

STATE OF SOUTH CAROLINA COUNTY OF BEAUFORT	)	IN THE COURT OF COMMON PLEAS FOURTEENTH JUDICIAL CIRCUIT
	)	
THE BIG HOUSE CEMETERY COMMITTEE, SHANOMA WATSON, JULIA B. SCOTT, JIMMY POPE, TAMIKA MIDDLETON, SHELIA MIDDLETON, MARY MACK, LEROY HAYNES, SHERIKA CHISOLM, SHERIKE BENNETT, and ARLENE COVINGTON,	)	CASE NO. 2025-CP-07--01126
	)	
Plaintiffs,	)	SUMMONS
	)	(Jury Trial Demand)
vs.	)	
THERESA AIGNER, ROBERT CODY HARPER, and WALTER ROBERT HARPER, JR., Defendants.	)	

TO THE DEFENDANT:

Theresa Aigner
Robert Cody Harper
Walter Robert Harper, Jr.

YOU ARE HEREBY SUMMONED and required to answer the Verified Amended Complaint in this action of which a copy is hereby served upon you, and to serve a copy of your Answer to the said Verified Amended Complaint on the subscriber at their offices, 1430 Richland Street, Post

Office Box 532, Columbia, South Carolina 29202, within thirty (30) days after the service thereof exclusive of the day of such service; and if you fail to answer the Verified Amended Complaint within the time aforesaid, Plaintiffs in this action will apply to the Court for the relief demanded in the Verified Amended Complaint and for a default judgment.

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ATTORNEY FOR PLAINTIFFS

** pro hac vice motions pending*

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF BEAUFORT	)	FOURTEENTH JUDICIAL CIRCUIT
THE BIG HOUSE CEMETERY	)	
COMMITTEE, SHANOMA	)	CASE NO. 2025-CP-07-01126
WATSON, JULIA B. SCOTT,	)	
JIMMY POPE, TAMIKA	)	VERIFIED AMENDED COMPLAINT FOR
MIDDLETON, SHELIA	)	DECLARATORY, INJUNCTIVE, AND
MIDDLETON, MARY MACK,	)	MONETARY RELIEF
LEROY HAYNES, SHERIKA	)	(Jury Trial Demand)
CHISOLM, SHERIKE BENNETT,	)	
and ARLENE COVINGTON,		
 Plaintiffs,		
 vs.		
 THERESA AIGNER, ROBERT		
CODY HARPER, and WALTER		
ROBERT HARPER, JR.,		
 Defendants.		

**VERIFIED AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE, AND
MONETARY RELIEF**

Plaintiffs file their Verified Amended Complaint for Injunctive, Declaratory, and Monetary Relief against Defendants Theresa M. Aigner, Robert Cody Harper, and Walter Robert Harper, Jr., stating as follows:

PRELIMINARY STATEMENT

De wata bring we and de wata gwine tek we bak¹
The water brings to us and the water will take us back.

1. Plaintiffs Shanoma Watson, Julia B. Scott, Jimmy Pope, Sheila Middleton, Tamika Middleton, Mary Mack, Leroy Haynes, Sherike Bennett, Sherike Chisolm, and Arlene Covington (“Individual Plaintiffs”), along with Plaintiff the Big House Cemetery Committee (hereinafter collectively, “Plaintiffs”), represent members of the Gullah Geechee community on St. Helena Island, South Carolina, who are fighting to protect and preserve their ancestral burial grounds and cultural practices at their local community’s generations-old oceanside cemetery—the Big House Cemetery (the “Cemetery”). South Carolina law has long protected these practices to access, visit, bury, and maintain cemeteries.

2. Open to the public for generations and situated between Seaside Road and the Harbor River marshes and along Everest Lane and Everest Road on St. Helena Island, the Cemetery has served as a sacred historical, cultural, and community site that, according to local residents’ accounts, dates back to the period of slavery on St. Helena.

3. Cemeteries like the Big House Cemetery were created on plantations during slavery, where once-enslaved Gullah Geechee people lived, forcibly worked, and died—often under the most inhumane, cruel, and dehumanizing conditions. Additional cemeteries were opened by formerly enslaved persons near Black churches and “Praise Houses” after emancipation. These cemeteries have been sites for community gatherings, support, and celebration for centuries.

¹ Pew Charitable Trusts, *African Descendants Have Stake in Saving U.S. Southeast Salt Marshes* (July 12, 2021), <https://www.pewtrusts.org/en/research-and-analysis/articles/2021/07/12/african-descendants-have-stake-in-saving-us-southeast-salt-marshes>.

4. For at least the duration of their lives, and likely the last century, Individual Plaintiffs, along with other local community members, have buried, visited, mourned, and celebrated their deceased relatives and other loved ones at funerals and interments at the Cemetery—once a part of a slave plantation. They have also maintained and cared for the Cemetery on clean-up days and during visits, ensuring the longevity of their Gullah Geechee ancestors’ oceanside resting places and their cultural burial practices. As the above Gullah quote indicates, the proximity of the Cemetery to the water has remained core to these practices: water carries their ancestors’ spirits home to their birthplaces in Africa.

5. Without interruption, Individual Plaintiffs, other community members, and local funeral homes have openly and continually accessed the Cemetery for decades for interments, funeral processions, clean-up days, and/or visits, by traversing the entire length of Everest Lane and Everest Road (hereinafter collectively “Everest”). No other route has existed for Individual Plaintiffs and other local community members to access the Cemetery for purposes of visiting, mourning, burying, and honoring their deceased relatives and other loved ones and for maintaining the Cemetery, including through organized clean-up days.

6. In May 2024, approximately four years after purchasing, and moving from out-of-state to, her property on Everest Lane on the Island, Defendant Aigner suddenly put a halt to Plaintiffs’ decades-long, generational burial practices at the Cemetery by shutting out the public from accessing the Cemetery via Everest. Despite having previously taken no issue with the public’s access to the Cemetery via Everest and even willingly providing Individual Plaintiffs, other local community members, and local funeral homes a code to unlock a gate she had placed on Everest in late 2023, Defendant Aigner changed the gate code without notice to anyone in the local community, including Individual Plaintiffs.

7. When a three-car crash on May 29, 2024, claimed the lives of five Black St. Helena residents, including relatives of several Plaintiffs, their family could not bury them alongside other family buried in the Cemetery, because they could not pass through Defendant Aigner's locked gate on Everest Lane. Instead, they had to bury some of their relatives more than 20 miles away in a cemetery in Seabrook, South Carolina—away from generations of deceased relatives buried in the Big House Cemetery.

8. Soon thereafter, Plaintiff the Big House Cemetery Committee (the "Committee") formed, seeking to negotiate with Defendant Aigner to remove the gate and ensure the local community, including Plaintiffs, could again be able to traverse Everest to access the Cemetery, as they had done throughout their lives. Defendant Aigner, however, rejected Plaintiffs' efforts to negotiate, instead resorting to private and public shaming of the local Gullah Geechee community, including Individual Plaintiffs and the Committee members.

9. Soon thereafter, two additional newcomers to the neighborhood, Defendant Robert Cody Harper and Defendant Walter Robert Harper, Jr.—who in 2024 purchased property on Everest Road that abuts the Cemetery—erected their own gate at the entrance to the Cemetery off of Everest Road, further shutting out the community's access to the Cemetery.

10. Because of these obstructions by Defendants Aigner, Harper, and Harper on Everest, Plaintiffs can no longer use Everest to access, visit, mourn, bury in, and/or to maintain or care for, the Cemetery. In turn, Defendants' actions have prevented Plaintiffs from preserving their Gullah Geechee oceanside burial practices at the Cemetery for over an entire year in contravention of South Carolina law.

11. Plaintiffs thus come to this Court to seek: (A) a **declaration** that (1) they are entitled under South Carolina law (i) to access, bury in, and visit deceased relatives and other loved ones at, the

Cemetery, as well as to maintain and care for the Cemetery, and (ii) to use and enjoy an easement along Everest and across the entrance to the Cemetery off of Everest Road, and that (2) Defendants have violated these rights, and (B) **a temporary restraining order** and/or **a preliminary and a permanent injunction** to require Defendants' removal of their obstructions on Everest that are depriving Plaintiffs of their rights to access, bury, visit, and maintain and care for the Cemetery and to use and enjoy the easement on Everest. Individual Plaintiffs also seek **monetary damages** for the economic and non-economic losses that they have suffered due to Defendants' deprivation of their rights under South Carolina cemetery and easement law.

PARTIES

12. **Plaintiff Big House Cemetery Committee** is an unincorporated grassroots community organization based in St. Helena Island, Beaufort County, South Carolina, that is dedicated to protecting, and ensuring access to, the Big House Cemetery on St. Helena Island for community members whose relatives and other loved ones are buried at the Cemetery. Its members, including several Plaintiffs, are residents of St. Helena Island who have not been able to access the Cemetery via Everest to visit relatives and loved ones buried in the Cemetery, bury recently deceased relatives or other loved ones in the Cemetery, and/or maintain or care for the Cemetery. Due to Defendants' obstructions on Everest, for the last year Committee members have not been able to exercise their rights under South Carolina law to access, visit, bury in, maintain, and/or care for the Cemetery or to use and enjoy the easement on Everest to reach the Cemetery.

13. **Plaintiff Shanoma Watson** is a resident of St. Helena Island, Beaufort County, South Carolina. She has many family members who are buried in the Cemetery and has spent time at the Cemetery on multiple occasions throughout her lifetime. Before Defendants' obstructions, she often accessed the Cemetery via Everest for the funerals of relatives and to visit relatives and other

loved ones at the Cemetery. Due to Defendants' obstruction on Everest, she has not been able to exercise her rights under South Carolina law to bury in, maintain, and/or care for the Cemetery or to use and enjoy the easement on Everest to access the Cemetery.

14. **Plaintiff Julia B. Scott** is a resident of St. Helena Island, South Carolina. She has many family members buried at the Cemetery. Before Defendants' obstructions at issue in this case, Ms. Scott regularly visited her loved ones' graves at the Cemetery, placing flowers and keeping them clean, and she participated in clean-up days at the Cemetery organized by community members—all of which she did by using Everest. Ms. Scott would like to be laid to rest in the Cemetery alongside her beloved family. Due to Defendants' obstructions on Everest, for the last year Ms. Scott has not been able to exercise her rights under South Carolina law to access, visit, bury in, and maintain or care for the Cemetery or to use and enjoy the easement on Everest to access the Cemetery.

15. **Plaintiff Jimmy Pope** is a resident of St. Helena, Beaufort County, South Carolina. He has many known relatives and other loved ones buried in the Big House Cemetery. Before Defendants' obstructions at issue in this case, he accessed the Cemetery via Everest throughout his lifetime for the funerals of relatives and other loved ones and for clean-up days at the Cemetery. Due to Defendants' obstructions on Everest, for the last year Mr. Pope, who is also a member of the Big House Cemetery Committee, has not been able to exercise his rights under South Carolina law to bury in, maintain, and/or care for the Cemetery or to use and enjoy the easement on Everest to reach the Cemetery.

16. **Plaintiff Sheila Middleton** is a resident of St. Helena, Beaufort County, South Carolina. She owns the property on which the Cemetery sits. She has many known relatives buried at the Cemetery. Before Defendants' obstructions, she visited the Cemetery via Everest throughout her

lifetime for the funerals of relatives and other loved ones and for clean-up days and other celebrations at the Cemetery. Due to Defendants' obstructions, for the last year Ms. Sheila Middleton has not been able to exercise her rights under South Carolina law to bury in, maintain, and/or care for the Cemetery or to use and enjoy the easement on Everest to reach the Cemetery.

17. **Plaintiff Tamika Middleton** is a resident of East Point, Georgia, but before Defendants' obstructions at issue in this case, she regularly returned to the Cemetery for clean-up days and funerals at the Cemetery, which she accessed via Everest. She has many known and unknown relatives buried at the Cemetery. Due to Defendants' obstructions on Everest, for the last year Ms. Tamika Middleton has not been able to exercise her rights under South Carolina law to bury in or maintain or care for the Cemetery or to use and enjoy the easement on Everest to reach the Cemetery.

