

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

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**APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas**

**The Honorable Mikell R. Scarborough, Master in Equity**

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**Case No. 2014-CP-10-05407  
2017-CP-10-04031**

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**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**

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**Appellate Case Number 2018-000056 &  
2018-000174**

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**PROOF OF SERVICE**  
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The undersigned certifies that a copy of the Appellant's Motion to Properly Restore Case 2018-000056 and Set Aside all Orders Post April 5, 2019, Including Order Dated June 27, 2019 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 this 8<sup>th</sup> day of July 2019 to:

Ryan McCabe  
McCabe Trotter and Beverly  
4500 Fort Jackson Blvd.  
Columbia, SC 29209

Charleston Legal Access  
Attn: Newman and Schrieber  
1630 Meeting St.  
Charleston, SC 29405

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

Chief Justice Beatty  
c/o Office of Court Administration  
1220 Senate St.  
Columbia, SC 29201

Navy Federal Credit Union  
P.O. Box 3327  
Merrifield, VA 22119

Alan Wilson  
SC Attorney General  
P.O. Box 11549  
Columbia, SC 29211

Judge Knie  
180 Magnolia St.  
Spartanburg, SC 29306

Sherri Lydon  
US Attorney's Office  
1441 Main St.  
Columbia, SC 29201

Luke Rankin  
Chairman, Senate Judiciary Committee  
101 Gressette Bldg.  
Columbia, SC 29201

Dated: July 8, 2019

Julie Armstrong  
Clerk of Court, Charleston County.  
100 Broad Street  
Charleston, SC 29401

John Nichols  
Office of Disciplinary Counsel  
1220 Senate St.  
Columbia, SC 29201

Nicole Comer  
General Counsel, South State Bank  
P.O. Box 1030  
Columbia, SC 29202

Richele Taylor  
Chief Legal Counsel  
Governor's Office  
1100 Gervais St.  
Columbia, SC 29201

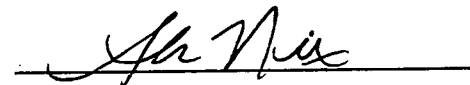
Robert Wilcox  
USC Law School  
1525 Senate St.  
Columbia, SC 29208

Mark Keel  
SLED  
4400 Broad River Rd.  
Columbia, SC 29221

Judge Lockemy  
SC Court of Appeals  
1220 Senate St.  
Columbia, SC 29201

Respectfully submitted,

By:



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

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**Appellate Case Number 2018-000056 &  
2018-000174**

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**MOTION TO PROPERLY RESTORE CASE 2018-000056 AND SET ASIDE ALL  
ORDERS POST APRIL 5, 2018, INCLUDING ORDER DATED JUNE 27, 2019**

**FACTS**

On 5 April 2018, an order signed by Judge Lochemy was filed for appellate case 2018-000056, dismissing the appeal without prejudice pursuant to Hudson v. Hudson.

On 5 April 2018, an order signed by Judge Lochemy was filed for appellate case 2018-000174, dismissing the case for failure to timely serve the notice of appeal. (Rule 203(b)(1))

The afternoon of 7 May 2018, Appellant filed the Memorandum in Support of Rule 60(b) with the Charleston County Small Claims Court, North Area. In short, the motion laid out the grounds for attorneys and their clients in the small claims case and case 2014-CP-10-05407 being involved in a conspiracy to defraud.

Approximately 3.25 hours later, Appellant emailed a scanned copy of the Memorandum to the Defendant's attorneys in the small claims case.

Approximately eight mins after the copy was mailed to Defendant's attorneys, Appellant forwarded the same scanned copy to the SC Office of Disciplinary Counsel's office. Given the Memorandum filed a few hours earlier laid out a prima facie case of conspiracy between the attorneys involved in the small claims case and attorney's involved in cases 2014-CP-10-05407 and 2017-CP-10-04031, notifying the Office of Disciplinary Counsel seemed appropriate.

On 11 May 2018, Appellant received a copy of an order from Judge Turner, the Charleston County Small Claims judge involved in the case which the Memorandum had been filed less than four days earlier. Judge Turner cited reasons such as "the court finds a failure to demonstrate the requisite particularized showing of the reason listed in 12(B)(1)" and "That no new evidence which by due diligence could not have been discovered was presented to the court.

