

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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SC Court of Appeals

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas**

The Honorable? George McFaddin

Case No.: 2020-CP-40-06054

Appellate Case No. 2023-000781

Alan G. Nix

Appellant,

v.

**Churchill Park Homeowners' Association, Inc.
and
"Churchill Park"**

Respondents,

**APPELLANT'S MOTION FOR LEAVE TO FILE INITIAL BRIEF LATE AND PLACE
CASE BACK IN HELD IN ABEYANCE STATUS UNTIL AFTER APPEAL 2022-01155
HAS BEEN RESTORED AND COMPLETED**

The exhibits included with this motion are incorporated by inclusion / reference.

This Court, by it's Clerk, mailed a letter dated 16 June 2023 regarding appellate case 2022-001155. This letter stated, as stated in you all's letter dated 23 Aug 2022, that because Appellant was not an attorney licensed to practice law in the state of South Carolina that no action will be

taken and your appellate case file for case 2022-001155 was closed. What that letter did not address was the motion to add three more orders from case 2020-CP-40-05255 that was filed on 3 May 2023 that directly contradicted the orders and alleged assumptions from 2022. A reasonable person would almost certainly conclude that one of the reasons that letter did not address my 3 May 2023 motion to add three orders to appellate case 2022-01155 is because, even after transacting the \$50.00 check included with that motion, your Clerk's office did not properly file that motion and the accompanying orders. I filed a response to that letter on 26 Jun 2023, a portion of which is included as Exhibit A, that directly addressed these issues and, among things, requested that the original motion from 3 May 2023 be filed with appellate case 2022-001155 no later than 28 June 2023.

As of today, 30 (thirty) days later, there is no indication whatsoever that your Clerk has taken any action at all to remedy her failure to properly perform her job duties. Given this fact pattern, a reasonable person can only conclude that Ms. Abbott-Kitchings conduct is due to something other than mere mistake or accident.

Given the Respondent's conduct in these matters, including but not limited to their attorneys and their attorneys' attorneys, these two cases are inextricably linked and filing an initial brief in this matter can not be properly done until the issues with case number 2020-CP-40-05255 / appeal 2022-001155 are addressed, which, once again, it appears almost certain at this point that your Clerk / Clerk's Office has no intention to assist in accomplishing without being compelled to do so.

The primary issue from appeal 2022-001155 that must be addressed before this appeal can move forward is whether or not Appellant Alan Nix is, or is not, a Plaintiff in case 2020-CP-40-05255. As stated previously, Mr. Countryman and Mr. Wood, McCabe & Trotter's attorneys, along with Judge Newman, claim that the only plaintiffs are Norma Nix and the Estate of Norma Nix while McCabe & Trotter and "Churchill Park", and potentially Churchill Park Homeowners' Association, Inc., along with Judge McFaddin, claim that the plaintiffs are Norma Nix, the Estate of Norma Nix AND Alan Nix. This dispute among highly related parties, (Countryman, Wood, McCabe & Trotter, Judge Newman, "Churchill Park" and McFaddin), which also can not be reasonably construed as being mere mistake or accident, must be fully settled before any fair and legal progress can be made on this appeal.

Consequently, the Appellant in this matter is preparing a Petition to compel Ms. Jenny Abbott-Kitching to perform her Clerk's job responsibilities correctly, including but not limited to, filing the original motion from 3 May 2023 in case 2022-001155 and retracting and explaining her "No Action" letter dated 16 June 2023.

Appellant requests the Court of Appeals to:

1. Clarify if the denying of Respondents motion to dismiss constituted the granting of the Appellants requests for relief contained in his Return to the motion to dismiss.
2. Place this case back in Held in Abeyance status until after appeal 2022-001155 is restored and properly completed.
3. Grant Appellant's motion for leave to file initial brief late.
4. Clarify if this court's order dated 11 July 2023 where it cites Rule 205, SCACR as the reason for denying Appellant's motion to remand means that the SC Court of Appeals lacks any and all discretion to remand a case back to a lower court once a notice of appeal is filed.
5. Clarify if Respondent Churchill Park Homeowners' Association, Inc. is represented by an attorney licensed to practice law in the state of South Carolina, and if not, take appropriate action related to that issue.
6. any other and further relief as the Court deems just, prudent and proper.

July 26, 2023

Respectfully submitted,



Alan G. Nix
c/o Michael & Taryn Lazroff
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991-4170

Exhibit

A

26 June 2023

Alan Nix
c/o Michael and Taryn Lazroff
1401 Densmore Circle
Mount Pleasant, SC 29466

Ms. Jennie Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

RE: Norma J. Nix, Estate of Norma Nix and Alan Nix v Churchill Park Homeowners'
Association, Inc., et. al. – Letter dated 16 June 2023
Case Number: 2020-CP-40-05255
Appellate Case Number: 2022-01155

Ms. Abbott Kitchings,

Please accept this letter as a response to your letter dated 16 June 2023 related to the above cited case.

The following exhibits are included for reference.

1. Copy of your letter dated 16 June 2023 related to the above cited case
2. Copy of check number 2136 in the amount of \$50.00 drawn on Navy Federal Credit Union which was transacted by the State on 5 May 2023
3. Copy of check number 2137 in the amount of \$250.00 drawn on Navy Federal Credit Union which was transacted by the State on 5 May 2023
4. Copy of the motion dated 3 May 2023 related to check number 2136 which was hand delivered to your office at approximately 1557 on 3 May 2023. Appeal number 2022-001155
5. Copy of email and attachments from 16 June 2023 related to case 2023-CP-10-00913 (the remainder of the documents produced by Capers Barr under subpoena are omitted to save USPS postage costs. Believe the court already has those documents under a separate filing)
6. Copy of National Conference of Appellate Court Clerks Code of Professional Conduct

So as to ensure this letter in response to your letter dated 16 June 2023 is properly interpreted, please allow me to address the last sentence of your letter first. You state as fact in

the last sentence that "Our case file in this matter is closed". I would strongly suggest you reconsider your position on this case / case file given this response.