18. **Plaintiff Mary Ann Mack** is a resident of St. Helena, Beaufort County, South Carolina. She has at least half of a dozen known ancestors and other loved ones buried in the Cemetery. Before Defendants' obstructions at issue in this case, Ms. Mack accessed the Cemetery via Everest throughout her lifetime for the funerals of relatives and other loved ones and for clean-up days and other ceremonies at the Cemetery. She is also the chairperson and a member of the Big House Cemetery Committee. Due to Defendants' obstructions on Everest, for the last year Ms. Mack has not been able to exercise her rights under South Carolina law to bury in, maintain, and/or care for the Cemetery or to use and enjoy the easement on Everest to reach the Cemetery.

19. **Plaintiff Pastor Leroy Haynes** is a resident of St. Helena Island, Beaufort County, South Carolina. Pastor Haynes has many close family members buried in the Cemetery. Many of his church's parishioners also have family members buried in the Cemetery. Before Defendants' obstructions, he visited the Cemetery via Everest approximately once a year for burials and clean-

up days, and to visit his deceased family members buried in the Cemetery. Due to Defendants' obstruction on Everest, for the last year Pastor Haynes has not been able to exercise his rights under South Carolina law to access, visit, or bury in the Cemetery, or to use and enjoy the easement on Everest to access the Cemetery.

20. **Plaintiff Sherika Chisolm** is a resident of St. Helena Island, Beaufort County, South Carolina. She has many family members who are buried in the Cemetery and has spent time at the Cemetery on multiple occasions throughout her lifetime. Before Defendants' obstructions, she often accessed the Cemetery via Everest for the funerals of relatives and to visit relatives and other loved ones at the Cemetery. Due to Defendants' obstruction on Everest, she has not been able to exercise her rights under South Carolina law to bury in or to maintain or care for the Cemetery or to use and enjoy the easement on Everest to access the Cemetery.

21. **Plaintiff Sherike Bennett** is a resident of St. Helena Island, Beaufort County, South Carolina. The majority of her family members from multiple generations are buried in the Cemetery. Before Defendants' obstructions at issue, she accessed the Cemetery via Everest throughout her lifetime for the funerals of relatives and for clean-up days at the Cemetery. Due to Defendants' obstruction on Everest, for the last year Ms. Bennett has not been able to exercise her rights under South Carolina law to bury in or maintain or care for the Cemetery or to use and enjoy the easement on Everest to access the Cemetery.

22. **Plaintiff Arlene Covington** is a resident of St. Helena, Beaufort County, South Carolina. She has numerous known relatives buried in the Big House Cemetery. Before Defendants' obstructions, she visited the Cemetery, via Everest, at least twice a year for burials of relatives and other loved ones and to visit deceased family buried at the Cemetery. Due to Defendants' obstructions on Everest, for the last year Ms. Covington has not been able to exercise her rights

under South Carolina law to access, visit, or bury in the Cemetery, or to use and enjoy the easement on Everest to access the Cemetery.

23. **Defendant Theresa Aigner** is resident of St. Helena Island, Beaufort County, South Carolina. Her property at 42 Everest Lane, Tax Map Parcel #R3000180000121, Plat 42, was purchased on July 20, 2020, and contains a portion of Everest Lane that leads to the Big House Cemetery that Plaintiffs, their relatives, and other members of the local community have used for decades to access the Cemetery. Defendant Aigner has placed a gate with a lock on Everest Lane that has prevented Individual Plaintiffs, along with other community members, from accessing the Cemetery on Everest to visit, bury in, maintain, and/or care for, the Cemetery or from using and enjoying the easement on Everest to access the Cemetery.

24. **Defendant Robert Cody Harper** is a resident of St. Helena Island, Beaufort County, South Carolina. Along with Walter Robert Harper, Jr., Defendant Robert Cody Harper owns property at 70 Everest Road, Tax Map Parcel # R300 018 000 130A 0000, Plat 70. Defendant Robert Cody Harper, along with Defendant Walter Robert Harper, Jr., has placed a gate at the entrance to the Cemetery off of Everest Road that Plaintiffs and the local community have openly, continuously used to access the Cemetery for decades. Defendant Robert Cody Harper's placement of this gate prevents the Individual Plaintiffs, along with other community members, from accessing the Cemetery off of Everest Road to visit, bury in, maintain, and/or care for the Cemetery or from using and enjoying the easement on Everest to access the Cemetery.

25. **Defendant Walter Robert Harper, Jr.** is a resident of St. Helena Island, Beaufort County, South Carolina. Along with Robert Cody Harper, Walter Robert Harper, Jr. owns property at 70 Everest Road, Tax Map Parcel # R300 018 000 130A 0000, Plat 70. Defendant Walter Robert Harper, Jr. along with Defendant Robert Cody Harper, has placed a gate at the entrance to the

Cemetery off of Everest Road that Plaintiffs and the local community have openly, continuously used to access the Cemetery for decades. Defendant Walter Robert Harper's placement of this gate prevents individual Plaintiffs, along with other community members, from accessing the Cemetery off of Everest Road, to visit, bury in, maintain, and/or care for the Cemetery or from using and enjoying the easement on Everest to access the Cemetery.

JURISDICTION AND VENUE

26. This is a suit involving the protection of cemetery rights as well as an easement in real property that seeks access to the Big House Cemetery on St. Helena Island in Beaufort County, South Carolina, and use and enjoyment of an easement along Everest to the Cemetery. This suit also seeks monetary damages for Defendants' obstruction of Plaintiffs' access to the Cemetery and use and enjoyment of the easement along Everest to access the Cemetery.

27. This Court has jurisdiction of the parties and the subject matter of this action pursuant to S.C. Const. art. V, § 11 and S.C. Code Ann. § 15-53-10, *et seq.*

28. Venue is proper in this Court, pursuant to S.C. Code Ann. §§ 15-7-10 and 15-7-30 as Beaufort County is where Defendants reside, and where all events and omissions giving rise to the claims have occurred and will continue to occur.

FACTUAL BACKGROUND

A. The Gullah Geechee of St. Helena Island: “Cumya can’t tell Binya” ~ “[People] who arrived can’t tell [the people] who had been []here [how to live life in these parts].”²

29. The Cemetery at issue in this lawsuit is located on St. Helena Island, a Sea Island off of the coast of South Carolina that is home to one of the largest existing Gullah Geechee communities in the southeastern region of the United States.

² Cicely Gay, *Cumya Can’t tell Binya*, MEDIUM (Apr. 4, 2021), <https://cicley.medium.com/cumya-cant-tell-binya-927637f5c8c4>.

30. The Gullah Geechee people are descendants of West and Central Africans who were kidnapped and trafficked across the Atlantic Ocean to be sold as slaves in the United States. They were brought to the states of South Carolina, North Carolina, Florida, and Georgia to do forced labor on coastal rice, Sea Island cotton, and indigo plantations.

31. The kidnapped Africans did not speak the same languages or come from the same tribal communities. During their months-long Middle Passage from West Africa to the Sea Islands, and once on the Sea Islands, they used their ingenuity and survival instincts to develop ways to communicate with each other, merging their native languages and Elizabethan English into a new, creole language: Gullah.

32. A language spoken nowhere else in the world outside of this region in the U.S. South, Gullah is a derivative of Angola, the name used by the Portuguese Empire to refer to a region along the west-central coast of southern Africa that was the site of several slave trading posts where the histories of these many diverse African people collided through the violence and dehumanization of enslavement.

33. Surviving the violence of slavery and racial domination required forms of kinship based in common heritage rather than only in direct descendancy. Enslaved, free, and maroon Africans living in the Lowcountry preserved many of their indigenous African traditions through oral history and practice. Through them, the Gullah Geechee culture was born.

34. Enslaved Gullah Geechee people made up the majority of St. Helena Island, and Beaufort County, before the Civil War. In 1861, when Union troops took over St. Helena Island, the white enslavers fled the region, leaving behind the Gullah Geechee people who previously performed forced labor on the land.

35. St. Helena Island was one of the first, and most historically significant, places that welcomed newly emancipated Black people in the 1860s after the civil war ended.

36. On the Sea Islands, formerly enslaved people established self-governance, financial independence, and self-determination earlier than anywhere else in the country. Newly emancipated Gullah Geechee people bought former plantation land in tax forfeiture auctions.

37. Isolation on the sea islands, without bridges to the mainland until the mid-twentieth century, facilitated the preservation of Gullah Geechee culture. From the late 19th Century through the 20th Century, Gullah Geechee people further enshrined their practices and traditions, including communal control, maintenance, and care for coastal cemeteries.

1. St. Helena's Gullah Geechee Culture is protected by federal and local law.

38. Today, the Sea Island region is federally designated, pursuant to federal law, as the Gullah Geechee Cultural Heritage Corridor, running from Pender County in North Carolina to St. John's County in Florida. St. Helena Island, South Carolina, is part of the Corridor.³

39. The Corridor works to recognize and preserve distinct Gullah Geechee history, traditions, culture, and language that still exist to this day as retentions of Indigenous African roots, including foods like gumbo, okra, peanuts, and shrimp and grits; artistic practices like sweetgrass basket weaving, bottle trees, quilting, and fish net making; and spiritual practices like ring shouts, praise breaks, and oceanside burial practices, including those at community cemeteries, like the Big House Cemetery on St. Helena Island.

40. In addition to receiving federal protection, St. Helena Island is protected by local law. In 1999, Beaufort County—which encompasses the Island—adopted Ordinance No. 1999/12, which

³ U.S. Nat'l Parks Serv., Gullah Geechee Cultural Heritage Corridor (2024), <https://www.nps.gov/places/gullah-geechee-cultural-heritage-corridor.htm>.

created a Cultural Protection Overlay District (“CPO”) to protect the Gullah Geechee cultural resources of St. Helena Island.

41. In May 2023, the Beaufort County Council approved an update to the CPO to align it with the County’s 2040 Comprehensive Plan that had been passed in November 2021. According to the updated CPO, its purpose is to:

preserve the rural character and to protect the cultural, natural, and historic resources on St. Helena Island It is a living, working landscape of forested lands, Gullah/Geechee family compounds, . . . and small tight-knit rural communities centered around places of worship. *The island is home to many historic structures, and sacred burial grounds, including graveyards and cemeteries.* Beaufort County’s 2040 Comprehensive Plan places great value in preserving the rural character of St. Helena and in continuing the natural, cultural, and historic qualities of St. Helena Island.⁴

42. Moreover, Subsection D of the CPO seeks to enforce “the public policy of Beaufort County to protect St. Helena Island’s rural, historic, and cultural heritage” by prohibiting “uses that are deemed to be incompatible.” This includes “*a residential neighborhood where accessibility is controlled by means of a gate, guard, barrier, or other similar improvement for the purposes of controlling the movement of traffic and people into and out of the neighborhood.*”⁵

43. The CPO covers all of St. Helena Island, including the Big House Cemetery, Everest Road, and Everest Lane.

B. The Significance of Cemeteries to Gullah Geechee Communities in South Carolina.

44. For centuries, cemeteries have been sacred sites for the Gullah Geechee people and hold significant historical and cultural importance to local Gullah Geechee communities.

⁴ Beaufort County, S.C., Cmty. Dev. Code Ordinance No. 2023/18 (emphasis added) (May 8, 2023), *available at* https://library.municode.com/sc/beaufort_county/ordinances/community_development_code?nodeId=1216333.

⁵ Cmty. Dev. Code § 3.4.50(D) (emphases added), *available at* https://library.municode.com/sc/beaufort_county/codes/community_development_code?nodeId=ART3SPZO_DIV3.4OVZO_3.4.50CUPROVCPZOST.

45. Because of the brutal conditions of chattel slavery, death was a common occurrence. Funerals were therefore frequent events for enslaved Africans on the Sea Islands.

46. In the antebellum era, each plantation typically had a cemetery where enslaved people were buried, often in unmarked graves. Law and custom often prevented enslaved people from gathering to hold formal funeral services for the dead. Nevertheless, enslaved people found ways to honor the dead and to mark their passing, through secret or informal ceremony and physical markings at gravesites.