Judge Turner's denial contains, as appears to be standard operating procedure, minor incorrect assertions, intended to create the appearance of a rational reason to deny the motion. .

Ironically, on the very same day, 11 May 2018, Appellant received an order from the SC Court of Appeals reinstating case number 2018-00056 and consolidating it with appeal case 2018-00174. Apparently Judge Lochemy had an epiphany during the previous 36 hours or so and decided he needed to review the lower court's filings to apparently determine he had made an awful mistake five weeks earlier when he had dismissed the case without prejudice so the outstanding motions could be heard. Given Judge Lochemy states he reviewed the "Appellant's post-trial motions that he alleges are pending", Judge Lochemy surely must have recognized the multiple improper actions Judge Scarborough had engaged in, including but not limited to, the closing all of the Appellant's outstanding motions filed prior to the appeal being filed, without having a hearing or entering an order. Clearly improper judicial conduct and I will argue done with a corrupt motive.

During the period late May 2018 through November 2018, Appellant made five separate motions to be granted leave to file a rule 60(b) motion in the lower court. Each were denied, for various and in some cases, misrepresentative reasons. Clearly, the SC Court of Appeals knew in general a 60(b) motion would look much like what was submitted to the Charleston County Small Claims court on the afternoon of 7 May 2018, and took all steps remotely possible to ensure that did not occur... much like the hurried attempt to reinstate of the appeal in an attempt to prevent the Rule 60(b) motion filed in the small claims case from being filed in cases 2014-CP-10-05407 and 2017-CP-10-04031.

On 6 Nov 2018, Appellant recognized the relationship between the Office of Disciplinary Counsel's offices location and the SC Court of Appeals location. Given that close physical proximity, compounded with the sudden attempted reinstatement of the appeal on or about 8 May 2018 as well as the SC Court of Appeals obvious intent to prevent a 60(b) motion from being filed in the lower court, Appellant forwarded for a second time the email from the afternoon of 7 May 2018.

In the same email, Appellant pointed out that the order allegedly filed in May 2018 attempting to quickly restore the case, lacked a date and Clerk of Court stamp.

On 10 Nov 2018, Appellant received a letter from the SC Court of Appeals, Deputy Clerk of Court, dated 7 Nov 2018, stating that the email sent on the morning of 6 Nov 2018 had been forwarded to her and stating "No further actions will be taken on your filing".

Despite the SC Court of Appeals multiple denials to grant Appellant the right to file a 60(b) motion, Appellant went ahead and filed a 60(b) motion for case 2017-CP-10-04031 on 9 Nov 2018 and for case 2014-CP-10-05407 on 13 Nov 2018.

The Court of Appeals issued an order dated 21 Dec 2018 giving Appellant 20 days to file their initial brief and designation of matter or the case would be dismissed.

Appellant filed a motion on 13 January 2019 asking the Court to properly restore the appeal, essentially a follow up and expansion of the 6 Nov 2018 email.

By letter dated 13 March 2019, Ms. Allen, the Deputy Clerk, stated that the appeal was restored in May 2018, that the lack of a stamp was just a clerical error and gave Appellant 20 days to file his initial brief and designation of matter or the case would be dismissed.

Judge Williams, by order dated 16 May 2019, denied any motions to remand and stated the Appellant's motion of 12 January 2019 was moot, without providing any explanation or evidence to support his questionable assertion. Likewise, Judge Williams also gave the Appellant 20 days to file the initial brief and designation of matter or the appeal would be dismissed.

Given multiple Court of Appeals judges, and Ms. Allen, the Deputy Clerk have avoided dealing with the obvious for more than seven months, Appellant saw no alternative but file a motion on 28 May 2019 attempting to compel the Court of Appeals, more accurately its judges and court personnel, to produce at least a scintilla of evidence and logic to support their various explanations as to why the case was so clearly restored, despite it being posted without a Clerk stamp or written date during the period of time from early May 2019 until whenever Ms. Allen and/or Ms. Kitchings finally decided to correct it after February 2019.

