

14 Henderson St.  
TRF MAP - 0126000301300

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )  
Jean P. Elliott, aka Betty Jean Elliott, )  
individually and as Personal Representative )  
of the Estate of Ervin W. Elliott, )  
Plaintiff, )  
VS. )  
Alberto Alvarez, J. Guadalupe Ledesma- )  
Martinez and Estela Gutierrez-Garcia, )  
Defendants. )

IN THE COURT OF COMMON PLEAS  
CASE#: 2015-CP-23- 03/18/

SUMMONS  
(NON-JURY)  
Mortgage Foreclosure

FILED-CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENS  
2015 APR 19 PM 10:07

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you and to serve a copy of your Answer to this Complaint upon subscriber at 11 Whitsett Street, Greenville, South Carolina 29601, within thirty (30) days after the service hereof, exclusive of the date of such service. If you shall fail to answer the Complaint within that time, the Plaintiff shall proceed in default proceedings against you and shall apply for the Court the relief demanded in the Complaint.

TO: INFANT(S) OVER FOURTEEN YEARS OF AGE (AN IMPRISONED PERSON)

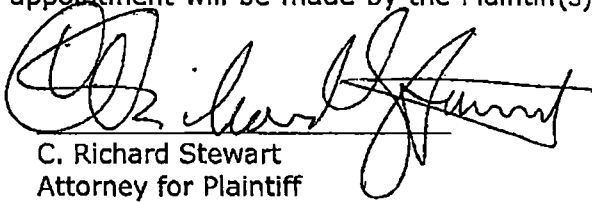
YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a Guardian ad Litem to represent you in this action within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff(s) herein.

TO: INFANTS(S) OVER FOURTEEN YEARS OF AGE (INCOMPETENT OR INSANE) AND TO , (GENERAL TESTAMENTARY GUARDIAN)(COMMITTEE) WITH WHOM S(HE) RESIDE(S):

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad Litem to represent said infant(s) under fourteen years of age (said incompetent or insane person) within thirty (30) days after the service of this Summons and Notice upon you.

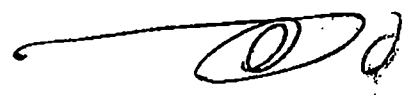
If you fail to do so, application for such appointment will be made by the Plaintiff(s) herein.

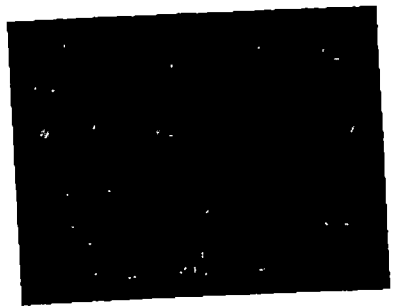
RECEIVED  
APR 21 2016  
SC Court of Appeals



C. Richard Stewart  
Attorney for Plaintiff  
11 Whitsett Street  
Greenville, SC 29601  
(864) 235-2019  
SC State Bar No.: 5346

Greenville, SC  
May 19, 2015





STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE

2015-CP-23-03181

FILED - CLERK OF COURT  
GREENVILLE CO. S.C.  
PAUL B. WICKENS JEMER  
2015 APR 19 10:10 AM

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

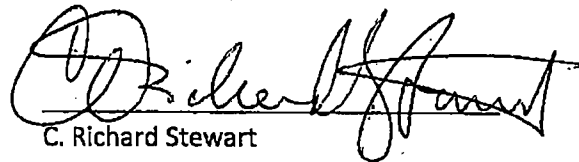
Vs.

Alberto Alvarez, J. Guadalupe Ledesma-  
Martinez and Estela Gutierrez-Garcia,  
Defendants

CERTIFICATION

1. My name is C. Richard Stewart, and I am the attorney for the Plaintiff. I have reviewed the documents my client sent me in anticipation of bringing this foreclosure action. Based on the foregoing, I can say that I have personal knowledge of the facts set forth in this certification and that I am authorized to execute this affidavit on the Plaintiff's behalf.
2. The Plaintiff does not offer any form of foreclosure intervention.
3. Alberto Alvarez, the party to whom my client sold the subject property and took back the mortgage which is the subject of this lawsuit, did not purchase the subject property for the purpose of occupying same. J. Guadalupe Ledesma- Martinez and Estela Gutierrez-Garcia, although they may occupy the subject premises, are not Mortgagors and are not eligible for foreclosure intervention.
4. This lawsuit therefore is not subject to the South Carolina Supreme Court Administrative Order #2011 - 5 - 02 - 01.