47. Cemeteries for the enslaved were generally located on marginal property, often covered in thick trees and vines, which was not land that slaveowners could use. Gullah Geechee people have maintained cemeteries oceanside and buried bodies facing east so that the ancestors who came across the water unwillingly can transcend back over the water to their home in the afterlife. As the Gullah proverb says, “De wata bring we and de wata gwine tek we bak,” which roughly translates to, “[t]he water brought us here, and the water will take us back.”⁶

48. Graves were typically marked with sticks, stone slabs, or carved wood grave markers; even plants or glass or objects belonging to the deceased were placed on the graves. The methods by which enslaved and formerly enslaved people would mark their graves with personal items, such as sticks or shells, have long been destroyed or washed away.

49. Regardless of where life takes them geographically, Gullah Geechee people value being buried in the same cemetery as their ancestors so that their ancestors can usher them into the afterlife.

⁶ Pew Charitable Trusts, *supra* n.1.

C. The Operation of the Big House Cemetery as a Community Cemetery for Plaintiffs and Other Community Members to Honor and Celebrate Their Loved Ones.

50. Individual Plaintiffs' community burial practices reflect the importance of cemeteries to Gullah Geechee culture.

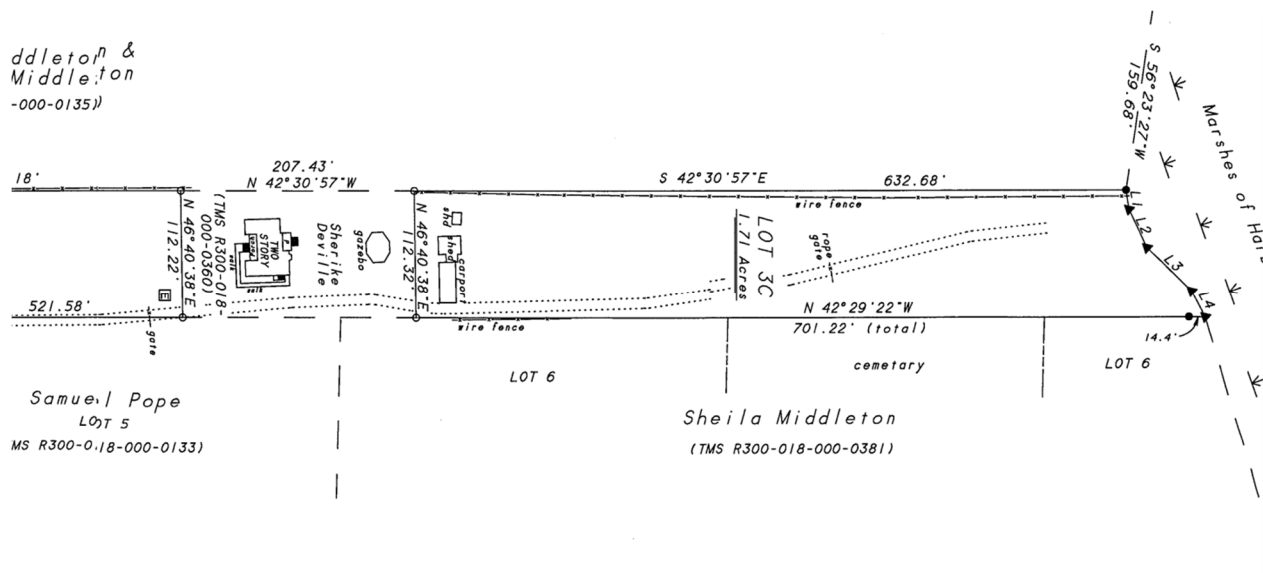
51. Plaintiffs and other members of the local Gullah Geechee community have relied on the Big House Cemetery (the "Cemetery") for decades—and likely, centuries—as a source of historical, cultural, and spiritual significance to their families and greater community.

52. As is common on St. Helena Island, Plaintiffs' families and other local community members who have buried in, visited, and taken care of the Cemetery for years have lived within its immediate vicinity.

53. Generations of the same family, including those of Individual Plaintiffs, are buried in the Cemetery.

54. Currently legally owned by Plaintiff Sheila Middleton, the land on which the Cemetery sits was bought and for decades, owned by Plaintiffs Sheila Middleton's, Mary Mack's, and Jimmy Pope's father and Plaintiffs Tamika Middleton's, Sherika Chisolm's, and Sherike Bennett's grandfather, Ernest Pope, Sr. Legal ownership of the Cemetery's land was passed to Ms. Sheila Middleton upon their father's death and will pass to Tamika Middleton upon Sheila Middleton's death.

55. The Cemetery—shown in the last plat on the right-hand side of the below survey—is located between Seaside Road, a main thoroughfare on the Island, and the marshes of the Harbor River on St. Helena Island. It is approximately one acre in size.



Beaufort County Register of Deeds (illustration), Instrument No. 2024046171 (Oct. 24, 2024), available at <https://rod.beaufortcountysc.gov/BrowserViewDMP/viewer?docID=8613634>.

56. At least for the last several decades, the only route to the Cemetery for funerals, interments, and visits at the Cemetery has been along Everest Lane and Everest Road.

57. Accounts from Individual Plaintiffs and other community members indicate that these roads were named “Everest” because they lead to the place where their ancestors will “forever rest.”

1. *The Big House Cemetery dates back at least a century and likely, much longer.*

58. According to local funeral directors and local community members, including Individual Plaintiffs, the Cemetery has been used for nearly two centuries as a communal burial site for local families, including those of Individual Plaintiffs, such as the Popes (Plaintiffs Mr. Pope, Ms. Mack, Ms. Bennett, Ms. Chisolm, Ms. Sheila Middleton, and Ms. Tamika Middleton); the Scotts (Plaintiff Ms. Scott); and the Haynes (Plaintiff Pastor Haynes), as shown below.



Photograph of Haynes Family graves at the Big House Cemetery (Feb. 13, 2025).

59. The Cemetery dates back at least to the period of slavery, approximately 165 years ago, and likely got its name from the common term that enslaved Africans used to describe their enslaver's home: "Big House," a traditional plantation house.

60. The Cemetery and the neighborhood and family homes that surround it were once part of a plantation, where Gullah Geechee people were enslaved. Historically, each plantation had a graveyard, often on marginal property, that the plantation owner gave to the enslaved Africans to bury their dead.

61. While formal burials have occurred at the Big House Cemetery since the Civil War, when the Island was abandoned by plantation owners upon the Union's arrival in 1861, burials of enslaved people very likely occurred in the Cemetery in the antebellum period.

62. Accounts from local community members and funeral home directors who have served the local Gullah Geechee community for generations also indicate that the Cemetery was likely used by enslaved persons who were forced to work on the nearby plantation.

63. At least one marked grave in the Big House Cemetery marks the resting place for a Pope family relative who died in 1909 at the age of 57, which means she was born in the early 1850s and most likely, was born into bondage.



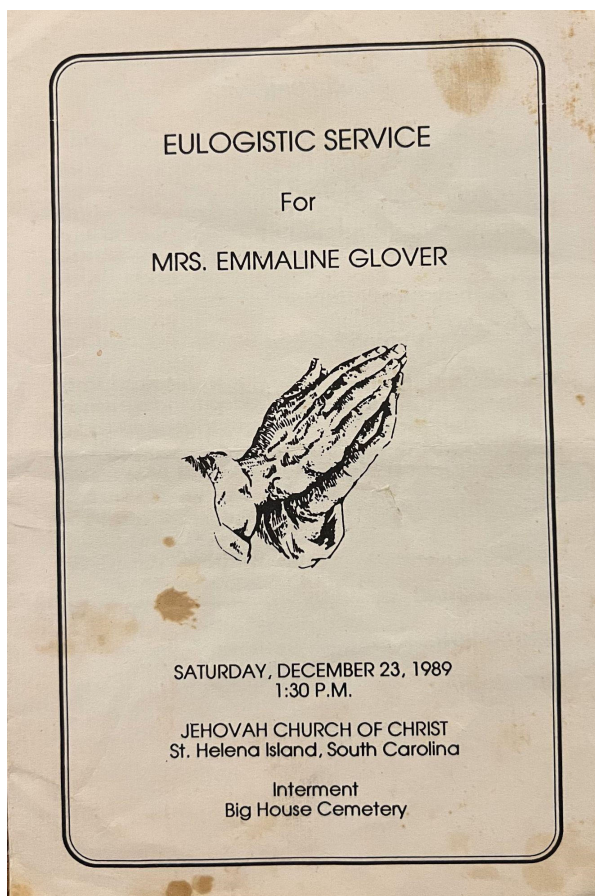
Photograph of tombstone and grave of Matilda Coaxum at Big House Cemetery (Feb. 13, 2025).

64. Many other marked graves with tombstones exist but etched names of the deceased are no longer legible due to weather exposure. Even older graves of enslaved and formerly enslaved persons, which were marked with sticks and other symbols, exist on the Cemetery, but with rising tides, hurricanes, and other changes to the environment in the area, they have sunken, become buried under brush, and are no longer visible.

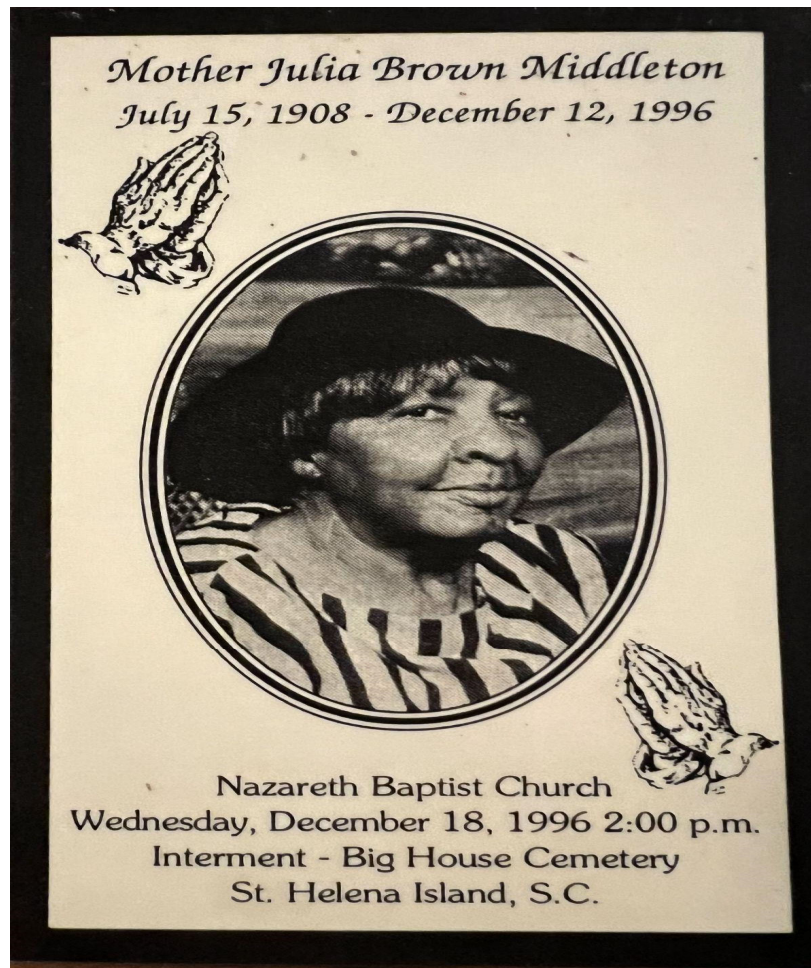
2. *Burials at the Cemetery*

65. The Popes—the family of Plaintiffs Mack, Pope, Sheila Middleton, Tamika Middleton, Bennett, and Chisolm—have opened up the Cemetery for cost-free burial plots to the community for decades—at least for the duration of Individual Plaintiffs’ lives and the life of the Pope family’s deceased patriarch, Ernest Pope, Sr.

66. Countless funerals, interments, and burials have occurred held at the Cemetery for decades, as shown by these funeral programs for local community members, including Emmaline Glover (1989) and Julia Brown Middleton (1996):



Photograph of Dec. 23, 1989 funeral program of Emmaline Glover (Apr. 7, 2025) (on file with Julia Scott).



Photograph of Dec. 18, 1996 funeral program of Julia Brown Middleton (Apr. 7, 2025) (on file with Julia Scott).

67. Community members are able to bury their relatives and other loved ones at the Cemetery, next to the graves of previously buried deceased relatives, without paying for the burial plot, and to freely visit with their deceased relatives and other loved ones buried at the Cemetery via Everest.

