Analyzing Adverse Possession Laws and Cases of the States East of the Mississippi River

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This article analyzes the adverse possession laws of the 26 states east of the Mississippi River.

The basic elements a party must demonstrate to successfully claim adverse possession are essentially the same throughout these states. One must show by clear and convincing evidence that he or she has actually and exclusively possessed the land in an open, notorious, continuous, and hostile/adverse manner under claim of right for the statutory period.[2] Where the states differ is in how their laws define "hostile/adverse," the sufficiency of possession required under their laws, the length of their respective statutory periods, and the requirement of a few other idiosyncratic elements. The discussion that follows breaks down each state's respective requirements and interpretations of the individual elements of an adverse possession claim.

Actual and Exclusive Possession

One element that is interpreted the same in all jurisdictions is the requirement that possession be actual and exclusive. Exclusive does not necessarily imply use to the exclusion of all other individuals. It refers to use "exclusive of the true owner entering onto the land and asserting his right to possession."[3] It means "exclusive dominion over the land" or acting in ways expected of an owner of such a property and preventing the true owner from doing so.[4] As the Pennsylvania Supreme Court put it:

> *[N]othing short of an actual possession, permanently continued, will take away from the owner the possession which the law attaches to the legal title; temporary acts on the land, without an intention to seat and occupy it for residence and cultivation or other permanent use consistent with the nature of the property, are not the actual possession required.*[5]

De minimus acts such as the occasional mowing of the lawn are insufficient because they do not amount to an assertion of possession.[6] Exclusivity, therefore, comes down to the nature of the respective actions of the possessor and the true owner.[7]

Open and Notorious Use

The necessity that use be open and notorious is another element that is interpreted uniformly across the jurisdictions. Open and notorious use means use that is so apparent that it puts the true owner on notice of the adverse claim.[8] To constitute notorious use, the possessor "must unfurl his flag on the land, and keep it flying so that the owner may see, if he will, that an enemy has invaded his dominions and planted his standard of conquest."[9] Use must be such that a vigilant owner would know that someone is occupying the land and that such owner has "an opportunity to take steps to vindicate his rights by legal action."[10] Use must be more than mere occupation and tantamount to "dominion over the land."[11] Acts must be "substantial, and not sporadic."[12] The possessor must act in such a manner that any person could these acts and reasonably believe the possessor to be the true owner.[13] One way this element can be satisfied is by building physical improvements on the property.[14]

One state, New Jersey, specifically distinguish between minor encroachments and major encroachments for purposes of the open and notorious requirement. In *Manillo v. Gorski*, the Supreme Court of New Jersey found that when an encroachment along a common border is not clearly apparent to the naked

eye, the adverse possessor must prove that the record owner had actual knowledge of the occupation.[15] When the adverse possession is clear and visible, however, actual knowledge on the part of the owner is presumed and courts deem use open and notorious.[16]

In *Kaufman v. Geisken Enters., Ltd.*, the Court of Appeals of Ohio found that using land "for recreation, planted and pruned trees, cultivated asparagus, parked cars, ran a go-cart, stored firewood, piled debris, placed burn barrels on the property, and kept the property generally attractive according to neighborhood standards" was enough to put a reasonable person on notice of possessor's claim.[17] In *Apperson v. White*, the Court of Appeals of Mississippi determined that building a fence and planting corn were clear and visible indicators of occupation that should have put a reasonably vigilant person on notice of said occupation.[18]

Continuous Use

Continuous use does not mean constant use, but uninterrupted use at times when claimant could reasonably use the property.[19] It refers to use consistent with the nature of the land.[20] Courts must determine whether the possessor acted in such a manner that constitutes "control and dominion over the premises as to be readily considered acts similar to those which are usually and ordinarily associated with ownership" of similar premises.[21] To quote the Court of Appeals of Mississippi, "[A]dverse possession of 'wild' or unimproved lands may be established by evidence of acts that would be wholly insufficient in the case of improved or developed lands."[22] The type of land affects the type of use considered sufficient to satisfy the continuity requirement.

In *Stellar v. David,* defendants claimed adverse possession over a marshland defendants had seasonally hunted, trapped, sharecropped, and annually paid taxes on for forty years.[23] The Delaware Superior Court found that using the land for hunting, trapping, and farming was consistent with use of a marshland and defendant's use was therefore sufficiently continuous.[24] In *Apperson v. White*, the Court of Appeals of Mississippi found that building a fence, planting crops, and continually harvesting timber on vacant land were consistent with acts of an owner of similar property and therefore satisfied the continuous use element.[25]

Hostile: Intent to Own v. Mistaken Belief v. Bad Faith

<u>Objective</u>

One element that states interpret differently is the requirement that possession be hostile under claim of right. States interpret hostile in one of three ways: objectively, as requiring good faith, or as requiring bad faith. Most states east of the Mississippi River interpret hostile from an objective standpoint, requiring neither a good faith belief of ownership nor a bad faith desire to steal be demonstrated.[26] As the Appellate Court of Connecticut put it, "The word 'hostile,' as employed in the law of adverse possession, is a term of art; it does not … imply animosity, ill will or bad faith. Nor is the claimant required to make express declarations of adverse intent during the possessory period."[27] Hostile use simply connotes intent to possess and use the property as one's own adversely to the true owner's rights.[28] It means possession "unaccompanied by any recognition, express or inferable from the circumstances, of the real owner's right to the land."[29] All a claimant must show is that they intended to claim title over the property.[30] Ill-will or malevolence toward the true owner need not be proven.[31]

A good faith, but mistaken belief that one owns the property does not prevent an adverse possession claim if claimant has actually possessed the land as if he was the owner.[32] What matters is not claimants' subjective intent towards property, but rather what actions they take with regard to the

property.[33] Claimant must "shut out the rightful owner" through his actions.[34] To quote the Court of Appeals of Michigan, "[I]t is not the knowledge or belief that another has a superior title, but the recognition of that title that destroys the adverse character of possession."[35] The claimant must act as if he was the true owner, no matter if he knew that he was not or actually believed that he was.[36]

In *Kimball v. Anderson*, a party claimed adverse possession over a driveway lying between two adjacent parcels.[37] The party's predecessor in title originally owned both parcels, but sold the parcel to defendants' predecessor with a deed containing no reservation as to use of the driveway.[38] Defendants objected that use was not hostile because defendants' predecessor did not object to claimants' predecessor's use, but the Supreme Court of Ohio disagreed.[39] It held that any use of the land that is inconsistent with the true owner's rights is defined as hostile.[40] Though there was no hostility when the predecessor owned both parcels, once he sold the parcel with a deed without reservation but continued to use the driveway, that use was adverse to the true owners' rights.[41]

In *Stellar v. David,* once the marshland was conveyed to plaintiffs, plaintiffs began to set traps on the land, but defendants always removed them.[42] The court found that defendants' acts, such as payment of taxes and removing plaintiffs' traps, were those of ownership adverse to the true owner.[43]

Good Faith

While most states take an objective approach to the hostility requirement, some states require a showing of good faith. Good faith means that claimants' must demonstrate that they had some basis to believe that they actually owned the property at issue. Four states east of the Mississippi that require good faith in some form are Georgia, Illinois, New York, and Wisconsin.

