

87088

June 19, 2018

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

RECEIVED  
JUN 22 2018  
SC Court of Appeals

RE: Treybern Homeowners Association, Inc. v Daniel B. Albert, Appellant,  
Case No. 2015-CP-23-03300  
Appeal No. 2018-000745

Dear Ms. Kitchings:

I am submitting my urgent request that the Court of Appeals consider my Supersedeas Motion to Stay the foreclosure sale scheduled for July 2, 2018. I am enclosing with this letter the Motion to Stay that I made in the lower court.

At a hearing on my motion yesterday, Judge Simmons made a decision to require that I post a \$10,000 bond with other onerous requirements that will make it difficult for me to comply by July 2, 2018. Last week, counsel for plaintiff provided a payoff amount of \$5924.21 to me, which includes the judgment amount of \$5221.03 along with the 2018 assessment and interest charged. At the hearing, I asked Judge Simmons if, in lieu of a bond, I might be permitted to present a bank check for \$5924.21 that I brought with me to counsel for plaintiff to hold in escrow during the pendency of the appeal. Judge Simmons denied this request.

At the hearing, counsel for Plaintiff argued for a minimum bond of \$51,000 based upon the argument that Plaintiff would be entitled to the income from renting my house out at \$1500 per month for an estimated period of two years while my mortgage holder foreclosed, plus an estimated \$15,000 in legal fees. I pointed out to Judge Simmons that Plaintiff is only entitled to the amount of the judgment from the proceeds of a sale, and that the strategy of Plaintiff to rent out my house was addressed by Justice Lockemy in the Hale dissent in which he referred to a "perverse circumstance where a judicial sale bidder purchases a property for a de minimis amount simply to capitalize on rental revenue until the senior lien holder forecloses

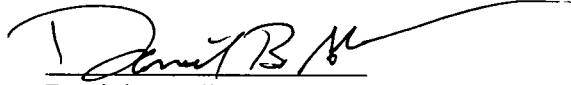
its mortgage.” I also told Judge Simmons that Justice Lockemy went on to say that “whether rare, or the impetus to create a business of judicial buyers seeking a windfall profit, in my view, the result is unjust” and that “the law should provide an avenue of redress for this injustice.”

My case goes way beyond the perverse circumstance that Justice Lockemy was referring to, as the actors in this case seeking windfall profits include the property management company and law firm employed by Plaintiff. There is also evidence that members of Plaintiff and the management company or law firm employed by Plaintiff conspired to dispossess me of my property. This case is ripe with the egregious and unlawful actions of Plaintiff, as well as the denial of my right to fact discovery.

There were other matters that I included in my motion to stay that relate to what amounts to a doubling down on unlawful actions by Plaintiff for which I was seeking relief from the court. I believe that, based upon my reading of the South Carolina Rules of Civil Procedure, that Judge Simmons had jurisdiction over these matters, but he asserted that he did not have jurisdiction. I also ask this court to weigh in on the conduct of plaintiff during the pendency of the appeal so as to limit the issues on appeal and to respect the rights that I have as a current member of Plaintiff, which is governed by the South Carolina nonprofit statute.

I ask the court to permit me to pursue the merits of my appeal by issuing a stay on the foreclosure sale during the pendency of the appeal without bond, or to permit me to pay the judgment and current year assessment in lieu of a bond while still pursuing the appeal. The public interest will be served by the Court of Appeals examining numerous elements in my case that must be examined in order for justice and equity to be done, as no South Carolina homeowner should have to endure what I have gone through.

Sincerely,



Daniel B. Albert  
2 Tennwood Dr  
Greenville, South Carolina 29609  
(321) 474-9189  
Appellant, *pro se*

cc: Dean Hayes  
McCabe, Trotter & Beverly, P.C.  
PO Box 212069  
Columbia, South Carolina 29221  
321-724-5000

STATE OF SOUTH CAROLINA  
County of Greenville

) IN THE COURT OF COMMON PLEAS

)

)

)

Treybern Homeowners Association, Inc.

) Case NO. 2015-CP-23-03300

*PLAINTIFF*

)

)

VS.

)

)

)

DANIEL B. ALBERT, of GREENVILLE,  
IN THE COUNTY OF GREENVILLE, AND  
STATE OF SOUTH CAROLINA

)

)

)

*DEFENDANT*

)

MOTION TO STAY  
FORECLOSURE SALE

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JUN 22 2018

SC Court of Appeals

18 JUN 6 PM 1:38  
Paul Wickensimer COC GVL SC

**MOTION**

**NOW COMES** the *DEFENDANT*, DANIEL B. ALBERT, personally, and moves the court to stay the foreclosure sale during the pendency of the appeal of this case.

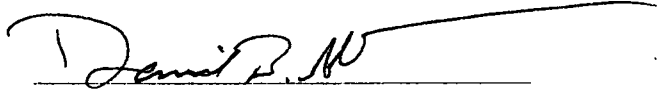
Defendant also moves that the court compel Plaintiff to limit the issues on appeal by accepting the payment of 2018 assessments from Defendant, and that upon payment of the 2018 assessment, Plaintiff reinstates the right of Defendant to use the common areas and the right of Defendant to vote in Association matters.

Defendant also moves the court to compel Plaintiff to mail all notices to Defendant at the address that was known to the property management company of Plaintiff in June 2015 to be the only address that Plaintiff had on record for Defendant. Since Defendant has not received notices of assessment or of annual meetings of the Association since 2014, Defendant moves this court to compel Plaintiff to also email notices to Defendant.