68. When a person seeks to bury in the Cemetery, they contact a member of the Pope family to inform the family that they would like to bury in the Cemetery. Local funeral homes then arrange for the burials at the Cemetery and dig new graves for the recently deceased to be interred there. To do so, the funeral homes have only accessed the Cemetery by vehicle via Everest.

69. Thus, the Pope family—including Plaintiffs Mack, Sheila Middleton, Tamika Middleton, Jimmy Pope, Sherika Chisolm, and Sherike Bennett—have been able to offer the local community

members and their families, including those of Plaintiffs Scott, Haynes, and Watson, free use of a burial plot at the Cemetery, saving community members thousands of dollars.

70. Not only have Individual Plaintiffs and other members of the local Gullah Geechee community used the Cemetery to bury and visit with their deceased loved ones at the Cemetery, but they have used the Cemetery for community celebrations.

71. To illustrate, Plaintiffs Mack, Sheila Middleton, Tamika Middleton, Pope, and other members of their family, held a rededication ceremony for ancestors buried in the Cemetery, including Ms. Mack's, Ms. Sheila Middleton's, and Mr. Pope's grandparents, in lieu of a family reunion. The land on the Cemetery was cleared of debris; headstones were unveiled and mounted for those deceased family members; and a short ceremony, with words of remembrance, was held around the gravestones at the Cemetery, followed by food, games, and music at the family's home.

72. The Cemetery has thus served as a safe, secure, stable, and low-cost location for local community, including Individual Plaintiffs, to mourn, honor, and commune with ancestors.

3. Clean-Up days at the Cemetery

73. Individual Plaintiffs and other local Gullah Geechee community members have long maintained the Cemetery through annual cemetery cleanup days to clear brush, overgrowth, and other natural debris that regularly covers the graves, including headstones and other markers:

BIG HOUSE CEMETARY CLEANUP

WE ARE ASKING EVERYONE IN THE COMMUNITY TO HELP WITH THE CLEANUP
OF YOUR NEIGHBORHOOD CEMETARY.

WHEN: 20 MARCH 2021

TIME: 8 A.M. – 10 A.M.

WHERE: BIG HOUSE CEMETARY



This Photo by Unknown Author is licensed under CC BY-SA

PLEASE BRING EQUIPMENT NEEDED TO CLEANUP SUCH AS: HOES, WEEDEATERS, AXES ETC. IF YOU
DON'T HAVE ANY EQUIPMENT JUST BRING YOUR HANDS AND A WORKING ATTITUDE.

Flyer for a 2021 community cleanup day at Big House Cemetery (2021) (alterations on original) (on file with Sherike Bennett).

74. The clean-up days typically occur at least annually before Mothers' Day during the month of May and approximately a week before the next scheduled funeral and interment.

75. To plan for the clean up day, a member of the Pope family prepares, prints, and distributes copies of the flyer to local residents who live on Seaside Road by putting them in mailboxes or posting them in a high-volume area in the nearby area.

76. In response to the flyer distribution, between 10 and 20 nearby community members—all of whom have relatives buried in the Cemetery—attend and participate in the Cemetery clean-up days, bringing their personal bush hogs, weed eaters, rakes, axes, lawnmowers, brooms, leaf blowers, and any other tools to clean the Cemetery.

77. Participants in the clean-up days have transported their tools and other clean-up materials to the Cemetery by accessing Everest Lane and Everest Road (hereinafter collective “Everest”). Residents pitch in to sweep, clean headstones, and the tops of vaults; repot plants and repost other memorabilia; and burn brush and other debris on the property.

78. Because of the community’s collective contributions, Individual Plaintiffs and other clean-up day participants never have to rent equipment or pay for labor to maintain the Cemetery.

79. The clean-up day serves as a foundation for later fellowship within the community: at the end of the clean-up activities, residents prepare hotdogs, hamburgers, and other food and visit with one another at a resident’s home.

80. The clean-up days have allowed Individual Plaintiffs and other local residents to continue to identify their deceased relatives and other loved ones’ graves at the Cemetery and thus, to continue to honor and commune with them in death.

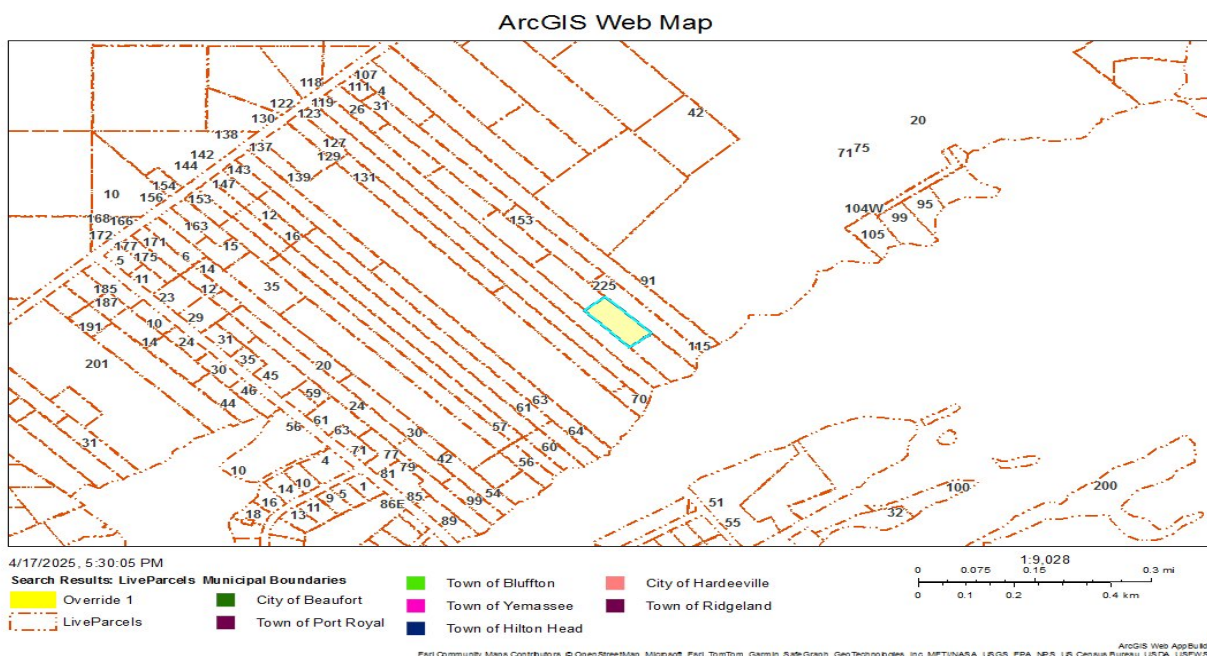
81. For Individual Plaintiffs, clean-up days are also meaningful opportunities to celebrate their Gullah Geechee ancestors and other loved ones for whom they hold much respect, adoration, and love. They are a mode of ensuring remembrance of, and an expression of love for, their ancestors—not only before or during a funeral but well beyond the funeral in death. Thus, while the land on which the Cemetery sits is legally owned by Ms. Middleton, the Cemetery belongs to the community in spirit and in practice.

82. The last clean-up day at the Cemetery was around March 23, 2024—approximately a week before the last funeral and interment at the Cemetery for the burial of Jonathan “Joe” Holmes on March 30, 2024, and a few weeks before Defendant Aigner changed the code to the gate she had placed across Everest Lane that now blocks Plaintiffs’ access to the remainder of Everest and thus, the Cemetery.

4. *The Use of Everest to Access the Cemetery by Plaintiffs and Other Local Community Members*

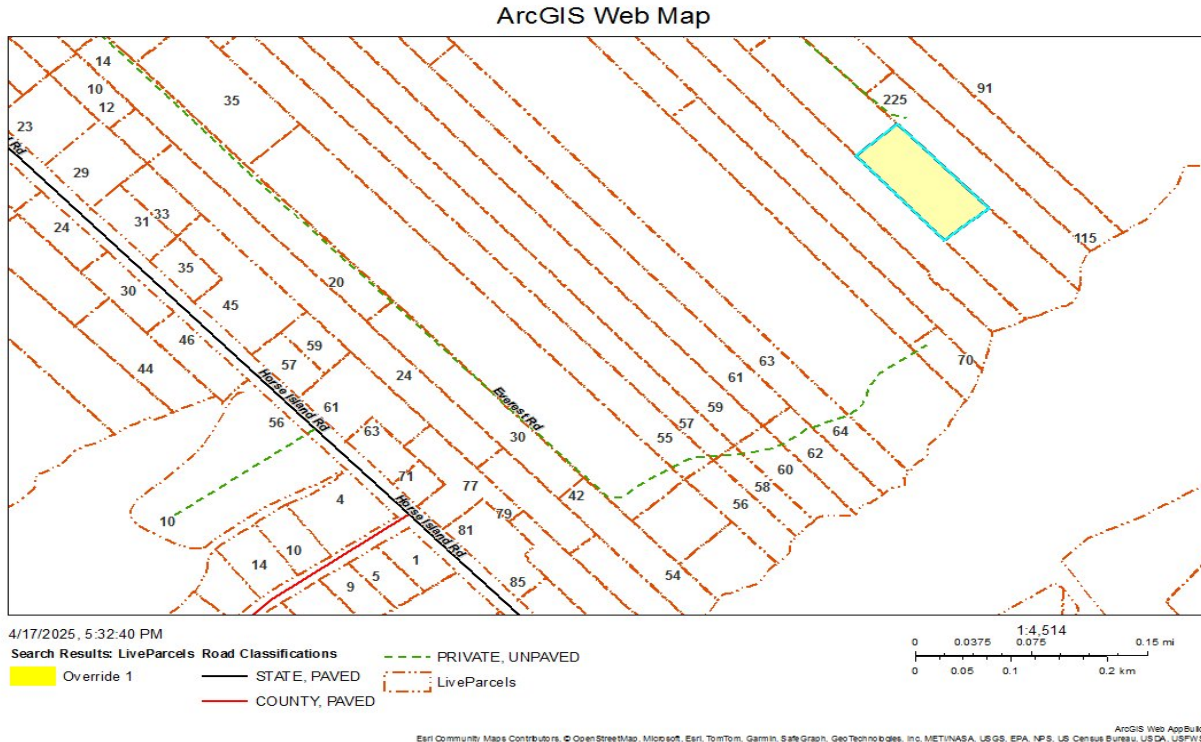
83. Before Defendants' obstructions, for at least two decades and likely longer, Individual Plaintiffs, along with other community members and funeral homes, have accessed the Cemetery for funerals, visits, maintenance, and clean-up days by driving off of Seaside Road onto Everest.

84. As the below Beaufort County maps show, Seaside Road runs diagonally at the top left corner of **Map #1** between Plats 107 and 177, and Everest is marked by the continuous green dotted line in **Map #2** that runs between Plats 14 and 70. Thus, to access the Cemetery—which is highlighted in yellow in **Map #1** and **Map #2**—the public has had to turn off of Seaside Road onto Everest Lane; continue Southeast on Everest Lane until it curves northeast, in front of Defendant Aigner's property at Plat 42, towards the Harbor River marshes, into Everest Road; and continue until the end of Everest Road, where they have parked near the entrance of the Cemetery, in front of Defendant Harper's and Harper's property at Plat 70.



Public Mapping Site, Beaufort County, SC Property Search, ArcGIS Interactive Web Map, Tax Map No. R300 018 000 0381 0000 ("Map #1"), available at:
<https://gis.beaufortcountysc.gov/publicmapping/?research=R300%20018%20000%200381%20000&slayer=0&expr>

num=0&showdatagrid=false (accessed Apr. 17, 2025) (zoom to appropriate view; select printer icon in top right corner, “JPG” option, & “print”; and select JPG link).



Public Mapping Site, Beaufort County, SC Property Search, ArcGIS Interactive Web Map, Tax Map No. R300 018 000 0381 0000 (“Map #2”), available at:
<https://gis.beaufortcountysc.gov/publicmapping/?research=R300%20018%20000%200381%200000&slayer=0&exprnum=0&showdatagrid=false> (accessed Apr. 17, 2025) (zoom to appropriate view; select printer icon in top right corner, “JPG” option, & “print”; and select JPG link).

