

**Recitations: April 16, 2016**

**Motion For Production And Admission Of Evidence  
To Appellate Proceedings**

**Motion arguments reference support / with annotation.**

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**Page (2)**            **See coversheets - Introductions to both T(1) and T(2).**  
**Refer to separate hearings as November 4, 2013 and**  
**December 15, 2013. Attached:**

**Page (3)**            **Refer to: Summons And Complaint. May 19, 2015.**  
**Attached:**

**Page (4)**            **Refer to: [Mortgage of Real Property - Dated October**  
**21, 2013] Attached.**

**Refer to : [Promissory Note - Dated July 1, 2013]**  
**Attached.**

**Refer to: [Termination Of Bond For Title - Dated July**  
**1, 2013] Attached.**

**Refer to: [Power of Attorney given to B. Anne Pittman**  
**over Affairs of Jean Elliott.] Attached**

**Page (5)**            **Refer to: [Bond #2 - Dated July 1st, 2013]**

**Refer to: [Bond #3 - Dated July 1st, 2013]**

**Page (6)(a)**        **Refer to: [Mortgage of Real Property - Dated October**  
**21, 2013] Attached. Page 4, item 2.7.**

**Note - This is not a Due On Sale Clause. This does not specify that permission must be asked of owner in order to sell property. This condition simply states - taken into account all contextual information which might possibly apply, that the subject property will not be leased, sold, or have its ownership (all or part of the property) transferred - legally or by other means - into perpetuity. It is doubtful such a condition would be enforceable - but, albeit however unreasonable or senseless the statement is, or that This is not what was "meant", this is what it says.**

**Page (7)(b)**

**There is no DUE ON SALE CLAUSE ( There is a thou Shalt not sell clause )to be found in the mortgage unless it is to be construed by turn of phrase and sleight of hand to exist in the form of some interpretation of some other vague statement.**

**To do such.....is simply not South Carolina Law.**

**Refer to: [T(2), pg. 40, lines 1-6] Andy White states**

**Due On Sale Clause was written into Mortgage by**

**Himself.**

**Refer to: [T(2), pg. 50, lines 24-25] Court states that**

**Appellant signed a Due On Sale Clause in Mortgage**

**of 14 Henderson.**

**Refer to: [Mortgage of Real Property - Dated October**

**21, 2013] Attached.**

**Terms Of Default: By the Mortgage's definition of**

**what constitutes "Default" or Breach of said**

**contract, sale of the property - Due on Sale Clause**

**compliance is not listed as such a condition - unless**

**Terms noted in 2.7 are enforced. Would they be**

**unconditionally enforceable - into Perpetuity??**

**Page (8)(c)**

**Refer to: [Title To Real Estate, page 1 - under**

**Derivation] This is the land described in the July 1st  
Bond For Title.**

**Refer to: [Title To Real Estate, Page 1, Above**

**Derivation] This is the description given to lot 31 and  
33 after it was surveyed on September 3rd, 2013.**

**This is also the description used in Bond #2 and in  
The contract for "Termination Of Bond For Title".**

**Refer to: [Bond #2, pg. 2, approximately 60% down  
from the top of page] "Upon notification to the seller,  
the purchaser can rent, lease, or sell the property by  
Bond For Title."**

**Other than the dates: July 1st execution shown on  
page one, first line of text, and the date of the survey  
shown on the same page in the paragraph beginning  
with " Two Thousand and.....", along with the  
property description, as best the Appellant can**

determine, the balance of Bond #2 is the same as Bond #1 - given a few more altered dates on the signature pages.

Page (9)(d)

Refer to: [Bond #3, first page - land description]

For Bond #3, only the Tax Map Number is used.

Refer to: [Bond #3, Term - 9], unlike previous bonds

For Title, no improvements or repairs are permissible to be made without owner's approval.

Refer to: [Bond #3, Term - 18], Now, purchaser not allowed to sell house at will after repairs finished but only with written consent by seller. Although

Appellant lives in middle class - 3000 sq ft home with his wife, occupation per this Bond #3 is restricted to only the Appellant and his immediate family. 14

Henderson is a 1200 sq ft. home.

Refer to [Bond #3], There is of course, no Due On Sale Clause.

