

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

DOCUMENTS

APRIL 18, 2016

Transcript Of November 4th, 2015 - (T2)

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SC Court of Appeals

DANETTE P. HANKS

**Court Reporter
Court of Master In Equity**

Greenville County Courthouse
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Greenville, SC 29601
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January 7, 2016

Alberto Alvarez
(by hand)

In re: Jean P. Elliott, et al -vs- Alberto Alvarez, et al
(2015-CP-23-03181)
Hearing held December 15, 2015

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SC Court of Appeals

Original Transcript of Testimony

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Thank You

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

IN THE COURT OF COMMON PLEAS
2015-CP-23-03181

Jean P. Elliott, et al,)
Plaintiff,)
vs.)
Alberto Alvarez, et al,)
Defendants.)

TRANSCRIPT OF TESTIMONY

December 15, 2015
Greenville, South Carolina

B E F O R E:

HONORABLE CHARLES B. SIMMONS, JR., MASTER IN EQUITY

A P P E A R A N C E S:

C. Richard Stewart, Esquire
Attorney for the Plaintiff

Alberto Alvarez, Pro Se
J. Guadalupe Ledesma-Martinez, Pro se
Estela Gutierrez-Garcia, Pro se
Defendants

Danette P. Hanks, CCR
Court Reporter

1 THE COURT: For the record, this is 2015-03181, Elliott
2 versus Alvarez and others. We initially started the trial on
3 November 5th, 2015. We made it through the testimony of Ms. Jean
4 Elliott, and at that point it became clear that the Defendants
5 had, according to Mr. Alvarez, anywhere from one to nine
6 witnesses, and there were interpretation issues that were of
7 significant concern to the Court. So the matter was continued
8 until today. The Court instructed all parties that they must be
9 here with an interpreter. So the only issues left are evidence
10 and witnesses to be presented by the Defendants.

11 Is that, Mr. Stewart, your understanding of where we are?

12 MR. STEWART: Your Honor, it is. I would like to bring
13 one thing to the Court's attention just as maybe an
14 administrative matter. After the last hearing, Mr. Alvarez
15 served me with a subpoena and it was -- I'd just like to present
16 it to the Court. I'm going to show that to the Judge.

17 Your Honor, it was a subpoena served on me. And I think the
18 Court made it pretty clear to Mr. Alvarez at the previous hearing
19 that he could not subpoena me. However, he did. I did not
20 respond to it. And as I anticipate it may arise during the
21 course of the hearing, I wanted to bring it to the Court's
22 attention that as the attorney for the Plaintiff, I don't believe
23 it's proper for me to be subpoenaed in this matter. I object to
24 it. And I would ask the Court, to the extent it comes up, that
25 it be quashed.

1 THE COURT: All right. And I will note it was filed
2 with the Clerk's Office on November 25th, 2015. And as noted
3 earlier, the first part of the trial was held on November 5,
4 2015. In looking at the subpoena, it is directing Mr. Stewart,
5 attorney for the Plaintiff, to provide his bar association
6 number, his proof of the City of Greenville business license, his
7 proof of bonding and insurance, and a copy of a picture ID. So
8 if that becomes an issue, we'll certainly address it.

9 MR. STEWART: Thank you, Your Honor.

10 THE COURT: Now, Mr. Alvarez, you are here with an
11 interpreter; is that correct?

12 MR. ALVAREZ: Yes.

13 THE COURT: And your interpreter's name is what,
14 please, sir?

15 MS. ORTIZ ALFONSO: There are two interpreters because
16 there will be simultaneous. My name is Emily Ortiz Alfonso,
17 certified court interpreter number 15482. And my teammate today
18 is ...

19 MS. TUGGY STEPHENS: Rubylene Tuggy Stephens.

20 THE COURT: Okay. I'm sorry. So, Ms. Alfonso?

21 MS. ORTIZ ALFONSO: Yes.

22 THE COURT: And your interpreter certification number
23 is, again?

24 MS. ORTIZ ALFONSO: 15482.

25 THE COURT: 15482. And that's through the State of

1 South Carolina; correct?

2 MS. ORTIZ ALFONSO: Correct, Your Honor.

3 THE COURT: Okay. And you have been retained by Mr.
4 Alvarez?

5 MS. ORTIZ ALFONSO: Correct.

6 THE COURT: Okay. And in your opinion, is Mr. Alvarez
7 able to understand you and are you able to understand Mr.
8 Alvarez?

9 MS. ORTIZ ALFONSO: Yes.

10 THE COURT: Okay. All right. Thank you.

11 Now, ma'am, your name again?

12 MS. TUGGY STEPHENS: Rubylene, R-U-B-Y-L-E-N-E, Tuggy,
13 T-U-G-G-Y, Stephens, S-T-E-P-H-E-N-S. Also certified by the
14 State of South Carolina; and my number is 11051.

15 THE COURT: Okay. And you have been retained on behalf
16 of whom?

17 MS. TUGGY STEPHENS: Mr. Alvarez also retained me
18 because it's such a long hearing.

19 THE COURT: So Mr. Alvarez has retained two separate
20 interpreters?

21 MS. ORTIZ ALFONSO: Actually, Your Honor, the
22 interpreters work as a team per the standards of practice of the
23 ASTM, and the NAJIT, which is the National Association of
24 Judicial Interpreters and Translators, to ensure that Mr. Alvarez
25 can participate since many people will be speaking and the

1 interpretation will be simultaneous except for when there are
2 witnesses at the stand, when the interpretation will be
3 consecutive. In order to preserve the accuracy of the
4 proceedings and to avoid the fatigue that's associated with
5 simultaneous interpreting, he has retained two interpreters.

6 THE COURT: Okay. And there are two other Defendants
7 who -- are they present today?

8 MR. ALVAREZ: Correct.

9 THE COURT: Then where is Ms. Martinez? All right.
10 That's Guadalupe Ledesma-Martinez?

11 MS. ORTIZ ALFONSO: Yes.

12 THE COURT: Okay. Then he needs to come up to one of
13 the tables, because he is a named ... Now, does he have an
14 interpreter?

15 MR. ALVAREZ: Yes.

16 MS. ORTIZ ALFONSO: The interpreters are mutual
17 parties; therefore, they can provide interpretation for ---

18 THE COURT: Okay. If you will ask that gentleman to
19 state his full name.

20 MR. LEDESMA-MARTINEZ: Guadalupe Ledesma, L-E-D-E-S-M-
21 A, Martinez.

22 THE COURT: All right. Ask him to explain in his words
23 what this lawsuit is about and what he's doing here today.

24 MR. LEDESMA-MARTINEZ: Well, when I bought the house
25 from Mr. Alvarez, I was current making the payments on it.

1 THE COURT: All right. And is he willing for you and
2 Ms. Stephens to act as his interpreter and does he understand
3 you?

4 MR. LEDESMA-MARTINEZ: Well, no, I can't understand.

5 THE COURT: Okay. What can't he understand?

6 MR. LEDESMA-MARTINEZ: I'm not sure what you're saying,
7 if it's about the language. I don't think I understand your ---

8 THE COURT: I'm asking if he is able to understand your
9 interpretation.

10 MR. LEDESMA-MARTINEZ: Uh-huh (Affirmative).

11 THE COURT: And is he willing for you to act as his
12 interpreter here today?

13 MR. LEDESMA-MARTINEZ: Yes.

14 THE COURT: Okay. And what about Estela Gutierrez-
15 Garcia; is she present?

16 MS. GUTIERREZ-GARCIA: I am.

17 THE COURT: All right. Now, she's a Defendant. She
18 needs to also come up to this table.

19 And if you'll ask her if she will state her full name.

20 MS. GUTIERREZ-GARCIA: Estela Gutierrez-Garcia.

21 THE COURT: And ask her to explain in her words the
22 purpose of this lawsuit and why she is here.

23 MS. GUTIERREZ-GARCIA: We were subpoenaed here because
24 we are buying the house.

25 THE COURT: All right. And is she able to understand

1 you and your translation and is she willing for you to act as her
2 interpreter?

3 MS. GUTIERREZ-GARCIA: Yes.

4 THE COURT: Okay. And do both Ms. Gutierrez-Garcia and
5 Mr. Ledesma-Martinez understand that this is a trial and they
6 will have a right to testify and they will also have a right to
7 call witnesses and present evidence?

