

4-25-2016

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court Of Common Pleas

Charles B Simmons Jr., Master In Equity

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Case No. 2016 - 00-0152

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**RECEIVED**

APR 26 2016

SC Court of Appeals

Jean P. Elliott, aka Betty Jean Elliott,  
Individually and as Personal Representative  
Of the Estate of Ervin W. Elliott

Respondent

V.


Alberto Alvarez, J. Guadalupe Ledesma-Martinez,  
And Estela Gutierrez-Garcia. Of whom Alberto  
Alvarez is the Appellant.

Appellant

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INITIAL BRIEF OF APPELLANT

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*Attorney Pro Se*

*AA*

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[SCACR - 407 - Rules of Professional Conduct Specifically, Rule 1.0

(a) [6], Informed Consent]

Sub-Paragraph - Many of the Rules of Professional Conduct  
require that the lawyer obtained informed consent of a client before  
accepting or continuing representation OR PURSUING A COURSE OF  
CONDUCT.

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[Transcript(1), Hearing of November 4, 2013, 2015-CP-23-03181]

[Plaintiff's #3, Mortgage Of Real Property, 11-4-2015]

Refer to:

[Transcript(1), pg. 2, lines 21 - 25]

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[Transcript(1), pg. 11, lines 3-5]

[Transcript(1), pg. 11, lines 12 - 18], Court actually asks for translation assistance from Plaintiff's attorney.

[Transcript(1), pg. 11, lines 22 - 24]

[Transcript(1), pg. 12 , lines 20 - 22]

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[Transcript(2), pg. 23, lines 6 - 23],

[Transcript(2), pg. 28, lines 5-6] Mr. Andy White quoted.

[Transcript(2), pg. 28, lines 16-25]

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[Transcript(2), pg. 40, lines 1-6]

Order by Chief Justice Jean H. Toal, in letter of 5-20-2004, attached.

## Statement Of Issues On Appeal

On May 18, 2013, The Appellant was served with notice of a civil action, No: 2015-Cp-23-03181 which was filled by the Respondent, a Mrs. Jean Elliott to initiate foreclosure proceedings of a the mortgage the Appellant held on the subject property of 14 Henderson Street in Greenville, SC and have the property sold by Judicial Sale.

In the process of purchasing said property, the Appellant retained counsel, a Mr. Andy White to facilitate the transaction and to ensure his interest in this deal were protected and advocated at all times.

The subject home had been sold by Bond For Title to the Appellant by the Respondent earlier in the same year of 2013, but at the recommendation of his counsel, his attorney would cancel the original Bond For Title of July, 2013, and execute a Mortgage and Note as the conveyance documents.

## Statement Of The Case

On May 18, 2013, The Appellant was served with notice of a civil action, No: 2015-Cp-23-03181 which was filled by the Respondent, a Mrs. Jean Elliott to initiate foreclosure proceedings of a the mortgage the Appellant held on the subject property of 14 Henderson Street in Greenville, SC and have the property sold by Judicial Sale.

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## Statement Of The Case

Once the sale was completed, the Appellant discovered that the Mortgage he had signed, along with the ancillary closing documents in no way reflected the terms of the Bond For Title which had been cancelled and a specific addition to the mortgage document would now preclude the Appellant from reselling the subject home after renovation to a third party, while still realizing the benefit of the original owner financing. A business model he had executed previously over 20 times, 3 times with the Respondent and her business partner, Mrs. Anne Pittman over the previous 2 years times with the - all successful ventures.

For reasons unknown to the Appellant, his attorney accepted employment from the Respondent and crafted the Mortgage and Note to the specification of the sellers (sans informed consent) in lieu of to the direction he had specified - which were to duplicate, in spirit, closely, the same terms existing in the original Bond For Title, of which a copy was given to his attorney to work from. A document created by the Appellant.

## Statement Of The Case

Unknowing of the restriction to sell the home after renovation, unable to read English, the Appellant, when becoming aware of this restriction, which essentially killed his initiative and any benefit to be had in his enterprising, appealed incessantly to the Respondent for the terms to be modified to reflect the agreement of the Bond For Title they had agreed upon just months earlier, to the same terms the two parties had already agreed to in three previous homes sales. The Respondent refused.

Refusing to continue to pay the mortgage with the knowledge that the Respondent held the privilege of essentially foreclosure at will, the Appellant withheld payment to bring this issue to resolve.

