

**The South Carolina Court of Appeals**

Case 2013-000407

Carmen and Alan Sheppard  
462 Commonwealth Rd  
MtPleasant SC 29466

RECEIVED

MAR 26 2014

SC COURT OF APPEALS

**SUBJECT: APPLICATIONS FOR RELIEF as stated in RULE 266 of SCCA**

It is with great respect for the law that we make this APPLICATIONS FOR RELIEF as stated in RULE 266 of SCCA. It is the complete disregard of the Writ of Mandamus with the supporting Affidavit (*Attached*) that was filed with the Clerk of Court on Jan 6 2014 that would find Ms Carmen Sheppard and I at the hearing the following day scheduled by the Master in Equity(MIE), Mikel Scarborough's office. Not one person other than the court security guard would show up to our hearing that was scheduled at 10am until approximately a few minutes prior to 11am when the court room began to fill. It would be standing room only as my wife and I would wait and pray for relief from the constant abandonment of law that has seemed to have followed us after being the victim of fraud by some of Charleston's wealthy developers. As we were expecting a circuit Judge to hear the extraordinary circumstances that would find us filing the Writ of Mandamus, our expectations turned to disgust as the MIE walks into the court. After surveying the crowd of over 100 people the MIE makes note of our location and then informs the crowded court room that "Prior to the Sale today, I have a couple items to hear" when the MIE calls out our name. We are in the back and acknowledge the call when the MIE calls the lawyer for the Plaintiff on his cell phone and begins to carry on a hearing regarding the filing of the Motion for a New Trial, The Notice of Appeal and the current Writ of Mandamus filed the day before. The Writ is based on the same reasons as the Motion for New Trial and Notice of Appeal (*Both Attached*) was filed. The lawyer who has withdrawn from this case was working with Ms Shepard's Spouse Alan Sheppard on a loan modification with Aurora Loans who had left themselves open to lawsuits after the poorest of modification programs that never gave the Sheppard's a trial period on any of the modification before being denied. Other problems consistent with every modification attempt included multiple lost document packages that were submitted to Aurora Loans, fees paid to Aurora by the Sheppard's that are never recorded on loan modification's that followed each of the previous modification applications. Then a series of loan document signatures that were part of these packages found striking similarities on two mortgages placed on the Sheppard's NC Farm that was foreclosed and sold before anything could be done. The NC Farm was paid in full prior to the notes placed on them. These along with other mess ups by Aurora that have found Aurora and now NationStar the subject of class action lawsuits and regulatory actions by state and federal regulators. This certainly qualifies as unconscionable conduct so as to deny the mortgagee the foreclosure relief it is seeking.

However, in dealing with Aurora the Sheppard's' only goal was to get the loan modification on their primary residence that previous counsel had assured would be taken care of. Some unknown pressure caused the withdrawal of previous counsel in what cannot be called a coincident anymore. Sheppard's

would find out that NationStar had now owned the loan in the days after being noticed that their counsel would withdraw. To this point Aurora had agreed to a special forbearance due to the circumstances that the Sheppard's have found themselves in. This special forbearance came after being informed of the lost NC Farm leaving the primary residence as our only property and the pending case for fraud in the same Charleston County. Aurora agrees that the circumstances are out of the Sheppard's control. In April 2011 Aurora Dismisses the Case (*Order Attached*) and We never heard from Aurora after this and figured that the forbearance is in place until the case for fraud is finally heard. Upon contacting NationStar Sheppard's are informed that their policy is to work with customers who contact them through the one agent that they started with for the life of the loan. In our case, Ms Kim Cavanarough would now be our representative and NationStar would get a loan modification to fit after finding a niche loan package for our needs. In addition, our representative would place foreclosure on hold while we completed the loan modification procedure. Ms Cavanarough sends an email to verify the foreclosure is on hold (*Attached*) prior to attending the hearing for the Motion to Withdraw.

