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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM WILLIAMSBURGH COUNTY
Court of Common Pleas

Hon. George M. Mc Faddin, Jr., Circuit Court Judge

Case No. 2016-CP-45-00590, Circuit Court
Appeals Court Docket No. 2021-00849

Cassandra Selph, Plaintiff-appellant, vs.

Barbara Boatwright, Margaret S. Daniels, Individually and as
Personal Representative of the Estate of Eli Selph, Eli Maurice
Selph, and Dwayne Selph, Defendants- respondents

RECORD ON APPEAL

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NOTICE OF APPEAL (Pages 1 and 2)

STATE OF SOUTH CAROLINA)	IN THE COURT OF APPEALS
)	
Cassandra Selph,)	
)	
Plaintiff-appellant,)	
vs.)	
	)	<u>NOTICE OF APPEAL</u>
Barbara Boatwright, Margaret S.)	
Daniels, Individually and as)	
Personal Representative of the)	
Estate of Eli Selph, Eli Maurice)	
Selph, and Dwayne Selph,)	
)	
Defendants-)	
respondents)	


APPEAL FROM WILLIAMSBURGH COUNTY-THIRD CIRCUIT
Court of Common Pleas
Hon. George M. McFaddin, Jr., Circuit Court Judge

Case No. 2016-CP-45-00590

CASSANDRA SELPH appeals the order of the Honorable George M. McFaddin, Jr., dated July 6, 2021. Appellant received notice of entry of this order on July 6, 2021.

Dated: Brooklyn, New York
August 2, 2021

ALTER & BARBARO, ESQS.
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By: 
BERNARD MITCHELL ALTER, ESQ
SC Bar No. 78125

To: The following are the list of defendant-respondents' attorneys:

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Defendant's Attorney: (Eli Maurice Selph)

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Note: Barbara Boatwright is no longer in this matter.

**ORDER OF JUDGE MC FADDIN DATED
JULY 6, 2021: PAGES 3-10**

STATE OF SOUTH CAROLINA)
) IN THE COURT OF COMMON PLEAS
)
COUNTY OF WILLIAMSBURG)
) THIRD JUDICIAL CIRCUIT
) 2016-CP-45-00590

Cassandra Selph,)
)
) Plaintiff,)

vs.)

ORDER

Barbara Boatwright, Margaret S. Daniels,)
)
Individually and as Personal Representative)
of the Estate of Eli Selph, Eli Maurice)
Selph, and Dwayne Selph,)
)
) Defendants.)

Trial Judge: George M. McFaddin, Jr.
Trial Date: January 14, 2021
Plaintiff's Attorney: Bernard Mitchell Alter
Defendant's Attorney: (Margaret S. Daniels) Jerome P. Askins, III
Defendant's Attorney: (Dwayne Selph) Gary W. Crawford
Defendant's Attorney: (Eli Maurice Selph) Gregory B. Askins
Court Reporter: Frances B. Ray

This action was brought by Cassandra Selph for partition of real property located in Williamsburg County which had been owned by the Selph family. The parties attended a mediation conference on January 29, 2019, which resulted in a written Settlement Agreement signed by all parties and their attorneys. The Settlement Agreement incorporated a sketch which had been prepared by a surveyor retained by Ms. Selph's attorneys. The sketch showed the subject property to contain 52.53 acres and showed the manner in which the property was to be divided among Ms. Selph; the Defendant, Margaret S. Daniels – the aunt of the Plaintiff; and the Defendant, Dwayne Selph – the brother of the Plaintiff. The sketch also showed the dimensions of a lot located in the northeastern corner of the Selph property, commonly referred to as the "store lot", in which Margaret S. Daniels had no ownership interest. Located on the subject property was the home place of the parents of Ms. Daniels and the grandparents of Ms.

Selph and Dwayne Selph. At the mediation conference, the home place, including a lot of two (2) acres, was auctioned off between Ms. Selph and Ms. Daniels, the result of which was that Ms. Selph purchased the one-half interest of Ms. Daniels in the home place for \$41,000.00. The purchase price for Ms. Daniels' interest in the home place was to be paid to her on or before March 23, 2019, with a reduction of \$151.70 for revenue stamps on the deed, leaving a balance due of \$40,848.30. Evidently, this amount was placed in an escrow account with Ms. Selph's attorneys at some point, but it was never paid to Ms. Daniels. Ms. Selph refused to execute the deeds to effect the partition that had been agreed upon at the mediation conference. Ms. Daniels and Dwayne Selph each executed the deeds to the other parties and said deeds were delivered to Ms. Selph's attorneys. When Ms. Selph continued to refuse to execute the deeds to carry out the terms of the Settlement Agreement, her attorneys, Mr. O'Bryan and Mr. Reddeck, moved to be relieved as her counsel. The Defendants filed a motion to compel compliance with the Settlement Agreement by the Plaintiff, Ms. Selph. Subsequently, attorney Bernard Mitchell Alter of Brooklyn, New York, was substituted as counsel for the Plaintiff.

A hearing on the motion was heard by me via WebEx on January 14, 2021. Appearing in the virtual courtroom were Jerome P. Askins, III, attorney for the Defendant, Margaret S. Daniels; Gary W. Crawford, attorney for the Defendant, Dwayne Selph; and Bernard Mitchell Alter, attorney for the Plaintiff, Cassandra Selph. This hearing also dealt with a similar motion to enforce a Settlement Agreement in the related case of Cassandra Selph vs. Joshua Selph, et. al., Case No. 2016-CP-45-00588. Appearing in that case were William E. Jenkinson, III and J. Thomas Thompson, attorneys for the Defendant, Joshua Selph, and the estate of his deceased wife, Lynn A. Selph. Mr. Alter appeared for Ms. Selph. This Order pertains only to Case No. 2016-CP-45-00590.

The Defendants all joined in the motion to enforce the Settlement Agreement which provided for the manner of division of the real property and the sale of Ms. Daniels' interest in the home place to Ms. Selph. Additionally, Ms. Daniels requested an award of attorney's fees and costs as a result of Ms. Selph's refusal to comply with the Settlement Agreement. She also requested an award of interest at the

legal rate on the unpaid price for her one-half undivided ownership interest in the home place which was to have been paid by Ms. Selph by March 23, 2019. Ms. Daniels also requested reimbursement for Williamsburg County property taxes on the subject property which she had paid for 2019 and 2020. Ms. Selph contended that the terms of the Settlement Agreement were constantly changed by the other parties and her refusal to comply with the Settlement Agreement and effect the partition should be excused. She acknowledged her liability for part of the Williamsburg County property taxes paid by Ms. Daniels.

I have reviewed the record, including the affidavits filed on behalf of the Plaintiff and the Defendants. I also heard arguments by Mr. Askins and Mr. Alter. It appears that following the mediation, the actual survey of the property revealed that it contained 49.95 acres rather than 52.53 acres as shown on the sketch which the parties signed off on at the mediation. However, it appears that the respective tracts and acreage to be awarded to the parties were proportionately reduced and the plat used to prepare the partition deeds was substantially the same as the sketch attached to the Settlement Agreement. The plat, like the sketch, was prepared by the surveyor who had been hired by Ms. Selph's attorneys. There was also a minor change in the boundary lines between Ms. Selph and her brother, Dwayne Selph, but those changes did not affect the property allotted to Ms. Daniels. The deeds for the property going to each party were prepared by that party's attorney. Ms. Selph's attorneys prepared the deeds to be signed by the other parties for the property going to her, and they approved the deeds prepared by the attorneys for the other parties for the property going to them. Nonetheless, Ms. Selph refused to execute the deeds. It further appears that despite Ms. Selph's failure to pay the purchase price of Ms. Daniels' interest in the Selph home place, Ms. Selph took over the home place as if it were her own, to the exclusion of Ms. Daniels, even undertaking repairs and renovations. When Ms. Selph continued to refuse to execute the partition deeds, her attorneys filed a motion to be relieved as counsel, citing "a total and irreparable breakdown of the attorney/client relationship."

It is noteworthy that Mr. Alter, attorney for Ms. Selph, stated that his client is now ready to execute the deeds to complete the partition in accordance with the Settlement Agreement, but she does

not feel she should be required to pay attorney's fees or interest on the indebtedness to Ms. Daniels. She apparently concedes that she does owe for part of the property taxes that were paid by Ms. Daniels and that there will be additional costs in concluding the partition.

I make the following findings:

1. The Plaintiff, Cassandra Selph, willfully refused to comply with the terms of the Settlement Agreement entered into by the parties at the mediation conference on January 29, 2019, and her refusal to comply with the Settlement Agreement was without just cause. Mediation is an essential tool in the resolution of civil cases and the sanctity of the mediation process must be preserved.
2. The Settlement Agreement entered into by the parties and the South Carolina ADR Rules provide for an award of attorney's fees and costs in the event it becomes necessary for one or more parties to enforce the terms of a Settlement Agreement entered into at a mediation conference. The refusal of Ms. Selph to comply with the terms of the Settlement Agreement caused the other parties, particularly Ms. Daniels, to incur substantial additional attorney's fees and costs. I find that Margaret S. Daniels is entitled to recover reasonable attorney's fees and costs which were incurred as a result of the refusal of Ms. Selph to comply with the terms of the Settlement Agreement. The affidavit of Mr. Askins shows that he had expended 14.1 hours prior to the hearing on the motion and that a minimum of 3 additional hours would be required after the hearing to complete the partition in accordance with the Settlement Agreement. I find that the time spent for the hearing and the preparation and finalizing of the Order would reasonably require 4 additional hours. This would amount to a total of 21.1 hours at an hourly rate of \$250.00 per hour, a total of \$5,275.00. I find that the time expended and the amount of the fee is fair and reasonable given the nature and complexity of the matter, the experience of the attorney and the result obtained. In the event some complication or unforeseen circumstances arise which require additional work by her attorney, Ms. Daniels should have leave to request an additional award of attorney's fees and costs.

3. I find that Ms. Selph took over and exercised exclusive dominion and control over the Selph home place following the mediation conference as if it were her own, to the exclusion of Ms. Daniels. This was not disputed by Ms. Selph. Although the purchase price may have been placed in an escrow account, it was not delivered to Ms. Daniels. Money has a time value, and interest is not imposed merely as a penalty, but reflects the cost of money. Ms. Daniels is entitled to payment for her one-half ownership in the Selph home place plus interest thereon at the same rate as the legal rate for money decrees and judgments from March 23, 2019, until the indebtedness is paid. The legal rate of interest for money decrees and judgments is set in January of each year by the South Carolina Supreme Court based upon the prime rate published by the Wall Street Journal. It was 9.50% from March 31, 2019 through January 14, 2020; 8.75% from January 15, 2020 through January 14, 2021; and 7.25% from January 1, 2021 through January 15, 2022.

4. Ms. Daniels has paid the Williamsburg County property taxes on the subject property in the amount of \$1,959.61 for 2019 and \$1,966.13 for 2020. I find that one-half of the property taxes would have been her responsibility and the other one-half would have been the responsibility of Ms. Selph and Dwayne Selph.

I make the following conclusions of law:

1. Defendants' Motion To Compel compliance with the Settlement Agreement should be granted. The Plaintiff should be compelled to cooperate with the other parties and their attorneys in preparing deeds and other documents necessary or appropriate to carry out the terms of the Settlement Agreement, to promptly execute and deliver such deeds and documents, and to pay her fair share of any costs in having the partition plat approved by Williamsburg County Planning, and the plat and deeds recorded.
2. Ms. Daniels is entitled to recover from Ms. Selph attorney's fees of \$5,275.00 and costs of \$57.36 which were incurred as the result of the failure and refusal of Ms. Selph to comply with the terms of the Settlement Agreement. Said amount should be paid within a reasonable time.

3. Ms. Daniels is entitled to recover from Ms. Selph the purchase price of \$40,848.30 for her one-half interest in the Selph home place plus interest at the same rate as the legal rate for money decrees and judgments from March 23, 2019, through the date of payment. The purchase price plus interest through February 4, 2021, amounts to \$48,034.86, with a daily interest accrual thereafter at the rate of 7.25%, amounting to \$8.8725 per day. The indebtedness should be paid in full within a reasonable time.
4. Ms. Daniels is entitled to recover from Ms. Selph and Dwayne Selph their respective shares of the Williamsburg County property taxes for 2019 and 2020 which were paid by Ms. Daniels. Ms. Selph and Dwayne Selph together should promptly reimburse M. Daniels for one-half of the taxes paid by Ms. Daniels.
5. The sums payable by Ms. Selph to Ms. Daniels or her attorney should constitute a lien upon the interest of Ms. Selph in the Selph property until said indebtedness is paid in full.

Now therefore, it is

ORDERED that Cassandra Selph and her attorney cooperate with the Defendants, Margaret S. Daniels and Dwayne Selph, and their attorneys, to promptly carry out the terms of the Settlement Agreement entered into by the parties on January 29, 2019, with reference to the plat prepared by Kevin Wilson, PLS, showing 49.95 acres in the Selph property. They shall promptly prepare or arrange for the preparation of such deeds and documents as may be necessary or appropriate, Ms. Selph shall promptly execute such deeds or documents as may be necessary or appropriate, she shall promptly pay her proper share of any costs associated with the recording of the subject plat and deeds and she shall otherwise cooperate in concluding the partition of the subject property without undue delay. It is

FURTHER ORDERED that Cassandra Selph pay to Margaret S. Daniels or her attorney the sum of \$5,275.00 as reasonable attorney's fees incurred as a result of the failure and refusal of Ms. Selph to comply with the Settlement Agreement. Said sum shall be paid within forty-five (45) days of the filing of this Order. It is

FURTHER ORDERED that Cassandra Selph pay to Margaret S. Daniels or her attorney the sum of \$40,848.30 plus interest at the same rate as the legal rate for money decrees and judgments, from March 23, 2019, through the date of payment, amounting to \$48,034.86 plus interest after February 4, 2021, at the rate of 7.25% or \$8.8725 per day, until paid in full. Said payment shall be made within forty-five (45) days of the filing of this Order. It is

FURTHER ORDERED that Cassandra Selph and Dwayne Selph together pay to Margaret S. Daniels a sum equivalent to one-half of the Williamsburg County property taxes on the subject property for 2019 and 2020, amounting to \$1,962.87. Said amount shall be paid to Margaret S. Daniels or her attorney within forty-five (45) days of the date of filing of this Order. It is

FURTHER ORDERED that any indebtedness required to be paid by Cassandra Selph to Margaret S. Daniels or her attorney shall constitute liens upon her interest in the entire Selph property which is the subject of this action, including the home place, until paid in full. Upon receipt of payment of said sums, Margaret S. Daniels and/or her attorney shall promptly execute and deliver an appropriate receipt of payment to Cassandra Selph or her attorney. It is

FURTHER ORDERED that the parties and their attorneys cooperate and act diligently to have all deeds and documents promptly executed and delivered. Each party's attorney shall be responsible for the preparation of the deeds to his client. The deeds shall be circulated for execution and the executed deeds shall be promptly returned to Mr. Askins for recording. Each party shall have the opportunity to conduct such title examination as he or she feels is necessary or appropriate before the recording of such deeds. Each party shall promptly pay his or her share of the costs associated with the recording of the deeds and subdivision plat. The partition deeds shall not be recorded until all required payments to Ms. Daniels or her attorney have been made.

AND IT IS SO ORDERED.

_____, South Carolina
February ____, 2021.

George M. McFaddin, Circuit Court Judge



Williamsburg Common Pleas

Case Caption: Cassandra Selph VS Barbara Boatwright , defendant, et al

Case Number: 2016CP4500590

Type: Order/Other

So Ordered

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

Electronically signed on 2021-07-06 13:43:26 page 8 of 8

STATE OF SOUTH CAROLINA)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG	)	OF THE THIRD JUDICIAL CIRCUIT
)	
Cassandra Selph,	)	SUMMONS
Plaintiff,)	
)	
vs.	)	FILE NO. 2016-CP-45-
)	
Barbara Boatwright, Margaret S. Daniels,)	
Individually and as Personal Representative of the)	
Estate of Eli Selph, Eli Maurice Selph, and)	
Dwayne Selph,)	
Defendants.)	

TO THE DEFENDANT ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint, Judgment by Default will be rendered against you for the relief demanded in the Complaint.

Kingstree, South Carolina
December 20, 2016

O'BRYAN & O'BRYAN

NETTLES, TURBEVILLE, & REDDECK

By: /s/William M. O'Bryan, Jr.
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STATE OF SOUTH CAROLINA,)	
)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG)	OF THE THIRD JUDICIAL CIRCUIT
)	
Cassandra Selph,	)	COMPLAINT
Plaintiff,)	
)	
vs.	)	FILE NO. 2016-CP-45-
)	
Barbara S. Boatwright, Margaret S. Daniels,)	
Individually and as Personal Representative of the)	
Estate of Eli Selph, Eli Maurice Selph, and)	
Dwayne Selph,)	
Defendants.)	

The Plaintiff, complaining of the Defendants herein, alleges as follows:

1. The Plaintiff is a citizen and resident of the County of Kings, State of New York.
2. The Defendants, Barbara S. Boatwright and Margaret S. Daniels are, upon information and belief, citizens and residents of the County of Williamsburg, State of South Carolina. Additionally, the Defendant, Margaret S. Daniels is, according to Case/File Number 2012-ES-45-00018 of record of the Probate Court of Williamsburg County, the duly appointed Personal Representative of the Estate of Eli Selph.
3. The Defendant, Eli Maurice Selph, is, upon information and belief, a citizen and resident of the County of Newark, State of New Jersey.
4. The Defendant, Dwayne Selph, is, upon information and belief, a citizen and resident of the County of Baltimore, State of Maryland.
5. The real property which is the subject of this action consist of a tract of land located in Williamsburg County, South Carolina which is described as follows:

All that certain tract of land containing fifty (50) Acres, more or less, situate in Williamsburg County, South Carolina, bounded on the Northeast by SC Highway 261 and by lot now or formerly of Nemiah Selph and Eli Selph; on the Southeast by lot now or formerly of Nemiah Selph and Eli Selph and by SC Highway 513, commonly known as the County Line Road, by lot now or formerly of Gray, *et al*, and by lands now or formerly of the Mack Weaver Estate; Southwest by said lot now or formerly of Gray, *et al*, by lands now or formerly of the Mack Weaver Estate; and, on the Northwest by lands now or formerly of the Mack Weaver Estate and by lands now or formerly of E.J. Pope.