85. Once at the end of Everest Road, Individual Plaintiffs, other members of the public, and staff of funeral homes conducting funerals and interments have parked on the shoulders of Everest Road next to the entrance of the Cemetery and walk into the Cemetery.

86. This well-traversed path along Everest has been the only route for Individual Plaintiffs, as well as other local community members and funeral homes, to access the Cemetery for funerals and burials, maintenance of the Cemetery, and/or visits with deceased relatives and other loved ones for at least the last several decades. Indeed, directors of these funeral homes have estimated that Everest has been used to access the Cemetery for at least 100 years.

87. For Plaintiffs and other members of the local community who seek access to the Cemetery, Everest has remained a necessary route to the Cemetery, providing the only access to the final

resting place for Individual Plaintiffs' and other community members' relatives and other loved ones at the Cemetery.

88. Previous as well as current owners of property along Everest therefore dedicated, and the public—including funeral homes such as Chisolm Galloway Funeral Home and Allen Funeral Home, and Individual Plaintiffs—accepted, use of Everest as a public right-of-way to reach the Cemetery.

D. Defendants Have Unlawfully Obstructed Access to the Easement and the Cemetery.

89. Upon buying and moving into her property in 2020, Defendant Aigner took no issue with Plaintiffs, other community members, and funeral homes using Everest to access, visit, bury in, and conduct funerals, interments, clean-up days, and other ceremonies at the Cemetery.

90. Indeed, according to local community members, when Defendant Aigner—whose real property abuts where Everest Lane curves into Everest Road—placed a locked gate across Everest Lane in late 2023, she announced at a local county meeting that she had only placed the gate to prevent public dumping near the river behind her property, but that she would not block access to the Cemetery via Everest for visits, funerals, or maintenance.

91. And even after she placed the gate on Everest Lane in late 2023, Defendant Aigner provided Individual Plaintiffs, including Plaintiff Pope; other community members; and local funeral homes with a code to unlock the gate on Everest Road to access the Cemetery.

92. Thus, for approximately four years after Defendant Aigner bought her property on Everest Lane, Plaintiffs and other local community members were able to use Everest to access the Cemetery, without any impediments or interruptions.

93. However, on or around Mother's Day 2024, Defendant Aigner changed the code to the gate, blocking Individual Plaintiffs and other community members from accessing Everest and

thus, the Cemetery. This meant they could no longer visit their deceased relatives and other loved ones buried in the Cemetery. Nor could they bury in the Cemetery or clean or otherwise maintain the Cemetery.

94. Individual Plaintiffs and other local community members later learned that Defendant Aigner had posted a sign on the gate indicating that no one could access Everest to reach the Cemetery. The sign instructed people to instead enter the cemetery via Pope Estates Way by contacting Plaintiff Jimmy Pope, whose phone number was posted on the sign without his permission, as the below photo shows. This sign remains at Aigner's gate.



Photograph of the sign posted by Defendant Aigner on gate on Everest Lane along Aigner's property (Feb. 13, 2025)

95. Defendant Aigner has also orally communicated to local community members, including Plaintiff Covington, that they no longer have a right to use Everest to reach the Cemetery.

96. Shortly thereafter, as shown in the below photograph, Defendants Harper and Harper mounted a second gate at the entrance to the Cemetery off of Everest Road, where Plaintiffs, other community members, and funeral homes have entered the Cemetery for funerals, interments, visits, and/or maintenance at the Cemetery for at least several decades.



Photograph of Second Gate placed by Defendants Harper and Harper at Entrance to Cemetery, off of Everest Road (Feb. 13, 2025)

97. In effect, Defendants have turned Everest into a gated community in violation of the CPO, accessible only to those who live behind these gates, and have prevented access to the Cemetery, effectively shutting down the Cemetery since May 2024.

98. Thus, for the last year, no funerals or internments at, or visits to, the Cemetery have occurred at the Cemetery, including the burials of local community members whose lives were tragically claimed by a car accident on St. Helena on May 29, 2024, but who could not be buried at the Cemetery due to Defendants' obstructions, as their families had wished, per family tradition.

99. Nor have Individual Plaintiffs and other community members been able to access the Cemetery to maintain it. As a result, wreaths, flowers, and other memorabilia placed at loved ones' graves in the Cemetery have scattered and disintegrated; graves are covered in debris, trees, leaves, and overgrown grass and weeds, making it an inhospitable burial and memorial location for Individual Plaintiffs to bury and to continue to and memorialize their deceased relatives and other loved ones.



Photograph of flowers scattered near graves at the Big House Cemetery (Feb. 13, 2025)

100. This current fight is an outgrowth of a multi-decade trend across the Gullah Geechee Corridor. Because developers' and new residents' demands for waterfront property are colliding with Gullah Geechee people's longstanding ritual of burying loved ones facing east and near the water on St. Helena, Gullah Geechee cemeteries have been, and continue to be, at risk of destruction, obstruction, and erasure.⁷

101. The Gullah Geechee community also is seeing the eradication of their sacred burial grounds as newcomers build waterways and tourist attractions in other parts of St. Helena Island, other coastal areas of this State, North Carolina, Florida, and Georgia, including Polowana Island, Sapelo Island, and St. Simons Island.

⁷ Claire Heddles, *Gullah/Geechee families fight to protect burial sites in Nassau County's Wildlight development*, WJCT News (Oct. 8, 2022), <https://www.wusf.org/local-state/2022-10-08/gullah-geechee-families-fight-protect-burial-sites-nassau-county-wildlight-development>.

1. Defendants' Obstructions Have Deprived, and Continue to Deprive, the Big House Committee's Members from Using and Accessing Everest; Visiting Deceased Relatives and Other Loved Ones Buried at the Cemetery; and Burying in, Caring for, and Maintaining the Cemetery.

102. Plaintiff the Big House Cemetery Committee (the "Committee") formed in June 2024 after families could not access the Cemetery on Mother's Day 2024. The objective of the Committee has been to organize a set of strategies on behalf of the larger local St. Helena Gullah Geechee community near the Cemetery to regain access to the entirety of Everest and to the Cemetery. The Committee seeks to ensure that local residents can once again access, visit, care for, bury in, and maintain the Cemetery.

103. The Committee—whose members include local residents with family and other loved ones buried at the Cemetery such as Individual Plaintiffs Mary Mack and Jimmy Pope—has engaged with their local elected officials and organized community members to advocate for continued access to Cemetery via Everest. It also communicated with Defendant Aigner to attempt to regain access to Everest to reach the Cemetery.

104. In early August 2024, Plaintiff Mack, in her role as the Committee Chairperson, requested a meeting with Defendant Aigner to amicably resolve the dispute around access to the Cemetery via Everest. Defendant Aigner, however, rejected the invitation and indicated that she wanted a court to resolve the dispute.

105. Defendant Aigner also made multiple disparaging public and private email comments about the local Gullah Geechee community on St. Helena and accused community members of crimes in relation to their use of Everest to access the Cemetery. For example, Defendant Aigner referred to the local Gullah Geechee people as "your people," ignorant, "a bunch of ungrateful, ungracious, self entitled, hard headed and ignorant people" and proclaimed that she "owe[s] the[community] nothing." Emails between Def. Theresa Aigner to Theresa White,

Founder & Pres. of Pan African Family Empowerment Network, Aug. 9 to 13, 2024 (on file with author(s)).

106. As set forth below, due to Defendants' obstructions, Committee members, including Plaintiffs Mary Mack and Jimmy Pope, and other local community members, such as Individual Plaintiffs Scott, Haynes, Sheila and Tamika Middleton, Bennett, Covington, Chisolm, and Watson, whose interests the Committee has represented, have been unable to care for and maintain the Cemetery via clean-up days and to bury and visit relatives and other loved ones in the Cemetery, as Gullah Geechee practice and family traditions have warranted for generations.

107. The Committee therefore continues to seek access to the Cemetery for its members and other members of the local Gullah Geechee community via Everest to visit, care for, bury in, and maintain the Cemetery.

2. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Shanoma Watson from Using and Accessing Everest, and from Burying in, Caring for, and Maintaining the Cemetery, where her Relatives and Other Loved Ones Are Buried.

108. Plaintiff Shanoma Watson is a resident in St. Helena, Beaufort County, South Carolina. She was born on St. Helena, and has lived there her entire life.

109. Ms. Watson remembers visiting the Cemetery as a little girl, attending funerals at the Cemetery along with her mother and siblings, and visiting ancestors buried in the Cemetery.

110. Ms. Watson has many family members and loved ones buried in the Cemetery. Her grandmother, great-grandparents, her grandmother's siblings, and her niece and nephew are all buried there.

111. Before Defendants' obstructions, Ms. Watson would visit the Cemetery periodically to attend burials and visit and maintain her grandmother's and other family members' gravesites.

112. Ms. Watson has always accessed the Cemetery via Everest.

113. On May 29, 2024, Ms. Watson's brother Henry Watson died in a tragic car crash, leaving behind his six-year-old (now seven-year-old) son. There was no question that his surviving family members would arrange to bury him alongside their ancestors in the Cemetery. Several days before the planned funeral service and burial, Ms. Watson and her brother agreed to meet the gravediggers from the funeral home at the entrance to the Cemetery.

114. When Ms. Watson traveled down Everest, which is located only a few minutes' drive from her home, she encountered the locked gate along Defendant Aigner's property but that the code that had been provided to the funeral home did not work. The gravediggers arrived in a large truck carrying the equipment that they use to dig the graves, but they were unable to access the Cemetery due to the locked gate.

115. Ms. Watson and her brother waited for hours while the funeral home attempted to contact Defendant Aigner to open the gate. Ultimately, they were unable to access the Cemetery to dig the grave.

116. Instead, Ms. Watson's family were forced to bury Henry in Seabrook Cemetery, far away from his maternal family's ancestral burial grounds.

117. Ms. Watson has suffered great emotional and mental losses from being forced to split up her brother's burial and grave from their generations-old family burial plots and being prevented from visiting and honoring her and her family's other relatives and loved ones at the Cemetery along with her deceased brother.

118. Ms. Watson therefore seeks to regain access to Everest to bury in, visit, and maintain the Cemetery, as well as to reinter her brother alongside his ancestors in the Cemetery.

3. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Julia B. Scott from Using and Accessing Everest; Visiting; and Burying in, Caring for, and Maintaining the Cemetery, where her Relatives and Other Loved Ones Are Buried.

119. Plaintiff Julia B. Scott was born and raised on St. Helena Island. She has lived there her entire life with the exception of an approximately ten-year period from 1969 to 1979. She is 81 years old.

120. Ms. Scott has many family members buried at the Cemetery, including her mother Julia Milton, her husband George Scott, and her son James Scott.

121. Ms. Scott used to regularly visit her loved ones' graves at the Cemetery, placing flowers and keeping them clean. She and other community members often visited the Cemetery on or around Mother's Day to honor her mother and other mothers buried there.

122. In the past, Ms. Scott has attended and participated in annual clean-up days at the Cemetery organized by the Pope family and other community members, supporting the collective efforts of the local community to upkeep the Cemetery grounds. On those occasions, community members clear brush and fallen tree limbs, mow the grass, sweep off the gravesites, and generally maintain and beautify the cemetery grounds to care for and honor their loved ones.

123. When she dies, Ms. Scott would like to be laid to rest in the Cemetery alongside her beloved husband, son, and mother. If she cannot be buried in the Cemetery, she would like for the remains of her deceased family members who are currently buried in the Cemetery to be moved to another location so they can all be buried alongside each other.

124. Due to her age and health conditions, Ms. Scott must access the Cemetery by vehicle on Everest, which she is no longer able to do as a result of Defendants' obstructions on Everest.

125. She therefore seeks to regain access to Everest to access, visit, bury in, and maintain the Cemetery.

126. Defendants' obstructions have also caused Ms. Scott great emotional and mental harm by preventing her from being able to access and use Everest to visit and mourn her family and other loved ones buried in the Cemetery and from being able to maintain and care for the Cemetery at clean-up days or otherwise.

4. Defendants' Obstruction Have Deprived, and Continue to Deprive, Plaintiff Jimmy Pope from Using and Accessing Everest and from Caring for, and Maintaining the Cemetery.

127. Plaintiff Jimmy Pope is a resident of St. Helena, Beaufort County, South Carolina. He was born and raised on St. Helena Island, South Carolina.

