

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Mikell R. Scarborough, Master-in-Equity
Case No. 2017-CP-10-04031
2014-CP-10-05407

Churchill Park, Respondent

v.

Alan G. Nix and the Estate of Norma J. Nix, Defendants,
Of which Alan G. Nix is the Appellant

Appellate Case No. 2018-000056

MOTION TO WITHDRAW AS COUNSEL FOR THE ESTATE OF NORMA J. NIX

Sally Newman, Esq.
Charleston Legal Access
1630 Meeting Street, Suite 106
Charleston, SC 29405
(843) 640-5980
sally@charlestonlegalaccess.org

Sarah Schreiber, Esq.
Charleston Legal Access
1630 Meeting Street, Suite 106
Charleston, SC 29405
(843) 640-5980
sarah@charlestonlegalaccess.org

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The undersigned attorneys, Sally Newman and Sarah Schreiber¹ of Charleston Legal Access (“Counsel”), hereby move this Court for an Order allowing them to withdraw as counsel for Defendant Estate of Norma J. Nix (“Estate”). Justifiable cause exists to allow Counsel to withdraw pursuant to Rule 264(b), SCACR. Counsel has provided proper notice to the Estate’s Personal Representative, Ethan Nix, and to all counsel of record as set forth in the attached Certificate of Service. In support of this Motion, the undersigned state as follows:

1. The agreed scope of Counsel’s representation of the Estate concluded with the Final Order and Judgment entered in the underlying case. On February 21, 2018, Counsel sent a letter by email and regular mail to Ethan confirming the conclusion of their representation of the Estate. (See Exhibit A.)

2. While the Estate is a co-defendant to Appellant Alan Nix and is therefore technically an appellant in this action, the Estate has not joined the appeal and Ethan has previously expressed a desire to avoid additional costs associated with continued litigation on behalf of the Estate. Yet co-defendant Alan Nix continues to file motions and other requests with this Court and the court below, requiring Counsel to expend additional time and cost on this matter.

3. In a telephone conversation on June 4, 2018, Ethan indicated that he understood and consented to Counsel’s withdrawal from the underlying action. Since that phone call, Counsel has attempted to contact Ethan on numerous occasions by email, telephone, and mail. Counsel has not received a response to their attempts and has been unable to secure Ethan’s signature on a consent order and/or motion to be relieved as counsel.

¹ Attorney Schreiber does not appear to be listed as counsel of record on this Court’s docket, however she filed a Notice of Appearance with the Court of Common Pleas on May 30, 2018 to represent the Estate while Attorney Newman is seeking treatment out of state for a serious medical condition. Ms. Newman is out of the office on medical leave until further notice.

4. On July 26, 2018, Counsel filed a motion to withdraw as counsel with the clerk for the master-in-equity, Judge Scarborough. Counsel was informed, however, that the lower court no longer has jurisdiction and that Counsel's withdrawal should be sought from the Court of Appeals.

5. Counsel sent a letter to Ethan on August 9, 2018, seeking his consent to a petition to withdraw as counsel from this appeal and expressly notifying him of their withdrawal pursuant to Rule 264(b), SCACR. (*See Exhibit B.*) Counsel did not receive a response to that letter.

6. The conclusion of Counsel's agreed-upon representation, the Estate's desire to avoid additional litigation costs, and the Estate's failure to respond to any of Counsel's requests and correspondence constitute justifiable cause to be relieved as counsel of record.

7. In addition, attorney Sally Newman is seeking treatment out of state for a serious medical condition and is out of the office on medical leave until further notice. Her condition, and requisite absence, is another reason to relieve Counsel as the Estate's attorneys in this matter.

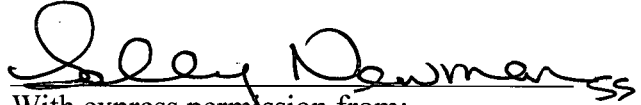
WHEREFORE, the undersigned respectfully request that this Court grant this Motion and enter a written Order relieving Sally Newman, Sarah Schreiber, and Charleston Legal Access as counsel for the Estate of Norma J. Nix and ordering that all future filings, notices, and other matters concerning or required to be served on the Estate of Norma J. Nix be directed to its Personal Representative at the following address: Ethan Nix, 211 Posey Hill Road, Liberty, SC 29657.