The undivided one-half interest of Eli Selph in said premises was conveyed to Margaret S. Daniels by deed filed for record January 8, 2004 in the Office of the Clerk of Court for Williamsburg County in Deed Book A544, Page 182; the undivided one-half interest of Nemiah Selph was conveyed to Barbara S. Boatwright, Cassandra Selph and Dwayne Selph by Deed of Distribution pursuant to his devise by Deed of Distribution filed for record June 16, 2005 in said Clerk’s Office in Deed Book A581, Page 109; subsequently, the undivided one-sixth interest on Barbara S. Boatwright was conveyed to Cassandra Selph by deed filed for record October 12, 2015 in said Clerk’s Office in Deed Book 386, Page 212.

FOR A FIRST CAUSE OF ACTION

6. This action is instituted and maintained under the S.C. Uniform Declaratory Judgment Act, S.C. Code Ann. §15-53-10, *et sequi* and also under the equitable jurisdiction of this Court. This Court has jurisdiction for the parties and the subject of this matter and venue of the property placed in the Court of Common Pleas for Williamsburg County.

7. In previous cases, Samuel J. Selph et al vs. Eli Selph et al. (1996) CASE NO: 96-CP-45-0027 and Eli Selph et al v. Barbara Boatwright et al. (2007) 2007-CP-45-292, this Court dismissed certain claims of incompetence, undue influence, constructive trust, previous litigation, and, in essence, confirmed title in the record owners of the property as to the tract as set forth hereinabove. The Court is requested to take Judicial Notice of the previous actions. Title to said tract as set forth hereinabove is vested in the Plaintiff, an undivided one-third (1/3) interest; in Defendant Dwayne Selph, an undivided one-sixth (1/6) interest; and, in the Defendant, Margaret S. Daniels an undivided one-half (1/2) interest.

8. Williamsburg County Tax Map Number 45-500-009, containing 50 Acres, more or less, was owned by Nemiah Self and Eli Selph, as tenants in common.

9. Defendant, Margaret S. Daniels, received an undivided one-half (1/2) interest in the property by deed of Eli Selph, recorded on January 8, 2004 in Deed Book A544 at Page 182, in the Office of the Clerk of Court for Williamsburg County.

10. Nemiah Selph devised his one-half (1/2) interest in said tract to Defendant, Barbara Boatwright, the Plaintiff, Cassandra Selph, and the Defendant, Dwayne Selph by his Last Will and Testament on file in the Office of the Judge of Probate of Williamsburg County in Case/File Number 2004-ES-45-28 (see also Deed of Distribution filed for record June 16, 2005 in Book A581 at Page 109, in the Office of the Clerk of Court for Williamsburg County).

10. Barbara S. Boatwright subsequently conveyed her interest in the premises to the Plaintiff, Cassandra Selph, by deed filed for record October 12, 2015 in the Office of the Clerk of Court for Williamsburg County in Deed Book 386, Page 212.

11. Since 2005, the Plaintiff has paid a portion of the real estate taxes for the tract designated as Williamsburg County Tax Map Number 45-500-009 containing 50 Acres, more or less, as well as incurred significant legal expenses in defense of the title to said premises and is entitled to be reimbursed for the same.

12. The said fifty (50) acres consists of Tract 1 through 5 as shown on Exhibit "A".

13. The parties have entered into a partial division of the property as follows:

A. Defendant, Barbara S. Boatwright, lives in the family home of Joe Selph, which is located on a portion of Williamsburg County Tax Map Number 45-500-009 and is shown as Tract 4

on the attached Exhibit "A", and has made repairs, and extended funds for the upkeep of the premises.

B. Defendant, Margaret S. Daniels, has a home on a portion of Williamsburg County Tax Map Number 45-500-009, which is designated as Tract 5 on the attached Exhibit "A".

C. Eli Selph constructed and maintained a home on a portion of Williamsburg County Tax Map Number 45-500-009 which is shown as Tract 3 on attached Exhibit "A". He died testate on December 5, 2011, leaving his son, Eli Maurice Selph the residence and property.

14. The division of the property, designated as Tract 1 through Tract 5 on the attached Exhibit "A" amounts to and is a partial division of the property. The only fair and equitable solution as to a division of the property is to complete the partial division already instituted under the equity jurisdiction of this Court. The Plaintiff is informed and believes that this Honorable Court has the jurisdiction to and should confirm ownership and/or complete the division of the Williamsburg County TMS #45-500-009 as described hereinabove and consisting of Tracts 1 through 5 inclusive as set forth on the attached Exhibit "A" in such a manner as to:

A. Allow the Defendant, Barbara S. Boatwright, the use and benefit of the family home site, being Tract 4 (the home of Joe Selph and one Acre surrounding it) for her lifetime, with remainder to the Plaintiff, Cassandra Selph, and the Defendants, Margaret Daniels and Dwayne Selph;

B. Allow the Defendant, Margaret S. Daniels, full ownership of Tract 5 on the attached Exhibit "A", being the home she currently resides in, together with 1 Acre surrounding it with said full ownership of same to be charged against her three-sixths ($3/6$) interest in the property;

C. Allow the Defendant, Eli Maurice Selph full ownership of Tract 3, being the home constructed by Eli Selph with 2 Acres surrounding it, with said ownership of same to be charged against the three-sixths ($3/6$) interest of the Defendant, Margaret S. Daniels and the one-sixth ($1/6$) interest of the Defendant, Dwayne Selph, in the property; or, in the alternative, determine the value of the real estate occupied by the residence and yard and allow Eli Maurice Selph to purchase the same and pay into the Court;

D. Set aside Tract 1 containing 22.43 acres as the property of Margaret Daniels and Dwayne Selph to satisfy all other interest each has in the said property to be partitioned between the Defendants, Margaret Daniels, who owns an undivided three-sixths ($3/6$) interest, the Plaintiff, who owns an undivided two-sixths ($2/6$) interest, and the Defendant, Dwayne Selph, who owns an undivided one-sixth interest ($1/6$).

E. Set aside Tract 2 containing 22.43 acres as the property of the Plaintiff owning a undivided two-third ($2/3$) interest and the Defendant Dwayne Selph owning an undivided one-third ($1/3$) interest. That the interest of the Plaintiff be set out by a division of the property north to south with

Plaintiff receiving the portion of the 50 Acres, more or less designated as Williamsburg County TMS#45-500-009 which encompasses Williamsburg County Tax Map Number 45-500-038 as it sits at the corner of County Line Road and Hemingway Highway

15. That the Plaintiff's Attorneys, William M. O'Bryan, Jr and Larry G. Reddeck are entitled to a reasonable Attorney's fee for the institution and prosecution of this action which is being brought for the benefit of all parties.

16. That upon partition of the premises by the Court, the costs of this action, including reasonable Attorney's fees, costs, expenses, an allowance made for the Special Referee and Guardian Ad Litem (if one becomes necessary), be adjudged and decreed to be paid by the several parties in proportion to their respective interest.

17. There are no liens and/or encumbrances against the real property hereinabove described which appear on record in the Office of the Clerk of Court for Williamsburg County not barred by the statute of limitations.

18. That, in the event the Court determine the property should be sold at public sale, the non-petitioning tenant in common be entitled to a Right of First refusal as contained in §15-61-25 of the *Code of Laws of South Carolina, 1976* (as amended).

FOR A SECOND CAUSE OF ACTION

(Partition/In the Alternative)

19. Each and every allegation contained in paragraph one (1) through eighteen (18) is incorporated herein by reference and is replead as set forth herein in full

20. That the Plaintiff and Defendants are the owners of the real estate hereinabove described and each has an undivided interest and estate in the said real property, which to the best of plaintiff's knowledge, information, and belief, and is as follows:

1.	Cassandra Selph	2/6
2.	Dwayne Selph	1/6
3.	Margaret Daniels	<u>3/6</u>
		6/6 or (100%)

21. The Plaintiff herein is desirous of having the property partitioned in kind and that the interest of the Plaintiff be set out by a division of the property north to south with Plaintiff receiving the portion of the 50 Acres, more or less designated as Williamsburg County TMS#45-500-009 which encompasses Williamsburg County Tax Map Number 45-500-038 as it sits at the corner of County Line Road and Hemingway Highway.

22. That the non-petitioning joint tenants and tenants in common may be entitled to a Right of First

refusal as contained in SC Code section 15-61-25, *South Carolina Code of Laws, 1976* (as amended).

23. The Plaintiff herein has had to hire an attorney for the bringing of this action and upon information and belief is entitled for her attorney's fees and costs and other cost of litigation to be contributed pro rata by the owners in proportion to their interest.

24. That Plaintiff's Attorneys, William M. O'Bryan, Jr and Larry G. Reddeck are entitled to a reasonable attorney's fee for the institution and prosecutions of this action,

25. That upon a partition of the premises by the Court, the costs of this action, including reasonable attorney's fees, costs, expenses, and allowances made for the Special Referee, be adjudged and decreed to be paid by the several parties hereto in proportion to their several interests.

WHEREFORE, THE PLAINTIFF PRAYS AS FOLLOWS:

As to the First Cause of Action

1. That the respective interests of the parties to this action in the above described tracts of land be confirmed as follows: title to the tract as set forth hereinabove is vested in the Plaintiff an undivided one-third (1/3) interest, in Defendant, Dwayne Selph, an undivided one-sixth (1/6) interest, and in the Defendant, Margaret S. Daniels, an undivided one-half (1/2) interest;
2. Grant Defendant, Barbara S. Boatwright, the use and benefit of the family home site, being Tract 4 (the home of Joe Selph and one Acre surrounding it) for her lifetime, with remainder to the Plaintiff, Cassandra Selph, and the Defendants, Margaret Daniels and Dwayne Selph;
3. Grant the Defendant, Margaret S. Daniels, full ownership of Tract 5 on the attached Exhibit "A", being the home she currently resides in, together with 1 Acre surrounding it with said full ownership of same to be charged against her three-sixths (3/6) interest in the property;
4. Grant the Defendant, Eli Maurice Selph full ownership of Tract 3, being the home constructed by Eli Selph with 2 Acres surrounding it, with said ownership of same to be charged against the three-sixths (3/6) interest of the Defendant, Margaret S. Daniels and the one-sixth (1/6) interest of the Defendant, Dwayne Selph, in the property, or, in the alternative, determine the value of the real estate occupied by the residence and yard and allow Eli Maurice Selph to purchase the same and pay into the Court;
5. That the Court then divide the remainder of Williamsburg County Tax Map Number 45-500-009, containing 50 Acres, more or less, shown as Tracts 1 & 2 as shown on attached Exhibit "A" amongst the parties according to their interest in the property after allowances for the home sites of the Defendants, Barbara S. Boatwright, Margaret S. Daniels, and Eli Maurice

Selph with the interest of the Plaintiff set out by a division of the property north to south with Plaintiff receiving the portion of the 50 Acres, more or less designated as Williamsburg County TMS#45-500-009 which encompasses Williamsburg County Tax Map Number 45-500-038 as it sits at the corner of County Line Road and Hemingway Highway;

6. In the event pursuant to the First Cause of Action that the Court may not divide Williamsburg County Tax Map Number 45-500-009, containing 50 Acres, more or less, or partition the property as set forth in the Second Cause of Action without the appointment of Commissioners, that a Writ in Partition be issued appointing Commissioners, that the divisions be surveyed, and that the Court issue its Order as to the Division;
7. That the Court determine any amounts due from or reimbursement due to each party for payment of taxes, legal expenses paid by the Plaintiff, and other expenses of the land;
8. Setting a fair and reasonable attorney's fee for the Plaintiff's attorneys and providing that the payment of Plaintiff's attorney's fees and reasonable costs be paid by the parties in proportion to their interest.
9. That the tract of land above described be partitioned as aforesaid;

As to the Second Cause of Action

10. That such liens, if any, as may be established in this proceeding be adjudged to be liens against the respective lienors inter sese to whom the same refer;
11. Setting a fair and reasonable attorney's fee for the Plaintiffs' attorney and providing that the payment of Plaintiffs' attorney's fees and reasonable costs be paid by the parties in proportion to their interest;
12. That the tract of land above described be partitioned in kind as aforesaid the expenses thereof be contributed by the parties in proportion to their interest and applied in the following order
 - (a) First, to the payment of the costs and expenses of this action; and,
 - (b) Next, to the plaintiff's reasonable attorney's fees and costs; and,
 - (c) For such other and further relief as the Court may deem just and proper.

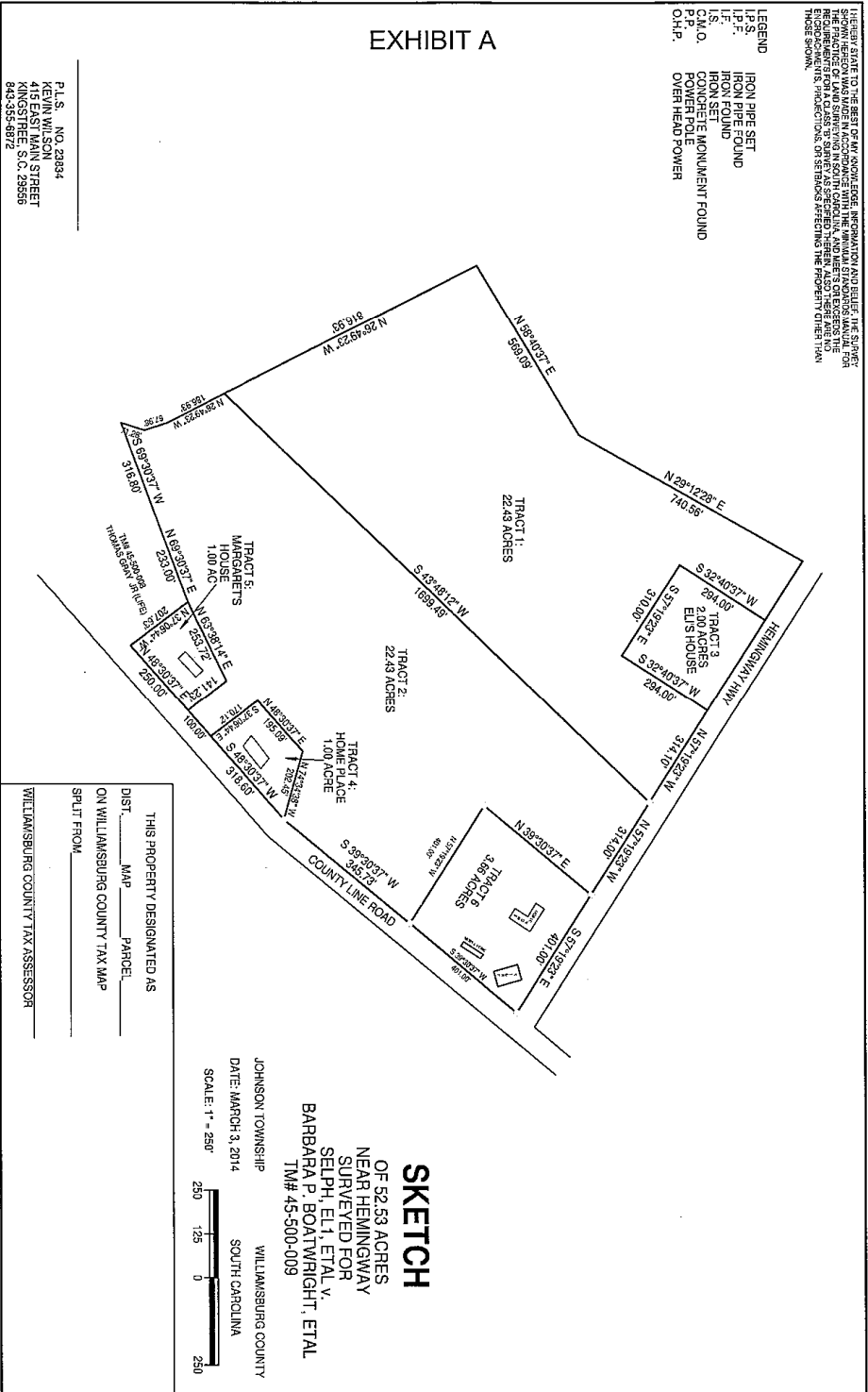
Kingstree, South Carolina
December 21, 2016

O'BRYAN & O'BRYAN

By: /s/William M. O'Bryan, Jr.
William. M. O'Bryan, Jr.,
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NETTLES, TURBEVILLE, & REDDECK

By: /s/Larry G. Reddeck
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STATE OF NEW YORK)
)
COUNTY OF _____) VERIFICATION

PERSONALLY appeared before me Cassandra Selph, who being duly sworn,
deposes and says: that she is the Plaintiff in the foregoing action; that the foregoing
Complaint has been read by her and that the allegations therein are true of her own
knowledge.

