

**FORM 1
MOTION TO DISMISS**

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

RECEIVED

FEB 06 2024

SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph Strickland, Master in Equity

Case No. 2023-CP-400-3343
Appellate Case No. 2023-001826

FREEDOM MORTGAGE
CORPORATION,

Respondent,

v.

Sherman Smith,

Appellant.

MOTION TO DISMISS

A motion "to show cause" was filed on December 20, 2023. The motion was denied on January 12, 2024 because FREEDOM MORTGAGE CORPORATION did not file a return. Pursuant of Rule 240 - Motions and Petitions Generally, (g), failure to comply: failure of the moving party to perform any act required by this rule may be deemed an abandonment of the motion or petition. He who leaves the battlefield first loses the battle.

I motion to dismiss this case entirely with remedy granted to the appellate.

Sherman Smith
Columbia, South Carolina 29229
(803) 727-4337
Appellant

Other Counsel of Record:
D. Max Sims, SC Bar
No. 103945
339 Heyward Street, 2nd Floor
Columbia, South Carolina 29000
Attorney for Respondent
(864) 000-0000

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Rule 502.1

Judges's Oath

All members of the Unified Judicial System in this state shall take the following oath of office:

I do solemnly swear (or affirm) that:

I am duly qualified, according to the Constitution of this State, to exercise the duties of the office to which I have been appointed, and that I will, to the best of my ability, discharge those duties and will preserve, protect and defend the Constitution of this State and of the United States;

I pledge to uphold the integrity and independence of the judiciary;

I pledge, in the discharge of my duties, to treat all persons who enter the courtroom with civility, fairness, and respect;

I pledge to listen courteously, sit impartially, act promptly, and rule after careful and considerate deliberation;

I pledge to seek justice, and justice alone;

[So help me God.]

Adopted by Order dated September 22, 2004, and effective immediately. This new Rule contains the Judge's Oath previously adopted by the Court.

RULE 240
MOTIONS AND PETITIONS GENERALLY

(a) Applicability. This Rule governs all motions or petitions filed in the appellate court, including but not limited to: motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved as counsel or for substitution of counsel, petitions for supersedeas, motions to remand or dismiss and petitions for hearing *en banc*. Where Rules 241 through 246 provide different or additional requirements or procedures, those requirements or procedures shall apply.

(b) Stay of Time Limits. Unless otherwise provided by these Rules, or ordered by the appellate court, the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition. A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.

(c) Form and Content of Motions and Petitions. All motions or petitions filed in an appellate court shall be in writing, shall state the grounds thereof, and shall comply with the requirements of Rule 267. The pages of the motion or petition and all supporting documents shall be consecutively numbered. Each motion or petition shall include the following:

(1) A certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition.

(2) A memorandum with citation of authorities in support of the motion.

(3) Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions.

(d) Filing of Motions and Petitions. An original and six (6) copies of the motion shall be filed with the clerk of the appellate court, and a copy shall be served upon each party. The copies filed with the appellate court shall be accompanied by the filing fee set by order of the Supreme Court.¹ This filing fee shall not be required for motions or petitions in criminal appeals, petitions for writs of certiorari under Rules 242 and 243, certified questions under Rule 244, petitions to invoke the original jurisdiction of the Supreme Court under Rule 245, or motions or petitions filed by the State of South Carolina or its departments or agencies. In extraordinary cases, the appellate court may relieve a party from paying the filing fee.

(e) Return to Motion. Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve on all parties a copy of the return; provided, however, that a return to a petition for rehearing may only be filed if permitted under Rule 221(a). The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. Failure of a party to timely file a return may be deemed a consent by that party to the relief sought in the motion or petition.

(f) Reply. The moving party shall have five (5) days from the date of service of a return to file an original and six (6) copies of a reply with the clerk and serve on all parties a copy of the reply. The provisions of Rule 240(c) apply to a reply.

(g) Failure to Comply. Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.

(h) Hearing. Unless otherwise directed by the court, motions or petitions shall be decided without oral argument. If argument is directed, the appellate court may elect to conduct the argument using remote communication technology. Further, any necessary oath or affirmation may be administered by remote communication technology. For the purpose of this provision, remote communication technology means technology such as video conferencing and teleconferencing which allows audio and/or video to be shared at different locations in real time.

(i) Rehearing. The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal.