To claim adverse possession in Georgia, a claimant must show "possession that is in the right of the party asserting possession and not another."[44] That means that "[n]o prescription runs in favor of one who took possession of land knowing that it did not belong to him."[45] In other words, a party cannot claim adverse possession over property they know belongs to someone else. One must possess the property in the good faith belief that the party actually own the property.[46] *Kelley v. Randolph* involved a party building a terrace on property it mistakenly believed that it owned.[47] The true owner argued that good faith possession prevented claimant from asserting a claim of right, but the Supreme Court of Georgia emphasized that had claimant known the property did not belong to them, that knowledge "would be fatal to their adverse possession claim."[48] Therefore, because claimant had a good faith belief of ownership and building terrace was tantamount to asserting a claim of ownership, all elements of the adverse possession claim were satisfied.[49]

In Illinois, a party can claim adverse possession at common law or by statute. While the common law form simply requires objective hostility,[50] the statutory variant requires that good faith be shown.[51] Illinois courts define good faith as "the absence of an intent to defraud the holder of better title, or simply, as the absence of bad faith."[52] Claimants cannot have known that they were possessing land legally owned by another.[53] Good faith, however, is presumed and can only be overcome by evidence from the true owner showing "intent to deceive, mislead, or defraud."[54]

New York's adverse possession statute also requires good faith. R.P.A.P.L. § 501 states that to show possession under a claim of right, the claimant must demonstrate that they had "a reasonable basis for the belief " that they owned the property.[55] Such statute was enacted in 2008 to overturn *Walling v. Prysbylo*, a case which had held that the law permits bad faith claims of ownership.[56] Under the new law, someone who knowingly takes possession of another's land can no longer claim adverse

possession. That may not be true in all cases, however. The 2008 amendments only apply to claims filed on or after the amendments' effective date, July 7, 2008.[57] Courts have since ruled that if a claim was filed and rights vested before the amendments took effect, the old law still applies.[58] If claimants have satisfied the elements of an adverse claim prior to 2008, they need only show objective hostility.[59] There remains disagreement among New York courts, however, as to the effect of the amendments on cases brought after the amendments took effective in which the rights allegedly vested prior to the effective date.[60]

Like that of Illinois, Wisconsin law provides for multiple ways to claim adverse possession and one of those possibilities requires good faith. In most cases, subjective motives are irrelevant.[61] There are two exceptions. First is that evidence of subjective intent could be relevant to disprove that claimant had the objective intent to own. In *Wilcox v. Estates of Hines,* true owner submitted evidence establishing that claimant's predecessor never intended to own the property as it sought permission from an entity it mistakenly thought owned the property.[62] The court ruled that claimant's use was non-adverse, stating that "[a] party who expressly disclaims ownership of property and seeks permission for its use is not "claiming title" to the property."[63]The second exception is an adverse possession claim under W.S.A. § 893.26, which requires that a party entered into possession "under good faith claim of title."[64] Wisconsin courts have interpreted the purpose of this good faith requirement as preventing claimants who enter into a deed knowing it to be forged or fraudulent from being able to claim adverse possession.[65]

<u>Bad Faith</u>

The final way the hostile requirement can be interpreted is to require possession in bad faith. Bad faith means that claimant need not just intend to own the property, but do so in full awareness that the property belongs to another. South Carolina is the only state east of the Mississippi River that still today requires bad faith under certain circumstances.

Historically, South Carolina required bad faith in all instances.[66] Claimants had to know they were possessing property owned by another in order to satisfy the hostility requirement. South Carolina has recently changed course though.[67] It now only requires a showing of an objective intent to own that is adverse to the true owner's interest.[68] It distinguishes, however, between ordinary adverse possession cases and what are referred to as "true border-line disputes." Where a case involves a dispute over ownership of an entire tract of land, hostile is interpreted according to objective intent.[69] If the case involves a claimant only asserting ownership over a small strip of the true owner's land located at the boundary line between the properties, on the other hand, bad faith is still required.[70]

Permissive Use

No matter how a state interprets the hostility requirement, permissive use is by definition not adverse.[71] If claimants have a license to be where they are or permission to do what they are doing, they cannot claim adverse possession.[72] Permissive use is the antithesis of adverse possession.[73]

In *Grace v. Koch*, the true owner granted claimant permission to mow the grass on the disputed strip of land.[74] When the true owner later objected to claimant laying gravel down on the strip, claimant asserted adverse possession.[75] The Supreme Court of Ohio rejected this claim, finding that the party had permission to use the strip and therefore use was not adverse.[76]

In *Jones v. Miles*, claimants were given permission to use a driveway on the adjacent property owners' land.[77] Claimants proclaimed that they believed they owned the land, but they sought permission to be neighborly.[78] They argued that because the use was originally hostile, the subsequent giving of permission could not transform the use into a permissive one.[79] The Court of Appeals of North Carolina disagreed, stating that receiving permission negated the hostile nature of the possession. From the true owner's point of view, use began as permissive and claimant did nothing that amounted to open and notorious use that would have put the true owner on notice of the change in the use's character.[80] Therefore, use was not hostile and the adverse possession claim failed.[81]

Defining Possession

To assert a right to land legally owned by another, one must show actual possession of the land for the requisite time period. What does possession mean and for how long must one possess the land? These requirements differ by state.

Possession Means Possession

Thirteen states east of the Mississippi have nearly identical law as to the meaning of possession. These states are Ohio, Pennsylvania, Delaware, Maryland, Massachusetts, New Hampshire, Michigan, Connecticut, Vermont, Virginia, Mississippi, West Virginia, and Rhode Island. Possession in these states merely means actually possessing and using the property in accordance with the other elements of the claim for the statutory period.[82] Holding a deed to the property, paying taxes on the property, or enclosing the property may be considered evidence of such, but they are neither required elements nor elements that serve to expedite the acquiring of title as is the case in some other states.

The one significant way in which the adverse possession laws of these thirteen states differ is in the length of their respective statutory periods for actions to quiet title and recover real property possessed by another. These periods range from twenty-one years (Ohio and Pennsylvania) to twenty years (Delaware, Maryland, Massachusetts, and New Hampshire) to fifteen years (Connecticut, Michigan, Vermont, and Virginia) to ten years (Mississippi, Rhode Island, and West Virginia).[83] To claim adverse possession, claimants must establish that they have possessed the land in satisfaction of the other elements for that time period. True owners have up until that time to assert their right to recover.

Possession Means Deed or Possession

Some states allow for a common law adverse possession claim, but also have a statutory adverse possession scheme under which the requisite period of possession can be shortened if certain conditions are met. The states that fall into this category are Georgia, North Carolina, Tennessee, and Kentucky.