128. Along with his sisters Plaintiff Mary Mack, Plaintiff Sheila Middleton, and daughter Plaintiff Sherika Chisolm, Mr. Pope has many known relatives buried at the Cemetery, including his paternal grandparents, aunts, uncles, and cousins.

129. Throughout his lifetime, he has accessed the Cemetery via Everest Lane and Everest Road, by vehicle, for the funerals of relatives and other loved ones, and for annual clean-up days at the Cemetery before the spring season arrived.

130. Before Defendant Aigner changed the gate code in or around May 2024 and Defendants Harper and Harper placed their gate off of Everest Lane thereafter, Plaintiff Pope frequently visited the Cemetery via Everest. Indeed, in March 2024, Defendant Aigner texted to Mr. Pope the gate code to unlock the gate that she had placed on Everest Lane so that he, his relatives, and other community members could continue to access the Cemetery via Everest.

131. The Cemetery has deep significance to Mr. Pope and his family, as multiple of their ancestors are laid to rest there. Additionally, he wishes to maintain the land for the greater community and continue to allow them to bury their loved ones, free of cost for the burial plot.

132. He values community clean-up days, which allows the community to come together and help restore the land and gravesites from weathering debris. On those days, he usually helps to cut weeds and other debris from trees around the Cemetery.

133. Last year was the final time Mr. Pope accessed the Cemetery when he attended a funeral for his cousin and fellow community member, Jonathan Holmes. For the last year, Mr. Pope has not been able to bury in or maintain care for the Cemetery or to use Everest to reach the Cemetery.

134. In June 2024, Mr. Pope attempted to resolve the dispute related to accessing the Cemetery by calling Defendant Aigner to inquire about the change in the access code to access the Cemetery. He was met with hostility from Defendant Aigner and she instructed him not to talk to her. He further asked her to remove his contact information from the gate on Everest. She refused and agreed to only remove his information if he instructed others to remain away from her property. She never agreed to remove the gate or distribute the correct gate code for Cemetery access.

135. Mr. Pope therefore seeks to regain access to Everest to bury in and maintain the Cemetery, as well as bury relatives in the Cemetery.

5. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Sheila Middleton from Using and Accessing Everest and Burying in, Caring for, and Maintaining the Cemetery.

136. Plaintiff Sheila Middleton has lived on St. Helena Island for approximately 65 years—the majority of her life. She legally owns the land on which the Cemetery is located.

137. She has visited the Cemetery for funerals and clean-up days throughout her life—in total, approximately 60 times. Before the obstruction at issue in this case, she also regularly visited the Cemetery to check on the land via Everest.

138. The Cemetery is special to Ms. Sheila Middleton from a personal familial, cultural, and community perspective. When her and her siblings' father purchased the land on which the Cemetery sits, he intended for that land to continue to serve and be maintained as a community cemetery, where their family and community members could bury their relatives and other loved ones for free. Their father—and in turn, she and her siblings—saw the Cemetery as a necessary service to support their community.

139. Thus, to Sheila Middleton, she and her family are able to offer the Cemetery to the community as a place for them to be with their deceased family. The Cemetery also serves as a historical landmark—a place for deceased relatives and other community members to rest.

140. Like her sister Plaintiff Mary Mack and brother Jimmy Pope, Plaintiff Sheila Middleton has aunts, uncles, cousins, grandparents, friends, and fellow community members who are buried in the Cemetery.

141. Over the decades, she has accessed the Cemetery for funerals, interments, and clean-up days by driving on Everest, parking her car on the shoulder of Everest Road, and walking onto the Cemetery.

142. On clean-up days, she has typically picked up all of the debris and raked the top of vaults and graves.

143. Since Defendants' obstructions on Everest, however, Plaintiff Sheila Middleton has been unable to clean up and care for the Cemetery at clean-up days or otherwise, as she and her family and other community members have done for decades. She also has not been able to

accommodate requests from community members to bury in the Cemetery or to visit their family or other loved ones buried in the Cemetery because, due to Defendants' obstructions, hearses and other vehicles can no longer traverse the full length of Everest to access the Cemetery.

144. Due to Defendants' obstructions, Ms. Middleton, along with Plaintiffs Mack and Pope and other family members, can no longer offer burial plots on the Cemetery as a free resting place for their loved ones because community members and funeral homes cannot reach the Cemetery via Everest for funerals or interments. Nor can they reach the Cemetery via Everest to visit with relatives.

145. Indeed, since Defendants' obstructions, Ms. Middleton has painfully witnessed family and other community members defeated attempts to travel to the Cemetery via Everest to visit, remember, and mourn their buried relatives, only to be turned away by Defendants' gates on Everest—just as community members experienced when they could not bury their loved ones at the Cemetery after the tragic car accident on May 29, 2024.

146. Ms. Sheila Middleton also has observed that without access to the Cemetery via Everest, community members do not have any place else to locally bury their loved ones when they die without paying large expenses for a burial plot.

147. She thus seeks to once again use and access Everest and the Cemetery to maintain and bury in the Cemetery and thus, to mourn and honor relatives and other loved ones buried at the Cemetery, as she (along with other local community members) has done for decades.

148. Defendants' obstructions on Everest have caused Ms. Sheila Middleton great emotional and mental harm by preventing Ms. Middleton from being able to accommodate the local community's requests for burials at and visits to the Cemetery and from being able to maintain and care for the Cemetery at clean-up days or otherwise.

6. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Tamika Middleton from Using and Accessing the Everest and from Burying at, Caring for, and Maintaining the Cemetery.

149. Plaintiff Tamika Middleton was raised on St. Helena Island from two-years-old until her late adolescent years when she left South Carolina for college. She frequently returns to the Island to visit family, including for the funeral interments at the Cemetery and for clean-up days at the Cemetery, at least 1-2 times a year.

150. Plaintiff Tamika Middleton, the daughter of Plaintiff Sheila Middleton, often brings her two children with her on those visits to show them the importance of the Cemetery to their family and Gullah Geechee culture and community, and to continue to pass on their family and community traditions on the Cemetery that had been passed to her.

151. To Ms. Tamika Middleton, who works as a community organizer as her profession, the Cemetery represents an intergenerational space in which to connect with and honor ancestors and continue their Gullah Geechee living culture. Plaintiff Tamika Middleton's paternal great grandparents, great aunts and uncles, and cousins are buried in the Cemetery.

152. Ms. Tamika Middleton, along with other cousins Plaintiff Sherika Chisolm and Sherika Bennett, has inherited this familial legacy of maintaining the Cemetery, and has vowed to continue its upkeep and existence as source of family and community history and connectivity. As her family's unofficial genealogist, Ms. Tamika Middleton has conducted a significant amount of research on relatives buried in the Cemetery and their relationship to her family.

153. The community burial practices at the Cemetery remain significant to Tamika Middleton because she knows that Black persons, including formerly enslaved persons, have not

historically been able to control the resting place of their deceased loved ones; thus, she and her family have placed deep cultural and historical significance on the service they offer through the Cemetery to the local community: the ability to comfortably rest their loved ones in the afterlife, without the financial strain of paying a thousands of dollars for a burial plot.

154. Because the local community can use burial plots at the Cemetery for their deceased family and other loved ones without charge, the Cemetery represents an important community space that Plaintiff Tamika Middleton and her family provide the community on St. Helena Island. These values were instilled in Tamika Middleton by her family since her childhood as part of their Gullah Geechee heritage and culture.

155. For funeral processions, clean-up days, and other gatherings at the Cemetery, Tamika Middleton has accessed the Cemetery by driving on Everest, parking on the shoulders of Everest Road, and walking to the Cemetery off of Everest Road.

156. On clean up days, she has helped pick up debris, rake leaves, and transport other community members to the clean-up days. The clean-up days help ensure people can comfortably continue to bury their people at the Cemetery.

157. Defendants' obstructions have disrupted Ms. Tamika Middleton's and her family's and community's connection to, and use of, the Cemetery. Since Defendants' obstructions, she has been unable to clean up and maintain the Cemetery, as her family and Gullah Geechee traditions and practices have warranted for generations. According to Ms. Tamika Middleton, local residents should not have to bury their relatives miles away from previously deceased relatives and community buried in the Cemetery—an unheard of practice among Gullah Geechee people.

158. Ms. Tamika Middleton worries that with such a disruption of the cultural fabric of their community comes the erasure of her Gullah Geechee ancestors and the disappearance of their Gullah Geechee descendants. Without the ability to access the Cemetery via Everest, including for clean-up days, grass, leaves, wind, and other natural elements will continue to overtake the Cemetery, and Tamika Middleton worries that she will be unable to identify their family members to visit, mourn, and celebrate them in death.

159. Defendants' obstructions on Everest have also created tension and division within the community, as at least Defendant Aigner has blamed Plaintiffs and their family members for the obstructions. Such blame has caused community members to direct their upset towards Plaintiff Tamika Middleton's family, including Plaintiff Mack, Plaintiff Pope, and her mother Plaintiff Sheila Middleton, leading to significant emotional and mental stress for Ms. Tamika Middleton.

160. Ms. Tamika Middleton has also suffered emotional and mental harm because, due to Defendants' obstructions on Everest, her family cannot accommodate the local community's requests for burials at and visits to the Cemetery and cannot maintain and care for the Cemetery at clean-up days or otherwise, as they have done for generations.

161. Plaintiff Tamika Middleton therefore seeks continued access to the Cemetery via Everest to continue these cultural, familial, and community burial practices, including maintenance, at the Cemetery, which are integral to her, her family's, and the community's history and culture.

7. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Mary Mack from Using and Accessing Everest and from Burying in, Caring for, and Maintaining the Cemetery.

162. Plaintiff Mary Mack is a lifelong resident of St. Helena Island, having lived the majority of her life on the Island as a member of the local Gullah Geechee community. Her connection to the Cemetery is rooted in family, community, and Gullah Geechee cultural history, connectivity, and preservation.

163. Ms. Mack has approximately 15-20 family members buried in the Cemetery, from her paternal grandparents—Lawrence and Matilda Coaxum—to her aunts, uncles, and cousins, as well as numerous unknown family members.

164. The Cemetery has held great significance within Ms. Mack's family since she was a child. Ms. Mack's initial visit to the Cemetery occurred by happenstance when, as a small child of 6 or 7 years, she wandered away from home and got lost, only to be discovered by her family at the Cemetery.

165. The Cemetery has allowed her, her family, and local community to always know where their deceased relatives and other loved ones rest and in turn, be able to memorialize, visit, honor, and be with them.

166. Several years before Plaintiffs Mack's, Sheila Middleton's, and Jimmy Pope's father, Ernest Pope, Sr. passed away, he placed a vault at the graves of his parents, Lawrence and Matilda Coaxum, in the Cemetery, so his children and future descendants could locate and visit their graves.

167. Over the course of her life, Ms. Mack has visited the Cemetery approximately once or twice a year, for funerals of close relatives and other loved ones and for annual clean-up days.

168. On clean-up days, Ms. Mack sweeps the tops of vaults, rakes leaves, and drags branches for burning.

169. For funerals, interments, and clean-up days at the Cemetery, Ms. Mack has accessed the Cemetery by driving from Seaside Road down Everest Lane; parking on Everest Road; and walking from her vehicle parked on the shoulder of Everest Road into the Cemetery.

170. The last time that Ms. Mack was able to visit the Cemetery was for her cousin Johnathan Holmes' funeral, on or around March 30, 2024, and before that, on or around March 23, 2024, for the last clean-up day before Defendants' obstructions on Everest.

171. Since Defendants' obstruction over a year ago, Ms. Mack has not been able to maintain and care for the Cemetery at the clean-up days or otherwise and has not been able to accommodate requests from community members to bury in the Cemetery or to visit their family or other loved ones buried in the Cemetery because hearses and other vehicles cannot access the Cemetery via Everest due to Defendants' obstructions.

172. Ms. Mack seeks to once again use and access Everest and the Cemetery to maintain and bury in the Cemetery and thus, to mourn and honor relatives and other loved ones buried at the Cemetery, as she (along with other local community members) has done for decades.

173. Defendants' obstructions have caused Ms. Mack emotional and mental harm in preventing her from being able to accommodate the local community's requests for burials at and visits to the Cemetery and to maintain and care for the Cemetery at the clean-up days or otherwise.

8. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Leroy Haynes from Using and Accessing Everest, and from Burying in, Caring for, and Maintaining the Cemetery, where his Relatives and Other Loved Ones Are Buried.

174. Plaintiff Leroy Haynes is a resident in St. Helena, Beaufort County, South Carolina. He was born in St. Helena, and has lived there his entire life. He is the pastor of Nazareth Baptist Church, which is located on Seaside Road, close to Cemetery. In addition to preaching and tending to his congregation, he has a full-time job driving for a transportation company.

175. Growing up on the island, Pastor Haynes remembers playing and hunting as a kid back in the area along the marsh near the Cemetery.

176. Pastor Haynes has many family members and loved ones buried in the Cemetery. His mother, father, oldest brother, two sisters, two brothers-in-law, aunt, cousins, and nephew are all buried in the Cemetery. Many of his church's parishioners also have family members and loved ones buried in the Cemetery.

177. Before Defendants' obstructions, Pastor Haynes would visit the Cemetery approximately once a year to assist during clean-up days and for burials. He always accessed the Cemetery via Everest.

178. The last burial that Pastor Haynes attended at the Cemetery was for his nephew, who died of cancer approximately two years ago.

179. Pastor Haynes has not been able to visit the Cemetery since Defendants blocked access via Everest.

180. Pastor Haynes therefore seeks to regain access to Everest to bury in, visit, and maintain the Cemetery.

9. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Sherike Bennett from Using and Accessing Everest, and from Burying in, Caring for, and Maintaining the Cemetery, where her Relatives and Other Loved Ones Are Buried.

181. Plaintiff Sherike Bennett has been a resident of St. Helena, Beaufort County, South Carolina over the last 20 years. She was born in New York, but primarily raised on St. Helena Island, South Carolina.

182. Her great, great grandparents, uncles, aunts, and cousins are buried at the Cemetery, including her husband's first-born child.

183. Sherike has visited the Cemetery over a hundred times in her lifetime. She has accessed the Cemetery via Everest for the funerals of relatives and other loved ones, and for annual clean-up days at the Cemetery.

184. She is accustomed to the Cemetery being upkept, as it has been since her childhood. She is a frequent participant in clean-up days and often creates the flyers that are circulated to inform people about the community clean up days at the Cemetery.

185. On clean up days, she helps to cut weeds that are overgrown, remove fallen trees, find missing headstones or plates that were moved during storms, and clean graves.

186. Due to Defendants' obstructions of Everest, she is unable to coordinate another clean up day with family members of the deceased, church members, and other community members.

187. The Cemetery has deep significance to her, as several of her ancestors and neighbors with whom she grew up are laid to rest in the Cemetery. She values that the local neighborhood is allowed to bury their loved ones, free of cost for the burial plot, because she understands burial costs to be a great burden to many families on the Island.

188. The inability for the community to be able to access the Cemetery through Everest brings her deep mental and emotional stress.

189. Mrs. Bennett therefore seeks to regain access to Everest to bury in and maintain the Cemetery, along with the community.

10. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Sherika Chisolm from Using and Accessing Everest, and from Burying in, Caring for, and Maintaining the Cemetery, where her Relatives and Other Loved Ones Are Buried.

190. Plaintiff Sherika Chisolm is a resident in St. Helena, Beaufort County, South Carolina. She was born and raised on St. Helena, and is the daughter of Plaintiff Pope.

191. She has many family members buried in the Cemetery and has visited multiple times throughout her life.

192. Mrs. Chisholm and the local community's inability to access the Cemetery through Everest brings her mental and emotional stress. She would visit more often if the gates on Everest were not present.

193. Like her father, the Cemetery has deep significance to herself and her family, as several of their ancestors are laid to rest there. She wishes to maintain the land for the greater community and wants them to have the opportunity to honor their loved ones buried there.

194. Mrs. Chisolm therefore seeks to regain access to Everest to bury in and maintain the Cemetery.

11. Defendants' Obstructions Have Deprived, and Continue to Deprive, Plaintiff Arlene Covington from Using and Accessing Everest; from Visiting; and from Burying in, Caring for, and Maintaining the Cemetery, where her Relatives and Other Loved Ones Are Buried.

195. Plaintiff Arlene Covington has been a resident of St. Helena Island, Beaufort County, South Carolina, for the last 30 years. She was born off of Seaside Road on St. Helena Island, where she lived until she moved at the age of 6-years-old with her mother to Connecticut. She often visited the Cemetery as a child with family for relatives' burials.

196. Since returning to St. Helena in 1992, Ms. Covington has visited the Cemetery approximately twice a year for funerals and to visit her mother, Mary Lou Seabrook, who was buried in the Cemetery upon her passing in 1998, as well as her deceased uncles, aunts, sisters, cousins, brother-in-law, nephew, and numerous other community members, who are buried there.

197. Before Defendants' obstructions, Ms. Covington accessed the Cemetery by driving on Everest, exiting her vehicle, and walking a short distance from her vehicle to the entrance to the Cemetery off of Everest Road.

198. To Ms. Covington, the Cemetery represents her, her family's, and community's history, and serves as a resting place for her and her relatives. And due to its proximity to the water, the Cemetery allows her ancestors' souls to travel to Africa, representing as a vital part of her family's Gullah Geechee heritage.

199. Due to Defendants' obstructions on Everest, she and her children and grandchildren are unable to visit the Cemetery to learn about, visit, and connect with their deceased ancestors and other loved ones who are buried in the Cemetery. As recently as March 2025, Ms. Covington drove on Everest Lane with her two grandchildren to visit the Cemetery, but was stopped by Defendant Aigner, who told her there was no longer any legal right for her or other community members to visit the Cemetery via Everest. Defendant Aigner would not allow Ms. Covington and her grandchildren to pass through the gate on Everest Lane by vehicle to visit the Cemetery.

200. Ms. Arlington seeks to regain immediate access to the Cemetery for her, her family, and other local community members.

201. Without access to the Cemetery via Everest, she cannot access her family's history, taking away her dignity and causing her and her children and grandchildren emotional and mental anguish.

* * *

202. Since Defendants' obstructions have prevented Plaintiffs' access to the Cemetery, more than 365 days have passed, including the passage of birthdays, anniversaries, Mother's Days, and Father's Days of Plaintiffs' ancestors and other loved ones buried in the Cemetery and of the Individual Plaintiffs themselves; federal holidays such as Thanksgiving, Christmas, Juneteenth, and the Fourth of July; anticipated clean-up days at the Cemetery to prepare for visits to the

Cemetery on these holidays; and consequently, multiple opportunities for Plaintiffs and other local community members to honor, as well as visit and celebrate with, their deceased loved ones.

203. Before Defendants' obstructions along Everest, the above-mentioned days and holidays were significant dates Individual Plaintiffs, Committee members, and their deceased ancestors and other loved ones buried in the Cemetery would spend together at the Cemetery, mourning, celebrating, and cleaning.

204. Thus, each day that passes, including recurring holidays, is another day that Plaintiffs and other local community members cannot spend, connect with, and celebrate their deceased loved ones buried in the Cemetery.

205. Furthermore, significant debris continues to accrue on the Cemetery grounds, as Defendants' obstructions have prevented Plaintiffs' access to the Cemetery for cleaning and maintenance purposes, as well.

206. Given these and the other above-mentioned ongoing harms, Plaintiffs and other members of the local community now seek, and have plans, to hold a community clean-up day at the Cemetery on July 12, 2025.

207. However, they cannot access the Cemetery—which requires access along Everest—without Court intervention.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Violation of Plaintiffs' Right under South Carolina Law to Ingress and Egress from; Visit; Bury in; Care for; and Maintain the Big House Cemetery

*All Plaintiffs (Injunctive and Declaratory Relief) and Individual Plaintiffs (Monetary Relief)
versus All Defendants*

208. Plaintiffs re-allege and incorporate by reference here all of the preceding paragraphs of this Verified Amended Complaint.

209. South Carolina law has long recognized and protected the rights of descendants of the deceased to visit, care for, bury in, and maintain cemeteries, graves, and other burial grounds (hereinafter collectively, “cemetery rights”) for cemetery purposes. *See Huxfield Cemetery Ass’n v. Elliott*, 388 S.C. 565, 570 (2010); *Kelly v. Tiner*, 91 S.C. 41 (1912); *cf. Frost v. Columbia Clay Co.*, 130 S.C. 72 (1924).

210. Relying on this well-established law, the South Carolina Attorney General has even acknowledged that:

[a] cemetery is a place not only for the burial of the dead but also for an expression of love and respect by the living for the dead; hence, a purchaser of a burial lot and those who succeed to the purchaser’s rights must be accorded the right to visit, maintain, and decorate the graves of persons interred therein

Informal Op., S.C. Office of Att’y Gen. re: Visits to cemeteries or family burial plots on private land (hereinafter “Informal Op.”) at 1 (Apr. 2, 2002), *available at* <https://www.scag.gov/wp-content/uploads/2013/04/02apr2stroup.pdf> (quoting *Scruggs v. Beason*, 246 Ala. 405, 408 (1945)).⁸

211. These cemetery rights necessarily include the right to ingress to, and egress from, the Cemetery and thus, to access Everest in connection with the Cemetery. *Accord id.* at 2-3; *see Huxfield*, 388 S.C. at 570 (citation omitted).⁹

⁸ The scope of these cemetery rights is equally established by courts in other states in the South and the nation upon which courts in South Carolina Courts regularly rely. *Accord Huxfield*, 388 S.C. at 570 (applying reasoning from Alabama and Florida cases upholding right to access cemetery); Informal Op. (Apr. 2, 2002), *available at* <https://www.scag.gov/wp-content/uploads/2013/04/02apr2stroup.pdf> (relying on caselaw from Georgia, Alabama, South Carolina, and Tennessee); *see also Scruggs*, 246 Ala. at 408.

⁹ *See supra* n.8 (citing cases); *see also Mingledorff v. Crum*, 388 So. 2d 632, 638 (Fla. Dist. Ct. App. 1980) (declaring that rights of plaintiffs to visit and upkeep existing graves and future burials in unused graves includes narrow right to access land of defendant outside of cemetery grounds for sole purpose of “reasonable ingress and egress to the cemetery”); *Hines v. State*, 126 Tenn. 1, 2 (1911) (explaining descendants’ right of ingress and egress, including from public road, for the purposes of burial, visiting, repairing, protecting, beautifying, and keeping in proper condition graves and grounds around same); *see also Scruggs*, 246 Ala. at 408 (“[A]ppellees have such interest in the alleged public road which leads from the Federal highway to the cemetery as to give them the right to injunctive relief.”).

212. South Carolina law extends these rights to the larger community, including neighbors and friends of the deceased who are or will be buried at a cemetery. *See Kelly*, 91 S.C. at 43 (relying on *Davidson v. Reed*, 111 Ill. 167 (1922) (holding complainants had right to sue on behalf of themselves and others having like interest in burial ground because they were residents of neighborhood, had friends buried in graveyard, and were thus interested in preserving, for themselves and public, burying ground as it had been established)); Informal Op. at 2.¹⁰

213. For at least the last several decades, the Individual Plaintiffs and the Committee's members, which include Plaintiffs Pope and Mack, have possessed cemetery rights, including to ingress to, and egress from, the Big House Cemetery because they have deceased relatives and other loved ones, including friends, buried in the Cemetery.

214. Due to Defendants' obstructions on Everest, however, the Individual Plaintiffs and members of the Committee have been, and will continue to be, shut out from the Cemetery to bury, visit, and memorialize their deceased ancestors and other loved ones at the Cemetery, and to care for and maintain the Cemetery.

215. By placing gates with restricted access on Everest Lane and at the entrance of the Cemetery off of Everest Road, Defendants Aigner, Harper, and Harper have unlawfully deprived Plaintiffs of their cemetery rights under South Carolina law for the last year, and they will continue to do so absent equitable relief from this Court.