The Sheppard's attend the MIE hearing the day that the Motion to Withdraw is being heard and find that a Motion for Summary Judgement is presented along with other court room dialect that neither the Sheppard's are familiar with. When the opportunity to speak comes up the Sheppard's make a note to the judge that they are working with a representative from NationStar on a loan modification after finding out days prior that NationStar is the note servicer. Sheppard's make a clear note that the representative has put the foreclosure on hold and we intend to make good on this modification. The MIE and the lawyer who is representing NationStar continue conversations and they begin discussing the foreclosure sale. Other conversation regarding Sheppard's state of affairs goes on and the pending case 2011CP1004537 now currently in the SCCA: 2013-000407, is brought up regarding the fraud that the Sheppard's are dealing with. With this the MIE abandons the talks of 2014 foreclosure sale and the sale is to be carried out by the end of the year (2013). The MIE makes some kind of remark regarding the pending case for fraud in Charleston County stating that there is not going to be anything to ring the bell over from that case that will help the Sheppard's and the hearing is back in full force to move the Sheppard's out of their home by years end. At this the Sheppard's make a note, Pleading, the need for a lawyer to understand what is going on while our modification package is being put together. This would find the Motion for a New Trial filed on the court based on the SCSC Administrative Order 2011-05-02-01 where the Foreclosure action is being carried out without any regards for this Order.

An Order would show up on Thanksgiving notifying the Sheppard's that their home will sell at Christmas. The Order (*Attached*) is extensive and includes statements that are completely false. It would find the Sheppard's looking into the reasons for the harsh statements that painted the Sheppard's in a same way as the fraudsters involved in the pending case. Then a connection between the MIE and the fraudsters shows up where the two worked together on removing occupants from their property after the filing of liens on the properties, Charleston County Case#1997CP0800315. The same group is sanctioned by HUD for using Straw Purchasers to buy property and transfer it back to fraudsters to avoid the Rule of Seven on rental properties where the group attempted to get single family insurance on rental properties. All this prior to the MIE becoming the MIE. Further findings show lifelong friends that warrants the "Conflict of Interest" claim that previous counsel was instructed by the Sheppard's to present to the MIE. This

recusal was requested numerous times and the end result found our counsel withdrawn and our home foreclosure expedited to cause as much harm as possible to the Sheppard's who have been forced to bring these facts to light as the only reason that could explain such an abandonment of the law and abuse of discretion.

Every document that noted the MIE's Recusal that Sheppard's filed after our counsel withdrew has been completely disregarded. In addition, the MIE has taken liberties on the Sheppard's in several other MIE Hearings that continue as the side effects of having ones complete net worth converted. What looked like a coincident now looks to be systematic as hearings on previously resolved matters are constantly called back for supplemental hearings (*Judgement Ending and Rule to Show Cause attached*). Like the Writ Hearing scheduled on Jan 7 2014, the court room would be empty. Other coincident include simultaneous hearings scheduled on top of the hearings where the fraud was to be heard leaving the Sheppard's scrambling to properly prepare for each hearing. The hearings for fraud would find the same course of events finding the scheduled hearings removed from the docket as if to evaporate in thin air. These events could be explained as **"a case that slipped through the cracks"** but that excuse cannot be applied to the constant events plaguing every case that has the Sheppard's name affixed. The final straw came in this week as a case filed and handled by the MIE that was settled in writing and with the repossession of my personal vehicle found me served with the "Rule to Show Cause" or a Warrant Issued for my arrest (*Attached*). The server who now knows me by name from all the trips to my house, now calls me in advance so that I can meet him to get served, and this time tell me that this Judge is Very Serious in this filing, be careful and pay attention. No matter what I do or whatever they take, it's not enough to curb their enthusiasm on making sure my pockets are empty and my resources are nil. I understand that this is a serious claim and will simply pray that the Court of Appeals will take action to preserve the Constitutional Rights afforded to US Citizens in the Pursuit of Happiness. My wife Carmen and I along with our two 14 year olds have endured throughout this whole mess as the damage mounts. Putting my family on the streets because I stood up to the MIE's friends/ previous clients who have committed fraud over a dozen times that I have documented with the clerk of court in support of the case for fraud. In addition, the fraud on my group is one thing but the actions aimed at my family and me, are not something I can take passively as I wait for the right thing to be done. This is the basis of this subsequent APPLICATIONS FOR RELIEF per RULE 266. This extraordinary request has been made after much struggle with finding the right thing to do. After meeting with 5 lawyers, a Deputy Attorney General and a Federal Agent to discuss the events that have found me in this predicament, all replied with the same statement regarding the MIE's action, "They Can't do that". The lawyers know there is a significant conflict and just don't get involved for good reason. They recommend I get a lawyer to intervene and follow with just do something. They are scared for my family and I. The Deputy Attorney General never could get past the escrow agent wiring \$500,000 of escrowed funds into a third party's account and the Federal Agent never could get past the a loan that the guarantors were being sued by their bank for not repaying several million dollars that they had borrowed against Sheppard's property development. The Federal Agent also was stumped by the NC Farm foreclosure and finds that the lawyer who placed the two notes on Sheppard's Farm is now in Federal Prison for the same thing. In response to the horrendous actions that made up the foreclosure, the federal agent forwards the information to

