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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM THE RICHLAND COUNTY
COURT OF COMMON PLEAS

MAR 18 2022

SC Court of Appeals

The Honorable Joseph M. Strickland, Master-in-Equity

Appellate Case No.: 2017-001795

Country Properties, LLC.....Respondent, .

vs.

Nancy Dunn Martin.....Appellant.

**RESPONDENT'S MOTION TO SUBSTITUTE PARTY PURSUANT TO RULE
265, SCACR**

Respondent Country Properties, LLC hereby submits this Motion to Substitute Raglins Creek Farms, LLC in this action pursuant to Rule 265, SCACR. The grounds for this motion are that during the pendency of this appeal Respondent Country Properties, LLC conveyed its interest in the property it owned which is the subject of this action to Raglins Creek Farms, LLC. The deeds transferring the interest are attached hereto as Exhibits A and B.

Background

This is an easement case. The trial court entered its final order in this case on September 27, 2016. The final order found that Respondent Country Properties, LLC had

a prescriptive easement over the property of the Appellant, and easement by grant over the property of the Appellant and that the road in question was dedicated to the public. *See* September 27, 2016 Order. Since the final order, there have been two appeals in this action, 2017-001795 and 2019-000569. Only the Appellate Case captioned above, 2017-001795, remains pending.

Grounds

Rule 265(c), SCACR governs the substitution of parties to an appeal for any reason other than death or incompetency. Additionally, while not an Appellate Court Rule, Rule 25, SCRCF, allows for the substitution of a party based upon a “transfer of interest.” Rule 25, SCRCF(e) allows for such substitution by the appellate court during a pending appeal.

Respondent Country Properties, LLC has transferred its interest in the property it owned which is the subject of this action to Raglins Creek Farms, LLC as evidenced by the deeds attached hereto. As such, Raglins Creek Farms, LLC should be substituted for Country Properties, LLC in this action.

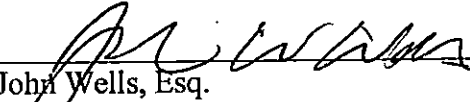
Conclusion

For the reasons stated herein, Raglins Creek Farms, LLC should be substituted for Country Properties, LLC.

[signature page follows]

Respectfully Submitted,

BAXLEY PRATT & WELLS, P.A.



John Wells, Esq.

3 The Commons

Lagoff, SC 29078

Telephone: (803)438-4200

JWells@baxleywell.com

And

BUNDY MCDONALD, LLC

M. Brent McDonald, SC Bar # 78057

1516 Old Trolley Road, 2nd Floor

Summerville, SC 29485

Telephone: 888-552-1559

brent@bundymcdonald.com

**Attorneys for Respondent Country
Properties, LLC and Raglins Creek
Farms, LLC**

March 17, 2022

EXHIBIT A

Recording Requested By and
When Recorded Mail to:

Turner, Padgett, Graham & Laney, P.A.
P. O. Box 1473
Columbia, SC 29202
Attention: Lora Leathco, Paralegal

Book 2712-3798
 2022006566 02/03/2022 11:32:45:767
 Fee: \$15.00 County Tax: \$1103.85 State Tax: \$2609.10
 Deed
 2022006566 John T. Hopkins II
 Richland County R.O.D.

(Space above this line for Recorder's Use)

STATE OF SOUTH CAROLINA)
)
 COUNTIES OF KERSHAW AND RICHLAND) GENERAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS THAT, COUNTRY PROPERTIES, LLC, a South Carolina limited liability company ("Grantor") for and in consideration of the sum of Ten and No/00 (\$10.00) Dollars and other valuable consideration to it paid by RAGLINS CREEK FARMS, LLC, a South Carolina limited liability company ("Grantee") in the State aforesaid, the receipt of which is hereby acknowledged, subject to the reservations and limitations hereinafter stated, has granted, bargained, sold and released, and by these presents does grant, bargain, sell and release, subject to the matters ("Exceptions") set forth below, unto the said Grantee, its successors and assigns forever, the following described property (the "Property"):

SEE EXHIBIT "A" ATTACHED HERETO

TMS No. 387-00-00-020 (portion) (Kershaw County)
 R40300-01-02 (Richland County)

GRANTEE'S ADDRESS: 941 Spears Creek Court, Elgin, SC 29045

This conveyance is also made subject to all restrictions and easements of record and governmental ordinances and regulations affecting the Property.

