12:12 PM
To: Bijan Ghom
Cc: Alice Paylor
Subject: RE: Conservator

Just got this email, I will comply with statute.

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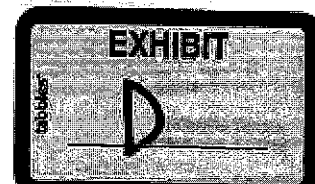
----- Original Message -----

Subject: Conservator
From: "Bijan Ghom" <bghom@rosenhagood.com>
Date: 11/21/19 10:31 am
To: "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>
Cc: "Alice Paylor" <apaylor@rosenhagood.com>

Ms. DeJong,

There is a procedure (62-5-303) that is required to have a conservator appointed (or a "protective arrangement" pursuant to 62-5-405) . Whichever route you go for, I believe something must be filed with the Probate Court (which seemingly would require a declaration from a physician). Just trying to help.

Bijan Ghom



|Attorney at Law|

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED, ROBERT STEED, AND	)	
ERNEST STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	PLAINTIFFS' MOTION TO AMEND
	)	COMPLAINT
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE that Plaintiffs Bonita Steed and Bernard Steed hereby move the Court to permit them to file and serve a Second Amended Complaint in this case. Plaintiffs seek to amend the Complaint to add Robert Steed and Ernest Steed as additional plaintiffs. A copy of the proposed Second Amended Complaint is attached to this motion.

Rule 15(a), SCRCP, permits a party to amend its pleading "by leave of the court or by written consent of the adverse party; and leave shall be freely given when justice so requires and does not prejudice the other party." Here, this amendment will in no way prejudice the defendants as the issues remain unchanged. Further, pursuant to Rule 19(a), SCRCP, this amendment is appropriate because Robert Steed and Ernest Steed have an interest in the property that is the subject of this action and their absence in the disposition of this action would impair or impede their abilities to protect their interests.

Prior to filing this Motion to Amend, Plaintiff's counsel attempted in good faith to resolve this matter with opposing counsel but was unable to do so.

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ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
March 10, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED, ROBERT STEED, AND	)	
ERNEST STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	SECOND AMENDED COMPLAINT
	)	(JURY TRIAL DEMANDED)
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

Plaintiffs, complaining of the Defendants, files this Amended Complaint and would show unto the Court:

1. Plaintiffs reside at and are and have been, for more than 10 years, in possession of 516 Bank Street, Mt. Pleasant, South Carolina, ("the Property") and are bringing this action to declare that Plaintiffs are the lawful owners of said property and that they are entitled to have title conferred to them.

2. Defendants Antoine Heyward and Ruby Heyward are residents of Chicago, Illinois, and claim title to the Property through deeds, dated January 11, 1999, from Louise Brown Heyward to Robert James Heyward, deceased, and the Estate of Robert James Heyward to Antoine Heyward and Ruby Heyward.

3. The Unknown Defendants are persons, unknown to Plaintiffs and who may claim title to the Property.

4. Plaintiffs bring this action under the Uniform Declaratory Judgment Act, S.C.Code §§ 15-67-10 *et seq.*, and S.C.Code §§ 15-67-10 *et seq.*, which deals with Possession and Adverse Possession of real property.

5. Under claim of ownership, Plaintiffs have possessed for greater than ten (10) years the real property located at 516 Bank Street, Mt. Pleasant, South Carolina (hereafter “the Property”), and further described as follows:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.

BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

6. Plaintiffs have had exclusive, complete, actual, open, notorious, hostile and continuous undisputed possession of the Property adverse to Defendants for more than ten (10) years.

7. Defendants Antoine and Ruby Heyward and the deceased Robert Heyward have never been in possession of the Property, never used their money to pay taxes on the Property, never had insurance on the Property or any other indicia of ownership other than the aforesaid deeds.

8. Defendants Antoine and Ruby Heyward's claims are without any right, and they have no estate, right, title, lien or interest in or to the Property, or any part of the Property.

9. Plaintiffs have paid real estate taxes and homeowner's insurance on the Property for more than ten (10) years.

10. Plaintiffs have made substantial improvements to the Property over the last twenty (20) years.

11. The Property includes a substantial enclosure, a house, in which Plaintiffs live and have lived for more than forty (40) years.

12. Defendants Antoine and Ruby Heyward have only visited the Property on one occasion during the last ten (10) years, for the funeral of Robert Heyward held at the Property after the Heywards sought and received permission of Plaintiffs to have the funeral there.

13. Plaintiffs have always claimed ownership and title to the Property and have never paid rent to the Defendants or any other person.

14. Plaintiffs are entitled to a declaratory judgment that they are fee simple owners by adverse possession of the Property and the issuance of a deed to them reflecting their ownership.

WHEREFORE, Plaintiffs request judgment as follows:

1. For a decree declaring that Plaintiffs own absolutely as joint tenants and are entitled to the quiet and peaceful possession of the Property as against Defendants Heyward and all persons claiming under Defendants, that Defendants and all persons claiming under Defendants have no estate, right, title, lien or interest in or to the Property or any part of it, and that title to the Property be quieted in Plaintiffs against all claims of Defendants and all persons claiming under Defendants;
2. For a decree permanently enjoining Defendants and all persons claiming under Defendants from asserting any estate, right, title, lien or interest in or to the Property or any part of it adverse to Plaintiffs;
3. For the issuance of a deed vesting fee simple title in Plaintiffs as tenants in common;
4. For costs of this action; and
5. For such other and further relief as the Court deems appropriate.

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ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
March 10, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED, ROBERT STEED, AND	)	
ERNEST STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	PLAINTIFFS' MOTION FOR
	)	SUMMARY JUDGMENT
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT
AND MEMORANDUM IN SUPPORT THEREOF**

Plaintiffs move for summary judgment as to their causes of action and as to Defendants' counterclaims pursuant to Rule 56, SCRPC, on the ground that the material facts are not in dispute, and Plaintiffs are entitled to judgments as a matter of law. The facts set forth herein are taken in the light most favorable to the Defendants and are primarily taken from Defendant Antoine Heyward's (hereinafter "AH) deposition.¹

This is a claim to title of the property located at 516 Bank Street, Mt. Pleasant, SC, based on adverse possession by the Plaintiffs. Defendants counterclaim asserting their ownership through a series of deeds into and out of Louise Brown Heyward, Plaintiffs' great-grandmother and Defendant AH's grandmother. All parties agree that Louise Brown Heyward owned the

¹ According to Defendant Antoine Heyward, the Defendant Ruby Heyward is mentally incompetent and could not give a deposition. AH Deposition, pp. 12-13.

property until her death in 2000. In 1999, Ms. Heyward apparently gave a deed to her son Robert Heyward (father and husband of the Defendants). Mr. Heyward died in 2014 without disclosing to the Plaintiffs, who have resided on the property in question from 1966 to the present, that he had been deeded the property. AH contacted the Plaintiffs in 2015 and demanded that they start paying rent to him, and they refused. Plaintiffs commenced this action in 2018 seeking to have title vested in them by adverse possession. They have continuously and exclusively under right of title occupied the property from 2000 to the present day. The Defendants have never occupied, improved or maintained the property, and abandoned any claim they had in the property occupied by the Plaintiffs.

UNDISPUTED FACTS

The Defendant Antoine Heyward (“AH”) has lived all of his life at 8049 South Muskegon, Chicago, Illinois, with his mother, Defendant Ruby Heyward (“RH”). Neither Defendant has ever occupied or resided at 516 Bank Street, Mt. Pleasant, SC. Antoine Heyward (“AH”) Deposition Transcript, p. 5. The Plaintiffs are AH’s cousins. He met them when he was younger and started coming to visit them at “their home,” 516 Bank Street, Mt. Pleasant, SC 29464, the subject of this lawsuit. *Id.* at pp. 6-7. The Plaintiffs have always lived at 516 Bank Street to Defendant AH’s knowledge. *Id.* The last time that AH visited at 516 Bank Street was for his father’s funeral in 2014. *Id.* at pp. 8-9. Plaintiffs allowed the repass for the service of their great uncle, Robert Heyward, to be held at 516 Bank Street. *Id.* at p. 9. AH did not have a key to the property, and Defendants allowed him to be there for his father’s funeral. *Id.* at pp. 9-10. AH does not deny the fact that Plaintiffs have lived on this property continuously since 1966. *Id.* at p. 10.

In 2015, after Robert Heyward died, AH hired an attorney who sent a letter to Plaintiffs requesting that they pay rent to AH for 516 Bank Street. AH's father had never requested rent from Plaintiffs. AH decided that things were going to change. Plaintiff refused to pay rent and the conversation did not go well. *Id.* at pp. 15-16. AH's father who received the property from his mother just prior to her death had never told the Plaintiffs of his claim to ownership. *Id.* at pp. 17-18; Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed. AH's father lived in Chicago at the time of his mother's death in 2000 until his death in 2014, and he would only go to the property once a year in the summers when his mother was alive. After her death in 2000, Robert Heyward went to the property less frequently. He always contacted the Plaintiffs prior to coming and ask them if he could stay on the property. *Id.* at pp.19-20. Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed.

The structure at 516 Bank Street consists of two rectangles attached to each other. The Plaintiffs lived in both rectangles. Plaintiffs' father built one of the rectangles. Plaintiffs made substantial improvements to the property including the purchase and installation of a central air unit, washer/dryer, refrigerator; installation of a fence, gutting, insulation, hardwood floors, cabinets, tile flooring; and construction of a new roof and a room to house the new washer and driver. Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed. Neither AH nor his father had anything to do with constructing the structures or maintaining the structures or the property. *Id.* at pp. 21-23;57-58. AH never paid for insurance on the property. He tried but the insurance company cancelled it. *Id.* at p. 26. To AH's knowledge, no one from his family ever told the Plaintiffs that Plaintiffs did not own the property until he talked to Plaintiff Bonita Steed in 2015 or 2016. *Id.* at pp. 30-31. AH acknowledged that during the last 20 years, the

Steeds had no reason to believe that they did not own the property—where they had lived for over 50 years. *Id.*

Prior to his father's death, AH has no knowledge of who paid the taxes. After his death, Defendants received the tax bill and had the Plaintiffs pay half of it. *Id.* at pp. 31-32.

Plaintiffs have a plat, dated September 18, 1998, showing that Alethia Steed, Plaintiffs' mother, owned the property. AH has no knowledge of the plat or who created it. AH does not know when his father claimed to have taken ownership of the property. *Id.* at pp. 34-36. AH acknowledged that Plaintiffs had built the structure on the property and stated that he would not build a structure on property that he did not own. *Id.* at pp. 37-38.

AH has never visited 516 Bank Street without the consent of the Plaintiffs. *Id.* at p. 38. No one has lived at the property since 1999 or 2000 after AH's grandmother died other than the Plaintiffs. *Id.* at p. 42. Plaintiffs have always taken the position that they own the property based on their living there for 54 continuous years with exclusive possession since the death of Louise Brown Heyward in 2000.

Plaintiffs initiated this action to declare that they owned the property through adverse possession in 2018. *Id.* at pp. 25.

I. PLAINTIFFS OWN 516 BANK STREET THROUGH THEIR CONTINUOUS, OPEN, ACTUAL, NOTORIOUS, AND EXCLUSIVE POSSESSION IN EXCESS OF TEN YEARS.

Plaintiffs have met all of the elements for an adverse possession claim for the statutory period of ten years for 516 Bank Street, Mt. Pleasant, SC. "The party asserting adverse possession must show, continuous, hostile, open, actual, notorious, and exclusive possession for a certain period of time." *Jones v. Leagan*, 384 S.C. 1, 10, 681 S.E.2d 6, 11 (Ct. App. 2009); cited in *Taylor v. Heirs of William Taylor*, 419 S.C. 639, 650, 799 S.E.2d 919, 924 (Ct. App.

2017). Since the claim for adverse possession is for the entire tract of land, Plaintiffs are not required to prove that their possession was hostile. Knox v. Bogan, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App. 1996); see also Perry v. Heirs at Law and Distributees of Gadsden, 316 S.C. 224, 449 S.E.2d 250 (1994) (explaining that the requirement of hostility is applicable to “cases involving boundary disputes *only*”) (emphasis added). The statutory period for adverse possession is ten years in South Carolina. S.C. Code Ann. § 15-67-210 (2005). The party asserting adverse possession must show that they have met the elements by clear and convincing evidence. Jones, 384 S.C. at 10-11, 681 S.E.2d at 11; Taylor, 419 S.C. at 651, 799 S.E.2d at 924-25.

As the Court of Appeals stated in Taylor:

To claim title by adverse possession, a party must show the extent of his possession even when entering under color of title. ... Color of title alone is not evidence of adverse possession, and “it does not follow that adverse possession can be proved by less evidence when the entry is under color of title than when it is not.” ... However, color of title is evidence of the extent of the claim and should be considered with the other facts in the case.... Color of title need not be a deed; “[i]t is anything which shows the extent of [the] occupant’s claim.” ... “It is by no means necessary that the paper should be in the form of a deed. A bond or receipt would be sufficient.” ... “The principle purpose of color of title in adverse possession proceedings is not to show actual grant of land or interest therein, but to designate [the] boundary of possessor’s claim.”

Taylor, 419 S.C. at 651, 799 S.E.2d at 925 (internal citations omitted).

The Steed Plaintiffs have a plat that showed that their mother Alethia Steed was the owner of the property, and it set forth the boundaries, being all of the property located at 516 Bank Street, Mt. Pleasant, SC. They claim ownership of the property under color of title even though they have no deed to the property.

As the Jones and Taylor Courts further held with regards to the elements of open and notorious:

For possession to be open and notorious, “the legal owner need not have actual knowledge the claimant is claiming property adversely, [but] the hostile possession should be so notorious that the legal owner by ordinary diligence should have known of it. Jones, 384 S.C. at 13-14, 681 S.E.2d at 13. “[A]cts of ownership of open land for purposes of adverse possession need not include actual residency or occupancy.” Id., at 14, 681 S.E.2d at 13. “Moreover, activities that do not involve the creation of permanent structures on the land can be sufficiently open and notorious as to put the legal owner on noticed that his land is being adversely possessed.” Id.

Taylor, 419 S.C. at 651, 799 S.E.2d at 925.

Plaintiffs have been in actual residency and occupancy of the property since 1966. They have been responsible for all improvements made to the property during that time period. Their activities have always been open and notorious as admitted in the deposition of AH.

The Jones and Taylor Courts also addressed the element of continuous possession:

For possession to be continuous, a party “claiming adverse possession must have personally held the property for ten years.” Id., at 15, 681 S.E.2d at 14. “Occasional and temporary use or occupation does not constitute adverse possession. However, the rule requiring continuity of possession does not mean the person in possession must be actually on the land during the whole of the statutory period.” Id., at 16, 681 S.E.2d at 14 (citation omitted).

Taylor, 419 S.C. at 651-52, 799 S.E.2d at 925.

As set forth above, there is no question that the Plaintiff haven been in continuous possession of 516 Bank Street for greater than ten years.

The Taylor Court also addressed the last element, “hostile possession:”

To show the possession was hostile, the adverse claimant is required to show only that his possession was actual, exclusive, open, notorious, and without the consent of the title owner. Knox v. Bogan, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App. 1996). The mistaken belief rule, which requires the possessor to be aware he does not have title and intend to dispossess the true owner, is not applicable in disputes over entire tracts of land.... Thus, for the possession to be hostile when an entire tract of land is at issue, the adverse claimant need not show a conscious intent to dispossess the true owner.... The claimant may establish hostile possession by showing he occupied the property without the title owner’s consent even if he occupied the property under the mistake belief that it belonged to him....

Taylor, 419 S.C. at 652, 799 S.E.2d at 925.

Plaintiffs have stated in sworn affidavits that neither Robert Heyward, Antoine Hayward nor Ruby Hayward ever gave them consent to live at 516 Bank Street. They lived there because it was “their home,” as even Antoine Heyward testified in his deposition. The first time that AH raised his claim to ownership with the Plaintiffs, they told him that they owned the property, not him. The only issue of consent was when the Defendants wanted to stay at, or use, 516 Bank Street for a family funeral, and the Plaintiffs gave consent to the Defendants and their predecessor in interest, Robert Heyward. See Affidavits of Steeds.

II. PLAINTIFFS ARE ALSO ENTITLED TO SUMMARY JUDGMENT AS TO DEFENDANTS’ COUNTERCLAIMS ASSERTING THEIR TITLE TO THE PROPERTY UNDER THE DOCTRINE OF LACHES.

Defendants filed counterclaims against Plaintiffs seeking to quiet title to 516 Bank Street in the names of the Defendants. Plaintiffs asserted numerous affirmative defenses, including the equitable doctrine of laches.

The South Carolina Court of Appeals in Jones v. Leagan, was asked to apply the equitable doctrine of laches in that case involving a claim to quiet title and a counterclaim seeking title by adverse possession. Again, that Court held the party asserting adverse possession had established the defense of laches and stated:

Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible.... The equitable doctrine of laches is defined as “neglect for an unreasonable and unexplained length of time, under circumstances affording opportunity for diligence to do what in law should have been done.... The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances, and (3) prejudice.... To establish laches as a defense, the defendant must show the complaining party unreasonably delayed its assertion of a right, thereby prejudicing the defendant.... “[T]he determination of whether laches has been established is largely within the discretion of the trial court.”... Additionally, for the defense of laches to be sustained, “the circumstances must have been such as to import that the

complainant had abandoned or surrendered the claim or right which he now asserts.”...

As in Jones, the Plaintiffs have invested a substantial amount of time and money during the twenty (20) years that Defendants or their predecessor, Robert Heyward, held a deed to the property. During that time, none of the Heywards ever told Plaintiffs that they held a deed to the property, and the Plaintiffs continued to pay taxes on, purchase insurance to cover, make substantial improvements to, and maintain the property located at 516 Bank Street. Plaintiffs have been prejudiced by this twenty (20) year delay in taking any steps to claim title to the property. See Affidavits of Steeds.

Because the Heywards could have protected themselves by informing the Steeds of Mrs. Heyward’s deeding the property to Robert Heyward in 2000, the equities favor the Steeds, and the Court should deny Defendants’ quiet title action and award title of the property to the Plaintiffs.

CONCLUSION

For the reasons stated herein, the Plaintiffs are entitled to summary judgment and the issuance of a deed to them conveying title in the property located at 516 Bank Street.

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ATTORNEYS FOR PLAINTIFFS

Charleston, South Carolina
 April 23, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED, BERNARD STEED,	)	
ROBERT STEED, AND ERNEST	)	
STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	AFFIDAVIT OF ROBERT STEED
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

PERSONALLY APPEARED before me, ROBERT STEED, who being duly sworn does state as follows:

1. I am over the age of eighteen (18) and competent to provide the statements contained herein.

2. I am one of the Plaintiffs in the above-captioned action. My siblings, the other Plaintiffs, and I have been the only occupants of 516 Bank Street, Mount Pleasant, South Carolina (the "property") since 2000 when our great-grandmother, Louise Brown Heyward, died. Before her death, my family lived with my great-grandmother at the property.

3. The property contains two rectangular structures that are joined together. After my father died in 1966, my great-grandmother brought my mother, Alethia Steed, my siblings and I to live with her at her house, one of the current rectangles. Using funds received from a legal settlement arising out of my father's death, my mother built the second rectangle, which became

my family's primary living space. In 1999, my mother, Alethia Steed, gave my siblings and me a plat, which was dated September 18, 1998, that showed she was the owner of the property. My mother died several months before the death of my great-grandmother in 2000. When they were both gone, we (Bernard, Ernest, Bonita and I) stayed on the property and lived there until the present. Since 2000, we have occupied the property exclusively as our residence.

4. Prior to 2015, no one ever claimed ownership of 516 Bank Street, other than my siblings and me. I had no knowledge of any claim to ownership by my aunt and cousin, the Defendants, until a lawyer, sent us a letter asking us to pay rent in 2015. My siblings and I were shocked when we received this letter, because we are the owners of the property. My siblings and mother have possessed the property since 1966. We have always occupied and had possession of it.

5. For a period of much longer than ten years, my siblings and I have cared for and maintained the land and the house as our own. My siblings and I have done everything that a homeowner would do including cutting the grass, installing fixtures, keeping the premises in living condition, and making other improvements. My brother Bernard has made major improvements to the property over the years. At no time did my uncle Robert Heyward, his wife Ruby, or his son Antoine contribute in any way to the maintenance and improvement of the property. They never claimed that it was their property until after my uncle died.

6. My siblings and I have paid at least portions of the real estate taxes and all of the homeowner's insurance for more than thirty (30) years. We have never paid rent to live on the property.

7. Ruby and Antoine Heyward, the defendants in this action, have never lived at, or been in possession of, 516 Bank St. They both live in Chicago, Illinois. We first met Antoine

Heyward, who is our cousin, when he was younger and would visit the Charleston area with his father, our great-uncle, in the summers. The last time that Antoine Heyward visited the property was for his father's funeral in 2014. My siblings and I hosted a small gathering after the funeral of Robert Heyward, because he was our great-uncle. The Defendants have never even had a key to the property, and they asked us if we would host the gathering and allow them to attend, which we did.

8. Robert Heyward used to come and visit the property in the summers, primarily when his mother, our great-grandmother, was still alive (prior to 2000). Before each visit, he would call us and ask if he could stay on the property. Neither Robert, nor the Defendants, have ever made improvements to the property or maintained it. Robert Heyward never told me that he owned the property. The first time that I heard of his claim of ownership was after he passed away, when Defendants' lawyer wrote a letter in 2015.

9. After receiving the letter in 2015, I retained a lawyer to initiate this action to prove that my siblings and I are the owners of the property.