On November 4, 2015 and December 15, 2015, the foreclosure action was heard in the court of the Greenville County Master In Equity.

The Court Ruling was in favor of the Respondent, the mortgage was foreclosed, and the home sold at Judicial Sale on February 2, 2016. The

## Statement Of The Case

Respondent waived her right to a deficiency judgement - which would have been substantial.

The Issue of appeal is that the Appellant believes he attorney with the Respondent and partner, exploited his Limited English Proficiency and took induced him to purchase a property which was basically useless to him as an investment. Reasons for such are still not understood by the Appellant.

# Argument and Facts

The case under appeal, originating from Greenville County - 2015-CP-23-03181 is about an unjustified foreclosure which was the product of an orchestrated complicity between the Sellers of the subject property, 14 Henderson Street - Greenville, SC, and by gross breach of The South Carolina Lawyers Professional Code of Conduct perpetrated by The Appellant's own Attorney, a Mr. Andy White.

Through unconscionable acts of betrayal and brazen Disregard of Duty of Good Faith and Fair Dealings by his attorney, The collective induced duced the Appellant, of Limited English Proficiency, to sign agreements so contrary to the directives,, given to his attorney, that the resulting impact was a family of six, who had purchased the home after renovation by the Appellant lost their home by foreclosure on the mortgage provided by the Appellant as a security interest in the home and the eventual Judicial Sale of the home. Repurchased by the previous owners.

First argument will deal with the unconscionable exploitation and abuse of the Appellant's trust and the abandonment by the Respondent and her collective as mentioned of Duty and Good Faith and Fair Dealings. Both Under the Second Restatement Of Contract Law [ 205 and 208 ] give justification for the Appellant to legally void the contracts (Mortgage and Note) and to seek equitable remedy in the courts.

Annotated Argumentation with reference to Sources included:

Reference to the initial Summons and Complaint: Civil Complaint - Motion

To Foreclose

[Summons And Complaint, 2015-CP-23-03181, page 4, Item 4]

4) This mortgage is not subject to the right of foreclosure Intervention because Alvarez did not purchase this property to occupy it as his principal residence.

Refer to:

[Transcript(2), pg. 15, lines 22-25]

[Transcript(2), pg. 16, lines 1-7]

[Transcript(2), pg. 16, lines 22-25]

[Transcript(2), pg. 17, lines 1 - 10]

(2)

As stated in the complaint, and reaffirmed in testimony by the Defendants, it was understood that the purchase of 14 Henderson was an enterprise investment. This said purchase of a distressed property in severe disrepair with the Defendant's objective and plan of renovating and restoring the property, subsequently reselling the property by assignment of bond or quit claim deed to a third party owner, was well understood by all parties involved from the nascent stage of this project.

As testified in Court, the Defendant affirms that this was the fourth such home purchased from this same collective ( Mrs. Jean Elliott and Mrs. Anne Pittman, POA) - with the upfront understanding that it would be no different from the other previous three successful initiatives the interests had concluded over the previous couple of years. For such initiatives to succeed, owner financing was integral to the purchase and essential to the viability of this business model. Investment properties, paying all expenses out of pocket.

Without Owner financing, the Defendant could not bring to market and

service the tremendous and ever increasing demand for private home ownership within the Greenville County Latino population. The Defendant would provide financing for these sub-prime mortgage clients. Such financing from conventional home mortgage originators and other institutional lenders is for the most part beyond the qualification baseline that the Defendant's target market could access due to low income and limited initial investment capital.

The Defendant would accommodate such risks - working closely with hopeful future homeowners, trusting, and make homeownership a reality for many families for whom this market had otherwise been closed to. In fact, the co- Appellants J. Guadalupe Ledesma-Martinez and Estela Gutierrez-Garcia purchased 14 Henderson Street from the Appellant Alvarez sans the upfront downpayment of \$7000.00 being paid. The down payment was waived by the Appellant with the understanding that said would be paid as the owners could afford to work in the requested initial investment over time. To-date, since 2013, no portion of the \$7000.00

down payment has been paid by the owners to the Appellant Alvarez.

Refer to:

[Plaintiffs #2, Promissory Note, July 1st, 2013]

[Transcript(2), pg. 15, lines 11-16]

[Transcript(2), pg. 14, lines 22-25, pg. 15, lines 1]

Document authored by Appellant's attorney Mr. Andy White. States - under item " a ) ", failure to pay as per terms of this promissory note more than 10 days later than due date does officially constitute "Default" on the note by the promissor.