an investigative agency that has open investigation ongoing and a file# H140924 is provided from the Office of Inspector General.

All this and we are being harassed with realtors calling our cell phones and knocking on our front door stating that they are selling our home and want to show it. We have realtors walking around our yard taking pictures of our home. We received a new mortgage statement in Jan 2014 (*Attached*) yet we have had our home owners insurance cancelled by the mortgage company. Worst of all we have the lawfirm who represents NationStar continues to keep the foreclosure active, proceeding against my wife who's name the \$880,000 mortgage is in. My wife a school teacher for a special rural school filed an affidavit that noted that she has never met the previous counsel and asked to be allowed to get a lawyer before losing our home, only to be ridiculed by the MIE.

All of the trouble the Sheppard's have going on at this time in the SC Court Systems is directly tied to MIE Scarborough who used a Recusal in the first case regarding the fraud my family is facing to keep from having to do the right thing(*Attached*). In the days prior to the original hearing at the root of these matters, two of the three lawyers who were being sued for wiring \$500,000 held with our escrow agent into the account of the fraudsters after the two lawyers had just contacted the third lawyer/ escrow agent twice prior to me signing the release for the \$500,000 in order to confirm ownership of Sheppard's escrow funds ( A check was to be sent to Sheppard's address next day). The fraudsters (hiding under the disguise of guarantors) made numerous material threats that warranted a lawyer's attention. The guarantor's threats defined their intentions to take the \$500,000 into one of their accounts. When the two lawyers informed Sheppard that they were under the impression that he had received his \$500,000 after all the calls and instruction the two lawyers had given to the escrow agent prior to signing this release, the reality that the escrow agent was working with someone else became apparent. This left the third lawyer responsible for canceling the check and wiring the \$500,000 in escrow funds to the MIE's former client account after specific instructions not to. A simple step in the right direction by MIE Scarborough would have ended this whole mess in 2009. Instead the MIE would Recuse himself and place the case back into Common Pleas while Mr Sheppard is struggling to recuperate from cancer surgery. Fast forward to the cases that previous counsel was handling with the MIE. When the conflicts are brought to the attention of previous counsel, attempts are made to implement or act on the conflicts when all of a sudden the only option available is for Mr Sheppard to stand up in front of the MIE and make claims regarding the conflicts in person. I am not comfortable doing this at all but agree as a last resort. This option never was given and the case continued until the withdrawal hearing of previous counsel. When Carmen and I attend hearing regarding the withdrawal of previous counsel, the foreclosure sale date is the main topic along with discussions of summary judgment. Nothing we said, specifically regarding constant request to be allowed to have an attorney present to help with matters as serious as the foreclosure of the Sheppard Family primary residence is considered in any way. When The Writ of Mandamus is filed and we are instructed to take the stamped copy to the MIE's office, we do as we are told. So when the man at the MIE's office stopped us as we were leaving the court house to discuss the filed document, we informed him that it is our intention to file for bankruptcy protection if needed to protect our primary residence. At this he asks for us to wait