In Georgia, North Carolina, and Tennessee, landowners generally have twenty years to recover possession of real estate.[84] If claimants can show possession under color of title (i.e. if they hold a deed to the property, even if such deed is mistaken), however, such claimants can assert adverse possession after only seven years.[85] In Kentucky, the general period for recovery of property is fifteen years,[86] but such can be shortened to seven years if claimant can establish it has record title to the land.[87]

To acquire title by adverse possession, claimant must show actual, open, hostile, exclusive, and continuous possession for seven years, under color of title, or either fifteen or twenty years, depending on the state, if without color of title.[88] Actual possession means possession demonstrated by use and

occupation over the property that are to such an extent as to establish dominion over that property.[89] Kentucky courts have held that merely stretching the boundaries of one's property in one's mind to include property beyond one's deed does not constitute actual possession for adverse possession purposes.[90] If you are living on one tract and believe that you own part of the adjacent tract but are not actually using that part, then you are not in possession of it. Mere intention to claim is not sufficient.[91]Also, while acts such as payment of taxes may be strong evidence of possession, that alone is not sufficient to satisfy the actual possession requirement.[92]

To get the benefit of the shortened statutory period, claimant must have color of title that covers the extent of the claim. For purposes of adverse possession, color of title is "bestowed by an instrument that purports to convey title to land but fails to do so."[93] Because any document purporting to convey land will state the extent of some claim to land, even a defective or invalid deed can suffice for purposes of the color of title requirement.[94] As the Supreme Court of North Carolina put it, "When the deed is *regular upon its face* and purports to convey title to the land in controversy, it constitutes color of title . . . . It is immaterial whether the conveyance actually passes the title. It is sufficient if it *appears* to do so."[95] In *Appalachian Regional Healthcare, Inc. v. Royal Crown Bottling Co., Inc.*, claimant had a deed that was subordinate to the deed of the other party, but because the deed contained a description of the property matching with the extent of the asserted claim, the Supreme Court of Kentucky found this to be sufficient to satisfy the color of title requirement.[96]

Possession means Deed, Payment of Taxes, or Possession

Alabama is another state that allows for both a general common law adverse possession claim and a statutory claim under which the required period of possession can be shortened. Alabama differs because possession can be shown in ways other than color of title and mere possession. The common law period for recovery of real estate in Alabama is twenty years.[97] If claimants can show that they had record title over the land, paid taxes on the property for ten years, or received title by "descent cast or devise from possessor," however, the claimant can assert adverse possession after ten years.[98]

In addition to the acts described in Ala. Code §6-5-200, a statutory adverse possession claim requires proof of the same elements as a common law prescription claim.[99] In *Long v. Ladd*, evidence showed claimants had paid taxes on the disputed land, posted no trespassing signs at the boundary of the land, built a road and a fence on the land, sold timber off the land, employed a caretaker to watch over the land, granted a third party an easement across the land, and hunted on the land over a ten year period.[100] The Supreme Court of Alabama found these acts amounted to a claim of ownership and that this evidence in combination with the fact that claimant held a deed to the tract was sufficient to satisfy a statutory adverse possession claim.[101]

At common law, there is also a separate way to claim adverse possession. Alabama courts make a similar distinction to that made by South Carolina courts between ordinary adverse possession claims and "true border-line disputes." If a claim is for ownership of true owner's entire parcel, then the case is an ordinary case and the normal analysis applies.[102] If, alternatively, the claim is over only a small strip of land located at the boundary line, then a hybrid form of adverse possession applies in which a party "may alter the boundary line . . . by agreement plus possession for ten years, or by adverse possession for ten years."[103] In *Smith v. Brown,* a border-line dispute, the Supreme Court of Alabama found that because claimant had possessed the portion of the other party's land that claimant believed was the boundary line for ten years, as evidenced by acts such as placing a fence on that line, the party had adversely possessed that strip.[104]

Possession Means Possession Plus Payment of Taxes or Deed, Not Mere Possession

Two states east of the Mississippi River do not permit a party to claim adverse possession merely by demonstrating actual possession of the land in satisfaction of the common law elements. These two states are Indiana and Florida.

The statutory period for adverse possession in Indiana is ten years.[105] Annual payment of taxes on property during such ten year period is a required prerequisite to acquiring rights by adverse possession.[106] Even if all other elements of the claim are established, a claimant cannot acquire rights unless it meets the tax requirement.[107] In the past, Indiana courts had held that the tax requirement was merely a supplement to the notice requirement and if notice was otherwise provided to the true owner through use, the party need not show payment of taxes.[108] Courts have since eschewed that interpretation and held that payment of taxes is a required element of an adverse possession claim.[109] Proof of color of title is not required, just a claim of right over the disputed property.[110]

The statutory period for recovery of real property in Florida is seven years.[111] A party can claim adverse possession in Florida in two ways: possession under color of title for seven years[112] or payment of taxes for seven years.[113] Showing payment of taxes or color of title alone, however, is not sufficient.[114]A party must also possess the property in satisfaction of the usual common law elements during those seven years.[115] Property is deemed possessed under Florida law if it is "usually cultivated or improved [or] enclosed by a substantial enclosure."[116] In *Grant v. Strickland*, the court determined that because claimants did not have color of title over the disputed tract, the claimants had to show evidence that the property had been substantially enclosed or usually cultivated or improved continuously for a seven year period.[117] Claimants argued that the property was enclosed because a fence sat on the northern boundary line, but the court found such evidence insufficient because it did not prove substantial enclosure of the entire parcel.[118]

Possession Means Deed or Either Improvement or Enclosure

South Carolina and New York have fairly similar law as to the meaning of and requirements for possession for adverse possession purposes. In both states, there are two ways to claim adverse possession by statute. The first is under color of title[119] and the second is without color of title if the claimant can show that the property is either usually improved or protected by a substantial enclosure.[120] The statutory period in both circumstances is ten years.[121]

The general elements required to satisfy a common law adverse possession claim are the same five basic elements as in most other states (i.e. open and notorious, exclusive, continuous, actual, hostile under claim of right).[122] As discussed earlier, New York requires good faith unless the pre-2008 law allowing for bad faith claims applies, while South Carolina requires object intent except in boundary disputes in which bad faith is required. The one distinguishing aspect is the fact that if possession is not based on a written instrument, claimant must show that the property was improved or substantially enclosed.[123] In *Skyview Motel, LLC. v. Wald*, a case where claimant had been using and storing machinery on the dispute property for over ten years , the New York Appellate Division, 2nd Department denied the adverse possession claim because claimants did not have color of title and failed to show they had substantially enclosed, improved, or cultivated the parcel during that time.[124] In *Fraizer v. Smallweed*, the Court of Appeals of South Carolina rejected an adverse possession claim because the deed claimants proffered fail to cover the extent of their claim and claimants had not fenced in, improved, or asserted dominion over the property.[125]

New York makes a statutory distinction between actual occupation and what it refers to as acts of maintenance and "de minimus non-structural encroachments." Acts such as building a fence, planting a hedge, or mowing the lawn on a common boundary line are not enough to satisfy the "substantial improvement or enclosure" requirement.[126] Such acts are considered permissive and therefore not adverse.