**Appellant was unaware that the Bond #3 had been a document included with the closing documents of October 21, 2013. Appellant was unaware that he had signed a new Bond For Title at the closing - as well wondered why such would be necessary. Appellant becomes of aware that such machinations occurred at the closing when the Plaintiff's attorney, Mr. Stewart, was attempting to ascertain the collection of signatures harvested during the closing by Mr. White and as such, the Bond #3 was presented to the Appellant to verify his signature. The court ordered the Appellant to verify his signature - the court did not render a second of Judicial Notice to such a blatant curiosity!**

**Refer to: [T(2), pg. 23, lines 2-23]**

**The appellant conjectures that the Bond #3 could**

have been possibly needed, should the situation arise, to explain how the Mortgage signed by the Appellant had such drastically divergent terms and intentions from the Bond of July 1st. The Respondents and Mr. White had no means whatsoever to confirm if the Appellant had a copy of the original Bond For Title or not. If so, they would have the Bond #3, as backup, to explain that the terms of the mortgage were consistent with the Appellant's designs of only a few weeks earlier - as the date of the signature of Bond #3 would have to be claimed to be different from October 21st, 2013. Without, Bond #3, how could any argument be made that Mr. White was attending to the Appellant's best Interests.

How did Mr. White acquire these signatures??

**Refer to: [T(2), pg. 9, 22-25]**

**Refer to: [T(2), pg. 46,18-22]**

**Page (12)(e) Refer to: [Mortgage of Real Property - Dated October 21, 2013] Attached.**

**No DUE ON SALE CLAUSE incorporated as stated by Mr. White. No Due On Sale Clause incorporated into mortgage as stated by court.**

**Refer to: [T(2), pg. 40, lines 1-6] Andy White states Due On Sale Clause was written into Mortgage by Himself.**

**Refer to: [T(2), pg. 50, lines 24-25] Court states that Appellant signed a Due On Sale Clause in Mortgage of 14 Henderson.**

**Refer to: [Mortgage of Real Property - Dated October 21, 2013] Attached.**

**Item: 4.5: Waiver Of Right To Trial By Jury.**

**Appellant is yet to understand how inclusion of this caveat was due diligence by Mr. White in advocating and protecting his interests.**

**Page (14)(h)  
(j)(k)**

**Refer to: [Termination Of Bond For Title] Attached,**

**Refer to: [T(2), pg. 31, pages 13-22], The Appellant is requesting that Mr. White provide him with a copy of the Bond For Title that the [Termination FOr Bond For Title] was used to cancel/void.**

**Introduced to the Court by an associate of Mr.**

**White's, a copy of Bond #2 is introduced to the**

**Appellant and copies distributed to the Court.**

**If the copy introduced was in fact the Bond of July**

**1st, then it would have the same land derivation -**

**description as the deed of record from 1979 when Mr.**

**Elliott purchased it. It could not possibly reflect the**

**survey of September 3rd, 2013. As per the copy**

**included with this motion, the copy given to the Appellant by Mr. White at this point in questioning, Bond #2 was what Mr. Any White claims to be "THE" bond, the only bond, cancelled. At this point in the hearing, Bond #3 has not been formally introduced by Mr. White. It has been introduced by accident by Mr. Stewart, attorney for the Respondent - but somehow evaded Judicial Notice.**

**Refer to: [T(2), pg. 39, lines 1 - 9], Mr. White recounts the meeting where he came into possession of the Bond Of July 1st - which he now avers to actually be Bond #2.**

**Refer to: [T(2), pg. 32, pages 15 - 22], A discontinuity is apparent in the transcript - and for some reason, the interpreters are referring the Court to SCACR 511, honor code.**

**Refer to: [T(2), pg 35, lines 11-25], Particularly [lines 17-18] The Appellant is focused on Mr. White's billing, the amount of work he claims to have performed for The Appellant, the amount of the bill, and What work was actually performed. At this moment of questioning - when Mr. White is asked if he could produce a receipt - as " does one exist " that will support the testimony by Mr. White, The Appellant's line of questioning is summarily shut down by the court - as "not relevant."**

**Refer to: [T(2), pg 45, lines 18 - 25], [T(2), pg 46, lines 1-3]. Here, and drawing upon the testimony noted above from [T(2), pg 35] - Mr. White has affirmed for the Appellant the following:**