to get an update for us. The man then comes back and informs us that there is a hearing scheduled for 10am the following morning where the Writ will be considered along with anything else we would like to bring to the courts attention. He also tells us that we need to bring a court reporter. As described above, no one would show to the hearing which is recorded. There was not one consideration given to anything regarding our bankruptcy or any request based on matters of law at hand. Even at the end of the last hearing the MIE would flat out say he does not have jurisdiction before informing me, Carmen and the other 100+ people now standing in our hearing that he's "just going to sell your home". The two transcripts (*Attached*) included; one hearing where our counsel withdraws and the second where the MIE's office scheduled a hearing for MIE Scarborough to hear the Writ of Mandamus filed by the Sheppard's, tells the story of a Judges Abuse of Discretion regarding the Judicial Canon's that refers to Conflicts of interest.

The conflicts of interest are numerous in Charleston County and have caused the Sheppard's irreparable harm as each case is removed, or lost, False Orders to Dismiss are signed, prosecutors make false statements to federal agents that they have met with Mr Sheppard on several occasions and reviewed our case when in fact Mr Sheppard had never met with the prosecutors as is verified by the federal agent. Constant attempts are made to discredit the Sheppard's so much that they have worked. This is not an argument that is going away. I have documents that prove every statement made here. I have affidavits from a couple men that the fraudsters bragged about taking Sheppard's \$500,000 and numerous other damning pieces of evidence which many are fighting to keep out of the courts.

All of this constitutes unconscionable conduct so as to deny the mortgagee the foreclosure relief it is seeking but our goal has always been to keep our home of 17 years. We know that the mortgage industry has problems and we have made every attempt to be fair in this mess. All we have ever asked for is a loan modification which has been turned into another attempt to discredit the Sheppard's'. This is apparent in the numerous orders signed by the MIE after being informed of NationStar's representative placing the foreclosure on hold. Orders that would take the Sheppard's primary residence and investment that qualified as a multiple family dwelling that was approved for NationStars niche loan under HAMP up to \$1,100,000 . One of the Orders signed changed the figures from \$880,000 to \$1,300,000 causing the loan to fall outside of the \$1,100,000 limit.

From the 4<sup>th</sup> of January 2013 till well into the 3<sup>rd</sup> and 4<sup>th</sup> quarter of 2013 Alan Sheppard was recovering from a broken back where 4 vertebrae had been crushed in an accident along with broken ribs, broken collar bone and dislocated ribs all around. The very first we were informed about a Foreclosure was when the Notice to withdraw was sent to the Sheppards and we attended the September 2013 Hearing. Both Alan and Carmen Sheppard informed the court that, Not only did previous counsel never meet or speak to Carmen Sheppard, none of the specific requirement of the SCSC Administrative Order 2011-05-02-01 were ever reviewed or provided as stated by the court or plaintiff's counsel stating that Sheppards were notified. Further supporting the case that NationStar is attempting to sell a property to enhance their books and that they have no intention of providing customers with loan modifications. The complaints regarding this are now in the 1,000's from all over the country.

We pray that the court of Appeals will act on this request and remove this one case from the SCCA workload. We will file a request for an extension on the Appeal to this Foreclosure action simultaneously and look for direction from the South Carolina Court of Appeals.

With much respect, Please find this a genuine APPLICATIONS FOR RELIEF per RULE 266 SCCA

I can attest that the above statements are true to the best of my knowledge, So help me GOD.