8 MS. GUTIERREZ-GARCIA: Yes, we understand.

9 THE COURT: And Mr. Ledesma-Martinez, do you
10 understand?

11 MR. LEDESMA-MARTINEZ: Yes.

12 THE COURT: All right. Then they can both have a seat
13 for right now. And Mr. Alvarez, from my review of the transcript
14 at the trial on November 5th, Ms. Elliott presented evidence in
15 the form of a copy of a deed, the promissory note and the
16 mortgage and also a quit claim deed and established the debt due
17 under the note and mortgage. So now is your opportunity to
18 testify or present any evidence or call any witnesses you may
19 feel so inclined to do, sir.

20 MR. ALVAREZ: Okay. Last time Mr. Stewart ---

21 REPORTER: Ask him to use the interpreter, please.

22 THE COURT: You're going to need to speak slowly and
23 clearly so my court reporter is able to understand you, sir.

24 MR. ALVAREZ: Okay. I think I have to do it in Spanish
25 since I've got an interpreter.

1 THE COURT: That's fine. Yes, sir.

2 MR. ALVAREZ: The last time the ---

3 (WHEREUPON, Ms. Ortiz Alfonso spoke to Mr. Alvarez in
4 Spanish, at which time Mr. Alvarez begins to speak in
5 Spanish.)

6 MR. ALVAREZ: Mr. Stewart the last time gave me a
7 promise, payment of promise, a note of payment. However, this
8 promissory note or this note to payment doesn't have an address.
9 It doesn't have a business ---

10 THE COURT: Let me stop right now. If he wishes to
11 testify he may come to the witness stand. He may not stand up
12 and present an editorial dissertation of what he contends should
13 or should not have occurred. So if he wishes to testify, he
14 needs to come and be placed under oath.

15 MR. ALVAREZ: Yes.

16 THE COURT: If you'll place your left hand on the bible
17 and raise your right hand.

18 You swear to tell the truth, whole truth and nothing but the
19 truth?

20 MR. ALVAREZ: I promise.

21 THE COURT: If you'll come around to this green chair
22 there, please, sir.

23 MR. ALVAREZ: Thank you, sir.

24 THE COURT: And if you will state your full name.

25 MR. ALVAREZ: My name is Alberto Alvarez.

1 I buy and sell houses. So my lawyer, I paid him so that he would
2 represent me. So I signed the mortgage and did not realize that
3 I had signed away all my rights, including the right to a jury
4 trial. And I had chosen my attorney in order to protect my
5 interests and rights. Now my lawyer Andy White with Haynsworth,
6 I found out that he was also representing the other side who was
7 selling me the house. So those other papers, they were
8 fraudulent, it was a crime, they were not valid. And what was
9 done was against my interests, was done for profit, for bad
10 faith, and contemptuous gain.

11 MR. STEWART: I'm sorry, Your Honor. Would she repeat
12 that last part? I didn't understand that.

13 THE COURT: Contemptuous gain.

14 MS. ORTIZ ALFONSO: Fraudulent gain by contempt.

15 THE COURT: Okay.

16 MR. ALVAREZ: I paid my attorney to protect my
17 interests. Therefore, as presented by the evidence earlier by
18 Mr. Stewart, there's no motive for foreclosure because, according
19 to this proof, I signed a fraudulent agreement. So there's no
20 reason for this foreclosure to continue. Because there is no
21 mortgage that exists. Therefore, if there's no mortgage, there's
22 no reason to foreclose. I would also like to ask a question of
23 my attorney, Andy White.

24 THE COURT: I don't see Mr. White in the courtroom, so
25 I don't know how he's going to do that.

1 MR. WHITE: Your Honor, I'm here.

2 THE COURT: Oh, okay. I'm sorry, Mr. White.

3 No, he is on the witness stand; he cannot ask questions.

4 MR. ALVAREZ: Okay. Yes.

5 THE COURT: He has a right to call Mr. White as a
6 witness should he so desire.

7 MR. ALVAREZ: I do wish that.

8 THE COURT: All right. Then once his testimony is
9 complete and after Mr. Stewart asks him questions, then he has a
10 right to call other witnesses.

11 MR. ALVAREZ: I would like to ask Joanna, because I
12 have a piece of evidence at the table, to retrieve it and offer
13 it.

14 THE COURT: Certainly.

15 MR. ALVAREZ: Thank you.

16 MR. STEWART: Your Honor, if he's going to offer
17 something into evidence, I'd like to look at it.

18 THE COURT: And you're entitled to.

19 MR. ALVAREZ: I'd like to ask Your Honor to present
20 some evidence.

21 THE COURT: He needs to let Mr. Stewart look at it
22 first.

23 MR. ALVAREZ: Well, I don't mean that I'm talking about
24 evidence, but I'm showing my credentials.

25 THE COURT: Credentials for what?

1 MR. ALVAREZ: To prove that although I am Latino, I am
2 not ignorant.

3 THE COURT: He can certainly testify to whatever he
4 wants to. Just because he's a Latino, I make zero inference from
5 that in any regard.

6 MR. ALVAREZ: I have the credentials here that I would
7 like to present. And also there was one that I was arrested for
8 attempted murder. Would Mr. Stewart like to see the credentials?

9 MR. STEWART: Yes.

10 MR. ALVAREZ: It's in Spanish, so if you'd like the
11 interpreter can read it for you.

12 (WHEREUPON, the interpreter read the document to Mr.
13 Stewart.)

14 MR. STEWART: Does it say what he was convicted of?

15 MR. ALVAREZ: For attempted murder, homicide.

16 MR. STEWART: So he was convicted of that?

17 MR. ALVAREZ: Three years.

18 MR. STEWART: No objection.

19 THE COURT: If you'll hand it to my court reporter and
20 she'll mark it as an exhibit; Defendant Alvarez 1.

21 MR. ALVAREZ: Okay. I also have licenses for
22 electrical, plumbing ---

23 THE COURT: If he wishes to testify about the note and
24 the mortgage, its enforceability, that's fine. But I'm going to
25 limit -- I really am trying to be patient. But these are legal

1 issues that are being litigated in this trial and we need to stay
2 focused on what's relevant and what the lawsuit is involving.

3 MR. ALVAREZ: Okay.

4 MR. STEWART: Your Honor, if it'll help things move
5 along, we'll stipulate that Mr. Alvarez is very intelligent.

6 MR. ALVAREZ: Well, I just wanted to explain because I
7 had been in jail.

8 THE COURT: Well, until he told me that, I didn't know
9 that. Still don't know why it matters. But let's move on to
10 relevant issues.

11 MR. ALVAREZ: I was in jail because I attempted to
12 assassinate President Fidel Castro. And I worked for ten years
13 for the CIA.

14 THE COURT: All right.

15 MR. ALVAREZ: I just don't want Mr. Stewart to think
16 that I'm just an ignorant Latino.

17 May I continue?

18 THE COURT: If it's relevant to this lawsuit, yes.

19 MR. ALVAREZ: I have here before me evidence that I
20 purchased this house on September 12, 2012. All right. I have
21 here proof from Ms. Elliott or Ms. Pearson (verbatim) ---

22 MS. ORTIZ ALFONSO: The interpreter was unable to ...

23 MR. ALVAREZ: Jean Elliott Piedmont (verbatim), I had
24 fixed up the house and then it wasn't until a year later that she
25 was doing the buy and sale, but I had already fixed the house and

1 the value of the house had gone up fifty thousand dollars. I
2 have the proof of payment and I would like to present it to Your
3 Honor and to Mr. Stewart.

4 THE COURT: I want to make sure he understands what the
5 issues are. So please make sure. Ms. Elliott says that she and
6 her husband sold the house to Mr. Alvarez. And then in exchange,
7 Mr. Alvarez signed a promissory note and a mortgage, promising to
8 make certain payments to them to pay for the house. And she is
9 alleging, Ms. Elliott is alleging that the payments stopped in
10 August of 2014 and there have been no payments since then. And
11 she's also saying that Mr. Alvarez, in December of 2013, sold the
12 house to Mr. Ledesma-Martinez and Ms. Gutierrez-Garcia in
13 violation of the agreement that Mr. Alvarez had with the
14 Elliotts.