Remedy afforded Promisee by Default is the right to foreclose on the property attached to this note - referred to in the Mortgage of 14 Henderson Street.

Appellant was unaware of such an unconscionable condition for payment being included with terms and questions which court, within South Carolina, would foreclose on a mortgage due to a payment being rendered more than 10 days late?? Wrongfully displace a family of six from their home, as the decision on this foreclosure action has.

Also, within this same contract written by Mr. White, paid to prepare this

Promissory Note by the Plaintiff, the collective selling interest, states several lines above the "Default" condition mentioned, that any payment rendered remitted more than 10 days past its due date will incur the penalty of a 10% late fee.

The Appellant avers, in defense of Haynsworth Sinkler Boyd, the Law Firm of Mr. Andy White at the time of this magnum opus, that this Astoundingly substandard work production, is not in anyway consistent with the highest standards of professionalism one can expect by Mr. White's former employer Haynsworth Sinkler Boyd.

During both hearings integral to this action, the Appellant did argue at length as to the enforceability of this promissory note, however his arguments were not of sound basis. However, despite the Court's ruling that the subject Promissory Note is, in infact, a legal and enforceable document in South Carolina, the Appellant begs to differ based on the above noted argument.

Refer to:

Rules Of Professional Conduct [SCACR, 407, Rule 1.1: Competence]

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Refer to:

[Plaintiff's #3, Mortgage Of Real Property, 11-4-2015]

[Transcript(2), pg.39, lines 3-9]

Quotation as per Mr. Andy White, Attorney for Defendant

“He (The Appellant) originally came in with the Bond For Title and we discussed the Bond For title and the fact that we attorneys don't like Bond For Titles because of problems that can come up. And we explained the better way to do it, if he wants to buy property with owner financing , is to do a Promissory Note and Mortgage which allows him to take Title to the property , subject to the mortgage.”

The Appellant questions the necessity for conversion of conveyance documents to Mortgage and Promissory Note from a Bond For Title as

“ a necessary”. A bond For Title that was already executed, and sans contention.

The Appellant questions the value advice of attorney who manufactures false needs, creates work for his firm when there is no basis for change beyond the “Professional Expert Advice” to fix that which is not broken. Was this in best interests of his client? In the end, this recommendation proved to be a debacle for the Appellant and his interests.

Refer to: [Plaintiff's #3, Mortgage Of Real Property, 11-4-2015 - 2.7]

2.7 Transfer of Property or Interest in Mortgagor. The Mortgagor shall not, whether voluntarily, involuntarily or by process of law, sell, convey, transfer, or lease or in any other manner change the ownership of or the title to all or any portion of the property. This is the condition added by the Appellant's attorney which essentially killed the viability of his enterprise. Not in Original Bond For Title.

Term non-specificity is confusing as it does not attach timeline, date, or meeting terms of obligation as a consideration in regard to any change of

ownership or occupation of the house. This wording can be interpreted to imply the house shall never have ownership transferred in perpetuity - even when mortgage is retired. Indicative of the lack of attention and disregard for the Appellant's work.

Refer to: [Plaintiff's #3, Mortgage Of Real Property, 11-4-2015 - 3.1,3.2]

These are a few terms included in the mortgage by the Appellant's attorney.

3.1 Default. The term "default", wherever used in this Mortgage, shall mean the occurrence of any one or more of the following events:

a) Failure by the Mortgagor to pay when due any of the Obligations when due;

3.2 Remedies. Upon Default. Upon occurrence of any Default, The Mortgagee shall have the right to immediately exercise any and all of the following rights and remedies without further notice to the Mortgagor:

B. Right to Foreclose. The Mortgagee shall have the right to foreclose this mortgage and to have a Judicial Sale of the property.

THIS Mortgage, prepared by Mr. Andy White, to be used by his Client, the Appellant, in the purchase of 14 henderson Street, did so prepare this mortgage on behalf of the Seller, to the Seller's specific details, and paid to prepare said Mortgage by the Seller - without informed consent from the Appellant, and at all times mindful of his Lawyer's Oath and:

Rules Of Professional Conduct  
[SCACR, 407, Rule 1.3: Diligence]

Which states:

A lawyer should pursue a matter of a client despite opposition, obstruction or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with ZEAL in advocacy upon the client's behalf Did so, mindful of the above, such that he included such terms "In Client's best interests" as can be seen in the referenced sections.