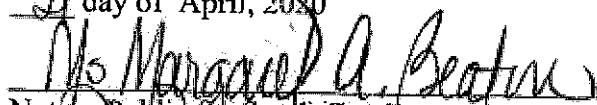
10. Our claim to ownership has been continuous, exclusive and adverse to all other claims of ownership, including that of Defendants.

FURTHER AFFIANT SAYETH NOT.


ROBERT STEED

SWORN to before me this

21 day of April, 2020



Notary Public for South Carolina

My commission expires: 1 October 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED, BERNARD STEED,	)	
ROBERT STEED, AND ERNEST	)	
STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	AFFIDAVIT OF ERNEST STEED
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

PERSONALLY APPEARED before me, ERNEST STEED, who being duly sworn does state as follows:

1. I am over the age of eighteen (18) and competent to provide the statements contained herein.

2. I am one of the Plaintiffs in the above-captioned action. My siblings, the other Plaintiffs, and I have been the only occupants of 516 Bank Street, Mount Pleasant, South Carolina (the "property") since 2000 when our great-grandmother, Louise Brown Heyward, died. Before her death, my family lived with my great-grandmother at the property.

3. The property contains two rectangular structures that are joined together. After my father died in 1966, my great-grandmother brought my mother, Alethia Steed, my siblings and me to live with her at her house, one of the current rectangles. Using funds received from a legal settlement arising out of my father's death, my mother built the second rectangle, which became

my family's primary living space. In 1999, my mother, Alethia Steed, gave my siblings and me a plat, which was dated September 18, 1998, that showed she was the owner of the property. My mother died several months before the death of my great-grandmother in 2000. When they were both gone, we (Bernard, Robert, Bonita and I) stayed on the property and lived there until the present. Since 2000, we have occupied the property exclusively as our residence.

4. Prior to 2015, no one ever claimed ownership of 516 Bank Street, other than my siblings and me. I had no knowledge of any claim to ownership by my aunt and cousin, the Defendants, until a lawyer, sent us a letter asking us to pay rent in 2015. My siblings and I were shocked when we received this letter, because we are the owners of the property. My siblings and mother have possessed the property since 1966. We have always occupied and had possession of it.

5. For a period of much longer than ten years, my siblings and I have cared for and maintained the land and the house as our own. My siblings and I have done everything that a homeowner would do including cutting the grass, installing fixtures, keeping the premises in living condition, and making other improvements. My brother Bernard has made major improvements to the property over the years. At no time did my uncle Robert Heyward, his wife Ruby, or his son Antoine contribute in any way to the maintenance and improvement of the property. They never claimed that it was their property until after my uncle died.

6. My siblings and I have paid at least portions of the real estate taxes and all of the homeowner's insurance for more than thirty (30) years. We have never paid rent to live on the property.

7. Ruby and Antoine Heyward, the defendants in this action, have never lived at, or been in possession of, 516 Bank St. They both live in Chicago, Illinois. We first met Antoine

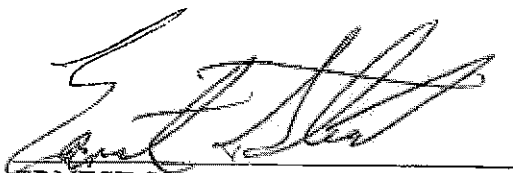
Heyward, who is our cousin, when he was younger and would visit the Charleston area with his father, our great-uncle, in the summers. The last time that Antoine Heyward visited the property was for his father's funeral in 2014. My siblings and I hosted a small gathering after the funeral of Robert Heyward, because he was our great-uncle. The Defendants have never even had a key to the property and they asked us if we would host the gathering and allow them to attend, which we did.

8. Robert Heyward used to come and visit the property in the summers, primarily when his mother, our great-grandmother, was still alive (before 2000). Prior to each visit, he would call us and ask if he could stay on the property. Neither Robert, nor the Defendants, have ever made improvements to the property or maintained it. Robert Heyward never told me that he owned the property. The first time that I heard of his claim of ownership was after he passed away, when Defendants' lawyer wrote a letter in 2015.

9. After receiving the letter in 2015, I retained a lawyer to initiate this action to prove that my siblings and I are the owners of the property.

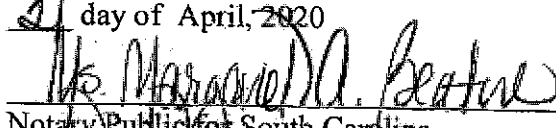
10. Our claim to ownership has been continuous, exclusive and adverse to all other claims of ownership, including that of Defendants.

FURTHER AFFIANT SAYETH NOT.


 ERNEST STEED

SWORN to before me this

21 day of April, 2020


 Notary Public for South Carolina

My commission expires: 4 October 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED, BERNARD STEED,	)	
ROBERT STEED, AND ERNEST	)	
STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	AFFIDAVIT OF BERNARD STEED
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

PERSONALLY APPEARED before me, BERNARD STEED, who being duly sworn
does state as follows:

1. I am over the age of eighteen (18) and competent to provide the statements
contained herein.

2. I am one of the Plaintiffs in the above-captioned action. My siblings, the other
Plaintiffs, and I have been the only occupants of 516 Bank Street, Mount Pleasant, South Carolina
(the "property") since 2000 when our great-grandmother, Louise Brown Heyward, died. Before
that my family lived with my great-grandmother at the property.

3. The property contains two rectangular structures that are joined together. After my
father died in 1966, my great-grandmother brought my mother, Alethia Steed and her six children
to live at her house, one of the current rectangles. Using funds received from a legal settlement
arising out of my father's death, my mother built the second rectangle, which became my family's

primary living space. Because I was the baby, my great-grandmother allowed me to live with her in her portion of the structure. In 1999, my mother, Alethia Steed, gave my siblings and me a plat, which was dated September 18, 1998, that showed she was the owner of the property. My mother died several months before the death of my great-grandmother in 2000. When they were both gone, we (Bonita, Ernest, Robert and I) stayed on the property and lived there until the present. After their deaths, we have occupied the property exclusively as our residence.

4. Prior to 2015, no one ever claimed ownership of 516 Bank Street, other than my siblings and me. I had no knowledge of any claim to ownership by my aunt and cousin, the Defendants, until a lawyer, sent us a letter asking us to pay rent in 2015. My siblings and I were shocked when we received this letter, because we are the owners of the property. My siblings and mother have possessed the property since 1966. We have never been dispossessed of the property.

5. For a period of much longer than ten years, I have cared for and maintained the land and the house as my own. I have done everything that a homeowner would do including cutting the grass, installing fixtures, painting (many times), maintaining the premises and making other minor improvements. I have also made major improvements such as the purchase and installation of a central HVAC unit, a home generator, a washer/dryer, and a refrigerator, as well as other appliances. In addition, I have installed a fence, gutted the house and installed insulation, installed hardwood floors, installed new cabinets, installed tile flooring, constructed a new room in which to install the washer and driver, and paid to have a new roof installed. At no time did my uncle Robert Heyward, his wife Ruby, or his son Antoine contribute in any way to the maintenance and improvement of the property.

6. My siblings and I have paid at least portions of the real estate taxes and all of the homeowner's insurance for more than thirty (30) years. We have never paid rent to live on the property.

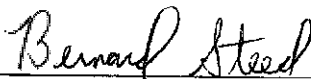
7. Ruby and Antoine Heyward, the defendants in this action, have never lived at, or been in possession of, 516 Bank St. They both live in Chicago, Illinois. We first met Antoine Heyward, who is our cousin, when he was younger and would visit the Charleston area with his father, our great-uncle, in the summers. The last time that Antoine Heyward visited the property was for his father's funeral in 2014. My siblings and I hosted a small gathering after the funeral of Robert Heyward, because he was our great-uncle. The Defendants have never even had a key to the property and asked us if he would host the gathering and allow him to attend, which we did.

8. Robert Heyward used to come and visit the property in the summers, primarily when his mother was still alive. Prior to each visit, he would call us and ask if he could stay on the property. Neither Robert, nor the defendants, have ever made improvements to the property or maintained it. Robert Heyward never told me that he owned the property. The first time that I heard of his claim of ownership was after he passed away, when Defendants' lawyer wrote a letter in 2015.

9. After receiving the letter in 2015, I retained a lawyer to initiate this action to prove that plaintiffs and I are the owners of the property.

10. Our claim to ownership has been continuous, exclusive and adverse to all other claims of ownership, including that of Defendants.

FURTHER AFFIANT SAYETH NOT.


BERNARD STEED

SWORN to before me this

21 day of April, 2020

M. Margaret A. Beath

Notary Public for South Carolina

My commission expires: 1 October 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED, BERNARD STEED,	)	
ROBERT STEED, AND ERNEST	)	
STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	AFFIDAVIT OF BONITA STEED
	)	
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

PERSONALLY APPEARED before me, BONITA STEED, who being duly sworn does state as follows:

1. I am over the age of eighteen (18) and competent to provide the statements contained herein.
2. I am one of the Plaintiffs in the above-captioned action. My siblings, the other Plaintiffs, and I have been the only occupants of 516 Bank Street, Mount Pleasant, South Carolina (the "property") since 2000 when our great-grandmother, Louise Brown Heyward, died. Before her death, my family lived with my great-grandmother at the property.
3. The property contains two rectangular structures that are joined together. After my father died in 1966, my great-grandmother brought my mother, Alethia Steed, my five brothers and me to live with her at her house, one of the current rectangles. Using funds received from a legal settlement arising out of my father's death, my mother built the second rectangle, which

became my family's primary living space. In 1999, my mother, Alethia Steed, gave my siblings and me a plat, which was dated September 18, 1998, that showed she was the owner of the property. My mother died several months before the death of my great-grandmother in 2000. When they were both gone, we (Bernard, Ernest, Robert and I) stayed on the property and lived there until the present. Since 2000, we have occupied the property exclusively as our residence.

4. Prior to 2015, no one ever claimed ownership of 516 Bank Street, other than my siblings and me. I had no knowledge of any claim to ownership by my aunt and cousin, the Defendants, until a lawyer, sent us a letter asking us to pay rent in 2015. My siblings and I were shocked when we received this letter, because we are the owners of the property. My siblings and mother have possessed the property since 1966. We have always occupied and had possession of it.

5. For a period of much longer than ten years, my siblings and I have cared for and maintained the land and the house as our own. My siblings and I have done everything that a homeowner would do including cutting the grass, installing fixtures, keeping the premises in living condition, and making other improvements. My brother Bernard has made major improvements to the property over the years. At no time did my uncle Robert Heyward, his wife Ruby, or his son Antoine contribute in any way to the maintenance and improvement of the property. They never claimed that it was their property until after my uncle died.

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7. Ruby and Antoine Heyward, the defendants in this action, have never lived at, or been in possession of, 516 Bank St. They both live in Chicago, Illinois. We first met Antoine

Heyward, who is our cousin, when he was younger and would visit the Charleston area with his father, our great-uncle, in the summers. The last time that Antoine Heyward visited the property was for his father's funeral in 2014. My siblings and I hosted a small gathering after the funeral of Robert Heyward, because he was our great-uncle. The Defendants have never even had a key to the property and asked us if he would host the gathering and allow them to attend, which we did.

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9. After receiving the letter in 2015, I retained a lawyer to initiate this action to prove that plaintiffs and I are the owners of the property.

10. Our claim to ownership has been continuous, exclusive and adverse to all other claims of ownership, including that of Defendants.

FURTHER AFFIANT SAYETH NOT.

Bonita Steed
BONITA STEED

SWORN to before me this
21 day of April, 2020

Ms. Margaret A. Beatrice
Notary Public for South Carolina

My commission expires: 04 October 2020

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON

) NINTH JUDICIAL CIRCUIT

)

) CASE NO. 2018-CP-10-04284

BONITA STEED and BERNARD STEED,

)

)

Plaintiffs,

)

)

vs.

)

)

**OPPOSITION TO PLAINTIFF'S
MOTION FOR SUMMARY
JUDGMENT WITH
MEMORANDUM IN SUPPORT
THEREOF**ANTOINE HEYWARD, RUBY HEYWARD,
and Also all Other Persons Unknown,
Claiming any right, title, estate, interest in or lien
Upon the real estate described in the complaint
Herein.

)

)

)

)

)

Defendants.

)

Defendants, ANTOINE HEYWARD and RUBY HEYWARD, hereby oppose Plaintiffs, BONITA STEED and BERNARD STEED's Motion for Summary Judgment. In Plaintiff's Motion for Summary Judgment caption, Plaintiffs' counsel had added "ROBERT STEED and ERNEST STEED". These two additional "Plaintiffs" are not parties to this lawsuit at this time.

The property in question with regard to Plaintiffs' claim of adverse possession is located at 516 Bank Street, Mount Pleasant, South Carolina.

Defendants dispute Plaintiffs' facts in their Motion for Summary Judgment, including but not limited to- that "Mr. Heyward died in 2014 without disclosing to the Plaintiffs... that he had been deeded the property"; that "Plaintiffs have continuously and exclusively under the right of title occupied the property from 2000 to the present day" that "the Defendants had abandoned any claim they had in the property occupied by the Plaintiffs" and that Robert Heyward visited the property infrequently.

UNDISPUTED FACTS

On or about July 29, 1960, the subject property was conveyed to Louise Brown Heyward by Deed from P. A. Foster and J.M. Graham which was recorded in the Charleston County Register of Mesne Conveyances in Book A72, Page 175. **A copy of Deed from P.A. Foster and J.M. Graham to Louise Brown Heyward is attached hereto as Exhibit A.** Louise Brown Heyward is Antoine Heyward's grandmother and Ruby Heyward's mother-in-law.

On or about January 11, 1999, Louis Brown Heyward conveyed the subject property to her son, Robert James Heyward, by Deed which was recorded on January 13, 1999 in the Charleston County Register of Mesne Conveyances in Book H318, Page 831. **A copy of the Deed from Louise Brown Heyward to Robert James Heyward is attached hereto as Exhibit B.** Robert James Heyward is Antoine Heyward's father and Ruby Heyward's deceased husband.

Robert James Heyward passed away on June 18, 2014 and his estate was probated with the Charleston County Probate Court, Case No. 2015-ES-10-00947. A Deed of Distribution conveying the subject property to Ruby Heyward and Antoine Heyward was recorded in the Charleston County Register of Mesne Conveyances on May 27, 2016 in Book 0556, Page 830. **A copy of the Deed from the Estate of Robert Heyward to Ruby Heyward and Antoine Heyward are attached hereto as Exhibit C.**

These Deeds were recorded in the public records for Charleston County and Plaintiffs had access to these public records. At no time did the Plaintiffs challenge the validity of these Deeds from 1960 until today's date. The deed conveyances are legal and enforceable as to the true property owners of 516 Bank Street, Mount Pleasant, South Carolina. The 1988 survey by Alethia Steed referenced in Plaintiffs' Motion for Summary Judgment is unrecorded and not of public record.

As relatives, the Plaintiffs had permission to occupy the premises with the consent of Louise Brown Heyward and upon her death, by Robert Heyward. This property was Robert Heyward's home until he married Defendant Ruby Heyward and moved to Chicago, IL, Nevertheless, Robert Heyward returned to his property many times over the years to stay there and visit with family for months at a time. Plaintiffs never denied Robert Heyward access to his home or sought to remove him from the property. **See Defendant Antoine Heyward's Deposition Transcript dated November 14, 2019, P. 17, Line 5-P.21, Line 23 attached hereto as Exhibit D.**

As Defendant Antoine Heyward testified at his deposition, Defendant Antoine Heyward also visited his father's property many times. Plaintiffs never denied Antoine Heyward access to his father's home or sought to remove him from the property. **See Defendant Antoine Heyward's Deposition Transcript dated November 14, 2019, P. 8, Line 17-P.10, Line 19 attached hereto as Exhibit E.**

It was only when Defendant Antoine Heyward received ownership of the property by recorded Deed of Distribution and sought rental payments from Plaintiffs, that Plaintiffs filed suit for adverse possession. **See Defendant Antoine Heyward's Deposition Transcript dated November 14, 2019, P. 15, Line 2-Page 16, Line 10 attached hereto as Exhibit F.**

Periodically, through the years, Plaintiffs and other family members, i.e. Robert Steed, would contact Robert Heyward and/or Defendant Antoine Heyward about family issues and rent issues with regard to the property. **See Defendant Antoine Heyward's Deposition Transcript dated November 14, 2019, P. 66, Line 1- Page 69, Line 9 attached hereto as Exhibit G.**

At his deposition, Plaintiffs' counsel asked Defendant Antoine Heyward if his grandmother, Louise Brown Heyward, his father, Robert Heyward, his mother, Ruby Heyward,

and himself had given consent for the Plaintiffs to occupy the property and Defendant Antoine Heyward stated that they all had given permission for the Plaintiffs to live on his father's property. See Exhibit G, P. 67, Line 23- Page 68, Line 9.

ARGUMENT

I. DEFENDANTS ANTOINE HEYWARD AND RUBY HEYWARD ARE THE LAWFUL OWNERS OF 516 BANK STREET.

Evidence submitted clearly shows that the Defendants gained valid title to the property by recorded conveyances as required by S.C. Code 30-7-10, *et seq.* Plaintiffs knew or should have know that the Defendants were the legal owners because the Deeds were recorded and of public record. Nevertheless, Plaintiffs did not and has not contested the validity of the deed transfers but instead rest upon their theory of "adverse possession".

II. PLAINTIFFS CANNOT PROVE BY CLEAR AND CONVINCING EVIDENCE THAT THEY OWN THE PROPERTY BY ADVERSE POSSESSION.

The occupation of property by other than the legal owner, shall be deemed to have been under and in subordination to the legal title unless it appears that such premises have been held and possessed adversely to such legal title for ten years before the commencement of the action. S.C Code 15-67-210.

Adverse possession consists of the following elements: possession must be continuous, hostile, open, actual, notorious and exclusive. The party trying to prove adverse possession must show that the party has met the above elements by clear and convincing evidence. Jones v. Leagan, 384 S.C. 1, 681 S.E.2d 6 (Ct. App. 2009).

Plaintiffs have failed to prove adverse possession by clear and convincing evidence because their use of the property was not hostile, notorious and/or exclusive. Testimony was given by Defendant Antoine Heyward that his father resided at the property for several months a year. **See Exhibit D, P. 21, Lines 2-20.** This fact was confirmed by Plaintiffs' Affidavits that were submitted with their Motion for Summary Judgment.

Further, in Knox v. Bogan, 322 S.C. 64, 472 S.E.2d 250 (1994), the Court ruled that a claimant for adverse possession must be on the property without the consent of the title owner. According to the above-referenced testimony of Defendant Antoine Heyward, Plaintiffs were given consent to live on the property by all deed owners, including Louise Brown Heyward, Robert Heyward, Ruby Heyward and Antoine Heyward. **See Exhibit G.**

III. DEFENDANTS' COUNTERCLAIM IS NOT GOVERNED BY THE DOCTRINE OF LACHES.

Courts have the inherent power to do all things reasonably necessary to ensure that just results are reached to the fullest extent possible. Ex Parte Dibble, 279 S.C. 592, 595, 310 S.E.2d 440, 442 (Ct.App. 1983). The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances, and (3) prejudice. Kelley v. Kelley, 368 S.C. 602, 606, 629 S.E.2d 388, 391 (Ct.App. 2006).

Defendants' Counterclaim for Quiet Title was to ensure that all family members with possible adverse possession claims would come forward during the pendency of this lawsuit. The necessity for the Counterclaim was due solely to the fact that Plaintiffs filed suit for adverse possession in the first place. Since Defendants are legal owners of the property, they had no reason to ever file for quiet title action prior to the Plaintiffs' lawsuit.

On October 5, 2018, Plaintiffs filed an Amended Complaint for adverse possession and on October 10, 2018, Defendants filed an Amended Answer with Counterclaim for quiet title.

Only five (5) days had elapsed between the two filings, there was no delay, no unreasonableness and no prejudice to Plaintiffs due to Defendants' pleadings being filed on October 10, 2018.

Therefore, the doctrine of laches does not apply to the facts of this case.

CONCLUSION

The Plaintiffs were permitted to stay in the house by the graciousness of their family members for many years. During the years, Robert Heyward would go home to his property to stay for several months out of the year. Defendant Antoine Heyward would go to this property when he was growing up. There is no evidence submitted by Plaintiffs that Robert Heyward ever believed that 516 Bank Street, Mount Pleasant, SC was not his rightful home, property and inheritance for his wife and son. All property owners, including Defendants, permitted the Plaintiffs to reside there but not as squatters, as family members. The adverse possession criteria has not been met. Plaintiffs' possession of the property is not exclusive, hostile or notorious.

WHEREFORE, the Defendants, ANTOINE HEYWARD and RUBY HEYWARD, respectfully ask the Court to deny Plaintiffs, BONITA STEED and BERNARD STEED's Motion for Summary Judgment.

Dated: 5/21/2020

DEJONG LAW FIRM, LLC

By: s/Karen M. DeJong
 Karen M. DeJong, Esq.
 222 West Coleman Blvd., Ste. 110
 Mount Pleasant, SC 29464
 Tel. No. 843-216-6161
karen@dejonglawfirm.com
 Attorney for Defendants
 Antoine Heyward and Ruby
 Heyward

Exhibit A

EXCELSIOR 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 Louise Brown Heyward, her Heirs and Assigns forever.

we do hereby bind ourselves and our Heirs, Executors and Administrators, to warrant and forever defend, all and singular the said Premises unto the said Louise Brown Heyward, her Heirs and Assigns, against us and our Heirs, lawfully claiming, or to claim the same or any part thereof.

WITNESS our Hand and Seal this 27th day of July in the year of our Lord one thousand nine hundred and sixty and in the one hundred and eighty-eighth year of the Sovereignty and Independence of the United States of America.