15 So the issues at this point are, have the payments been made
16 and did he transfer the property to these nice folks in violation
17 of the mortgage?

18 MR. ALVAREZ: So do I have the opportunity to speak?

19 THE COURT: If it's relating to the promissory note,
20 the mortgage or the quit claim deed. Anything else are just not
21 issues that have been brought to Court.

22 MR. ALVAREZ: All right. As far as the note, the
23 promissory note, it would be -- I would say that it was invalid
24 because there's no address, there aren't any witnesses. I'm the
25 only one that had signed. Ms. Elliott didn't sign it. So I

1 don't see that it's valid.

2 THE COURT: Anything else he'd like to state about the
3 note or the mortgage or the quit claim deed?

4 MR. ALVAREZ: Not about the promissory note.

5 THE COURT: The fact that it was not witnessed or
6 notarized, that is not necessary in the State of South Carolina.

7 MR. ALVAREZ: Well, I have spoken with a community
8 organization that assists Latinos, and they advise me that, yes,
9 it does have to be signed and that, according to Federal law,
10 that is required. And Your Honorable Sir should know that.

11 THE COURT: Tell him I appreciate his education on the
12 law and that he can appeal my decision later to our appellate
13 courts, but the law is what the law is. And if he has some legal
14 authority other than what someone told him, I am certainly
15 inviting him to present some authority from the State of South
16 Carolina that supports his position.

17 MR. ALVAREZ: Well, I did bring the documents. I do
18 have them there. But I thought that since time was short that it
19 wouldn't be necessary.

20 THE COURT: Anything else he would like to testify
21 about?

22 MR. ALVAREZ: As far as the purchase of 14 Henderson
23 Street, I was already in violation before I signed because of the
24 fraudulent mortgage. I do have proof. I did hire my lawyer and
25 I did pay him money. But I have proof that he had conspired

1 against my business. Also, you know, when I went ahead to sign
2 it, Estela Garcia was already living in the house and Ms.
3 Piedmont, she knew about it and she didn't have any complaints.
4 She didn't say anything until I fixed the house. And Ms. Garcia
5 and her husband are witnesses of that. I also have documents
6 that prove that before I purchased the house that they had moved
7 into it. And if you'll allow me I can go and get the document.

8 THE COURT: Yes, ma'am.

9 MS. ORTIZ ALFONSO: Your Honor, if it's permissible
10 with you, the interpreters will switch.

11 THE COURT: Yes, ma'am.

12 (WHEREUPON, Ms. Tuggy Stephens is now the interpreter.)

13 THE COURT: Mr. Stewart, have you been presented with
14 the documents that Mr. Alvarez is getting ready to go into?

15 MR. STEWART: Yes, sir.

16 THE COURT: Are they in English or Spanish?

17 MR. STEWART: They're in English. I'd say they are
18 irrelevant. I object to them. But they are in English.

19 THE COURT: All right.

20 MR. ALVAREZ: May I continue, Your Honor?

21 THE COURT: Certainly.

22 MR. ALVAREZ: Here I have some evidence that Senora
23 Estela, to whom I sold the house, that she cancelled the contract
24 in order to live there. And put the water in her name. And I
25 also have here the proof of the insurance, that the house and the

1 car -- that she moved here a good bit earlier. And I understand
2 that before I did the closing that Ms. Jean Elliott Piedmont,
3 before I had even done the closing, that I was guilty without
4 even having signed anything. And I put everything into my
5 lawyer's hands. And the houses -- I've bought and sold four
6 houses from Ms. Piedmont and I've bought four houses from her and
7 then I've sold them. She knows that I dedicate myself to buying
8 homes and selling them. It makes sense that I wouldn't buy three
9 houses and sign the mortgage to buy three houses just to look at
10 them and not use them for ten years.

11 THE COURT: Let me try -- I really am trying to get to
12 something that's relevant. He admits he signed the promissory
13 note; correct?

14 MR. ALVAREZ: No, that's not correct. That is a fraud.
15 That is not a promissory note.

16 THE COURT: Ask him if that is his signature?

17 MR. ALVAREZ: Yes. But it doesn't have an address on
18 there about what house it refers to.

19 THE COURT: I understand he disagrees with that it's a
20 legal enforceable document. But is that his signature?

21 MR. ALVAREZ: Yes. But Your Honor, I do not accept
22 this as evidence, not for him, not for everyone.

23 THE COURT: Thank you. But tell him that is my job in
24 this courtroom.

25 MR. ALVAREZ: I understand that.

1 THE COURT: Mr. Alvarez, listen.

2 MR. ALVAREZ: I'm not meaning any disrespect.

3 THE COURT: And I understand that. Plaintiff's number
4 2 is the promissory note. And Mr. Alvarez has now identified his
5 signature. He disagrees that it's an enforceable document. He
6 has now identified his signature.

7 I'm now showing him Plaintiff's 3, which is a seven-page
8 document entitled mortgage. Mr. Alvarez, is that your signature?
9 I'm not asking you if you agree it's enforceable. I'm asking you
10 if that's your signature.

11 MR. ALVAREZ: Yes. Certainly. That is my signature.

12 THE COURT: I'm now showing him Plaintiff's Exhibit
13 Number 4, which is a -- purports to be a recorded deed where Mr.
14 Alvarez transferred property on December 23rd, 2013, and I'm
15 asking not if he agrees that this is an enforceable document, but
16 is that his signature on the deed?

17 MR. ALVAREZ: That's correct. It is my signature, but
18 that is not saying that I am guilty.

19 THE COURT: He's not being charged with any crime, so
20 ... Does he contend that the money has been repaid in full to
21 Ms. Elliott?

22 MR. ALVAREZ: I didn't understand that.

23 THE COURT: Mr. and Mrs. Elliott deeded a piece of
24 property to them.

25 MR. ALVAREZ: Correct.

1 THE COURT: Mr. Alvarez signed what is called a
2 promissory note and a mortgage.

3 MR. ALVAREZ: I repeat that I do not accept that
4 promissory note.

5 THE COURT: Then is he contending that the Elliotts
6 gave him the house for free?

7 MR. ALVAREZ: No, that's not correct. That's why I
8 want to show the Judge that I did not buy the house on that date.
9 It was on ---

10 THE COURT: Has he paid the Elliotts for the house?

11 MR. ALVAREZ: Yes. Since the year '12, and you can see
12 that the closing was done on the house like two years later. I
13 started on September 12th of 2012 and I quit paying because of
14 the fraud the 25th of August of 2014. And the foreclosure, they
15 did it in '15. If you would permit me to provide you the
16 evidence that I have.

17 THE COURT: Yes, ma'am. Tell him he can present proof.
18 I need to show that he has paid to the Elliotts fifty-six
19 thousand dollars.

20 MR. ALVAREZ: Okay. May I continue? I had no
21 obligation to pay them the house in full. I had the option, I
22 have the right, to quit paying because the documents that were
23 done regarding the house were fraudulent. I don't accept them as
24 if they were the closing on a house.

25 THE COURT: So is he telling me that because his

1 contention is the documents are fraudulent he gets the house for
2 free?

3 MR. ALVAREZ: No, Your Honor. I told my attorney, I
4 told my attorney and Jean Elliott and Ms. Piedmont that they
5 should change the terms; that I would not pay them until they
6 made the amendment. That they make the document so that the
7 house that I would be buying it and selling it. It would not
8 make sense that I would buy the house, given that I buy houses
9 and sell them like four a year, it wouldn't make sense that I
10 would buy the house to live in it. That I've got a beautiful --
11 a very pretty house in a very good neighborhood. And this
12 mortgage says that I cannot buy or sell or do anything. Why
13 would I have four houses just sitting there to look at for ten
14 years without using them? Nobody does that. According to the
15 mortgage that my attorney did, it says that they just have to sit
16 there, that I can't do anything with them, just take pictures of
17 them. They're beautiful to look at. The only thing I could tell
18 anyone is that I had four houses. That's all I could say. I buy
19 them to sell them and Jean Elliott and Ms. Piedmont know that I
20 bought four houses from them and I sold them. And she knows that
21 that's what I do for a living.

22 THE COURT: Anything else he would like to add?

23 MR. ALVAREZ: Yes. I would like to, I would like to
24 ask a question of Andy White, my lawyer.

25 THE COURT: I've already explained to him if he wishes

1 to call him as a witness when he's finished testifying, he may
2 call him.