Addition to the above: As the Appellant provided the original Bond  
(10)

For Title which was signed on July 1st, 2013, the Appellant took great care to ensure that all terms included in the referenced document were agreeable to both parties of interest - of course - particularly to the Appellant. Being that such document was in existence before the Mortgage of subject now was written, being that Mr. Andy White was in possession of a copy of the original or at minimum, the Bond #2, when he crafted the mortgage of subject, It should be understood, by copy of this very same Bond For Title, July 1st version or Bond #2, Mr. Andy White had unquestionable guidelines and orders to how the new conveyance document was to be fashioned and how his employer, the Appellant, was to be treated with the fairest and most reasonable terms - as well as he was instructed to treat the Seller/Plaintiff's interests with equal deference. Mr. Andy White did not adhere, acknowledge, or even attempt to do such as ordered as best as can be discerned by the Appellant in the wake of the aftermath Appellant oriented disaster.

Refer to:

[Plaintiff's #3, Mortgage Of Real Property, 11-4-2015 - 4.5]

4.5 Waiver Of Jury Trial. The Mortgagor and Mortgagee acknowledge that the right to trial by jury is a constitutional one, but that it may be waived. Each Party, after consulting (or having had this opportunity to consult ) with counsel of their choice, knowingly and voluntarily, and for the mutual benefit waives any right to trial by jury in the event that litigation arises regarding the performance or enforcement of, or in any way related to, this mortgage or the obligations.

The Appellant does believe with utmost certainty, that Mr. Andy White, albeit in the Appellant's employ, did serve without compunction, but with malice, reckless abandon, and sans fear of recourse from an Ignorant Latino, to waive have the Appellant unknowingly waive his right to a trial by jury would serve the interests of his true masters well. This was certainly not a condition of sale in the original Bond For Title or Bond #2, nor has it ever been such in any of the separate 25 plus other home purchases I have consumated over the years I have been involved with such enterprising. The Appellant can interpret this most distasteful, predatory

sleight of hand, a pre-meditated and a pre-emptive move, in anticipation that litigation was inevitable. Which it proved to be.

Per Mr. Andy White, Attorney for Defendant

[Transcript(2), pg. 40, lines 1-6]

“At the closing in which Ms. Elliott, Ms. Pittman and Mr. Alvarez were present, I discussed with all of them the Promissory Note and the Mortgage. And I remember, I explained to Mr. Alvarez what we call, lawyers, a DUE ON SALES CLAUSE. He can sell the house, but he has to pay the mortgage if he does it. He agreed. And we did the closing. “

Refer to: [Plaintiff's #3, Mortgage Of Real Property, 11-4-2015 - 2.7]

2.7 Transfer of Property or Interest in Mortgagor. The Mortgagor shall not, whether voluntarily, involuntarily or by process of law, sell, convey, transfer, or lease or in any other manner change the ownership of or the title to all or any portion of the property.

Rules Of Professional Conduct [SCACR, 407, Rule 1.1: Competence]

A lawyer shall provide competent representation to a client. Competent

representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Specific to this mortgage prepared by Mr. Andy White, the terms nor specific wording, referred to above "Due On Sale Clause" does not appear within the "four corners" of the mortgage contract. The Appellant avers that It would be implicit to any homeowner, holding free and marketable title to their home, that they could sell it at will. The fact that this "Due On Sale Clause" is nonexistent within the text of the mortgage.

It is apparent that Mr. Andy White's memory does not serve him well. Nor does the presence of this statement in the mortgage in anyway attest to the fact, confirm in any way, nor intimate that the Appellant had knowledge of said terms. The Appellant has Limited English Proficiency and cannot read English, particularly, technical legal documents.

Refer to: [Transcript(2), pg. 28, lines 5-6] Mr. Andy White quoted.