Possession Depends on Nature of the Land

Out of all the states east of the Mississippi, New Jersey has the most complex adverse possession statutory scheme. The general statutory period for right of entry into real estate is twenty years.[127] However, with regard to acquiring rights by adverse possession, the statute makes a distinction based on the type of property at issue. Thirty years of possession is required for adverse possession of non-woodland, developed land, while sixty years possession is required for adverse possession of woodlands and uncultivated land.[128] New Jersey also allows a party to claim adverse possession over uncultivated property not actually possessed if no other party is in possession and the party has a recorded deed, has paid taxes on the property, and the government recognizes the party as the tax payer for at least five consecutive years.[129]A claim by a party in possession, however, is superior to any claim by a party not in actual possession.[130]

While these statutes appear to conflict with one another, the Supreme Court of New Jersey has held this not to be the case.[131] According to court, what these statues mean is that a landlord has twenty years to recover land it owns that is in the possession of another, but title by adverse possession does not vest in the possessor until after thirty or sixty years, depending on the type of land.[132] In *J & M Land v. First Union Nat. Bank*, claimants asserted a right to uncultivated marshland property on which they had placed billboards on over a thirty-nine year period.[133] Claimants argued that they had acquired rights by adverse possession because that the true owner had failed to assert the right to recover within the twenty year period under N.J.S.A. § 2A:14-6. The Supreme Court of New Jersey disagreed, stating that title cannot vest under adverse possession until claimant has satisfied the applicable sixty year period for uncultivated land under N.J.S.A. § 2A:14-30.[134] One other important thing to note about the case is that the trial court had held, based on *Manillo v. Gorski*, that even if claimant could satisfy the timing requirement, the claim would fail on the open and notorious element because the use was not apparent to the naked eye and true owner lacked actual knowledge.[135]

Maine also bases its adverse possession requirements on the nature of the land at issue. The statutory periods for actions to quiet title and recover real property in Maine is 20 years.[136] Generally only actual possession and use in satisfaction of the elements for the statutory period is required.[137] Maine has a separate category, however, for uncultivated land located in an incorporated place. To claim adverse possession over such real estate, one must not only possess the land for 20 years, but must also pay taxes on the land during those 20 years.[138]

Click here to view a chart outlining the requisite time period of adverse possession in 26 states.

Other Schemes

Wisconsin has a three-tiered statutory adverse possession scheme. If claimant has continuously possessed the property under color of title and has paid taxes on it for seven years, then claimant can assert adverse possession after seven years.[139] If claimant has not paid taxes but has possessed the property under color of title, such claimant can assert adverse possession 10 ten years.[140] Possession is

only adverse under this mode of adverse possession if the party, or its predecessor, entered into possession "under good faith claim of title."[141] To get the benefit of a shortened period of possession without payment of taxes, one has to have received a deed for the property believing the deed to be valid and that such party legally took ownership of the property pursuant to the deed.[142] Finally, the statutory period for possession without color of title is 20 years.[143] In that case, possession must be evidenced by cultivation/improvement or substantial enclosure of the property.[144]

In Illinois, the statutory period for recovery of real property is twenty years.[145] If claimant can show possession for seven years with color of title, has paid taxes on the property during those seven years, and took possession of the property in good faith, however, seven-years of possession is sufficient to acquire title.[146] While good faith is required for the seven year statutory scheme, it is irrelevant to the common law adverse possession claim.[147]

Disability Extends the Time-Period

In a number of states, the adverse possession statute provides a safety-net for landowners who are in some way handicapped during the time in which the statutory right to recover accrues. Disabilities include being a minor, being abroad, being imprisoned, or being mentally unstable. In such states, if landowner is disabled, the right to recover may be extended to a certain period of time after the disability is removed (e.g. landowner is no longer a minor). Such extensions range from twenty-five years (Virginia) to ten years (Ohio, Delaware, Maine, Massachusetts, Rhode Island) to five years (New Hampshire, West Virginia) to three years (Maryland, North Carolina, Kentucky) to two years (Illinois, Wisconsin) to one year (Michigan).[148] The laws of the other eleven states east of the Mississippi River do not include a disability tolling provision.

Tacking if Privity

If claimant cannot individually satisfy the timing requirement, he or she may tack on successive periods of prior possession if sufficient privity exists between the current occupant and the prior occupants.[149] In *Zipf v. Dalgarn,* the relationship between plaintiff and her predecessor was a direct grantor-grantee relationship and the Supreme Court of Ohio determined that amounted to sufficient privity to permit tacking.[150] Because grantor and plaintiff continuously and cumulatively occupied the land in question adversely to its true legal owner for over twenty-one years, plaintiff successfully acquired title through adverse possession and could bar defendant for using the land.[151]

South Carolina's approach to tacking varies slightly from that of other states. South Carolina courts address tacking in a two-tiered fashion. A party can tack on a predecessor's possession to satisfy the requisite ten-year statutory period only if the relationship between the current possessor and claimant is an ancestor-heir relationship.[152] In addition to the ten year statutory period, however, South Carolina common law creates a presumption under which twenty years of use can lead to rights by adverse possession and tacking is permitted between any parties that are in privity.[153]

Adverse Possession Described Differently Is Still Adverse Possession

The one state that seemingly differs with regard to the required elements of an adverse possession claim is Indiana. Indiana court's list the elements as control, intent, notice, and duration.[154] As it turns out, these elements are basically the same as those of the other jurisdictions. There must be use to such

a degree as an average owner of similar property would use the property (control), intent to assert exclusive ownership over the property (intent), use sufficient to give the true owner actual or constructive notice of the claimant's intention to control the land (notice), and satisfaction of these elements for required length of time (duration).[155]

In *Garriot v. Peters*, claimant asserted possession over an undeveloped wooded tract it had rented out to farmers, sold timber off, hunted on, picked berries on, drove vehicles on, and built a fence on over a twenty year period.[156] The Court of Appeals of Indiana found that claimant's use, particularly the building of the fence, the leasing to farmers, and execution of timber contracts, demonstrated sufficient evidence of control.[157] Entering into contracts to lease the land and hiring people to cut timber showed that the party intended to own and possess the land.[158] The fact that claimant had a recorded deed to the tract and had erected a fence around the property in concert with claimant's constant, visible use should have put a reasonable person on notice of the ownership claim.[159]As the party could show such use for longer than the required ten years, the court found all elements of an adverse possession claim satisfied.[160] Because the claimant had been paying taxes on the property in addition to proving the requisite elements, the claimant had acquired rights by adverse possession.[161]

Additional Common Law Elements

Connecticut, Mississippi, Georgia, North Carolina, and Pennsylvania include additional common law elements. Connecticut courts refer to an ouster requirement, necessitating that the alleged possessor oust the true owner from possession.[162] Ouster does not mean physically kicking someone off the land, however. In *Eberhart v. Meadow Haven, Inc.*, the Appellate Court of Connecticut defined ouster as entry onto the land of another under claim and color of right.[163] Therefore, the ouster requirement is just another way of saying taking of property with the intent to own to the exclusion of others. In that case, the court found ouster established when claimant maintained, planted trees and hedges and installed landscape along, and made exclusive use of the driveway property in dispute.[164]

Mississippi and Georgia add that possession must be peaceful for the duration of the possession.[165] Though usually opposites by definition, the terms "hostile" and "peaceful" do not contradict one another for adverse possession purposes. As hostile just means adverse to the true owner's rights, use can be both hostile and peaceful. The peaceful use requirement does not mean that the existence of a dispute bars an adverse possession claim as if there could be no disputes, there would be no such thing as adverse possession.[166] It just means there must be peaceful existence between the parties.