Cassandra Selph
Cassandra Selph

SWORN to and subscribed before me
this 18th day of December, 2016

Robert F. Johnson

Notary Public for New York

My Commission Expires: May 31, 2019



ROBERT F. JOHNSON
Notary Public, State of New York
No. 21-4514100
located at Kings County
Commission Expires

May 31, 2019

STATE OF SOUTH CAROLINA)	
)	
COUNTY OF WILLIAMSBURG	)	IN THE COURT OF COMMON PLEAS OF THE THIRD JUDICIAL CIRCUIT
Cassandra Selph,)	
)	
)	
)	
)	
Plaintiff,)	
)	
vs.	)	ANSWER, COUNTERCLAIM AND CROSSCLAIM OF MARGARET S. DANIELS, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF ELI SELPH
)	
Barbara Boatwright, Margaret S. Daniels,)	
Individually and as Personal Representative)	
of the Estate of Eli Selph, Eli Maurice)	
Selph, and Dwayne Selph,)	
)	
	)	FILE NO: 2016-CP-45-00590
Defendants.)	
)	

The Defendant, Margaret S. Daniels, individually and as Personal Representative of the Estate of Eli Selph, and by counterclaim, would respectfully show unto the Court that:

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION:

1. She denies each and every allegation of the Complaint not expressly admitted, qualified or explained herein, and demands strict proof thereof.
2. She is without information as to the residency of the Plaintiff and of Dwayne Selph, and therefore denies the allegations of paragraphs 1 and 4.
3. She admits the allegations of paragraphs 2, 3, and 6.
4. She admits so much of the allegations of paragraph 5 as describe the property and list the conveyances of various interests in the property, but she denies that the ownership of the property is as indicated in paragraph 5.
5. She admits so much of the allegations of paragraph 7 as allege that Case No. 96-CP-45-0027 and Case No. 2007-CP-45-292 were dismissed, and such other matters as are matters of public record, but she denies the balance of the allegations of paragraph 7 as alleged.
6. She denies the allegations of paragraph 8.

7. She admits so much of paragraph 9 as alleges that she received a deed from Eli Selph for his interest in the property which deed was recorded on January 8, 2004, in Deed Book A544 at Page 182, but she denies that her interest in the property is limited to a one-half (1/2) interest in the tract of 50 acres, more or less.

8. She admits so much of the allegations of paragraph 10 as allege that Nemiah Selph devised all of his property to Barbara Boatwright, Cassandra Selph and Dwayne Selph, and that a deed of distribution was filed, but denies that Nemiah Selph owned one-half interest of all of subject property at the time of his death.

9. She admits the allegations of the second paragraph 10 (there are two paragraphs of the Complaint numbered "10").

10. She is without information as to any portion of real estate taxes for the subject property being paid by the Plaintiff since 2005 as alleged in paragraph 11 and therefore denies said allegation and demands strict proof thereof, and she denies that the Plaintiff is entitled to receive any reimbursement for taxes or for any legal expenses.

11. She admits that the sketch of the subject property shown on Exhibit A of the Complaint and referenced in paragraph 12 is reasonably accurate as to the perimeter boundary lines and as to the approximate location of the store lot and Eli's house, but she denies the balance of the allegations of paragraph 12.

12. She admits so much of the allegations of paragraph 13A as allege that Barbara S. Boatwright lives in the family home of Joe Selph located on the subject property and of subparagraph B as allege that Margaret S. Daniels has a home on a portion of the subject property, and of subparagraph C as allege that Eli Selph constructed and maintained a home on the subject property, and that he died testate on December 5, 2011, leaving his residence to his son, Eli Maurice Selph, but she denies the balance of the allegations of paragraphs 13A, B and C, and she expressly denies that she has entered into any agreement with the Plaintiff.

13. She admits so much of the allegations of paragraph 14 B as allege that she shoul be awarded full ownership of her residence, and would show that the lot or parcel on which it is located consists of two (2) acres, more or less; she admits that full ownership of the former residence of Eli Selph, including the two (2) acres on which it is located, should be awarded to Eli Maurice Selph; but she denies the balance of the allegations of paragraph 14, A-E, as allged.

14. She denies the allegations of paragraph 15 and 16.

15. She admits the allegations of paragraph 17.

16. She admits so much of paragraph 18 as alleges that she as the non-petitioning tenant in common has rights to purchase under §15-61-25 of the Code of Laws of South Carolina, 1976, as amended, but denies that said rights are limited to cases where the Court determines that the entire property should be sold at public sale.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION:

17. She repeats and realleges the allegations of the FIRST DEFENSE TO THE FIRST CAUSE OF ACTION as fully as if stated verbatim herein.

18. She admits so much of the allegations of paragraph 19 as previously admitted and denies the balance of the allegations of paragraph 19.

19. She denies the allegations of paragraph 20 as alleged.

20. She has no idea what the Plaintiff is desirous of, the Plaintiff having apparently changed her mind several times in the past regarding division of the subject property, and she therefore denies the allegations of paragraph 21.

21. She admits the allegations of paragraph 22.

22. She denies the allegations of paragraphs 23, 24 and 25.

FOR A SECOND DEFENSE TO THE FIRST AND SECOND CAUSES OF ACTION:

23. She repeats and realleges the allegations of the previous Defenses as fully as if stated verbatim herein.

24. With the exception of approximately two (2) acres on which the residence of this Defendant is located and approximately two (2) acres on which the former residence of Eli Selph is located, the tract of land which is described in the Complaint is “heirs property” and the Plaintiff and this Defendant are tenants in common as defined in §15-61-10, et. seq., Code of Laws of South Carolina, 1976, as amended.

25. She has certain rights to purchase under §15-61-10, et. seq., Code of Laws of South Carolina, 1976, as amended, which she reserves.

26. The partition in kind proposed by the Plaintiff is unreasonable, unfair and unlawful in that it purports to divide the property strictly by acreage instead of by value, and without regard to factors such as the difference in value of different portions of the tract; the location of ditches, drains and other characteristics and of the features of the land which affect the utility and value of different portions of the tract; and the location of existing improvements on the tract.

27. Any partition in kind ordered by the court must be by value, taking into account the factors set forth in paragraph 26.

28. The action brought by the Plaintiff does not benefit this Defendant in any way.

FOR A THIRD DEFENSE TO THE FIRST AND SECOND CAUSES OF ACTION AND
BY WAY OF A FIRST COUNTERCLAIM AND CROSSCLAIM:

29. She repeats and realleges the allegations of the previous Defenses as fully as if stated verbatim herein.

30. This Defendant is a citizen and resident of the County of Williamsburg, State of South Carolina.

31. The Plaintiff is upon information and belief, a resident of the County of Kings, State of New York.

32. The Defendant, Eli Maurice Selph, is a citizen and resident of the County of Newark, State of New Jersey.

33. Upon information and belief, the Defendant, Dwayne Selph, is a citizen and resident of the County of Baltimore, State of Maryland.

34. The 50 acre tract described in paragraph 5 of the Complaint which is the subject of this action was formerly owned by Joe Self (he spelled his last name Self although his children generally spelled their last name Selph), who is the father of this Defendant, Barbara S. Boatwright, Eli Selph and 11 other children, and the grandfather of the Plaintiff.

35. About 1976 or 1977, while he was sole owner of the subject property, Joe Self gave to this Defendant a lot or parcel of land consisting of approximately 2 acres from the said tract in order for her to locate a residence thereon, said parcel being at 12587 County Line Road and in the general vicinity of Tract 5 as shown on Exhibit A attached to the Complaint, and shown on a sketch added to the Plaintiff's Exhibit A and attached hereto, marked Exhibit B.

36. This Defendant acquired the subject parcel on which she established her residence over 10 years prior to the death of her father, Joe Self, and many years before she acquired any interest in the balance of the property by virtue of a deed from Eli Selph.

37. Although she never obtained a deed from her father, this Defendant took possession of the parcel of land consisting of approximately 2 acres located on the County Line Road in the southeastern corner of the subject tract, she established a permanent residence there, making substantial permanent improvements, and she has possessed and occupied the property as her permanent residence for approximately 40 years.

38. Her possession and occupancy of the said parcel has been continuous, open, notorious and exclusive for approximately 40 years.

39. Her possession and occupancy of the property has been hostile and adverse to all, including all parties owning or claiming any interest in the 50 acre tract from the time of Joe Self to the present, for a period of approximately 40 years.

40. She has acquired full ownership of the subject parcel of approximately 2 acres by adverse possession, and she is entitled to a decree from this Court awarding her fee simple title to said property.

FOR A FOURTH DEFENSE AND BY WAY OF SECOND COUNTERCLAIM
AND CROSSCLAIM:

41. She restates and realleges all of the allegations of the previous defenses, counterclaim and crossclaim as fully as if set forth verbatim herein.

42. In reliance of the parole gift from her father, Joe Self, this Defendant took exclusive possession of the parcel of land consisting of approximately 2 acres, cleared the property and prepared it for her place of residence, established a residence there on a permanent foundation, constructed other permanent improvements on the premises, established a nice yard and has possessed, occupied and maintained the said property as her sole residence to the exclusion of all others for approximately 40 years.

43. The said property has been generally recognized as her residence and her property by all, including members of the Selph family.

44. This Defendant has spent considerable sums of money and long hours in preparing, improving and maintaining the property as her own, acting in reliance upon the gift and representations of her father, Joe Self.

45. There has been sufficient partial performance in the present case to remove the parole gift from the statute of frauds and entitle this Defendant to a decree of specific performance of the parole gift, separate and apart from any interest that she acquired in the subject property by virtue of the deed from Eli Selph.

46. This Defendant is entitled to a decree from this Court that she is the owner in fee simple of the parcel consisting of approximately 2 acres on which she has established and maintained her residence for approximately 40 years.

FOR A FIFTH DEFENSE AND BY WAY OF THIRD COUNTERCLAIM AND CROSSCLAIM:

47. This Defendant repeats and reiterates all of the allegations of the previous defenses, counterclaims and crossclaims as fully as if set forth verbatim herein.

48. If the Court determines that this Defendant is not entitled to an award of ownership of the property consisting of approximately 2 acres on which she has resided for approximately 40 years, and that she is

entitled to purchase the property, the property so purchased should not be charged against the interest of this Defendant in any partition of the remaining property.

49. Prior to his death, Eli Selph constructed a dwelling house on a parcel or lot of approximately 2 acres out of the subject property located on the Hemingway Highway, and occupied the same as his residence and maintained the same until his death.

50. The said Eli Selph devised the residence to his son, Eli Maurice Selph.

51. Upon information and belief, Eli Maurice Selph may be entitled to purchase the real estate on which the residence and yard are located for a reasonable value in accordance with §15-61-110 et. seq., Code of Laws of South Carolina, 1976, as amended, and the portion of the property so purchased should not be charged against the interest of this Defendant in any partition of the remaining property.

52. The parties to this action have been engaged in negotiations for several years regarding the division of the subject property, but the Plaintiff has constantly refused to recognize the rights of this Defendant and of Eli Selph and Eli Maurice Selph with regard to their respective places of residence, making any amicable partition an impossibility.

53. This Defendant has had to hire an attorney to represent her in this action, and she is entitled to an award of reasonable attorney's fees and costs incurred in this action.

54. If there is a partition of the subject property, the costs should be reasonably and equitably allocated to the parties by the Court.

WHEREFORE, this Defendant prays that the Court inquire into the matters set forth herein and that

(1) the Complaint of the Plaintiff be dismissed;

(2) this Defendant be awarded fee simple ownership of approximately 2 acres on which her residence is located at 12587 County Line Road near Hemingway, South Carolina, as shown on the attached sketch, by virtue of adverse possession or specific performance of a parole gift, and in the alternative that she be allowed to purchase the property on which her residence is located at its reasonable

value as unimproved property, and that the same not be charged against any interest to which she would otherwise be entitled in a partition of the remaining property;

(3) the Defendant, Eli Maurice Selph, be allotted the property containing approximately 2 acres located on Hemingway Highway on which the former residence of Eli Selph is situated or allowed to purchase the same at a price equivalent to the reasonable value of the unimproved property;

(4) the right of this Defendant to purchase pursuant to §15-61-10, et. seq., Code of Laws of South Carolina, 1976, as amended by preserved and protected;

(5) should the Court determine that the remaining property should be partitioned in kind, that it be fairly and equitably partitioned by value.

(6) this Defendant be awarded the costs and disbursements of this action including reasonable attorney's fees for her attorney;

(7) the Court provide for such other and further relief as may be just and proper.

ASKINS, CHANDLER & ASKINS, LLP
Attorneys for the Defendant, Margaret S. Daniels

BY: s/ Jerome P. Askins, III
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Hemingway, SC 29554
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Hemingway, South Carolina
March 10, 2017.

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG)	2016-CP-45-00590

Cassandra Selph,)
)
 Plaintiff,)
)
 vs.)
)
 Barbara Boatwright, Margaret S.)
 Daniels, Individually and as)
 Personal Representative of the)
 Estate of Eli Selph, Eli Maurice)
 Selph, and Dwayne Selph,)
)
 Defendants.)
)

PLAINTIFF'S REPLY TO
 ANSWER, COUNTERCLAIM AND
 CROSS-CLAIM OF DEFENDANT
 MARGARET S. DANIELS

TO: JEROME P. ASKINS, III, ESQUIRE, ATTORNEY FOR DEFENDANT
 MARGARET S. DANIELS, INDIVIDUALLY AND AS PERSONAL
 REPRESENTATIVE OF THE ESTATE OF ELI SELPH

The Plaintiff, Cassandra Selph, would answer the Answer, Counterclaim and Cross-Claim of Defendant Margaret S. Daniels, Individually and as Personal Representative of the Estate of Eli Selph, as follows:

FOR A FIRST DEFENSE

1. Each and every allegation of the Answer, Counterclaim and Cross-claim of Defendant Margaret S. Daniels, individually and as Personal Representative of the Estate of Eli Selph ("Daniels Pleading"), not specifically admitted, qualified, explained herein is denied and the Plaintiff demands strict proof thereof.

2. The allegations contained in Paragraphs One (1) and Two (2) do not require a response of the Plaintiff, but to the extent any response is required, the same are denied,

and strict proof thereof is demanded.

3. The allegations contained in Paragraph Three (3) of the Daniels Pleading is admitted.

4. The allegations contained in Paragraph Four (4) of the Daniels Pleading are admitted to the extent that the allegations are consistent with the Complaint. However, to the extent that the allegations contained therein are not consistent with the Complaint, the same are denied, strict proof thereof is demanded, and the ownership of the property as set forth in the Complaint should be confirmed.

5. The allegations contained in Paragraph Five (5) and Six (6) of the Daniels Pleading are denied, and strict proof thereof is demanded.

6. The allegations contained in Paragraph Seven (7) of the Daniels Pleading are denied, strict proof thereof is demanded, and the ownership as set forth in the Complaint should be confirmed.

7. The allegations contained in Paragraph Nine (9) of the Daniels Pleading are admitted.

8. The allegations contained in Paragraphs Eight (8), Ten (10), Eleven (11), Twelve (12), Thirteen (13), and Fourteen (14) of the Daniels Pleading, which are inconsistent with the Complaint, are denied and strict proof thereof is demanded.

9. The allegations contained in Fifteen (15) of the Daniels Pleadings are admitted.

10. The allegations contained in Paragraph Sixteen (16) of the Daniels Pleading are denied and, in further response thereto, the Plaintiff alleges that the applicable statutes

for the partition and sale of property, including any rights of parties to purchase the property in this matter are limited to, and exclusively controlled by, those applicable statutes thereto that were in effect at the time of the filing of this action on December 21, 2016.

11. The allegations contained in Paragraphs Seventeen (17) Eighteen (18), Nineteen (19), Twenty (20), Twenty-two (22), Twenty-three (23) and Twenty-four (24) of the Daniels Pleading are denied, and strict proof thereof is demanded.

12. The allegations contained in Paragraph Twenty-one (21) of the Daniels Pleading are admitted.

13. The allegations contained in Paragraph Twenty-five (25) of the Daniels Pleading are denied and the Plaintiff alleges that any rights to purchase are only allowed in the event of a sale and furthermore, the applicable statute of 15-61-10 et sequi and all other applicable statutes concerning partition and the rights are parties are those in effect as of the time of the filing of the Summons and Complaint in this matter on December 21, 2016.

14. The allegations contained in Paragraphs Twenty-six (26), Twenty-seven (27) Twenty-eight (28) and Twenty-nine (29) of the Daniels Pleading are denied, and strict proof thereof is demanded.

15. The allegations contained in Paragraphs Thirty (30), Thirty-one (31), Thirty-two (32), Thirty-three (33) and Thirty-four (34) of the Daniels Pleading are admitted.

16. The allegations contained in Paragraphs Thirty-five (35) and Thirty-six (36) of the Daniels Pleading are denied and strict proof thereof is demanded.

17. The allegations contained in Paragraph Thirty-seven (37) of the Daniels Pleading that Defendant Margaret S. Daniels has a residence on approximately one (1) acre

of the property is admitted, but all remaining allegations contained therein are denied and strict proof thereof is demanded.

18. The allegations contained in Paragraphs Thirty-eight (38), Thirty-nine (39) Forty (40) and Forty-one (41) of the Daniels Pleading are denied, and strict proof thereof is demanded.

19. So much of the allegations contained in Paragraph Forty-two (42) of the Daniels Pleading that Defendant Margaret S. Daniels has a residence on one (1) acre of the property are admitted, but the remaining allegations are denied, and strict proof thereof is demanded.

20. So much of the allegations contained in Paragraph Forty-three (43) of the Daniel Pleading that Defendant Margaret S. Daniels has a residence on the property located on one (1) acre is admitted but the remaining allegations therein are denied, and strict proof thereof is demanded.

21. The allegations contained in Paragraphs Forty-four (41), Forty-five (45), Forty-six (46), Forty-seven (47) and Forty-eight (48) of the Daniels Pleading are denied, and strict proof thereof is demanded.