[Transcript(2), pg. 28, lines 16-25]

[Transcript(2), pg. 29, lines 1-25]

[Transcript(2), pg. 30, lines 1-25]

[Transcript(2), pg. 31, lines 1-8]

[Transcript(2), pg. 35, lines 2-25]

[Transcript(2), pg. 36, lines 1-2]

And given the fact that the subject home had been previously contracted for purchase by Bond For Title in July of 2013 and said Bond For Title had no such wording or restrictions regarding resale of the home before completely paying off the original owner finance package (no different than three almost identical purchases between the Plaintiff with Mrs. Pittman and Mr. Alvarez within the previous 2 years), and the Appellant avers that no provisions were made prior to the closing by his representing attorney to ensure that the mortgage, promissory note, and several other closing documents were explained to the Appellant on a level and to the extent that a lucid purchase decision by the Appellant could be rendered, (There was in fact no comprehensive review of the seven page mortgage, nor any of the other several - technical - closing documents

performed at the closing as well as there was no person of such expertise so as to be fluent in "Legal" Spanish to translate said numbered technical documents), i.e., the the Appellant avers he was not aware, nor informed in anyway of purchase conditions or terms present in the mortgage that were altered variants of the general terms of the original Bond For Title of July 2013 he had requested Mr. Andy White to register. The terms of the Bond For Title of July 2013, which was provided to Mr. Andy White, were as per instruction by the Appellant, to be the general terms of the Mortgage conveyance package. Mr. Andy White did not follow the Appellants explicit instructions but rather, he followed the instructions of his alter employer, as revealed in the contract - Termination Of Bond For Title, Mrs. Elliott and Mrs. Pittman.

Refer to: [Plaintiff's #2, Termination Of Bond For Title, pg. 2, Item 3]

Mr. Andy White, integral to this contract, enmeshed, includes a brief NOTIFICATION that he has of his own volition elected to accept additional employment opportunities by working for the Respondent, regardless of

the extraordinarily high potential risk of a possible conflict of interest arising.

It is yet to be understood by the Appellant, as the Court elected to be silent on this issue, why Mr. Andy White and the Haynsworth Sinkler Boyd Law Firm was in such apparent desperate need of work such as to take such risks with the interests of his contracted client. It is also not understood why in electing to do so, Mr. Andy White, a licensed Attorney in the State Of South Carolina with many years of experience to his credit, would attempt to feign informed consent by from the Appellant by simply including paragraph #3 on the same page as there existed a signature of the Appellant.

Refer to: [Transcript(2), pg. 28, lines 5-6]

Refer to: [SCACR, 407 - Rule 4.3, Dealing with Unrepresented Person]

“ The Lawyer shall not give legal advice to an unrepresented person other than the advice to secure counsel, if the lawyer knows or has reason to know that interest of such a person are or have a reasonable possibility

of being in conflict with the interests of his client”

Refer to:[SCACR - 407 - Rules of Professional Conduct  
Specifically, Rule 1.0 (a) [6], Informed Consent]

Many of the Rules of Professional Conduct require that the lawyer  
obtained informed consent of a client before accepting or continuing  
representation OR PURSUING A COURSE OF CONDUCT.

[Transcript(2), pg. 28, lines 5-6] was infact a clever turn of phrase by  
Mr. Andy White, however, it seems he is not as intimately familiar with the  
Code Of Professional Conduct as related to Informed Consent and  
engaging “moonlighting” work for a person he KNOWS interests are contra  
to his client. The Appellant was not aware of the need for consent, to be  
informed - as in being asked and then having his attorney explain in terms  
he can understand why Mr. White’s engaging such moonlighting work, with  
such a high potential for a conflict of interest contra to his own initiative,  
would be in the best interest of the Appellant and as such why Mr. White  
recommend said course of action and requests that consent be given to  
him by the Appellant. No such conversation is documented in any records,

billing, etc, and as for informed consent, upon being explained that integral to the Termination For Bond For Title, being that the work of preparing the Mortgage and Note for the Plaintiffs was already completed and had been already presented to him for signature during the closing, was a small obscure paragraph - which the Appellant could not read, whereby it is apparent that Mr. White made a feeble gesture to document informed consent by the Appellant, merely by having the said obscure paragraph on the same page on which a copy of the Appellant's signature had been recorded.

I will now address Court Conduct and Possible errors made by the court:

[Transcript(1), Hearing of November 4, 2013, 2015-CP-23-03181]

Below is a summary of the documented interruption, delays, lost in translation risks, complications, and breaks in argument continuity which were effectuated during the Hearing of November 4, 2013 as a direct result

of the Court's decision to conduct the scheduled hearing despite two deliberate and critical contraventions of the Court's responsibility to obey said ensure a fair and equitable trial would be/could be conducted and that all persons having business with this proceeding would be heard - as their right by both the US. Constitution and the Constitution of The State of South Carolina.