North Carolina requires that use be "under known and visible lines and boundaries."[167] The purpose of such requirement is to make sure the true owner knows that another party is asserting possession to property that the true owner legally owns.[168]In other words, its just another way of saying open and notorious use.

Pennsylvania dictates that use also be "distinct."[169] Courts have interpreted this requirement to be merely a supplement to the need for use to be exclusive, holding that distinct use simply means use to the extent as the true owner would use the property.[170]

Unique Statutory Provisions

Connecticut and Rhode Island each have a statutory provision that provides that if a landowner seeks to dispute the right of possession of property, such landowner can serve of notice of intent to dispute onto

the person in possession. Such notice will serve to interrupt the tolling of the statutory period and prevent the possessor from acquiring rights through adverse possession by continued use.[171]

Massachusetts has a unique law stating that if a land is registered, it cannot be possessed adversely.[172] Maine has a statute specifically indicating that a good faith belief that one owns the land in dispute caused by a mutual mistake as to boundary line does not bar adverse possession.[173] This was adopted in response to, and courts have interpreted it as overruling, Maine's previous jurisprudence requiring bad faith in order to claim adverse possession.[174]

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[2] *See, e.g.*, *Apperson v. White*, 950 So.2d 1113, 1116 (Miss. Ct. App. 2007); *Bradley v. Demos*, 599 So.2d 1148, 1149 (Ala. 1992); *Candler Holdings Ltd. I v. Watch Omega Holdings, L.P.*, 947 So.2d 1231, 1234 (Fla. Dist. Ct. App. 2007); *Connelly v. Buckingham*, 136 Mich App 462, 467 (1984); *Elsea v. Day*, 448 S.W.3d 259, 263 (Ky. Ct. App. 2014); *Estate of Becker v. Murtagh*, 19 N.Y.3d 75, 81 (2012); *Grace v. Koch*. 81 Ohio St.3d 577, 577 (1998); *Hungerford v. Hungerford*, 234 Md. 338, 340 (1964); *Jarvis v. Gillipsie*, 155 Vt. 633, 638 (1991); *Joiner v. Janssen*, 85 Ill.2d 74, 81 (1981); *Jones v. Leagan*, 384 S.C.1, 10 (Ct. App. 2009); *Jones v. Miles*, 189 N.C. App. 289, 292 (2008); *Kelley v. Randolph*, 295 Ga. 721, 722 (2014); *Manillo v. Gorski*, 54 N.J. 378, 389 (1969); *Marvel v. Barley Mill Road Homes*, 34 Del. Ch. 417, 422 (1954); *Mastroianni v. Wercinski*, 158 N.H. 380, 382 (2009); *Mulle v. McCauley*, 102 Conn.App. 803, 809 (2007); *Ottavia v. Savarese*, 338 Mass. 330, 333 (1959); *Parks v. Pennsylvania R. Co.*, 301 Pa. 475, 152 A. 682, 684 (1934); *Quatannens v.* Tyrell, 268 Va. 360, 368 (2004); *Somon v. Murphy Fabrication & Erection Co.*, 160 W.Va. 84, 84 (1977); *Striefel v. Charles-Keyt-Leaman Partnership*, 733 A.2d 984, 989 (ME 1999); *Tavares v. Beck*, 814 A.2d 346, 350 (R.I. 2003); *Wilcox v. Estates of Hines*, 355 Wis.2d 1, 11 (2014); *Wilson v. Price*, 195 S.W.3d 661,667 (Tenn. Ct. App. 2005); The one exception is Indiana. As will be addressed in detail later in the article, Indiana uses different terminology to refer to the elements of the claim; however, Indiana courts interpret those elements to mean something similar to the required elements in other jurisdictions. *See, e.g.*, *Garriot v. Peters*, 878 N.E.2d 431, 438 (Ind. Ct. App. 2007).

[3] *Crown Credit Co., Ltd. v. Bushman*, 179 Ohio App.3d 807, 822 (2007).

[4] *Blanch v. Collison*, 174 Md. 427, 199 A.466, 470 (1938); *see also Apperson v. White*, 950 So.2d 1113, 1110 (Miss. Ct. App. 2007); *Getsinger v. Midlands Orthopedic Profit Sharing Plan*, 327 S.C. 424, 430 (Ct. App. 1997); *Kelley v. Randolph*, 295 Ga. 721, 723 (2014); *Lyons v. Andrews*, 313 A.2d 313, 315 (Pa. Super. Ct. 1973); *Marvel v. Barley Mill Road Homes*, 34 Del. Ch. 417, 424 (1954) (finding possession not to be exclusive when access was open to others to enter onto the property at their leisure to obtain water to feed livestock); *Moore v. Stills*, 307 S.W.3d 71, 90 (Ky. 2010): *Mulle v. McCauley*, 102 Conn.App. 803, 814, 817 (2007); *Quatannens v.* Tyrell, 268 Va. 360, 367 (2004); *Somon v. Murphy Fabrication & Erection Co.*, 160 W.Va. 84, 91 (1977); *Striefel v. Charles-Keyt-Leaman Partnership*, 733 A.2d 984, 989 (ME 1999) (holding that exclusive possession means "the possessor is not sharing the disputed property with the true owner or public at large").

[5] *Parks v. Pennsylvania R. Co.*, 152 A. 682, 684 (Pa. 1934).

[6] *See Crown Credit Co., Ltd. v. Bushman*, 179 Ohio App.3d 807, 822 (2007); *Johnson v. Tele-Media Co. of McKean County*, 90 A.3d 736 (PA Super. Ct. 2014).

[7] *See Gammons v. Caswell*, 447 A.2d 361, 367 (R.I. 1982) (determining that use would not be exclusive if there was evidence that the true owner "made improvements to the land or . . . used the land in a more significant fashion than merely walking across it").

[8] *See Appalachian Regional Healthcare, Inc.v. Royal Crown Bottling Co., Inc*, 824 S.W.2d 878, 880 (Ky. 1992) (stating that it is "legal owner's knowledge, either actual or imputable, of another's possession of lands that affects ownership").

[9] *Grace v. Koch*. 81 Ohio St.3d 577, 581 (1998); *see also Apperson v. White*, 950 So.2d 1113, 1118 (Miss. Ct. App. 2007).

