

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

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APPEAL FROM SPARTANBURG COUNTY  
Gordon G. Cooper, Master In Equity

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Appellate Case No. 2016-001014

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*000035*  
**RECEIVED**

MAY 02 2018

SC Court of Appeals

ATCF REO HOLDINGS LLC, Respondent,

v.

James K. Hazel, Jr., Prime Asset Fund III, LLC, John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title, or interest in or to, or lien upon, the real estate described as 517 Wildwood Drive, Spartanburg County, SC, their heirs and assigns, and all other persons, firms, or corporations entitled to claim under, by or through the above-named Defendant(s), and all other persons or entities unknown claiming any right, title, interest, estate in, or lien upon, the real estate described as 517 Wildwood Drive, Spartanburg County, SC, Defendants,

Of Whom James K. Hazel, Jr. is the Appellant.

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**PETITION FOR REHEARING**

**REHEARING EN BANC**

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James K. Hazel, Jr.  
201 Powell Mill Rd.  
Apartment M104  
Spartanburg SC 29301  
Appellant Pro-Se

## MEMORANDUM

**NOW COMES THE APPELLANT**, James K. Hazel Jr., pursuant to *S.C. Rules App. Proc.*, Rule 221; respectfully requesting that this honorable court grant to the Appellant's Petition for Rehearing and/or Rehearing En Banc in the above-captioned case for the cause shown in the memorandum below:

1.

There are Rules, Statutes and Laws. The SCRCPP, Rule 12(b)(6) "failure to state facts sufficient to constitute a cause of action," and SCRCPP, Rule 12(d) "The defenses specifically enumerated (1)-(8) in subdivision (b) of this rule, whether made in a pleading or by motion, motions for judgment on the pleadings under subdivision (c) of this rule, and motions for summary judgment under Rule 56, shall be heard and determined before trial on application of any party, unless the Court orders that the hearing and determination thereof be deferred until the trial." The rule cited above specifically requires a hearing before trial. The term "shall" means that a hearing is required before trial if the motion is made; however, it is well known by attorney's and the court that South Carolina does not abide by this rule. This is something that a pro-se litigant, such as myself, finds confusing. The fact that there are Rules, Statutes and Laws, and the Judiciary determines which ones it will follow and which ones the average citizen has to follow. In my case here, at the start, I indicated that the Statute was not followed and that improper notice was given. That is a legal matter. I filed a Rule 12(b)(6) motion prior to filing my response to the Respondent's Complaint. Of course, since the Appellant has little money,

education and is an average citizen the Court is dismissive and ignores the Rule, and in fact ignores the Statute 15-67-100. This court did not address this issue in the Brief. Not because the Rule, Statutes or Law is incorrect. This court ignored the issue because the litigant is pro-se; not a member of the ruling class (bar association) and just like the 12(b)(6) standard is totally unaware of the "unwritten" rules of the Judicial System in South Carolina. Yes, as the court here reasoned, the relevant question is whether the action is legal or equitable. I contested the legitimacy of the sale from the first filing. This is a legal question; however, this court holds that it is an action to remove a cloud on a quiet title. The sale was in violation of the Statute. The illegal sale occurred prior to Respondent's Complaint being filed. Based solely upon the evidence of the Appellant not receiving the "statutorily" required notice, the sale itself would be deemed illegal. The courts overlook such illegality when it has been carried out by the County, the Respondent ( a wealthy corporation) and the Magistrate. The Respondent's illegality is made legal simply by being a member of the upper class and the bar. It is a small injustice to take the home in which someone else is living. If there is an "unwritten" rule here as the 12(b)(6) rule, the appellant, respectfully requests that this court reason on it so that others in similar circumstances are aware that the right to a jury trial is only available to those who have a law degree and/or unlimited funding to pursue a legal matter. There is no need to go over the information contained in the brief or the record here. Even if it is read it will not be taken seriously and any fault in the appellant's ignorant reasoning will be seized upon to separate the "legal" from "equity". The focus is on equity and not the illegal action of the respondent and county government that occurred prior to the action.