**[Mr. Any White has testified to the fact that.....]**

**His billing rate to the Appellant is \$300.00 per hour.**

**That the closing included complete and comprehensive review of the mortgage, seven pages of mortgage, the 2 page Termination Of Bond For Title, the 2 page promissory note, the Title for Real Estate, reviewed to a level of detail adequate such that the Appellant was informed sufficiently such that the could make the best decisions in regard to his interests as possible. ( Note, as stated by the Appellant, a professional legal interpreter would have been required to ensure that the Appellant's rights were protected. No attorney, regardless of their training and the fact that they are conversant in Spanish, not fluent - but only conversant, can simply look across a table at a client and subsequently**

**testify as fact that said client understood all closing proceedings perfectly - as if they had all been explained to him by a person fluent in Spanish and Legal Spanish as well. Additionally; as Mr. White, who authored the Mortgage, the Promissory Note, the Termination Of Bond For Title, and apparently (??) the Bond #3 - was working for a third party that was without representation at the time, and this third party's interests were contra to the Appellant, there would also have been a meeting ( in this case - during The closing as this was the first time the subject of the Appellant's attorney working for the sellers was discussed with the Appellant) and as required by law, [ This would involve as per SCRCP 407, Rule 1.0 - Informed Consent - Protecting interests of client at all**

**times - whether related to representation or as related to a particular course of action ] Mr White took, whatever time was necessary, to explain to the Appellant in detail, what work he wished to perform for the contra third party, the reason why he should perform such services for the contra party, and why exactly was this work, preparing the critical closing documents to the exacting detail of the selling party, without any doubt, absolutely in the best interests of the Appellant. If it was not in the best interests of the Appellant, often referred to as a conflict of interest, why would - did - Mr. White prepare said Documents, effectuating a most egregious financial detriment to the interests of the his employer, the Appellant?? This part of the closing meeting would**

**certainly have taken a considerable amount of time. From inspection of the Termination of Bond For Title, it seems that what should have been a request for consent from his client to perform this contract preparation for the Respondent, perhaps presented in a separate document, Mr. White, in fact is simply informing the Appellant as to his plans to accommodate the “request” from the Respondent. The Appellant’s consent, after careful review of all documents the Appellant does actually have in hand, never appears to have been an issue raised by Mr. White.**

**Regardless of how Mr. White wishes to argue that he had “informed consent”, obtained under guise of a Termination Of Bond Contract signature or by other**

**means, the following is irrefutable: With the requisite aid of a professional translator - with training in**

**The vernacular of legal contracts, .....**

**Review of the seven page mortgage**

**Review of the 2 page promissory Note**

**Review of the Title to Real Estate**

**Review of the Termination of Bond For Title**

**Informing the Appellant as required to the level of understanding that the best interests of his client are advocated at all times: Also.....**

**A discussion concerning the "Due On Sale Clause which Mr. White says he explained to the Appellant and the Appellant understood perfectly and was fine with this provision - even though there is no Due On Sale Clause in the mortgage since the covenant**

**previously mentioned, page , [Mortgage of Real  
Property - Dated October 21, 2013] Attached. Page 4,  
item 2.7. - specifically says under NO Terms may the  
property be sold or ownership be transferred.**

**[All of the above - and on top - a round trip to the ROD  
To register the Mortgage and deed later the same  
day]**

**How could all of this have been accomplished for 1.65  
Hours billed at \$300.00 per hour? There is a need for  
proof of Mr. White's billing as if this work was not  
paid by his client - then by whom was it paid??**

**Refer to: [T(2), pg. 33, lines 10-15], Mr. Stewart was  
attempting to converse with the Appellant in "Legal  
Spanish"**

**Page (19)(m)(n) Refer to: [T(2), page 28, lines 15-22] - P1/P2 is actually a marked up copy of Plaintiff's #2 of the same day.**

**No details on how this was numbered or entered into evidence are recorded in T(2)**

**Refer to: [T(2), pg 22, lines 11-16], Response to Civil Action entered into evidence as Plaintiff's #1 on December 15th.**

**Page (20)(o) Refer to: [T(2), pg. 42, lines 18 - 25], [T(2), pg. 43, lines 1 - 13] The Appellant is questioning Mr. White about the Termination Of Bond For Title contract - however - he has in hand the P1/P2 copy (copy with markings on it). Here the court reporter refers to this P1/P2 as Defendants #5. At the end of T(2) is the final compilation of all evidence that was "officially" entered. There is no Defendants #5 listed.**