Dated: September 27, 2018

Respectfully submitted by:



Sarah Schreiber, Esq.
Charleston Legal Access
1630 Meeting Street, Suite 106
Charleston, SC 29405
(843) 640-5980
sarah@charlestonlegalaccess.org



With express permission from:
Sally Newman, Esq.
Charleston Legal Access
1630 Meeting Street, Suite 106
Charleston, SC 29405
(843) 640-5980
sally@charlestonlegalaccess.org

Attorneys for Defendant Estate of Norma J. Nix

EXHIBIT A



1630 Meeting Street, Suite 106
Charleston, SC 29405
Info@charlestonlegalaccess.org
(843) 640-5980

February 21, 2018

Via USPS

Ethan Nix
211 Posey Hill Road
Liberty, SC 29657

Dear Ethan,

I am writing to confirm that CLA's representation of you is now concluded. We will not be conducting any additional work on your case and are closing your file. It is our understanding that Alan has filed an appeal with the South Carolina Court of Appeals, and we will not be representing you in those proceedings or any further proceedings in this matter. Unless we hear from you otherwise, the file on this matter will be disposed of based on CLA's regular schedule.

I have enclosed two letters that we recently received from Alan. The first is a letter to Todd Huss at South State Bank, on which we were copied. The second is a letter directed to you. We have not and will not be preparing a response to either letter.

It has been a pleasure representing you. If you need any legal assistance in the future, please don't hesitate to call.

Best,

Sarah Schreiber
Staff Attorney
(843) 640-5980 ext. 6
sarah@charlestonlegalaccess.org

EXHIBIT B

August 9, 2018

Via USPS

Ethan Nix
211 Posey Hill Road
Liberty, SC 29657

Re: Churchill Park v. Nix, Appellate Case No. 2018-000056

Dear Ethan,

As we have discussed, and as was confirmed by my letter dated February 21, 2018, CLA's representation of you is now concluded and we will not be representing you in the proceedings before the South Carolina Court of Appeals or any further proceedings in this matter. This letter, in addition to my February letter, serves as written notice of our withdrawal from the appeal pursuant to Rule 264(b), SCACR.

We will be filing a petition with the South Carolina Court of Appeals to withdraw as counsel, and we would appreciate your consent to that petition. I have enclosed a copy of the proposed filing for your review and signature. Please sign and return the petition in the enclosed self-addressed stamped envelope as soon as possible.

If you have any questions, please do not hesitate to reach out. If we do not receive the signed petition from you soon, we will be filing a petition without your written consent. Such a petition will require us to expend additional time and resources on this matter, so we would appreciate your cooperation in consenting to the petition.

Best,



Sarah Schreiber
Staff Attorney
(843) 640-5980 ext. 6
sarah@charlestonlegalaccess.org

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Appellate Case No. 2018-000056

**PROOF OF SERVICE OF MOTION TO WITHDRAW AS COUNSEL FOR THE
ESTATE OF NORMA J. NIX**

Sally Newman, Esq.
Charleston Legal Access
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(843) 640-5980
sarah@charlestonlegalaccess.org

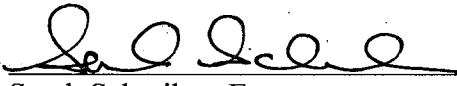
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I, Sarah Schreiber, Esq., hereby certify that on September 27, 2018, I served a copy of the **Motion to Withdraw as Counsel for the Estate of Norma J. Nix** upon the individuals listed below via the United States Mail, postage pre-paid and addressed as follows:

Alan Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
Defendant-Appellant

Stephanie Carol Trotter
McCabe Trotter & Beverly, PC
P.O. Box 212069
Columbia, SC 29221
Attorney for Plaintiff-Appellee Churchill Park

Ethan Nix
211 Posey Hill Road
Liberty, SC 29657
*Personal Representative for the Estate of
Norma J. Nix*


Sarah Schreiber, Esq.
Charleston Legal Access
1630 Meeting Street, Suite 106
Charleston, SC 29405
(843) 640-5980
sarah@charlestonlegalaccess.org

 CHARLESTON
LEGAL
ACCESS

1630 Meeting Street, Suite 106
Charleston, SC 29405
Info@charlestonlegalaccess.org
(843) 640-5980

September 27, 2018

Via USPS

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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SC Court of Appeals

Re: Churchill Park v. Nix, Appellate Case No. 2018-000056

Dear Ms. Kitchings,

Enclosed please find the original and seven copies of a **Motion to Withdraw as Counsel for the Estate of Norma J. Nix**, as well as the original and seven copies of a **Proof of Service** of the referenced Motion. I have also enclosed a check for the \$25.00 filing fee. Please file the Motion and Proof of Service, and return a file-stamped copy of each to my attention in the enclosed self-addressed, stamped envelope.

Thank you for your assistance. Please feel free to contact me with any questions.

Best,



Sarah Schreiber
Staff Attorney
(843) 640-5980 ext. 6
sarah@charlestonlegalaccess.org

Enclosures

cc: Alan Nix
Ethan Nix
Stephanie Trotter, Esq.
Sally Newman, Esq.



CHARLESTON LEGAL ACCESS
 1630 Meeting St. Suite 106
 Charleston, SC 29405

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The Honorable Jenny Abbott Kitchings
 Clerk of Court
 South Carolina Court of Appeals
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