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

TO HAVE AND TO HOLD all and singular the Property before mentioned unto the said Grantee, its successors and assigns forever, subject to the reservations and limitations set forth above.

And Grantor does hereby bind Grantor and Grantor's successors and assigns to warrant and forever defend all and singular the said premises unto the said Grantee and Grantee's successors and assigns against Grantor and Grantor's successors and assigns, and against every person whomsoever lawfully claiming, or to claim the same or any part thereof.

**SIGNATURE PAGE
TO
GENERAL WARRANTY DEED**

IN WITNESS WHEREOF, Grantor has caused this General Warranty Deed to be executed as of the 2nd day of February, 2022.

Signed, Sealed and Delivered
in the presence of:

COUNTRY PROPERTIES, LLC, a South
Carolina limited liability company

Madis Podell
Witness

By: *James F. Podell* [SEAL]
James F. Podell, Member

Anna E. Korn
Witness

Madis Podell
Witness

By: *Dorothy Ann Podell* [SEAL]
Dorothy Ann Podell, Member

Anna E. Korn
Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF Richland)

ACKNOWLEDGMENT

I, a Notary Public for South Carolina, do hereby certify that James F. Podell and Dorothy Ann Podell, as the Members of Country Properties, LLC, a South Carolina limited liability company, personally came before me this day and, having satisfactorily proven to be the person whose name is subscribed above, the foregoing instrument was signed on behalf of the Company.

Witness my hand and official stamp or seal this 2nd day of February, 2022.



Anna E. Korn
Notary Public for South Carolina
Print Name of Notary: Anna E. Korn
My Commission Expires:

Aug. 22, 2022

EXHIBIT "A"

ALL THAT CERTAIN PIECE, PARCEL OR LOT of land, together with improvements thereon, if any, situate, lying and being located near the Town of Lugoff, Counties of Richland and Kershaw, State of South Carolina, containing 1,023.07 acres, more or less, and being shown and described on a plat prepared for Gonzales Land and Timber, LLC, by Michael R. Mills, PLS, dated June 22, 2004 and recorded in the Office of the ROD for Richland County in Book RB951, page 1618 and the Office of the ROD for Kershaw County in Book B121, page 7. Said plat is incorporated herein by reference for a more complete and accurate description.

LESS AND EXCEPT: ALL THAT CERTAIN PIECE, PARCEL OR LOT of land, together with improvements thereon, if any, situate, lying and being located near the Town of Lugoff, County of Kershaw, shown as 181.80 acres on that certain survey prepared for HVP3 Development, LLC, by Belter & Associates, Inc., dated November 17, 2021, and recorded in Book D131, page 4, reference being made thereto for a more complete description.

The total acreage of this Property is the original 1,023.07 acres, less the 181.80 acres (which is located solely within Kershaw County) for a new total of 841.27 acres. Of the total acreage of 841.27 acres, 383.63 acres is in Richland County, and 457.64 acres is in Kershaw County.

Derivation: Being a portion of the property conveyed to Country Properties, LLC by deed of Pine Ridge Investments, LLC, dated March 11, 2009 and recorded in Book 2518, page 289 in the Office of the ROD for Kershaw County, South Carolina and recorded in the Office of the ROD for Richland County, South Carolina in Book 1515, page 1554.

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

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

1. The property being transferred is located at 841.27 acres of which 457.64 are located in Kershaw County and 383.63 are located in Richland County bearing Kershaw County Tax Map Number 387-00-00-020 and Richland County Tax Map Number 40300-01-02 was transferred by Country Properties, LLC to Raglins Creek Farms, LLC on February 2, 2022.