[10] *Ottavia v. Savarese*, 338 Mass. 330, 333 (1959) (finding such requirement satisfied when claimant inserted beams into a wall belonging to the other party to construct an additional room); *see also Blickenstaff v. Bromley*, 220 A.2d

558, 562 (Md.1966); *Hewes v. Bruno*, 121 N.H. 32, 34 (1981) (stating that what matters is "the acts of [the party's] entry upon and possession of the land should, regardless of the basis of the occupancy, alert the true owner of his cause of action").
[11] *Watkins v. Watkins*, 775 A.2d 841, 846 (Pa. Super. Ct. 2001).
[12] *Phillips v. Akers*, 103 S.W.2d 705, 708 (Ky. Ct. App. 2002) (determining that acts such as planting, tax payments, and allowing tenants to live on land were too sporadic to serve as basis for adverse claim); *see also Kentucky Women's Christian Temperance Union v. Thomas*, 412 S.W.2d 869 (Ky. Ct. App.1967) (finding that cutting hay, digging a pond, and growing crop were insufficient); *Miller v. Cumberland Petroleum Co.*, 108 S.W.2d 513 (Ky. Ct. App. 1937) (ruling that hitching horses, parking cars, and having picnics on disputed land was not enough); *Price v. Ferra*, 258 S.W.2d 460, 461 (Ky. Ct. App. 1953) (holding sporadic cutting of timber over a forty year period was insufficient to establish adverse possession).
[13] *See Delaware Land and Development Co. v. First and Central Presbyterian Church*, 147 A. 165, 179 (Del. Ch. 1929).
[14] *See Elsea v. Day*, 448 S.W.3d 259, 264 (Ky. Ct. App. 2014).
[15] *Manillo v. Gorski*, 54 N.J. 378, 389 (1969).
[16] *Id.*
[17] *Kaufman v. Geisken Enters., Ltd.*, 2003-Ohio-1027, *8 (March 7, 2003).
[18] *Apperson v. White*, 950 So.2d 1113, 1118 (Miss. Ct. App. 2007).
[19] *Lewes Trust Co. v. Grindle*, 170 A.2d 280, 282 (Del.1961).
[20] *See Gunby v. Quinn*, 142 A. 910, 913 (Md.1928) (determining that hunting/trapping was consistent with use of a marshland).
[21] *LaChance v. First Natl. Bank & Trust Co. of Greenfield*, 301 Mass. 488, 491 (1938) (ruling that removing a fence, digging a cellar, depositing dirt, building a hen coop, and erecting a wall on a vacant lot satisfied this element).
[22] *Apperson*, 950 So.2d at 1117.
[23] *Stellar v. David*, 257 A.2d 391, 394 (Del. Super. Ct. 1969).
[24] *Id.* at 395.
[25] *Apperson v. White*, 950 So.2d at 1117.
[26] *See Gorte v. Department of Transp.*, 202 Mich. App. 161, 170 (1993) (stating that adverse possession law will not be used to "reward[] the thief while punishing the person who was merely mistaken").
[27] *Mulle v. McCauley*, 102 Conn.App. 803, 814 (2007).
[28] *See Elsea v. Day*, 448 S.W.3d 259, 264 (Ky. Ct. App. 2014); *Delaware Land and Development Co. v. First and Central Presbyterian Church*, 147 A. 165, 179 (Del. Ch. 1929); *Gorte v. Department of Transp.*, 202 Mich. App. 161, 170 (1993); *Jarvis v. Gillipsie*, 155 Vt. 633, 641 (1991); *Jones v. Miles*, 189 N.C. App. 289 (2008); *Mulle v. McCauley*, 102 Conn.App. 803, 814 (2007); *Quatannens v.* Tyrell, 268 Va. 360, 367 (2004); *Tavares v. Beck*, 814 A.2d 346, 351 (R.I. 2003); *Tioga Coal Co. v. Supermarkets General Corp.*, 546 A.2d 1, 6 (Pa. 1988); Town *of Warren v. Shortt*, 139 N.H. 240, 244 (1994); *Wilson v. Price*, 195 S.W.3d 661,667 (Tenn. Ct. App. 2005).
[29] *Hungerford v. Hungerford*, 234 Md. 338, 340 (1964).
[30] *See Apperson*, 950 So.2d at 1118; *Evanich v. Bridge*, 119 Ohio St. 3d 260, 262 (2008); *Hewes v. Bruno*, 121 N.H. 32, 34 (1981).
[31] *See Somon v. Murphy Fabrication & Erection Co.*, 160 W.Va. 84, 90 (1977).
[32] *See Kendall v. Selvaggio*, 413 Mass. 619, 623 (1992) (finding that a mutual mistake as to the boundary line did not defeat an adverse possession claim).
[33] *Flynn v. Korsack*, 343 Mass. 15, 18-19 (1961).
[34] *Quatannens v.* Tyrell, 268 Va. 360, 366–67 (2004).
[35] *Connelly v. Buckingham*, 136 Mich App 462, 468 (1984).
[36] *See MacDonough-Webster Lodge No.26 v.* Wells, 175 Vt. 382, 394 (2003) (holding that a person can gain title over property by adverse possession without showing an intent to take another's land provided that the claimant acts with the intent to exclude all others from possession).
[37] *Kimball v. Anderson*, 125 Ohio St. 241, 241 (1932).
[38] *Id.*
[39] *Id.*
[40] *Id.* at 244.
[41] *Id.*
[42] *Stellar v. David*, 257 A.2d 391, 394 (Del. Super. Ct. 1969).
[43] *David v. Stellar*, 269 A.2d 203, 204 (Del. 1970).

