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**FORM 1
NOTICE OF MOTION TO DISMISS**

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

RECEIVED

APR 17 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.

NOTICE OF MOTION TO DISMISS

I, Appellant **Sherman Smith**, (the divine living being, born of the waters of my mother's womb onto land of the Common Law jurisdiction, not the legal fiction all caps cestui que vie trust "SHERMAN SMITH") **am making a special appearance, under duress from threats of damage and illegal seizure** (which in no way or manner is a jurisdictional granting appearance) on the behalf of the accused.

I motion to dismiss case No.2023-CP-400-3343/ Appellate case No. 2023-001826 on the grounds; of lack Common law jurisdiction, lack of evidence, lack of constitution, lack of rebutted affidavits, lack of lawful binding contract not created under fraudulent circumstances, fail to show cause

Appellant challenges the jurisdiction of this court. I am aware of no contract that I have knowingly, willingly, intentionally, and voluntarily entered with a court that grants any jurisdictional authority over me. If there is such a contract, I demand the court present

it.

There is no evidence that Appellant Sherman Smith knowingly, willingly, intentionally, or voluntarily understands any jurisdiction outside of the Common Law. If there is such evidence, I demand the courts present it.

There is no evidence that Appellant Sherman Smith knowingly, willingly, intentionally, or voluntarily agrees with any jurisdiction outside of the Common Law. If there is such evidence, I demand the courts present it.

There is no evidence that Appellant knowingly, willingly, intentionally, or voluntarily gave consent to any jurisdiction outside of the Common Law. If there is such evidence, I demand the courts present it.

Pursuant of Title 28 USC 1691 – **seal of teste of process** - all writs and process issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof (June 25, 1948, ch. 646, 62 Stat. 945.)

Pursuant of title 28, USC., 1940ed., §721(R.S. §911; Mar. 3, 1911, ch. 231, §291, 36 Stat. 1167).

All lawful binding orders under the constitution coming from the courts must have the following present; The name of judge, the title, jurisdiction of court & seal of the state.

There is no evidence the order of foreclosure and Resale electronically filed 2023 Nov 21, 11:29am in the county of RICHLAND- COMMON PLEAS- case #2023CP4003343 was signed at all or given in a lawful judicial capacity, as a lawful order requires: The name, title, jurisdiction, and state seal on it.

There is no evidence that order filed on December 21, 2023 “Appellant’s Motion for Stay of Proceedings is Denied” was given in a lawful judicial capacity, as a lawful order requires: the name, title, jurisdiction, and state seal on it.

There is no evidence that order filed on January 12, 2024 – “Motion for Order to Show Cause with remedy was Denied” – was given in a lawful judicial capacity, as a lawful order requires: the name, title, jurisdiction, and state seal on it.

There is no evidence that order filed on March 28, 2024 – “Motion to Dismiss with remedy was Denied After Respondent Failed to File a Return” – was given in a lawful judicial capacity, as a lawful order requires: the name, title, jurisdiction, and state seal on it.

Pursuant of Title 22 USC 2459 – **Immunity from seizure under judicial process of cultural objects imported for temporary exhibition or display** (Pub. L. 89-259, Oct. 19, 1965, 79 Stat. 985; Pub. L. 116-283, div. A, title XII, §1216(a) Jan. 1, 2021, 134 Stat. 3922.) Unreasonable Foreclosure, repossession, seizure are illegal.

There is no evidence of FREEDOM MORTGAGE CORPORATION having a lawful binding contract consisting of the four essential conditions to a lawful binding contract 1. full disclosure, 2. Equal consideration, 3. Lawful terms & conditions, and 4. The wet ink signatures of both parties - (corporations cannot sign because they have no

right or mind to contract since they are soul-less legal fictions; and furthermore, no third party can sign a contract on their behalf) that would give it the authority to foreclose or resell Appellant's property. If there is such evidence, I demand the courts present it.

The results of a certified true and correct copy of a (uniform commercial code) UCC 11 searches, which was ascertained from the South Carolina Secretary of State's office, dated 8/16/23, shows that there are no liens in Appellant's name. There is no evidence of a perfected lien allowing defendant FREEDOM MORTGAGE CORPORATION to foreclose and resale plaintiff's property. If there is such evidence, I demand the courts present it. Appellant demands FREEDOM MORTGAGE CORPORATION present the Promissory note, mortgage & or deed of trust.

Pursuant of **title 18 USC 8 - obligation or other securities of the United States -** Includes all bonds, certificates of indebtedness, national bank currency, Federal Reserve notes, Federal Reserve bank notes, coupons, United States notes, Treasury notes, gold certificates, silver certificates, fractional notes, certificates of deposit, bills, checks, or drafts for money, drawn by or upon authorized officers of the United States, stamps, and other representatives of value, of whatever denomination, issued under any Act of Congress, and canceled United States stamps. Appellant has no lawful obligation to FREEDOM MORTGAGE CORPORATION.
(June 25, 1948, Ch. 645, 62 Stat. 685.)

Pursuant of 15 USC 1692f – **Unfair Practices** - A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.
- (2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.
- (3) The solicitation by a debt collector of any postdated check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.
- (4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.
- (5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.
- (6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—
 - (A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;
 - (B) there is no present intention to take possession of the property; or
 - (C) the property is exempt by law from such dispossession or disablement.
- (7) Communicating with a consumer regarding a debt by post card.
- (8) Using any language or symbol, other than the debt collector's address, on any envelope

when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business. (Pub. L. 90-321, title VIII, §808, as added Pub. L. 95-109, Sept. 20 1977, 91 Stat. 879.)