3 MR. ALVAREZ: Okay.

4 THE COURT: Mr. Stewart, any questions?

5 MR. STEWART: Please the Court, Your Honor.

6 CROSS EXAMINATION

7 BY MR. STEWART:

8 Q. Mr. Alvarez, you filed an Answer in this case; did you not?

9 A. What are you referring to? You should be giving me a copy
10 and you're not doing it.

11 (WHEREUPON, the document was handed to Mr. Alvarez.)

12 A. Yes, that's correct.

13 Q. Did you sign it?

14 A. Yes, I signed it.

15 Q. Did you read it before you signed it?

16 A. Yes, I did. Correct.

17 Q. So you can read English?

18 A. Not totally; a portion. There's somebody that helps me.

19 Q. Okay. So you've got somebody that -- if somebody gives you
20 something in English you've got somebody to help you understand
21 it; correct?

22 A. I have a thousand people that help me.

23 Q. Well, did all thousand of them help you on that or just one?

24 A. No. The truth is that I have my ideas and I don't really
25 need anyone to help me. The idea is to reason.

1 Q. So you understood that document before you signed it?

2 A. Everything that I sign, I understand.

3 Q. All right.

4 MR. STEWART: Your Honor, is there a copy of the Answer
5 in the record?

6 THE COURT: Was it filed June 11th, 2015?

7 MR. STEWART: I don't know, Your Honor. My copy is not
8 filed.

9 THE COURT: It's called Response to Civil Action.

10 MR. STEWART: Is this it?

11 THE COURT: No, sir. There is a document that was
12 filed by Mr. Alvarez on June 11th, 2015 titled Response to Civil
13 Action. It may be -- what you have may be in there, Mr. Stewart,
14 but I don't see it.

15 MR. STEWART: Well, Your Honor, we would move to admit
16 that into evidence as the next Plaintiff's exhibit.

17 MR. ALVAREZ: Tell them that I protest.

18 THE COURT: On what basis?

19 MR. ALVAREZ: I don't have time to read it.

20 THE COURT: He just said he identified it and he signed
21 it and that he always understands everything he signs.

22 MR. ALVAREZ: But I haven't read that document.

23 THE COURT: But he just said he signed it. Under oath
24 he said he ---

25 His objection is noted. Overruled.

1 MR. ALVAREZ: I can't answer what ...

2 Q. So you understood that document? And you, whether it was by
3 yourself or by somebody else, you were able to understand what
4 you signed?

5 A. I don't know what you're talking about.

6 Q. Okay. Let me show you this document. Did you sign that?

7 A. First, my interpreter needs to read that. That's why I have
8 an interpreter. One moment. I recognize that document. These
9 documents here, the bond for title, that was never done. I never
10 did a bond for title.

11 Q. Did he sign that document?

12 A. My lawyer, the day of the closing, he gave me these papers.
13 But I never did a bond for title.

14 Q. That's not my question. My question is, did he sign that
15 document?

16 A. Yes; correct. But never a bond for title.

17 Q. All right.

18 A. Those documents were stuck in there the day of the closing.
19 I had -- I trusted my lawyer and I signed everything he put in
20 front of me.

21 THE COURT: Ma'am, if you'll tell Mr. Alvarez, Mr.
22 Stewart just asked him if he signed it. That's all the question
23 related to.

24 MR. ALVAREZ: Forgive me, Your Honor.

25 Q. I want to show Mr. Alvarez number 3. On page two of

1 Plaintiff's Exhibit 2, it says seller acknowledges -- why don't
2 you read it to him in Spanish?

3 A. I want to say to him that this is true. It says here that
4 this is termination for bond for title.

5 THE COURT: Mr. Alvarez, listen to the question and
6 answer the question. Please stop with your editorials.

7 Q. Ma'am, what I asked you to do was read number 3 to Mr.
8 Alvarez in Spanish, please.

9 Did you finish?

10 MS. TUGGY STEPHENS: Pardon, Your Honor, he
11 interrupted.

12 A. I don't understand. That's the part that I don't
13 understand. I don't understand anything about that.

14 Q. You don't understand the Spanish or you don't understand
15 what it says?

16 A. I understand the Spanish, but even you, my interpreter,
17 can't understand what it's saying there. It's just a tongue
18 twister. It's going forward and going backward and it's all over
19 the place.

20 Q. So do you sign things you don't understand?

21 A. I signed. I trusted my lawyer.

22 Q. All right. Well, this says that Haynsworth Law Firm and
23 Andy White is your lawyer; right?

24 A. Correct.

25 Q. And it also says that Haynsworth Law Firm does not represent

1 Ms. Elliott; doesn't it?

2 A. There it says both things, that it does represent her also.

3 Q. Where does it say that?

4 A. On the other page.

5 Q. Show me.

6 A. On the other page I have over there, the P1.

7 Q. No. I'm asking about this. Where does it say in this
8 document that Mr. White represents Ms. Elliott?

9 A. That document is lacking a page. It's incomplete. That's
10 incomplete. I've got another page on the table. The one that
11 mentions that Andy White represents me and he represents ...

12 MR. STEWART: I have no further questions.

13 THE COURT: All right. If you will ask Mr. Ledesma-
14 Martinez and Ms. Gutierrez-Garcia if they have any questions of
15 Mr. Alvarez?

16 MS. GUTIERREZ-GARCIA: Well, I don't have questions for
17 him. I think I do for the lady. I might want to say something
18 about the lady.

19 THE COURT: If she wishes to testify she'll have that
20 opportunity in a few minutes.

21 MS. GUTIERREZ-GARCIA: That's fine.

22 MR. LEDESMA-MARTINEZ: No.

23 THE COURT: All right. Thank you.

24 MR. LEDESMA-MARTINEZ: Just the same that she said.

25 THE COURT: All right. Thank you, ma'am. Thank you,

1 sir. Tell him he can step down.

2 And if you'll ask him if he wishes to call any other
3 witnesses.

4 MR. ALVAREZ: I don't believe that will be necessary.
5 Only Andy White.

6 THE COURT: All right. Mr. White, if you'll come
7 around to the witness stand, please, sir. And if you'll place
8 your left hand on the bible and raise your right hand for me.

9 Do you swear to tell the truth, the whole truth and nothing
10 but the truth?

11 MR. WHITE: I do.

12 THE COURT: Thank you. Come around and have a seat,
13 please, sir.

14 And if you'll state your full name.

15 MR. WHITE: Andrew Jackson White, Jr.

16 THE COURT: Would you mind pulling that microphone a
17 little bit closer to you.

18 MR. WHITE: Closer? Okay.

19 THE COURT: Thank you.

20 All right. Mr. Alvarez, now is your opportunity to ask Mr.
21 White questions.

22 **ANDREW JACKSON WHITE, JR.,**

23 **HAVING FIRST BEEN DULY SWORN, TESTIFIED AS FOLLOWS:**

24 **DIRECT EXAMINATION**

25 **BY MR. ALVAREZ:**

1 (WHEREUPON, the interpreter is now Ms. Ortiz Alfonso.)

2 MR. ALVAREZ? I would like to ask Mr. White if I could
3 speak with him directly in Spanish as we did in the closing.

4 THE COURT: The difficulty is my court reporter has to
5 transcribe everything that's testified to here today and it has
6 to be in English to be on the record. He can certainly discuss
7 it with him. And I'm fine if you interpret it for him. But it
8 has to be a verbatim interpretation.

9 MR. ALVAREZ: I would prefer it in Spanish if -- Your
10 Honor, if the interpreter may instruct the Defendant to speak
11 slower so that the interpretation can be made accurately by the
12 court reporter.

13 THE COURT: Mr. Stewart, are you agreeable if both
14 interpreters act on behalf of Mr. Alvarez and Mr. White?

15 MR. STEWART: Your Honor, I have no objection.

16 THE COURT: All right. So Ms. Stephens, then you will
17 be acting as the interpreter for Mr. White; is that correct?

18 MS. TUGGY STEPHENS: If so then I'll need the
19 equipment. I think she can do it, just the one.

20 THE COURT: All right. Let's see how we go.

21 Q. What I want to ask Mr. White is that before this deal, he
22 had represented me in a number of other deals, and I wanted to
23 ask him if he represented Ms. Elliott?