**Other: Refer to: [T(1), pg. 5, lines 7 - 10]**

**Refer to: [T(1), pg. 5, lines 21 - 25]**

**Refer to: [T(1), pg. 6, lines 7 - 12]**

**Refer to: [T(1), pg. 7, lines 20 - 23]**

**These are the evidence entries from T(1) - transcript  
from the November 4th portion of the trial -  
methodical, deliberate, correct.**

**Refer to: [T(2), pg. 52, lines 14 - 25]**

**Refer to: [T(2), pg. 53, lines 1 - 3]**

**There is a Plaintiff's # 1,2, and 5. There is listed a  
Defendant's # 1,2,3,4 - and what was previously  
Defendant's 5 has become Defendant's 4.**

**We do not have what was Plaintiff's 3 and 4 - per T(2), we do not  
have what was once Defendant's #4. We have no mortgage with a**

**Due On Sale clause. We have no copies of agreement granting informed consent for Appellant's attorney to moonlight on behalf of the Respondent's interests, we have no copy of the actual Bond For Title signed on July 1st, 2013, and Bond #2 and Bond #3 - although introduced and discussed at length in court - they are not exhibits on record.**

**THE STATE OF SOUTH CAROLINA**  
**In The Court Of Appeals**

Case No: 2016-cp-000152

**RECEIVED**

APR 21 2016

SC Court of Appeals

**PROOF OF SERVICE**

Jean Elliott, aka Betty Jean Elliott  
, Individually and as Personal  
representative of the estate of  
Ervin W. Elliott.


Respondent

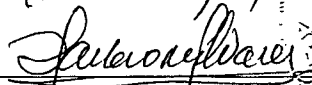
vs.

Alberto Alvarez, appellant and  
representative appellant for  
Guadalupe Ledesma-Martinez  
and Estella Gutierrez-Garcia.

Appellant

I hereby attest in fact that I served a copy of: Motion For Production And Admission Of Evidence  
To Appellate Proceedings, for the above referenced action, upon Guadalupe Ledesma-Martinez  
and Estella Gutierrez-Garcia, via USPS mail, postage prepaid, to their address of 14 Henderson  
Street, Greenville Sc, 29611 on this day of April 21, 2016.

  
Alberto Alvarez  
17 Latham Drive  
864-275-7780

Notary Name MARGIORY Alvarez  
Signature:   
Date: 04-21-2016  
My Commision Expires: 05-02-2023

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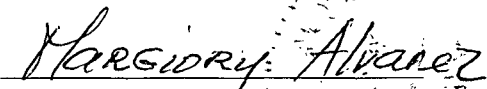
Appellant

I hereby attest in fact that I served a copy of: Motion For Production And Admission Of Evidence  
To Appellate Proceedings, for the above referenced action, upon Richard Stewart, Attorney for  
Respondent, personally, at his address of business - 11 Whitsett Street, Greenville, SC 29601 on  
this day of April 21, 2016.



Alberto Alvarez  
17 Latham Drive  
864-275-7780

Notary Name



Signature:



Date: 04-21-2016

My Commision Expires: 08-02-2016

**THE STATE OF SOUTH CAROLINA**

**In The Court Of Appeals**

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APR 21 2016

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**Case No: 2016-cp-000152**

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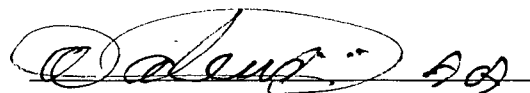
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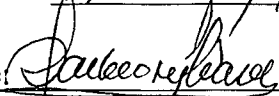
Appellant

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To Appellate Proceedings, for the above referenced action, Personally upon Mrs. Jenny Abbott  
Kitching, Clerk - South Carolina Court Of Appeal or an Authorized Representative of same  
office. Address - 1220 Senate Street, Columbia SC, 29201 on this day of April 21, 2016.



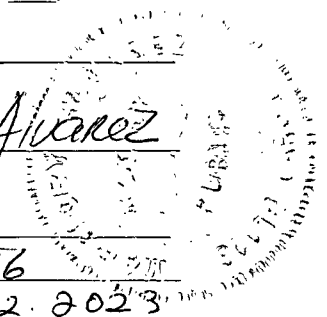
Alberto Alvarez  
17 Latham Drive  
864-275-7780

Notary Name MARICORY ALVAREZ

Signature: 

Date: 04-21-2016

My Commision Expires: 05-02-2023



ALBERTO ALVAREZ

17 LATHAM DR.  
GREENVILLE, SC 29617  
864-275-7780

*Alvarez*