

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2014-CP-10-05407

CHURCHILL PARK)

MOTION AND ORDER INFORMATION
FORM AND COVERSHEET

Plaintiff,)

vs.)

ALAN G NIX and NORMA J NIX)

Defendant.)

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MAR 29 2019

SC APPEALS
2018-000056
2018-000174

Plaintiff's Attorney: Stephanie Trotter, Bar No. _____ Address: 4500 Fort Jackson, Blvd. Ste 650 Columbia SC 29209 Phone: 803.724.5000 Fax _____ E-mail: stephanie.trotter@mccabetrotter.com Other: _____	Defendant's Attorney: Alan Nix, Bar No. Pro Se Address: 1401 Densmore Circle, Mt. Pleasant, SC 29466 Phone: 843.729.2400 Fax _____ E-mail: alan.g.nix@gmail.com Other: _____
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SC Court of Appeals

- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Restore case to General docket from alleged 40j dismissal filed 23 March 2016
Estimated Time Needed: 1 hour Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

- Written motion attached
- Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Alan Nix

Signature of Attorney for Plaintiff / Defendant

27 March 2019
Date submitted

SECTION III: Motion Fee

- PAID - AMOUNT: \$ 25 + conv fee
- EXEMPT: (check reason)
 - Rule to Show Cause in Child or Spousal Support
 - Domestic Abuse or Abuse and Neglect
 - Indigent Status State Agency v. Indigent Party
 - Sexually Violent Predator Act Post-Conviction Relief
 - Motion for Stay in Bankruptcy
 - Motion for Publication Motion for Execution (Rule 69, SCRCP)
 - 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: _____
- Other: _____

JUDGE'S SECTION

- Motion Fee to be paid upon filing of the attached order.
- Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

- Collected by: _____ Date Filed: _____
- MOTION FEE COLLECTED: \$ _____
- CONTESTED - AMOUNT DUE: \$ _____

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
THE NINTH JUDICIAL CIRCUIT

CHURCHILL PARK,)
Plaintiff,)

CASE NUMBER: 2014-CP-10-05407

vs.)

CERTIFICATE OF SERVICE

ALAN G NIX and NORMA J NIX,)
Defendants.)

The undersigned hereby certifies that on the 27th day of March 2019, a true and correct copy of the foregoing Motion to Restore Case from Alleged 40(j) dismissal filed 23 March 2016 was served upon all parties and/or their respective counsel of record via USPS as follows:

Stephanie C. Trotter, Esq.
McCabe, Trotter & Beverly, PC
4500 Fort Jackson Blvd.
Columbia, SC 29209

Jaime Lee McSweeney, Esq.
McCabe, Trotter & Beverly, PC
PO Box 212069
Columbia, SC 29221

Charleston Legal Access
Attn: Newman and Schreiber
1630 Meeting St.
Charleston, SC 26405

Andrew Countryman
Countryman Law Firm
321 Wingo Way
Mt. Pleasant, SC 29464
(Plaintiff's attorney's attorneys)

Charleston County Attorneys
4045 Bridge View Dr.
North Charleston, SC 29405

South State Bank
ATTN: Inquiries
PO Box 118068
Charleston, SC 29423

Navy Federal Credit Union
Attn: Jimmy T Wong
P.O. Box 3327
Merrifield, VA 22119-3327

Chicago Title ServiceLink Division
4000 Industrial Blvd.
Aliquippa, PA 15001

Robert Wood
Rogers, Townsend & Thomas PC
1221 Main St.
Columbia, SC 29201

The Carolinas Title Agency
973 Houston Northcutt Blvd.
Mt. Pleasant, SC 29464


Ticor Title Insurance Company
3700 Forest Dr., Ste. 201
Columbia, SC 29204

Chicago Title Insurance Company
200 S. Tryon St., Ste. 800
Charlotte, NC 28202

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

others as appropriate

By:



Alan G Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 729-2400 Phone
alan.g.nix@gmail.com

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
)
 CHURCHILL PARK)
)
 Plaintiff,)
)
)
 ALAN G. NIX and NORMA J. NIX)
)
)
 Defendants,)
)
 _____)