In your first sentence, you start off by stating that "The Court received your motion to reinstate filed November 7, 2022, respondents' return, and a reply". While those facts appear to be mostly true, with a serious concern about your use of "respondents' " in that sentence, what is most striking is your lack of reference to Exhibit Four (four) attached to this letter. Exhibit Four (4) is motion related to this same case which was hand delivered to the Court of Appeals on the afternoon of 3 May 2023 at approximately 1600. This motion was delivered to the court of appeals at the exact same time as the Notice of Appeal for case 2020-CP-40-06054.

Not only can I prove that said motion was hand delivered on 3 May 2023 to the lobby of 1220 Senate St., it is easily proven given you, or someone under your supervision, clearly opened the envelope containing the subject motion and then transacted the \$50.00 check which was contained with the motion. See exhibit 2 for check number 2136.

Which brings us to the principal issue at hand. You, Judge Newman, Andy Countryman and Bob Wood state as fact that I am not a plaintiff in the above cited case while Mr. McFaddin, Ms. McBride, Stephanie Trotter and Victoria Bryant state as fact that I am a plaintiff. Given Stephanie Trotter used to work for Mr. Wood and is represented by Andy Countryman and Bob Wood in this same case, clearly, we have a serious issue with regards to all the above cited parties related to this case and subsequent appeal and motions.

What is unfortunately not in dispute related to you and your office's conduct in this matter, is that despite you all transacting check number 2136 on 5 May 2023, you have never filed the motion for appeal 2022-001155 dated and hand delivered on 3 May 2023. Exhibit 4 (four). What is even more concerning about your 16 June 2023 letter is the timing. Please reference exhibit 5 (five) which is an email from 16 June 2023 with the subject line of "insurance claim – policy # 182316 367509913 – Churchill Park Homeowners' Association, Inc.". You will note that this is related to these same parties and a highly related and questionable case filed in Charleston County with case number 2023-CP-10-00913. I seriously doubt any impartial and basically reasonable person would conclude that your sudden action on appeal 2022-001155 on 16 June 2023, after no action at all for over six months, was merely a coincidence.

Lastly, what I am relatively sure of is that it is not within the scope of your job to knowingly engage in improper conduct to attempt to protect corrupt judge(s), attorneys and clerk(s) of court. I recommend you review exhibit 6 (six) in detail and operate in compliance with the stated Canons. Additionally, please note on the third page of exhibit 5 (five) reference to the "DOJ". DOJ = Department of Justice.

Please ensure:

1. that the original motion hand delivered to your office on 3 May 2023 for appeal 2022-001155 is filed no later than noon on 28 June 2023.
2. withdraw your highly questionable "our case file is closed" letter dated 16 June 2023.
3. Amend the parties for case number 2022-001155 to include Alan Nix as a plaintiff
4. Promptly report any misconduct by attorneys or judicial officers related to this matter to the Office of Disciplinary Counsel. By serving a copy of this letter on the ODC at the same time as filing this letter, consider this a complaint against you and the attorneys and judges involved in this matter.
5. Enter an order no later than noon on 28 June 2023 explaining your conduct in this matter and laying out all corrective actions you have taken to address these issues.

6. Enter an order recusing yourself and your organization from being involved in any matters involving any of the "Churchill"s, Alan Nix and Norma Nix.

Best regards,



Alan Nix

cc.

Jeanette McBride
Clerk of Court, Richland County
1701 Main St., Room 205.
Columbia, SC 29201

Stephanie Trotter
Rep. McCabe & Trotter
4500 Fort Jackson Blvd.
Columbia, SC 29209

Churchill Park Homeowners' Association, Inc.
c/o Lee Janssen
1132 Willoughby Ln.
Mt. Pleasant, SC 20466

Victoria Bryant
McCabe & Trotter
880 Johnnie Dodds Blvd.
Mt. Pleasant, SC 29464

Mark Keel
SC Law Enforcement Division
4400 Broad River Rd.
Columbia, SC 29210

Greg Hilton, President
National Center for State Courts
300 Newport Ave.
Williamsburg, VA 23185

Office of Disciplinary Counsel
1220 Senate St.
Columbia, SC 29201

Andy Countryman
Countryman Law
210 Wingo Way, Ste. 400
Mount Pleasant, SC 29464

Bob Wood
Rogers, Townsend & Thomas
1221 Main St., 14th Floor
Columbia, SC 29201



①

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 16, 2023

Alan G. Nix
1401 Densmore Circle
Mt. Pleasant, SC 29466

Re: Norma J. Nix v. Churchill Park
Appellate Case No. 2022-001155

Dear Mr. Nix:

The Court received your motion to reinstate filed November 7, 2022, respondents' return, and a reply. As stated in our August 23, 2022 letter, no action will be taken on your filings because you are not an attorney licensed to practice law, and you are not authorized to represent Norma J. Nix or the Estate of Norma J. Nix. Our case file in this matter is closed.

Very truly yours,

A handwritten signature in cursive script that reads "Jenny A. Kitchings".