FREEDOM MORTGAGE CORPORATION is not the original company through which Appellant originally financed the property. HOMEPOINT FINANCIAL was the original mortgage company and Appellant never willingly, knowingly, or voluntarily gave his express written permission to sell his private information. If such a lawful contract exists, I demand that FREEDOM MORTGAGE CORPORATION present it.

Pursuant to 15 USC 6802, both corporations are guilty of securities fraud and identity theft. (Pub. L. 106-102, title V, § 502, Nov. 12, 1999, 113 Stat. 1437; Pub. L. 111-203, title X, §1093(2), July 21, 2010, 124 Stat. 2095.)

FREEDOM MORTGAGE CORPORATION is attempting to foreclose & resale Appellant's property due to non-payment, despite the certified mailed affidavit expressing the Appellant was not refusing to pay any alleged debt he is lawfully obligated to, contingent upon FREEDOM MORTGAGE CORPORATION validating said alleged debt with actual accounting within allotted time. (not verifying with a generic printout) FREEDOM MORTGAGE CORPORATION failed to rebut certified affidavits several times.

THE 10 MAXIMS OF COMMERCIAL LAW.

1. A workman is worthy of his hire.
2. All are equal under the law.
3. In commerce, truth is sovereign.
4. Truth is expressed in the form of an affidavit.
5. An un rebutted affidavit stands as truth in commerce.
6. An un rebutted affidavit becomes judgment in commerce.
7. A matter must be expressed to be resolved.
8. He who leaves the field of battle first loses by default.
9. Sacrifice is the measure of credibility.
10. A lien or claim can be satisfied only through (a) rebuttal by counter affidavit point by point; (b) resolution by a jury; or (c) payment.

Let the record show a judges oath compels them to neutrally apply judgement according to the constitution, under the jurisdiction of the COMMON LAW (the law of the land). There is no evidence that the courts are not using "AD HOMINEM responses whenever Appellant raises a question or states a fact of matter that already won him the case according the to constitution each clerk swore an oath to protect & uphold.

Let the record show these "AD HOMINEM" responses are prolonging the damages & injures to Appellant, appellant's significant other & appellant's REN.

There is no evidence that the corporation, judges, attorneys, lawyers & clerks of the court all have a monetary interest in prolonging this case and are benefiting from the

continued detriment of Appellant, Appellants wife & Appellants Ren. When operating in their administrative capacity.

Pursuant of title 24- Government- State- Administration article 13- OFFICIAL BONDS § 24-13-121. OFFICIAL BONDS PAYABLE TO PEOPLE.

Universal Citation: CO Rev Stat § 24-13-121 (2016)

Every official bond of any county officer, if not otherwise provided by law, shall be payable to the people of the state, and an action shall lie thereon to the use of any party aggrieved in the name of the people.

In resolution Respondent has already lost the case & should be compelled by the courts to discharge the unproven debt and provide remedy to make Appellant whole.

Breakdown of Remedy;

- 15 USC 1611(3) \$5000. per violation (56 violations) = \$280,000. (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 (56 violations) = \$56,000. (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
- 15 USC I-Trust, etc., in restraint of trade illegal; penalty Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court. Case law supported & provided July 2, 1890, ch. §1, 26 Stat. 209-The Sherman Anti-Trust Act Aug 17, 1937, ch. 690, title VIII, 50 stat. 693 July 7, 1955, ch. 281, 69 stat. 282 Public L. 93-528, §3, Dec. 21, 1974, 88 Stat. 1708 Public L. 94-145, §2, Dec. 12, 1975, 89 Stat. 801 Public L. 101-588, §4(a), Nov. 16, 1990, 104 Stat. 2880 Public L. 108-237, Title II, §215(a), June 22, 2004, 118 Stat. 668.
- \$280,000 + \$376,000 + 56,000 + \$376,000 + \$100,000,000 = \$101,088,000. + restitution for defamation of character, emotional trauma & duress from threats of unlawful foreclosure and seizure

April 17, 2024

Sherman Smith
200 Grandview Cir.
Columbia, South Carolina 29229
(803) 727-4337
Appellant

Other Counsel of Record:
J. Martin Page
Don Maxwell
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Columbia, South
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FORM 7
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Appellate Case No. 2023-001826

FREEDOM MORTGAGE CORPORATION Respondent,

v.

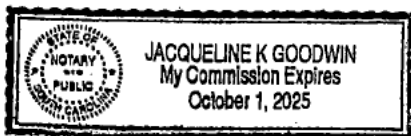
Sherman Smith

Appellant.

PROOF OF SERVICE

I certify that I have served a Motion to Dismiss on FREEDOM MORTGAGE pursuant to Rule 240 of the South Carolina Appellate Court Rules (SCACR). by depositing a copy of it in the United States Mail, postage prepaid, on April 17, 2024, addressed to its attorney on record, J. Martin Page, at his office at BELL CARRINGTON PRICE & GREGG, LLC 339 Heyward Street, 2nd Floor Columbia, SC 29201

April 17, 2024



jacqueline k Goodwin
4/17/2024

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