IN THE COURT OF COMMON PLEAS
 FOR THE NINTH JUDICIAL CIRCUIT

Case No.: 2014-CP-10-05407

**DEFENDANTS' MOTION TO
 RESTORE CASE TO GENERAL
 DOCKET**

PLEASE TAKE NOTICE, pursuant to Rule 40(j) (if legitimately applicable, otherwise, Rule 60(b)), SCRCP, Defendant Alan G. Nix hereby moves this Court to restore case 2014-CP-10-05407 to the General Docket. In support of this motion, defendant states:

1. The Plaintiff, Churchill Park, (herein after referred to as Churchill 2003), by and through their apparent attorneys', McCabe, Trotter & Beverly, (herein after referred to as McCabe Trot) filed a lien against the property located at 1401 Densmore Circle, Mt. Pleasant, SC 29466 (herein after referred to as the 1401 Densmore property) on 23 May 2013 in the name of "Churchill Park", the same entity referred to herein as Churchill 2003.
2. Churchill 2003, by and through their apparent attorneys McCabe Trot, filed a foreclosure suit against Alan G. Nix and Norma J. Nix on 4 Sept 2014, related to the 1401 Densmore property, which resulted in Charleston County case number 2014-CP-10-05407.
3. On or about 28 Sept 2015, Churchill 2003, by and through their apparent attorneys McCabe Trot, filed a Motion to Compel to require defendant to produce discovery, etc.
4. On 4 Jan 2016, defendant Nix, by and through his attorney at the time, William Sloan, met the deadline of 4 Jan 2016 to comply with the Plaintiff's Motion to Compel, which apparently was a result of a motion hearing held on 1 Dec 2015.

5. On 2 March 2016, the Charleston County Master in Equity office's scheduler notified the Plaintiff's apparent attorneys, McCabe Trot, and the defendant's attorney, William Sloan, that the subject case was being called to a Roster Meeting on 21 March 2016.
6. On 23 March 2016, an Order ending the case was filed with the Charleston County Clerk of Court's office with the "Action Stricken" box checked, the reason box of "Rule 40(j)" checked, and the "ends" box checked next to "This order" portion of the order. No other information related to the alleged 40(j) agreement is included in the order itself or attached to the order. (See Exhibit A)
7. On 21 March 2017, defendant mailed a motion to restore related to this case to the Charleston County Clerk of Court's office with a check in the amount of \$150. The defendant's motion to restore was stamped as being received by the Charleston County Clerk of Court on 23 March 2017.
8. On 22 March 2017, defendant received a copy of the Plaintiff's motion to restore, from Churchill 2003's apparent attorney's McCabe Trot.
9. On or about 30 March 2017, defendant received the \$150 check he had sent with his motion to restore mailed 21 Mar 2017 back from the Charleston County Clerk of Court's office, roughly stating that the motion to restore fee wouldn't be required until a judge granted the motion to restore.
10. On or about 1 April 2017, defendant received a notice of a motion hearing scheduled for 4 May 2017 with Judge Scarborough from McCabe Trot.
11. On or about 17 April 2017, defendant received a notice of a motion hearing for the motion to restore from the Charleston County Clerk of Court, scheduled for 15 May 2017 with Judge Harrington.
12. On 2 May 2017, the Charleston County Master in Equity's Scheduler notified the Charleston County Clerk of Court's Scheduler that Judge Scarborough maintained / retained control of the case which he dismissed via order of 23 March 2016 and that the Charleston County Clerk of Court should remove the case from Judge Harrington's roster.
13. On 4 May 2017, Judge Scarborough held a hearing for the Plaintiff's and Defendant's motions to restore case for 2014-CP-10-05407.

14. On 8 May 2017, Judge Scarborough filed an order granting both motions to restore case to the active docket. (Exhibit B)
15. At approximately the same time as the order filed 8 May 2017, it appears a restore reason of "Reopen Case for Rule 40(j) – Original Case" was given to the case.