CLERK

cc: Victoria Morgan Bryant, Esquire
Stephanie Trotter Kellahan, Esquire
Andrew W. Countryman, Esquire

2

Alan G. Dix
1001 Besmore Circle
Spartanburg, SC 29466

LOOK FOR
SEC hologram for security
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2136
48-44972360

3 MAY 2023
Date

Pay to the Order of SC COURT OF APPEALS

\$ 50.00

Fifty and no/100

Dollars

Navy Federal Credit Union

MOTION
APPEAL RICHARD 2020-5255

⑆ 5607497412136 ⑆

48.780

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5 MAY 2023

PAY TO THE ORDER OF
WELLS FARGO BANK, N.A.
FOR DEPOSIT ONLY
SC STATE BAR OF SC
General Deposit Account
(B040 SC Judicial Branch)

3

Alan G. Six
1401 Bessmore Circle
Muir Pleasant, SC 29466

LOOK FOR
2D barcode on top
Must receive circle in upper right corner

2137
68-74972868

3 MAY 2023

Date

Pay to the Order of SC Court Of Appeals

\$ 250.00

Two hundred fifty & 00/100

Dollars

State Federal Credit Union

APR 2020-6054 RICHMOND

5607497402137

98779

FOR DEPOSIT ONLY
WELLS FARGO BANK'S
SC STATE OF SOUTH CAROLINA
GENERAL FUNDING ACCOUNT
GENERAL FUNDING ACCOUNT
(B040 - 903 - FEDERAL BRANCH)

5 MAY 2023

4

3 May 2023

Alan Nix
c/o Michael and Taryn Lazroff
1401 Densmore Circle
Mount Pleasant, SC 29466

Ms. Jennie Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

RE: Norma J. Nix, et. al, v Churchill Park Homeowners' Association, Inc., et. al.
Case Number: 2020-CP-40-05255
Appellate Case Number: 2022-01155

Ms. Abbott Kitchings,

Please find enclosed:

1. A motion to add orders to appeal 2022-01155 and remand case to the circuit court due to unrulled upon motions from February and March 2022
2. Check number 2136 in the amount of \$50.00 drawn on Navy Federal Credit Union.
3. Copies of the motion and Proof of Service to be returned with your clock stamp
4. Self-addressed and postage prepaid envelope to return the enclosed copies of the Motion and Proof of Service (Exhibits not included for return)

Best regards,

Alan Nix *A.N.*
26 JUN 2023

Alan Nix

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas**

The Honorable? George McFaddin

Case No. 2020-CP-40-05255

Appellate Case No. 2022-01155

Norma J. Nix, et.al

Appellants,

v.

Churchill Park Homeowners' Association, Inc., et.al

Respondents,

PROOF OF SERVICE

The undersigned certifies that a copy of Appellant Alan Nix's motion to add order to appeal 2022-001155 and remand case to circuit court was served upon the individuals listed below by mailing or hand delivering a copy of the same, postage prepaid, in the United States Mail, addressed as shown, this 3rd day of May 2023 to:

Roger Wood

Andrew Countryman

Rogers, Townsend & Thomas
1221 Main St., Ste. 1400
Columbia, SC 29201

Countryman Law Firm
210 Wingo Way, Unit 400
Mount Pleasant, SC 29464

Ethan Nix
211 Posey Hill Rd.
Liberty, SC 29657

Jeanette McBride
Clerk of Court, Richland County
1701 Main St.
Columbia, SC 29201

Stephanie Trotter
"Churchill Park"
4500 Fort Jackson Blvd.
Columbia, SC 29209

Lee Janseen
Churchill Park Homeowners Assoc, Inc.
1132 Willoughby Ln.
Mt. Pleasant, SC 29466

Dated: May 3, 2022

Respectfully submitted,

By:



A.M.
26 JUN 2022

Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991,4170

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas**

**The Honorable Jocelyn Newman
And
The Honorable? George McFaddin**

Case No.: 2020-CP-40-05255

Appellate Case No. 2022-001155

Norma J. Nix, et al

Appellants,

v.

Churchill Park Homeowners' Association, Inc., et al

Respondents,

**APPELLANT'S MOTION TO ADD ORDERS TO APPEAL AND REMAND TO
CIRCUIT COURT TO RESOLVE UNHEARD / RULED ON CRITICAL MOTIONS**

Alan Nix files this motion to add three orders to appeal 2022-001155 and have this matter returned to the circuit court due to two critical motions from February and March 2022 which, despite Appellant's best efforts since November 2022, remain unscheduled and, consequently, not ruled on. The three orders to be added to this appeal are included as Exhibits B, C and D.

Exhibit B: Order dated 3 Jan 2023 in unusual font (3 pages)

Exhibit C: Order dated 3 Jan 2023 in McCabe Trotter font

Exhibit D: Order dated 9 Mar 2023 in unusual font (3 pages)

Exhibit A is a copy of the transcript from 3 Nov 2022.

Recommend cross referencing this appeal with the appeal being filed simultaneously with this motion for case 2020-CP-40-06054.

Appellant Alan Nix filed a motion in this case on 7 Feb 2022 entitled "*Motion for Continuance and Add Parties*" which has never been scheduled or ruled on in Richland County circuit court. The additional parties portion of this motion is especially critical given the damages the additional parties lack of action in cases 2021MH300017 and/or 2021-MH-39-00049 have caused to the appellants / plaintiffs in this case.

Appellant Alan Nix filed a motion in this case in Richland County on 3 Mar 2022 entitled "*Rule 59 Motion for Reconsideration, Disqualification of McCabe, Trotter & Beverly, Produce all Information Related to 10 Feb 2022 Hearing Scheduling, Potential Recusal*". Despite the motion clearly requesting a motion hearing, the motion appears to have been closed by a still unknown party within six (6) minutes of it being filed. This motion must be heard and ruled on given its obvious foundational impacts to the underlying case and, consequently, this appeal.

Appellant will file a copy of the criminal complaint related to these parties' conduct in these matters as soon as the additional information required is received.

Appellant Alan Nix requests the Court of Appeals to:

1. Add the three orders included with this motion to appeal 2022-001155.
2. Remand this case back to the Richland County Circuit Court so the critical motions from 3 Mar 2022 (closed without authorization or notice five minutes after filing) and 7 Feb 2022 can be properly scheduled and ruled on.
3. any other and further relief as the Court deems just, prudent and proper.

