

**THE 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. 2014-CP-10-05407
2017-CP-10-04031**

Churchill Park, Respondent

v.

Alan G. Nix, Norma J. Nix and the Estate of Norma J. Nix, Defendants,

Of which Alan G. Nix is the Appellant

Appellate Case Number 2018-000056 / 2018-000174

**EMERGENCY MOTION
APPELLANT'S THIRD MOTION FOR LEAVE TO FILE RULE 60(b) MOTION AND
CLARIFY ORDERS OF JULY 17, 2018 AND SEPTEMBER 6, 2018**

BACKGROUND

In accordance with Rule 60(b), SCRPC, Appellant Alan Nix submitted a motion on May 23, 2018 seeking leave of the SC Court of Appeals to file a Rule 60(b) motion in the Charleston County Court of Common Pleas for cases 2014-CP-10-05407 and 2017-CP-10-04031. On July 19, 2018, Appellant received notice of the Court of Appeals Order of July 17, 2018 denying Appellant's motion. Appellant filed a motion on July 24, 2018 asking for a reconsideration of and clarification of the Order of July 19, 2018. The Court filed a second Order on September 6,

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2018 denying the motion for reconsideration, providing no clarification of the Order of July 17, 2018 as was specifically requested by the motion filed July 24, 2018 and likewise and of considerable concern, provided no rationale for the second denial. Based on two orders of denial by the Court related to the Appellant simply seeking leave of the SC Court of Appeals to file a rule 60(b) motion, Appellant is forced to file a third motion asking the court to grant leave to file a 60(b) motion.

THIRD REQUEST

The Appellant, Alan Nix, files this emergency motion on October 27, 2018 seeking prompt action by the SC Court of Appeals to grant Appellant leave to file a Rule 60(b) motion in Charleston County for cases 2014-CP-10-05407 and 2017-CP-10-04031. Appellant requests the motion be granted and filed with the Clerk of Court for the SC Court of Appeals no later than November 2, 2018. Appellant also requests the Court to provide a complete explanation of the factual and legal basis the Court relied upon to find it proper to deny leave, reconsideration and clarification related to their orders of denial filed July 17, 2018 and September 6, 2018.

WHEREFORE, Appellant Alan Nix respectfully requests this Court:

1. File an Order with the SC Court of Appeals Clerk of Court no later than November 2, 2018 granting the Appellant leave to file a 60(b) motion in Charleston County for cases 2014-CP-10-05407 and 2017-CP-10-04031. Include in the motion granting leave to file a 60(b) motion a complete explanation of the Court's justification for denying leave, reconsideration and clarification in this matter twice previously.
2. Order Judge Scarborough, the Charleston County Master in Equity, to promptly file orders related to open motions pending before his court for cases 2014-CP-10-05407 and 2017-CP-10-04031.
3. Due to the Court's unexplained denials and delays, grant equitable tolling of the statute of limitations to all claims, counter claims and / or cross claims that should have been allowed to have been included in these matter originally or have accrued since the improper management of these matters beginning in February 2016.
4. In the alternative, without proper action by the Court by November 2, 2018, the Appellant will be left to further conclude that the Court's denials of July 17, 2018 and

September 6, 2018 were for an improper purpose and will take all action this is considered appropriate thereafter.

5. Any other and further relief as the Court deems just, prudent, and proper.

Dated: October 27, 2018

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Alan G. Nix", is written over a solid horizontal line.

Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991.4170
alan.g.nix@gmail.com

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The undersigned certifies that a copy of the Appellant's Emergency Third Motion for Leave to Make 60(b) Motion has been served upon the individuals listed below by mailing a copy of the same, postage prepaid, in the United States Mail, addressed as shown below, as well as by email, this 21st day of October 2018 to:

Plaintiff Attorneys:
Stephanie Trotter, Esq.
McCabe, Trotter & Beverly, P.C.
P.O. Box 212609
Columbia, SC 29221

Todd M. Musheff, Esq.
Law Offices of Todd M. Musheff
1121 Park West Blvd., Ste. B 148.
Mount Pleasant, SC 29466

Judge Scarborough
Master in Equity, Charleston County
100 Broad St., Ste. 266
Charleston, SC 29401

Charleston County Attorneys
4045 Bridge View Dr.
North Charleston, SC 29405
(Judge Scarborough attorney)

Defendant Attorney:
Sally Newman, Esq.
Charleston Legal Access
1630 Meeting Street
Charleston, SC 29405
Norma J. Nix (2014-CP-10-05407) and
The Estate of Norma J. Nix (2017-CP-10-04031)

Sarah Schreiber
Charleston Legal Access
1630 Meeting Street
Charleston, SC 29405

Dated: October 27, 2018

Respectfully submitted,

By:



Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991.4170
alan.g.nix@gmail.com

27 October 2018

Alan Nix
1401 Densmore Circle
Mount Pleasant, SC 29466

Ms. Jennie Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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RE: Churchill Park v Alan G. Nix, et al
S.C. Appellate Case Number 2018-000056 / 000174
Motion for Leave Rule 60(b), SCRCP

Ms. Abbott Kitchings,

Please find enclosed for the file:

1. Appellant's Emergency Third Motion for Leave of the S.C. Court of Appeals to file a Rule 60(b) motion
2. Proof of Service.

Also enclosed are:

1. check number 770 for the \$25.00 motion filing fee
2. Copies of the Motion and Proof of Service to be returned with your clock stamp
3. Self-addressed and postage prepaid envelope to return the enclosed copies of the Motion and Proof of Service

All of the above are being mailed to you today via USPS, certified or special delivery.

Thank you very much for your assistance , please let me know if you require anything else related to this filing and please ensure the Court is promptly made aware of this emergency motion given a response by November 2, is requested.

Best regards,



Alan Nix

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1401 DENSHORE CIRCLE
MT. PLEASANT, SC 29466

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SC Court of Appeals
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