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

Jean T. Foster
Wm. K. Kistner

130

County _____
appeared before me _____
Jean T. Wells
she saw the within named _____
P. A. Foster and J. M. Graham
her and deed, deliver the within written Deed
with _____
Mary Scott
witnessed the execution thereof
me this _____
27th
JULY A.D. 1960

(SEAL)
Notary Public for South Carolina
COUNTY OF _____
SOUTH CAROLINA
County _____
By SCOTT, a Notary Public for South Carolina,
unto all whom it may concern, that Mrs. Ann F. Foster
the wife of the within named P. A. Foster
before me, and upon being privately and separately examined by me, did declare that she
freely, and without any compulsion, dread or fear of any person or persons whomsoever re-
d, forever relinquish unto the within named Louise Brown Heyward, her
all her interest and estate, and also all her right and claim of dower, in and to all and
uses within mentioned and released.
Hand and Seal, this _____ day of _____

(SEAL)
Notary Public for South Carolina

exhibit B

BKH 318PG831

TITLE NOT EXAMINED BY ALTMAN & ALTMAN, P.A.

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON) TITLE TO REAL ESTATE

KNOW ALL MEN BY THESE PRESENTS that I, LOUISE BROWN HEYWARD, hereinafter referred to as Grantor, in the State aforesaid, for and in consideration of the sum of FIVE AND NO/100 (\$5.00) DOLLARS AND LOVE AND AFFECTION FOR MY SON, to me in hand paid at and before the sealing of these presents by ROBERT JAMES HEYWARD, in the State aforesaid, the receipt whereof is hereby acknowledged, has granted, bargained, sold, and released, and by these Presents does grant, bargain, sell, and release, unto the said ROBERT JAMES HEYWARD, his heirs and assigns forever, the hereinafter described property, to-wit:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South of Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth. BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14, as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at Page 175 on August 2, 1960.

T.M.S. #532-05-00-113

Grantee's Address: 516 Banks Street
Mt. Pleasant, SC 29483

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 ROBERT JAMES HEYWARD, his heirs and assigns forever.

AND the said LOUISE BROWN HEYWARD hereby binds herself and her

BX H 318PG832

WITNESS my Hand and Seal this 11th day of January, in the year of our Lord one thousand nine hundred and ninety-nine and in the two hundred and twenty-third year of the Sovereignty and Independence of the United States of America.

IN THE PRESENCE OF:

Jenna M. Goodyear
1st witness

"HER

MARK"

LOUISE BROWN HEYWARD

[Signature]
2nd witness

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

PERSONALLY appeared before me the undersigned and made oath that (s)he saw the within-named, LOUISE BROWN HEYWARD, sign, seal, and as her act and deed, deliver the within-written Deed for the uses and purposes therein mentioned, and that (s)he with the other witness subscribed above witnessed the execution thereof. *by her mark

SWORN to before me this

11th day of January, 1999

Jenna M. Goodyear
1st witness

[Signature]
NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 12/8/2023

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

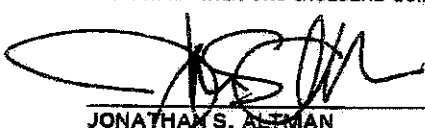
AFFIDAVIT

BX H

318PG833

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

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Louise Brown Heyward to Robert James Heyward on January 11, 1999.
3. Check one of the following: THE DEED IS
 - (a) _____ subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
 - (b) _____ subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
 - (c) X _____ EXEMPT from the deed recording fee because (exemptions 1-12). (If exempt, please skip items 4-7, and go to item 8 of this Affidavit.) EXEMPTION 1. CONVEYED FROM MOTHER TO SON.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
 - (a) _____ The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ _____.
 - (b) _____ The fee is computed on the fair market value of the realty which is \$ _____.
 - (c) _____ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ _____.
5. Check YES _____ or NO X _____ to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is \$ _____.
6. The DEED Recording Fee is computed as follows:
 - (a) _____ the amount listed in item 4 above
 - (b) _____ the amount listed in item 5 above (no amount place zero)
 - (c) _____ Subtract Line 6(b) from Line 6(a) and place the result.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: Attorney for Grantee.
8. I understand that a person required to furnish this Affidavit who wilfully furnishes a false or fraudulent Affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.


 JONATHAN S. ALTMAN
 ATTORNEY FOR GRANTEE

SWORN to before me this

11th day of January, 1999

Jenna M. Gooden
 NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: 7/17/07

INFORMATION:

Except as provided in this paragraph, the term "value" means "the consideration paid in money or money's worth for the realty." Consideration paid or to be paid in money's worth includes, but is not limited to, other realty, personal property, stocks, bonds,

Altman & Altman

PO Box 339

Chas. L 29402

BK H 318PG834

FILED

H318-831

99 JAN 13 PM 3:21

CHARLIE LYBRAND
REGISTER
CHARLESTON COUNTY SC

Recording Fee	10.00
State Fee	
County Fee	
Postage	
TOTAL	10.00

C

(E)
per
✓

THIS VERIFIED
BAC MMH
DTD 1/21/99

Recorded this 13 day of Jan Year 99
On Property Record Card
Reggie A. Mosley
Auditor Charleston County

Exhibit c



BP0556830

FF00

4

STATE OF SOUTH CAROLINA	)	IN THE PROBATE COURT
	)	
COUNTY OF CHARLESTON	)	DEED OF DISTRIBUTION
	)	(Real Property Only)
IN THE MATTER OF:	)	NOT A WARRANTY DEED
ROBERT HEYWARD	)	
(Decedent)	)	CASE NUMBER: 2015ES1000947

The undersigned states as follows:

Decedent died on 06/18/2014; and probate of the Estate is being administered in the Probate Court for CHARLESTON County, South Carolina, in File #2015ES1000947.

I/We was/were appointed Personal Representative (s) on JUNE 12, 2015.

Decedent owned real property described as follows:

Tax Map Number: 532-05-00-113

Street/Property Address: 516 BANK STREET, MT. PLEASANT, SC 29464

Legal Description: PLEASE SEE ATTACHED EXHIBIT A

☐ Additional sheet(s) for additional property(ies) is attached (check if applicable)

This transfer is made pursuant to:

- ☐ Decedent's Will
- ☒ Intestacy Statute: SCPC 62-2-103
- ☐ Private Family Agreement: SCPC 62-3-912
- ☐ Disclaimer by

In accordance with the laws of the State of South Carolina, the Personal Representative(s) does/do hereby release all of the Personal Representative's(s') right, title and interest, including statutory and/or testamentary powers, over the real property described to the beneficiaries named below:

Name: 1/2 INTEREST IN:

RUBY HEYWARD

Address: 8049 S. MUSKEGON AVENUE
CHICAGO, IL 60617

Name: _____

Address: _____

Name: 1/2 INTEREST IN:

ANTOINE HEYWARD

Address: 8049 S. MUSKEGON AVENUE
CHICAGO, IL 60617

Name: _____

Address: _____

☐ Additional sheet(s) for names of additional beneficiaries is attached (check, if applicable)

IN WITNESS WHEREOF the undersigned, as Personal Representative(s) of the above Estate, has executed this Deed of Distribution, on this 1st day of Apr., 2016.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Witness: AAA

Print Name: Allyssa Cornejo

Witness: Francisco Garcia

Print Name: Francisco Garcia

Estate of: ROBERT HEYWARD

Signature of Personal

Representative: Antoine Heyward

Print Name: Antoine Heyward

If applicable,
Signature of Co-Personal
Representative: _____

Print Name: _____

ILLINOIS
STATE OF SOUTH CAROLINA)
)
)

ACKNOWLEDGMENT

COUNTY OF COOK

I, Silvia Gonzalez

Notary Public, a notary for the State of South Carolina do hereby certify that Antoine Heyward, as Personal

Representative(s) of the Estate of Robert Heyward (Antoine Heyward), personally appeared before me this day and acknowledged the due execution of the foregoing Deed of Distribution.

Witness my hand and seal this the 1st day of April, 2016.

OFFICIAL SEAL

139

Antoine Heyward

(SEAL)

EXHIBIT A

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South of Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

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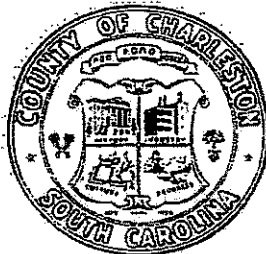
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T.M.S. #532-05-00-113

Grantee's Address: 516 Banks Street
Mt. Pleasant, SC 29483

RECORDER'S PAGE

NOTE: This page **MUST** remain
with the original document



Filed By:

DERFNER & ALTMAN LLC
575 KING ST
SUITE B
CHARLESTON, SC 29403

RECORDED

Date: May 27, 2016

Time: 9:41:07 AM

Book	Page	DocType
0556	830	Deed/Dist

Charlie Lybrand, Register
Charleston County, SC

MAKER:

HEYWARD ROBERT EST

Note:

RECIPIENT:

HEYWARD RUBY AL

of Pages: 4

Recording Fee	\$ 10.00
State Fee	<EXEMPT>
County Fee	<EXEMPT>
Extra Pages	\$ -
Postage	\$ -
Chattel	\$ -
TOTAL	\$ 10.00

Original Book:

Original Page:

AUDITOR STAMP HERE

RECEIVED From RMC

MAY 31 2016

Peter J. Tecklenburg
Charleston County Auditor

PID VERIFIED BY ASSESSOR

REP

DATE

DRAWER
CLERK

Drawer 1
KLH



0556
Book



830
Page



05/27/2016
Recorded Date



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Pgs



Original Book



Original Page



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09:41:07
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Exhibit D

Deposition of Antoine Heyward

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 CHARLESTON COUNTY

4 DEPOSITION OF ANTOINE HEYWARD

5 BONITA STEED and BERNARD STEED,
6

7 Plaintiffs,

8 vs.

Case No. 2018-CP-10-04284

9 ANTOINE HEYWARD, RUBY HEYWARD, and ALSO ALL OTHER
10 PERSONS UNKNOWN, Claiming any right, title,
estate, interest in, or lien upon the real estate
described in the Amended Complaint herein,

11 Defendants.
12

13
14 DEPONENT:

ANTOINE HEYWARD

15 DATE:

November 14, 2019

16 TIME:

8:53 AM

17 LOCATION:

ROSEN HAGOOD
CHARLESTON, SOUTH CAROLINA

18
19 REPORTED BY:

20 TERI L. KENNELLY, RPR, CRR
CLARK & ASSOCIATES, INC.
21 P.O. Box 73129
Charleston, SC 29415
843-762-6294
22 WWW.CLARK-ASSOCIATES.COM
Teri@Clark-Associates.com
23 149

Deposition of Antoine Heyward

1

A P P E A R A N C E S

2

3

ON BEHALF OF BONITA STEED and BERNARD STEED:

4

ROSEN HAGOOD

5

BY: BIJAN GHOM

6

BY: ALICE F. PAYLOR

151 Meeting Street, Suite 400
Charleston, SC 29401

7

8

ON BEHALF OF ANTOINE HEYWARD and RUBY HEYWARD:

9

DEJONG LAW FIRM

10

BY: KAREN DEJONG

11

222 West Coleman Boulevard
Mount Pleasant, SC 29464

12

13

Also Present:

Bonita Steed
Bernard Steed

14

15

16

17

18

19

20

21

22

23

Deposition of Antoine Heyward

1 was settled, then, that's correct.

2 Q. Okay.

3 A. When that precise time was, what year,
4 what month, what day, I'm not aware of.

5 Q. Okay. So I guess I'm trying to get a
6 timeline of the ownership here.

7 A. Okay.

8 Q. So before your father died --

9 A. Correct.

10 Q. -- did you know that your father owned
11 the property?

12 A. Yes.

13 Q. And how did you know that?

14 A. Well, it's -- it was my grandmother's
15 property that was passed on to him.

16 Q. So -- but did your father ever tell the
17 Steeds that he owned the property?

18 A. I'm not aware of that, sir.

19 Q. But to your -- so, to your knowledge,
20 you don't -- you don't recall your father telling
21 them that --

22 A. I'm not aware of that.

Deposition of Antoine Heyward

1 Q. So I guess your ownership claim is based
2 on the fact that -- like whatever went down in
3 the probate court; is that right? Like that's
4 what your ownership --

5 A. The entire process of hiring my other
6 attorney and going through all of this, yes, sir.

7 Q. So before your father died, did you know
8 that your father claimed ownership to the
9 property?

10 A. Yes.

11 Q. And how did you know that? Because if
12 he never communicated that to the Steeds, how did
13 you know that?

14 A. Well, listen, sir. My father never
15 said, I got the deed. It's my father's place.

16 Q. But did your father ever communicate
17 that to the people --

18 A. I'm not sure.

19 Q. -- that were living there?

20 A. I'm not sure.

21 Q. So how many times would you say that
22 your father visited the property?

23 A. He was there every year. This is where
146

Deposition of Antoine Heyward

1 A. At one point in his life, yes. But, I
2 mean, since he's been in Chicago, the only time
3 that -- since he got married to my mother and
4 moved to Chicago, the only time that he can
5 necessarily go down there is the summertime.

6 Q. So he visited the property on vacation?

7 A. He visited the property just about every
8 year.

9 Q. And did he ask the Steeds to do that?

10 A. No, he did not.

11 Q. Did he have a key to the property?

12 A. Well, when my father was visiting here a
13 lot, my grandmother was alive, and some of my
14 cousins were living with my grandmother. So when
15 he says, I'm coming down there, if she doesn't
16 open up or let him into his dwelling, whoever is
17 living there has to open up.

18 Q. So what do you mean by dwelling? I
19 mean --

20 A. In other words, where he lived,
21 relatives were in there. I'm coming down for a
22 vacation. I'll be down here. They expect him to

Deposition of Antoine Heyward

1 A. When he visited, sir. When he came down
2 here to visit --

3 Q. Okay.

4 A. -- relatives are there so this is where
5 he stays when he's here.

6 Q. Right. So he called them up, and they
7 would let him into the property?

8 A. Exactly. Whoever was there, grandmother
9 or whoever was there.

10 Q. But during this time, as you've already
11 testified --

12 A. Correct.

13 Q. -- the Steeds were never told that they
14 didn't own the property?

15 A. I'm not aware of that, sir.

16 Q. So you couldn't confirm that either way;
17 you have no knowledge of that?

18 A. When it comes to that, no, sir, no, sir,
19 no, sir.

20 Q. So when your grandmother died in 2000 --

21 A. Okay.

22 Q. -- did your father visit the property as
23 much as he did before? 148

Deposition of Antoine Heyward

1 A. That's correct.

2 Q. I mean, how often did he visit the
3 property?

4 A. I mean, he was probably down here for a
5 few months at least once a year. But, I mean, as
6 he declined, probably not as often. But, I mean,
7 every year, my father would come down here. That
8 was his tradition. He'd come down here. This is
9 where he was at.

10 Q. Do you know roughly the time frame?
11 Would he come in the summer?

12 A. Normally the summer, probably the
13 summer, spring.

14 Q. And how long would you say that he
15 stayed?

16 A. I mean, months, two, three months maybe,
17 sometimes longer, maybe sometimes less.

18 Q. And the Steeds were living there at that
19 time?

20 A. That is correct.

21 Q. Have you ever known the Steeds to live
22 anywhere else?

23 A. I'm not aware of that. 149

Exhibit E

Deposition of Antoine Heyward

1 always lived at that 516 Bank --

2 A. That is correct. That is correct.

3 Q. Have you ever met their mother, who I
4 believe is your father's sister?

5 A. Yes, of course.

6 Q. You have. And what was your
7 relationship with her?

8 A. I mean, she's a relative, cousin, aunt.
9 I mean, I call some aunts -- I call some people
10 aunts that probably are cousins or whatever, but
11 she's a relative.

12 Q. So you had a good relationship with her?

13 A. Of course. Of course.

14 Q. And did she have a good relationship
15 with your father?

16 A. Yes.

17 Q. So -- and I know that you said you
18 frequently visit them in Mount Pleasant. But do
19 you recall how many times --

20 A. No.

21 Q. -- you came down here?

22 A. No. In my entire life, no.

23 Q. What was the last time that you visited?

Deposition of Antoine Heyward

1 Q. And you visited the property at that
2 time?

3 A. That's correct. That's correct.

4 Q. And did you ask them if you could visit
5 the property?

6 A. No.

7 Q. Did they invite you to the property?

8 A. I mean, that's where they -- that's
9 where they basically had the repass and the
10 services, so no.

11 Q. And they were willing to do that for
12 your father?

13 A. I'm assuming -- yes, I'm assuming so.
14 That's where it was.

15 Q. But nobody forced them to do that,
16 right?

17 A. Of course. Of course not.

18 Q. So they did it voluntarily?

19 A. Exactly.

20 Q. And how did you enter the property? I
21 mean, did you -- were they there when you were
22 there?

Deposition of Antoine Heyward

1 Q. So they let you in?

2 A. That's correct.

3 Q. Do you know how my clients first started
4 living at the property?

5 A. No.

6 Q. Do you know what the -- do you know when
7 that was?

8 A. No. Like I said, I was a small boy when
9 I first started coming down here. So how people
10 lived and how they got there, I have no idea.

11 Q. Okay. So you don't disagree with the
12 fact that they're contending that they've lived
13 there since 1966?

14 A. I'm not contending that. Of course not.

15 Q. In the time that you've known that
16 they've lived at that property, who else has
17 lived with them there?

18 A. I mean, my grandmother, my father, his
19 sisters, cousins.

20 Q. As far as your deposition preparation
21 today, other than speaking with your attorney --
22 you don't need to tell me anything about that --
23 what did you do to prepare for this deposition? 153

Exhibit F

Deposition of Antoine Hayward

1 A. Of course not. Of course not. No, sir.

2 Q. Have you ever discussed, I guess, your
3 ownership claim to this property with plaintiffs?

4 A. I have spoken to Nita about it maybe
5 once or twice. Bernard, no.

6 Q. Do you know when that was?

7 A. No, sir. No, sir.

8 Q. Was it after your father passed or --

9 A. After my father passed, I definitely
10 know that.

11 Q. Okay. Are you aware that your prior
12 attorney reached out to them in, I believe it was
13 2015, to ask them to pay rent on the property?

14 A. Yes.

15 Q. Is that something that you asked your
16 attorney to do?

17 A. Well, yes. Yes, yes.

18 Q. Was that the first time that you asked
19 them to pay rent?

20 A. Yes. I mean, basically, all of this
21 stuff happened after my father passed. The rent
22 issue happened after my father passed. Nothing

Deposition of Antoine Heyward

1 2015 or '14 on.

2 Q. So did your father ever ask them to pay
3 rent?

4 A. No, no.

5 Q. Did -- so at the time that you asked
6 them to pay rent, I guess, why did you do that?
7 Why did you --

8 A. Well, during that time, I knew that the
9 property was going to be passed on to me and my
10 mother, and things were going to change.

11 Q. So is that -- so, I guess, when did
12 you -- in your mind, when did you learn of that?

13 A. When did I learn of what, sir?

14 Q. That the property was going to be passed
15 on to you.

16 A. Well, I mean, it was going through the
17 process after my father died. I mean, I had an
18 attorney down here took care of all of his
19 probate issues or all his legal issues. And
20 after that, that's when things are going to
21 change.

22 Q. Okay. So, I guess, your ownership claim

23 -- of the property -- 156 -- 20152

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04284
	)	
BONITA STEED AND BERNARD	)	
STEED, ROBERT STEED, AND	)	
ERNEST STEED,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	PLAINTIFFS' REPLY IN SUPPORT OF
	)	THEIR MOTION FOR SUMMARY
	)	JUDGMENT
ANTOINE HEYWARD, RUBY	)	
HEYWARD and ALSO ALL OTHER	)	
PERSONS UNKNOWN, Claiming any	)	
right, title, estate, interest in or lien upon	)	
the real estate described in the amended	)	
complaint herein,	)	
	)	
Defendants.	)	
	)	

All parties agree that there are no material facts at issue in this adverse possession case. There is no dispute that Plaintiffs have lived on the property continuously for as long as Defendant Antoine Heyward can remember and from the 1960's according to the Plaintiffs. There is likewise no dispute that Plaintiffs have been in possession well over the statutory requirement of ten (10) years. There is no dispute that Plaintiffs have performed all maintenance and improvements to the property. There is no dispute that Plaintiffs have insured the property for well over ten years. There is no dispute that Plaintiffs have either paid all or a portion of the taxes on the property since 2000. There is no dispute that Defendants made no claim of ownership to the property until 2015. Despite the fact that Defendants knew Plaintiffs were maintaining, improving, insuring and paying the taxes for the property, Defendants never made any kind of ownership claim until 2015. There is no dispute that Plaintiffs believed that they owned the property based on a plat given to them by

their now deceased mother. Plaintiffs have clearly presented sufficient evidence to be entitled to summary judgment based on their claim of adverse possession.

In Taylor v. Heirs of Taylor, 419 S.C. 639, 799 S.E.2d 919 (S.C. Ct. App. 2017), the Court of Appeals handled a case similar to the one before the Court and reversed the trial court's decision that adverse possession had not been proved and set forth a thorough discussion of the evidence required:

The party asserting adverse possession must show continuous, hostile, open, actual, notorious, and exclusive possession for a certain period of time." *Id.* In South Carolina, the statutory period for adverse possession is ten years. S.C. Code Ann. § 15-67-210 (2005) ; *Jones* , 384 S.C. at 10, 681 S.E.2d at 11. A party asserting ownership by adverse possession must show he has met the elements by clear and convincing evidence. *Jones* , 384 S.C. at 10–11, 681 S.E.2d at 11.