[44] *Kelley v. Randolph*, 295 Ga. 721, 722 (2014).
[45] *Id. at* 723 n.1 (citing Ellis v. Dasher, 101 Ga. 5, 9–10 (1897)).
[46] *See Georgia Power Co. v. Irvin*, 267 Ga. 760, 764–65 (1997).
[47] *Kelley*, 295 Ga. at 721.
[48] *Id.* at 723 n.1.
[49] *Id.* at 723.
[50] *See Joiner v. Janssen*, 85 Ill.2d 74, 84 (1981) (finding that mowing grass, raking leaves, planting trees on parcel demonstrated intent to claim ownership sufficient to put reasonably vigilant land owner on notice).
[51] *See, e.g., Simpson v. Manson*, 345 Ill. 543 (1931).
[52] *McCree v. Jones*, 103 Ill.App.3d 66, 70 (1981).
[53] *See id.*
[54] *Simpson v. Manson*, 345 Ill. 543, 553 (1931).
[55] R.P.A.P.L. § 501.
[56] 7 N.Y.3d 228 (2006).
[57] See L 2008, ch 269, §9, eff July 7, 2008.
[58] *See Estate of Becker v. Murtagh*, 19 N.Y.3d 75 (2012).
[59] *Id.*
[60] *Compare, e.g., Franza v. Olin*, 73 A.D.3d 44 (4th Dept. 2010) (Pre-2008 law applied), *with Sawyer v. Prusky*, 71 A.D.3d. 1325 (3d Dept. 2010) (2008 amendments applied).
[61] *See, e.g., Wilcox v. Estates of Hines*, 355 Wis.2d 1, 15 (2014).
[62] *Id.* at 18.
[63] *Id.*
[64] *See* WIS. STAT. ANN. § 893.26 (West 1997).
[65] *See Orcutt v. Blum*, 344 Wis.2d 122 (2012).
[66] *See Lusk v. Callham.* 287 S.C. 459, 461 (Ct. App. 1986).
[67] *See Perry v. Heirs at Law and Distributees of Gadsden*, 316 S.C. 224 (1994).
[68] *See Jones v. Leagan*, 384 S.C. 1, 13-14 (Ct. App. 2009) (holding that claimant must show acts that manifest intention to own that are sufficiently apparent that a legal owner "by ordinary diligence" would have known about it).
[69] *See Perry*, 316 S.C. at 225.
[70] *See id.*
[71] *See Ryan v. Stavros*, 348 Mass. 251, 263 (1964) ("Permissive use is inconsistent with adverse use.").
[72] *See MacDonough-Webster Lodge No.26 v.* Wells, 175 Vt. 382, 394 (2003) (dooming claimant's adverse possession claim because the claimant's mowing of the lawn on the disputed property was part of claimant's employment as groundskeeper over the property); *Margolin v. Pa. Railroad Co.*, 168 A.2d 230, 322 (Pa. 1961) (holding use of bridge was not adverse when an agreement covered use of the bridge); *Myers v. Beam*, 713 A.2d 61, 62 (Pa. 2008) (finding no adverse possession when the claimant had requested a quitclaim deed to the disputed parcel).
[73] *Grace v. Koch*. 81 Ohio St.3d 577 (1998).
[74] *Id.* at 578.
[75] *Id.*
[76] *Id.* at 582.
[77] *Jones v. Miles*, 189 N.C. App. 289, 290 (2008).
[78] *Id.* at 293
[79] *Id.*
[80] *Id.* at 293–94
[81] *Id.* at 295
[82] *See e.g., Apperson v. White*, 950 So.2d 1113, 1116 (Miss. Ct. App. 2007); *Connelly v. Buckingham*, 136 Mich App 462, 467 (1984); *Grace v. Koch*. 81 Ohio St.3d 577, 577 (1998); *Hungerford v. Hungerford*, 234 Md. 338, 340 (1964); *Jarvis v. Gillipsie*, 155 Vt. 633, 638 (1991); *Marvel v. Barley Mill Road Homes*, 34 Del. Ch. 417, 422 (1954); *Mastroianni v. Wercinski*, 158 N.H. 380, 382 (2009); *Mulle v. McCauley*, 102 Conn.App. 803, 809 (2007); *Ottavia v. Savarese*, 338 Mass. 330, 333 (1959); *Parks v. Pennsylvania R. Co.*, 152 A. 682, 684 (Pa. 1934); *Quatannens v.* Tyrell, 268 Va. 360, 368 (2004); *Somon v. Murphy Fabrication & Erection Co.*, 160 W.Va. 84, 84 (1977); *Tavares v. Beck*, 814 A.2d 346, 350 (R.I. 2003).

[83] *See* CONN. GEN. STAT. ANN. § 52-575 (a) (West 1996); DEL. CODE ANN. tit. 10, § 7901 (West 1995); MASS. GEN. LAWS ANN. ch.260, § 21 (West 1996); MD. CODE ANN., CTS. & JUD. PROC. § 5-103 (West 1999); MICH. COMP. LAWS ANN. § 600.5801 (West 1970); MISS. CODE. ANN. § 15-1-7 (2015); N.H. REV. STAT. ANN. § 508:2 (2009); OHIO REV. CODE ANN. § 2305.04 (West 1990); 42 PA.CONS.STAT. § 5530 (2006); R.I. GEN. LAWS § 34-7-1 (1956); VA CODE ANN § 8.01–236; VT. STAT. ANN. tit.12 § 501 (West 1959); W. VA. CODE § 55-2-1 (1923).
[84] *See* GA. CODE ANN. § 44-5-163 (1933); N.C. GEN. STAT. § 1-40 (2014); *Wilson v. Price*, 195 S.W.3d 661, 666 (Tenn. Ct. App. 2005).
[85] *See* GA. CODE ANN. § 44-5-164 (1982); N.C. GEN. STAT § 1-40; TENN. CODE ANN. § 28-2-101 (1932).
[86] *See* KY. REV. STAT. ANN. § 413.010 (West 2002).
[87] *See* KY. REV. STAT. ANN. § 413.060 (West 1942).
[88] *See, e.g., Cumulus Broadcasting, Inc. v. Shim*, 226 S.W.3d 366 (Tenn. 2007); *Merrick v. Peterson*, 143 N.C. App. 656, 663 (2001); *Moore v. Stills*, 307 S.W.3d 71 (Ky. 2010).
[89] *See Moore*, 307 S.W.3d at 78.
[90] *See id.*
[91] *See id.*
[92] *See Phillips v. Akers*, 103 S.W.3d 705, 709 (Ky. Ct. App. 2002).
[93] *White v. Farabee*, 212 N.C. App. 126, 132 (2011).
[94] *See Appalachian Regional Healthcare, Inc.v. Royal Crown Bottling Co., Inc*, 824 S.W.2d 878, 880 (Ky. 1992).
[95] *Lofton v. Barber*, 226 N.C. 481, 484 (1946).
[96] *Appalachian Regional Healthcare*, 824 S.W.2d at 881.
[97] *See Bradley v. Demos*, 599 So.2d 1148 (Ala. 1992).
[98] ALA. CODE §6-5-200 (1975). Decent cast means receiving title from an ancestor via intestate succession.
[99] *See, e.g., Long v. Ladd*, 273 Ala. 410, 412 (1962).
[100] *Id.*
[101] *Id.* at 662–63.
[102] *See McCallister v. Jones*, 432 So.2d 489 (Ala. 1983) (holding that when one landowner claimed ownership of all five acres of the adjacent landowner's parcel, the normal adverse possession analysis applied).
[103] *Kerlin v. Tensaw Land & Timber Co.*, 390 So.2d 616, at 618–19 (Ala. 1980); *see also Smith v. Brown*, 282 Ala. 528 (1968).
[104] *Smith v. Brown*, 282 Ala. 528, 538 (1968).
[105] *See* IND. CODE § 34-11-2-11 (West 2000).
[106] *See* IND. CODE § 32-21-7-1 (West 2014).
[107] *See Fraley v. Minger*, 829 N.E.2d 476, 488 (Ind. 2005).
[108] *See Kline v. Kramer*, 179 Ind. App. 592, 600 (1979).
[109] *See* Fraley, 829 N.E.2d at 492 (Ind. 2005).
[110] *See id.* at 485.
[111] *See* FLA.STAT. ANN. § 95.12 (West 1995).
[112] *See* FLA.STAT. ANN. § 95.16 (West 1995).
[113] *See* FLA.STAT. ANN. § 95.18 (West 2013).
[114] *See Cox v. Game*, 373 So.2d 364, 365–66 (Fla. Dist. Ct. App. 1979) (holding that claimant could not successfully demonstrate adverse possession when it could show payment of taxes on the disputed tract, but not acts of physical dominion over it).
[115] *See, e.g., Downing v. Bird*, 100 So.2d 57 (Fla. 1958); *Candler Holdings Ltd. I v. Watch Omega Holdings, L.P.*, 947 So.2d 1231(Fla. Dist. Ct. App. 2007).
[116] FLA.STAT. ANN § 95.18 (West 2013). For case law discussing this requirement, see *Candler Holdings Ltd. I v. Watch Omega Holdings, L.P.*, 947 So.2d 1231, 1234 (Fla. Dist. Ct. App. 2007) and *Grant v. Strickland*, 385 So.2d 1123 (Fla. Dist. Ct. App. 1980).
[117] *Grant, 385* So.2d at 1124.
[118] *Id.* at 1125.
[119] *See* N.Y. REAL PROP. ACT. § 512 (McKinney 2008); S.C. CODE ANN. § 15-67-220 (1976).
[120] *See* N.Y. REAL PROP. ACT. § 521 (McKinney 2008); N.Y. REAL PROP. ACT. § 522 (McKinney 2008); S.C. CODE ANN. § 15-67-240 (1976); S.C. CODE ANN. § 15-67-250 (1976).
[121] *See* N.Y. REAL PROP. ACT. § 511 (McKinney 2008); S.C. CODE ANN. § 15-67-210 (1976).
[122] *See, e.g., Skyview Motel, LLC v. Wald*, 83 A.D.3d 1081, 1082 (2d Dept. 2011); *Frazier v. Smallseed*, 384 S.C. 56, 62 (2009).

