

2011-CP-10-4201

CIRCUIT COURT CASE NUMBER

2011-CP-100-4201

Master in Equity

Mikel Scarborough

STATE OF SOUTH CAROLINA )

COUNTY OF CHARLESTON )

Alan and Carmen Sheppard )

APPELLANT )

VS. )

NationStar Mortgages,  
Counsel Dean Hayes )

RESPONDENT(S) )

IN THE CIRCUIT COURT  
OF  
CHARLESTON SC

NOTICE OF APPEAL

FILED  
2013 DEC 23 PM 3:55  
JULIE J. ARMSTRONG  
CLERK OF COURT

The defendant Carmen and Alan SHEPPARD hereby gives notice of appeal from the judgment of the Master in Equity's court in the above action, to the Circuit Court, in the County of CHARLESTON.

This notice of appeal is made subsequent to personal notice of the judgment which was received on the 25<sup>TH</sup> day of December, 2013.

The appellant's exceptions to the judgment of the Master in Equity are set forth as follows:

On Jul 19, 2013 Appellants were informed by the lawyer who had reviewed the numerous issues included in this appeal that he could no longer represent Sheppard's in the matters in the court as he was, "unable to help you any further without being paid". Same counsel notified the court on August 29 2013 and noticed Appellants that it would be in their best interest to attend as the Judge can rule on his own and this would be the only time to inform the court of the information that are relevant to this foreclosure. Appellants made note of several items during the hearing that were of significant relevance to the foreclosure. Some of the items were not given the time of the court after a mention of sensitive items. The information relevant follows;

Appellants made note to Master in Equity Scarborough that there were several items that have not been brought to the courts attention because of lack of payment to previous counsel when the Motion to Withdraw states clearly, "Not because of Payment issues". The Withdrawal is because of the sensitivity of several of the issues that previous Counsel either tried to present or feared the repercussion that has come to others who represent Sheppard's after the Whistle Blowing he has stood firm on. The issues are as follows;

1. Plaintiff's Affidavit from NationStar and Motion for Summary Judgment both served on the Court on June 6 2013 have had zero attention from Appellants previous counsel. The Appellants repudiate this act and any other action taken to date by the Plaintiff's

counsel promptly. Citing (*Foxworth v. Murchison Nat. Bank*, 134 S.E. 428, 136 S.C. 458 (S.C. 1926)) and file a "Motion for a New Trial" within 5 days as require by SCCR\_\_\_\_and allow Appellant to engage a lawyer to represent them in a case a sensitive as their primary residence.

2. 2011-05-02-01, The Supreme Court of South Carolina Mortgage Foreclosure Actions. "Foreclosure intervention" shall include any policy, process or procedure employed by a Mortgagee for the purpose of seeking a resolution of a foreclosure action by loan modification or other means of loss mitigation. The Appellants have never received any "Foreclosure Intervention" on their home.
  - a. Appellants have never been served with "Notice of Rights" as the Order dated November 25 2013 states.
  - b. Appellants were not aware that their case involving numerous issues of conflict, false signatures on loan documents, have not been brought to the courts attention by previous counsel. Along with these, Appellants have prepared packages and supplied documentation, hardship letters, along with copied loan documentation used to compile forged loans and prayers for review of these sensitive documents. None have ever seen the light of day regarding the court in what seems to be the heart of the matter at hand yet still a complete denial.
3. During the only hearing in September 2013 that Appellants were noticed of on August 29 2013 Judge Scarborough informed both parties that they could speak to each other to work through anything needing attention as Appellants were not lawyers. After beginning to make note of additional relevant matters of law at hand included in Appeal, NationStar Counsel makes note of moving the foreclosure to the first of next year. When Judge Scarborough hears the list of sensitive information relevant to Appellants foreclosure, Appellant is cut short and the date for the sale would be moved up to middle of December 2013. A clear shock to Appellant and Plaintiff's Counsel who tried to defuse the action by looking over to Appellant and telling him that " We're not going to foreclose on you home over Christmas."
4. Appellant contacted counsel for NationStar and Appellants were informed that there was really no reason to discuss the matters that Appellants "Think" are relevant as the judge has ruled and NationStar does not have to offer Appellants a loan modification. Counsels for NationStar simply assured Appellants that foreclosure sale would not occur over Christmas and ended the call.
5. The Appellants contacted NationStar on their own accord after the realization that previous counsel is conflicted and intends to withdraw at the hearing inquire as to why the Appellants could not work out a loan modification of some kind due to the Extraordinary circumstances cast upon them in the Appellants pending case. The case is plagued with untimely dismissals and marked "Ended", both on numerous occasions while still pending in Charleston County Court Case # 2011-CP-10-4537, currently in an Appeal with SCCA yet still marked ended by Charleston County Clerk of Court. NationStar has provided Appellant pending "Foreclosure intervention" that began with a loan Modification review starting the day after Appellants are noticed to attend the