To claim title by adverse possession, a party must show the extent of his possession even when entering under color of title. *Clark v. Hargrave* , 323 S.C. 84, 87, 473 S.E.2d 474, 476 (Ct. App. 1996) (per curiam). Color of title alone is not evidence of adverse possession, and "it does not follow that adverse possession can be proved by less evidence when the entry is under color of title than when it is not." *Id.* at 87, 473 S.E.2d at 477 (quoting *Butler v. Lindsey* , 293 S.C. 466, 470, 361 S.E.2d 621, 623 (Ct. App. 1987)). However, color of title is evidence of the extent of the claim and should be considered with the other facts in the case. *Woodle v. Tilghman* , 252 S.C. 138, 144–45, 165 S.E.2d 702, 705 (1969) (internal quotation omitted). Color of title need not be a deed; "[i]t is anything which shows the extent of [the] occupant's claim." *Id.* at 145, 165 S.E.2d at 705. "It is by no means necessary that the paper should be in the form of a deed. A bond or even a receipt would be sufficient." *Id.* "The principle purpose of color of title in adverse possession proceedings is not to show actual grant of land or interest therein, but to designate [the] boundary of possessor's claim." *Id.*

For possession to be open and notorious, "the legal owner need not have actual knowledge the claimant is claiming property adversely, [but] the hostile possession should be so notorious that the legal owner by ordinary diligence should have known of it." *Jones* , 384 S.C. at 13–14, 681 S.E.2d at 13. "[A]cts of ownership of open land for purposes of adverse possession need not include actual residency or occupancy." *Id.* at 14, 681 S.E.2d at 13. "Moreover, activities that do not involve the creation of permanent structures on the land can be sufficiently open and notorious as to put the legal owner on notice that his land is being adversely possessed." *Id.*

For possession to be continuous, a party "claiming adverse possession must have personally held the property for ten years." *Id.* at 15, 681 S.E.2d at 14.

"Occasional and temporary use or occupation does not constitute adverse possession. However, the rule requiring continuity of possession does not mean the person in possession must be actually on the land during the whole of the statutory period." *Id.* at 16, 681 S.E.2d at 14 (citation omitted).

To show the possession was hostile, the adverse claimant is required to show only that his possession was actual, exclusive, open, notorious, and without the consent of the title owner. *Knox v. Bogan*, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App. 1996). The mistaken belief rule, which requires the possessor to be aware he does not have title and intend to dispossess the true owner, is not applicable in disputes over entire tracts of land. *Id.*; see also *Perry v. Heirs at Law & Distributees of Gadsden*, 316 S.C. 224, 226, 449 S.E.2d 250, 251 (1994) (per curiam) (finding the mistaken belief rule does not apply in a dispute over an entire tract of land, rather it applies in a boundary line dispute). Thus, for the possession to be hostile when an entire tract of land is at issue, the adverse claimant need not show a conscious intent to dispossess the true owner. *McDaniel v. Kendrick*, 386 S.C. 437, 442-43, 688 S.E.2d 852, 855 (Ct. App. 2009). The claimant may establish hostile possession by showing he occupied the property without the title owner's consent even if he occupied the property under the mistaken belief that it belonged to him. *Id.*

419 S.C. at 650-652, 799 S.E.2d 924-925.

Plaintiffs presented clear and convincing evidence that their possession of this property was actual, open, notorious, hostile, exclusive and continuous between 2000 when Louise Heyward died and today. Defendants claim that Plaintiffs did not prove that their occupation was hostile. However, as set forth above, the Plaintiffs "may establish hostile possession by showing [they] occupied the property without the title owner's consent even if [they] occupied the property under the mistaken belief that it belonged to [them]." *Id.* In *Taylor*, the Court held that "there was no evidence in the record indicating [claimants] possessed [the property with [title owner's] permission or consent."

As the Plaintiffs have all stated in their affidavits, neither Respondents nor Robert Heyward ever gave them permission to live on the property and, instead, they gave Robert permission to stay there when he was alive. See Bernard Steed Affidavit, para. 8. In his deposition, Antoine

stated that he “consented” to the Plaintiffs living there. When asked what he meant by “consent,” he testified that he was aware that they were living there. Heyward Deposition, p. 72. He further testified that the Plaintiffs never asked him if they could live there, and he has no knowledge that they asked his father if they could live there. He has no evidence that the Plaintiffs possessed the property with the title owner’s consent. He only has knowledge that they lived there and his family claimed ownership. Id. That is not evidence that the Plaintiffs lived there with consent. The Plaintiffs lived there because they believed that they owned the property. The occupancy was clearly hostile, because, when Defendants claimed ownership, the Plaintiffs got hostile. Id., p. 33.

Defendant Antoine Heyward clarified everything when he testified that he never saw his father do anything on the property that an owner would do: “Everything was already up and –it’s not his...” Id., p. 57. Clearly Defendants know that the property was not Robert Heyward’s just as it is not theirs now. It has always been property of the Plaintiffs. Because the Plaintiffs have presented clear and convincing evidence that they have met all of the requirements to own the property by adverse possession, Plaintiffs are entitled to summary judgment as a matter of law.

Plaintiffs are also entitled to summary judgment on the laches theory, because Defendants did nothing to exercise their claims while Plaintiffs maintained, improved and covered expenses for the property at 516 Bank Street, Mt. Pleasant, SC.

Respectfully submitted,

/s/ Alice F. Paylor
 ROSEN HAGOOD, LLC
 Alice F. Paylor
 Bijan Ghom
 P.O. Box 893
 Charleston, SC 29402
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ATTORNEYS FOR PLAINTIFFS

May 28, 2020

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

THE HONORABLE BENTLEY PRICE

Case No. 2018-CP-10-04284

ANTOINE HEYWARD AND
RUBY HEYWARD,

Appellants,

v.

BONITA STEED AND
BERNARD STEED,

Respondents.

NOTICE OF APPEAL

ANTOINE HEYWARD and RUBY HEYWARD APPEALS the Order of the Honorable Bentley Price dated July 13, 2020. Appellant received written notice of entry of this order on July 14, 2020.

Dated: July 10, 2020

s/Karen M. DeJong
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August 10, 2020

The Honorable Bentley Price
Charleston County Court of Common Pleas
100 Broad Street
Charleston, SC 29401

RE: Bonita Steed, et al vs. Antoine Heyward, et al
Case No. 2018-CP-10-04284

Dear Judge Price:

Please find enclosed a copy of the Defendants' Notice of Appeal in connection with the above-referenced matter.

Very truly yours,
s/Karen M. DeJong
Karen M. DeJong

KMD/cwp
Cc: Alice Paylor, Esq. w/encl.

1 IN THE COURT OF COMMON PLEAS
2 FOR THE STATE OF SOUTH CAROLINA
3 CHARLESTON COUNTY

4 DEPOSITION OF ANTOINE HEYWARD

5 BONITA STEED and BERNARD STEED,
6

7 Plaintiffs,

Case No. 2018-CP-10-04284

8 vs.

9 ANTOINE HEYWARD, RUBY HEYWARD, and ALSO ALL OTHER
10 PERSONS UNKNOWN, Claiming any right, title,
estate, interest in, or lien upon the real estate
described in the Amended Complaint herein,

11 Defendants.
12

13 DEPONENT: ANTOINE HEYWARD

14 DATE: November 14, 2019

15 TIME: 8:53 AM

16 LOCATION: ROSEN HAGOOD
17 CHARLESTON, SOUTH CAROLINA

18
19 REPORTED BY: TERI L. KENNELLY, RPR, CRR
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A P P E A R A N C E S

ON BEHALF OF BONITA STEED and BERNARD STEED:

ROSEN HAGOOD
BY: BIJAN GHOM
BY: ALICE F. PAYLOR
151 Meeting Street, Suite 400
Charleston, SC 29401

ON BEHALF OF ANTOINE HEYWARD and RUBY HEYWARD:

DEJONG LAW FIRM
BY: KAREN DEJONG
222 West Coleman Boulevard
Mount Pleasant, SC 29464

Also Present: Bonita Steed
Bernard Steed

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INDEX

EXAMINATION	PAGE
BY MR. GHOM	4
BY MS. DEJONG	60
BY MR. GHOM	70
BY MS. DEJONG	78
BY MR. GHOM	79
CERTIFICATE OF REPORTER	81

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
Exhibit No. P-1	Plat for Alethia Steed	34
Exhibit No. P-2	1/11/99 deed	56
Exhibit No. D-1	Deed to Louise Heyward	59
Exhibit No. D-2	Deed to Robert Heyward	59
Exhibit No. D-3	Deed to Ruby and Antoine Heyward	59
Exhibit No. D-4	Complaint	67
Requested Information		27
Requested Information		71

1 ANTOINE HEYWARD,
2 having been first duly sworn, was examined and
3 testified as follows:

4 EXAMINATION

5 BY MR. GHOM:

6 Q. Good morning, Mr. Heyward. My name is
7 Bijan Ghom. I, along with Alice Paylor,
8 represent the Steeds, Bonita and Bernard Steed,
9 who I believe you know.

10 A. Correct.

11 Q. So you understand that you're under oath
12 here today?

13 A. That is correct.

14 Q. That your testimony is the same here as
15 if it were in front of a jury in trial?

16 A. True.

17 Q. And throughout the deposition, if I ever
18 ask you something that you don't understand,
19 please ask me to rephrase it.

20 A. Correct.

21 Q. Throughout this whole time, just please
22 give me verbal responses. And that's really for
23 the court reporter so she can understand what
24 your response is and for the transcript.

25 If you need a break at any time,

1 just let us know, and we'll stop.

2 Currently, are you on any
3 medications or any substances today that would
4 affect your testimony?

5 A. No.

6 Q. So we're just going to start with some
7 brief background information. Can you please
8 state your full legal name for the record.

9 A. Antoine Heyward.

10 Q. And in this litigation, what's the
11 property that we're fighting about?

12 A. 516 Bank Street.

13 Q. And what city is that in?

14 A. Mount Pleasant.

15 Q. What's your home address?

16 A. 8049 South Muskegon.

17 Q. And that's in Chicago?

18 A. Yes, Illinois, 60617.

19 Q. And how long have you lived there?

20 A. All my life.

21 Q. And who lives there with you?

22 A. My mother.

23 Q. And how long has she lived there?

24 A. Well, we've been there 45 years maybe.

25 I'm 47 now, so --

1 Q. Where did she live before that?

2 A. She lived in Georgetown, Guyana. So she
3 basically is -- she lived there, and then she
4 moved here.

5 Q. And do you-all own that house?

6 A. Yes.

7 Q. Is it in both of your names or --

8 A. Yes.

9 Q. Are you married?

10 A. No.

11 Q. Have you been deposed before?

12 A. No.

13 Q. Have you ever testified at trial?

14 A. Probably like, what, traffic court or
15 something like that, but maybe -- nothing like
16 this.

17 Q. What -- so that was on like a moving
18 violation or something?

19 A. Well, I mean, I've been in courtrooms
20 before but not -- I haven't been the focus of a
21 question-and-answer session, so you say no.

22 Q. And how do you know my clients, the
23 plaintiffs?

24 A. Those are my cousins.

25 Q. Cousins. Is that your second cousins;

1 is that right?

2 A. I'm not sure. First, second, third,
3 they're relatives.

4 Q. And do you recall when you first met
5 them?

6 A. Well, when I first started coming down
7 here when I was younger, what, five, six, seven
8 years old, grammar school age.

9 Q. And you visited them at their home?

10 A. Yes.

11 Q. And that was at 516 --

12 A. That is correct.

13 Q. -- Bank Street?

14 A. Correct.

15 Q. So have they ever -- have you ever
16 visited them anywhere else other than 516 Bank
17 Street?

18 A. No. I mean, this is the only place that
19 I can see them is here.

20 Q. So did they ever come and visit you up
21 in --

22 A. No.

23 Q. -- Chicago?

24 A. No.

25 Q. So as long as you've known them, they've

1 always lived at that 516 Bank --

2 A. That is correct. That is correct.

3 Q. Have you ever met their mother, who I
4 believe is your father's sister?

5 A. Yes, of course.

6 Q. You have. And what was your
7 relationship with her?

8 A. I mean, she's a relative, cousin, aunt.
9 I mean, I call some aunts -- I call some people
10 aunts that probably are cousins or whatever, but
11 she's a relative.

12 Q. So you had a good relationship with her?

13 A. Of course. Of course.

14 Q. And did she have a good relationship
15 with your father?

16 A. Yes.

17 Q. So -- and I know that you said you
18 frequently visit them in Mount Pleasant. But do
19 you recall how many times --

20 A. No.

21 Q. -- you came down here?

22 A. No. In my entire life, no.

23 Q. What was the last time that you visited?

24 A. The last time I was here was for my
25 father's funeral back in, what, '14, 2014.

1 Q. And you visited the property at that
2 time?

3 A. That's correct. That's correct.

4 Q. And did you ask them if you could visit
5 the property?

6 A. No.

7 Q. Did they invite you to the property?

8 A. I mean, that's where they -- that's
9 where they basically had the repass and the
10 services, so no.

11 Q. And they were willing to do that for
12 your father?

13 A. I'm assuming -- yes, I'm assuming so.
14 That's where it was.

15 Q. But nobody forced them to do that,
16 right?

17 A. Of course. Of course not.

18 Q. So they did it voluntarily?

19 A. Exactly.

20 Q. And how did you enter the property? I
21 mean, did you -- were they there when you were
22 there?

23 A. Of course.

24 Q. Did you have a key to the property?

25 A. No.

1 Q. So they let you in?

2 A. That's correct.

3 Q. Do you know how my clients first started
4 living at the property?

5 A. No.

6 Q. Do you know what the -- do you know when
7 that was?

8 A. No. Like I said, I was a small boy when
9 I first started coming down here. So how people
10 lived and how they got there, I have no idea.

11 Q. Okay. So you don't disagree with the
12 fact that they're contending that they've lived
13 there since 1966?

14 A. I'm not contending that. Of course not.

15 Q. In the time that you've known that
16 they've lived at that property, who else has
17 lived with them there?

18 A. I mean, my grandmother, my father, his
19 sisters, cousins.

20 Q. As far as your deposition preparation
21 today, other than speaking with your attorney --
22 you don't need to tell me anything about that --
23 what did you do to prepare for this deposition?

24 A. Nothing.

25 Q. Nothing? You didn't review any

1 documents?

2 A. I mean, I have some legal documents and
3 I looked at them, but I mean, as far as getting
4 ready for my testimony, what I'm going to say to
5 you, there's no prep needed.

6 Q. Okay. So what documents did you look
7 at?

8 A. I mean, I've had all type of documents
9 sent to me. Deposition -- legal documents. I'm
10 not sure what the titles are.

11 Q. Okay. So other than your attorney, did
12 you discuss your testimony here today with
13 anyone?

14 A. No.

15 Q. Have you ever discussed this case with
16 anyone other than your attorney?

17 A. No.

18 Q. What about your mother?

19 A. What about her?

20 Q. Have you discussed --

21 A. Yeah. She's part of this case, yes.

22 Q. And I understand that she had some
23 health problems?

24 A. My mother is old.

25 Q. And what kind of health problems is she

1 dealing with?

2 A. I mean, she has dementia, arthritis, low
3 blood pressure. She's just an old lady now,
4 older lady now.

5 Q. Have you moved to appoint a conservator
6 for her?

7 A. No, I have not.

8 Q. Do you know if she has the capacity to
9 testify?

10 A. Not well.

11 Q. Well, she's -- so she's listed as a
12 witness in this case.

13 A. Correct.

14 Q. Do you believe that she's going to be
15 able to testify in this case?

16 A. No. I mean, if I have to drag her down
17 here, then possibly so.

18 Q. Well, are you aware that your attorney
19 represented to the Court in our last hearing that
20 she was not competent to testify at trial?

21 A. That's correct.

22 Q. Do you disagree with your attorney's
23 statement?

24 A. No, I don't.

25 Q. So it's your contention that she doesn't

1 have the capacity to testify?

2 A. She does not have good capacity to
3 testify, that's correct.

4 Q. Okay. Little bit more background. What
5 do you currently do for a living?

6 A. Well, I'm an intermodal clerk at Norfolk
7 Southern Railroad.

8 Q. And how long have you been doing that
9 for?

10 A. I've been there since 2004.

11 Q. Did you go to college?

12 A. Yes, sir.

13 Q. And where --

14 A. DePaul University. I graduated in 1994.

15 Q. So to do your job, do you have any
16 professional licenses?

17 A. No, no. It's nothing like that.

18 Q. Any kind of certificates? Anything like
19 that?

20 A. No, nothing needed.

21 Q. Have you ever been subject to any kind
22 of disciplinary action?

23 A. No, no.

24 Q. So I believe you kind of already touched
25 upon this, but -- so you've known the Steeds

1 since you were a little boy, as long as you can
2 remember.

3 A. Those are my relatives. Those are my
4 relatives, exactly.

5 Q. So other than here today, the last time
6 you saw them was the funeral; is that correct?

7 A. Well, I saw -- I saw -- I saw Nita
8 when -- at my cousin's, Marika's, repass -- I
9 won't say repass, but a little marriage
10 celebration in Chicago. I believe that might
11 have been after 2014. I can't remember how
12 long -- I mean, I can't remember when Marika was
13 married.

14 But that's -- so Nita is the last
15 cousin from down here that I've seen in Chicago
16 since then. Nobody else.

17 Q. Okay. But that was after the funeral,
18 right, of your father?

19 A. That was correct. That was correct.

20 Q. Okay. And at that time, did you have
21 any conversations with her?

22 A. I mean, we talked. I mean, hi and bye,
23 but nothing deep.

24 Q. So you didn't discuss anything that
25 relates to this case?

1 A. Of course not. Of course not. No, sir.

2 Q. Have you ever discussed, I guess, your
3 ownership claim to this property with plaintiffs?

4 A. I have spoken to Nita about it maybe
5 once or twice. Bernard, no.

6 Q. Do you know when that was?

7 A. No, sir. No, sir.

8 Q. Was it after your father passed or --

9 A. After my father passed, I definitely
10 know that.

11 Q. Okay. Are you aware that your prior
12 attorney reached out to them in, I believe it was
13 2015, to ask them to pay rent on the property?

14 A. Yes.

15 Q. Is that something that you asked your
16 attorney to do?

17 A. Well, yes. Yes, yes.

18 Q. Was that the first time that you asked
19 them to pay rent?

20 A. Yes. I mean, basically, all of this
21 stuff happened after my father passed. The rent
22 issue happened after my father passed. Nothing
23 before. After.

24 Q. Okay.

25 A. So everything started happening from

1 2015 or '14 on.

2 Q. So did your father ever ask them to pay
3 rent?

4 A. No, no.

5 Q. Did -- so at the time that you asked
6 them to pay rent, I guess, why did you do that?
7 Why did you --

8 A. Well, during that time, I knew that the
9 property was going to be passed on to me and my
10 mother, and things were going to change.

11 Q. So is that -- so, I guess, when did
12 you -- in your mind, when did you learn of that?

13 A. When did I learn of what, sir?

14 Q. That the property was going to be passed
15 on to you.

16 A. Well, I mean, it was going through the
17 process after my father died. I mean, I had an
18 attorney down here took care of all of his
19 probate issues or all his legal issues. And
20 after that, that's when things are going to
21 change.

22 Q. Okay. So, I guess, your ownership claim
23 of the property in your mind arose in 2015?

24 A. Whenever I hired my attorney to take
25 care of my father's legal matters and everything

1 was settled, then, that's correct.

2 Q. Okay.

3 A. When that precise time was, what year,
4 what month, what day, I'm not aware of.

5 Q. Okay. So I guess I'm trying to get a
6 timeline of the ownership here.

7 A. Okay.

8 Q. So before your father died --

9 A. Correct.

10 Q. -- did you know that your father owned
11 the property?

12 A. Yes.

13 Q. And how did you know that?

14 A. Well, it's -- it was my grandmother's
15 property that was passed on to him.

16 Q. So -- but did your father ever tell the
17 Steeds that he owned the property?

18 A. I'm not aware of that, sir.

19 Q. But to your -- so, to your knowledge,
20 you don't -- you don't recall your father telling
21 them that --

22 A. I'm not aware of that.

23 Q. -- he owned the property?

24 A. I'm not aware of that. That's correct.
25 That's correct.

1 Q. So I guess your ownership claim is based
2 on the fact that -- like whatever went down in
3 the probate court; is that right? Like that's
4 what your ownership --

5 A. The entire process of hiring my other
6 attorney and going through all of this, yes, sir.

7 Q. So before your father died, did you know
8 that your father claimed ownership to the
9 property?

10 A. Yes.

11 Q. And how did you know that? Because if
12 he never communicated that to the Steeds, how did
13 you know that?

14 A. Well, listen, sir. My father never
15 said, I got the deed. It's my father's place.

16 Q. But did your father ever communicate
17 that to the people --

18 A. I'm not sure.

19 Q. -- that were living there?

20 A. I'm not sure.

21 Q. So how many times would you say that
22 your father visited the property?

23 A. He was there every year. This is where
24 he grew up at. He loved this place.

25 Q. But did he live at the property?

1 A. At one point in his life, yes. But, I
2 mean, since he's been in Chicago, the only time
3 that -- since he got married to my mother and
4 moved to Chicago, the only time that he can
5 necessarily go down there is the summertime.

6 Q. So he visited the property on vacation?

7 A. He visited the property just about every
8 year.

9 Q. And did he ask the Steeds to do that?

10 A. No, he did not.

11 Q. Did he have a key to the property?

12 A. Well, when my father was visiting here a
13 lot, my grandmother was alive, and some of my
14 cousins were living with my grandmother. So when
15 he says, I'm coming down there, if she doesn't
16 open up or let him into his dwelling, whoever is
17 living there has to open up.