[123] *See Skyview Motel, LLC v. Wald*, 83 A.D.3d 1081, 1082 (2d Dept. 2011).
[124] *Id.*
[125] *Frazier v. Smallseed*, 384 S.C. 56, 62-63 (Ct. App. 2009).
[126] N.Y. REAL PROP. ACT. § 543 (McKinney 2008).
[127] *See* N.J. STAT. ANN. § 2A:14-6.
[128] *See* N.J. STAT. ANN. § 2A:14-30.
[129] *See* N.J. STAT. ANN. § 2A:62-2.
[130] *See* N.J. STAT. ANN. § 2A:14-31.
[131] *See J & M Land Co. v. First Union Nat. Bank*, 166 N.J. 493, 518 (2001).
[132] *Id.*
[133] *Id.* at 497.
[134] *Id.* at 518.
[135] *Id.* at 497.
[136] ME. REV. STAT. tit.14, § 801 (1954).
[137] *See Striefel v. Charles-Keyt-Leaman Partnership*, 733 A.2d 984, 989 (Me. 1999).
[138] *See* ME. REV. STAT. tit.14, §816 (1954).
[139] *See* WIS. STAT. ANN. § 893.27 (West 1979).
[140] *See* WIS. STAT. ANN, § 893.26 (West 1997).
[141] *See id.*
[142] *See Orcutt v. Blum*, 344 Wis.2d 122 (2012).
[143] *See* WIS. STAT. ANN. § 893.25. (West 1979).
[144] *See id.*
[145] 735 ILL. COMP. STAT. ANN. 5/13-101 (West 1981).
[146] 735 ILL. COMP. STAT. ANN. 5/13-107 (West 1981).
[147] *See Joiner v. Janssen*, 85 Ill.2d 74, 81 (1981).
[148] *See* CONN. GEN. STAT. ANN. § 52-575 (b) (West 1996); DEL. CODE ANN.tit. 10 § 7903 (West 1995); 735 ILL. COMP. STAT. ANN 5/13-112 (West 1981); KY. REV. STAT. ANN. § 413.060 (West 1942); MD. CODE ANN., CTS. & JUD. PROC. § 5-201 (West 1997); ME. REV. STAT .tit.14, § 802 (1954); MICH. COMP. LAWS ANN § 600.5851 (West 1993); MISS. CODE. ANN. § 15-1-7 (2015); N.C. GEN. STAT § 1-17 (2011); OHIO REV. CODE ANN. § 2305.04 (West 1990); N.H. REV. STAT. ANN. § 508.3 (2015); R.I. GEN. LAW §34-7-2 (1956); VA CODE ANN. §8.01-237 (1977); W.VA. CODE § 55-2-3 (1923); WIS. STAT. ANN § 893.16 (West 1997).
[149] *See Connelly v. Buckingham*, 136 Mich App 462, 474 (1984); *Durkin Villiage Plainville, LLC v. Cunningham*, 97 Conn.App. 640, 652 (2006); *Freed v. Cloverlea Citizens Ass'n, Inc.*, 228 A.2d 421, 431 (Md. 1967); *Lawrence v. Town of Concord*, 439 Mass. 416, 426 (allowing person claiming title by adverse possession to rely on the possession of his tenants to satisfy statutory period); *Marvel v. Barley Mill Road Homes*, 104 A.2d 908, 913 (Del. Ch. 1954); *Zeglin v. Gahagen*, 812 A.2d 558, 566 (Pa. 2002); *Zipf v. Dalgarn*, 114 Ohio St. 291, 296 (1926).
[150] *Zipf*, 114 Ohio St. at 297 (1926).
[151] *Id.* at 298.
[152] *See Terwilliger v. White*, 222 S.C. 176, 184 (1952).
[153] *See id.*
[154] *See, e.g., Garriot v. Peters*, 878 N.E.2d 431, 438 (Ind. Ct. App. 2007).
[155] *Id.*
[156] *Id.* at 440.
[157] *Id.* at 441.
[158] *Id.* at 442.
[159] *Id.* at 442–43.
[160] *Id.* at 444.
[161] *Id.* at 438.
[162] *See Eberhart v. Meadow Haven, Inc.*, 11 Conn.App. 636, 640 (2008).
[163] *Id.* at 644.
[164] *Id.*
[165] *See Apperson v. White*, 950 So.2d 1113, 1116 (Miss. Ct. App. 2007).
[166] *See id.*
[167] *See, e.g., Merrick v. Peterson*, 143 N.C.App. 656, 663 (2001).
[168] *McManus v. Kluttz*, 165 N.C.App. 564, 570 (2004).

[169] *See, e.g.*, *Parks v. Pennsylvania R. Co.*, 152 A. 682, 684 (Pa. 1934); *Brennan v. Manchester Crossings, Inc.*, 708 A.2d. 815, 818 (Pa. Super. Ct. 1998).
[170] *Brennan v. Manchester Crossings, Inc.*, 708 A.2d. 815, 818 (Pa. Super. Ct. 1998).
[171] *See* CONN. GEN. STAT. ANN. § 52-575 (a) (West 1996); R.I. GEN. LAW §34-7-1 (1956).
[172] *See* M.G.L. c.185 §53; *see also Feinzig v. Ficksman*, 42 Mass.App.Ct. 113, 114 (1997) (finding no adverse possession, despite open and continuous use of driveway and wall encroaching onto defendant's land for over twenty years, due to the fact that the parcel was registered).
[173] *See* ME. REV. STAT. tit.14, §810-A (2009).
[174] *See Dombkowski v. Ferland*, 893 A.2d 599, 603 (Me. 2006).