hearing where their counsel will withdraw representation. Preliminary Loan Modification approval is given September 5<sup>th</sup> 2013 along with a note from NationStar that Foreclosure is on hold. Notice falls of deaf ears while the court continues to proceed with Foreclosure and Assigning Tax implication along with changing the mortgage amount from \$880,000 to \$1,175,196.92 . In addition adding a judgment for the same amount in the figures to the foreclosure that are way above the comprehension of the Appellant while the Appellant continues to reach out to capable lawyers to represent them in the complexities involved in this case. A clear breach of Due Process according to the SCSC Mortgage Foreclosure Actions.

6. SCSC2011-05-02-01 B-1-C, States- *Mortgagor has been afforded a full and fair opportunity to submit any other information or data pertaining to the Mortgagor's loan or personal circumstances for consideration by the Mortgagee.* Clearly not true in this case.
7. \_ The Court improperly granted a motion for Summary Judgment when The Appellant made note that Foreclosure Intervention had just begun one day prior with the talks between the Appellant and NationStar. Previous Counsel had emails directing him to submit affidavits and other admissions on file, to show that there "is" genuine issue as to any material fact and that the moving party is not entitled to a judgment as a matter of law." Rule 56(c), SCRCP. Clearly there have been some with holding of the Appellants current status regarding pending actions, available foreclosure intervention assistance, financial package, entitlements of the property, and several others... that has caused a shift in the balance of justice that can only be corrected by a New Trial.
8. \_ The previous counsel has taken on his own initiative without a notice to the Appellants regarding this case and two other cases where previous counsel responded to Appellants request for action with payment request leaving the cases to implode on Appellants. Another pending case that was completely resolved but continues to be called back to court after the repossession of the Appellants primary vehicle in case # 2010CP1007009 that satisfied the Judgment in full. After reaching out to previous counsel to get the details of what is being done for the continued legal assault, the Appellants were put on notice that previous counsel is again "unable to help you in these legal matters any further without being paid. My schedule is too busy to put your case in front of other without being retained formally." Leaving the Appellants in an unfair advantage to matters of law that can only be sorted out by a jury in Circuit Court with a lawyer representing Appellants.
9. \_ The Master in Equity submitted an Order to Recuse himself due to the individuals involved in the pending case and I forwarded it to previous counsel in order to show that the MIE has a conflict from the pending case. Previous counsel informed appellants that he would ask for a hearing to present the conflict then made calls for payment in advance of the hearing. To date neither the conflict nor the request for Judge Scarborough's recusal has never been submitted as far as Appellants know. It remains a conflict.