May 3, 2023

Respectfully submitted,

Alan Nix

*AN,
26 JUN 2025*

Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991-4170

Handwritten notes or signature

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No.: 2020-CP-40-05255

Norma J. Nix, Alan G. Nix, and
the Estate of Norma J. Nix,

Plaintiffs,

ORDER

vs.

Churchill Park, Churchill Park
Homeowners' Association, Inc.,
Park West Master Association,
Inc., Landtech of Charleston,
LLC, Landtech Incorporated of
South Carolina, Park West
Development, Inc.,
Chucklehoover, LLC, Richard
Riccoboni, Gold Crown
Management, LLC, Cedar
Management Group, LLC; Officers
and Directors of All Named
Entities,

Defendants.

In this matter, this court issued a ruling memorandum on 11 November 2022. In that ruling this court stated that "ANY OBJECTIONS TO THESE RULINGS MUST BE MADE BY WAY OF A TIMELY FILED AND PROPERLY-SERVED SCRCP 59(E) MOTION."

This court received the proposed orders from Ms. Bryant as requested. This court reviewed the orders and found them proper. On or about 29 December 2022, this office received from Mr. Nix copies of what appear to be motions to file the proposed orders this court requested (see above) and related relief.

As to the motion to file the proposed orders, as he moved, his motion is not needed. This court has this date directed that the orders be "uploaded" or filed with the court.

As to the balance of his motions dated 27 December 2022, I find that these motions are not proper SCRCP 59(e) motions. They are not filed subsequent to the filing of the requested and filed orders. Therefore, I decline to address or consider the relief he

seeks in these motions. As stated in the memorandum ruling, Mr. Nix may file, when timely and proper, SCRCP 59(e) motions. The parties are reminded that the court has the discretion to hold or not hold a hearing to address SCRCP 59(e) motions, and the setting of a motion hearing by either party does not bind the court to holding the hearing.



Richland Common Pleas

Case Caption: Norma J Nix , plaintiff, et al vs Churchill Park Homeowners Association Inc , defendant, et al
Case Number: 2020CP4005255
Type: Order/Other

So Ordered

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

Electronically signed on 2023-01-03 14:43:31 page 3 of 3

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No.: 2020-CP-40-05255

Norma J. Nix, Alan G. Nix, and the Estate of
Norma J. Nix,

Plaintiffs,

v.

Churchill Park, Churchill Park Homeowners'
Association, Inc., Park West Master
Association, Inc., Landtech of Charleston,
LLC, Landtech Incorporated of South
Carolina, Park West Development, Inc.,
Chucklehoover, LLC, Richard Riccoboni,
Gold Crown Management, LLC, Cedar
Management Group, LLC; Officers and
Directors of All Named Entities,

Defendants.

**ORDER GRANTING CHURCHILL
PARK'S MOTION TO DISMISS,
AND MOTION FOR SANCTIONS
(INCLUDING GATEKEEPER
ORDER & ATTORNEY'S FEES)**

This matter came before me on November 3, 2022, Defendant Churchill Park's Motion to Dismiss Plaintiff's Complaint, and Motion for Sanctions, and Plaintiff's verbal motion for continuance. A hearing took place via Webex. Present at the hearing were Morgan Bryant, Esquire, as counsel for Defendant Churchill Park, and Alan G. Nix, attending *pro se*.

Upon review of the record, pleadings, and file available to the Court, this Court GRANTS Defendant's Motions and Motion for Sanctions. Being that Defendant's Motion to Dismiss is dispositive of the case, Plaintiff's motion to continue is DENIED.

FACTUAL AND PROCEDURAL HISTORY

Plaintiff, Alan Nix ("Plaintiff" or "Nix"), along with his now deceased wife, Norma Nix, owned a home in the Churchill Park neighborhood in the Park West development located at 1401 Densmore Circle, Mt. Pleasant, South Carolina. In 2013, the Nixes became delinquent in their

homeowners' association payments to both Churchill Park and Park West Master Association, Inc. They ultimately paid the balance due to Park West but failed to cure the delinquency owed to Churchill Park. In 2014 Churchill Park initiated a foreclosure action in Charleston County (C/A 2017-CP-10-4031¹). Nix, proceeding largely pro se, fought the foreclosure and argued that the restrictive covenants for Churchill Park defined the homeowners' association as an entity called "Churchill Park Homeowners' Association, Inc." Because the Plaintiff in the foreclosure suit was an entity incorporated as "Churchill Park," Nix argued the Plaintiff lacked standing to bring the foreclosure suit. The Honorable Mikell Scarborough entered an order finding that the Plaintiff, Churchill Park, was the successor to Churchill Park Homeowners' Association, Inc. and therefore possessed standing to foreclose the subject lien. The trial court entered an order awarding Churchill Park over \$22,000. Nix appealed the foreclosure order but failed to perfect said appeal. The case was ultimately remitted to the trial court on January 21, 2020. After a hearing on supplemental damages, judgment was entered in the amount of \$123,296.89 and the property was sold at foreclosure sale on October 6, 2020.

Since 2017 Nix has filed numerous civil actions and appeals suing anyone who has even the most tenuous connection to his former home. In January 2019, Nix filed an action in Charleston County (C/A 2019-CP-10-00067), naming Churchill Park and over thirty other defendants, alleging several causes of action, including violation of the S.C. Unfair Trade Practices Act, for actions related to the underlying foreclosure case. However, Nix failed to serve any of the parties to that suit and several parties were dismissed pursuant to Rule 12(b)(6), SCRCP. In September 2019, The Hon. Maite Murphy entered an order sanctioning Nix for his frivolous court filings and

¹ The foreclosure was originally filed in case 2014-CP-10-05407. The case was dismissed pursuant to Rule 40(j), SCRCP and assigned case number 2017-CP-10-4031 when it was restored to the active docket.

directed the Charleston County Clerk of Court to refuse any filings from Nix that were not signed by a licensed attorney.²

In November of 2020, Nix filed two actions in Richland County less than one week apart, this action and 2020-CP-40-06054, asserting almost identical unfair trade practice claims related to the foreclosure of his property in Charleston County. Both actions name Churchill Park and "Churchill Park Homeowners' Association, Inc." In Paragraph 8 of the Complaint in this action, Plaintiff states that "Charleston County is not an optional nor appropriate jurisdiction / venue for Plaintiff[s] due to Judge Maite Murphy's Order Enjoining Plaintiff." By Nix's own admission, these lawsuits were filed in Richland County to circumvent the Charleston Gatekeeper Order.