Sworn to before me this 19 day of May, 2015

  
C. Richard Stewart

  
Notary Public for South Carolina

My Commission Expires: 4/15/23

STATE OF SOUTH CAROLINA )  
COUNTY OF GREENVILLE )

IN THE COURT OF COMMON PLEAS

Jean P. Elliott, aka Betty Jean Elliott, individually and as Personal Representative of the Estate of Ervin W. Elliott, Plaintiff, )

2015-CP-23- 03181

vs. )

SUMMONS AND COMPLAINT  
Mortgage Foreclosure  
(Non Jury)

Alberto Alvarez, J. Guadalupe Ledesma-Martinez and Estela Gutierrez- Garcia, Defendants )

FILED - CLERK OF CO.  
GREENVILLE CO. S.C.  
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Plaintiff will prove the following:

- 1) Plaintiff is a resident of Greenville County. Plaintiff and her husband, Ervin W. Elliott (Ervin), hold a mortgage on the below – described property in Greenville County. Ervin is deceased, and Plaintiff is the Personal Representative of his estate and brings this action herself and as Personal Representative of Ervin’s estate.
- 2) Upon information and belief, Defendants Alberto Alvarez (Alvarez), J. Guadalupe Martinez (Martinez) and Estela Gutierrez- Garcia (Garcia) are all residents of Greenville County.
- 3) On October 21, 2013, Plaintiff and Ervin sold the below – described property to Alvarez; the deed transferring title to said property was filed on October 21, 2013 at Deed Book 2433, Page 2603, Greenville ROD. The property is described as follows:  
All that certain piece, parcel or lot of land with improvements thereon, situate, lying and being in the County of Greenville, State of South Carolina, the same being shown and designated as Lot 33 and part of Lot 32 on a plat of property of Ervin W. Elliott and Jean P. Elliott dated July 3, 2013, and recorded September 5, 2013, in the Office of the Register of Deeds for Greenville County in Plat Book PLL 1162 at page 33 – 33, reference to which is hereby made for a more complete and accurate description.
- 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.
- 5) To secure the payment of the purchase price of this property, Alvarez granted to Plaintiff and Ervin a promissory note and real estate mortgage. The mortgage was signed, witnessed,

probated and thereafter recorded at Mortgage Book 5235 at Page 4419, Greenville ROD, on October 21, 2013. A copy of the mortgage is attached as Exhibit A.

6) This mortgage is a purchase money first mortgage on the subject premises.

~~7) Although the mortgage specifically prohibits Alvarez from selling or otherwise conveying the~~

subject property, Alvarez subsequently deeded the property to Defendants Martinez and Garcia, by quitclaim deed filed at Deed Book 2436, Page 5064, recorded December 23, 2013, Greenville ROD. This sale was made without the knowledge or permission of Plaintiff or Ervin and constitutes a breach of the mortgage by Alvarez.

8) Upon information and belief, Martinez and/or Garcia presently occupy the subject property.

9) Alvarez has also failed, despite demands, to make payments when due under the promissory note, which also constitutes a breach of the mortgage.

10) Martinez and Garcia are made parties to this lawsuit because they improperly occupy the subject property and must be ordered to vacate this property as part of these foreclosure proceedings.

11) Alvarez having defaulted on the mortgage, Plaintiff elected to accelerate the amount due under the mortgage. The accelerated amount due is \$49,512.31 plus accrued interest and costs as provided in the note and mortgage.

12) In addition, Plaintiff has been forced to incur fees and costs for retaining an attorney to prosecute this foreclosure action and is entitled to recover said attorney's fees and costs by the terms of the note and mortgage.

13) Plaintiff reserves the right to demand a deficiency judgment of Alvarez.

WHEREFORE, Plaintiff requests the following relief:

That this Foreclosure lawsuit be referred to the Master – in – Equity for Greenville County, with any appeal from the Master's rulings be to the South Carolina Court of Appeals; and

**With regard to Alvarez**, that the amount due upon the note and mortgage be ascertained, together with attorney's fees and costs.

That Plaintiff's mortgage be declared a first mortgage lien and that Plaintiff have judgment of foreclosure for the amount owing thereunder, with a reasonable sum as attorney's fees and for the cost of this action;

That the mortgaged premises be sold, the equity of redemption be barred, and proceeds of sale be applied as follows:

First, to the costs and expenses of this action and sale;

Second, to the payment of the amount due to Plaintiff on the note and mortgage, together with the attorney's fees;

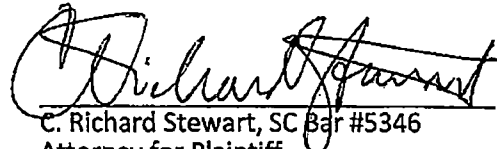
Third, that the surplus if any be distributed according to law.

**With regard to Martinez and Garcia**, that the quitclaim deed whereby they received title to the property from Alvarez be canceled and declared null and void and that they be found to have no interest in the subject property; and

That **Martinez and Garcia, and any other person occupying the subject property** be ordered to vacate the subject property and that if necessary, the Court issue a writ of assistance to remove them from the subject property.

Greenville, South Carolina

May 19 2015



C. Richard Stewart, SC Bar #5346  
Attorney for Plaintiff  
11 Whitsett St.  
Greenville South Carolina, 29601  
phone: 864 - 235 - 2019