22. The allegations contained in Paragraphs Forty-nine (49) and Fifty (50) of the Daniels Pleading are admitted.

23. The allegations contained in Paragraphs Fifty-one (51) and Fifty-two (52) of the Daniels Pleading which are inconsistent with the Complaint are denied and strict proof thereof is demanded.

24. The allegations contained in Paragraph Fifty-two (52) of the Daniels Pleading

that the parties have engaged in negotiations is admitted, but the remaining allegations contained therein are denied and the Plaintiff further alleges that the parties have collectively been unable to come to a mutual agreement.

25. The allegations contained in the Paragraph of Fifty-three (53) of the Daniels Pleading are denied, and strict proof thereof is demanded.

26. The allegations contained in Paragraph Fifty-four (54) of the Daniels Pleading are denied and this Plaintiff alleges that the Rule 71 of the S.C. Rules of Civil Procedure only allows for attorney's fees for the Plaintiff's attorney.

27. Any request in the prayer for relief as set forth in the Daniels Pleading which is inconsistent with the Complaint is denied, and should not be granted.

FOR A SECOND DEFENSE

RES JUDICATA

28. Each and every allegation contained in Paragraph One (1) through Twenty-seven (27) of this Reply are incorporated herein by reference and repled as if set forth herein in full.

29. Each and every allegation of the Complaint in this matter is incorporated herein by reference and repled as if set forth herein in full.

30. By previous Orders of this Court in the case of Samuel J. Selph, et al. vs. Eli Selph, et al., Case No: 1996-CP-45-00027 and Eli Selph, et al. vs. Barbara S. Boatwright, et al., Case No: 2007-CP-45-292, this Court ordered that the record ownership by deeds had been determined and the terms, conditions and every provision of the said Order, are incorporated herein by reference and repled as if set forth herein in full.

31. Based upon that Order, any claims inconsistent with the record ownership of the property which is the subject of this action are barred by res judicata.

FOR A THIRD DEFENSE

LACHES

32. Each and every allegation contained in Paragraphs One (1) through Thirty-one (31) of this Reply is incorporated herein by referenced and repled as if set forth herein in full.

33. Based upon the foregoing allegations and previous Orders of this Court as set forth hereinabove, Defendant Margaret S. Daniel, individually and as Personal Representative for Eli Selph is barred on the grounds of laches from making any claim inconsistent with those with the allegations as set forth in the Complaint.

FOR A FOURTH DEFENSE

ESTOPPEL

34. Each and every allegation contained in Paragraphs One (1) through Thirty-three (33) of this Reply is incorporated herein by referenced and repled as if set forth herein in full.

35. Based upon the foregoing allegations and previous Orders of this Court, as set forth hereinabove, Defendant Margaret S. Daniel, individually and as Personal Representative for Eli Selph is barred on the grounds of estoppel from making any claim inconsistent with the allegations as set forth in the Complaint.

FOR A FIFTH DEFENSE

RES JUDICATA

36. Each and every allegation contained in Paragraphs One (1) through Thirty-

five (35) of this Reply is incorporated herein by referenced and replied as if set forth herein in full.

37. Defendant Margaret S. Daniels, is a devisee of Eli Selph and as Personal Representative of the Estate of Eli Selph and Eli Selph was a Defendant in the litigation of Samuel J. Selph, et al. vs. Eli Selph, et al., Case No: 1996-CP-45-00027, which was an action instituted to declare certain deeds concerning the property, which is the subject of this action, invalid.

38. Defendant Margaret S. Daniels, individually and as Personal Representative for Eli Selph is in privity in to Eli Selph, deceased.

39. The allegations that were contained in the above referenced 1996 action against Eli Selph are matters that arise out of the same matter, transaction and/or occurrence which is the ownership of the property which is the subject of this action. Accordingly, as a Defendant in the 1996 action, Eli Selph was required and bound under Rule 13 of the S.C. Rules of Civil Procedures to allege as a compulsory counterclaim as to the above referenced Complaint in the 1996 action as counterclaims in this previous litigation (Case No: 1996-CP-45-00027).

40. Eli Selph did not file a counterclaim in the 1996 action.

41. Pursuant to Rule 13 of the South Carolina Rules of Civil Procedure and all other applicable rules and laws of this state, Eli Selph and/or those in privity with him, including Defendant Margaret S. Daniel, individually and as Personal Representative for Eli Selph, are prohibited from filing in this action any claim in the Daniels Pleading inconsistent with the final determination of the ownership of the property as determined

by the Court in the 1996 action.

42. Although Eli Selph is now deceased, his successors-in-interest are in privity with him and are bound by his failure to file a compulsory counterclaim and the claims of the successors in interest to Eli Selph that are inconsistent with the Complaint in this matter and should be dismissed for failure to file a compulsory counterclaim.

43. Based upon the foregoing, the Plaintiff is entitled to a dismissal of any claim by claim in the Daniels Pleading that is inconsistent with the Complaint and the previous Orders of this Court.

FOR A SIXTH DEFENSE
WAIVER AND ESTOPPEL AS TO PARTITION IN KIND

44. Each and every allegation contained in Paragraphs One (1) through Forty-three (43) of this Reply is incorporated herein by referenced and replied as if set forth herein in full.

45. The previous Orders of this Court, as set forth above, ordered that the record owners of the property are as set forth in the deeds referenced in that Order, which did and specifically, would have had to include any parol gift to property as alleged by Defendant Margaret S. Daniels, the same being specifically denied and those Orders are pled as a complete and full defense to any claim of parol gift.

46. Furthermore, subject to the Plaintiff's denials as contained herein, any claim of division or use of the property or claim to the property, which was owned by the tenants in common, as established by previous Orders of this Court, and any attempt or use of or claim to the property, as set forth by Defendant, Margaret S. Daniels, by and through herself

and/or her predecessor in title Eli Selph, was in effect a partition of the property, according to the pleadings of the Defendant, Margaret S. Daniels. Accordingly, Margaret S. Daniels has waived any right, and is estopped from requesting or seeking any partition sale of the property, or purchase of the property or any other partition other than an in-kind partition, since a partition was begun by Defendant, Margaret S. Daniels and/or her father Eli Selph.

47. Furthermore, since the partition by Eli Selph or Defendant Margaret S. Daniels was begun according to the allegations contained in the Answer, Crossclaim and Counterclaim, prior to and no later than 2004, Defendant Margaret S. Daniels has no right to purchase the property under §15-61-25 of the Code of Laws of South Carolina, 1976, as amended, since that statute effective until May 25, 2006.

48. Based on the foregoing, any claim of Defendant Margaret S. Daniels, Individually and as Personal Representative of the Estate of Eli Selph, for partition sale of the property or for the purchase of the interest of any cotenant should be barred, denied and estopped as unreasonable, inequitable and unfair.

FOR AN AFFIRMATIVE SEVENTH DEFENSE
CLAIM OF RIGHTS TO PURCHASE

49. Each and every allegation contained in Paragraphs One (1) through Forty-eight (48) of this Reply are incorporated herein by referenced and replied as if set forth herein in full.

50. Since, and according to the pleadings of the Answer, Counterclaim and Crossclaim of Defendant Margaret S. Daniels, both she and her predecessor in title, Eli Selph, have, in essence, effected and begun a partition of the property by making a claim

for two (2) acres, the Plaintiff has the right to and reserves her right to purchase the entire property under §15-61-25.

51. Furthermore, the Plaintiff's Complaint's primary cause of action and not her alternative cause of action seeks to complete a partition of the property, which was begun by Eli Selph and continued by Defendant Margaret S. Daniels, the Answer, Counterclaim and Crossclaim of Defendant, Margaret S. Daniels amounts to, and is, a claim for partition of the property; and the Plaintiff, in seeking to complete a partition in-kind which has already begun, is a non-petitioning party to the partition claim by Defendant, Margaret S. Daniels, and accordingly and reserves the right to purchase the property under §15-61-25 of the Code of Laws of South Carolina, 1976, as amended.

WHEREFORE, the Plaintiff having fully replied to the Answer, Counterclaim and Cross claim of Defendant Margaret S. Daniels, individually and as Personal Representative for Eli Selph, prays that this Court issue its Order dismissing the Daniels Pleading and granting the relief as requested in the Complaint and this Reply.

O'BRYAN & O'BRYAN

NETTLES, TURBEVILLE & REDDECK

By: /s/ William M. O'Bryan, Jr.
William M. O'Bryan, Jr.
SC Bar #9805
Attorney for Plaintiff
P.O. Box 105
1 Courthouse Square
Kingstree, SC 29556
Mobryan@ftc-i.net
843-355-7471

By: /s/ Larry G. Reddeck
Larry G. Reddeck
SC Bar #4663
Attorney for Plaintiff
PO Box 699
261 Kelley Street
Lake City, SC 29560
Larry@ntrlaw.com
843-374-8511

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	CASE NO. 2016-CP-45-00590
 Cassandra Selph,)	
)	
Plaintiff,)	
)	
vs.	)	NOTICE OF MOTION AND
	)	MOTION TO COMPEL COMPLIANCE
Barbara Boatwright, Margaret S. Daniels,	)	WITH SETTLEMENT AGREEMENT
Individually and as Personal Representative)	
of the Estate of Eli Selph, Eli Maurice Selph)	
and Dwayne Selph,)	
)	
Defendants.)	
)	

TO: The Plaintiff, Cassandra Selph, and her attorneys, William M. O’Bryan, Jr. and Larry G. Reddeck

PLEASE TAKE NOTICE that Margaret S. Daniels, individually and as Personal Representative of the Estate of Eli Selph, Eli Maurice Selph and Dwayne Selph hereby move before this Court, at a time and place to be scheduled by the Court, no sooner than ten (10) days after the service hereof, for an Order compelling the Plaintiff, Cassandra Selph, to comply with the written Settlement Agreement entered into by the parties at the mediation conference, signed by the parties and their respective counsel, and awarding attorney’s fees and costs to the moving parties. Said motion shall be heard on the tenth day after service hereof, or as soon thereafter as the matter may be heard at the Williamsburg County Courthouse, Main Street in Kingtree, South Carolina 29556, or such other location as the Court may designate.

This motion is based upon the willful and unjustified refusal of the Plaintiff, Cassandra Selph, to execute deeds and documents prepared by her own attorneys and to pay Margaret S. Daniels, individually, the agreed consideration of \$40,848.30 by March 23, 2019, for her interest in the Selph homeplace in violation of the Settlement Agreement. The Plaintiff should be required to pay to Margaret S. Daniels the stated sum plus interest at the legal rate from March 23, 2019. The Settlement Agreement provides for enforceability and provides that the prevailing party(ies) shall be entitled to recover attorney’s fees and costs for the necessity of enforcing this Agreement. This motion may be supported by affidavits and other relevant documentation as may be presented to the Court. The SETTLEMENT AGREEMENT is attached hereto by reference identified as Exhibit A.

The undersigned certify that they have communicated with counsel for the Plaintiff and attempted in good faith to resolve the matter. The undersigned further certify that further communications with the Plaintiff, or her attorneys would serve no useful purpose.

ASKINS, CHANDLER & ASKINS, LLP
Attorney for the Defendant, Margaret S. Daniels,
Individually and as Personal Representative of the
Estate of Eli Selph

BY: s/ Jerome P. Askins, III
Jerome P. Askins, III, Bar No. 433
PO Box 10, 307 E. Broad Street
Hemingway, SC 29554
Phone: (843) 558-2588
Fax: (843) 558-3234
Email: jpaiii.aca@gmail.com

Hemingway, South Carolina
April 7, 2020.

ASKINS, CHANDLER & ASKINS, LLP
Attorney for the Defendant, Eli Maurice Selph

BY: s/ Gregory B. Askins
Gregory B. Askins, Bar No. 432
PO Box 10, 307 E. Broad Street
Hemingway, SC 29554
Phone: (843) 558-2588
Fax: (843) 558-3234
Email: askinsgregg@gmail.com

Hemingway, South Carolina
April 7, 2020.

CRAWFORD LAW FIRM
Attorney for the Defendant, Dwayne Selph

BY: s/ Gary W. Crawford
Gary W. Crawford
PO Box 508
Florence, SC 29503
Phone: (843) 665-7727
Fax: (843) 667-1073
Email: kitco@msn.com

Florence, South Carolina
April 7, 2020.

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

CASSANDRA SELPH,)

IN THE COURT OF COMMON PLEAS OF THE
THIRD JUDICIAL CIRCUIT
DOCKET No. 2016-CP-45-00590

PLAINTIFF,)

vs.)

SETTLEMENT AGREEMENT

BARBARA BOATWRIGHT, MARGARET S.)
DANIELS, INDIVIDUALLY AND AS PERSONAL)
REPRESENTATIVE OF THE ESTATE OF)
ELI SELPH, ELI MAURICE SELPH AND)
DWAYNE SELPH,)

DEFENDANTS.)

THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION
PURSUANT TO THE SOUTH CAROLINA UNIFORM ARBITRATION ACT
S.C. CODE ANN. §§15-48-10, ET SEQ.

Plaintiff and Defendants agree as follows:

1. Reference is made to the attached "Sketch" which is incorporated by reference herein.
2. Tracts 1, 3, and 5 shall be conveyed to Defendant Margaret S. Daniels.
3. Tract 2 shall be conveyed to Plaintiff.
4. Tract 2A shall be conveyed to Defendant Dwayne Selph.
5. Tract 4 shall be conveyed to Plaintiff for the sum of \$41,000.00 by her, less the sum \$151.70 which represents the deed stamps on this conveyance, for a net payment to Defendant Margaret S. Daniels of \$40,848.30, which shall be paid by March 23, 2019 and held in trust by Mr. O'Bryan as attorney for Plaintiff pending final exchange of all deeds. Defendant Dwayne Selph shall convey his interest in Tract 4 to Plaintiff for the sum of \$5.00 and

41
1

ELECTRONICALLY FILED - 2020 Apr 07 3:12 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2016CP4500590

satisfaction and release of any contribution or other responsibility by Defendant Dwayne Selph for any attorney's fees and property taxes in current and prior litigation concerning these properties and the Estate of Nehemiah Selph.

6. Counsel for Defendant Margaret S. Daniels and Plaintiff shall meet and confer by March 31, 2019 to determine which of the two owes the other for payment of property taxes and adjustments for rent since January 1, 2000. For the purposes of this determination, any obligation or credit of Defendant Dwayne Selph shall be grouped with Plaintiff. If they cannot agree, they agree to submit the issue to Karl A. Folkens as arbitrator for an expedited decision (including via e-mail or conference) whose decision shall be final and binding. Mr. Folkens shall also have the right to allocate the cost of that arbitration to any of the parties.

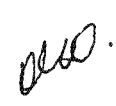
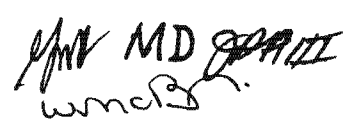
7. The parties will execute special warranty deeds and any other documents necessary to effect the terms of this Agreement. All conveyances shall be free of any liens, and if any judgments or other liens are discovered, the obligated party shall expeditiously obtain the necessary release of such judgment or lien at his or her sole cost.

8. Each party will be responsible for his or her own attorney's fees and costs, including filing fees for any deeds he or she is receiving.

9. Plaintiff shall pay one-half (1/2) of the surveying charges of Kevin Wilson (currently estimated at \$6,200.00), and Defendant Margaret S. Daniels shall pay the other half.

10. Mr. O'Bryan and Mr. Jerome Askins will each pay one-half of the mediator's charges.

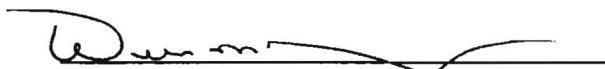
11. This Agreement shall be enforceable by the Court pursuant to Rule 43(k), SCRCF, and as a contract between the parties. If an action is necessary to enforce this Agreement, by motion or otherwise, the prevailing party shall be entitled to his or her attorney's

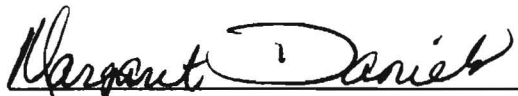


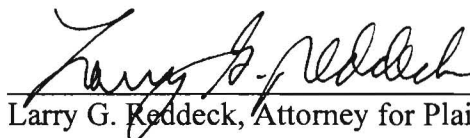
fees and costs for the necessity of enforcing this Agreement. Those signing below for others do so with the express authority of that party.

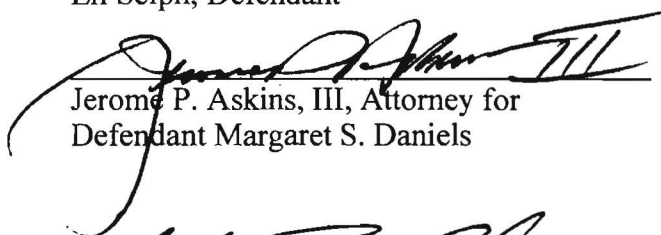

Cassandra Selph, Plaintiff

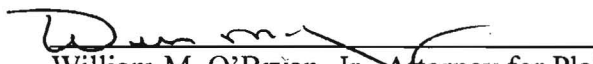

Barbara Boatwright, by Cassandra Selph

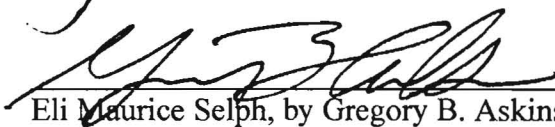
~~~~
William M. O'Bryan, Jr., Attorney for Plaintiff

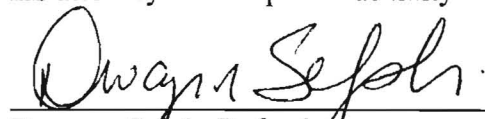

Margaret S. Daniels, individually and as
Personal Representative of the Estate of
Eli Selph, Defendant


Larry G. Reddeck, Attorney for Plaintiff


Jerome P. Askins, III, Attorney for
Defendant Margaret S. Daniels

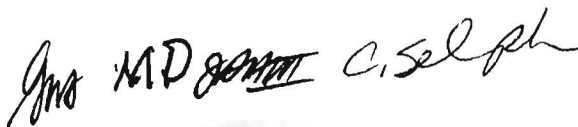
~~~~
William M. O'Bryan, Jr., Attorney for Plaintiff


Eli Maurice Selph, by Gregory B. Askins,
his attorney with express authority


Dwayne Selph, Defendant

Last Page — Settlement Agreement
Cassandra Selph v. Barbara Boatwright, et al.
Docket No. 2016-CP-45-00590





I HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "B" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO ENCROACHMENTS, PROJECTIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.