18 Q. So what do you mean by dwelling? I
19 mean --

20 A. In other words, where he lived,
21 relatives were in there. I'm coming down for a
22 vacation. I'll be down here. They expect him to
23 be there, so they open up the house, and he stays
24 there.

25 Q. But you just said he lived in Chicago.

1 A. When he visited, sir. When he came down
2 here to visit --

3 Q. Okay.

4 A. -- relatives are there so this is where
5 he stays when he's here.

6 Q. Right. So he called them up, and they
7 would let him into the property?

8 A. Exactly. Whoever was there, grandmother
9 or whoever was there.

10 Q. But during this time, as you've already
11 testified --

12 A. Correct.

13 Q. -- the Steeds were never told that they
14 didn't own the property?

15 A. I'm not aware of that, sir.

16 Q. So you couldn't confirm that either way;
17 you have no knowledge of that?

18 A. When it comes to that, no, sir, no, sir,
19 no, sir.

20 Q. So when your grandmother died in 2000 --

21 A. Okay.

22 Q. -- did your father visit the property as
23 much as he did before?

24 A. All the time. That's correct.

25 Q. He continued to up until his death?

1 A. That's correct.

2 Q. I mean, how often did he visit the
3 property?

4 A. I mean, he was probably down here for a
5 few months at least once a year. But, I mean, as
6 he declined, probably not as often. But, I mean,
7 every year, my father would come down here. That
8 was his tradition. He'd come down here. This is
9 where he was at.

10 Q. Do you know roughly the time frame?
11 Would he come in the summer?

12 A. Normally the summer, probably the
13 summer, spring.

14 Q. And how long would you say that he
15 stayed?

16 A. I mean, months, two, three months maybe,
17 sometimes longer, maybe sometimes less.

18 Q. And the Steeds were living there at that
19 time?

20 A. That is correct.

21 Q. Have you ever known the Steeds to live
22 anywhere else?

23 A. I'm not aware of that.

24 Q. So as far as you're concerned, they've
25 always lived at the 516 Bank Street property?

1 A. Yeah, but you've got to understand, the
2 property is a rectangle with -- it's a rectangle
3 made of two squares. So I've always known my
4 cousins to live on the back part of the
5 rectangle, and some of them live in the front.
6 So, correct, yes, they were there.

7 Q. So as far as the property is concerned,
8 do you know how that arrangement was set up?
9 Like do you know how the second building --

10 A. I've heard of it, that, you know, the
11 father built an attachment to it.

12 Q. Whose father?

13 A. My cousin's father.

14 Q. Plaintiffs?

15 A. That's correct.

16 Q. So did your father -- well, first, have
17 you ever made any changes to the property?

18 A. No, sir. No, sir.

19 Q. You haven't put any work into it?

20 A. No, sir. No, sir.

21 Q. Never cut the grass?

22 A. No.

23 Q. Never did anything like that?

24 A. No.

25 Q. What about your father?

1 A. I'm not aware of -- if he cut grass down
2 there when he was there or not. I'm not sure.

3 Q. So there's nothing that you can tell us
4 today that your father did on the property as far
5 as improvements?

6 A. I'm not aware of none. I'm not sure.

7 Q. Has he ever -- have you ever kicked
8 anyone off of the property?

9 A. Have I?

10 Q. Yes.

11 A. No, sir.

12 Q. Has your father?

13 A. I'm not aware.

14 Q. And I think you said this before, but
15 your father has never asked for rent on the
16 property?

17 A. I don't believe he has, no.

18 Q. So in 2015 when your attorney sent a
19 letter to the Steeds asking for rent --

20 A. Okay, '15, okay.

21 Q. -- when they refused --

22 MS. DEJONG: May I ask for a
23 clarification. Before you say 2018 with regards
24 to rent and now you're saying --

25 MS. PAYLOR: '15. He said '15

1 before.

2 MR. GHOM: I don't think I said --
3 we can read it back, but --

4 MS. DEJONG: Okay.

5 Q. So in 2015 when they refused to pay
6 rent, what did you do?

7 A. I mean, I knew I had to get an attorney
8 involved and get everything -- and get the issues
9 straightened out.

10 Q. And when did you do that?

11 A. I'm assuming it must have been around
12 2015.

13 Q. Did you file an action to kick them off
14 the property?

15 A. All I did was hire an attorney to take
16 care of my father's legal issues and to go
17 through this whole -- this whole proceeding that
18 we're going through.

19 Q. But you realize that my clients brought
20 the action against you.

21 A. Okay. Whatever. I mean, okay.

22 Q. So they were the ones who actually
23 initiated the action.

24 A. Okay. That's -- I mean, I can't
25 remember, but all right.

1 Q. So have you taken any legal steps to get
2 what you claim is your property back?

3 A. Legal? I've -- I'm doing that now. I
4 hired an attorney to take care of my father's
5 legal issues, and this issue.

6 Q. So you're referring to your Answer in
7 this lawsuit that didn't start until 2018?

8 A. '18?

9 Q. Yes. The caption -- yes, this lawsuit
10 was filed in 2018.

11 A. Okay. That's fine.

12 Q. Okay. So that was the first step that
13 you purportedly took to, you know, get ownership
14 of this property?

15 A. This entire -- this entire issue from
16 2015 till now was clearing up my father's issues,
17 probate, ownership until now. So this has been,
18 what, maybe, what, in my mind a four-year --
19 what, '19 minus '15 is four-year process. So
20 this is a four-year process of getting everything
21 straight for this issue. So '18, '19,
22 technically, no. This is four years in my mind.

23 Q. Okay. But in that four years, still
24 never collected rent?

25 A. Still never collected rent because I had

1 to go through all of this, probate, so, yeah,
2 right.

3 Q. Never paid for insurance on the
4 property?

5 A. Have I?

6 Q. Yes.

7 A. Yes, I've paid insurance on the
8 property.

9 Q. When?

10 A. What, there was a -- there was a --
11 there might have been -- I think I put -- I tried
12 to put insurance on the property, what, maybe in
13 '16 or '17, but it was canceled because I believe
14 there was a claim filed.

15 Q. What do you mean by a claim filed? In
16 what regards?

17 A. I mean, I think someone at the property
18 had a claim. I don't know what, water damage or
19 something, a roof or something. But I
20 attempted -- I mean, I don't have the documents
21 with me now, but I have them.

22 Q. So in our -- are you familiar with our
23 discovery requests, that we sent discovery
24 requests to you?

25 A. No, I'm not.

1 Q. Well, we asked for certain documents in
2 this case that relate to your claims.

3 A. Okay. Yeah, I believe I passed it on to
4 my attorney, correct.

5 Q. Did you pass on whatever this
6 information you're giving us now?

7 A. I believe I did. If I didn't, I have
8 it.

9 Q. Okay. Yeah, we need it, and you do have
10 a duty to supplement your production.

11 A. Oh, yeah, no problem. No problem.
12 Yeah, that's no problem.

13 (This page contains Requested
14 Information.)

15 Q. So, again, I think you said this, but
16 the first time that you told the Steeds or anyone
17 from your immediate family told the Steeds that
18 you-all owned the property was in 2015, correct?

19 A. Say that again, sir.

20 Q. So the first time, to your knowledge,
21 that the Steeds heard that they did not own the
22 property was in 2015?

23 A. I'm not -- I'm not aware of that, sir.
24 I'm not aware about when they were told they were
25 not -- all I'm trying to say is that I stepped

1 in -- I stepped in with ownership of this
2 property in 2015. All of the things that I've
3 done since my father passed in 2014, all of this
4 was cleared up to get to this point.

5 Telling -- has anyone told them
6 when they -- if they don't own a property or not,
7 I'm not aware of that.

8 Q. Okay. But --

9 A. Are you telling me --

10 Q. Well, I'm just asking for the first
11 time --

12 A. Uh-huh.

13 Q. -- to your knowledge --

14 A. To my knowledge.

15 Q. -- that they were told --

16 A. By whom?

17 Q. -- that they don't own the property.

18 By anyone.

19 The first time that the plaintiffs
20 were told that they do not own the property.

21 A. By whom?

22 Q. By anyone, to your knowledge.

23 A. I'm not sure. I'm not aware of that.

24 Q. Well, when's the -- I'm just looking for
25 the first time, so --

1 MS. DEJONG: I'm going to object.
2 You've asked this question ten different ways.
3 You're not getting the answer that you want.
4 Let's just move on. He says he doesn't know.

5 MR. GHOM: I can ask the same
6 question and phrase it differently.

7 MS. DEJONG: But you have.

8 MR. GHOM: Until he answers it.
9 I'm not asking the same question.

10 MS. DEJONG: But it doesn't seem
11 like he's answering it the way you want him to.

12 MR. GHOM: I don't think he's
13 understanding what I'm asking.

14 BY MR. GHOM:

15 Q. So correct me if I'm wrong, in 2015, you
16 asked them to pay rent as an owner of the
17 property?

18 A. Hold on. Hold on, sir. I had a brief
19 conversation with my cousin, Nita, I'll say a few
20 years ago. What year that was, I'm not really
21 sure. But I had a conversation with her saying,
22 Hey, listen, things are going to be different
23 now; you-all are going to have to start paying
24 rent. Now, was that in April of '16 or
25 October of 2015? I'm not sure.

1 Q. Okay.

2 A. Okay.

3 Q. But so what I'm -- I understand that.
4 So what I'm asking is, prior to that, to your
5 knowledge --

6 A. Now --

7 Q. -- you don't know that any communication
8 occurred before then?

9 A. Concerning me, sir, or someone else?

10 Q. Concerning their ownership of the
11 property.

12 A. But who?

13 Q. Ownership of the property. Like, to
14 your knowledge, when was the first time that a
15 conversation with the plaintiffs occurred as to
16 ownership of the property?

17 A. But who had the conversation with them?
18 Are you talking about me or someone else?

19 Q. Anyone. Anyone from your immediate
20 family.

21 A. I'm not --

22 Q. Your father, your mother.

23 A. I'm not aware of that. I'm sorry. I'm
24 not aware of that.

25 Q. All right. So in the last 20 years, has

1 anyone removed the Steeds from the property?

2 A. I'm not aware.

3 Q. No one has -- to your knowledge, no one
4 has tried to kick them off the property or tell
5 them they don't live there?

6 A. I'm not aware of it, no.

7 Q. So in that time, the Steeds have always
8 believed that they've owned the property?

9 A. Maybe. I'm not sure what they're
10 thinking.

11 Q. So you can't confirm or deny that?

12 A. Right.

13 Q. Can you tell me about the taxes on the
14 property, what kind of personal knowledge you
15 have of who's paying them?

16 A. Well, based -- well, I've only gotten
17 really involved and actually seen the taxes paid
18 since my father died. So from 2015, prior to
19 that, I don't know how they were paid.

20 All I know is that over the last
21 few years when I was involved, what would happen
22 is we would get the tax bill. The tax bill would
23 be sent to us. We would call down there. I
24 think I would talk to Nita or my mom would talk
25 to Nita, and we would split the taxes. So my --

1 me and my mother would have a portion, and I
2 believe they would have a portion.

3 Now, like I said, this is when I
4 started getting involved. Before that, I had no
5 idea how they were paying, how they were paid,
6 who paid them, what portion. I just know that
7 the tax bills started coming up to Chicago. We
8 would pay our portion. They would pay our
9 portion -- their portion, and that's it.

10 Q. Okay. So you were talking about the
11 property, how it's split between two rectangles,
12 I think is how you described it.

13 A. A rectangles and two squares.

14 Q. And two squares. Is there free access
15 between these portions of the property?

16 A. Well, I mean, since I've been there, I
17 mean -- since it's a family house, everyone can
18 go back and forth, so it was always free flowing.

19 Q. So it's really like one property or --

20 A. It's one structure, split into two.

21 Q. Split into two.

22 A. That's correct.

23 Q. So there's a door in between these two?

24 A. Not in between. Not in between.

25 Q. Can you explain?

1 A. Well, I mean, you have a square -- you
2 have a square divided by a wall. You just can't
3 walk in, but you have to go out. So there's two
4 entrances in the front square and two entrances
5 to the back square.

6 Q. Okay. And now plaintiffs have access to
7 both of these squares?

8 A. To my knowledge, yes.

9 Q. And throughout this entire time that
10 they've been living there, that's been the same?

11 A. That's what I remember.

12 Q. When did you first learn that plaintiffs
13 were basically having a hostile claim against
14 you, like against -- on the property, that they
15 believe that they own the property?

16 A. Well, didn't you say that they filed a
17 motion against me?

18 Q. Yeah. So is that the first time that
19 you've learned it, in 2018?

20 A. Legally, possibly. But I know that
21 after I told Nita that they're going to have to
22 start paying rent, whenever I told her that, it's
23 been, if you want to call it hostile. When was
24 that, I'm not sure.

25 Q. Okay. I'm going to show you something.

1 We'll mark this exhibit.

2 (Exhibit No. P-1 marked for
3 identification.)

4 Q. I'll show you this. I'll give you a
5 minute to look over that.

6 A. Uh-huh.

7 Q. Just let me know when you're --

8 A. I'm ready.

9 Q. So can you tell -- do you know what this
10 document is?

11 A. It looks like -- I don't know what the
12 technical name -- it looks like a drawing of the
13 property lines.

14 Q. For the record, can you read what it
15 says towards the bottom, right above the land
16 surveyor's sticker?

17 A. Survey, that is correct, sir. This
18 right here?

19 Q. Yes, please.

20 A. Yeah, what, Plat showing property owned
21 by Alethia Steed, Town of Mount Pleasant,
22 Charleston County, South Carolina.

23 Q. Have you seen this before?

24 A. No, I haven't seen this before.

25 Q. Does this change your claim of ownership

1 to the property?

2 A. No.

3 Q. Why not?

4 Well, for the record, can you just
5 tell us who Alethia Steed is?

6 A. I believe that might -- that might be my
7 cousin right here, I believe. I mean, I don't
8 have -- I mean, you know, I call them Nita,
9 Bernard, Choke, whatever, so I mean, I'm not
10 really sure who Alethia Steed is. I mean, that's
11 kind of embarrassing.

12 Q. Okay. Well, so do you understand why --
13 if this is your cousin's name, do you understand
14 why the plaintiffs believe that they own the
15 property?

16 A. No.

17 Q. You don't?

18 A. No.

19 Q. Well, doesn't this document say that
20 they own the property?

21 A. I'm not -- I can't say that, no.

22 Q. And what's the date on this?

23 A. The date on this, what, September, 18th,
24 1998.

25 Q. Yes. So that was -- and how long ago

1 was that? That was roughly --

2 A. That's over a decade.

3 Q. Two decades, right?

4 A. You can say two decades, right.

5 Q. 20 years.

6 A. 21 years.

7 Q. So you don't know why this plat was
8 created?

9 A. No.

10 Q. You don't know anything about this?

11 A. No, nothing about this, sir.

12 Q. So you have -- do you have any knowledge
13 that would falsify this record?

14 And do you know the date when your
15 father got the deed?

16 A. No, sir.

17 Q. You don't?

18 A. No, sir.

19 Q. Was it -- do you know if it was before
20 or after this date?

21 A. No, sir.

22 Q. So you touched on this before. So you
23 know a little bit about the improvement of the
24 property. You know that my clients used their
25 father's funds from his Workers' Comp settlement

1 to add to the house?

2 A. That's what I heard. I heard that my
3 grandmother allowed them to build on the back of
4 the property. That's what I -- that's what I've
5 heard. I haven't had a full-fledged discussion
6 with anybody about how things -- how things went
7 about.

8 Q. And who did you hear that from?

9 A. I mean, just relatives. I mean, no one
10 in particular.

11 Q. So you couldn't give us a name as to who
12 you heard that from?

13 A. No, no.

14 Q. So do you know why that discussion was
15 being had?

16 A. No, I have no idea, sir.

17 Q. Somebody was just talking about
18 plaintiffs adding to their house?

19 A. Well, it's family history.

20 Q. I mean, that's what you do with a
21 property, right? I mean, you build on your
22 property?

23 A. Can you build on your property?

24 Q. That's what you do with your property,
25 right? You add to it; you improve on it?

1 A. If you want to, yeah, I'm assuming.

2 Q. Would you build on a property that you
3 didn't think you owned?

4 A. Would I do it?

5 Q. Yes.

6 A. I wouldn't do it.

7 Q. So, to your knowledge, no member of your
8 family has ever told the Steeds that your -- that
9 this was your property prior to 2015?

10 A. Repeat that again, I'm sorry.

11 Q. So, to your knowledge, nobody from --
12 nobody, not you, not your mother, not your
13 father, has told the Steeds that this was your
14 property until 2015, correct?

15 A. To my knowledge, no.

16 Q. Have you ever visited the property
17 without the consent of the Steeds?

18 A. No.

19 Q. So you've never just showed up there?

20 A. No. I wouldn't show up, no.

21 Q. Do you know who's been maintaining the
22 buildings on the property?

23 A. No.

24 Q. But it wasn't you, right?

25 A. No.

1 Q. And you wouldn't have any knowledge as
2 to whether the plaintiffs have been doing that?

3 A. No.

4 Q. So during your life, as far as you know,
5 the Steeds have always had actual, exclusive, and
6 hostile possession of the Bank Street property,
7 correct?

8 MS. DEJONG: I object to that.

9 A. What? Hostile?

10 MS. DEJONG: Please rephrase the
11 question.

12 Q. I just mean, so throughout your life,
13 the Steeds have always had exclusive and
14 continuous possession of the property?

15 A. I wouldn't say exclusive. I mean, I had
16 my father living there, his mother, his sisters,
17 his --

18 Q. But as you said earlier, that was with
19 their consent. Sorry, I didn't mean to interrupt
20 you.

21 A. No. I mean, there's no consent about
22 consent.

23 Q. So when -- when were they living with
24 them there?

25 A. Say it again, sir. You mean my

1 relatives?

2 Q. Are you referring to the month that they
3 would visit in the summer when you say "living"?

4 A. No, sir. No, sir. No, sir.

5 Q. So can you tell us what you mean by
6 living there, how you define it?

7 A. My grandmother, my father, his sisters,
8 when I opened my eyes are living at the property.
9 My cousins living at the back simultaneously.

10 Q. So when did your grandmother die?

11 A. I believe my grandmother died, what,
12 maybe 1999, 2000, I'm not really sure on the
13 date.

14 Q. So after that 1999 or whenever your
15 grandmother died, who was living on the property
16 and when?

17 A. After she died, all I know from what I
18 know is after she died, my cousins were living
19 there. Some were living in the front or the
20 back, where they lived previously, and then some
21 were living in the front with my grandmother. So
22 my grandmother is not there, so my relatives are
23 sharing the front and the back.

24 Q. So when you say your -- can you -- who
25 do you mean by your cousins? Are you talking

1 about the Steeds?

2 A. My cousins, right.

3 Q. Okay. Just need to be clear for the
4 record.

5 A. Yeah.

6 Q. Are you claiming that you were born at
7 the property?

8 A. Of course not.

9 Q. I think that you just -- did you say
10 something like that?

11 A. No. I said, my father and his mother
12 and his sisters lived at Bank Street since I've
13 been alive.

14 Q. Okay. So -- but not after 2000?

15 A. Say it again.

16 Q. Not after your grandmother passed away?

17 A. Well, after my grandmother passed away,
18 my father was still coming down to the property
19 to visit and all that. But I'm just trying to
20 say is that, it's not as if when I was coming to
21 Bank Street, it was just my cousins living there.

22 Q. Well, I'm just trying to get a timeline
23 here. So after your grandmother passed away, I
24 believe you said your --

25 A. After my --

1 (Reporter interruption.)

2 Q. I believe you said your father would
3 visit in the summer.

4 A. My father would come down to the
5 property. I would come down. Sometimes my
6 mother would come down. So yes. So there's no
7 exclusive rights, saying -- you know, I don't get
8 that.

9 Q. Okay. I'm talking about living there,
10 residing there on a permanent basis --

11 A. Okay.

12 Q. -- after your grandmother passed away.

13 A. Okay. What's the question?

14 Q. It's just been the Steeds, correct,
15 living there?

16 A. After my grandmother passed away, it's
17 just been the Steeds living there, correct.

18 Q. I think we -- to your knowledge, the
19 Steeds have always claimed ownership of the Bank
20 Street property, right?

21 A. No, sir.

22 Q. When did they not claim ownership?

23 A. I'm not sure of that.

24 Q. So you can't confirm or deny that?

25 A. I can't confirm or deny.

1 Q. Do you have any witnesses that live here
2 that can support your claim of ownership to the
3 property?

4 A. I mean, I have other cousins that live
5 here that I could possibly talk to. I mean,
6 could I mention any names to you now?

7 Q. Yes.

8 A. No. But I could make some calls and
9 make that happen possibly.

10 Q. Can you provide us with the names of
11 your cousins that live here?

12 A. At this moment, I have -- I don't know
13 all of my cousins that live down here. I know a
14 few of them, but --

15 Q. Can you name whatever ones you recall?

16 A. Well, I mean, I have a cousin -- I have,
17 what, Uncle Otto. I have, you know, Nata, Ron
18 German, Chad German.

19 Q. Can we get full names?

20 A. Yeah. I mean, I could, yes. So you
21 want me to repeat some now that I know of?

22 Q. Yes, please.

23 A. Well, I have a couple. Ron German,
24 that's a cousin of mine, Ron, R-O-N; Chad German;
25 what, Nata German; Uncle Otto German; what, Rita,

1 I don't know her last name. So there's a few
2 cousins that I -- I mean, there's more if I ask
3 my mother or some other people that know more
4 about the family down here.

5 Q. To your knowledge today, do any of those
6 that you just named, do they support your claim
7 of ownership to this property?