Nothing in the record for this matter indicates that Plaintiff attempted to serve Churchill Park in this matter, and Plaintiff has taken no action to prosecute this case against Churchill Park since filing.

DISCUSSION, ANALYSIS, AND ORDER

I. This Court Dismisses Plaintiff's Cause of Action for Unfair Trade Practices.

a. Statute of Limitations

Plaintiff's sole cause of action in this matter is one for violation of the S.C. Unfair Trade Practices Act, S.C. Code § 15-3-10 *et seq.* Claims brought under this Act must be brought within three years. S.C. Code § 15-3-20 *et seq.* SCRCP 3(a) provides that a civil action is commenced when the summons and complaint are filed with the clerk of court if: (1) the summons and complaint are served within the applicable statute of limitations; or (2) if not served with the statute of limitations, actual service must be accomplished no later than 120 days after filing.

² See C/A 2018-CP-10-03315.

The discovery rule states that the statute of limitations begins to run from the date the injured party either knows or should have known by the exercise of reasonable diligence that a cause of action arises from the wrongful conduct. *Johnson v. Bowen*, 313 S.C. 61, 437 S.E.2d 45 (1993). The "exercise of reasonable diligence" means that the injured party must act with some promptness when the facts and circumstances of an injury place a reasonable person of common knowledge and experience on notice that a claim against another party might exist. *Snell v. Columbia Gun Exchange, Inc.*, 276 S.C. 301, 278 S.E.2d 333 (1981). The fact that the injured party may not comprehend the full extent of the damage is immaterial. *Dillon County School Dist. No. Two v. Lewis Sheet Metal Works, Inc.*, 286 S.C. 207, 332 S.E.2d 555 (Cl. App.1985); *Dean v. Ruscon Corp.*, 321 S.C. 360, 468 S.E.2d 645 (1995).

The Complaint in this matter arises out of the September 2017 foreclosure trial and subsequent judgment entered November 16, 2017. Reading the Complaint in the light most favorable to the Plaintiff, the statute of limitations began to run within the month of November 2017. Thus, Plaintiff was required to file suit *and to serve Churchill Park* no later than March 30, 2021. Although the Complaint was timely filed, Plaintiff made no attempt and therefore has failed to properly serve Churchill Park before the statute of limitations ran. The Complaint is therefore subject to dismissal for failure to comply with the statute of limitations.

b. Richland County is the Improper Venue

"A civil action tried pursuant to this section against a domestic corporation . . . must be brought and tried in the county in which the: (1) corporation . . . has its principal place of business at the time the cause of action arose; or (2) most substantial part of the alleged act or omission giving rise to the cause of action occurred." S.C. Code § 15-7-30(E). Plaintiff alleges that venue is proper in Richland County because Churchill Park lists a Richland County address as its

"principal office" with the South Carolina Secretary of State. However, Section 15-7-30(E) bases venue on a corporation's principal place of business, not the principal office. A corporation's "principal place of business is defined as (a) the home office location from which the corporation's officers direct, control or coordinate its activities; (b) the location of the corporation's manufacturing, sales, or purchasing; or (c) the location at which the majority of the corporate activity takes place." S.C. Code § 15-7-30(A)(10).

Churchill Park is a non-profit corporation organized to serve as the homeowners' association that governs the Churchill Park neighborhood in Mt. Pleasant, South Carolina. All of the association's assets are located in Charleston County. The neighborhood is located in Charleston County. All members of the Board of Directors live in Charleston County. The members of the homeowners association have all gained their membership by virtue of owning property within with the Churchill Park neighborhood in Charleston County. All of the actions and activities complained, specifically those related to the foreclosure action, occurred in Charleston County. The only nexus between Churchill Park and Richland County is that Churchill Park's registered agent has an office in Richland County.

The right of a defendant to be tried in the county of his or her residence is a substantial one and is not to be lightly denied. *Carroll v. Guess*, 302 S.C. 175, 394 S.E.2d 707 (1990). By his own admission, Plaintiff filed in Richland County because he had been enjoined from filing complaints in Charleston County. However, Plaintiff's inability to proceed pro se in Charleston County does not make venue proper in Richland County. Charleston County is the only appropriate venue. Therefore, the Complaint is subject to dismissal for improper venue.

c. Another Action is Pending

"Under Rule 12(b)(8), dismissal is appropriate when another action is pending between the same parties for the same claim." Cricket Cove Ventures, LLC v. Gilland, 390 S.C. 312, 322, 701 S.E.2d 39, 44 (Cl. App. 2010). A claim must be "precisely or substantially the same in both proceedings" in order for dismissal under Rule 12(b)(8), SCRPC to be appropriate. Capital City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 106, 374 S.E.2d 524, 532 (Cl. App. 2009).

On January 4, 2019, Plaintiff filed civil action number 2019-CP-10-0067 in the Charleston County Court of Common Pleas and named, among other parties, Churchill Park and Churchill Park Homeowners' Association, Inc. as defendants. The complaint lists "Unfair Trade Practices Act" as the Ninth Cause of Action. Despite filing Case 2019-00067 over 3 years ago, Nix has never taken any steps to serve Churchill Park or prosecute the case. However, the case is still pending before the Charleston County Court of Common Pleas.