- LEGEND**
- I.P.S. IRON PIPE SET
 - I.P.F. IRON PIPE FOUND
 - I.F. IRON FOUND
 - I.S. IRON SET
 - C.M.O. CONCRETE MONUMENT FOUND
 - P.P. POWER POLE
 - O.H.P. OVER HEAD POWER



SKETCH
 OF 52.53 ACRES
 NEAR HEMINGWAY
 SURVEYED FOR
 SELPH, EL1, ETAL v.
 BARBARA P. BOATWRIGHT, ETAL
 TM# 45-500-009

JOHNSON TOWNSHIP WILLIAMSBURG COUNTY
 DATE: JANUARY 23, 2019 SOUTH CAROLINA
 SCALE: 1" = 250'

THIS PROPERTY DESIGNATED AS
 DIST. _____ MAP _____ PARCEL _____
 ON WILLIAMSBURG COUNTY TAX MAP
 SPLIT FROM _____
 WILLIAMSBURG COUNTY TAX ASSESSOR _____

P.L.S. NO. 23834
 KEVIN WILSON
 415 EAST MAIN STREET
 KINGSTREE, S.C. 29556
 843-355-6872

Handwritten signatures and initials:
 DW
 MD
 JMD
 wms

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
COUNTY OF WILLIAMSBURG	)	2016-CP-45-00590
 Cassandra Selph,)	
)	
Plaintiff,)	
)	
vs.	)	AFFIDAVIT
)	
Barbara Boatwright, Margaret S.)	
Daniels, Individually and as)	
Personal Representative of the)	
Estate of Eli Selph, Eli Maurice)	
Selph, and Dwayne Selph,)	
)	
Defendants.)	
)	

STATE OF NEW YORK, COUNTY OF KINGS) SS.:

Cassandra Selph, being duly sworn, deposes and says:

1. That I am the plaintiff in the within action, am fully familiar with the facts and make this affidavit in opposition to the motion.
2. There is a preliminary issue which the Court must deal with prior to dealing with the merits of the motion.¹
3. In addition, under Civil Rule 43, the Court and/or the assigned magistrate did not approve the purported settlement and file in court and therefore the settlement is not binding.

¹ My attorney advises me that the legal authority for that proposition is the recently decided case of South Carolina Human Affairs Commission v. Chen, 430 SC 509 (2020)

4. However, what was submitted by movant did not even conform to the purported agreement and caused confusion as will be herein stated.
5. After the purported settlement, Mr. Askins contacted the mediator because the agreement had certain problems contained therein.
6. There was issue concerning the actual division of the farm land that the agreement did not make clear.
7. As a result of these discussions between counsel with nothing contained in writing, a proposed deed dated October ____, 2019, was submitted by the movant, copy attached hereto as Exhibit A.
8. That deed did not specify the type of deed being granted, which was required, according to the purported "settlement."
9. I personally came from Brooklyn, New York to Kingstree, SC on February 19, 2020 for a meeting to resolve the differences between the parties and to amend the purported previous settlement agreement.
10. The deeds that were presented to me, copies attached as Exhibit B, had the wrong parties giving the conveyances.
11. In addition, the deed was supposed to be a special warranty and not a general warranty deed.
12. Furthermore, this caused a further problem with the settlement on the adjoining property purportedly reached in Docket.No. 2016-CP-45-

00588 because Mr. Askins, the movant’s attorney, insisted that the papers in both cases had to be filed together.

13. The nature of the dispute in Docket No. 2016-CP-00588 is set forth in a companion motion being heard by this Court on the same date as this motion in this matter.

14. The net effect of this was that the previous settlement was negated by the movant’s attorney, not me. The problem was caused by Mr. Askins.

15. Accordingly, I should not bear the cost of my opponent’s legal fees because the failure to come to terms is not my fault.

16. To put it mildly, the goal posts kept changing.

17. The court will see that if all parties do a one hour Zoom conference, this lengthy matter can finally be put to rest.

WHEREFORE, it is respectfully requested that the motion be denied, along with such relief as may be just.


CASSANDRA SELPH

Sworn to before me this
21st day of November, 2020.



BERNARD MITCHELL ALTER
Notary Public, State of New York
No. 02AL4519352
Qualified in Nassau County
Commission Expires August 31, 2022

2
of Court in Deed Book 205 at Page 260; and by deed of Barbara S. Boatwright dated October 12, 2015, recorded ~~October 12, 2015~~, in Deed Book 386 at Page 212.

Together with all and singular, the rights, members, hereditaments and appurtenances to the said premises belonging or in anywise incident or appertaining.

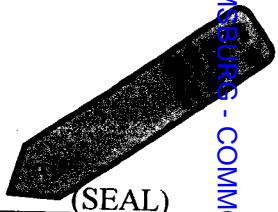
TO HAVE AND TO HOLD all and singular the premises before mentioned unto the Grantee, her heirs and assigns forever.

And the Grantor does hereby bind herself and her heirs, executors, administrators and personal representatives, to warrant and forever defend all and singular the said premises unto the Grantee, her heirs and assigns, against the Grantor and her heirs and against every person whomsoever lawfully claiming, or to claim, the same or any part thereof.

WITNESS the Grantor's Hand and Seal this _____ day of October, 2019.

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF:

Cassandra L. Selph (SEAL)



STATE OF _____)
COUNTY OF _____)

[Faint handwritten text]

I, _____, Notary Public for _____, do hereby certify that Cassandra L. Selph personally appeared before me this day and acknowledged the due execution of the foregoing instrument; and that the undersigned is not a party to or beneficiary of the transaction.

WITNESS my hand and official seal this _____ day of October, 2019.

Notary Public for _____
My Commission Expires: _____



NOTARIZE

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

AFFIDAVIT

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 being transferred is located in Johnson Township, County of Williamsburg, State of South Carolina (17.82 acres and 3.83 acres) bearing Williamsburg County Tax Map Number(s) _____, was transferred by Cassandra L. Selph to Margaret S. Daniels on October _____, 2019.
- 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 (See Information section of this affidavit);

(Exemption # 5) Partition deed with no consideration.
(If exempt, please skip items 4-7, and go on to item 8 of this affidavit)

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

- 4. Check one of the following if either item 3(a) or item 3(b) above has been checked (See Information section of this affidavit):
 - (a) ___ 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 ___ 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. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "YES", the amount of the outstanding balance of this lien or encumbrance is: \$_____.

- 6. The deed recording fee is computed as follows:
 - (a) Place the amount listed in item 4 above here: \$
 - (b) Place the amount listed in item 5 above here: \$
(If no amount is listed, place zero here)
 - (c) Subtract line 6(b) from line 6(a) and place result here: \$

7. The deed recording fee due is based on the amount listed on line 6(c) above and the deed recording fee due is \$_____.

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

9. I understand that a person required to furnish this affidavit who willfully furnishes 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.

SWORN to before me this _____ day of _____, 20__.

Notary Public for South Carolina
My Commission Expires: _____
Notary (printed name) _____

Responsible Person Connected with the Transaction
Margaret S. Daniels
Print or type the above name here

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
CASE NO. 2016-CP-45-00590

Casandra Selph,)
)
Plaintiff,)

vs.)

AFFIDAVIT OF JEROME P. ASKINS, III
(AS TO ATTORNEY’S FEES, INTEREST,
PROPERTY TAXES, COSTS)

Barbara Boatwright, Margaret S. Daniels,)
Individually and as Personal Representative)
of the Estate of Eli Selph, Eli Maurice Selph)
and Dwayne Selph)
)
Defendants,)

PERSONALLY appeared before me Jerome P. Askins, III, who first being duly sworn,
deposes and says:

I am Jerome P. Askins, III of Askins, Chandler and Askins in Hemingway, South Carolina.
I have been engaged in the general practice of law since 1976. I have never been disciplined or
sanctioned professionally. My practice has included real estate transactions and civil litigation.
I represent Margaret S. Daniels, one of the Defendants in the above captioned case. This is a
partition action and the parties are all family members.

The parties attended a day long mediation conference on January 29, 2019, which resulted
in a Settlement Agreement signed by all parties and their attorneys. The Settlement Agreement
incorporated a settlement sketch which had been prepared by a surveyor retained by Ms. Selph’s
attorneys. The sketch showed the subject property to contain 52.53 acres and it showed the
manner in which the property was to be divided among the parties. The sketch also showed the
dimensions of a lot located at the northeastern corner of the subject property, commonly referred
to as the “store lot”, in which my client had no ownership interest. Located on the subject property

was the homeplace of the parents Margret S. Daniels and grandparents of Ms. Selph and Dwayne Selph. At the mediation conference, the homeplace was auctioned off between Ms. Selph and Ms. Daniels, the result of which was that Ms. Selph purchased the interest of Ms. Daniels for \$41,000.00. The purchase price for Ms. Daniels' interest in the homeplace was to be paid on or before March 23, 2019, with a reduction of \$151.70 for revenue stamps on the deed, leaving a balance of \$40, 848.30. This amount was never paid and eventually Ms. Selph refused to execute the deeds to effect the partition that had been agreed upon at the mediation conference. The deeds to Ms. Selph had been prepared by her attorneys and the deeds from Ms. Selph to other parties conveying her interest had been approved by her attorneys. Despite the fact that her attorneys had approved all documents to carry out the Settlement Agreement, Ms. Selph continued to refuse to execute the deeds conveying her interest. Thereafter, her attorneys moved to be relieved as her counsel.

Attorney's Fees

The Settlement Agreement expressly provides for an award of attorney's fees and costs if a party has to enforce the agreement, as do the rules for Alternative Dispute Resolution. Ms. Selph's refusal to comply with the Settlement Agreement has caused me to spend substantial additional time on this case, resulting in substantial additional attorney's fees and costs. I am not including attorney's fees for matters that would have been required anyway had Ms. Selph complied with the Settlement Agreement, such as preparation and execution of the partition deeds. I am including fees for time expended after the mediation conference as a result of Ms. Selph's refusal to comply with the terms of the Settlement Agreement. She first wanted to increase the size of the "store lot" located at the corner of Hemingway Highway and County Line Road, but the other parties insisted on the dimensions remaining as they had been shown on the mediation sketch. Ultimately, there were some adjustments made to the plat which were the result of: (1)

the surveyor's finding that the total area of the tract was 49.95 acres instead of 52.53 acres shown on the initial sketch, resulting in prorata reductions to everyone's share (this was presumably due to the change of boundaries along the highways inasmuch as the interior boundaries of the property has not changed); and (2) a change in the boundary lines between Casandra Selph and her brother, Dwayne Selph, which did not materially affect Ms. Daniels. Copies of the mediation sketch and the final plat used to prepare the deeds are attached hereto and incorporated herein. I spent 3.3 hours from the mediation conference through the time when we were notified that Ms. Selph refused to sign the partition deeds and that her attorneys would ask to be relieved as counsel. I spent at 3.1 hours for telephone conferences with my client, her brother, Samuel J. Selph, and Gary Crawford, attorney for Dwayne Selph, regarding our course of action, and also for preparation and filing of a Motion to Compel Compliance with the Mediation Agreement, supporting affidavits and a Motion for retraining order relating to Ms. Selph's actions regarding the homeplace. I have spent approximately 7.7 hours since the involvement of attorney Bernard Alter in the case as substituted counsel for Ms. Selph, including telephone conferences, review of motions and proposed orders, review of materials filed by Mr. Alter, conferences and telephone conferences with my client, her brother, attorney W.E. Jenkinson, III (counsel for Joshua Selph in the related case), and preparation of additional documents. This amounts to 14.1 hours prior to the hearing on the motion at a rate of \$250.00 per hour, a total of \$3,525.00 prior to the hearing on the motion. In addition to the time spent for the motion hearing and follow up with the court's order, I anticipate a minimum of 3 additional hours to complete the partition in accordance with the Settlement Agreement. Partition deeds will have to be prepared and executed again. Mr. O'Bryan, former attorney for Ms. Selph, was going to submit the subdivision plat to Williamsburg County Planning for approval, update the title examination, and record the plat and deeds, but that will likely be my responsibility at this point. This would be an additional \$750.00 plus fees for time expended with the motion hearing. The filing fees for the motion were \$57.36. I request

an award of attorney's fees of \$4,275.00 plus a reasonable fee for time expended in connection with the motion hearing, and filing fees of \$57.36.

Purchase Price of the Homeplace and Interest

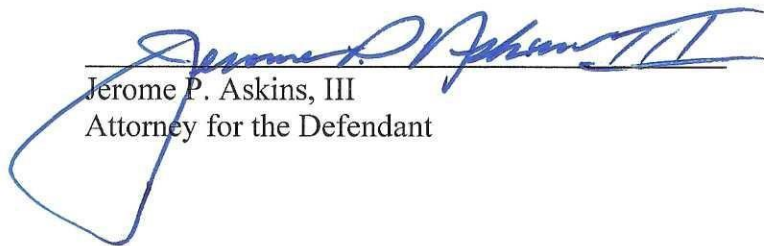
The \$40,848.30 that was to have been to be paid to Ms. Daniels by Ms. Selph on or before March 23, 2019, has evidently been held in an escrow account. However, it was not paid to my client, Ms. Daniels. On the other hand, Ms. Selph has had exclusive possession and control of the homeplace from the time of the mediation conference in January, 2019, until the present. She treated the homeplace property as her own and my client, Ms. Daniels, had nothing to do with it. Ms. Selph has reportedly made repairs and some renovations to the homeplace. Accordingly, my client is entitled to payment of the purchase price of \$40,848.30 plus interest at the legal rate from March 23, 2019.

The legal rate of interest is set by the South Carolina Supreme Court in January of each year and it is based upon the prime rate published by the Wall Street Journal at the beginning of the year. The legal rate of interest was 9.50 percent from the period from March 23, 2019 through January 14, 2020, and 8.75 percent from January 15, 2020 through December 31, 2020. I have calculated the interest to be \$6,850.67 through December 31, 2020. The total amount owed to Margaret S. Daniels for her one-half interest in the homeplace is \$47,698.63 as of December 31, 2020, with interest continuing to accrue thereafter at \$10.7082 per day (until the new rate is set in January, 2021).

Property Taxes

Williamsburg County property taxes on this parcel were \$1,959.61 for 2019 and \$1,966.13 for 2020. A copy of the 2019 tax notice and a copy of the print out of the 2020 property taxes are attached hereto. Included in this tax parcel are the homeplace, for which Ms. Selph would owe

the taxes, and the former residence of Eli Selph, for which Margaret S. Daniels would owe the taxes. A simple and equitable allocation is for Margaret S. Daniels to pay half of the tax bill and Ms. Selph (and possibly Dwayne Selph) to pay half of the taxes. Margaret S. Daniels has already paid the 2019 taxes and will likely pay the 2020 taxes. Accordingly, Ms. Selph (and possibly Dwayne Selph) would owe Margret S. Daniels \$1,962.87 as her share of the property taxes. Ms. Daniels would also be entitled to interest on one-half of the property taxes for 2019 - \$1,959.61 - at the legal rate of 8.75 percent from January 15, 2020 until new rate is set in January, 2021. In addition to attorney's fees, the purchase price of the homeplace and interest, and Williamsburg County property taxes, Ms. Selph would be required to pay her share of the plat approval, recording fees for the partition deeds.