Despite that very focused and specific motion of Appellant, dated 28 May 2019 and received 30 May 2019, Judge Lockemy issued an order dated 27 June 2019 that said "Appellant has failed to serve and file his initial brief and designation of matter as required by the court's order of May 16, 2019. Accordingly, this appeal is dismissed. The remittitur will be sent as provided in Rule 221, SCACR," Notice there is not any mention of the motion dated 28 May 2019 nor the issue of Judge Williams avoidance on ruling on the January 2019 motion or the overarching and controlling issue of whether it was logically possible to dismiss appeal 2018-000056 if it had never been properly restored.

### **ARGUMENT**

First, and most crucial, if appeal 2018-000056 was never properly restored in May 2018, nor at any point thereafter, with particular focus on the period starting with the email of 6 Nov 2018, at which point judge Lockemy and Ms. Allen, at a minimum, was on notice of the issue, then clearly there is not an appeal 2018-000056 to be dismissed.

Second, given Judge Lockemy apparently reviewed Judge Scarborough's records, assuming Judge Lockemy is competent, then he clearly had first hand knowledge of Judge Scarborough's misconduct in the management of the case(s) starting at least by 23 March 2016.

Third, the Court of Appeals was on clear notice that the validity of at least two transcripts were called into question. The first, dated 21 March 2016, is known to be highly inaccurate. Given Judge Scarborough's and Charleston County's conduct in this matter, most likely intentionally fraudulent with the purpose of attempting to conceal the fraud involved with his order of 23 March 2016, alleging to dismiss case 2014-CP-10-05407 for a 40(j) agreement. The second, raising serious questions about Ms. Smith's inclusion of generic language in a transcript to conceal the fact that no witnesses were sworn in on 26 Sept 2017. Hence, not only was a motion to remand proper to allow these key issues to be vetted and corrected, but also, since the Appellant returned the transcripts for verification and correction, the Appellant has not received any verified transcript with which to generate an accurate record on appeal. The court of appeals conduct in repeated denials to remand can only be construed as knowing and willful improper conduct meant to protect Charleston County, Judge Scarborough, Ms. Smith, etc.

In respect to number two and three above, given the period of time which has lapsed since the Court of Appeals has been aware of these issues, and the obvious misconduct by Judge Scarborough, it appears Judge Lockemy and the other Court of Appeals judges have failed to properly report the misconduct of Judge Scarborough, thereby committing attorney judicial misconduct themselves. This issue, compounded by Judge Lockemy's, Ms. Allen's and Judge William's conduct with respect to the ongoing dispute of the obvious facts about if, and if so, when, 2018-000056 was ever restored, lays the foundation which required Judge Lockemy to recuse himself, and given his position on the Court of Appeals, compounded with the fact that it appears none of his associate justices have reported his misconduct, could be easily argued that the remaining eight judges have placed themselves in a position requiring voluntary recusal as well.

Additionally, given the case and intent Appellant laid out in his 28 May 2019 motion, specifically asserting that due to the case not being properly restored, I intended to pursue legal action against the court and at least one judge (Lockemy) and most likely Ms. Allen, under the premise that they did not have jurisdiction since 5 April 2019 and therefore could not assert judicial immunity, it is obvious that Judge Lockemy, at the time he signed the order of 27 June 2019, knew, or should have known, he was in a personally conflicted situation and had no choice but to recuse himself. The concept is not very difficult to grasp. If someone has made the same case, based on facts and evidence, similar to the one I included in my motion of 28 May 2019,

then clearly Judge Lockemy knew that to admit the appeal was not properly restored, or to rule on any of the allegations made in motions filed by me since mid January 2019 related to the appeal not being properly restored, would only further jeopardize his position legally. I would assert that his lack of even minimally addressing the issue in his order of 27 June 2019 could be construed as evidence of his consciousness of guilt at the time he signed the order and at the time he filed the order.

More to the point, South Carolina case law related to misconduct in office lays out three different types of misconduct of which public officers may commit: malfeasance, misfeasance and nonfeasance. Based just on the facts laid out above, it appears there is a high likelihood that Judge Lockemy, at a minimum, has engaged in nonfeasance, defined as substantial failure to perform the duty of good faith and accountability, as well as potentially misfeasance.