Refer to:

[Transcript(1), pg. 2, lines 21 - 25] [Transcript(1), pg. 3, line 1]

[Transcript(1), pg. 3, lines 3 - 6] [Transcript(1), pg. 3, lines 11-13]

[Transcript(1), pg. 3, lines 16 - 19] [Transcript(1), pg. 3, lines 21 - 25]

[Transcript(1), pg. 4, lines 1 - 4] [Transcript(1), pg. 10, line 2]

[Transcript(1), pg. 10, line 3] [Transcript(1), pg. 10, lines 18 - 23]

[Transcript(1), pg. 11, lines 1 - 2] [Transcript(1), pg. 11, lines 3-5]

[Transcript(1), pg. 11, lines 12 - 18], Court actually asks for translation assistance from Plaintiff's attorney.

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[Transcript(1), pg. 15, line 25] [Transcript(1), pg. 16, line 6]

[Transcript(1), pg. 16, lines 9-10] [Transcript(1), pg. 16, lines 11-13]

[Transcript(1), pg. 16, lines 14 - 17] [Transcript(1), pg. 16, line 18 - 19]

[Transcript(1), pg. 17, lines 11 - 13] [Transcript(1), pg. 17, lines 14 - 15]

[Transcript(1), pg. 18, line 1] [Transcript(1), pg. 18, line 23]

[Transcript(1), pg. 18, lines 24 - 25] [Transcript(1), pg. 19, lines 1 - 2]

[Transcript(1), pg. 21, lines 12 - 17] [Transcript(1), pg. 22, lines 3 - 7]

[Transcript(1), pg. 22, lines 9 - 11]

At issue here is the LEP status of the Defendants. Limited English Proficiency as Observed by the Court from the hearing's onset and recorded for the record, and substantially reinforced by the orders issued by the Court that the presence of a certified Spanish interpreter, certified under the the guidelines of SCACR, was requisite in order for a fair and equitable foreclosure hearing to be conducted.

Refer to: [Transcript(1), pg. 3, lines 16-19]

Court takes Judicial Notice of need for continuance in order that qualified Spanish Interpreter assistance be available for conduct of the Foreclosure Hearing.

Refer to: [Transcript(1), pg. 4, Lines 1-4] - Ignoring state law as well as a moral responsibility to conduct fair hearing in which all parties can understand in a perfectly Lucid manner, all court proceedings, the Court elects to proceed with the foreclosure hearing. Why???? The Appellant cannot explain.

Refer to: Order by Chief Justice Jean H. Toal, in letter of 5-20-2004, attached, ordering provisions be made and enforced for the accommodation of persons of LEP to be recognized and their special needs be addressed to ensure that Court conduct affords equal opportunity to all persons for a fair and equitable trial by the Judicial System of The State Of South Carolina.

Refer to: S.C. Code Ann. Section 15-27-155 ordering by law, same.

Appellant challenges validity of the content of hearing of November 4, 2014

admissibility to the record of the Foreclosure Action - 2015-CP-23-03181, given that half of the parties represented could not understand and in fact left the Court Proceedings of November 4th with little to know true understanding of the significance or lack thereof, of all testimony recorded given the abject complications compromising the coherence and lucidity of all arguments rendered, rulings, and orders rendered in and by the Court.

Refer to: [Transcript(2), pg. 10, lines 1 - 10]

[Transcript(2), pg. 17, lines 17 - 25, pg. 18, lines 1 - 7]

Mrs. Gutierrez-Garcia is asked by the Court if she planned to cross examine the witness, Mrs. Elliot (naturally the question by the Court required interpretation by the Appellant). Unable to speak English and with no Spanish Interpreter in the court, she was unable. The witness was thus excused by the Court and subsequently Mrs. Gutierrez-Garcia was not afforded her right to examine the witness when interpreters were present - thus she was by action of the Court, denied Due Process.

Refer to: [Transcript(2), pg. 10, lines 16 - 23]

[Transcript(2), pg. 12, lines 23-25] Courts definitively states issues at hand to be adjudicated by the court: The

Promissory Note, The Mortgage, and their enforceability.

Refer to: [Transcript(2), pg. 19, line 25, pg. 20, lines 1-2]  
[Transcript(2), pg. 19, lines 5 - 6]

Refer to: [Transcript(2), pg. 23, lines 6 - 23],

Here we have the Respondent's attorney requests that the Appellant verify that he did, in fact, sign a Bond For Title at the closing and thus a Bond For Title was part of the closing documents. The Appellant was never given a copy of this document, what the Appellant refers to as Bond #3. The Court orders that the Respondent confirm that it is in fact the Appellant's signature on the Bond For Title, Bond #3.