As previously noted, between November 10, 2020 and November 16, 2020 Plaintiff filed this action and civil action number 2020-CP-40-06054 in the Richland County Court of Common Pleas. Both suits name, among others, Churchill Park and Churchill Park Homeowners' Association, Inc. as defendants. Both lawsuits list as the sole cause of action "Unfair Trade Practices Act." In support of this claim Plaintiff alleges it was improper for Judge Scarborough to sign the judgment in the Charleston County foreclosure action in November of 2017.

Civil action number 2019-CP-10-0067 filed in Charleston County, this action, and civil action number 2020-CP-40-06054 all allege that various entities, including Churchill Park, committed bad acts throughout the prosecution of the foreclosure case. Each suit lists Alan G. Nix and Churchill Park as plaintiff and defendant, respectively. Finally, each of the suits lists UTPA

as at least one cause of action. All three suits are still pending and Plaintiff has not accomplished service of process on Churchill Park in any of the suits.

Both civil action number 2019-CP-10-0067 filed in Charleston County and civil action number 2020-CP-40-05255 were pending when Plaintiff filed the instant action. Accordingly, the Complaint is subject to dismissal based on other pending actions.

The Defendant's Motion for Sanctions, specifically for a Gatekeeper Order and for legal fees associated with the Motion for Sanctions is GRANTED.

II. Defendant's Motion for Sanctions is GRANTED.

The Defendant's Motion for Sanctions, specifically for a Gatekeeper Order and for legal fees associated with the Motion for Sanctions is GRANTED.

a. Gatekeeper Order is GRANTED.

The Defendant moves for this Court to impose sanctions upon Plaintiff, pursuant to the South Carolina Frivolous Proceedings Act, S.C. Code §15-36-10, *et seq.* ("FCPSA"), and enjoin Plaintiff from filing additional pleadings until Plaintiff has consulted with, and hired, legal counsel, licensed in the State of South Carolina. This Court finds that such remedies are within the inherent authority of the Court, and are appropriate under these circumstances.

The FCPSA allows for imposition of sanctions for the initiation and prosecution of civil claims without merit where the court finds, by a preponderance of the evidence, that a reasonable attorney in the same circumstances would believe:

- (a) that under the facts, his claim or defense was not clearly warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law;
- (b) his procurement, initiation, continuation or defense of the civil suit was intended to merely harass or injure the other party; or

- (c) the case or defense was frivolous as not reasonably founded in fact or was interposed merely for delay, or was brought for a purpose other than securing proper discovery, joinder of proposed parties, or adjudication of the claim or defense upon which the proceedings are based.

S.C. Code Ann. § 15-36-10(C)(1).

In determining if a *pro se* litigant has violated provisions of the FCPSA, § 15-36-10(E) sets forth the following factors the court should consider:

- (1) the number of parties;
- (2) the complexity of the claims and defenses;
- (3) the length of time available to the attorney, party, or *pro se* litigant to investigate and conduct discovery for alleged violations of the provisions of subsection (A)(4);
- (4) information disclosed or undisclosed to the attorney, party, or *pro se* litigant through discovery and adequate investigation;
- (5) previous violations of the provisions of this section;
- (6) the response, if any, of the attorney, party, or *pro se* litigant to the allegation that he violated the provisions of this section; and
- (7) other factors the court considers just, equitable, or appropriate under the circumstances.

S.C. Code Ann. § 15-36-10(E). The decision of whether to award sanctions under the FCPSA is treated as one in equity. *Pee Dee Health Care, PA v. Estate of Thompson*, 418 S.C. 557, 563, 798 S.E.2d 40, 43 (Ct. App. 2016).

This Court acknowledges that Plaintiff is *pro se*; however, lack of familiarity with legal proceedings is not an acceptable excuse and the court will hold a lawman to the same standard as an attorney. *Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E.2d 894, 897 (Ct. App. 2001). The applicable law specifically provides that *pro se* plaintiffs are subject to FCPSA, and "sanctions may be awarded regardless of whether or not the case has been tried to verdict so long as the trial court

finds by a preponderance of the evidence that the party should be sanctioned.” *Holmes v. East Copper Community Hospital, Inc.*, 408 S.C. 138, 758 S.E.2d 483 (2012).

Pursuant to Section 15-36-10, a *pro se* litigant, participating in a civil action may be sanctioned for filing a frivolous pleading, motion, or document, if:

a reasonable attorney in the same circumstances would believe that his claim or defense was clearly not warranted under existing law and that a good faith or reasonable argument did not exist for the extension, modification, or reversal of existing law; a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuance, or defense of a civil cause was intended merely to harass or injure the other party ... is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based ... making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts.

S.C. Code Ann. § 15-36-10(C)(1)(a)-(c). The Court has wide discretion when ordering sanctions, to include: (1) reasonable costs and attorney’s fees; (2) a reasonable fine to the court; or (3) a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action brought in bad faith. S.C. Code Ann. § 15-36-10(G).

South Carolina courts have acted on this statute and awarded sanctions against *pro se* litigants when the case was frivolous in nature; the *pro se* litigant could not substantiate claims with facts; and *pro se* litigants engage in tactics to delay proceedings, including appeals of interlocutory matters. *Holmes v. Haynsworth, Sinkler & Boyd, P.A.*, 408 S.C. 620, 760 S.E.2d 399 (2014) (holding sanctions are proper against *pro se* appellant for frivolous and dilatory litigation tactics).