216. Plaintiffs therefore seek temporary restraining, and preliminary and permanent injunctive relief, to enjoin Defendants from continuing to violate their cemetery rights, including to permit a clean-up day planned by Plaintiffs for July 12, 2025. Failure to so enjoin Defendants

¹⁰ *Accord Locke v. Lester*, 78 So. 2d 14, 16 (La. App. 2 Cir. 1955) (holding that plaintiffs had standing to bring action based not only "upon purely a personal interest in preserving the graveyard since it is the burial ground of members of their family" or "because [they] may wish to be buried alongside their departed relatives" but because right "belong[s] to any citizen of the community" (emphasis added)).

from illegally interfering with Plaintiffs' rights under South Carolina law will continue to result in irreparable injury to Plaintiffs, including their inability to mourn, celebrate, and memorialize deceased relatives and other loved ones at the Cemetery.

217. Plaintiffs also seek declarations that they are entitled to cemetery rights under South Carolina law and that Defendants' obstructions of Everest have violated these rights.

218. Finally, Individual Plaintiffs seek monetary damages for non-economic losses, including mental and emotional harm, that they have sustained due to Defendants' obstructions that have prevented them from maintaining the Cemetery and burying and celebrating relatives and other loved ones at the Cemetery. Plaintiffs Scott and Watson further seek monetary damages for the economic losses they have sustained due to Defendants' obstructions, including the costs to reinter their relatives and other loved ones at another cemetery if they cannot regain use and enjoyment of the Easement on Everest to bury additional loved ones at the Cemetery or if successful in this suit, the costs to exhume Plaintiff Watson's brother from the cemetery in Seabrook and reinter him at the Big House Cemetery.

SECOND CAUSE OF ACTION

Violation of Plaintiffs' Right under South Carolina Law to Use and Enjoy the Easement on Everest for Access to the Big House Cemetery

*All Plaintiffs (Injunctive and Declaratory Relief) and Individual Plaintiffs (Monetary Relief)
versus All Defendants*

219. Plaintiffs re-allege and incorporate by reference here the preceding paragraphs of this Verified Amended Complaint.

220. Under South Carolina law, an easement is a right given to a person to use, or cross, the land of another person for a specific purpose, such as for ingress and egress, including to enter and depart from a cemetery. *See Huxfield*, 388 S.C. at 594-95; *see also Poole v. Edwards*, 197

S.C. 280 (1941); *Haselden v. Schein*, 167 S.C. 534 (1932); *Judy v. Kennedy*, 398 S.C. 471, 477-8 (Ct. App. 2012); *Davis v. Epting*, 317 S.C. 315, 318-19 (Ct. App. 1994).

221. The Individual Plaintiffs and the Committee members, including Plaintiffs Pope and Mack, hold an easement (the “Easement”) along Everest to access the Cemetery. The Easement begins at the start of Everest Lane, off of Seaside Road, and continues along Everest Lane to Everest Road, along Defendants’ Harpers property and across the entrance to the Cemetery off of Everest Road.

222. The Easement has been and remains necessary for the enjoyment of the Cemetery by Individual Plaintiffs and other members of the local community who have sought and who continue to seek to visit, bury in, and clean up and maintain the Cemetery.

223. The Easement was unmistakably dedicated by past property owners along Everest for the local public’s use to reach the Cemetery, with an intention for the Easement to continue with changes in the ownership of properties along Everest. At this time, the Easement was also unmistakably accepted by the public to reach the Cemetery—and such acceptance continued with each conveyance of the properties along Everest—based on the community’s long use of Everest to visit and access the Cemetery. *See Ducker v. Stamper*, No. 2012-UP-067, 2012 WL 10829742, at *1 (S.C. Ct. App. Feb. 8, 2012) (quoting *Outlaw v. Moise*, 222 S.C. 24, 30–31 (1952) (explaining easement is complete once manifestation of public acceptance occurs and that public acceptance may be manifested by public action)); *Boyd v. Hyatt*, 294 S.C. 360, 366, 364 S.E.2d 478, 481 (Ct. App. 1988); *see also Huxfield*, 388 S.C. at 570–71; *Tupper v. Dorchester Co.*, 326 S.C. 318, 326-27.

224. Previous owners of Defendants' property on Everest, and the current and previous owners of other properties along Everest, were also aware of and supported use and enjoyment of the Easement for decades.

225. When the Easement was dedicated and accepted, as detailed above, decades before Defendants acquired any interest in their properties along Everest, it was never burdened with the impediments at issue in this case: the gates placed by Defendants on Everest.

226. Use and enjoyment of the Easement along Everest to access the Cemetery has therefore been open, notorious, continuous, uninterrupted, and contrary to Defendants' and other current Everest property owners' rights, as well as to the rights of previous property owners along Everest, for at least twenty years.

227. Individual Plaintiffs, along with other current and previous members of the community, including Committee members, have traversed the Easement along Everest for countless funeral processions and burials at the Cemetery, and to visit and memorialize their relatives and other loved ones buried at the Cemetery for at least 20 years. They also have traversed the Easement on Everest to maintain and clean up the Cemetery for this period.

228. When Defendant Aigner purchased her property on Everest Lane in 2020 and when Defendants Harper and Harper purchased their property on Everest Road in 2024, they knew about Individual Plaintiffs', other community members', and local funeral homes' use and enjoyment of the Easement along Everest to access the Cemetery, given Plaintiffs' and local community's open, ongoing, and continuous use of Everest for this purpose.

229. Defendants initially took no issue, and thus did not interfere, with Individual Plaintiffs' and other community members' use and enjoyment of the Easement on Everest.

230. Use and enjoyment of the Easement, however, has been blocked by Defendants' placement of the gates on Everest. The gates are not necessary for the preservation or use of Defendants' Everest properties, and alternative means exist to protect Defendants' property.

231. By erecting these gates, Defendants have interfered with Plaintiffs' use and enjoyment of the Easement.

232. Plaintiffs therefore seek temporary restraining, and preliminary and permanent injunctive, relief to enjoin Defendants from continuing to violate their rights to use and enjoy the Easement along Everest, including to permit a clean-up day planned by Plaintiffs on July 12, 2025. Failure to so restrain and enjoin Defendants from wrongfully interfering with Plaintiffs' use and enjoyment of the Easement will continue to result in continued irreparable injury to Plaintiffs.

233. Plaintiffs also seek a declaration that they possess an Easement across Everest, including through the entrance to the Cemetery off of Defendants Harper's and Harper's property, and that Defendants have violated Plaintiffs' rights under South Carolina law to use and enjoy this Easement.

234. Finally, Individual Plaintiffs seek monetary damages for non-economic losses, including mental and emotional harm, that they have sustained due to Defendants' obstructions of their use and enjoyment of the Easement on Everest. Plaintiffs Julia Scott and Watson also seek monetary damages for the economic losses they have sustained due to Defendants' obstructions of their use and enjoyment of the Easement, including the costs to reinter their relatives and other loved ones at another cemetery if they cannot regain use and enjoyment of the Easement on Everest to bury additional loved ones at the Cemetery or if successful in this suit, the costs to exhume Plaintiff Watson's brother from the cemetery in Seabrook and reinter him at the Big House Cemetery.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court will:

A. Declare that:

1. Plaintiffs possess cemetery rights in connection with Big House Cemetery under South Carolina law;
2. Defendants have deprived Plaintiffs of these cemetery rights under South Carolina law;
3. Plaintiffs possess under South Carolina law an easement along Everest Lane, Everest Road, and the entrance to Cemetery, to access the Cemetery; and
4. Defendants have violated Plaintiffs' use and enjoyment of the Easement;

B. Temporarily restrain, and preliminarily and permanently enjoin:

1. Defendants from depriving Plaintiffs of their cemetery rights, including requiring Defendants to remove the subject gates that Defendants placed that block access to the Cemetery via Everest and prohibiting Plaintiffs from placing any other obstructions on Everest that block access to the Cemetery via Everest, including for the upcoming clean-up day on July 12, 2025, that Plaintiffs, as well as as well as other members of the local community, have planned and seek to hold; and
2. Defendants from depriving Plaintiffs of their use and enjoyment of the Easement along Everest, including by requiring Defendants to remove the subject gates that Defendants placed that block the easement and prohibiting Plaintiffs from placing any other obstructions of the Easement, including for the upcoming clean-up day on July 12, 2025, that Plaintiffs, as well as other members of the local community, have planned and seek to hold;

C. Award Individual Plaintiffs compensatory damages, as well as nominal damages, for the economic and/or non-economic losses that they have suffered from Defendants' deprivation of Plaintiffs' cemetery rights and Defendants' obstruction of their use and enjoyment of the Easement;

D. Award Individual Plaintiffs punitive damages based on Defendant Aigner's willful and malicious violation of their cemetery rights and reckless indifference to their use and enjoyment of the Easement on Everest;

E. Award Plaintiffs reasonable attorneys' fees and costs associated with bringing this litigation; and

F. Grant such other relief as this Court deems just and proper.

This 9th day of July 2025.

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THE CENTER FOR CONSTITUTIONAL RIGHTS

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ATTORNEY FOR PLAINTIFFS
** pro hac vice motions pending*

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Mary Mack, on behalf of the Big House Cemetery Committee, being duly sworn, say that the Big House Cemetery Committee is a Plaintiff herein and as Chairperson of the Big House Cemetery Committee, that I am its authorized agent to represent that I have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge as Chairperson of the Committee, except as matters therein stated to be alleged on information and belief and to those matters, on behalf of the Big House Cemetery Committee, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me

Mary P. Mack
Signature of Plaintiff

this 2nd day of July, 2025

Catherine Speaks
Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Sherike⁶² Chisolm, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me



Signature of Plaintiff

this 2nd day of July, 2025



Notary Public for South Carolina

My Commission expires:



August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Leroy Haynes, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me

Leroy Haynes Sr
Signature of Plaintiff

this 2nd day of July, 2025

Catherine Speaks
Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Mary Mack, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me

Mary P. Mack
Signature of Plaintiff

this 2nd day of July, 2025

Catherine Spears
Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

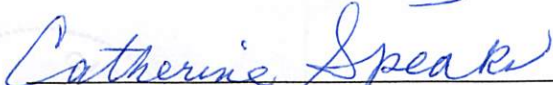
COUNTY OF BEAUFORT

I, Sheila Middleton, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me


Signature of Plaintiff

this 2nd day of July, 2025


Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

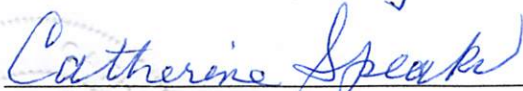
I, Jimmy Pope, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me



Signature of Plaintiff

this 2nd day of July, 2025



Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Julia B. Scott, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me

Julia B Scott

Signature of Plaintiff

this 2nd day of July, 2025

Catherine Speck

Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Arlene Covington, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me

Arlene Covington
Signature of Plaintiff

this 2nd day of July, 2025

Catherine Speake
Notary Public for South Carolina

My Commission expires:

August 12th 2026

STATE OF SOUTH CAROLINA

VERIFICATION

COUNTY OF BEAUFORT

I, Sherike Bennett, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and know that the contents thereof are accurate.

SWORN to and Subscribed before me



Signature of Plaintiff

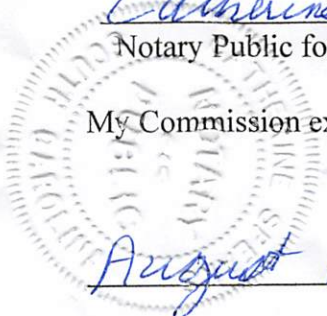
this 2nd day of July, 2025



Notary Public for South Carolina

My Commission expires:

August 12th 2026



STATE OF SOUTH CAROLINA

COUNTY OF Broward

VERIFICATION

I, Shanoma Watson, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and the contents thereof are accurate.

SWORN to and Subscribed before me

this 9th day of July, 2025

Swaline M. Hampton
Notary Public for South Carolina

Notary Public for South Carolina

Signature of Plaintiff

Signature of Plaintiff

My Commission expires: _____

June 8, 2029)

STATE OF GEORGIA

COUNTY OF Fulton

VERIFICATION

I, Tamika Middleton, being duly sworn, say that I am a Plaintiff herein and have read the foregoing Amended Complaint; know the contents thereof and that the same is true of my own personal knowledge, except as matters therein stated to be alleged on information and belief and to those matters, I believe them to be true; and the contents thereof are accurate.

SWORN to and Subscribed before me

this 8th day of July,

[Signature]
Notary Public for Georgia

)
)
) [Signature]
)
)
) Signature of Plaintiff

My Commission expires

