

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

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SC 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 AMENDED 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,

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 amended emergency motion on November 3, 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 the close of business on November 7, 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.

Given Judge Scarborough, his employer and the Charleston County Treasurer's office are now clearly aware that they have evidence in their own information systems, as well as it appears in their archives, that substantially refutes a number of Judge Scarborough's conclusions of fact about the period referred to as "the time control of Charleston County's Churchill Park community was turned over to the property owners", perhaps Judge Scarborough and / or his employer will find it proper to submit their own motion to obtain leave from the Court to file a 60(b) motion.

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 7, 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. Clarify if the last date to file a 60(b) motion is related to the date Judge Scarborough filed the order for case number 2017-10-CP-04031 of November 9, 2017 or if it is the date Judge Scarborough disposed of the Master in Equity case 2014-CP-10-05407 on November 13, 2017.
4. Assign Appellate case number 2018-000056 to Charleston County case number 2017-CP-10-04031 and Appellate case number 2018-000174 to Charleston County case number 2014-CP-10-05407.
5. 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 this matter originally, or have accrued since the improper management of these matters beginning in February 2016.
6. In the alternative, without proper action by the Court by November 7, 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 appropriate actions thereafter.
7. Any other and further relief as the Court deems just, prudent, and proper.

Dated: November 3, 2018

Respectfully submitted,



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

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Of which Alan G. Nix is the Appellant

Appellate Case Number 2018-000056 / 000174

PROOF OF SERVICE

The undersigned certifies that a copy of the Appellant's Amended 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 3rd day of November 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: November 3, 2018

Respectfully submitted,

By:



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

3 November 2018

Alan Nix
1401 Densmore Circle
Mount Pleasant, SC 29466

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NOV 05 2018
SC Court of Appeals

Ms. Jennie Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

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

Ms. Abbott Kitchings,

In response to your letter dated, 30 October 2018, received 2 November 2018, please accept this amended Emergency Third Motion for Leave to file a 60(b) motion with the now required \$50.00 motion fee.

Also, in case of a similar minor issue with the filing, and considering the short timeline requested, please consider utilizing the phone number and/or email address included on the signature lines of both the motion and certificate of service, as well as now, below, to provide a more prompt notification so I may correct in such a timely manner as to maintain the originally requested timeline from the Court.

Please find enclosed for the file:

1. Appellant's Emergency Amended 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 in the amount of \$50.00 for the 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 on the date of this letter 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 the revised response date is November 7, 2018.

Best regards,

A handwritten signature in black ink, appearing to read "Alan Nix", written in a cursive style.

Alan Nix

(c) 843.991.4170

(e) alan.g.nix@gmail.com

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FROM:

ALAN NIX
1401 DORSETT CIRCLE
MT. PLEASANT, SC 29464
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TO:

NOV 05 2018

SC Court of Appeals
MR. ARBERT KITCHINGS
CLERK OF COURT
S.C. COURT OF APPEALS
1220 SEVENTH ST.
COLUMBIA, SC 29201

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