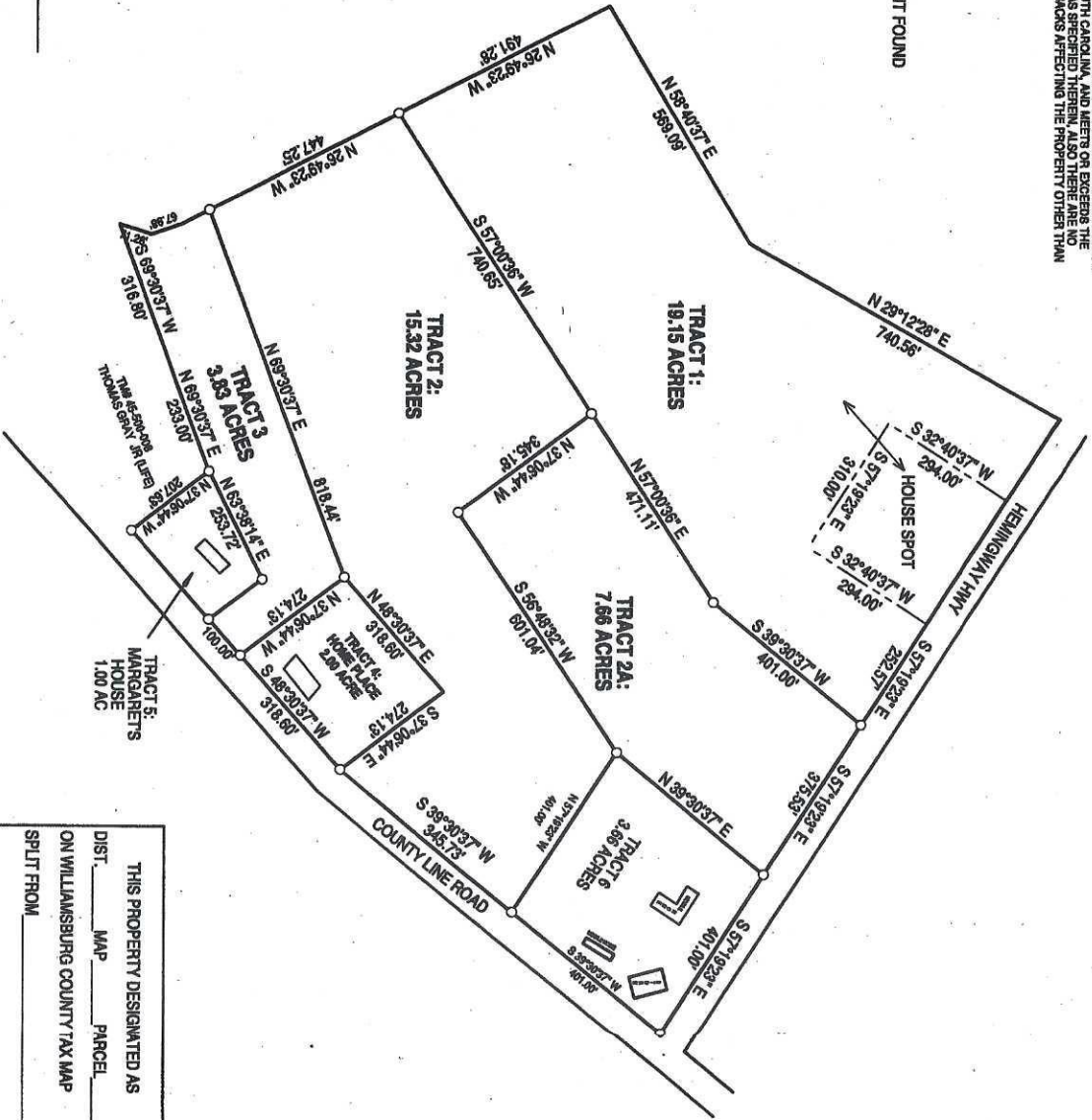

Jerome P. Askins, III
Attorney for the Defendant

SWORN to before me this
4th day of January, 2021.


Notary Public for South Carolina
My Commission Expires: 02/11/2026

HEREBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE MINIMUM STANDARDS MANUAL FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS "B" SURVEY AS SPECIFIED THEREIN, ALSO THERE ARE NO UNRECORDED EASEMENTS, PROVISIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.

- LEGEND
- I.P.S. IRON PIPE SET
 - I.P.F. IRON PIPE FOUND
 - I.F. IRON FOUND
 - I.S. IRON SET
 - C.M.O. CONCRETE MONUMENT FOUND
 - P.P. POWER POLE
 - O.H.P. OVER HEAD POWER



P.L.S. NO. 23834
 KEVIN WILSON
 415 EAST MAIN STREET
 KINGSTREE, S.C. 29556
 843-555-6872

THIS PROPERTY DESIGNATED AS
 DIST. _____ MAP _____ PARCEL _____
 ON WILLIAMSBURG COUNTY TAX MAP
 SPLIT FROM _____
 WILLIAMSBURG COUNTY TAXASSESSOR _____

SKETCH
 OF 52.53 ACRES
 NEAR HEMINGWAY
 SURVEYED FOR
 SELPH, ELI, ETAL V.
 BARBARA P. BOATWRIGHT, ETAL
 TM# 45-500-009

JOHNSON TOWNSHIP
 DATE: JANUARY 23, 2019
 SCALE: 1" = 250'

WILLIAMSBURG COUNTY
 SOUTH CAROLINA

Handwritten signatures and initials:
 [Signature] [Signature] [Signature] [Signature]

HENCEBY STATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF. THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE MINIMUM STANDARDS MAP FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND DOES NOT EXCEED THE REQUIREMENTS FOR A CLASS "B" SURVEY AS SPECIFIED THEREIN. ALSO THERE ARE NO ENCROACHMENTS, PROJECTIONS, OR SETBACKS AFFECTING THE PROPERTY OTHER THAN THOSE SHOWN.

THIS PARCEL IS NOT IN A SPECIAL FLOOD HAZARD ZONE
 NOTES-----
 ALL BEARINGS ARE BASED ON SOUTH CAROLINA STATE PLANE COORDINATE SYSTEM AND 83.1 DISTANCES SHOWN ARE HORIZONTAL DISTANCES NOT GRID DISTANCES

THERE HAS BEEN NO TITLE SEARCH PERFORMED BY THIS OFFICE.
 THIS PROPERTY IS SUBJECT TO ANY EASEMENT OR RESTRICTION OF PUBLIC RECORD.
 THERE HAS BEEN NO DETERMINATION OF WETLANDS OR HAZARDOUS WASTE ON THIS PROPERTY.

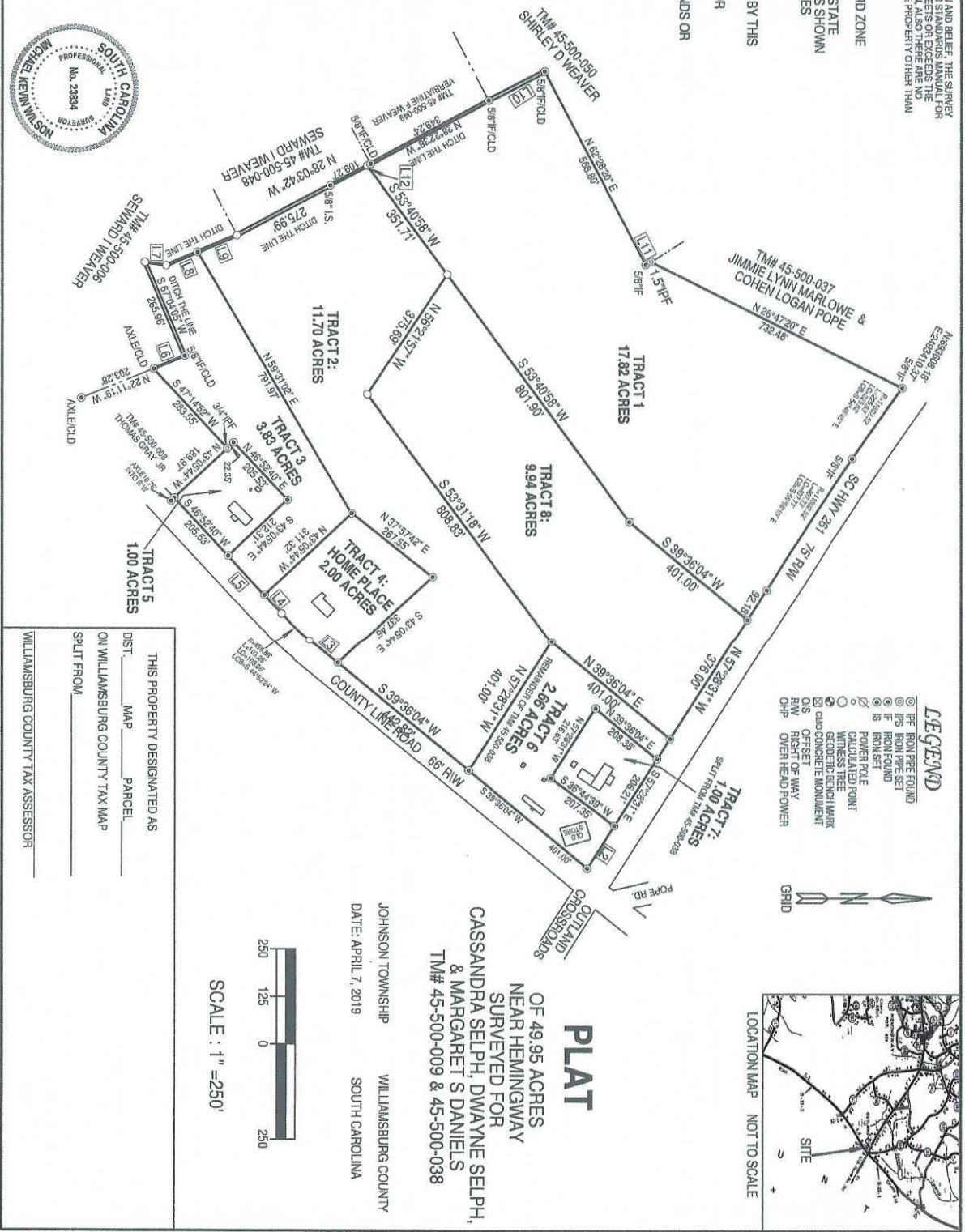
REFERENCE MAPS
 PB S1144 PG.3-B
 PB 30 PG.59

ID	Bearing	Distance
L2	S 57°28'31" E	132.17
L3	S 39°36'04" W	95.80
L4	S 47°13'58" W	66.28
L5	S 47°13'58" W	139.58
L6	N 22°41'54" W	87.41
L7	N 09°08'27" E	56.27
L8	N 23°05'43" W	89.20
L9	N 27°18'15" W	165.28
L10	N 25°55'41" W	16.53
L11	N 28°03'42" W	9.48
L12	N 28°03'42" W	9.48

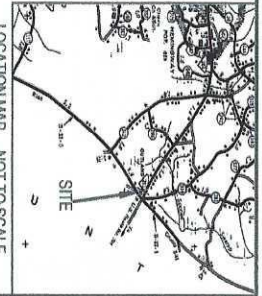
NOTE: ALL CORNERS ARE 5/8" I.S. UNLESS OTHERWISE NOTED.

KEVIN WILSON
 415 EAST MAIN STREET
 KINGSTREE SC, 29556
 (843) 355-8972

PLS. NO. 23834



- LEGEND**
- ⊗ IRON PIPE FOUND
 - ⊙ IRON SET
 - ⊕ IRON FOUND
 - ⊖ IRON SET
 - ⊗ POWER POLE
 - ⊙ CALCULATED POINT
 - ⊕ WITNESS TREE
 - ⊖ GEODETIC BENCHMARK
 - ⊗ CAST CONCRETE MONUMENT
 - ⊙ OFFSET OF WAY
 - ⊕ OPEN HEAD POWER



PLAT

OF 49.95 ACRES
 NEAR HEMINGWAY
 SURVEYED FOR
 CASSANDRA SELPH, DWAYNE SELPH,
 & MARGARET S DANIELS
 TM# 45-500-009 & 45-500-038

JOHNSON TOWNSHIP WILLIAMSBURG COUNTY
 DATE: APRIL 7, 2019 SOUTH CAROLINA



THIS PROPERTY DESIGNATED AS
 DST _____ MAP _____ PARCEL _____
 ON WILLIAMSBURG COUNTY TAX MAP
 SPLIT FROM _____
 WILLIAMSBURG COUNTY TAX ASSESSOR _____



Kimber W. Cooper
Williamsburg County Treasurer
P.O. Box 150
Kingstree, SC 29556



2019

SEE REVERSE SIDE

WILLIAMSBURG COUNTY, SOUTH CAROLINA

RECEIPT NUMBER	DISTRICT	TOWN	PROPERTY TYPE
008079-19-3	00		REAL

RETURN SERVICE REQUESTED

1 12



00004870

***** AUTO**SCH 5-DIGIT 29510

DANIELS MARGARET S ETAL
PO BOX 623
HEMINGWAY, SC 29554-0623

COUNTY TAX DOLLARS DISTRIBUTION

Tax Breakdown by Entity	Levy Mills	Levy %	Tax Dollars
General Fund Operations	.11500	31.03%	609.40
Debt Service	.02970	8.01%	157.82
Rural Fire	.01540	4.15%	81.82
Rural Fire Bond	.00785	2.12%	41.82
Hospital	.01080	2.91%	57.24
S Lynch Fire			
S Lynch Fire Bond			
Tec. College	.01100	2.97%	58.88
School Fund	.13689	36.93%	725.88
School Bond	.04400	11.87%	233.20

COUNTY TAXES	CITY TAXES	TOTAL TAXES
\$1,964.39	\$0.00	\$1,964.39

PERSONAL ASSESSMENT		REAL ASSESSMENT	TAX LEVY	PROPERTY TAX	
		5,300	370.64	1,964.39	
NO. ACRES	NO. LOTS	NO. BUILDINGS	TOTAL APPRAISAL	TOTAL ASSESSMENT	
48.60		1	90,503	5,300	
PERSONAL APPRAISAL	RATIO	PERSONAL ASSESSMENT	LAND APPRAISAL	RATIO	LAND ASSESSMENT
			6,278	4%	250
MAP NUMBER			20,499	6%	1,230
45-500-009			BUILDING APPRAISAL	RATIO	BUILDING ASSESSMENT
PRIOR YEAR TAXES		\$1,933.95	63,726	6%	3,820

TOTAL TAX	COUNTY	CITY
LESS HOMESTEAD EXEMPTION	1,964.39	
LESS LEGAL RESIDENCE EXEMPTION		
LESS LOST CREDIT	129.78	
LESS INSTALLMENT PAYMENTS		
PLUS LANDFILL CLOSURE FEE	30.00	
PLUS SOLID WASTE DISPOSAL FEE	95.00	
PLUS WATER AVAILABILITY FEE		

PROPERTY / LOCATION DESCRIPTION
95 HEMINGWAY HWY

CLASS	PROPERTY TYPE	APPRaisal	RATIO	ASSESSMENT
AG4	AGRICULTURAL 4%	6278	4%	250
MV	MARKET VALUE	39530		0
AO6	ALL OTHER 6%	72984	6%	4380
M6	M6	11241	6%	670

Taxes are based on property ownership as of 12-31-2018

Please allow at least 10 days for processing

PAY THIS AMOUNT ON OR BEFORE

January 15, 2020

\$1,959.61

After January 15, 2020 Plus 3% **\$2,018.40**

After February 3, 2020 Plus 10% **\$2,155.57**

After March 16, 2020 In execution with 15% penalty PLUS COST ADDED.

RETURN THE STUB BELOW WITH PAYMENT

RECEIPT NUMBER	DISTRICT	TOWN	PROPERTY TYPE	PROPERTY / LOCATION DESCRIPTION
008079-19-3	00		REAL	95 HEMINGWAY HWY
PAY THIS AMOUNT ON OR BEFORE			MAP NUMBER	
January 15, 2020			45-500-009	
\$1,959.61				

After January 15, 2020 Plus 3%	\$2,018.40
After February 3, 2020 Plus 10%	\$2,155.57
After March 16, 2020 In execution with 15% penalty PLUS COST ADDED.	

PAY ONLINE AT:

www.williamsburgcounty.sc.gov
The Pay By Phone # is 888-695-7811

PLEASE DO NOT STAPLE, CLIP, TAPE, FOLD, OR MUTILATE



DANIELS MARGARET S ETAL
PO BOX 623
HEMINGWAY SC 29554

Please remit payment to:



WILLIAMSBURG COUNTY TREASURER
PO BOX 150
KINGSTREE SC 29556-0150



ELECTRONICALLY FILED 02/02/20 10:04 3:58 PM WILLIAMSBURG - COMMON PLEAS - CASE 2016CP4500590

Williamsburg County

ONLINE TAX PAYMENT

ELECTRONICALLY FILED - 2021 Jan 04 3:50 PM - WILLIAMSBURG - COMMON PLEAS - CASE#2016CP4500590

Record Information

Notice #: 007744203

Status: Unpaid

Issue Date: 10/27/20

Tax Information

Name:	DANIELS MARGARET S ETAL		
Tax Year:	2020		
District/Levy:	00 / 372.45		
City/Levy:	/ 0		
Total Appraisal:	90,503		
Total Assessed:	5,300		
Assessment Ratio:	Land Appraisal:	Building Appraisal:	
4%	6,278	0	
6%	20,499	63,726	

Property Information

Record Type:	Real Estate
Map Number:	45-500-009
Acres:	48.60
Buildings:	1

Taxes

County Tax:	\$1,973.99
City Tax:	\$0.00
Fees:	\$125.00
Residential Exemption:	\$0.00
Homestead Exemption:	\$0.00
Other Exemptions:	\$0.00
Local Option Credit:	\$132.86
Total Taxes:	\$1,966.13
Balance Due:	\$1,966.13

Penalty Information

Date:	Amount Due:
01/16/21	\$2,025.11
02/02/21	\$2,162.74
03/17/21	\$2,261.05

STATE OF SOUTH CAROLINA)
)
COUNTY OF WILLIAMSBURG)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT
CASE NO. 2016-CP-45-00590

Casandra Selph,)
)
Plaintiff,)
)
vs.)
)
Barbara Boatwright, Margaret S. Daniels,)
Individually and as Personal Representative)
of the Estate of Eli Selph, Eli Maurice Selph)
and Dwayne Selph)
)
Defendants,)
_____)

AFFIDAVIT OF
MARGARET S. DANIELS

PERSONALLY appeared before me Margaret S. Daniels who first being duly sworn,
deposes and says:

I am Margaret S. Daniels, one of the Defendants in the above captioned case. I reside at
12587 County Line Road near Hemingway, in Williamsburg County, South Carolina. My home
is located on the Selph property which is the subject of this partition action, and I have resided
there for around 40 years.

On July 29, 2019, I attended a mediation conference in Florence, South Carolina which
lasted all day. We eventually reached an agreement as to how to divide my family's property and
everyone signed the Settlement Agreement. Sometime after the mediation, I was informed by my
attorney that Casandra was trying to have changes made in the property sketch that we all signed
off on at the mediation. I did not agree to the change. We were later told that the surveyor had
determined that there was actually less acreage in the tract than had once been thought and there
was a slight change in the property division because of that. Everybody's share was

proportionally reduced. I think there was also a change in the boundary lines between Cassandra and her brother, Dwayne, which did not have a significant effect on me.