Request and Rationale

16. On information and belief, a \$25 fee is required to file a motion in Charleston County, SC, both in March 2017 and currently, in March 2019.
17. Defendant is not an attorney, and was not an attorney in March 2017, consequently, he had only quickly reviewed the 40(j) rule to the degree required to try to get the case restored, since, it was his desire in March 2016 to have the case be tried by a jury, not dismissed.
18. At the time, the defendant's quick research to restore a case previously dismissed for a 40(j) reason was that it required a \$150 restore fee. Given my lack of knowledge of all of the court rules and fees and stuff I didn't know the \$150 restore fee was in addition to a required \$25 motion fee. Hence, all I submitted was the one check for \$150, not a second payment for \$25 for the motion fee.
19. While noodling on some of these many many many irregularities in this / these cases since March 2017 this last weekend, it occurred to me, in hindsight, that my motion to restore, received and stamped as filed by the Charleston County Clerk of Court on 23 March 2017, couldn't have been properly filed, since I didn't provide a \$25 motion fee and they returned my \$150 check uncashed.
20. And while trying to get some information together this morning for the banks and title insurance companies, etc., I recognized that not only had I not paid a \$25 motion fee for my motion to restore stamped as filed on 23 March 2017 by the Charleston County Clerk of Court, but Churchill 2003's apparent attorney's McCabe Trot also did not pay a motion fee for their motion to restore stamped as filed on 22 March 2017 by the Charleston County Clerk of Court. (Exhibit C)
21. Hence, neither my motion to restore mailed 21 March 2017, received 23 March 2017 nor Churchill 2003's motion to restore, stamped as being filed on 22 March 2017, should have been filed since neither paid the required \$25 motion fee.

22. Without either motion being properly filed, neither the motion hearing scheduled by the Charleston County Clerk of Court before Judge Harrington for 15 May 2017, nor the motion hearing Judge Scarborough scheduled and held on 4 May 2017, should have been scheduled, much less heard, until a valid motion to restore was filed with the Charleston County Clerk of Court.
23. At least for me,, Defendant Alan Nix, I was not indigent in March 2017, like I am now in May 2019, and had not filed any type of indigent request with the court on or before 23 March 2017. So, at least I would have had to pay a motion fee to file my motion to restore just like I have had to in every other motion I have had to file since July 2017.
24. Defendant has no knowledge of whether McCabe Trot or Churchill 2013 or any of the other Churchill entities were indigent in March 2017, but Defendant has not been notified of such a situation with McCabe Trot or any of the other Churchill Persons; including, but not limited to Churchill 2013.
25. Therefore, Judge Scarborough's order restoring the case to the original case number / Active docket, filed 8 May 2017, isn't valid because it purports to grant two motions that were never actually filed.
26. And all of that assumes that there is a scintilla of evidence to support the validity of Judge Scarborough's order dismissing the case by order of 23 March 2016 for an alleged 40(j) agreement, which remains completely and totally unverified.
27. Therefore, the request of this motion may not really be required if it is actually determined that Judge Scarborough's 23 March 2016 order is improper / totally improper, in which case the case should be restored because that would just be the just, prudent and proper thing to do.
28. In either case, or any other case as it were, tolling of all of the statute of limitations of all possible counter claims, cross claims, third party claims, etc. for all possible causes of action, against all appropriate parties, which have accrued in relationship to this matter since Churchill 2003's apparent attorneys McCabe Trot placed a lien on the 1401 Densmore property on 23 May 2013 is specifically requested to ensure Defendant's and defendant's heirs, successors, assigns, etc. may properly pursue all

available remedies against all parties necessary to be made whole and provide significant deterrence of such conduct by others in the future.

WHEREFORE, the defendant prays for the relief requested herein and any other or further relief as the Court deems just, prudent, and proper.