Signed Carmen D Sheppard Carmen Sheppard

Signed Alan J Sheppard Alan Sheppard

It is therefore obvious that precipitous foreclosures are inimical to the very objectives and purposes of the National Housing Act and should not be condoned by the courts. The act itself suggests alternative measures to foreclosure (US Code, tit 12, § 1710, subd [a]):

#### Index of support documents

1. Writ of Mandamus Affidavit
2. MIE Order denying Writ
3. Motion for New Trial
4. Notice of Appeal
5. Case Dismissed April 2011
6. Notice of Foreclosure June 2011
7. Email regarding Foreclosure on hold
8. MIE Order on Thanksgiving
9. Attaboy Order
10. Attaboy Show Cause
11. Mortgage Statement 2014
12. HomeOwners Ins Cancelled
13. MIE Recusal 2011-cp100-4537
14. Transcript from Hearing Sept 6 2013
15. Transcript from Hearing Jan 7 2014

**PROOF OF SERVICE**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Master in Equity

**Mikell R Scarborough,**, Master in Equity

CASE NO.: **2013-002807**

CARMEN SHEPPARD,

Appellant.

v.

NationStar Mortgages,  
Counsel Dean Hayes

Respondent,

**PROOF OF SERVICE**

I certify that I have served the response to the letter dated March 11 2014 on Respondent' by depositing a copy of it in the United States Mail, postage prepaid, on March 21, 2014 addressed to their attorney of record, **Hayes, Dean Anthony** (addresses below)

March 21, 2014

s/



ALAN SHEPPARD,  
462 Commonwealth Rd.  
Charleston, South Carolina 29466  
(843) 224-9169  
Appellant

CC; Honorable Mikell R Scarborough,  
Hayes, Dean Anthony

Hayes, Dean Anthony  
PO Box 11264 Columbia SC 29211

**RECEIVED**

MAR 26 2014

**SC Court of Appeals**

Alan Sheppard  
462 Commonwealth Rd  
MtPleasant SC 29466

Jenny Abbott Kitchings/ Ms. Amelia  
Clerk of Court  
SC Court of Appeals:  
1015 Sumter Street  
Columbia, South Carolina 29201

SC Court of Appeals Case # 2013-002807

## APPLICATION FOR RELIEF PER RULE 266

Ms. Jenny Abbott Kitchings ,

March 21 2014

I have received the letter dated March 11 and have been struggling with different actions from the same MIE. This and the complete disregard of the Writ of Mandamus I filed on the Court has found Rule 266 as the proper course of action. I understand this to be correct but I am not an attorney would like to file a request for an extension of time to file my initial brief and designation of matters to be included on appeal along with a \$25 filing fee if I have missed something regarding the dates. I received the transcript and included it as part of the Rule 266 support documents. I hope that this will take the place of the appeal but I have request the extension in the event it does not.

I hope this is not too much confusion or trouble as I am trying to do the right thing.

Please do not hesitate to contact me with any questions or suggestions regarding my filings as I am not an Attorney.

Respectfully,



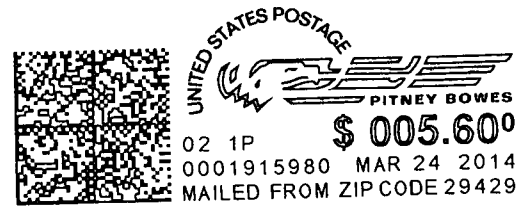
Alan Sheppard

843-224-9169

Included; proof of service, copy of requested letter

**RECEIVED**  
MAR 26 2014  
SC Court of Appeals

Sheppard  
462 Commonwealth Rd  
Mt Pleasant SC 29466  
2013-002807



RECEIVED

MAR 26 2014

SC Court of Appeals

UNITED STATES  
POSTAL SERVICE®

USPS TRACKING #



9114 9011 5981 8722 0929 71

Label 400, Jan. 2013  
7690-16-000-7948

 **PRIORITY®**  
**MAIL**  
UNITED STATES POSTAL SERVICE

For Domestic  
and International Use



From

Sheppard  
462 Commonwealth Rd  
Mt Pleasant SC 29466

TO Jenny Abbott Kitching  
SC Court of Appeals  
1015 Sumter St.  
Columbia SC 29201

Label 228, January 2008