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) Exempt from the deed recording fee because (See Information section of affidavit):

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

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

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

- (a) The fee is computed on the consideration paid, or to be paid, in money or money's worth in the amount of \$2,200,000.00
- (b) The fee is computed on the fair market value of the realty which is
- (c) The fee is computed on the fair market value of the realty as established for property tax purposes which is

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

6. The deed recording fee is computed as follows:

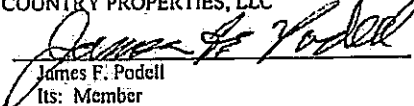
- (a) Place the amount listed in item 4 above here: \$2,200,000.00
- (b) Place the amount listed in item 5 above here: \$0
(If no amount is listed, place zero here.)
- (c) Subtract Line 6(b) from Line 6(a) and place result here: \$2,200,000.00

7. The deed recording fee due is based on the amount listed on Line 6(c) above and the deed recording, fee due is: \$8140.00
\$4,428.05 (Kershaw) $457.64/841.27 = 54.4\% \times \$2,200,000.00 = \$1,196,771.55/1000 \times 3.7 = \$4,428.05$
\$3,711.95 (Richland) $383.63/841.27 = 45.6\% \times \$2,200,000.00 = \$1,003,228.45/1000 \times 3.7 = \$3,711.95$

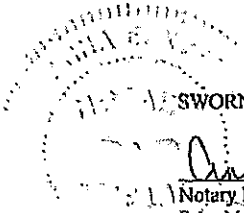
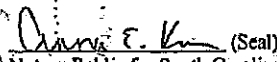
8. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as Seller.

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

COUNTRY PROPERTIES, LLC


James F. Podell
Its: Member

SWORN to, before me this 2nd day of February, 2022


 (Seal)
Notary Public for South Carolina

Print Name: Anne E. Korn

My Commission Expires: Aug. 22, 2022

EXHIBIT B

202200001238
Filed for Record in
KERSHAW COUNTY SC
BILLIE MCLEOD, REGISTER,
02-03-2022 At 01:15:33 pm.
DEED 15.00
STATE 3112.20
COUNTY 1316.70
DR Volume 4669 Page 295 - 299

Recording Requested By and
When Recorded Mail to:

Turner, Padgett, Graham & Lancy, P.A.
P. O. Box 1473
Columbia, SC 29202
Attention: Lora Leathco, Paralegal

Instrument 202200001238 DR
Volume 4669 Page 295

(Space above this line for Recorder's Use)

STATE OF SOUTH CAROLINA)
)
COUNTIES OF KERSHAW AND RICHLAND) GENERAL WARRANTY DEED

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This conveyance is also made subject to all restrictions and easements of record and governmental ordinances and regulations affecting the Property.

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Madisfider
Witness

By: James F. Podell [SEAL]
James F. Podell, Member

Anna E. Korn
Witness

Madisfider
Witness

By: Dorothy Ann Podell [SEAL]
Dorothy Ann Podell, Member

Anna E. Korn
Witness

STATE OF SOUTH CAROLINA)
)
COUNTY OF Richland)

ACKNOWLEDGMENT

I, a Notary Public for South Carolina, do hereby certify that James F. Podell and Dorothy Ann Podell, as the Members of Country Properties, LLC, a South Carolina limited liability company, personally came before me this day and, having satisfactorily proven to be the person whose name is subscribed above, the foregoing instrument was signed on behalf of the Company.

Witness my hand and official stamp or seal this 2 day of February, 2022.

Anna E. Korn
Notary Public for South Carolina
Print Name of Notary: Anna E. Korn
My Commission Expires:

Aug. 22, 2022

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

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(If no amount is listed, place zero here.) \$0
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\$3,711.95 (Richland) $383.63/841.27 = 45.6\% \times \$2,200,000.00 = \$1,003,228.45/1000 \times 3.7 = \$3,711.95$

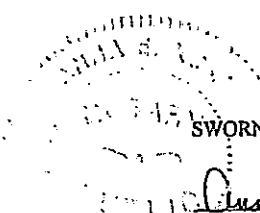

8. As required by Code Section, 12-24-70, I state that I am a responsible person who was connected with the transaction as: Seller.