This Court finds that Plaintiff has violated the FCPSA. This lawsuit is just one example of Plaintiff’s ongoing abuse of South Carolina’s legal system. Since 2017, Nix has filed numerous lawsuits and notices of intent to file suit in our state’s courts related to the underlying foreclosure. Including this lawsuit, all but two of those lawsuits have been

dismissed in whole or in part, or there are motions to dismiss pending. The trial court in the underlying foreclosure case explained how Nix's unreasonable actions in that case necessitated a legal fee of over \$86,000.00:

I further find the time and labor expended by Plaintiff's counsel to be reasonable and necessary in this matter due in large part to the actions of Defendant Alan Nix. Mr. Nix rejected Plaintiff's offer of settlement prior to trial which necessitated Plaintiff's counsel prepare for and participate in pre-trial motions hearings and a one-day trial in this matter. Mr. Nix filed 21 post-trial motions in this matter while simultaneously pursuing an appeal of the final order. Most of these motions were patently frivolous. Mr. Nix issued 62 trial subpoenas and then issued 62 post-trial subpoenas after final judgment had been entered without any legal basis for the same. Including the Supplemental Damages Hearing on August 20, 2020, counsel for Plaintiff has had to attend nine court hearings in this matter. Mr. Nix has persisted in mailing and emailing hundreds of letters and emails to Plaintiff, Plaintiff's counsel, Plaintiff's former counsel, Mr. Nix's neighbors, a multitude of attorneys unrelated to the subject case, various members of the judiciary, various members of law enforcement at various levels, and various political figures. The vast majority of

these communications were unnecessary and did not further his case in any way. Nonetheless, Plaintiff's counsel was required to review these emails and letters to ensure a response was not appropriate or necessary. Many of these letters and emails were directed at various attorneys employed by McCabe Trotter & Beverly, PC but who had never entered an appearance in this matter. Some of the communications were sent to anyone other than Stephanie Trotter Kellahan, Plaintiff's current counsel of record. Mr. Nix's refusal to appropriately direct these communications required various members of Plaintiff's counsel's law firm to expend time reviewing the communication and redirecting them to Mrs. Kellahan. In addition to the testimony presented in Mrs. Kellahan's affidavit, the court is aware of many of these issues because Mr. Nix included the Master's office in much of the extraneous communications. This Court has received correspondence from Mr. Nix which, when stacked, is over nine (9) inches tall. Additionally, the court has over six inches of transcripts from hearings in this matter. Most of this correspondence consists of attacks on this court and the South Carolina Judiciary. This was not a typical homeowners' association foreclosure.

Nix has commenced two appeals in the circuit courts and eight appeals to the Court of Appeals. The Court of Appeals has dismissed six of Nix's appeals because he refuses to order transcripts, submit initial briefs, or prepare the record on appeal. In appellate case 2018-000056 Nix managed to file sixteen separate motions without ever filing an initial brief. These motions included two motions styled as "just do the proper and prudent thing," challenges to the court's jurisdiction because a filing didn't have a date stamp, and requests

to remand the case back to the trial court for further litigation. Each of the appeals to the circuit court were also denied.

As previously noted, in one of the Charleston County cases, 2018-CP-10-03318, Nix attempted to subpoena a circuit court judge and his law clerk to testify about why the trial judge ruled in favor of the other party's motion to substitute counsel. Nix's actions were so egregious and frivolous that the Honorable Judge Maite Murphy entered an order directing the Charleston County Clerk of Court to reject any filing from Nix unless it was signed by a licensed attorney. It was that injunction that caused Nix to file the instant action in Richland County instead of Charleston County.

A review of our judicial department's case management system clearly shows a pattern of frivolous and vexatious conduct by Plaintiff. He files suit on behalf of parties without any authority and names anyone and everyone remotely connected to the property located at 1401 Densmore Circle. When a court rejects his frivolous claims he accuses the judges of being corrupt or incompetent. If his cases are dismissed he files an appeal but refuse to take even the simplest of steps to progress that appeal.

Based on the pleadings, review of the judicial department's case management system, and arguments of counsel, the Court finds that Defendant has made the requisite showing that Plaintiff's motions and filings are frivolous and unduly burdensome. For all of the foregoing reasons, this Court finds that sanctions are appropriate pursuant to FCPSA. Therefore, the Court hereby **GRANTS** the Defendant's request for a Gatekeeper Order, and hereby imposes an pre-filing injunction directing the Richland County Clerk of Court reject any filings from Alan G. Nix, unless they are signed by an attorney licensed in South Carolina certifying that the filing complies with Rule 11, SCRPC.

b. Legal Fees associated with the Motion for Sanctions are GRANTED.

In accordance with the FCPSA, S.C. Code Ann. § 15-36-10(G)(1), the Defendant has also moved this Court to sanction the Plaintiff by ordering him to pay attorneys' fees associated with the preparation and participation related to the Defendant's Motion to Dismiss and Motion for Sanctions. As noted above, the Court has wide discretion when ordering sanctions, including the ability to order payment of reasonable costs and attorney's fees S.C. Code Ann. § 15-36-10(G).

Plaintiff's brazen decision to circumvent Judge Murphy's Gatekeeper order in Charleston by filing not one, but two practically identical lawsuits in Richland County, indicate that prior sanctions and rulings of the courts have not deterred the Plaintiff. Despite being sanctioned in several matters, Plaintiff continues to file frivolous actions, abusing the judicial system and forcing the same parties to continuously defend and relitigate claims that Plaintiff has already lost. Mr. Nix's behavior is a continual demonstration that he view litigation as a game. It would be inequitable to allow Nix to continue this behavior without monetary sanctions in addition to the equitable sanctions granted herein. Therefore, the Court hereby GRANTS the Defendant's request and order Plaintiff to pay legal fees incurred by Churchill Park associated with the Motion to Dismiss and Motion for Sanctions in the amount of **Four Thousand, Nine Hundred and Fifty Dollars (\$4,950.00)**, which this Court finds reasonable.

CONCLUSION

IT IS THEREFORE ORDERED that:

1. the Complaint is DISMISSED with prejudice;
2. The Clerk of Court of Richland County is ordered to reject any filings from reject any filings from Alan G. Nix, unless they are signed by an attorney licensed in South Carolina certifying that the filing complies with Rule 11, SCRPC.