Defendant also moves this court to compel Plaintiff to send to Defendant a report of the contact record that William Douglas, the property management company of Plaintiff, maintains on the account of Defendant in order to inform Defendant of the record that Plaintiff purports to have of notices allegedly sent to Defendant.

Since there has been substantial turnover in the membership list of Plaintiff since Plaintiff last provided a list of members to Defendant during discovery, and since Plaintiff is required by South Carolina law to maintain a list of members and make the list available to members upon request, and since Defendant is still a member of the Association, Defendant also moves the court to compel Plaintiff to provide to Defendant a current list of members of the Association within five days of the request as stipulated by South Carolina law.

Respectfully submitted.



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DANIEL B. ALBERT, pro se  
*DEFENDANT*  
2 Tennwood Dr  
Greenville, SC 29609  
Phone: 321-474-9189  
Email: dan.albert7@gmail.com

June 6, 2018

STATE OF SOUTH CAROLINA )

COUNTY OF Greenville )

Treybern Homeowners Association )

Plaintiff, )

vs. )

Daniel B. Albert )

Defendant. )

IN THE COURT OF COMMON PLEAS  
Civil JUDICIAL CIRCUIT

**CERTIFICATE OF SERVICE**

Case No.: 2015-CP-23-03300

18 JUN 6 PM 1:38  
Paul Wickensimer COC 6UL SC

I certify that on this date, I served a copy of Defendant's Motion to Stay Foreclosure Sale in this action, dated

June 6, 2018, On McCabe, Trotter and Beverly by

- Delivering it to him/her personally;
- Mailing it to him/her, at his/her last known address, by depositing it in the U.S.

Mail, in an envelope with sufficient postage affixed, addressed as follows:

PO Box 212069, Columbia, SC 29221

- Delivering it by commercial delivery service in accordance with Rule 4(d)(9), SCRPC, addressed as follows: ; or,
- Other:

6-6-18  
Date

Daniel B. Albert  
Signature


STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF Greenville )  
 )  
Treybern Homeowners Association, Inc. )  
 Plaintiff, )  
 vs. )  
Daniel B. Albert )  
 Defendant. )

IN THE COURT OF COMMON PLEAS  
 CIVIL JUDICIAL CIRCUIT

CASE NO.: 2015-CP-23-03300

**MOTION AND ORDER INFORMATION  
 FORM AND COVERSHEET**

18 JUN 6 PM 1:38  
 Paul Wickensimer COC 611L SC

Plaintiff's Attorney: Joel Deason, McCabe, Trotter, Bar No. 72705 Address: 4500 Ft. Jackson Blvd. Suite 250, Columbia, SC 29209 Phone: 803.724.5000 Fax 803.724.5001 E-mail: joel.deason@mccabetrotter.com	Defendant's Attorney: Daniel B. Albert, pro se, Bar No. _____ Address: 2 Tennwood Dr. Greenville, SC 29609 Phone: 321.474.9189 Fax _____ E-mail: dan.albert7@gmail.com Other: _____
<input type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input checked="" type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
<b>SECTION I: Hearing Information</b>	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: <input type="checkbox"/> YES / <input type="checkbox"/> NO	
<b>SECTION II: Motion/Order Type</b>	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant	June 6, 2018 Date submitted
<b>SECTION III: Motion Fee</b>	
<input checked="" type="checkbox"/> PAID -- AMOUNT: \$ <u>25.00</u> <input type="checkbox"/> EXEMPT: (check reason)	
<input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
<b>JUDGE'S SECTION</b> <input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other: _____	JUDGE CODE _____ Date: _____
<b>CLERK'S VERIFICATION</b>	
Collected by: <u>CWN</u> Date Filed: _____ <input type="checkbox"/> MOTION FEE COLLECTED: \$ <u>25.00</u> <input type="checkbox"/> CONTESTED - AMOUNT DUE: \$ _____	

*Def paid fee to Acet*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

Honorable Charles B. Simmons, Master of Equity

Case No. 2015-CP-23-03300  
Appeal NO. 2017-002183

Treybern Homeowners  
Association, Inc.,

Respondents,

v.

Daniel B. Albert,

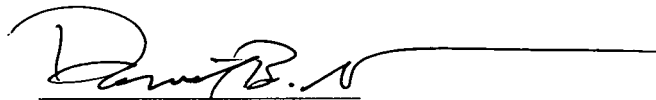
Appellant.

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PROOF OF SERVICE

I certify that I have served **APPELLANT'S SUPERSEDEAS MOTION TO STAY FORECLOSURE SALE** on Treybern Homeowners Association, Inc. by depositing a copy of it in the United States Mail, postage prepaid, on June 20, 2018, addressed to their attorney of record, Dean Hayes, McCabe, Trotter & Beverly P.C., PO Box 212069, Columbia, South Carolina 29221.

June 20, 2018



Daniel B. Albert  
2 Tennwood Dr  
Greenville, South Carolina 29609  
(321) 474-9189  
Appellant, *pro se*



Daniel B. Albert  
2 Tennwood Dr.  
Greenville, SC 29609



1000



29211

U.S. POSTAGE  
PAID  
GREENVILLE, SC  
29608  
JUN 20, 18  
AMOUNT

**\$1.21**  
R2394N117460-09

THE HONORABLE JENNY ABBOTT KETCHINGS, CLERK  
SOUTH CAROLINA COURT OF APPEALS  
PO BOX 11629  
COLUMBIA, SC  
29211

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JUN 22 2018

SC Court of Appeals