24 A. So should I speak in Spanish or in English?

25 Q. I would prefer in Spanish.

1 THE COURT: I'm fine if Mr. White speaks in Spanish and
2 then interprets his own into English, along with Ms. Alfonso
3 making sure that that is in fact what is said.

4 MR. ALVAREZ: Thank you. Thank you very much.

5 A. I -- just to state that I have never represented Ms. Elliott
6 as her attorney.

7 THE COURT: And that's Mr. White's testimony; correct?

8 MS. ORTIZ ALFONSO: That is the testimony of Mr. White.

9 MR. ALVAREZ: I would like to have this read in English
10 so that it will show the evidence. I would like to ---

11 THE COURT: If you could show it to Mr. Stewart first
12 and then to Mr. White.

13 MR. ALVAREZ: Can you read it in English?

14 MS. ORTIZ ALFONSO: The interpreter is able to read it.
15 And then the interpreter will ...

16 MR. STEWART: Your Honor, this document is into
17 evidence except for the handwriting on here, which I would object
18 to. We put it into evidence. It's a termination of bond for
19 title.

20 THE COURT: All right. That was Plaintiff's Number 2
21 that was marked at today's hearing. I'm going to show this to
22 Mr. White.

23 MR. STEWART: I don't see any need in reading it, but
24 ...

25 THE COURT: If Mr. Alvarez is wishing to focus on a

1 particular part in it, he may do that, as opposed to the entire
2 document.

3 MR. ALVAREZ: Well, Your Honor, it's necessary to read
4 the whole document because there is proof.

5 THE COURT: Then tell him what specifically he was
6 relying on as proof of whatever it is he's trying to establish.

7 MR. ALVAREZ: Well, in this document it says that Andy
8 White represents her and he represents me.

9 THE COURT: Then tell him specifically to identify for
10 the record where that statement is made.

11 MR. ALVAREZ: Okay. The other thing I wanted to say
12 ---

13 THE COURT: No, ma'am. No, ma'am. He needs to answer
14 my question.

15 MR. ALVAREZ: Okay. In the termination of bond for
16 title on the second page in paragraph three. If the interpreter
17 could read it in English and then make the interpretation for us
18 in Spanish.

19 THE COURT: Well, I'm pretty good at reading English.

20 MR. ALVAREZ: But I want to understand it while in
21 Spanish.

22 THE COURT: I'm going to publish it. Plaintiff's
23 Number 2, subparagraph three on the second page. I want to make
24 sure I'm reading what he's asking to be read.

25 MS. ORTIZ ALFONSO: Your Honor, may the interpreter

1 just have a minute to review the paragraph before interpreting it
2 for Defendants.

3 THE COURT: I'm going to read it.

4 MS. ORTIZ ALFONSO: Okay. That's fine.

5 MR. ALVAREZ: Thank you.

6 THE COURT: Are you following along with it, Ms.
7 Alfonso?

8 MS. ORTIZ ALFONSO: Yes.

9 THE COURT: Okay. It's paragraph numbered three;
10 correct?

11 MR. ALVAREZ: Yes.

12 THE COURT: And it starts, seller acknowledges.

13 MR. ALVAREZ: Yes.

14 THE COURT: Okay. It says, seller acknowledges ---

15 MR. ALVAREZ: I do not understand what acknowledge
16 means, the interpreter is attempting to simultaneously ---

17 THE COURT: I can't interpret it. He asked me to read
18 it. All I can do is read it.

19 MR. ALVAREZ: Correct. Thank you. I apologize.

20 THE COURT: Seller acknowledges that Haynsworth Sinkler
21 Boyd PA, HSB, is the attorney for buyer. And that HSB does not
22 represent seller in the transactions described above.

23 And I will note that in the document seller is Jean and
24 Ervin Elliott. Purchaser is Alberto Alvarez.

25 Then paragraph three goes on to say, further, seller --

1 which again in the document are identified as the Elliotts --
2 acknowledges that they have requested that HSB draft the note and
3 mortgage described above and that they have had the opportunity
4 to seek their own legal counsel if they so desired with respect
5 to the note, mortgage and all other matters arising from or in
6 connection with the transaction described herein.

7 That is paragraph three on Plaintiff's Number 2 dated
8 today's date.

9 So, now, what are his questions of Mr. White?

10 MR. ALVAREZ: Well, this document to me is like a ---

11 THE COURT: He may ask questions of Mr. White. He's
12 already testified.

13 Q. Mr. Andy White, this says it's a termination of bond for
14 title. Can you provide me with the bond for title? Because this
15 is a termination of bond. So can you provide me with the bond
16 for title?

17 A. Yes.

18 Q. Can you provide me a copy?

19 A. I can.

20 MR. ALVAREZ: May I approach?

21 THE COURT: Yes, ma'am.

22 MR. ALVAREZ: Thank you, Andy.

23 I just want to say to Andy White that I didn't buy the
24 property that I ---

25 THE COURT: He may ask questions. He may not make

1 statements.

2 Q. Mr. Andy White, I see that there is this bond for title, but
3 I did not -- I see that I signed it, but this isn't something
4 that I was going to sign. You just mixed this in with the other
5 papers. And I want to say something else.

6 THE COURT: Ma'am, and again, he's trying my patience.
7 He may ask questions. Right now he continues ---

8 MR. ALVAREZ: I'm sorry. I'm sorry.

9 THE COURT: He continues to make statements. He
10 testified. The time for statements is over.

11 MR. ALVAREZ: I'm sorry.

12 THE COURT: I appreciate it. But his tenth or twelfth
13 apology is running short on my patience. He may ask questions of
14 Mr. White.

15 MS. ORTIZ ALFONSO: Your Honor, because the
16 interpreters are bound by Rule 511 of the South Carolina
17 Appellate Court Rules, we cannot make any additions or
18 subtractions or paraphrase. So the interpreters would like to
19 state that, although we understand what Your Honor is trying to
20 direct, that we aren't attorneys and we can only direct what the
21 Defendant is saying, and therefore we can only begin to interpret
22 and ---

23 THE COURT: Ms. Alfonso, you and Ms. Stephens are doing
24 a fine job in a difficult situation. And I sincerely appreciate
25 both of you being here. But if you will tell him, yet again, he

1 asked to call Mr. White as a witness. That means he may ask him
2 questions.

3 MR. ALVAREZ: Yes, correct.

4 Q. Mr. Andy White, why is it that I retained you and pay you so
5 that you would take care of my interests, and instead of
6 protecting my interest you gave away all my rights to be able to
7 sell the house or to be able to do what I normally do with the
8 property and gave up my right to a jury trial because it was
9 taken away from me.

10 MR. WHITE: Before I answer, I would like to
11 understand, am I completely clear, Mr. Alvarez, that you are
12 waiving attorney/client privilege so that I may speak about our
13 discussions?

14 MR. ALVAREZ: I don't understand what you're saying.
15 Maybe it would be better in English.

16 THE COURT: If you will explain to Mr. Alvarez, in the
17 U.S., when a client hires a lawyer that establishes a
18 confidential relationship known as the attorney/client privilege.
19 And Mr. White is duty-bound to not disclose any discussions or
20 anything he learned as a result of being Mr. Alvarez's attorney.
21 Mr. White is now appropriately asking the question is Mr. Alvarez
22 waiving and giving up that attorney/client privilege by asking
23 him to answer these questions?

24 MR. ALVAREZ: Correct. Yes.

25 THE COURT: And does he understand that if he waives

1 that privilege then it is gone forever?

2 MR. ALVAREZ: I'm not sure I understand. What
3 disappears forever?

4 THE COURT: Once he gives up that privilege, it is
5 forever given up.

6 MR. ALVAREZ: I'm not understanding what is the thing
7 that I'm waiving?

8 THE COURT: Mr. White cannot testify to any
9 confidential discussions he had with Mr. Alvarez unless Mr.
10 Alvarez is asking him to waive those rights.

11 MR. ALVAREZ: Yes. I waive it.

12 THE COURT: He is freely, knowingly and voluntarily
13 waiving the attorney/client privilege between he and Mr. White;
14 is that correct?