(j) Authority of an Individual Judge or Justice. Except where these rules require the concurrence of two or more members of an appellate court, an individual judge or justice may grant or deny any motion or petition on behalf of the court. Any review of an order issued by an individual judge or justice shall be by petition for rehearing.

Last amended by Order dated April 29, 2021.

1 By order dated October 9, 2018, the filing fee for motions and petitions was set at fifty (\$50) dollars.



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

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January 12, 2024

Sherman-Lanarous Smith
200 Grandview Circle
Columbia SC 29229

Re: Freedom Mortgage Corporation v. Sherman Smith
Appellate Case No. 2023-001826

Dear Mr. Smith:

Enclosed is the Court's decision on the motion for order to show cause. The appellant's initial brief and designation of matter is to be served and filed within 30 days from the date of this letter. Failure to comply with the Court's request will result in the dismissal of this appeal.

Very truly yours,


CLERK

Enclosure

cc: James Martin Page, Esquire
Don Maxwell Sims, Esquire

The South Carolina Court of Appeals

Freedom Mortgage Corporation, Respondent,

v.

Sherman Smith, Appellant.

Appellate Case No. 2023-001826

ORDER

On November 22, 2023, Appellant filed a notice of appeal concerning an order of foreclosure and sale. On December 20, 2023, Appellant filed a "motion for order to show cause." He argues he is entitled to "immediate relief." Respondent did not file a return. After careful consideration, we deny Appellant's motion.


FOR THE COURT

Columbia, South Carolina

cc:
Sherman-Lanarous Smith
James Martin Page, Esquire
Don Maxwell Sims, Esquire

FILED
Jan 12 2024

BREAKDOWN OF REMEDY

- 15 USC 1611(3) \$5000. per violation (29 violations) = \$145,000. (pub. L. 90-321, title I, 112, May 29, 1968)
- 15 USC 1640(a)(2)(A)(i). \$188,000 * 2 = \$376,000. (Pub. L. 90-321, title I, 130, May 29, 1968)
- 15 USC 1692j (section 1692k) \$1000. per violation (29 violations) = \$29,000. (Pub. L. 90-321, title VIII, 812, Sep 20, 1977)
- 18 USC 893 \$188,000 * 2 = \$376,000. (Pub L.. 90-321, title II, 202(a), May 29, 1968)
- all payment history updated to paid as agreed, never late, paid in full with all consumer reporting agencies.
- updated the Department of Veteran Affairs with corrected status
- the immediate discharge of alleged debt.
- the immediate return of ALL(not just what I paid) funding/securities gained through my wet ink signature & social security number.
- Freedom mortgage corporation cover Court cost & fees, fees for process of services
- \$145,000 + \$376,000 + 29,000 + \$376,000 = \$926,000 + restitution for defamation of character, emotional trauma & duress from threats of unlawful foreclosure.

FORM 7
PROOF OF SERVICE OF A MOTION TO
DISMISS

THE STATE OF SOUTH CAROLINA
In The Court of
Appeals [In The
Supreme Court]

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SC Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Joseph Strickland, Circuit Court Judge

Case No. 2023-CP-4003343
Appellate Case No. 2023-001826

FREEDOM MORTGAGE CORPORATION

Respondent,

V.

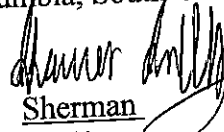
Sherman Smith,

Appellant.

PROOF OF SERVICE

I certify that I have served a Motion to Dismiss on the Court of Appeals by depositing a copy of it in the United States Mail, postage prepaid, on February 5, 2024, addressed to their office at 1220 Senate Street, Columbia, South Carolina 29201, on February 5, 2024.

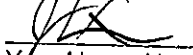
February 5, 2024

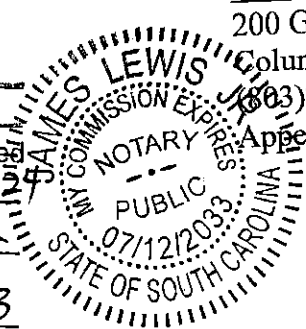

Sherman
Smith

200 Grandview Circle
Columbia, South Carolina 29229
(803) 727-4337

State of: SOUTH CAROLINA
County of RICHLAND

The foregoing instrument was acknowledged before me 5TH day of FEBRUARY 2024

 JAMES LEWIS JR
Your Name Here, Notary Public
My Commission Expires 07/12/2033



Appellant