8 A. I haven't asked them about that type of
9 stuff.

10 Q. Okay. While we sit here today, do you
11 have any other testimony that you plan to offer
12 at trial?

13 A. I'm not aware. I can't answer that
14 question.

15 Q. You can't answer it because you don't
16 understand it?

17 A. Trial? I'm not aware of any trial or
18 anything, so I can't answer that. I can't answer
19 that question.

20 Q. So I'm entitled to know, for discovery
21 purposes, what you're going to testify to at
22 trial, meaning in this case.

23 A. I mean, what I've -- I mean, is there
24 anything more I have to say?

25 Q. Yes, yes.

1 A. Like what questions do you have for me?

2 Q. That relate to this case.

3 A. Like what are the questions?

4 Q. Well, I'm saying, is there anything we
5 missed? Is there anything that you --

6 MS. PAYLOR: We'll take a little
7 break. We'll be right back.

8 THE WITNESS: Okay.

9 (A recess was taken.)

10 Q. So were you present when your father got
11 the deed to the property?

12 A. I can't recall. I'm not -- I can't
13 remember.

14 Q. Do you know anything about how he got
15 the deed to the property?

16 A. No, sir.

17 (Off-the-record discussion.)

18 Q. Who was your first lawyer regarding the
19 deed to the property?

20 A. Well, the first attorney that I hired to
21 take care of my father's financial situation down
22 here, I believe his name was Mr. Altman, Jonathan
23 Altman.

24 Q. And off the top of your head, do you
25 know the date in which your dad got the deed to

1 the property?

2 A. No, sir.

3 Q. Do you know roughly when that was?

4 A. No, sir.

5 Q. Do you know if it was before your
6 grandmother died?

7 A. I'm not aware.

8 MR. GHOM: I think we've produced
9 the deed, so --

10 MS. DEJONG: I have one that's
11 highlighted that would make it easier for the
12 deponent to read it.

13 MR. GHOM: I'm going to represent
14 to you that it's January of 1999 if you have no
15 objection to that.

16 MS. DEJONG: What? I don't know
17 what deed you're looking at.

18 MS. PAYLOR: The day it was signed.

19 MS. DEJONG: No, I mean which one.

20 Okay.

21 MS. PAYLOR: Is there more than
22 one?

23 MS. DEJONG: Deed to the property?

24 Yeah.

25 MR. GHOM: Yeah, I think she

1 means --

2 BY MR. GHOM:

3 Q. Do you have any reason to believe that
4 it wasn't in 1999 when your father was deeded the
5 property?

6 A. No, sir.

7 Q. Do you know why, if he was deeded the
8 property in 1999, that he waited so long or that
9 your family waited so long to tell the Steeds
10 that you-all owned the property?

11 A. No, sir.

12 Q. When did you arrive here for this
13 deposition in Charleston?

14 A. Today is Thursday. I got here last
15 night.

16 Q. And who did you stay with?

17 A. I stayed in a hotel.

18 Q. Hotel. Did you see anyone last night
19 when you were here?

20 A. I saw a couple of my cousins, yes.

21 Q. And who were they?

22 A. I saw Ron, I saw Chad, I saw Uncle Otto.

23 Q. Can you give us full names, please?

24 A. Otto German, Chad German, what, Ron
25 German.

1 Q. Did you tell them why you were here?

2 A. Say it again.

3 Q. Did you tell them why you were here?

4 A. Yes.

5 Q. So you did talk about the case?

6 A. I told them that I was here for the
7 deposition.

8 Q. Okay. And did you tell them what the
9 deposition was about?

10 A. No.

11 Q. Is Otto German, does he work at C of C?

12 A. I'm not sure.

13 Q. Otto German, former basketball player
14 for College of Charleston?

15 A. I believe he played basketball, yeah.

16 Q. Good friend of mine.

17 MS. DEJONG: Who is? I'm sorry? I
18 lost the thread of the conversation. You know
19 Otto German?

20 MR. GHOM: I do, yes. He's
21 actually -- I used to work for him. He's a good
22 friend of mine.

23 BY MR. GHOM:

24 Q. Anyway, so I believe you said that -- so
25 did they know what the case was about?

1 A. I'm not sure.

2 Q. So do they know the Steeds?

3 A. We're all relatives. We're all related
4 to each other.

5 Q. Okay. So I'm guessing that they knew
6 about the house.

7 A. Maybe. You know, I'm not --

8 Q. Did they know that your father claimed
9 ownership of the property?

10 A. I'm not sure.

11 Q. So you've never talked to them about the
12 substance of this case? You just told them that
13 you were having a deposition?

14 A. I'm here for the deposition, correct.

15 Q. I believe you said the last time that
16 you came -- I don't know -- so when's the last
17 time that you've been to Charleston?

18 A. The last time that I believe I was here
19 was for my father's funeral in '14.

20 Q. Okay. So before that --

21 A. Uh-huh.

22 Q. -- when was the last time you were here?

23 A. I believe the last time I was here was
24 maybe a summer or two before that for like a
25 quick weekend trip.

1 Q. And did you stay at the property?

2 A. I believe so.

3 Q. And how did that go? Did you call them
4 before you got here?

5 A. Well, I mean, every time that I come
6 down, everybody knows. I mean, if I'm staying
7 with my -- the Germans or them, we'll visit the
8 other branch of the family, so -- but I can't
9 remember if I called to say, Hey, I'm going to be
10 down here on this date. No, I can't remember
11 that.

12 Q. You said you stayed at the property.

13 A. I think the -- when I was with my
14 father, we were at a hotel. I believe the prior
15 time I was here was at the property. I mean,
16 when I'm here, there's only two places, either
17 with my cousins, the Germans, or at 516 Bank
18 Street. Now, where was I at for this last trip
19 before my father, I can't remember. It's been a
20 while ago.

21 Q. Do you know if you saw anyone while you
22 were there on that trip? Do you recall seeing
23 anyone?

24 A. I saw all my cousins.

25 Q. So can you tell us who these cousins

1 are? Sorry, you've got a lot of cousins.

2 A. Well, if I'm here, I see Bonita,
3 Bernard, Robert, maybe Ernie, Uncle Otto, Chad.
4 The usual, the usual cousins.

5 Q. So each time you come here, you see them
6 each time, plaintiffs?

7 A. Probably not all of them, but I might
8 see one or two.

9 Q. When you came to the property, where do
10 you sleep at the actual property, within the
11 house?

12 A. I sleep in the part -- in the front part
13 where my grandmother and my father and his
14 sisters lived.

15 Q. And who's there now in that front
16 property?

17 A. I'm not sure. I'm not sure right now.

18 Q. When you were there, who else was in
19 that --

20 A. The last time that I was here?

21 Q. Yes.

22 A. Or the prior time?

23 Q. Well, both. You can start with the last
24 time and then --

25 A. Well, the last time I was here,

1 obviously, my grandmother wasn't here, so I
2 believe my cousins were living there. Which
3 ones, I'm not sure of.

4 The prior time, my grandmother
5 wasn't here. I don't think my father was with
6 me, so it might have been my cousins at the Bank
7 Street location.

8 Q. So by "cousins," again you mean
9 plaintiffs?

10 A. The plaintiffs are only two, right?

11 Q. Right. Sitting across from you.

12 A. Well, it could have been them or their
13 brothers but my relatives. The plaintiffs, I'm
14 not really sure.

15 Q. So after your grandmother died in --
16 let's just ballpark it at 2000.

17 A. That's fine.

18 Q. From 2000 on, can you tell us exactly
19 the dates for each time you came down here?

20 A. No, sir.

21 Q. But you'd be able to provide us with
22 some sort of proof, some sort of record of your
23 visit?

24 A. No, sir.

25 Q. Like -- did you fly every time? Have

1 you ever driven?

2 A. We fly.

3 Q. You fly every time?

4 A. Yes.

5 Q. So you'd be able to get a record of the
6 plane?

7 A. No, sir. No, sir. I mean --

8 Q. And why not?

9 A. I mean, the plane ticket that I bought
10 to come down here for this, when I get home, I'm
11 not going to keep it.

12 Q. But you have an e-mail receipt, correct?

13 A. No.

14 Q. You don't?

15 A. No.

16 Q. So how did you sign up for the --

17 A. Say it again.

18 Q. -- plane ticket? How did that process
19 work?

20 A. Well, I mean, my girlfriend is the one
21 that bought the plane ticket this time, so I'm
22 not sure if she did an e-mail or paid cash or
23 debit. But when it comes to my travels, I don't
24 keep receipts and records like that.

25 Q. So she would theoretically have an

1 e-mail from the airplane people that says, This
2 is your itinerary?

3 A. For this trip? For this trip?

4 Q. Yes.

5 A. Maybe. I'm not sure.

6 Q. Have you ever known an airline company
7 to not send an e-mail receipt for a plane ticket?

8 A. Well, I mean, if you go to the -- if you
9 go to the ticket -- the ticket counter and you
10 pay cash, you might get a regular receipt. Or a
11 debit card, you might get a regular receipt.
12 E-mail is optional.

13 Q. So other than your testimony here today,
14 do you have anyone that can support these visits?
15 Anyone that would say that he was here these
16 times?

17 A. I mean, I could talk to my -- possibly
18 talk to my mother or other cousins, but I don't
19 have -- I don't think someone will be able to
20 say, Well, on this date, you were here, and this
21 is how we paid for the ticket, and this is how we
22 traveled. I mean, we don't think about stuff --
23 keep stuff like that.

24 Q. What about your mother? Like so since
25 2000, how many times has she been to the

1 property?

2 A. Since 2000?

3 Q. Yes.

4 A. This is a 19-year period. What, with my
5 father, I'm thinking, what, maybe seven, eight
6 times maybe.

7 Q. And do you know when the last time that
8 was? Was that the funeral?

9 A. The last time obviously was for the
10 funeral. But for a vacation or so, maybe -- if
11 he died in '14, maybe '11, maybe '12.

12 Q. And if she came here in 2011 or 2012,
13 she would have stayed at the 516 --

14 A. That's the property that my
15 grandmother -- yes, correct, correct.

16 Q. And I asked this about your father, but
17 to your knowledge, has your mother ever
18 communicated to the Steeds that they didn't own
19 the property?

20 A. I'm not aware of that.

21 Q. So as I briefly showed you, the deed to
22 your father is dated January 11th, 1999, correct?
23 I can show you --

24 MR. GHOM: I want to mark this
25 as -- can we mark this.

1 (Exhibit No. ~~P-2~~ marked for
2 identification.)

3 A. Okay. So what are you asking me, sir?

4 Q. So I was asking just to confirm the date
5 in which your father received the deed. I think
6 it's on the second page.

7 A. It's on the second page?

8 Q. The date. We're just looking for the
9 date.

10 A. This right here? Yeah. So it says 11th
11 day of January, 1999.

12 Q. And since that time, do you know of
13 anything he did to assert ownership to the
14 property?

15 A. What do you mean?

16 Q. Like did he do anything to claim
17 ownership to the property?

18 A. I mean, for what I've known, he's always
19 owned the property, so I'm not -- I'm not sure --

20 Q. But he didn't own it before that time,
21 correct?

22 A. I'm not -- I've always -- I've always
23 known -- I've always known my grandmother and my
24 father being the owners of this property. So, I
25 mean, are you saying that he went down there and

1 put a flag in the sand? I'm not saying that.

2 Q. So I'm asking. I'm saying, what's your
3 factual basis for that assertion, that your
4 father has always owned property?

5 A. Because it was my grandmother's
6 property. When she passed, passed it down to my
7 father, okay. Passed it down to me and my
8 mother. Okay. So since I was a young boy,
9 that's what -- that's -- that's what I've known.

10 Q. So somebody told you that? Is that --

11 A. That's what my father told me. That's
12 my mother's property.

13 Q. But as far as what -- other than what he
14 told you --

15 A. Uh-huh.

16 Q. -- did you see him do anything to the
17 property that an owner would do with a property?

18 A. I mean, he didn't -- he didn't live
19 here. Everything was already up and -- it's not
20 his -- I mean, would I see him cut grass or plant
21 something? I don't understand what you're trying
22 to say.

23 Q. That's exactly what I'm trying to say.
24 So did he ever cut the grass?

25 A. I haven't seen him cut the grass, no.

1 Q. Did he ever put a fence up?

2 A. I've never seen him do that.

3 Q. Did he ever buy a fixture and put a
4 fixture on the property, like a light switch
5 or --

6 A. I've never seen him do that.

7 Q. Have you ever seen him paint the house?

8 A. I've never seen him do it.

9 Q. What about your mother? Have you seen
10 her do any of those things?

11 A. I've never seen my mother do that.

12 Q. So as far as acting as an owner would
13 act with regards to the property, you haven't
14 seen him take any of those actions?

15 A. This is a place that he owns. He lives
16 in Chicago. He comes down to this place in the
17 summertime for vacation. What he does on his
18 vacation is what he does. I mean, he's -- I
19 don't think he's come down here to work.

20 Q. So what did he do on his vacation?

21 A. What, see his mother, see his cousins,
22 his nephews, nieces, old friends, relax, hang
23 out.

24 Q. So he came to visit the plaintiffs and
25 hang out with them? Because you're saying

1 cousins. Sorry, I don't know if you're talking
2 them or you're talking other people.

3 A. Well, I mean, if -- technically, the
4 plaintiffs are my two cousins here, but the
5 family is bigger than just those two.

6 Q. So he came to see other people in
7 Charleston?

8 A. Yeah. He's come home. He's come home.
9 This is where he -- this is where he grew up,
10 correct.

11 MS. PAYLOR: Give me one second
12 with my clients. We'll probably be done then.

13 (A recess was taken.)

14 Q. Do you know a Jerome Parker?

15 A. No, sir.

16 Q. What about Walter Brown?

17 A. No, sir.

18 MR. GHOM: No further questions.
19 Thank you for your time.

20 (Exhibit No. D-1 marked for
21 identification.)

22 (Exhibit No. D-2 marked for
23 identification.)

24 (Exhibit No. D-3 marked for
25 identification.)

1 EXAMINATION

2 BY MS. DEJONG:

3 Q. All right. I am going to -- I've
4 already had these documents marked, so, Antoine,
5 I'm going to ask you to identify these documents
6 that I can represent are the deeds.

7 A. Uh-huh.

8 Q. And if you could look at **D-1** and tell me
9 if you can read the names of the person -- the
10 people who conveyed to a Louise Brown Heyward --
11 who is your grandmother, correct?

12 A. Yes, ma'am. This is a Foster and maybe
13 a Graham maybe. What, what, P.A. Foster and J.M.
14 Graham.

15 Q. And could you tell me the book and page
16 that this deed was recorded in?

17 A. Book A72, page 175.

18 Q. And what would be the date that this
19 deed was signed?

20 A. This right here? July 27th, 1960.

21 Q. All right. So that's when your mother
22 [sic] received title to the property on Bank
23 Street, correct?

24 A. Yes.

25 MR. GHOM: Objection.

1 MS. PAYLOR: Objection.

2 Grandmother.

3 Q. I'm sorry, thank you. Grandmother.

4 A. Uh-huh.

5 Q. Now, did your grandmother pass away in
6 2000 with a will?

7 A. I'm not aware if she had a will or not.

8 Q. Did she have any children that survived
9 her when she passed away?

10 MR. GHOM: Object to form.

11 Q. Did she have any children -- is your
12 father the only child that survived your
13 grandmother?

14 MR. GHOM: Object to form.

15 A. Yes.

16 MS. DEJONG: What's the problem
17 with the form?

18 MR. GHOM: Leading. They're
19 leading questions.

20 MS. DEJONG: You asked all leading
21 questions.

22 MR. GHOM: He's not my witness.

23 MS. PAYLOR: It's fine.

24 MS. DEJONG: And you did hearsay.
25 You did direct examination, and you were asking

1 leading questions.

2 MR. GHOM: Yeah, but it's a hostile
3 witness. Have you ever litigated before? It's a
4 hostile witness.

5 MS. DEJONG: Have I ever --

6 MR. GHOM: Yes.

7 MS. DEJONG: For 25 years. What
8 about you?

9 MR. GHOM: It doesn't seem like it.

10 MS. DEJONG: Really, 18 months?

11 MS. PAYLOR: Calm down.

12 MS. DEJONG: You're going to
13 challenge me?

14 MS. PAYLOR: He apologizes. Let's
15 move on.

16 MS. DEJONG: I'll take your
17 apology, Alice.

18 BY MS. DEJONG:

19 Q. All right. So from 1960, according to
20 this deed, your grandmother owned the property on
21 Bank Street.

22 A. Correct.

23 Q. And then I'd like you to identify D-2.

24 A. Yes, ma'am.

25 Q. And this is -- could you please tell me

1 who signed over to Robert James Heyward?

2 A. Louise Brown Heyward.

3 Q. And she's assigned the property over to
4 Robert James Heyward, your father?

5 MR. GHOM: Object to form.

6 A. Correct.

7 Q. Can you tell me the date that this deed
8 was signed?

9 A. This -- the date on here is 11th --
10 January 11th, 1999.

11 Q. Okay. And then if you could identify
12 ~~D-3~~.

13 A. ~~D-3~~, the date?

14 Q. Well, just identify the document.

15 A. Oh, in probate court, deed of
16 distribution of real property only, not a
17 warranty deed.

18 Q. Right. And this is a deed conveying
19 what property?

20 A. 516 Bank Street, Mount Pleasant, South
21 Carolina, 29464.

22 Q. And it's a deed from who?

23 A. In the matter of Robert Heyward,
24 deceased.

25 Q. And he's conveying the Bank Street

1 property to who?

2 A. Ruby Heyward and Antoine Heyward.

3 Q. So what we have here is, from 1960 to
4 today's date, a steady show of ownership of the
5 property, according to these deeds?

6 A. Yes, ma'am.

7 Q. And these deeds have been recorded at
8 the county office; they each have been assigned
9 book and pages, correct?

10 A. Yes, ma'am.

11 Q. If I could just refer you to each one to
12 make sure there's a book and page.

13 A. Yes. Yes, ma'am. Yes.

14 Q. With regards to this plat --

15 A. Uh-huh.

16 Q. -- have you ever seen this plat before?

17 A. No.

18 Q. Does it look like it's been recorded
19 with the County? Do you see a book and page
20 stamped on it?

21 MR. GHOM: Object to form.

22 A. No.

23 Q. And this is Exhibit P-1. Have the
24 Steeds -- any of the Steeds ever notified you
25 that they considered they owned the property?

1 MR. GHOM: Object to form.

2 A. Have they ever notified me?

3 Q. Yeah. When did you first find out they
4 were making a claim to the property?

5 A. Well, I mean -- okay. Since 2015 when I
6 started this whole process of trying to get my
7 father's financial information and everything
8 together, his will -- I mean, his probate and all
9 of that, so I'll say 2015.

10 Q. But they never showed you this Exhibit
11 P-1?

12 A. I've never seen this before.

13 Q. You understand that -- okay. Have they
14 ever presented a deed -- have the plaintiffs ever
15 shown you a deed?

16 A. No.

17 Q. Have they ever refused entry into the
18 house when your father, mother, or yourself went
19 to visit?

20 A. No.

21 Q. Did they ever seek to -- actually, I'll
22 rephrase the question.

23 You testified that, in 2015, you
24 notified the plaintiffs that things were going to
25 change.

1 A. The exact year and date, I'm not aware
2 of. But around that time, yes, I talked -- I
3 talked to Nita and said, Hey, listen, you know,
4 things are going to change; you've got to start
5 paying rent down there.

6 What year, what date, what time, I
7 do not remember. But I know this was after my
8 father passed and going through this whole
9 process of just taking care of his affairs.

10 Q. What was your conversation with Bonita
11 regarding your conversation that things were
12 going to change?

13 A. Well, I mean, when I talked to Nita, it
14 wasn't nice. I mean, she -- you know, I don't
15 want to say she cussed at me, but it was
16 definitely not a pleasant conversation.

17 Q. And after that time, that's when the
18 lawsuit was filed by the plaintiff?

19 A. I believe -- I can't say shortly after
20 or whenever. But I just know, after that, that's
21 when the -- that's, I believe, when they filed
22 their lawsuit. How soon after, I can't remember.

23 MS. DEJONG: Well, here it is. I
24 don't have extra copies of the actual lawsuit.

25 Can you mark this, please.

1 (Exhibit No. ~~D-4~~ marked for
2 identification.)

3 Q. Could you identify Exhibit ~~D-4~~?

4 A. What would you want me to do, ma'am?

5 Q. Does this look like the document that
6 started this lawsuit?

7 A. Yes. I remember coming to my -- coming
8 either in the mail or coming to my door, and
9 somebody served me some papers.

10 Q. Can you tell me what date this action
11 was filed?

12 A. This looks like August 29th, 2018.

13 Q. So it would have been after that
14 conversation regarding rent?

15 A. Yeah, this is definitely after that, not
16 before.

17 Q. It says here in the Complaint in
18 paragraph 12 that you only visited the property
19 on one occasion during the last ten years for the
20 funeral of your father; is that correct?

21 A. No, that's incorrect.

22 MS. PAYLOR: That's what it states.

23 Q. And is it true that your father -- do
24 you know if your father gave them permission to
25 stay in the house even though he owned it?

1 A. Yes, he was aware of that. Because when
2 he came down for vacations, they were there.

3 Q. Grandmother gave consent for them to
4 live in the house?

5 A. Yes.

6 Q. Did you and your mom give them consent
7 to live in the house?

8 MR. GHOM: Object to form.

9 A. We were aware that they were there, yes.

10 Q. All right. So by giving consent to them
11 living in the house, they never -- let me
12 rephrase that.

13 A. Okay.

14 Q. Did you ever -- did you or your father
15 ever receive phone calls in Chicago from family
16 members down here?

17 A. Yes, every -- periodically,
18 periodically.

19 Q. And what were the gist of those
20 conversations?

21 A. Well, basically, the person that would
22 call a lot would be one of my other cousins,
23 Robert Steed. He would call up there every once
24 in a while.