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

COUNTRY PROPERTIES, LLC


James F. Podell
Its: Member

SWORN to before me this 2nd day of February, 2022.


 (Seal)
Notary Public for South Carolina
Print Name: Anna E. Korn

My Commission Expires: ~~Aug 22, 2022~~

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

MAR 18 2022

SC Court of Appeals

The Honorable Joseph M. Strickland, Master-in-Equity

Appellate Case No.: 2017-001795
Civil Case No.: 2014-CP-40-01805

Country Properties, LLC,Respondent,

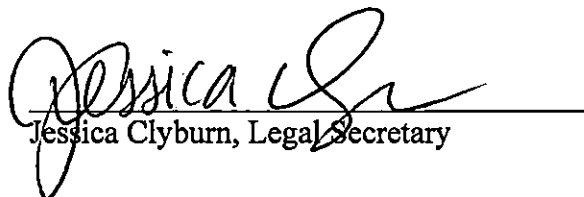
v.

Nancy Dunn Martin,Appellant.

PROOF OF SERVICE

The undersigned certifies that she has Respondent's Motion to Substitute Party Pursuant to Rule 265, SCACR with Exhibit A and Exhibit B, upon counsel for Appellant by attachment to AIS-registered email, pursuant to Order of the Supreme Court in re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules (2021-08-25-02), on March 17, 2022, as follows:

Joey R. Floyd (68491) jfloyd@brunerpowell.com
Chelsea J. Clark (102211) cclark@brunerpowell.com
Wesley D. Peel (9283) wpeel@brunerpowell.com


Jessica Clyburn, Legal Secretary

LAW OFFICES OF
BAXLEY, WELLS & BENSON, P.A.

JOHN W. WELLS
JESSICA L. BENSON

3 THE COMMON AT LUGOFF
Post Office Box 10
Lugoff, South Carolina 29078
Telephone: 803-438-4200
Fax: 803-438-5090

CHARLES B. BAXLEY,
OF COUNSEL
REX K. PRATT
(1929 – 1999)

March 17, 2022

VIA US MAIL

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RECEIVED
MAR 18 2022
SC Court of Appeals

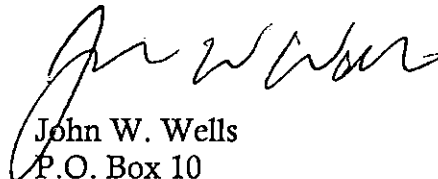
Re: Country Properties, LLC v. Nancy Dunn Martin
Civil Action No.: 2014-CP-40-1805

Dear Madam Clerk:

Enclosed herewith you will find an original and six (6) copies of the Respondent's Motion to Substitute Party Pursuant to Rule 265, SCACR with Exhibit A, Exhibit B and my firm's check in the amount of fifty and 00/100 (\$50.00) dollars to cover the applicable filing fee

Very Truly Yours,

BAXLEY, WELLS & BENSON, P.A.



John W. Wells
P.O. Box 10
Lugoff, SC 29078
(803) 438-4200
Attorney for Appellant

JWW/jc

Enclosures

cc: Brent McDonald (by email)
Joey R. Floyd (by email)
Chelsea J. Clark (by email)
Wesley D. Peel (by email)



LAW OFFICES OF
BAXLEY, WELLS & BENSON, P.A.
3 THE COMMON AT LUGOFF
P.O. Box 10
Lugoff, S.C. 29078

RECEIVED

MAR 18 2022

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

 USPS RETAIL GROUND®	Retail
	US POSTAGE PAID Origin: 29078 0317722 45320078-15
USPS RETAIL GROUND®	0 Lb 15.40 Oz 1005
SHIP TO: 1015 SUMTER ST COLUMBIA SC 29201-3726	[C076]
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	9534 6111 6232 2078 3744 30