10. \_ Darrell Creek Homeowners Association, Inc. and the Appellants have a mutual release that shows The Appellants are not subject to the Restrictions and fees that is part of this record. It is included as a party to the Action to the Mortgage Company and is another resolved case that is still being pursued in an unresolved matter of law in connection with Charleston County Court cases.
11. \_ The Equity loan listed under TD Bank previously Carolina First Bank is another action looked over by previous counsel and has significant legal implication involving the current foreclosure proceedings. The foreclosure and repossession of the Appellants North Carolina Farm that never had a mortgage note on it needs to be reviewed due to the documents used on the equity loan and the farm seem to be the same as Appellants never attended a closing . Both are from this same bank and were used to prepare closing documents to the Appellants North Carolina Farm and clearly leave considerable questions to the matter of law to be answered in the circuit court with a jury and a lawyer present for the Appellants.
12. Due to the numerous cases that The Appellants have been subject of and due to this information that was sent to previous counsel having not been made note of in these hearings at hands, the Appellants have made a Motion for a New Trial within 5 days so that the Appellants may be afforded a full and fair trial according to the laws of the State of South Carolina.
13. \_ While Appellants waited for the response from the Motion for New Trial several hearing were conducted without Appellants notice or participation. Actions on Plaintiff's and MIE's behalf are detrimental to Appellants case and were never given a chance to be presented to a lawyer by Appellants.
  - a. The principle amount of the house is raised by approximately \$300,000.00,
  - b. The predatory loan practices are the only explanation for an \$880,000.00 mortgage provided to a School Teacher on a \$40,000.00 a year salary with total assets to include the primary residence alone.
  - c. Appellants provided Aurora Loan Services four full packages for a loan modification and Aurora agreed to modify these loans if significant moneys are paid up front. Upon Appellants payments (ranging from \$8,000.00 to \$27,000.00) Aurora would insist upon another loan modification package. Because Appellants office was in the law office suite of CC Harness III, several lawyers were overlooking all of Appellants documentation. Previous Counsel initiated contact with Aurora on his own accord to "Take care of this crap" and it became overbearing with the pending case and Appellants business associate CC Harness III passing away. Appellants have continued to work on the second dwelling and loan modification of their primary residence that has appraisals showing comps from \$1 million to over \$3 million due to the unique waterfront and island on highland of approximately 2 acres. Appellants were never made aware of mortgage assigned to NationStar in any way.

- d. The first priority lien has been the focus of Appellants who have committed to whatever is needed to secure their HOME. Yet information to and from the court has halted
  - e. Plaintiffs have targeted Appellants last asset and primary residence as the plaintiff is "arranging and coordinating the amount to be bid by plaintiff" at the sale where plaintiff can get hold of the property that will make their books look better with the great deal they are getting on the Appellants foreclosure.
  - f. Tax implications beyond Appellants comprehension are imposed increasing to mortgage of the Appellants primary residence by approximately \$300,000.00 and include items of the likes of "Corporate Advances of \$4,665.87" and have caused Appellants to struggle and grieve right up through till the day prior to Christmas Eve when this Notice of Appeal is due.
  - g. Carolina first Loan Case # 09-CP-10-6666 conflicts are ignored and simply piled on to Appellants after cries for help are shutout
  - h. Equipment foreclosed with NC Farm in case #10-CP-10-4988 is added to the pile. Both Case # 09-CP-10-6666 and case #10-CP-10-4988 take place while Appellant is recuperating from 1<sup>st</sup> and dealing with 2<sup>nd</sup> cancer yet no one will take the cries for help with the primary resident
  - i. , Claims are imposed on the order stating Appellants intended to misapply funds borrowed against primary resident along with other claims while the court was informed by appellant that from one equity loan on the resident there were 3 mortgages applied while Appellant was out of commission with Cancer. These funds would be lost to the fraud that was committed on the Appellants and is tried to be brushed under the rug at the beginning of January 2013 when Appellant injury of four Crushed Vertebrae or broken back leaves previous counsel to let another piling on of debts and outrages claims to cover up the case of Fraud on the Appellants that caused injury to the Appellants in a minimum amount of \$20,000,000.00.
  - j. Outrageous claims of Unjust Enrichment/ Restitution can only be explained by someone trying to crush Appellants into ground before their lawyer is able to perfect Appellants Appeal and making Appellants out to be someone they are in no way any part of. Only a Prayer for Justice and a trial will save this family born and raised in Charleston SC.
  - k. In the biggest conflict all of this was done after Appellants informed the court that Appellants are in fact in loan modification review with Nation Star. This shift in the balance of justice can only be corrected by a Jury in a New Trial.
14. The Recusal with Judge Scarborough in the first case that involved the fraud that the Appellants are dealing with has very similar time delaying tactics that were used during Judge Scarborough's acting as a lawyer for the fraudsters. In one specific case#**1997CP0800315**, **The case ran for over 3 years** starting in 1997 where the case is pushed as far down the road as possible to cause maximum harm to anyone who attempts a suit. In Appellants first Case against Escrow agents for deliberate wiring

\$500,000 funds into wrong account, where the fraud came to light Judge Scarborough would hold the case for approximately 6 months after referred to MIE after Appellant is dealing with second cancer since case began. When the actual fraud came to light in November 2010, The facts were extremely damning shaking the foundation of Justice and Judge Scarborough would recuse himself and send case to General Sessions for another 6 months