I am substantially more aware of the political influence the Tomlin's and their associates have in Columbia and South Carolina than I was even a year ago. It is totally understandable the State would like to avoid another huge, embarrassing political / governmental scandal. However, this ongoing knowing and willful improper conduct and perversion of the justice system by multiple South Carolina local, county and State persons and Persons, to conceal the conduct, delay the prosecution of, and ultimately use the power of the State to coerce an innocent citizen into forgoing their lawful rights to pursue justice, is, has been, and will forever be completely intolerable and counter to anything that resembles or supports a democracy or a republic. Likewise, the corruption of what appears to be a substantial number of licensed attorneys in South Carolina, either directly or indirectly, to protect the wealthy and powerful at all costs and without even the most minor regard for the principals set out in the Rules of Professional Conduct, can only be construed as leaving no doubt that the legal industry is not only not the solution, but substantially the foundation of the majority of the problem, and consequently, are not only not capable of self governance, but certainly should not be left in a position to provide counsel to our Government in their fiduciary duty to act in the interest of all people, not only the privileged few that supports the legal industry.

Also, just so no one can claim ignorance going forward, I do not believe it is much of a secret in the legal and political communities that I am aggressively looking into the GHS/SCO/UAO/Palmetto/Prisma transactions since 2016. Unsurprisingly, I am finding the

same patterns of (mis)conduct in that inquiry that I have found during my experience in these matters. The State of South Carolina, its institutions and public officials should take a pause and consider how long the path they are on is politically and legally viable. For instance, I have looked at several of the ratings in the media in Columbia during the last five or six years that rate the most influential people in Columbia. It appears that 10 to 15% of the top 50 over the years have wound up either in prison, in the midst of a criminal trial or indicted. Given what I have found and witnessed during the past two or three years, I imagine that percentage could easily be twice that rate if our government, in particular law enforcement, spent the same amount of time and energy investigating activities related to that community as is spent on the lower hanging fruit of our population that does not have the same political influence and financial means.

Lastly, the following is not meant to be perceived as woe as me and my family. I am keenly aware that many many more people in this state and country are, and have been, much worse off than I and my family. Having said that, I want to ensure EVERYONE is completely clear that I have spent an incredible amount of energy, time and money in defending my family and property from a clearly long term fraud, aided and abetted by multiple attorneys and governmental entities, with the ultimate intent to force me to settle an obvious fraud case, or lose everything I and my family have. If I had known two years ago what I know now, I probably would not have fought this foreclosure, because in retrospect, I highly regret spending my time on this corrupt State and legal system instead of spending that same amount of time, money and energy in helping my daughter and son recover as best as possible from the sudden and unexpected death of their mother in August 2016. But, since I didn't know better, I fought for what was right, found out the truth about our State's institution's and legal industry the hard way, and ultimately failed my family, not because of what I chose, but because of the significantly corrupt government underbelly that I did not know exist, has zero conscience, and consequently will use every power of the government to protect the Persons that they hope to benefit from during and post their government experience. But, since I didn't know better, and since I did fight, and since I have already spent all of this time, energy and money on you instead of my family, you should feel confident that I intend to see this through as far as is required to expose the corruption, and to the best of my ability ensure that all that are guilty, are properly held accountable

Given the completely incomprehensible fiasco the Court of Appeals has created for yourselves, and ultimately me, I actually do not know what to request you to do. Originally it seemed as if I should ask you to dismiss the case without prejudice so everything that could have been and should have been properly done A YEAR AGO could be done. BUT, to request that, or for you to do that, would mean that 2018-000056 was properly restored in May 2018, which obviously is not the case. Only corrupt attorneys and psychopaths could create such a contrived disaster from such a simple and documented set of facts.

SO, please provide a complete response to the motion received by the court on 30 May 2019, and based on the facts, logic and evidence the court and/or your attorneys make in that response, amend the order dated 27 June 2019 accordingly. Please ensure the court's response is mailed in such a timely manner to allow for the an appeal if necessary.

Dated: July 7, 2019

Respectfully submitted,



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

Nix  
1401 DENSMORE CIRCLE  
MT. PLEASANT, SC 29466

CHARLESTON, SC 294

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JUL 10 2019

SC Court of Appeals

JUDGE LOCKENY  
SC COURT OF APPEALS  
1220 SENATE ST.  
COLUMBIA, SC 29201

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