25 Q. And what was the context of the

1 conversation?

2 A. Well, he would only really call if he
3 feels like one of his cousins -- one of his --
4 not his cousins but brothers or sisters are
5 mistreating him. He will say, you know, this
6 person is saying this. This person is staying
7 there.

8 Q. Did Robert Steed live in the house?

9 A. Yes, from what I know.

10 Q. Do you know if any of the people that
11 reside in the house ever called to discuss
12 repairs? You mentioned a roof?

13 A. Not that I'm aware of, no. I can't
14 remember any of them calling, say, Hey, we did
15 this or this needs to be done or anything like
16 that.

17 Q. If you could explain about that roof.
18 Is there -- you said there was -- you made a
19 claim for a leaking roof?

20 A. Well, I tried to put insurance on the
21 property through State Farm. It was canceled
22 because I believe there was a claim filed there
23 at 516 Bank Street. What it was for, I can't
24 remember. I don't know. But I know that shortly
25 after that, the claim -- I mean, the insurance

1 was canceled.

2 Q. Do you know why it was canceled?

3 A. I'm not sure why it was canceled. I
4 just know I just couldn't continue to pay the
5 insurance on it because I believe the prior
6 claim. So I'm assuming maybe the insurance
7 company didn't want to insure the property
8 anymore.

9 Q. At this time while this lawsuit is
10 pending, do you still consent to them living in
11 the house?

12 A. As we speak right now? Yes.

13 MS. DEJONG: Okay. Thank you. No
14 further questions.

15 EXAMINATION

16 BY MR. GHOM:

17 Q. Just a few more. You may have said this
18 earlier, but when did you try to get insurance,
19 the year?

20 A. This is '19, what, maybe '16 maybe,
21 somewhere around there.

22 Q. And what proof do you have?

23 A. Well, I have the documents at home. I
24 would have to get that to you.

25 Q. So you'll produce those to us?

1 A. Yes, sir, I'll produce those.

2 (This page contains Requested
3 Information.)

4 Q. So you said that you consent now to
5 plaintiffs living on the property?

6 A. They're there.

7 Q. Well, they're there. Are they there
8 with your consent?

9 A. Yes.

10 Q. And when -- I guess, when did you start
11 consenting to them living there? Is it when --
12 in 2015?

13 A. When I started consenting?

14 Q. Yes.

15 A. I mean, they've been there -- they've
16 been there forever.

17 Q. So what's your factual basis for saying
18 that your father and your mother consented to
19 them living there?

20 A. Because it was -- it was -- it's a
21 family house. My grandmother lived there. My
22 father lived there before he moved to Chicago.
23 When he comes down here, he lives there. So they
24 used to stay -- some of my cousins stayed with my
25 grandmother when she was alive, in the front and

1 in the back.

2 So we've always been aware that my
3 cousins, the Steeds -- and not just the
4 plaintiffs, but their brothers or whomever --
5 whatever relative wants to -- whatever stayed at
6 516 Bank Street. So the consent was always
7 there, sir.

8 Q. So what's the difference -- in your
9 mind, what's the difference between being aware
10 of them living there and consenting to them
11 living there? Is there a difference?

12 A. I mean, being aware means I know they're
13 there. Consent means yes or no. So we are -- I
14 mean, however you want to phrase it, we are
15 aware -- when I say "we," me and my mother are
16 aware that our cousins live at 516 Bank Street.

17 Q. Okay. So did the plaintiffs ever ask to
18 live there?

19 A. Well, they've always lived there. I
20 mean, who did they -- ask whom?

21 Q. To your knowledge --

22 A. Ask me?

23 Q. -- did they ask anyone?

24 A. Ask me?

25 Q. Yes. Have they ever asked you to --

1 A. They've always lived there, sir. They
2 never had to ask me.

3 Q. So they didn't have to ask you?

4 A. No.

5 Q. Did they have to ask your father?

6 A. Well, I mean, my father's not here to
7 answer that question.

8 Q. So you don't know whether they did or
9 not?

10 A. Well, I mean, my father was aware
11 that -- my father was aware that his nieces and
12 nephews were staying at the property.

13 Q. Do you know if they asked your mother?

14 A. I'm not aware of that.

15 Q. So you don't have anything in writing to
16 support your contention that you consented to
17 them living there?

18 A. I don't have nothing.

19 Q. Just your knowledge that they were
20 living there?

21 A. In my knowledge, they've always lived
22 there.

23 Q. So no one has ever told them that they
24 couldn't live there?

25 A. Not that I'm aware of, no.

1 Q. No further questions.

2 Did you ever -- did you ever talk
3 to Robert Steed? I think you said he called you
4 a lot.

5 MS. DEJONG: Objection. That's not
6 what he said.

7 MS. PAYLOR: Did you ever call
8 Robert Steed? I mean, did you ever talk to
9 Robert Steed?

10 THE WITNESS: Yes, I've talked to
11 Robert.

12 BY MR. GHOM:

13 Q. About the property?

14 A. He would call -- he would call -- well,
15 okay. He would call me when there's a problem
16 going. When I say "problem," someone's trying to
17 boss him around, or someone's trying to kick him
18 out, or someone's -- there's always some type of
19 drama. But he never asked me, Well, what light
20 fixture do you want or -- no, so that was it.

21 Q. So why did he call you?

22 A. Because maybe one of his brothers or
23 maybe Bonita or anybody was trying to tell him he
24 can't live here; get out. And he would call me
25 and say, Hey, you know, this is Coco's house.

1 You-all can't do this to me.

2 So either me or -- so me, okay, you
3 have as much right to live down here as them so
4 squash it.

5 Q. So did Bonita -- she tried to kick
6 out --

7 A. I'm not saying that. I'm just trying to
8 say, when there was a problem between him and his
9 brothers or possibly sister, all of them, one of
10 them, two of them, he would call. He wouldn't
11 call to say, Hey, the Cubs win. No. He would
12 call because some type of drama was going on
13 amongst him and his brothers and sisters.

14 Q. Can you tell us about any of that drama?
15 Do you recall any examples of that drama?

16 A. I can't recall any examples, but he'll
17 probably say, Hey, this person is trying to kick
18 me out or whatever. And I will have to say,
19 Okay, well, let them talk to me, you know, so --

20 Q. Okay. So when was that? Was that
21 before your grandmother died or after?

22 A. This was -- this was -- this was --
23 before my grandmother died? This was after my
24 grandmother died.

25 Q. Can you -- how long ago? I mean, we're

1 talking a long span.

2 A. We're talking a very long span.

3 Whenever there was a disagreement amongst --
4 whenever there was a disagreement amongst his
5 brothers and sisters -- I'm talking about Robert
6 now -- he would call me and say, This is going
7 on. This is going on, you know, could you help
8 me or whatever, and I'll say, Hey, man, you know,
9 you all get along or, you know, have them call
10 me. But when there was a problem with them down
11 there, he would call me.

12 Q. Do you remember the last time he called
13 you?

14 A. I can't remember the last time that he
15 called me. I mean, he hasn't called me since
16 this has come up. So, no, he's on the ex list
17 now. He doesn't talk to me now.

18 Q. Was it before your father -- has he
19 called you --

20 A. Before my father, yes, before my father.
21 I mean, when there was a problem -- when there
22 was a problem down at Bank Street, people call
23 either me or my father. So you're talking about
24 me, yes, I would talk to Choke, Robert, about
25 what's going on.

1 So he would call me and say, Hey,
2 this is going on. And either I would have to
3 talk to somebody down there, or they would say,
4 Hey, I just talked to Antoine and let him finish
5 the conversation.

6 Q. So that was before 2015? Was it in
7 2014?

8 A. It was -- it's happened -- it's happened
9 before 2015, before I started this whole process,
10 he would call me. Since this process has
11 started, no returned phone calls, no nothing. So
12 I haven't talked to Robert in a long time. But
13 he's the only person that I would talk to on a
14 consistent basis that lived at 516 Bank Street.

15 Q. So consistent, how often did he call
16 you?

17 A. Whenever he called me. I mean, it's not
18 consistent, but if I talked to anybody at 516
19 Bank Street, it would be him, and it would be
20 about problems going on down there.

21 Q. So we're talking once a year? Twice a
22 year?

23 A. If it -- whenever a problem arised. I
24 can't say how often it did.

25 Q. So you have no idea how many times it

1 occurred?

2 A. I don't have a lot -- I don't have no
3 idea how many times it occurred.

4 MR. GHOM: No further questions.

5 EXAMINATION

6 BY MS. DEJONG:

7 Q. Who's Coco?

8 A. Coco was the nickname of my father.

9 Q. Okay. So could you repeat that
10 conversation again where you mentioned Coco?

11 A. Which --

12 Q. Oh, you said that the family would call,
13 say, your father or you if there was problems
14 within the house.

15 A. Oh, yeah, yeah, yeah. I mean,
16 basically, if my cousin, Robert, who stayed at
17 516 Bank Street, had some type of issue with
18 either one of his brothers -- brothers or sister,
19 and if it came to a point of they're going to try
20 to kick him out or make him do something that he
21 doesn't feel like he would do, he would call to
22 Chicago so we could step in and stop it.

23 Q. Did he call you because he knew that you
24 were owners of the house?

25 A. Of course. Why else would he call me?

1 I'm not down there. I'm not around the corner,
2 so he knew.

3 MS. DEJONG: Okay. No further
4 questions.

5 EXAMINATION

6 BY MR. GHOM:

7 Q. Just brief follow-up. So when you --
8 when you got these calls, did you ever take any
9 action? I know you said you would short things
10 out. Can you explain what you did?

11 A. If he calls me and says, Hey, something
12 is going on, I'll say, you know, you-all try to
13 get along or have them call me.

14 So I guess I'm assuming if I told
15 him, whoever he had a conversation with, to call
16 me, and it didn't -- he never called me back,
17 then I guess he must have resolved the issue, so
18 I never have to actually step in and do anything.

19 Q. So did you ever call the Steeds, like my
20 clients?

21 A. No, no. Why would I?

22 Q. Well, I didn't know if you needed to
23 resolve something.

24 A. No, sir. So whenever I talked to him,
25 that was it. So, I guess, whatever happened was

1 squashed.

2 MR. GHOM: No further questions.

3 Thank you.

4 THE WITNESS: You're welcome, sir.

5 MS. PAYLOR: Thank you.

6 THE WITNESS: You're welcome.

7 (The deposition was concluded at

8 10:16 a.m.)

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1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF CHARLESTON

4 I, Teri L. Kennelly, Registered
5 Professional Reporter and Notary Public for the
6 State of South Carolina at Large, do hereby
7 certify that the witness in the foregoing
8 deposition was by me duly sworn to testify to the
9 truth, the whole truth and nothing but the truth
10 in the within-entitled cause; that said
11 deposition was taken at the time and location
12 therein stated; that the testimony of the witness
13 and all objections made at the time of the
14 examination were recorded stenographically by me
15 and were thereafter transcribed by computer-aided
16 transcription; that the foregoing is a full,
17 complete and true record of the testimony of the
18 witness and of all objections made at the time of
19 the examination; and that the witness was given
20 an opportunity to read and correct said
21 deposition and to subscribe the same.

22 Should the signature of the witness
23 not be affixed to the deposition, the witness
24 shall not have availed himself/herself of the
25 opportunity to sign or the signature has been
waived.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

Witness my hand, I have hereunto
affixed my official seal on November 25th, 2019,
at Charleston, Charleston County, South Carolina.

Teri L. Kennelly, RPR, CRR
NCRA REGISTERED PROFESSIONAL REPORTER

My Commission expires
January 8, 2029



Karen DeJong <dejonglawfirm@gmail.com>

404536

4 messages

Alice Paylor <apaylor@rosenhagood.com>

Wed, Jul 8, 2020 at 11:18 AM

To: "Price, Bentley Law Clerk (Juliana Beeks)" <bpricelc@sccourts.org>, "Price, Bentley" <bpricej@sccourts.org>

Cc: "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>, Bijan Ghom <bghom@rosenhagood.com>, Taylor Davis <tdavis@rosenhagood.com>

Dear Judge Price, attached is a proposed order for your review and consideration in the matter of Steed v. Heyward.
Thank you for your consideration.

Alice Paylor

**404536.docx**

27K

Price, Bentley Law Clerk (Juliana Beeks) <bpricelc@sccourts.org>

Wed, Jul 8, 2020 at 12:35 PM

To: Alice Paylor <apaylor@rosenhagood.com>

Cc: "Price, Bentley" <bpricej@sccourts.org>, "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>, Bijan Ghom <bghom@rosenhagood.com>, Taylor Davis <tdavis@rosenhagood.com>

Thank you Alice! Has this been e-filed as well?

Julie

On Jul 8, 2020, at 11:20 AM, Alice Paylor <apaylor@rosenhagood.com> wrote:

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Dear Judge Price, attached is a proposed order for your review and consideration in the matter of Steed v. Heyward.
Thank you for your consideration.

Alice Paylor

<404536.docx>

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**Alice Paylor** <apaylor@rosenhagood.com>

Wed, Jul 8, 2020 at 12:45 PM

To: "Price, Bentley Law Clerk (Juliana Beeks)" &lt;bpricelc@sccourts.org&gt;, Alice Paylor &lt;apaylor@rosenhagood.com&gt;

Cc: "Price, Bentley" &lt;bpricej@sccourts.org&gt;, "karen@dejonglawfirm.com" &lt;karen@dejonglawfirm.com&gt;, Bijan Ghom &lt;bghom@rosenhagood.com&gt;, Taylor Davis &lt;tdavis@rosenhagood.com&gt;

No. Taylor, please do that. Thanks, Julie

Sent with BlackBerry Work

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[Quoted text hidden]

245

**Taylor Davis** <tdavis@rosenhagood.com>

Wed, Jul 8, 2020 at 1:03 PM

To: Alice Paylor <apaylor@rosenhagood.com>, "Price, Bentley Law Clerk (Juliana Beeks)" <bpricelc@sccourts.org>

Cc: "Price, Bentley" <bpricej@sccourts.org>, "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>, Bijan Ghom <bghom@rosenhagood.com>

It has been e-filed.

Thank you!

Taylor Davis

*|Legal Assistant to Andrew Gowdown, Alice Paylor & Elizabeth Palmer|*

151 Meeting St., Suite 400

Charleston SC 29401

|office| 843-577-6726

|fax| 843-724-8036

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**From:** Alice Paylor <apaylor@rosenhagood.com>

**Sent:** Wednesday, July 8, 2020 12:46 PM

**To:** Price, Bentley Law Clerk (Juliana Beeks) <bpricelc@sccourts.org>; Alice Paylor <apaylor@rosenhagood.com>

**Cc:** Price, Bentley <bpricej@sccourts.org>; karen@dejonglawfirm.com; Bijan Ghom <bghom@rosenhagood.com>;

Taylor Davis <tdavis@rosenhagood.com>

**Subject:** RE: 404536

No. Taylor, please do that. Thanks, Julie

246

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**From:** Price, Bentley Law Clerk (Juliana Beeks) <bpricelc@sccourts.org>

**Date:** Wednesday, Jul 08, 2020, 12:35 PM

**To:** Alice Paylor <apaylor@rosenhagood.com>

**Cc:** Price, Bentley <bpricej@sccourts.org>, karen@dejonglawfirm.com <karen@dejonglawfirm.com>, Bijan Ghom <bghom@rosenhagood.com>, Taylor Davis <tdavis@rosenhagood.com>

**Subject:** Re: 404536

[Quoted text hidden]

247

|                                                |   |                                |
|------------------------------------------------|---|--------------------------------|
| STATE OF SOUTH CAROLINA                        | ) | IN THE COURT OF COMMON PLEAS   |
|                                                | ) | FOR THE NINTH JUDICIAL CIRCUIT |
| COUNTY OF CHARLESTON                           | ) | CASE NO.: 2018-CP-10-04284     |
|                                                | ) |                                |
| BONITA STEED AND BERNARD                       | ) |                                |
| STEED,                                         | ) |                                |
|                                                | ) |                                |
| Plaintiffs,                                    | ) |                                |
|                                                | ) |                                |
| vs.                                            | ) |                                |
|                                                | ) | <b>ORDER GRANTING SUMMARY</b>  |
|                                                | ) | <b>JUDGMENT TO PLAINTIFFS</b>  |
| ANTOINE HEYWARD, RUBY                          | ) |                                |
| HEYWARD and ALSO ALL OTHER                     | ) |                                |
| PERSONS UNKNOWN, Claiming any                  | ) |                                |
| right, title, estate, interest in or lien upon | ) |                                |
| the real estate described in the amended       | ) |                                |
| complaint herein,                              | ) |                                |
|                                                | ) |                                |
| Defendants.                                    | ) |                                |
| _____                                          | ) |                                |
|                                                | ) |                                |

The Plaintiffs' Motion for Summary Judgment came before the Court for a hearing during the week of June 22, 2020. Plaintiffs and Defendants agreed to have the Court rule on the briefs and evidence submitted without a hearing. Having reviewed the evidence presented as well as the briefs submitted by both parties, I have determined that there is no genuine issue of material fact, and that Plaintiffs are entitled to summary judgment as a matter of law in accordance with SCRPC 56.

### BACKGROUND

Plaintiffs brought this action to claim title of the property located at 516 Bank Street, Mt. Pleasant, SC, based on adverse possession. Defendants counterclaimed asserting ownership of the property through a series of deeds to and from Louise Brown Heyward, Plaintiffs' great-grandmother and Defendant Antoine Heyward's grandmother. There is no question that Mrs. Louise Heyward owned the property prior to her death in

2000. This action concerns the ownership after that time and whether Plaintiffs have met the requirements to establish title by adverse possession. Based on the undisputed facts and the law, I have concluded the Plaintiff have met the required burden and are entitled to title of the property.

In 1999, Mrs. Louise Heyward signed a deed to her son Robert Heyward (father and husband of the Defendants). Mr. Heyward died in 2014 without disclosing to the Plaintiffs, who have resided on the property in question from 1966 to the present, that he had been deeded the property by Mrs. Heyward. In 2015, Antoine Heyward contacted the Plaintiffs and demanded that they start paying rent to him, and they refused. Plaintiffs commenced this action in 2018 seeking to have title vested in them by adverse possession. The evidence show that Plaintiffs have continuously and exclusively under right of title occupied the property from 2000 to the present day, and that Defendants have never occupied, improved, or maintained the property occupied by the Plaintiffs during this 20 year period.

### **FINDINGS OF FACTS<sup>1</sup>**

The subject real property, located at 516 Bank Street, Mt. Pleasant, South Carolina (hereinafter "Property") is more fully described as follows:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.

---

<sup>1</sup> The Court is required to take the facts in the light most favorable to the non-moving party, so I have relied primarily on Defendant Antoine Heyward's deposition testimony.

BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

Defendant Antoine Heyward has lived his entire life in Chicago, Illinois, with his mother, Defendant Ruby Heyward. Neither Defendant has ever occupied, or resided at, the Property. Antoine Heyward Deposition, p. 5. The Plaintiffs are cousins of Antoine Heyward. He testified that he met them when he was younger and came to visit them at “their home,” the Property. The Plaintiffs have always lived at the Property to Antoine’s knowledge. Id. at pp. 6-7. Antoine Heyward last visited the Property in 2014 when Plaintiffs allowed the repass for the funeral service of his father to be held there. Id. at p. 9. Antoine testified that he does not have, and has never had, a key to the Property. Id. at pp. 9-10.

In 2015, after his father died, Antoine hired an attorney who sent a letter to Plaintiffs requesting that they pay rent to Antoine for 516 Bank Street. Robert Heyward had never requested rent from Plaintiffs, and Antoine decided that things were going to change when he inherited the Property. Plaintiffs refused to pay rent, and the conversation did not go well. Id. at pp. 15-16. Robert Heyward, who received the property from his mother just prior to her death, had never told the Plaintiffs of his claim to ownership of the Property, and Plaintiffs believed that they owned the Property. Id. at pp. 17-18; Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed. Robert Heyward lived in Chicago at the time of his mother’s death in 2000 until his death

in 2014, and he would only go to the Property approximately once a year in the summers while his mother was still alive. After her death in 2000, Robert Heyward went to the Property less frequently. He always contacted the Plaintiffs prior to coming and asked them if he could stay on the property. Id. at pp.19-20. Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed.

The residential structure on the Property is made up of two rectangles attached to each other. The Plaintiffs lived in both rectangles. Plaintiffs' mother built one of the rectangles after the death of her husband, Plaintiffs' father. In addition to their family building one-half of the structure, Plaintiffs made substantial improvements to the property over the years, including the purchase and installation of a central air unit and appliances; installation of a fence, gutters, insulation, hardwood floors, cabinets, and tile flooring; and the construction of a new roof and a room to house the new washer and driver. Affidavits of Bonita Steed, Bernard Steed, Ernest Steed and Robert Steed. Neither Antoine nor Robert Heyward had anything to do with constructing, improving or maintaining the structures or the Property. Heyward Deposition, pp. 21-23; 57-58. Antoine Heyward never paid for insurance on the Property. He tried but the insurance company cancelled it. Id. at p. 26. To Antoine Heyward's knowledge, no one from his family ever told the Plaintiffs that Plaintiffs did not own the Property until he talked to Plaintiff Bonita Steed in 2015 or 2016. Id. at pp. 30-31. Antoine Heyward acknowledged that during the last 20 years, the Steeds had no reason to believe that they did not own the Property—where they had lived for over 50 years. Id.

Antoine Heyward had no knowledge of who paid the taxes on the Property while his father was alive. After his father's death, Defendants received the tax bill and had the Plaintiffs pay half of it. *Id.* at pp. 31-32.