Eventually, the deeds were prepared. Each person's attorney prepared the deeds for the property his client was to receive. Mr. O'Bryan, Casandra's attorney, prepared the deeds to her and Mr. Crawford, Dwayne's attorney, prepared the deeds to him. Mr. Askins prepared the deeds to me. I signed the deeds to Casandra and the deeds to Dwayne, and I understand that Dwayne signed the deeds he was supposed to sign. However, I was informed that Casandra refused to sign the deeds that her attorneys had approved for her to sign for Dwayne and for me. Shortly after that I was informed that Casandra's attorneys were asking to be relieved as her attorneys.

At the mediation, it was decided that my family's homeplace along with a lot of about 2 acres would be auctioned off between the Plaintiff, Casandra Selph, and me. Casandra was the high bidder and she was to buy my one-half interest in the homeplace for \$41,000.00. She was supposed to pay this amount to me -less \$151.70 for revenue stamps on the deed- on or before March 23, 2019. The money was never paid to me or to my attorney, but Casandra took over the property as if she owned it from the time of the mediation forward. I had nothing to do with the homeplace. Casandra even made some repairs and renovations to the house. I feel that I am entitled to interest on the money which was not paid to me as required under the Settlement Agreement we all signed at the mediation.

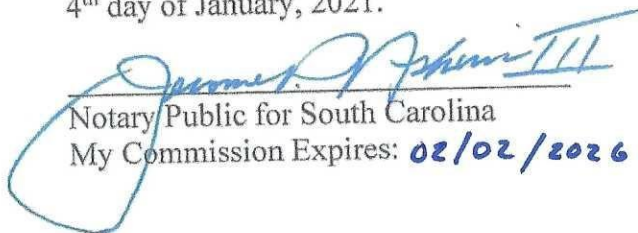
I paid the 2019 Williamsburg County property taxes on the undivided tract of land in the amount of \$1,959.61. I assume that I will be paying the 2020 property taxes as well in the amount of \$1,966.13. The homeplace is included in this tax parcel as is the former residence of my brother, Eli Selph. Casandra would be responsible for the taxes on the homeplace and I would be

responsible for the taxes on Eli's former residence in accordance with the Settlement Agreement, so it would be appropriate for the taxes to be split evenly between us. Of course, Dwyane Selph, Casandra's brother, would be responsible for part of Casandra's share of the taxes. Casandra and Dwayne both acquired their interest under the will of their father, my brother, Nemiah Selph. Casandra's share was separated from Dwyane's share under the Settlement Agreement, so that Casandra, Dwayne and I each were to be allotted a portion of the property.

This ordeal has lasted years and years. There has been litigation involving this property going back as far as the 1990's. I thought that it had all finally ended when we left the mediation in Florence nearly two years ago. This process has been very expensive and very stressful. I want the court to enforce the Settlement Agreement we made at the mediation. My attorney has had to spend a lot of additional time because of Casandra's refusal to go along with the Settlement Agreement. This will result in more attorney's fees which she should have to pay. I also want Casandra to pay all the legal fees and costs that have been and will be incurred as a result of her actions, along with the payment for my interest in the homeplace with interest, property taxes and other costs to complete the partition as agreed. I request that the court enforce the Settlement Agreement and end this whole thing once and for all like we agreed to do.


Margaret S. Daniels

SWORN to before me this
4th day of January, 2021.


Notary Public for South Carolina

My Commission Expires: 02/02/2026

5. The Court on December 30, 2020 set the hearing date for January 14, 2021. My initial opposing papers were filed and served on November 27, 2020.
6. Thus, the cutoff date for submission of additional affidavits would have been January 4, 2021. My adversary had plenty of time to submit them.
7. These papers were submitted late and must be disregarded.¹
8. However, in any event, it is still necessary for me to reply to the allegations contained in those papers. My attorney advises me that I can file a reply two days prior to the return date of the hearing as set forth in the same Civil Rule 6.
9. Mr. Askins and Ms. Daniels apparently pin the blame on me for the delay.
10. However, that is not the case.
11. Attached hereto is a chain of e-mails made mostly during 2019. They are attached hereto as Exhibit A.
12. What these e-mails and correspondence clearly show is that Mr. Askins was constantly changing the proposal for final agreement during the course of these e-mails.


¹ My attorney advises me that the case law to support this proposition was decided by the South Carolina Supreme Court in Dedes v. Strickland, 307 S.C. 152 (1992)

13. While matters had to be finalized and concluded, this is hard negotiation, which all parties participated in.
 14. I should not be criticized for participating in the negotiation that led to a settlement nor bear the legal cost of my adversaries.
 15. Finally, what is missing from the motion is an affidavit of good faith or a Law Day letter.
 16. That is a requirement before such a motion is made. It is a final demand to state what must be done and an opportunity to complete the transaction. It then gives a party notice to obtain title insurance coverage.
 17. Failing that, the motion should be denied.
 18. I now believe the long-fought matter has been finally settled. The law is clear that each party should bear their own costs.
 19. To reiterate, the court will see that if all parties do a one hour "Zoom" conference, this lengthy matter can finally be put to rest.
 20. Finally, with respect to the tax issue, it is clear law that taxes that are due by me that Ms. Daniels has paid will be resolved by me at closing. There is no issue on that.
 21. At closing, appropriate adjustments will be made on the house purchase. The purchase price has long since been put in escrow by me.
- WHEREFORE, it is respectfully requested that the motion be denied,

along with such relief as may be just.


CASSANDRA SELPH

Sworn to before me this
11th day of January, 2021.



BERNARD MITCHELL ALTER
Notary Public, State of New York
No. 02AL4519352
Qualified in Nassau County
Commission Expires August 31, 2022

If you have received this communication in error or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

Casaandra Selph <leeselph@gmail.com>
To: Monty O'Bryan <mobryan@ftc-i.net>

Sun, May 12, 2019 at 9:54 PM

Hello Mr. O'Bryan, have you exchanged the money for the final deeds for my house? Also please ensure Joshua Selph has changed the water line back. I would like these cases closed immediately. Thank you.

mobryan@ftc-i.net <mobryan@ftc-i.net>
To: Casaandra Selph <leeselph@gmail.com>
Cc: Larry Reddeck <Larry@ntrlaw.com>

Wed, May 22, 2019 at 9:18 PM

Ms. Selph: as we discussed in our last telephone conference, I was in the process of contacting the mediator to advise of the difficulties in the multiple interpretation of the mediation agreement. After several attempts, I was finally able to speak with him late this afternoon and sent him a detailed email on the issues with the division map that Mr. Askins is raising an objection. He was going to review it and give me a call back.

Mr. Jenkinson who represents Joshua Selph also called me this morning to let me know he had mailed Joshua Selph our request that the water and sewer be reconnected to the store property and that he asked him to take care of it.

That's really all the news I have for now by way of update but I'll let you know as soon as we hear anything further from the mediator.

Mediation Agreement

mobryan@ftc-i.net <mobryan@ftc-i.net>
 To: Casaandra Selph <leeselph@gmail.com>
 Cc: Larry Reddeck <Larry@ntrialaw.com>

Mon, May 27, 2019 at 5:28 PM

Ms. Selph: I hope you had a good Memorial Day weekend and were able to take some time off. I have made some progress with Mr. Askins but still do not have an agreement. I have had some e-mail correspondence with the Mediator over the weekend and he has agreed to set up a conference call between him, me and Mr. Askins to see if we can get the agreement finalized and the deeds executed to complete the division. The changes in the survey that Mr. Askins is requesting for the most part impact Dwayne Selph far more than you (the frontage issue) and he would have to be in agreement to the changes as well as you. If Mr. Folkens can't get it resolved, then there are one of two possible steps. The parties can agree to a short binding arbitration proceeding or either they or us can file a motion to have the circuit court enforce the agreement. If there was no disagreement over the terms of the mediation agreement and one party was just refusing to comply, that perhaps would be the appropriate vehicle but that is not necessarily the case here. My recollection of the mediation agreement was that you bought the family home and 2 acres, Margaret Daniels was to receive one acre around her house- Mr. Askins maintains that was not to be counted against her share- which Mr. Wilson, the Surveyor did apparently count against her on the initial survey. Where we are apart is my take on the sketch signed at the hearing was that each party would receive their percentage of the land in the location shown on the sketch but no specific amount of acreage or frontage was guaranteed since no survey had been done. As you are aware once surveyed, there was less total acreage so adjustments were made to all of the tracts that did not involve fixed acreage but Mr. Askins takes the position that estimated frontage shown on the sketch for farm tract that Margaret Daniels was to receive was guaranteed. The other survey issue that he has raised is that on the sketch based on the GIS estimate the store lot is shown as 401 x 401. While there is no prior survey of the store property, in preparing the survey, the Surveyor noted the prior deed was 410 x 410 which is what he showed on the survey you approved. Same type of issue. At least in my opinion, the sketch was never intended to show actual distances or acreage.

I had prepared all the deeds weeks ago. Obviously the simplest and the fastest resolution will be the conference call with the mediator if that works. The motion to compel will take time to file and wait for it to come up on the Court docket and involve additional fees and cost. Since the dispute on the face of it seems to be what the agreement itself was, the Judge might rule on it or like what happens sometimes in appeals, he might not making a ruling and it goes back for clarification of the agreement through mediation/arbitration.

I have an e-mail out to Mr. Askins to try and set up a conference call with the Mediator as soon as possible. I will keep you posted.

William (Monty) O'Bryan, Jr.

O'Bryan & O'Bryan

P.O. Box 1105

Maps

1 message

mobryan@ftc-i.net <mobryan@ftc-i.net>
To: Casaandra Selph <leeselph@gmail.com>
Cc: Larry Reddeck <Larry@ntrlaw.com>

Tue, May 28, 2019 at 12:54 PM

Ms. Selph: I tried given you a call about 12:30 PM, let the phone ring several times and figures you were sleeping so I hung up. I'll give you a call back around 4:30 PM. I've attached copies of the various sketches and/or maps to provide a graphic for my notes.

1. The attached sketch Monty-sketch-Selph-7 (2) is the sketch that was agreed upon at the mediation hearing and initialed by all of the parties with the addition of tract 2B which you agreed to give to Dwayne Selph to settle the division between yourself and him.
2. The April 7, 2019 Selph division map original is the survey that Kevin Wilson did based on the sketch approved at mediation. You approved this plat as did Dwayne Selph but I never heard from Mr. Askins for several weeks until we were circulating the deeds for signature and he raised his objections.
3. Monty-sketch-Selph (2) is a sketch that I asked Mr. Wilson to prepare from the division map to make the division map look closer to the sketch insofar as the division lines between tracts one and tracts eight which is where the frontage on the Hemingway Highway is located. I wanted to have a graphic representation where I could compare side-by-side what the surveyor had initially drawn and what Mr Askins was requesting. The main change is that Dwayne Selph gets less frontage along Highway 261 approximately 87 feet.
4. Neither Mr. Reddeck nor myself believe that any specific frontage along either Highway was granted for the farm acreage and the surveyor was to make it work the best he could being equitable in keeping with the sketch. Mr. Wilson was working from estimated numbers from the county GIS mapping which are not exact and he also picked up dimensions of 401 feet Square for the store property and upon further research and survey determined it was 410' x 410', an increase of 9 feet on each line. If I understand correctly Mr. Askins latest position, he would agree to Monty-sketch-Selph (2) except as to tract six, the store property which he believes should be restored to the sketch dimensions of 401' x 401'.

As outlined in my email yesterday, I have had email correspondence with Mr. Folkens the mediator and he has agreed to schedule a conference call between Mr. Askins and myself with him to see if we can come to an agreement on exactly what the mediation agreement was and as to any issues not contemplated time the agreement was entered into resolve those. Again, as I said yesterday Dwayne Selph will also have to agree on any changes from the April 7, 2019 Selph division map.

In response to the question with map you sent there is less total acreage than what was initially contemplated upon Mr. Wilson completing a survey of the property. The initial sketch contemplated 52.53 acres

For a combination of the store tract and the farm tract and the actual survey showed it to be 49.95 acres..

William (Monty) O'Bryan, Jr.

O'Bryan & O'Bryan

P.O. Box 1105

#1 Court House Square (Physical address)

ELECTRONICALLY FILED - 2021 Jan 12 7:45 AM - WILLIAMSBURG - COMMON PLEAS - CASE#2016CP4500590

Update on Partition Case

mobryan@ftc-i.net <mobryan@ftc-i.net>
 To: Casaandra Selph <leeselph@gmail.com>
 Cc: Larry Reddeck <Larry@ntrlaw.com>

Tue, Jul 9, 2019 at 10:44 PM

Ms. Selph: my paralegal on indicated you called for an update on the partition case. I have been in weekly contact with Ms. Reddeck and/or Mr. Askins to try to push this matter to a conclusion. To date we have been unable to come to an agreement with Mr. Askins as to the division. Ms. Reddeck & I are trying a different approach. Rather than trying to get Mr. Askins to agree to the map as a whole, we are trying to get him to commit to a specific division only as it relates to his clients. Assuming that can be done, then we would work on allocating the portions allocated to you and Dwayne Selph as you agreed at the mediation. At that point Mr. Askins's client would have no basis to object to the final division map as they would've already agreed as to the specific division already presented.

As we discussed in our last conversation and I'm sure Mr. Reddeck has related to you, the mediation agreement is not a court order and not enforced in exactly the same manner. The parties have a right to go back to court and ask the judge to enforce the mediation agreement. In this case no one is refusing outright to comply with the mediation agreement but disputing exactly what the agreement was. In a subsequent conversation with mediator he expressed an opinion that a circuit judge would probably not enforce the agreement under these conditions. There are some other options however they all involve going back to court and incurring additional expense.

It is impossible to know for certain what is driving the other side to be so difficult on the division issue. Certainly, there is bad blood between certain groups of the family which may be a contributing factor. From what you told me, some of the other family members wanted the family home and were not happy you won the bid on the property. I also understand that the other side feels that the agreement reached at mediation was very similar to an offer they made about a year in advance of the hearing which you declined. It is said there is a time and a place for everything and in litigation that is particularly true. It may be that the other side does not genuinely believe the maps presented represent the division agreed upon at the mediation. It maybe they are trying to antagonize you for any perceived wrongs they feel were caused by you or some combination of the two.

There is another way of looking at an appropriate response. I certainly understand you wanting to bring this matter to a prompt conclusion but consider in a negotiation the advantage usually falls to a person who is willing to wait. For Margaret Daniels to receive the money you bid in for the house, the agreement has to be finalized and the deeds executed by all parties. Additionally, if all or part of this is directed primarily at antagonizing you, then if we are not constantly pushing them try to get this resolved then perhaps it gives them the idea that they are not getting you with these tactics and fosters a resolution.

The other issue that we are running into is that Mr. Askins is now semi or quasi retired and from what I understand spending as much time away from his office as he is in the office. Mr. Reddeck and I have been waiting for several days for response from him confirming the division for his clients. This is further

complicated by what I have been told that Margaret Daniels does not make a move without consulting with Samuel Selph.

In summary, I think you are best served by putting this on the back burner so to speak for a month or six weeks to let things settle down. It might help and it might not but if we have to go back to court, it's not going to happen any faster and you would have all of the additional expenses incurred therein.

I am fairly tightly calendared for Wednesday morning and immediately after lunch but if you want to discuss it further by phone, we can probably set something up for late Wednesday afternoon. Please reply to the email to let me know if you would like to do that.

William (Monty) O'Bryan, Jr.

O'Bryan & O'Bryan

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Casaandra Selph <leeselph@gmail.com>
To: Monty O'Bryan <mobryan@ftc-i.net>

Wed, Jul 10, 2019 at 3:54 PM

Hello Mr. O'Bryan, please do whatever must be done to finish this now. Thank you.

STATE OF SOUTH CAROLINA)
COUNTY OF WILLIAMSBURG)

COURT OF COMMON PLEAS

CASSANDRA SELPH)
PLAINTIFF,)

v.)

TRANSCRIPT OF RECORD
16-CP-45-558
16-CP-45-590

JOSHUA SELPH,)
ET. AL.)
DEFENDANTS.)

January 14, 2021
WEBEX HEARING

B E F O R E :

THE HONORABLE GEORGE M. MCFADDIN, JR., JUDGE

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

BERNARD M. ALTER, ESQ.
Attorney for the Plaintiff

W.E. JENKINSON, III, ESQ.
JEROME P. ASKINS, III, ESQ.
J. THOMAS THOMPSON, ESQ.
Attorneys for Defendants

FRANCES B. RAY, RPR
Circuit Court Reporter

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(There were no exhibits submitted.)

1 THE COURT: All right. I understand
2 we have three motions. Is that correct?

3 MR. ALTER: I believe there's two on
4 this case, Your Honor.

5 THE COURT: All right. I'll hear each
6 motion with a response to each one and I'll move
7 to the next motion, so I am ready. Whose motion?

8 THE LAW CLERK: Motion to compel and
9 motion to alter and amend.

10 THE COURT: Okay. So, I mean, whose
11 motion is it, though?

12 MR. ALTER: Isn't this Mr. Jenkinson's
13 motion?

14 THE COURT: Is this your motion, Mr.
15 Jenkinson?

16 MR. JENKINSON: Yes, sir. And we have
17 a num-- well, the first one is to amend to add a
18 personal representative.

19 MR. ALTER: I'm having trouble hearing
20 him, Your Honor.

21 MR. JENKINSON: One of the parties
22 died, and we need to get Miss ---

23 THE COURT: Mr. Jenkinson, I cannot
24 hear you, sir. I cannot hear you.

25 MR. JENKINSON: And then Mr. Askins

1 also has the same motion. In order to conserve
2 time, we've designated Mr. Askins to be the
3 primary person presenting our motion because he
4 has the same motion as well.