15. Previous long term work for a client of much influence should be cause enough for recusal but recusing himself as previous counsel was supposed to have made a Judicial Note of in these hearings with previous counsel never happened. In place of this previous counsel withdrew himself and the Judge has not been recused. The Judge has now written an order that would force Appellant out of home (on Christmas day) into the street or into a Bankruptcy where the case would be out of the hands of Appellants where other conflicts are waiting.
16. \_Because of the numerous conflicts in Charleston County and the numerous cases that simply cannot or will not be heard, Appellants will ask that a Change of Venue be Granted after Appellant is allowed to present the complete list of conflicting actions that have found hearings scheduled on top of other hearings where each case is requiring legal answers and proper documentation to simply get through without being crushed. Motions to Dismiss, Summary Judgments and other courtroom tactics to keep Appellant from presenting the case that seems to be the heart of the conflicts and other outside influences that have found every lawyer over the course of these cases to ask to be withdrawn or cite a conflict after engaging to represent the Appellants.

Here the Plaintiff persisted with the court in hostile actions to remove Appellants from their home after being informed that every attempt was being made to complete an approved loan modification. The loan modification was approved before Plaintiffs' counsel moved the court during Appellants loan modification review to change the figures that directly affected the loan modification and caused the High Loan Specialist to "Deny" the loan. Documents and mailings to be shared during appeal.

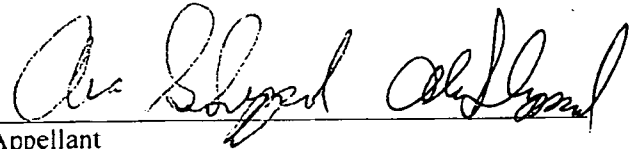
Many a lawyers that have stepped up to help my family and I navigate these treacherous Halls of Justice in Charleston SC only to cite a conflict or withdraw at the 11<sup>th</sup> hour. There is something going on. The Appellants want to make home payments and continue to strive as loving parents in their home even if they are all alone in their pursuit of happiness. After the influence of standing up to giants runs off the strongest of friends and business associates all but the strongest cowl. In my case, after searching the state of SC, a lawyer who understood the extremely complex case of fraud that has unfolded in front of Appellants is feverishly working to meet deadlines associated with that case in the SCCA and right the wrongs that have piled up during these times.

I am not a lawyer and will not pretend to cite proper law here. I have done my best to tell the truth So Help Me GOD. I do give my word that I am preparing my case to be present to our

lawyer to make sure it is properly handled and presented to the South Carolina Court of Appeals according to the Rules of the Court per SC Code of Law.

Please find this prayer for an appeal a genuine attempt at Justice that has been overlooked in the case of Appellants home case that has been overlooked, hopefully, from the nature of the court heavy workloads.

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



Appellant

Dated: December 23, 2013

**Alan Sheppard  
Appellant  
462 Commonwealth Rd  
MtPleasant SC 29466**

**Mikell R Scarborough,  
Master in Equity  
100 Broad St. Ste. 427  
Charleston, SC 29401**

**Hayes, Dean Anthony  
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**PROOF OF SERVICE OF A NOTICE OF APPEAL**

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.: 2011-CP-100-4201

2011-CP-10-4201

ALAN and CARMEN  
SHEPPARD,

Appellant.

v.

NationStar Mortgages,  
Counsel Dean Hayes

Respondent,

BY \_\_\_\_\_

JULIE J. ARMSTRONG  
CLERK OF COURT

2013 DEC 23 PM 3:50

FILED

**PROOF OF SERVICE**

I certify that I have served the Notice of Appeal on Respondent' by depositing a copy of it in the United States Mail, postage prepaid, on December 23, 2013, addressed to their attorney of record, **Hayes, Dean Anthony** (addresses below)

December 23, 2013

s/



ALAN SHEPPARD,  
462 Commonwealth Rd.  
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(843) 224-9169  
Appellant

CC; Honorable Mikell R Scarborough,  
Hayes, Dean Anthony  
Jenny Abbott Kitchings  
*Rosalyn W. Frierson*

**Alan Sheppard**  
**Appellant**  
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