3. Plaintiff is ordered to pay legal fees incurred by Churchill Park in the amount of \$4,950.00; and
4. Plaintiff's Motion for Continuance is DENIED.

IT IS SO ORDERED.

[SIGNATURE PAGE TO FOLLOW]



Richland Common Pleas

Case Caption: Norma J Nix , plaintiff, et al vs Churchill Park Homeowners Association Inc , defendant, et al
Case Number: 2020CP4005255
Type: Order/Other

So Ordered

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

Electronically signed on 2023-01-03 14:43:02 page 14 of 14

ELECTRONICALLY FILED - 2023 Jan 03 3:50 PM - RICHLAND COMMON PLEAS - CASE#2020CP4005255

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No.: 2020-CP-40-05255

Norma J. Nix, Alan G. Nix, and
the Estate of Norma J. Nix,

Plaintiffs,

vs.

Order on Plaintiffs'
SCRCP 59(e) Motion

Churchill Park, Churchill Park
Homeowners' Association, Inc.,
Park West Master Association,
Inc., Landtech of Charleston,
LLC, Landtech Incorporated of
South Carolina, Park West
Development, Inc.,
Chucklehoover, LLC, Richard
Riccoboni, Gold Crown
Management, LLC, Cedar
Management Group, LLC; Officers
and Directors of All Named
Entities,

Defendants.

SCRCP 59(E) HEARING DATE: NO HEARING
PLAINTIFF'S ATTORNEY: SELF-REPRESENTED
DEFENDANT'S ATTORNEY: MORGAN BRYANT
COURT REPORTER: NOT APPLICABLE
PRESIDING JUDGE: GEORGE M. McFADDIN, Jr.
ORDER PREPARED BY PRESIDING JUDGE

Plaintiff filed his SCRCP 59(a) motion on this court. I have carefully read his motion, and I respectfully decline to grant Plaintiff's motion to alter, amend, or vacate the final order filed on January 3, 2023.

I respectfully decline to hold a "reconsideration" hearing. In subsection (f) of SCRCP 59 it is stated clearly that such a hearing "...may in the discretion of the court be determined on the briefs filed by the parties without oral argument." Here, both

parties, to include Plaintiff, have clearly provided their separate arguments for the court's consideration. Plaintiff has, with alacrity, provided his positions well. This court does not need briefs from any parties. This court has the discretion to determine that a hearing to address the motion is not needed.

Based upon the foregoing, it is done and ORDERED this 9th day of March, 2023 at Sumter, South Carolina, that Plaintiff's SCRCF 59(a) motion shall be, and is, hereby denied. It is further ORDERED that this court declines to set and hold a hearing to address Plaintiff's motion.



Richland Common Pleas

Case Caption: Norma J Nix , plaintiff, et al vs Churchill Park Homeowners Association Inc , defendant, et al
Case Number: 2020CP4005255
Type: Order/Other

So Ordered

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

Electronically signed on 2023-03-09 11:05:10 page 3 of 3

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

RECEIVED

JUL 26 2023

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas**

SC Court of Appeals

The Honorable? George McFaddin

Appellate Case No. 2023-000781

Alan G. Nix

Appellant,

v.

**Churchill Park Homeowners' Association, Inc. and
"Churchill Park"**

Respondents,

PROOF OF SERVICE

The undersigned certifies that a copy of Appellant Alan Nix's Motion to place back in abeyance until appeal 2022-001155 is properly managed. etc. was served upon the parties listed below by mailing or hand delivering a copy of the same, postage prepaid, in the United States Mail, addressed as shown, this 26th day of July 2023 to:

Stephanie Trotter
"Churchill Park"
4500 Fort Jackson Blvd.
Columbia, SC 29209

Lee Janseen
Churchill Park Homeowners Assoc, Inc.
1132 Willoughby Ln.
Mt. Pleasant, SC 29466

Patricia Howard
Clerk of Court, SC Supreme Court
1231 Gervais St.
Columbia, SC 29201

Office of Disciplinary Counsel
1220 Senate St.
Columbia, SC 29201

Bob Wood
Rogers, Townsend & Thomas
1221 Main St., 14th Floor
Columbia, SC 29201

Greg Hilton, President
National Center for State Courts
300 Newport Ave.
Williamsburg, VA 23185

Dated: July 26, 2023

Respectfully submitted,

By:



Alan G. Nix
c/o Michael & Taryn Lazroff
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991.4170

26 July 2023

RECEIVED

JUL 26 2023

SC Court of Appeals

Alan Nix
c/o Michael and Taryn Lazroff
1401 Densmore Circle
Mount Pleasant, SC 29466

Ms. Jennie Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

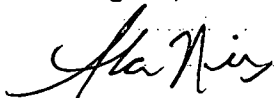
RE: Alan Nix v Churchill Park Homeowners' Association, Inc. and "Churchill Park"
Case Number: 2020-CP-40-06054
Appellate Case: 2023-00781

Ms. Abbott Kitchings,

Please find enclosed:

1. A motion to place this case back in abeyance, etc until appeal 2022-1155 is restored and properly dealt with.
2. Check number 1967 in the amount of \$50.00 and check number 1968 in the amount of \$50.00, both drawn on Navy Federal Credit Union. Check number 1968 is included just in case such is actually necessary.
3. Copies of the motion and Proof of Service to be returned with your clock stamp
4. Self-addressed and postage prepaid envelope to return the enclosed copies of the Motion and Proof of Service (Exhibits not included for return)

Best regards,



Alan Nix



Nix
1401 Densmore Circle
Mount Pleasant, SC 29466

26 July 2023
e
1617

RECEIVED
JUL 26 2023
SC Court of Appeals

ABBOTT - KITCHINGS, CLERK
COURT OF APPEALS
2023-00781