15 MR. ALVAREZ: Yes. I do.

16 THE COURT: Does he have any questions whatsoever about
17 the nature of that right or the waiver of that right?

18 MR. ALVAREZ: It's finished. I waived it and I don't
19 plan to use this lawyer anymore.

20 THE COURT: All right. Then I do find for the record
21 that Mr. Alvarez is affirmatively requesting, in a knowing,
22 voluntary fashion, that Mr. White waive the attorney/client
23 privilege and that Mr. White is, in fact, authorized to do so.

24 Now, Mr. White, you're free to answer the question.

25 MR. WHITE: I hate to do this, but can you repeat the

1 question, after all this?

2 Q. My question for Andy White is, I hired you and paid you so
3 that you would represent, take care, protect my interests and
4 instead you took them all away. I couldn't buy -- you know I buy
5 and sell. A review wasn't done of the mortgage and I wasn't
6 going to be able to sell. We only took about twenty minutes with
7 the documents and we needed a licensed interpreter that should
8 have taken an hour and a half in order to review all of these
9 things. And there was that thing in the mortgage. And I have
10 evidence of all the payments.

11 THE COURT: Is there a question in there?

12 Q. I wanted you to give me a receipt for the review of the
13 mortgage; that I paid you. Did you do a review of the mortgage?

14 A. Yes.

15 Q. Can you provide me proof? Do you have a bill? I know there
16 was a bill for everything.

17 THE COURT: He's testified yes. Whether or not there's
18 a bill is simply not relevant.

19 MR. ALVAREZ: He didn't do it. He never did it.

20 A. I have the closing statement that was signed at the closing
21 in which you were charged five hundred dollars for all legal
22 services, including, of course, preparation -- well, the review
23 of the mortgage.

24 Q. It wasn't done; the review wasn't done. I mean, it was only
25 twenty minutes. You would need a licensed interpreter to get it

1 done in an hour and a half. The review was not done on the
2 mortgage.

3 THE COURT: Tell him if he has another question I will
4 allow it. Otherwise, I'm going to end his statements.

5 MR. ALVAREZ: I do have another question.

6 THE COURT: All right. Tell him if he makes one more
7 statement that's not a question, I'm going to end his cross --
8 I'm going to end his examination of Mr. White..

9 MR. ALVAREZ: Okay. I apologize.

10 Q. Mr. Andy White -- Mr. Andy, I would like to know why is it
11 that you would not represent me in a modification? I had called
12 so that the mortgage could be modified and you said that you
13 couldn't represent me. Why is that? And I asked you to come to
14 Court to fix that.

15 A. Because, Mr. Alvarez, you hadn't paid your bills on other
16 legal matters in which I represented you. And I was not going to
17 perform further legal services without payment.

18 Q. No further questions.

19 THE COURT: All right. Mr. Stewart, any questions?

20 MR. STEWART: Please the Court, Your Honor.

21 **CROSS EXAMINATION**

22 **BY MR. STEWART:**

23 Q. Mr. White, am I correct that this transaction with Ms.
24 Elliott was not the first time you had represented Mr. Alvarez?

25 A. That is correct.

1 Q. All right. Had you represented him on other real estate
2 transactions?

3 A. Yes. Several other real estate transactions in which Mr.
4 Alvarez had come in with, say, a bond for title or something
5 else, and he wanted us to help him straighten out problems that
6 had developed in those transactions later.

7 (WHEREUPON, Ms. Tuggy Stephens is now the interpreter.)

8 Q. And when you and Mr. Alvarez consulted, did you speak
9 Spanish with him? Or how did y'all converse?

10 A. Generally we spoke in English with a mixture of Spanish
11 where necessary.

12 Q. And from what we've heard today, you seem to be fluent in
13 Spanish; is that correct?

14 A. I have a practical knowledge of Spanish. I wouldn't say
15 fluent, being an interpreter such as these ladies, but I do have
16 Spanish clients and do conduct negotiations and transactions
17 using Spanish; yes.

18 Q. At the time that you and Mr. Alvarez consulted with regard
19 to the transactions with Ms. Elliott, did he ever indicate to you
20 that he did not understand what he was doing?

21 A. No. We were at a table; Mr. Alvarez, myself, Mrs. Elliott,
22 Ms. Pittman, and we were all talking in English. And he didn't
23 have any problem understanding what we were talking about.

24 MR. STEWART: And do you have the other exhibits; the
25 mortgage, notes and so on?

1 COURT REPORTER: I do not.

2 MR. STEWART: Your Honor, do you have those exhibits?

3 THE COURT: Yes, sir.

4 Q. Mr. White, I've got a copy of Plaintiff's Exhibit 1 here.

5 And I'll ask you, did you witness this document?

6 A. Yes. That's my signature.

7 Q. All right, sir. And the date on it is October 21st, 2013?

8 A. That's correct.

9 Q. And likewise, Plaintiff's Exhibit Number 3 is entitled

10 mortgage of real property. And the mortgage shows that it was

11 entered into October 21st, 2013; is that correct?

12 A. That's correct.

13 Q. And on the signature page where Mr. Alvarez's signature

14 appeared, did you witness his signature then, as well?

15 A. I did, and that's my signature.

16 Q. And Plaintiff's Exhibit 2 is a promissory note. Did you or

17 your office prepare this note?

18 A. Yes.

19 Q. Did Mr. Alvarez have any questions of you about this

20 promissory note?

21 A. He had questions about the transaction that we discussed

22 which led to the note. So we had discussed the note and he

23 signed it.

24 Q. And do you recall what his questions were?

25 A. Yes. It goes back to the bond for title which he showed me

1 a minute ago -- which I showed him, excuse me, a minute ago.

2 Q. And what did he want to know?

3 A. He originally came in with the bond for title and we
4 discussed the bond for title and the fact that we attorneys don't
5 like bond for titles because of problems that can come up. And
6 we explained that the better way to do it, if he wants to buy
7 property with owner financing, is to do a promissory note and
8 mortgage which allows him to take title to the property, subject
9 to the mortgage.

10 MS. TUGGY STEPHENS: Pardon. Please repeat that last
11 phrase.

12 MR. WHITE: I'm not sure what's the last phrase.

13 Court reporter, ...

14 MS. TUGGY STEPHENS: Allows him to take title and ...

15 MR. WHITE: Subject to the mortgage.

16 A. Continue. And we discussed that. And after explaining to
17 him the problems that can come up with a bond for title, he
18 agreed that he would, instead, do a mortgage and promissory note.

19 MS. TUGGY STEPHENS: Pardon. I ---

20 MR. WHITE: Mortgage and promissory note.

21 A. He gave me information how to contact Ms. Elliott and Ms.
22 Pittman to see if they would agree to that; if they would agree
23 to cancel the bond for title and to instead do a note and
24 mortgage. I did contact Ms. Pittman and Ms. Elliott, and they
25 did agree to cancel the bond for title and to change everything

1 to a note and mortgage. At the closing in which Ms. Elliott, Ms.
2 Pittman and Mr. Alvarez were present, I discussed with all of
3 them the promissory note and the mortgage. And I remember, I
4 explained to Mr. Alvarez what we call, lawyers, a due on sales
5 clause. He can sell the house, but he has to pay the mortgage if
6 he does it. He agreed. And we had the closing. And the next
7 thing I heard was Mr. Alvarez contacted me about some problem
8 about the property. And I explained to him that because of
9 unpaid bills I was not going to perform other legal services
10 until those bills got paid. Later, I spoke with Ms. Pittman -- I
11 don't know if I called her or she called me -- and heard that Mr.
12 Alvarez had sold the house. And that's all I know. And if I
13 called Ms. Alvarez, it's because Mr. Alvarez -- excuse me -- if I
14 called Ms. Pittman it was because Mr. Alvarez had asked me to.
15 And I may have done that without being paid, but that was okay.

16 Q. So is there any question but that Mr. Alvarez understood at
17 the time he signed these documents on October 21st, 2013 that if
18 he sold this property at 14 Henderson Street, he would have to
19 pay off the mortgage when he did so?

20 A. On that day we discussed it. On that day he understood it.

21 MR. STEWART: I have no further questions.

22 THE COURT: If you will ask Mr. Ledesma-Martinez if he
23 has any questions of Mr. White?

24 **CROSS EXAMINATION**

25 **BY MR. LEDESMA-MARTINEZ:**

1 Q. Well, yes. When we went to live there ---

2 THE COURT: If he's going to ask a question he needs to
3 be standing up.

4 Q. --- the lady knew that we were living there. I would like
5 to know why it is that the lady -- well, she knew that we were
6 living there and she didn't say anything; she knew that we were
7 there.