Refer to: Rules Of Evidence:Rule No: 201, Judicial Notice of Adjudicative Facts.

Given that the Bond For Title to be cancelled in order for the implementation of a Mortgage and Promissory Note as the instruments of conveyance of 14 Henderson Street was documented by the contract for "Termination Of Bond For Title", Refer to: [Plaintiff's #2, Termination of Bond For Title], and attested to by the Appellant, the Respondent, and the

attorney, Mr. Andy White as the Bond For Title salient to these proceedings, and that said Bond For Title was signed on July 1, 2013, as noted by the court Refer to: [Transcript(1), pg. 15, lines 11-25] - where the Court immediately questioned the suspicious nature of the timing of documents as highly irregular, given all this, how is it possible or justifiable that Judicial Notice was not given to the possibility that the Mortgage and Promissory note could possibly be unenforceable?

Enforceability, defined by the court, Refer to: [Transcript(2), pg. 12, 23 - 25] as difinitively the issues relevant to the hearings and facts to be adjudicated along with the Foreclosure action requested by the Respondent and thus the execution and Judicial sale of 14 Henderson Street.

[Transcript(2), pg. 28, lines 5-6] Mr. Andy White quoted.

[Transcript(2), pg. 28, lines 16-25] [Transcript(2), pg. 29, lines 1-25]  
[Transcript(2), pg. 30, lines 1-25] [Transcript(2), pg. 31, lines 1-8]  
[Transcript(2), pg. 35, lines 2-25] [Transcript(2), pg. 36, lines 1-2]

And given the fact that the subject home had been previously contracted for purchase by Bond For Title in July of 2013 and said Bond

For Title had no such wording or restrictions regarding resale of the home before completely paying off the original owner finance package (no different than three almost identical purchases between the Plaintiff with Mrs. Pittman and Mr. Alvarez within the previous 2 years), and the Appellant avers that no provisions were made prior to the closing by his representing attorney to ensure that the mortgage, promissory note, and several other closing documents were explained to the Appellant on a level and to the extent that a lucid purchase decision by the Appellant could be rendered, (There was in fact no comprehensive review of the seven page mortgage, nor any of the other several - technical - closing documents performed at the closing as well as there was no person of such expertise so as to be fluent in "Legal" Spanish to translate said numbered technical documents), i.e., the the Appellant avers he was not aware, nor informed in anyway of purchase conditions or terms present in the mortgage that were altered variants of the general terms of the original Bond For Title of July 2013 he had requested Mr. Andy White to register. The terms of the Bond

For Title of July 2013, which was provided to Mr. Andy White, were as per instruction by the Appellant, to be the general terms of the Mortgage conveyance package. Mr. Andy White did not follow the Appellants explicit instructions but rather, he followed the instructions of his alter employer, as revealed in the contract - Termination Of Bond For Title, Mrs. Elliott and Mrs. Pittman.

The Appellant expected to purchase 14 Henderson Street, restore the home, and sell it to a needy family with the help of his own owner financing. It is a commendable enterprise and he should not suffer the avaricious and unconscionable.

Additionally, the requirements for accommodating the persons with LEP are fair and reasonable. How can a fair court be conducted when half the litigants cannot understand the proceedings. As was the case in the hearing of November 4, 2015.

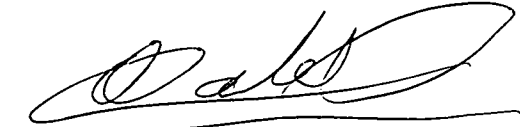
This is the history of this trial as I experienced it. I pray my illumination of many facts most likely not know to the lower court will help the Appellate

## Conclusion

In consideration of what the Appellant feels in more than a preponderance of evidence, he feels his case for being defrauded through Misrepresentation and Unconscionability is sustained.

As for a request for relief from the Court Of Appeals, The Appellant request simply that the terms of the original Bond For Title be restored and that the home be returned to the previous family. Also, that the Appellant to be allowed to continue making the regular mortgage payments as the original Bond For stipulated - picking up essentially from the point payments were halted.

No requests for any other legal related expenses or expense incurred by the previous owners is requested. The Appellant avers and prays that such a request as made now for relief to me fair and equitable to all parties.

  
ALBERTO ALVAREZ