2.

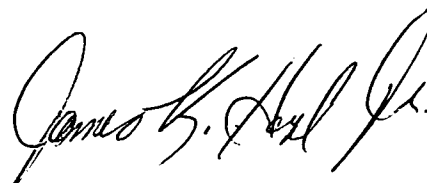
This holding of the court also states another "unwritten" rule of which pro-se litigants may be unaware. Citing SCRCF Rule 53(b) but refusing to elaborate on the Appellants proof that the case was never "referred" to the Master by "order" of the Circuit Court. The Appellant proved through documents in the record that the required legal procedure was not followed under the statute and the rule. This court chose not to even read the second argument of the Appellant. The statute, in this particular case barred the matter from being referred by the clerk, the Circuit Court never issued an order referring it. Just in case you skipped, the Appellant directly addressed these issues in the "Circuit Court" after the Respondent filed their Complaint. The "unwritten rule" that the Circuit Court does not have to refer the matter as required by Rule and Statute needs to be reasoned on by the Court. There is no justice in a system that has rules that only apply to those in power. This ruling is a miscarriage of justice, only serving the upper class in SC and hiding the truth from those who, such as the Appellant, are unable and/or unwilling to purchase justice from the court. According to the published Rules and Statutes the Master was without Subject Matter Jurisdiction because according to the Rules created by the Court and the Statutes created by the Legislature, there had to be an Order issued by the Circuit Court referring it to the Master. The Appellant, in all filings with this court, as already shown that the matter was not referred by the Circuit Court as required.

3.

This court as already stated that the County, Magistrate and Wealthy Corporations do not have to abide by the same Rules, Statutes and Laws that Average Citizen's are required to adhere. There are special "unwritten" legal rules that apply to this class so of course the Court would rule that the Magistrate is totally justified in not allowing the pro-se litigant to present a case or question witnesses. The wealthy corporate sponsor is welcome to question, present witnesses and make suggestions. Obviously, this "unwritten" rule does not apply to the Appellant whose lack of resources prohibit any questioning or even the allowance to present his case on the record. As such, this court has ruled that the Master can do as he pleases and fairness is irrelevant. Unless you have the right amount of money to hire someone to present your case before the members of the club. As such the Appellant respectfully requests that the court hold specifically the Magistrate is not bound by Law, Rule or Statute as long as they are members of the Judiciary when ruling in cases involving average citizens proceeding pro-se. The amount of Justice received is based upon the amount of money the Corporation, Attorney or both can produce. The Appellant respectfully requests that the Court publish a chart detailing how much money is required to obtain justice at each level. This will help to eliminate court costs since lower class people will know not to file until they have the required amount of money to be taken seriously.

May 2, 2018

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "James K. Hazel, Jr.", written in a cursive style.

James K. Hazel, Jr.  
201 Powell Mill Rd.  
Apartment M104  
Spartanburg SC 29301  
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representing all unknown persons having or claiming to have any right, title, or  
interest in or to, or lien upon, the real estate described as 517 Wildwood Drive,  
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and all other persons or entities unknown claiming any right, title, interest, estate  
in, or lien upon, the real estate described as 517 Wildwood Drive, Spartanburg  
County, SC, Defendants,

Of Whom James K. Hazel, Jr. is the Appellant.

PROOF OF SERVICE

I certify that I have served the *Petition for Rehearing and/or Rehearing En Banc*, on ATCF  
REO HOLDINGS LLC by depositing a copy of it in the United States Mail, postage prepaid, on  
1 May 2018, addressed to the attorney of record, A. Parker Barnes III, Attorney for Respondent,  
1201 Main Street, 22nd Floor, Columbia, South Carolina 29201.

1 May 2018



James K. Hazel Jr.  
201 Powell Mill Rd., Apt. M104  
Spartanburg, South Carolina 29301  
(864) 278-0551  
Appellant