8 A. We all knew and discussed at the table the fact that Mr.
9 Alvarez had somebody living in the house leasing it and paying
10 him monthly payments. Everybody knew that; yes. And we knew
11 that this situation had existed since the bond for title had been
12 signed a few months previously.

13 Q. We didn't know when we got the house that it was in
14 proceedings, that it was mortgaged. And she came to the house
15 and said that if Mr. Alvarez was not accepting the payments that
16 she could accept them. But then we never saw the woman again.

17 THE COURT: All right. Does he have any other
18 questions of Mr. White?

19 MR. LEDESMA-MARTINEZ: Just that.

20 THE COURT: All right. And ask Ms. Gutierrez-Garcia if
21 she has any questions?

22 MS. GUTIERREZ-GARCIA: The same thing that he said.
23 Just that I wanted to ask the lady why it was that -- well ...
24 She said that she was receiving our payments but that if she were
25 not to receive our payments that she should come and tell me and

1 she never let me know about it. I didn't know about this
2 problem.

3 THE COURT: All right. Does she have any questions of
4 Mr. White?

5 MS. GUTIERREZ-GARCIA: No.

6 THE COURT: All right. Ask Mr. Alvarez if he has any
7 other questions of Mr. White?

8 MR. ALVAREZ: Yes, I have another question, if you
9 would permit me for Andy White or for the lawyer here.

10 THE COURT: I'm sorry?

11 MR. ALVAREZ: I have a question that could be made of
12 either one of the two people; of Andy White or of the lawyer
13 here.

14 THE COURT: Well, he can't ask Mr. Stewart questions.

15 MR. ALVAREZ: Well, then, Mr. Andy.

16 THE COURT: All right. And he needs to be standing up
17 while asking questions.

18 Q. Okay. I've got here that -- it doesn't make any sense that
19 the same day that I would buy bond for title and then the same
20 day the termination of bond for title.

21 MS. TUGGY STEPHENS: Permission to ask him to say that
22 in Spanish.

23 THE COURT: Yes, ma'am.

24 Q. I want to know why it is that on the same day, on July 13th,
25 Andy White did the bond for title and on the same day, the 13th,

1 he did the termination of the bond for title? He always charged
2 me for everything. I want to know where is the receipt?

3 A. Well, first of all, I did not do the bond for title, Mr.
4 Alvarez; you did it. We don't use bonds for title if we can
5 avoid it. You brought me the bond for title that you and the
6 Elliotts had previously signed.

7 Q. Right here it's saying that he did the document.

8 A. I'll have to see the document he's referring to.

9 MR. WHITE: May I refer to this by the exhibit number?
10 What is it?

11 COURT REPORTER: 5.

12 A. Defendant's Exhibit 5; okay. Mr. Alvarez, if you will show
13 me in Defendant's Exhibit 5 where you're referring.

14 Q. I don't understand anything. But see, -- no, the thing is
15 he just can't hear it.

16 A. Again, Mr. Alvarez, if there's something in this document
17 you want to show me or have me talk about, I can do that, but you
18 need to show me where in the document you're referring.

19 Q. It's talking there in the -- here, let me show you here.
20 It's very clear that it says in there that Haynsworth, the
21 company, did that document. And it says that he's not
22 representing Jean Elliott; that he represents me.

23 A. Yes. Paragraph three.

24 Q. So it's correct that he did that document and I'm asking him
25 -- he charges me for everything. Where's the receipts where he

1 charged me for that?

2 A. That is a question, and let me answer it. Mr. Alvarez, at
3 the closing, like all real estate closings, there's a buyer
4 statement and a seller statement. In this case there's a buyer's
5 settlement statement which you signed dated October 21, 2013,
6 that shows that we charged you five hundred dollars for this
7 transaction and it was paid from the funds at closing. And in
8 your answer you said that I was paid by the Elliotts. And I want
9 to say for the record, I have never received any money or funds
10 or any other benefits from the Elliotts at any time.

11 Q. Okay. I want to ask you a question. So why was the bond
12 for title in July and the register that the -- you're a lawyer
13 and you did the bond for title. You have to go to the courthouse
14 and get the seal on it. Why did you not do that?

15 A. There's no seal on a promissory note. I don't understand.

16 Q. The promissory note does not need to be recorded; only the
17 mortgage and the deed. It's not necessary.

18 A. All right. Well, I think I understand the question, so let
19 me try to answer it. Okay. I understand that there's a
20 difference in the dates from the date on the mortgage and the
21 date on the promissory note. And all of this is explained in
22 paragraph two of the termination of bond for title which we
23 discussed and which he signed. You already had, when you came in
24 to see me, the bond for title dated July 1, 2013. And we were
25 speaking in September or October, several months later. And

1 since July until the time we spoke, you had been making, you told
2 me, monthly payments to Ms. Elliott under the bond for title.

3 Q. But you didn't answer my question. Why did you not take the
4 bond for title and get the seal on it at the courthouse?

5 A. Because he wanted -- pursuant to our discussions, he wanted
6 to do a note and mortgage instead because we explained why a bond
7 for title was a problem. And he had the bond for title, before I
8 saw it, for several months. And the -- what we decided to do, as
9 shown in paragraph two, is in October you would do the promissory
10 note. But because you had already made the previous payments
11 under the bond for title, we said in paragraph two that the note
12 would be dated the same date as the bond for title. And all the
13 payments that you had made during the bond for title time would
14 be considered to be, instead, payments under the promissory note.
15 So you received full credit. And I knew that this was a little
16 unusual situation. And therefore I prepared this document to
17 explain it; the termination of bond for title.

18 Q. I want to ask another question. Mr. Andy, do you remember
19 that you and I had a contract that you would charge me three
20 hundred dollars an hour?

21 A. I do not remember one way or the other, Mr. Alvarez, what
22 the ---

23 Q. I remember that -- and I have a document here that proves
24 that when it's necessary. And I want to ask, did he charge me
25 five hundred dollars to do the bond for title, the termination of

1 the bond for title, the closing, the mortgage and the review of
2 the mortgage? Is it normal that you would charge five hundred
3 dollars?

4 A. You have to take one question at a time here. Hold on.

5 Q. How much time does it take to do all of that?

6 A. Okay. First question, I did not do the bond for title, Mr.
7 Alvarez, as I previously said. You brought that to me. It was
8 already signed by you and the Elliotts.

9 Q. You didn't answer the question.

10 A. I haven't finished answering the question. The five hundred
11 dollar charge at the closing was for all of the work I did in
12 negotiations with the Elliotts, discussions with you that came
13 before the closing.

14 MS. TUGGY STEPHENS: The last thing?

15 A. Negotiations preceding the closing. And also the time of
16 the closing itself, which was a longer time than normal because
17 we all had to agree on what the documents were going to say.

18 Q. That's right. I want to ask a last question. Mr. Andy
19 White, why is it that, given that I paid you to protect my
20 rights, why is it that you took them all away?

21 A. Mr. Alvarez, you signed and understood the documents. I
22 have no answer for you. You have to ask yourself that question.

23 MR. ALVAREZ: At this moment I can't say anything
24 because the Judge would fuss at me. But thank you, Andy White.

25 THE COURT: All right. Thank you, Mr. White. You may

1 be excused.

2 MR. WHITE: Thank you, Your Honor.

3 (WHEREUPON, Ms. Ortiz Alfonso is now the interpreter.)

4 THE COURT: Mr. Alvarez, anything else, sir?

5 MR. ALVAREZ: Yes. I just wanted to say to Your Honor
6 that if they had actually read those documents to me I would
7 never have signed them.

8 THE COURT: All right. Thank you, ma'am.

9 All right. Now, Mr. Ledesma-Martinez, anything you'd like
10 to state or any evidence you'd like to present?

11 MR. LEDESMA-MARTINEZ: Yes. I would like to find out
12 what's going to happen with the property, because the lady ---

13 THE COURT: Tell -- I'm going to issue my ruling in
14 just a few minutes. Ask him if he has anything else at this
15 point?