5 THE COURT: All right, Mr. Askins.

6 MR. ASKINS: Can you hear me now?

7 THE COURT: Who is this talking now?

8 THE LAW CLERK: Mr. Askins.

9 THE COURT: Mr. Askins.

10 MR. ASKINS: Can you hear me?

11 THE COURT: Yes, sir, I can.

12 MR. ASKINS: All right, I'm sorry, I
13 couldn't tell whether I was online or not. Your
14 Honor, these two cases are very closely related,
15 but they're a little bit different. The case
16 involving Joshua Selph, case no. 588, involves one
17 portion of the Selph property. The case involving
18 my client, Margaret Daniels, involves the
19 remainder of the Selph property. When we filed
20 our motion to compel in case 590, the Marvin
21 Daniels case, we attached a copy of the settlement
22 agreement that was entered into with the mediation
23 conference; and attached to that settlement
24 agreement and incorporated into it was a plat
25 showing the Selph property and the manner of

1 division that would be had as a result of that
2 agreement. The property consists of about 50
3 acres total, and it is located at the intersection
4 of Hemingway Highway and County Line Road. In the
5 corner of that property is a lot of about 3.6
6 acres, which is sometimes referred to as the store
7 lot. On that lot was an old country store that's
8 been long closed and the residence of Joshua
9 Selph. The case of Joshua Selph involves that
10 store lot, that parcel of about 3.6 acres. The
11 case of Laura Daniels involves all the rest of the
12 property. There was a partition action for the
13 rest of the property. My client Margaret Daniels
14 has nothing do with the store lot, but she has
15 title to half interest in the remainder of the
16 property.

17 The -- both of the cases were mediated
18 back in January of 2019. The first case with
19 Joshua Selph was mediated for a full day before
20 Karl Folkens in Florence. Ours was mediated the
21 next day; it was a long grueling day as well. In
22 both cases at the end of the day there was a
23 settlement agreement which was entered into in
24 writing by the parties and their attorneys. In
25 our case the settlement agreement provided for the

1 division of the Selph property in which Margaret
2 Daniels had an interest between Margaret Daniels
3 on the one side and Cassandra Selph and her
4 brother Duane Selph on the other side. The sketch
5 that was part of the mediation agreement,
6 settlement agreement, showed how that property was
7 going to be divided. Now the -- shortly after the
8 mediation we were informed that Cassandra Selph
9 wanted to change the dimensions of the sketch
10 shown that everybody signed off on it at the
11 mediation conference. We didn't go along. We
12 insisted on complying with the agreement with the
13 mediation sketch, and we have a go-around that for
14 some time. Eventually, the surveyor did the
15 mediation sketch, prepared a plat that was to be
16 used for recording the deeds. I'll point out,
17 also, that the surveyor who did the mediation
18 sketch and the plat was hired by the attorneys for
19 Cassandra Selph, the plaintiff. The surveyor, in
20 preparing the plat, determined that there was
21 slightly less acreage than he had thought before
22 in the overall tract, a difference of about
23 two-and-a-half acres. The result was the property
24 being allocated to my client Margaret Daniels, to
25 Cassandra Selph and to Duane Selph, was all

1 proportionately reduced in size, but the
2 configuration is essentially the same. There was
3 also a minor difference in the property line
4 between Cassandra Selph and her brother Duane
5 Selph that did not affect my client. So it --
6 when the plat was prepared and it's -- a copy of
7 that plat is filed with our affidavit, with my
8 affidavit. And it shows -- you can look at those
9 two plats and tell that they're essentially
10 identical with a slight reduction in size. The
11 deeds were prepared. Each attorney prepared the
12 deeds that his client was to receive. I prepared
13 the deeds for Margaret Daniels. Gary Crawford
14 prepared the deeds for Duane Selph and Mr. O'Bryan
15 and Mr. Reddeck prepared the deeds for Cassandra
16 Selph. Each party filed the deeds that they were
17 supposed to sign except Cassandra Selph. We
18 returned the deeds to Mr. O'Bryan. We returned
19 the executed deeds to his client, along with the
20 deeds his client was supposed to sign. Mr.
21 O'Bryan and Mr. Reddeck prepared the deeds that
22 were going to their client Cassandra Selph, and
23 they approved the deeds that the -- that she was
24 to sign to the other parties. Again, the deeds
25 were made with reference to the plat made by the

1 surveyor hired by Cassandra Selph's attorneys.

2 So everybody was prepared to move
3 except Cassandra Selph. She was supposed to meet
4 and sign the deeds with her clients and then Mr.
5 O'Bryan would record the plat, update the title
6 exam, and record the deeds. We were informed at
7 some point from Mr. O'Bryan that Cassandra Selph
8 had refused to sign the deeds. We were told that
9 Mr. Reddeck was gonna talk to her again, try to
10 prevail upon her to sign the deeds and comply with
11 the agreement; and a few days later we were
12 informed that she had, again, refused to sign the
13 deeds and that her attorneys, Mr. O'Bryan and Mr.
14 Reddeck, would be filing a motion to be relieved
15 as her counsel. Shortly after that a motion was
16 filed to relieve them as counsel, and they cited
17 because a total and irreparable breakdown of the
18 attorney/client relationship between the
19 undersigned and the plaintiff has occurred.

20 Sometime after that Mr. Bernard Alter
21 came on the scene, and we had a lot of back and
22 forth, proposed orders to relieve Mr. O'Bryan and
23 Mr. Reddeck and to substitute Mr. Alter. There
24 was some discussion about conditions about
25 Mr. Alter being in New York and there being travel

1 restrictions and so forth, and we wanted to make
2 sure that that was not gonna be an issue. He was
3 eventually substituted, and we've had a lot of
4 communication back and forth since that time.

5 At this point we are here to enforce
6 the settlement agreement entered into in the
7 mediation conferences in the Joshua Selph case and
8 in the Margaret Daniels case. Your Honor, it's no
9 coincidence that Cassandra Selph was the sole
10 plaintiff in both of these cases; it's her against
11 the world. We thought these cases were ended when
12 we got done with the mediation conference, and we
13 found out that they were not. So what we want at
14 this point is, we want the Court to enforce the
15 mediation settlement agreements. We want
16 Cassandra Selph to be required to properly execute
17 the deeds. These deeds will have to be done
18 again. We want her to cooperate in getting the
19 deeds executed, getting the plat and the deeds
20 properly recorded.

21 Also, a part of the mediation
22 conference and the settlement agreement in the
23 Margaret Daniels case was the sale of the Selph
24 home place. The Selph home place consisted of a
25 house and a two way proposal that was auctioned

1 off at the mediation conference. Cassandra Selph
2 was the high bidder for \$82,000. The result of
3 that was Cassandra Selph was to pay my client
4 Margaret Daniels \$41,000 for her one-half interest
5 in the Selph home place. The amount of the
6 documentary stamps was deducted from that and that
7 was \$151.70 leaving a balance of 40,848.30 which
8 was to have been paid to my client by Cassandra
9 Selph on or before March 23rd of 2019. That
10 amount was not paid. We were told that the money
11 was held in escrow, but it was not placed in the
12 hands of my client.

13 Now, on the other hand, Cassandra
14 Selph took possession and sole control of the
15 Selph home place as if it were hers. She
16 determined who was staying there. She even made
17 repairs and renovations to the place, and Margaret
18 Daniels had nothing to do with it. So we're
19 asking as part of the enforcement of the agreement
20 that Cassandra Selph be required to pay the amount
21 she was supposed to pay on March 23rd, 2019, plus
22 interest at the legal rate as determined by the
23 South Carolina Supreme Court. As Your Honor is
24 aware, the legal rate is set by the court in
25 January of each year, and I've calculated that

1 interest on that figure and included that in my
2 affidavit. The total that I have arrived at is
3 \$47,698.63 as of December 31 of 2020 with interest
4 accruing thereafter. The total interest in that
5 figure is \$6,850.67 at the legal rate.

6 Now, I point out to clients from time
7 to time, interest is not merely penalty; it simply
8 reflects the price of money. If -- it's the time
9 value of money. So the fact that the money may
10 have been sitting in an escrow account is
11 immaterial, we would have had it in hand had she
12 complied with the agreement. We also ask for
13 attorney's fees. And in asking for attorney's
14 fees, I only ask for what fees were attributed to
15 time expended as a result of her failure to comply
16 with the agreement. For example, I didn't bill
17 anything for the execution and preparation of the
18 deeds before, but I did include the time that
19 would be expended for the execution and
20 preparation of the deeds when we do them the
21 second time because that wouldn't have been
22 required. I've asked for attorney's fees of
23 \$4,275, plus fees for time expended in the hearing
24 today and a filing fee of approximately \$57, I
25 believe, for the motions.

1 There was a third motion that was
2 mentioned. We filed a motion to have a
3 restraining order issued against Cassandra Selph
4 when she started altering the Selph home place,
5 but that motion was never heard and it's now a
6 moot point because she's already done the stuff
7 that she was going to do; and because of the COVID
8 situation, it was impossible to get any kind of
9 hearing on that in a timely fashion.

10 The property taxes on the property
11 have been paid by my client, Margaret Daniels, in
12 the amount of \$1,959.61 for 2019 and \$1,966 for
13 this year and Cassandra Selph needs to pay her
14 part of that. We, we will have some additional
15 costs for the plat approval and the recording of
16 the deeds assuming the Court requires compliance
17 with the settlement agreement.

18 Your Honor, this litigation in this --
19 with this Selph property has gone back for a
20 number of years, and Cassandra Selph has been
21 involved in most of it. We're asking that the
22 settlement agreement that the parties entered into
23 be enforced; the settlement agreement that the
24 parties all signed and the attorneys all signed,
25 the settlement agreement that incorporated this

1 sketch that the parties all initialed, all
2 approved. And Your Honor, I would just say that
3 we need to make the parties whole, we need to put
4 the parties in the position that they would have
5 been in had Cassandra Selph complied with this
6 agreement.

7 And Your Honor, the mediation process
8 is crucial to resolving civil cases. We've got
9 all the sanctity of the mediation process. If we
10 don't enforce a settlement agreement that was
11 entered into at a mediation conference, we're
12 moving in the wrong direction, so I ask that the
13 Court enforce the agreement as laid out. And
14 Mr. Jenkinson and Mr. Thompson may have something
15 to add. Gary Crawford was the attorney
16 representing Duane Selph in my case with Margaret
17 Daniels. He may have something to add on that as
18 well.

19 THE COURT: All right. Before I hear
20 from Mr. Alter, Mr. Jenkinson, you or anyone else
21 want to say anything?

22 MR. JENKINSON: Tom Thompson, my law
23 partner, will speak on our behalf.

24 THE COURT: All right. Mr. Thompson.

25 MR. THOMPSON: Can you hear me, Your

1 Honor?

2 THE COURT: Yes, sir.

3 MR. THOMPSON: Thank you, Judge.

4 First, we have that motion to amend the complaint.
5 Our client Ms. Lynn Selph passed away, and her
6 husband is also a party. Joshua Selph, has been
7 named as the personal representative of her
8 estate. I've spoken about this with Mr. Alter. I
9 don't think this naming the estate of Lynn Selph
10 in the complaint with Mr. Joshua Selph acting as
11 her PR, we just to need to add them as a party. I
12 don't believe there's any objection to it, Your
13 Honor.

14 THE COURT: Is that suitable,
15 Mr. Alter?

16 MR. ALTER: Your Honor, the only
17 problem I would have with the motion to amend the
18 complaint to as the estate is effected, what was
19 being given out in this deal with a life estate to
20 the two parties, so amending it would almost be
21 irrelevant because she died. The deal call for a
22 life estate with Joshua, I think Mr. Thompson
23 would agree with that is to Joshua and Bazen
24 (ph) --

25 MR. THOMPSON: Lynn.

1 MR. ALTER: And Lynn. And Lynn's
2 passed away so amending the complaint to add her
3 name in there is almost irrelevant because -- is
4 irrelevant because she's died and they should
5 have gotten this whole case to life estate to
6 begin with.

7 MR. THOMPSON: And Your Honor, we ---

8 MR. ALTER: Unless there's something
9 I'm missing, Your Honor.

10 THE COURT: Mr. Thompson.

11 MR. THOMPSON: Your Honor, we amended
12 it just to carry on this lawsuit on her behalf.
13 We do understand it was a life estate to her, but
14 also to her husband Joshua and that's why we
15 amended it.

16 THE COURT: Okay. All right, anybody
17 else before I turn to Mr. Alter.

18 (No response.)

19 THE COURT: All right. Mr. Alter,
20 your position on this?

21 MR. ALTER: Yes, sir, Your Honor.

22 There have been a number of changes on this
23 agreement. The original agreement on that sketch
24 and didn't have meets and bounds in it, and there
25 have been a number of changes on this agreement as

1 described -- for both parties. Now to blame my
2 client for this is not proper as far as I'm
3 concerned, Judge. We have tried our best to close
4 this thing out, and I've indicated in my -- let me
5 slow down -- in my opposing papers, that I'm
6 willing to give up the deeds. I think Natalie
7 finally got the right descriptions. We could
8 bring up the title and trust. But my client
9 didn't have to pay the cost of the legal fees for
10 the attorneys to bring this action because this is
11 not her fault. This is -- the case has gone on a
12 long time. There have been a number of chan- as
13 Mr. Askins has indicated, there have been a number
14 of changes made in the initial agreement so,
15 therefore, the initial agreement was changed. The
16 surveyor brought in, and there was a number of
17 changes in the descriptions on the property.

18 Secondly, Judge, and this is important
19 too, is that the papers that were submitted both
20 by Mr. Jenkinson and Mr. Askins were submitted
21 late under the South Carolina rules. I got papers
22 from Mr. Askins two days ahead, two days before
23 this motion, and from Mr. Jenkinson, Mr. -- nine
24 days before this motion and from Mr. Jenkinson two
25 days before this motion. The rule requires ten

1 days under the case I cited. That's a procedural
2 rule. But let me get to the bottom line on this.
3 Both attorneys are trying to blame my client for
4 the delays here and that's just not true. There
5 have been a number of changes on this deed, a
6 number of changes on the property description.
7 Everybody has indicated there have been problems
8 with the surveyor coming in. Now my client is
9 ready to sign the deed. Get us a deed, we'll go a
10 title search and get this done; but we shouldn't
11 have to pay the cost of all this because the only
12 reason the costs would be imposed upon us is if it
13 was Ms. Selph's fault and it was not. That's the
14 issue here.

15 The issue about signing this deed, the
16 issue about splitting up the property, obviously
17 title insurance, -- let me slow down -- it's not
18 an issue here, Judge. I mean, we're ready to
19 sign. The problem is who is gonna pay each
20 attorney's respective costs. And my position is,
21 under the American rule everybody pays their own
22 meal course. Now let me say something else,
23 Judge. I'm holding the \$41,000 in escrow so I
24 want everybody to know that; I've got it. It was
25 turned to me by Mr. O'Bryan when he was relieved

1 as attorney, and I've got it in my escrow account.
2 I just want the Court to know that so. What we
3 need, what we need -- the client doesn't want to
4 pay everybody's legal fees and all the costs for
5 this because she feels she's not been at fault on
6 this, and that's the issue that we raised in all
7 our papers.

8 And obviously, if you listen to what
9 Mr. Askins said, he indicated that the settlement
10 agreement and the property description were
11 changed for that settlement agreement. So,
12 therefore, you know, let's get down to business,
13 sign up the papers, get done with this already;
14 but my client doesn't want to pay \$15,000 for the
15 privilege of doing this.

16 THE COURT: Okay. All right. Have I
17 heard from everybody now?

18 MR. ALTER: May I make one point,
19 Judge. I indicated -- again, never mind. I put
20 in there a Zoom conference. And this is really a
21 matter of \$100 my client has got to pay for this
22 in the final description. And Jenkins-- in Mr.
23 Jenkinson's case, we're arguing about the
24 description of the property not being correct
25 under the amended, amended, amended agreement. So

1 it's all in my papers, Your Honor.

2 THE COURT: Okay. I'm guessing I have
3 a lot to read here. I've got a lot more hearings
4 today. I have several things of notice I've
5 taken. Please allow me -- I know you will -- to
6 review it and read it ---

7 MR. ASKINS: Judge.

8 THE COURT: Yes.

9 MR. ASKINS: Jerome Askins. May I say
10 something in response to Mr. Alter?

11 THE COURT: Yes, sir.

12 MR. ASKINS: Judge, what he said is
13 simply not so. There was no change to the
14 mediation agreement. We were simply trying to
15 enforce the agreement that his client refused to
16 comply with. Now, I would point out to the Court
17 that he says she is now willing to sign the deeds
18 without any additional change. He realizes that
19 she messed up so now he's saying she will comply
20 now but she shouldn't be penalized for not
21 complying back when she should have. What he says
22 about our problem about our changing the agreement
23 is simply not so.

24 THE COURT: Yes, sir. You will hear
25 from me, gentlemen. Thank you for your patience.

C E R T I F I C A T E O F R E P O R T E R

STATE OF SOUTH CAROLINA)
COUNTY OF FLORENCE)

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

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

Witness my hand at Florence, South Carolina, this 11th day of September, 2021.

Frances B. Ray

FRANCES B. RAY, RPR

CERTIFICATION OF APPELLANT'S COUNSEL

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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.

January 20, 2022

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Jan 20 2022

SC Court of Appeals

/s/ Bernard M. Alter

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