March 27, 2019

Respectfully submitted,



Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 729-2400
alan.g.nix@gmail.com

STATE OF SOUTH CAROLINA
COUNTY OF
IN THE COURT OF COMMON PLEAS

FORM #

JUDGMENT IN A CIVIL CASE

EXHIBIT
A

FILED

CASE NO. 2014CP-10-5407

Churchill Pauls

2016 MAR 23 PM 1:48

Nix

PLAINTIFF(S)

JULIE J. ARMSTRONG
CLERK OF COURT

Attorney for : Plaintiff Defendant
or
 Self-Represented Litigant

Submitted by:

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(i), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

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MAR 29 2019
SC COURT of Appeals

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

ORDER INFORMATION

This order ends does not end the case.
Additional information for the Clerk :

INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

3062
Judge Code

3/21/16
Date

STATE OF SOUTH CAROLINA
 COUNTY OF CHARLESTON
 IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 204 CP-10-5407 **B**

EXHIBIT

Churchill Park

Nx

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: _____ Attorney for: Plaintiff Defendant
 or Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON): Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
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ORDER INFORMATION

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Additional information for the Clerk:

The court grants both motions to Resete Case to the Active Docket

INFORMATION FOR THE PUBLIC INDEX		
Complete this section only when the judgment affects title to real or personal property or if any amount should be collected. If there is no judgment information, indicate "NA" in one of the boxes below.		
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
NA	NA	\$NA
		\$
		\$
If applicable, describe the property, including tax map information and address, referenced in the order.		

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Circuit Court Judge [Signature] 3062 Judge Code Date 5/9/17

SCRPC Form 4C (10/2011)

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Page 1 of 2

MAR 29 2019

SC Court of Appeals

FILED
 2017 MAR 9 AM 10:13
 JUDGE OF COURT
 2017 MAR 9 AM 11:35
 JUDGE OF COURT

EXHIBIT
C



Julie J. Armstrong
Charleston County Clerk of Court

Charleston County
Circuit Court Case Details
Public Index

Charleston County Home Page Clerk of Court Home Page Magistrates Court SC Judicial Home Page Search Tips

Switch View

Churchill Park VS Alan G Nix , defendant, et al

Case Number:	2014CP1005407	Court Agency:	Common Pleas	Filed Date:	09/04/2014
Case Type:	Common Pleas	Case Sub Type:	Foreclosure 420	File Type:	Non-Jury
Status:	Dismissed	Assigned Judge:	Clerk Of Court C P, G S, And Family Court		
Disposition:	Dismissed per Rule 40J	Disposition Date:	03/23/2016	Disposition Judge:	Scarborough, Mikell R.
Original Source Doc:		Original Case #:		Restore Reason:	Reopen Case for Rule 40J - Original Case
Judgment Number:		Court Roster:			

Case Parties Judgments Tax Map Information Associated Cases Actions Financials

Summary					
Fine/Costs:	\$400.00	Total Paid for fine/costs:	\$400.00	Balance Due:	\$0.00

Costs					
Description	Cost Code	Amount	Charge Action	Disbursed Amount	
Civil Filing Fee County 44%/100%	CVFFCN	\$44.00			\$44.00
Civil Filing Fee State 56%	CVFFST	\$56.00			\$56.00
SCJD Filing Fee Proviso \$50 / \$25	SCJDPV	\$50.00			\$50.00
Motion/Order Filing Fee \$25	MOTION	\$25.00			\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00			\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00			\$25.00
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Motion/Order Filing Fee \$25	MOTION	\$25.00			\$25.00
Motion/Order Filing Fee \$25	MOTION	\$25.00			\$25.00

Payments					
Payment Date	Receipt Number	Entered By	Transaction Type Code	Payment Amount	
11/13/2016	599699	COCMRR	PY		\$25.00
11/14/2017	581411	ecocaba	PY		\$25.00
08/08/2017	577347	COCDTS	PY		\$25.00
08/07/2017	577280	COCDTS	PY		\$25.00
08/07/2017	577281	COCMRR	PY		\$25.00
04/29/2016	588962	COCMRR	PY		\$25.00
09/18/2015	550182	COCMRR	PY		\$25.00
12/04/2014	538418	ecocnp	PY		\$25.00
12/04/2014	538419	ecocnp	PY		\$25.00
11/14/2014	537589	COCSLB	PY		\$25.00
09/04/2014	534530	ecocnp	PY		\$150.00

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NIX
1401 DENSMORE CIRCLE
MT. PLEASANT, SC 29466

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MAR 29 2019

SC Court of Appeals

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COLUMBIA, SC 29201



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