

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

IN THE COURT OF COMMON PLEAS
IN THE NINTH JUDICIAL CIRCUIT
CASE NO. 2011CP10-1084

ROOSEVELT SIMMONS)
Plaintiff)
)
Vs.)
)
MASE and COMPANY, LLC,)
J. AL CANNON, JR.,)
CHARLESTON COUNTY)
SHERIFF'S DEPARTMENT,)
CHARLESTON COUNTY,)
CHARLESTON COUNTY)
REVENUE COLLECTIONS)
DEPARTMENT and)
HARRY LONG)
Defendants)

FILED
2012 AUG - 2 AM 11:39
JULIE L. ARNSTRONG
CLERK OF COURT
BY _____

AFFIDAVIT OF
ROOSEVELT SIMMONS

Roosevelt Simmons being duly sworn according to law upon his oath deposes and says:

1. I am the plaintiff in this action and have personal knowledge of the facts herein.
2. I filed this suit because of the unfair and illegal practices by the county in trying to collect user fees from me and other property owners like me that can hardly afford to pay their taxes. I should not be required to pay the user fee because I do not benefit from the services that the county is providing. I never received notice of the suits brought by the Business License/User fee Department and never went to Magistrate's Court to challenge them. I believed that the user fees had been waived by the county after I complained and no one ever told me otherwise. The Sheriff's Department sold real property I owned that wasn't even subject to the user fee for practically nothing instead of personal property I owned. And the Business License/User fee Department obtained judgments against me for user fees on real estate that I don't even own.

3. I have lived on Johns Island for many years. My house is located on the parcel identified as TMS 282-00-00-138 (TMS 138). I don't receive any county services for trash removal, sewer or water. Trash removal companies don't come back to my house because it is too far off Kitford Road. I don't have any trash pickup or take any solid waste to the landfill.

4. Each year I received a tax bill from the county which included a user fee, I went to the County Auditor and spoke to Ms. Peggy Ellington, one of the employees. To object to the user fees being part of my taxes. She gave me a form which I signed and she initialed it indicating the user fee was being removed. I also spoke to the Auditor, Ms. Peggy Moseley about my problem with the user fee. Neither Ms. Ellington nor Ms. Moseley ever told me that I had to pay the user fee or else I could lose my property. Each year, the county removed the user fees from my tax bill. I then paid the taxes in full for TMS 138 for each and every year. I never received a separate user fee bill. As a result, I thought that the county had no claim for user fees.

5. I did not receive any written notice of a complaint filed against me by the Business License/User Fee Department in 2000 for nonpayment of the user fees in the amount of \$89.00. I have had problems with not receiving mail for many years. Since I never received notice of the complaint in 2000, I never went to the Magistrate's Court to object to the user fee. I also did not receive written notice that a judgment had been entered against me on that complaint.

6. I deny speaking to Deputy Long in April 2009 as he claims in his deposition. I never spoke to or heard from Deputy Long before he arrived at my house in August 2009. I never received any letters which he claims to have sent before then about the 2000 judgment. I never spoke to him on the telephone or made any threats against him or the Department.

7. I own several motor vehicles including a Ford truck, a Toyota sedan and a "classic" 1955 Desoto sedan which I maintained in very good condition. These vehicles are all owned free and clear and are registered to me. I also own a boat and trailer, a Kubota tractor and attachments for which I had paid over \$8000. and an Allis Chalmers tractor for which I had paid \$9000. and a backhoe and dump truck. The motor vehicles, the boat and trailer and all the heavy equipment were parked in plain sight when Deputy Long arrived at my house in August 2009 but he didn't seem to have any interest in them. When he told me at my house that I had to pay the judgment, I told him the user fee had been removed. Because the user fee had been removed by the Auditor's Office from my tax bill earlier, I did not believe that any sale of my property would occur. When Deputy Long gave me a notice of sale for TMS 282-00-00-498, another parcel I own, I did not understand why the County would try sell property on which the taxes were paid that was not subject to the user fee. If I had understood, I would have placed the taxes and user fee into an escrow account until the dispute could be resolved.

8. As I found out later, Deputy Long sold TMS 498 for \$600. I had TMS 498 appraised in 2006 because of a dispute involving Berkeley Electric and the fair market was then \$70,000. Deputy Long did not perform his duty to obtain the best price possible and the sale price is grossly inadequate.

9. I also found out later that other judgments had been entered against me without my knowledge for user fees that I thought had been waived on TMS 138. I had no notice that these had been filed or judgments entered and there has not been any attempt to execute on any other property since the sale of TMS 498 in 2010. I ask the court to vacate these judgments as well.

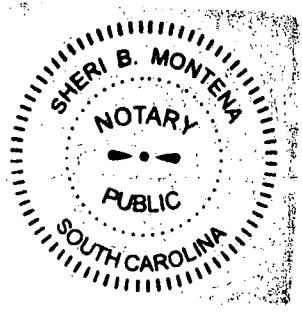
10. In prior years, I also paid the taxes on property known as TMS 312-00-00-024 located on River Road, Johns Island which was held in the name of "the estate of Sam Balaam" who was married to my grandmother Hester Singleton Balaam. Because the taxes were not being paid regularly by family members and I had to pay them to avoid a tax sale, I had the Tax Assessor send the bill to me even though I was not the legal owner. I did this in order to protect my family heirs' interest in this property. Because the tax bill contained a user fee, I asked the Auditor to remove in as I had done for TMS 138 because the county was not providing any services. In 2004, other persons claiming to be heirs of Sam Balaam (whom they identified as Sam Bailum) filed suit against me and my family to quiet title in TMS 024 and several other parcels of heirs' property. A judgment was entered in 2006 allowing me the right to purchase it but the Special Referee later refused to issue a deed and title to TMS 024 was divided between Franklin Smith and LMC, LLC. As a result I never acquired title to TMS 024 and any judgments which involve user fees due to TMS 024 should be vacated since it would be unfair for me to have to pay a user fee judgment on property when I was never the owner.

Sworn and subscribed before me

This 7th day of ~~July, 2009~~ August, 2012

Sheri B. Montena
Notary Public of South Carolina

Roosevelt Simmons
Roosevelt Simmons
AOL# 003113178



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August 2, 2012

Ms. Julie J. Armstrong
Clerk of the Court
Charleston County Courthouse
100 Broad Street
Charleston, SC 29401

Re: Simmons v. Mase and Company, LLC et al
Case No. 2011-CP-10-1084

Dear Ms. Armstrong:

Enclosed for filing is plaintiff's opposition to county defendant's motion for summary judgment with annexed certificate of service and Appendix and the affidavit of Roosevelt Simmons. Please note that Appendix F is marked "Under seal" and take appropriate steps to maintain it as such. The motion is scheduled for August 6th before Judge Nicholson. Thank you for your kind assistance in this matter.

Very truly yours,


Edward A. Bertele, Esq.

Encl:

Cc: Christopher Dorsel, Esq.
Wendy Keefer, Esq.