Plaintiffs have a plat, dated September 18, 1998, showing that Alethia Steed, Plaintiffs' mother, owned the Property. Antoine Heyward has no knowledge of the plat or who created it. Antoine Heyward does not know when his father claimed to have taken ownership of the Property. *Id.* at pp. 34-36. Antoine Heyward acknowledged that Plaintiffs had built the structure on the Property and stated that he would not build a structure on property that he did not own. *Id.* at pp. 37-38.

Antoine Heyward has never visited the Property without the consent of the Plaintiffs. *Id.* at p. 38. No one has lived at the property since 1999 or 2000 after Mrs. Heyward died other than the Plaintiffs. *Id.* at p. 42. Plaintiffs have always taken the position that they own the Property based on their living there for 54 continuous years with exclusive possession since the death of Louise Brown Heyward in 2000.

The Plaintiffs and their two brothers gave affidavits in which they all said neither Antoine, Ruby, nor Robert Heyward ever gave them permission to live on the property, and, instead, it was Robert who would seek permission from Plaintiffs to stay there when he was alive. Antoine Heyward testified that he "consented" to Plaintiff living there but, when asked what he meant by "consent," he testified that he was aware that they were living there. He stated that the Plaintiffs had never asked his permission to live there and he had no knowledge or evidence of them asking Robert Heyward if they could live there. In other words, Antoine failed to present any evidence that Plaintiffs possessed the property with the title owner's consent, because his family never told Plaintiffs of their

ownership claim. Heyward Deposition, p. 72. When Antoine told the Plaintiffs that he owned the Property, Plaintiffs expressly opposed the claim. *Id.*, p. 33. Antoine testified that he never saw his father do anything on the Property that an owner would do: "Everything was already up and – it's not his..." *Id.*, p. 57.

### CONCLUSIONS OF LAW

This Court has jurisdiction over the subject matter of this action and of the parties hereto. In Taylor v. Heirs of Taylor, 419 S.C. 639, 799 S.E.2d 919 (S.C. Ct. App. 2017), the Court of Appeals handled a case similar to the one before the Court and reversed the trial court's decision that adverse possession had not been proved and set forth a thorough discussion of the evidence required:

The party asserting adverse possession must show continuous, hostile, open, actual, notorious, and exclusive possession for a certain period of time." *Id.* In South Carolina, the statutory period for adverse possession is ten years. S.C. Code Ann. § 15-67-210 (2005); *Jones*, 384 S.C. at 10, 681 S.E.2d at 11. A party asserting ownership by adverse possession must show he has met the elements by clear and convincing evidence. *Jones*, 384 S.C. at 10–11, 681 S.E.2d at 11.

To claim title by adverse possession, a party must show the extent of his possession even when entering under color of title. *Clark v. Hargrave*, 323 S.C. 84, 87, 473 S.E.2d 474, 476 (Ct. App. 1996) (per curiam). Color of title alone is not evidence of adverse possession, and "it does not follow that adverse possession can be proved by less evidence when the entry is under color of title than when it is not." *Id.* at 87, 473 S.E.2d at 477 (quoting *Butler v. Lindsey*, 293 S.C. 466, 470, 361 S.E.2d 621, 623 (Ct. App. 1987)). However, color of title is evidence of the extent of the claim and should be considered with the other facts in the case. *Woodle v. Tilghman*, 252 S.C. 138, 144–45, 165 S.E.2d 702, 705 (1969) (internal quotation omitted). Color of title need not be a deed; "[i]t is anything which shows the extent of [the] occupant's claim." *Id.* at 145, 165 S.E.2d at 705. "It is by no means necessary that the paper should be in the form of a deed. A bond or even a receipt would be sufficient." *Id.* "The principle purpose of color of title in adverse possession proceedings is not to show actual grant of land or interest therein, but to designate [the] boundary of possessor's claim." *Id.*

For possession to be open and notorious, "the legal owner need not have actual knowledge the claimant is claiming property adversely, [but] the hostile possession should be so notorious that the legal owner by ordinary diligence should have known of it." *Jones*, 384 S.C. at 13–14, 681 S.E.2d at 13. "[A]cts of ownership of open land for purposes of adverse possession need not include actual residency or occupancy." *Id.* at 14, 681 S.E.2d at 13. "Moreover, activities that do not involve the creation of permanent structures on the land can be sufficiently open and notorious as to put the legal owner on notice that his land is being adversely possessed." *Id.*

For possession to be continuous, a party "claiming adverse possession must have personally held the property for ten years." *Id.* at 15, 681 S.E.2d at 14. "Occasional and temporary use or occupation does not constitute adverse possession. However, the rule requiring continuity of possession does not mean the person in possession must be actually on the land during the whole of the statutory period." *Id.* at 16, 681 S.E.2d at 14 (citation omitted).

To show the possession was hostile, the adverse claimant is required to show only that his possession was actual, exclusive, open, notorious, and without the consent of the title owner. *Knox v. Bogan*, 322 S.C. 64, 70, 472 S.E.2d 43, 47 (Ct. App. 1996). The mistaken belief rule, which requires the possessor to be aware he does not have title and intend to dispossess the true owner, is not applicable in disputes over entire tracts of land. *Id.*; see also *Perry v. Heirs at Law & Distributees of Gadsden*, 316 S.C. 224, 226, 449 S.E.2d 250, 251 (1994) (per curiam) (finding the mistaken belief rule does not apply in a dispute over an entire tract of land, rather it applies in a boundary line dispute). Thus, for the possession to be hostile when an entire tract of land is at issue, the adverse claimant need not show a conscious intent to dispossess the true owner. *McDaniel v. Kendrick*, 386 S.C. 437, 442–43, 688 S.E.2d 852, 855 (Ct. App. 2009). The claimant may establish hostile possession by showing he occupied the property without the title owner's consent even if he occupied the property under the mistaken belief that it belonged to him. *Id.*

419 S.C. at 650-652, 799 S.E.2d 924-925.

Plaintiffs presented clear and convincing evidence to this Court that their possession of this property was actual, open, notorious, hostile, exclusive and continuous between 2000 when Louise Heyward died and today. Defendants argued in their brief only that Plaintiffs did not prove that their occupation was hostile. However, as set forth

above, the Plaintiffs “may establish hostile possession by showing [they] occupied the property without the title owner’s consent even if [they] occupied the property under the mistaken belief that it belonged to [them].” *Id.* In Taylor, the Court held that “there was no evidence in the record indicating [claimants] possessed [the property with title owner’s] permission or consent.”

As the Plaintiffs have all stated in their affidavits, neither Defendants nor Robert Heyward ever gave them permission to live on the property and, instead, Plaintiffs gave Robert Heyward permission to stay there when he was alive. See Bernard Steed Affidavit, para. 8. Defendants have not put forth any evidence that the Plaintiffs possessed the Property with the title owner’s consent. As set forth in Taylor, Defendants’ awareness that Plaintiffs lived on the Property is not sufficient to show that Plaintiffs lived there with consent. The evidence before the Court is that Plaintiffs lived there under the belief that they owned the Property.

Defendant Antoine Heyward’s testimony that he never saw his father do anything on the Property that an owner would do unequivocally shows that Plaintiffs treated this property as their own for the statutory period: “Everything was already up and **–it’s not his...**” *Id.*, p. 57. Clearly, Defendants either knew, or should have known, that Plaintiffs claimed ownership, and Defendants’ actions towards Plaintiffs (at least until 2015) acknowledged Plaintiffs’ ownership of the Property. Because Plaintiffs have presented clear and convincing evidence that they have met all the requirements to own the Property by adverse possession, Plaintiffs are entitled to summary judgment as a matter of law.

As an additional sustaining ground, I find that Defendants' claim to the Property is barred by the equitable doctrine of laches. A party asserting adverse possession in a quiet title action can establish the defense of laches. See Jones v. Leagan, 384 S.C. 1, 20, 681 S.E.2d 6, 16 (Ct. App. 2009) ("The party seeking to establish laches must show (1) delay, (2) that was unreasonable under the circumstances, and (3) prejudice."). As in Jones, the Plaintiffs here have invested a significant amount of time and money improving the Property during the twenty year period that Defendants claim they have owned the Property. At no point during that period did any of the Defendants or Robert Heyward tell Plaintiffs that they had a deed to the Property, nor did they make any improvements to the Property. It would be inequitable to permit the Defendants to make an ownership claim to the Property after twenty years of inaction and failing to inform Plaintiffs of their claim, despite knowing the substantial time and money that Plaintiffs had and were investing in the Property. I find that because the Defendants had twenty years to take steps to protect their rights in the Property, yet failed to do so, the doctrine of laches bars Defendants from claiming ownership to the property.

IT IS HEREBY ORDERED, ADJUDGED and DECREED that the following property is quieted and confirmed onto Plaintiffs Bernard Steed and Bonita Steed, as well as to their brothers, Robert Steed and Ernest Steed and that Bernard, Bonita, Robert and Ernest Steed are vested with fee simple title, free and clear of the claims of all others, to the following described real property:

All that piece, parcel or lot of land, situate, lying and being in Christ Church Parish, Town of Mount Pleasant, County of Charleston, and State of South Carolina, known and designated at Lot No. 7 on a plat of the Town of Mount Pleasant made by J.B. Weston, Registered Surveyor, dated August 18, 1953.

MEASURING AND CONTAINING Fifty (50') feet in width and One Hundred Sixty-Eight and 04/10 (168.4') feet in depth.

BUTTING AND BOUNDING as follows: North on Lots Nos. 5 and 6, northeast on Lot 6 and Bank Street, southeast and west on Lot 13 and 14 as shown on said plat.

BEING the same property conveyed to Louise Brown Heyward by deed of P.A. Foster and J.M. Graham dated July 27, 1960, and recorded in the RMC Office for Charleston County in Deed Book A72, at page 175 on August 2, 1960.

TMS # 532-05-00-113

Upon request by Plaintiffs, and upon payment of the applicable fee, this Court shall issue a Master's Deed consistent with the terms of this Order.

AND IT IS ORDERED this \_\_\_\_ day of July, 2020, at Charleston, South Carolina

---

Bentley Price  
Circuit Court Judge

DEJONG LAW FIRM, LLC  
222 West Coleman Blvd., Ste. 110  
Mt. Pleasant, SC 29464  
Tel. No. 843-216-6161  
[karen@dejonglawfirm.com](mailto:karen@dejonglawfirm.com)

E-FILE

November 20, 2019

Julie Armstrong  
Charleston County Clerk  
100 Broad Street  
Charleston, SC 29401

Re: Steed v. Heyward  
Case No. 2018-CP-10-04284

Dear Ms. Armstrong:

Please be advised that pursuant to Court Order filed on September 13, 2019, Defendant Antoine Heyward has consented to be appointed the Conservator of Defendant Ruby Heyward so that her interests are protected. Plaintiff's counsel is neutral on this appointment.

Very truly yours,  
s/Karen M. DeJong

Karen M. DeJong

KMD:abc

**RE: Steed v. Heyward****"Alice Paylor"** [apaylor@rosenhagood.com]**Sent:** 7/24/2020 2:05 PM**To:** ""karen@dejonglawfirm.com"" <karen@dejonglawfirm.com>**Cc:** ""Bijan Ghom"" <bghom@rosenhagood.com>

Also, I have done nothing to move along the fees award. I have no problem with his hearing this separately.

Alice Paylor

*|Attorney at Law|*

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**From:** karen@dejonglawfirm.com <karen@dejonglawfirm.com>**Sent:** Friday, July 24, 2020 1:25 PM**To:** Alice Paylor <apaylor@rosenhagood.com>**Subject:** RE: Steed v. Heyward

We had agreed that all other motions would be held in abeyance until your Motion for SJ was heard, in order to save our clients additional attorney fees. That is why I did not file any opposition pleadings to your request for attorney fees. Nevertheless, you did not tell the court that the award for attorney fees was premature. There will be an appeal.

**Karen M. DeJong, Esq.**

DeJong Law Firm, LLC

222 West Coleman Blvd., Ste. 110 @ COLEMAN EXECUTIVE CENTER

Mt. Pleasant, SC 29464

Tel. No. (843) 216-6161

Fax No. (843) 300-1080

[karen@dejonglawfirm.com](mailto:karen@dejonglawfirm.com)

Complex Civil Litigation, Corporate

Law, Real Estate and Probate Law

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----- Original Message -----

Subject: RE: Steed v. Heyward  
 From: "Alice Paylor" <[apaylor@rosenhagood.com](mailto:apaylor@rosenhagood.com)>  
 Date: 7/24/20 1:19 pm  
 To: "[karen@dejonglawfirm.com](mailto:karen@dejonglawfirm.com)" <[karen@dejonglawfirm.com](mailto:karen@dejonglawfirm.com)>  
 Cc: "Bijan Ghom" <[bghom@rosenhagood.com](mailto:bghom@rosenhagood.com)>

Karen, the Court awarded the Steeds all of their attorneys' fees and costs in addition to summary judgment. The Steeds will release their right to collect these fees and costs if Mr. Heyward agrees not to appeal and will give the Steeds a deed to the property. Please discuss with him and get back to me at your earliest convenience. Alice

Alice Paylor  
*|Attorney at Law|*

151 Meeting Street, Suite 400  
 Charleston, SC 29401  
 |office| 843-577-6726  
 |fax| 843-724-8036  
 |direct phone| (843) 266-8105  
 |direct fax| (843) 266-2223  
[apaylor@rosenhagood.com](mailto:apaylor@rosenhagood.com)  
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[www.rosenhagood.com](http://www.rosenhagood.com)

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**ROSEN | HAGOOD**

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**From:** [karen@dejonglawfirm.com](mailto:karen@dejonglawfirm.com) <[karen@dejonglawfirm.com](mailto:karen@dejonglawfirm.com)>  
**Sent:** Friday, July 24, 2020 12:55 PM  
**To:** McCoy, Jennifer Law Clerk (English Maull) <[jmccoyle@sccourts.org](mailto:jmccoyle@sccourts.org)>; Alice Paylor <[apaylor@rosenhagood.com](mailto:apaylor@rosenhagood.com)>  
**Cc:** Bijan Ghom <[bghom@rosenhagood.com](mailto:bghom@rosenhagood.com)>  
**Subject:** RE: Steed v. Heyward

Hi, English: Confirming that this matter was heard on the pleadings and that there was no court reporter at the time the Judge made his ruling.

**Karen M. DeJong, Esq.**

DeJong Law Firm, LLC

222 West Coleman Blvd., Ste. 110 @ COLEMAN EXECUTIVE CENTER

**Mt. Pleasant, SC 29464**

Tel. No. (843) 216-6161

Fax No. (843) 300-1080

**karen@dejonglawfirm.com**

Complex Civil Litigation, Corporate

Law, Real Estate and Probate Law

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----- Original Message -----

Subject: RE: Steed v. Heyward

From: "McCoy, Jennifer Law Clerk (English Maull)" <jmccoyle@sccourts.org>

Date: 6/16/20 11:11 am

To: "Alice Paylor" <apaylor@rosenhagood.com>

Cc: "Bijan Ghom" <bghom@rosenhagood.com>, "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>

Since it was put on a roster, we believe it is best for Judge Price to rule on this.

Best,  
English

**English Maull**

Law Clerk to The Honorable Jennifer McCoy

Circuit Court Judge

100 Broad Street, Suite 348

Charleston, South Carolina 29401

Tel.: (843) 958-5066

Fax: (843) 958-5067

jmccoyle@sccourts.org

**From:** Alice Paylor <apaylor@rosenhagood.com>

**Sent:** Tuesday, June 16, 2020 10:49 AM

**To:** McCoy, Jennifer Law Clerk (English Maull) <jmccoyle@sccourts.org>

**Cc:** Bijan Ghom <bghom@rosenhagood.com>; karen@dejonglawfirm.com

**Subject:** Steed v. Heyward

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English, we got a notice that Judge Price would be hearing this matter next week. I thought that Judge McCoy was going to decide the pending motion. If it is for Judge Price, I need to send him the briefs. Could you please let us know? Thanks. Alice

Alice Paylor

*|Attorney at Law|*

151 Meeting Street, Suite 400  
Charleston, SC 29401  
|office| 843-577-6726  
|fax| 843-724-8036  
|direct phone| (843) 266-8105  
|direct fax| (843) 266-2223  
[apaylor@rosenhagood.com](mailto:apaylor@rosenhagood.com)

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Fwd: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020 at 9:30 AM

"Karen DeJong" [dejonglawfirm@gmail.com]

Sent: 10/11/2020 5:44 PM

To: ""JESS LAW"" <karen@dejonglawfirm.com>

----- Forwarded message -----

From: Lisa E. Chapman <LChapman@charlestoncounty.org>

Date: Thu, May 7, 2020 at 11:22 AM

Subject: RE: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020 at 9:30 AM

To: karen@dejonglawfirm.com <karen@dejonglawfirm.com>

Cc: Alice Paylor <apaylor@rosenhagood.com>, McCoy, Jennifer Law Clerk (English Maull) <jmccoylc@sccourts.org>

Thanks for the information Ms. Dejong.

I'll continue the Motions for Sanctions to the next available term. I've copied Judge McCoy's Law Clerk so that she is aware of the continuance and the deadline.

Sincerely,

Lisa Chapman-Bauknight

Common Pleas Non-Jury Docket Coordinator &

Evidence Custodian

Charleston, County Clerk of Court

100 Broad Street, Suite 106

Charleston, SC 29401

*Lchapman@charlestoncounty.org

843-958-5049 (Office)

843-958-5020 (Fax)

*Please note my new email address, and update your record accordingly. Thank you.

CourtPlus

From: karen@dejonglawfirm.com <karen@dejonglawfirm.com>

Sent: Thursday, May 07, 2020 2:18 PM

To: Lisa E. Chapman <LChapman@charlestoncounty.org>

Subject: RE: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020 at 9:30 AM

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I have a deadline of May 21 to oppose Plaintiff's Motion for SJ. That will take us past the hearing date.

Karen M. DeJong, Esq.

DeJong Law Firm, LLC

222 West Coleman Blvd., Ste. 110 @ COLEMAN EXECUTIVE CENTER

Mt. Pleasant, SC 29464

Tel. No. (843) 216-6161

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----- Original Message -----

Subject: RE: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020 at 9:30 AM

From: "Lisa E. Chapman" <LChapman@charlestoncounty.org>

Date: 5/7/20 2:06 pm

To: "Alice Paylor" <apaylor@rosenhagood.com>, "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>

Thank you both for the information. I've asked Judge McCoy's Law Clerk if I can substitute the MSJ in place of the motion scheduled. I will let you both know when she answers.

Sincerely,

Lisa Chapman-Bauknight

Common Pleas Non-Jury Docket Coordinator &
Evidence Custodian
Charleston, County Clerk of Court
100 Broad Street, Suite 106
Charleston, SC 29401
*Lchapman@charlestoncounty.org
843-958-5049 (Office)
843-958-5020 (Fax)

*Please note my new email address, and update your record accordingly. Thank you.

-----Original Message-----

From: Alice Paylor <apaylor@rosenhagood.com>
Sent: Thursday, May 07, 2020 1:49 PM
To: karen@dejonglawfirm.com; cpas@charlestoncounty.org; Alice Paylor
<apaylor@rosenhagood.com>
Cc: Lisa E. Chapman <LChapman@charlestoncounty.org>
Subject: RE: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed ,
plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020
at 9:30 AM

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That is correct.

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)

From: karen@dejonglawfirm.com <karen@dejonglawfirm.com>
<mailto:karen@dejonglawfirm.com>>
Date: Thursday, May 07, 2020, 1:30 PM
To: cpas@charlestoncounty.org <cpas@charlestoncounty.org>
<mailto:cpas@charlestoncounty.org>>, Alice Paylor <apaylor@rosenhagood.com>
<mailto:apaylor@rosenhagood.com>>
Cc: Lchapman@charlestoncounty.org <Lchapman@charlestoncounty.org>
<mailto:Lchapman@charlestoncounty.org>>
Subject: RE: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed ,

plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020 at 9:30 AM

Alice and I had a telephone conference call with Judge McCoy at 11:30 a.m. this morning. We agreed to hold off on this motion until the Court has ruled on our Motions for SJ.

Karen M. DeJong, Esq.
DeJong Law Firm, LLC
222 West Coleman Blvd., Ste. 110 @ COLEMAN EXECUTIVE CENTER Mt. Pleasant, SC 29464
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karen@dejonglawfirm.com<mailto:karen@dejonglawfirm.com>
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Subject: Motion "MSANCT-Motion/Sanctions" for Case "2018CP1004284-Bonita Steed , plaintiff, et al VS Antoine Heyward , defendant, et al" was added to a Motions Roster for 5/18/2020 at 9:30 AM

From: "cpas@charlestoncounty.org" <cpas@charlestoncounty.org>

Date: 5/7/20 1:20 pm

To: "karen@dejonglawfirm.com" <karen@dejonglawfirm.com>

Cc: "Lchapman@charlestoncounty.org" <Lchapman@charlestoncounty.org>

Motions in the above captioned case will be set during the week of MAY 18, 2020 before the Honorable Judge Jennifer McCoy. Unless a hearing is requested, motion will be ruled on, based on submitted briefs. Briefs are due by 5PM on Friday, May 15th. Please send the briefs to Judge McCoy's Law Clerk and court staff to the email addresses listed below:

jmccoylc@sccourts.org;

Lchapman@charlestoncounty.org; and

cleonard@charlestoncounty.org

If a hearing is requested, please also advise if a Court Reporter and/or interpreter are needed. Please be sure to include the length of time required for the hearing.

Karen M. DeJong, Esq.
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222 West Coleman Blvd., Ste. 110
Mt. Pleasant, SC 29464
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Complex Civil Litigation, Real Estate,
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