16 MR. LEDESMA-MARTINEZ: I just want to know if we have
17 to vacate the premises or what's going to happen.

18 THE COURT: Okay. And I'll address all that in just a
19 few minutes.

20 If you'll ask Ms. Gutierrez-Garcia if she has anything or
21 any evidence she'd like to present?

22 MS. GUTIERREZ-GARCIA: Well, I would like to know
23 what's going to happen with the house. We've been living there
24 and making payments. And I did want to ask the ladies, you know,
25 what did they want? I mean, we have been making payments to Mr.

1 Alvarez, and I wanted to ask them about what they wanted.

2 THE COURT: If you will ask Ms. Gutierrez-Garcia, have
3 they been making payments to Mr. Alvarez and are they current in
4 their payments?

5 MS. GUTIERREZ-GARCIA: Yes; month-by-month.

6 THE COURT: And how much are they paying Mr. Alvarez
7 each month?

8 MS. GUTIERREZ-GARCIA: We normally -- the payments are
9 normally six hundred fifty-two dollars per month. But sometimes,
10 if we're able to pay more, we'll pay seven hundred or six hundred
11 sixty.

12 THE COURT: And ask them if they're aware that Ms.
13 Elliott -- it's been over a year since she's received any type of
14 payments from Mr. Alvarez?

15 MS. GUTIERREZ-GARCIA: Yes. I realized that at the
16 last court appearance.

17 THE COURT: Okay. Ask Mr. Alvarez where is the money?
18 If he hasn't been paying it to the Elliotts and if these nice
19 people have been paying him for some fourteen or fifteen months,
20 where is the money?

21 MR. ALVAREZ: Are you asking me or are you asking ...

22 THE COURT: No, I'm asking Mr. Alvarez.

23 MR. ALVAREZ: I did tell them that I had suspended
24 making the payments. They were aware of that, because I said
25 that the terms of the contract needed to be changed. I just

1 wanted to let you know that these people, that they do make their
2 payments on time. Sometimes they're early, but they always pay
3 on time. They've been very responsible. They have insurance.
4 They pay the taxes. They take care of the property taxes. They
5 take care of everything according to the agreement that we made.
6 They're very good people. They've complied with everything and
7 made the payments. And they should be able to keep the house. I
8 did tell them that if something should happen -- although I'm
9 sure we'll win the case -- that, you know, after a little bit of
10 time, because, you know, if not I could appeal and either go to
11 the grand jury. That I do have another house for them that's
12 larger and prettier. And they trust me and they plan to follow
13 me. And you may question them if it's ---

14 THE COURT: No. Now ask him if he will actually answer
15 the question I asked him.

16 MR. ALVAREZ: To me?

17 THE COURT: By my calculations, these nice people have
18 paid him over ten thousand dollars since he stopped paying Ms.
19 Elliott.

20 MR. ALVAREZ: Yes. They have paid, but I do have the
21 receipts that are more than ten thousand dollars that I've paid
22 to Annie Piedmont.

23 THE COURT: All right. The last receipt that's been
24 introduced into evidence from Mr. Alvarez was August 25th, 2014.
25 So ask him to show me the receipts where he's paid the ten

1 thousand dollars to Ms. Elliott.

2 MR. ALVAREZ: Well, I believe that from August of 2014
3 when I stopped paying up to today, I don't think that comes out
4 to ten thousand. Maybe five thousand dollars.

5 THE COURT: Tell him his math is not very good. Tell
6 him he can have a seat; I'm going to issue my ruling.

7 All right. To these nice people, to Mr. Ledesma-Martinez
8 and Ms. Gutierrez-Garcia, I'm sorry you got caught up in this
9 mess. You should not have gotten caught up in this mess.

10 The money that Mr. Alvarez was supposed to be paying to Ms.
11 Elliott, he gives no explanation about what has happened to your
12 money.

13 My ruling is -- Mr. Alvarez is obviously experienced in real
14 estate transactions. Mr. Alvarez retained an attorney to prepare
15 documents in his dealings with the Elliotts. The promissory note
16 and the mortgage are both clearly enforceable under the laws of
17 this state. Mr. Alvarez acknowledges that he signed both of
18 them. There is no proof of fraud. There is no limit on Mr.
19 Alvarez's ability to sell the house except for the fact that when
20 he sold the house he was supposed to pay off his debt to the
21 Elliotts. He did not do that. There have been no payments to
22 the Elliotts since August of 2014. That provides a basis to
23 award the relief sought by Plaintiff.

24 Further, the mortgage that Mr. Alvarez signed had what's
25 called a due on sale clause. That means if the property is sold

1 Mr. Alvarez was required to pay off the debt to the Elliotts.

2 I'm going to have Attorney Stewart prepare a proposed Court
3 Order finding that Ms. Elliott is entitled to have the house sold
4 at a foreclosure auction. That auction will occur on February
5 1st at eleven o'clock in the morning in this same courtroom.

6 Now, Mr. Stewart, is your client seeking or waiving
7 deficiency?

8 MR. STEWART: One moment, Your Honor. Your Honor, my
9 client is willing to waive the deficiency. She is concerned
10 about the condition of the house. So if there could be some
11 provisions in the Order that the house would not be ransacked or
12 ---

13 THE COURT: I have no problem issuing a restraining
14 Order.

15 MR. STEWART: Thank you. Under those conditions we
16 would waive the deficiency.

17 THE COURT: All right. So to Mr. Ledesma-Martinez and
18 Ms. Gutierrez-Garcia, there's going to be a Court Order that
19 simply says as long as you're in the house just take care of it.
20 Both of you seem like very nice people. And I would suggest
21 while everybody is here and that we have two wonderful
22 interpreters that perhaps y'all chat with Mr. Stewart outside
23 just to discuss what it looks like to move ahead. And Mr.
24 Stewart, in your proposed Order -- I know last time you had
25 submitted an attorney's fee affidavit and clearly there have been

1 additional hours and time, so if you'll submit all that. And
2 then if you and Mr. Alvarez will go through the exhibits with my
3 court reporter just to make sure that they're staying with her as
4 opposed to inadvertently going with someone.

5 MR. STEWART: Your Honor, I would assume I'm all right
6 in submitting the Order to Mr. Alvarez by mail before I send it
7 to you?

8 THE COURT: Yes, sir, absolutely. And if you'll also
9 send one to the other Defendants just by regular mail to the
10 property address.

11 MR. STEWART: Yes, sir.

12 THE COURT: All right. Thank you very much.

13
14 (Response to Civil Action No. 2015-CP-23-03181 - Complaint-
15 continued (3/4) entered as Plaintiff Exhibit Number 1.)

16 (Termination of Bond for Title entered as Plaintiff Exhibit
17 Number 2.)

18 (Certificacion De Antecedentes Penales - (Certificate of
19 Prison Record) entered as Defendant Exhibit Number 1.)

20 (Proof of residence of Estela G. Gutierrez entered as
21 Defendant Exhibit Number 2.)

22 (Receipts from Mr. Alvarez from September 12, 2012 through
23 August 25, 2014 (13 total) entered as Defendant Exhibit Number
24 3.)

25 (Termination of Bond for Title (with markings on it) entered

1 as Defendant Exhibit Number 4.)

2 (Termination of Bond for Title (with markings on it - same
3 as 4) entered as Plaintiff Exhibit Number 5.)

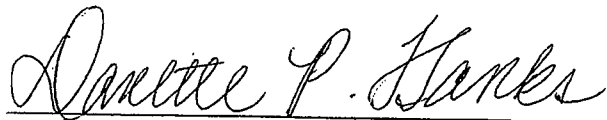
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5 -----END OF REQUESTED TRANSCRIPT OF RECORD-----

1 The undersigned, Danette P. Hanks, Court Reporter, Office of
2 Master in Equity for Greenville County, South Carolina do hereby
3 certify that the foregoing is a true, accurate and complete
4 Transcript of Record of all of the proceedings had and evidence
5 introduced in the hearing of the captioned case, relative to
6 appeal, before The Honorable Charles B. Simmons, Jr., as Master
7 in Equity for Greenville County, South Carolina on the 15th day
8 of December, 2015.

9 I do further certify that I am neither of kin, counsel, nor
10 interest to any parties hereto.

11 January 7, 2016

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13 

14 Danette P. Hanks, CCR

15 Certified Court Reporter
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