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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Roger M. Young and Maite Murphy, Circuit Court Judge

RECEIVED  
MAY 26 2020  
SC Court of Appeals

Appellate Case No. 2019-001878  
Common Pleas No. 2018-CP-10-3315  
Magistrate Case No. 2017CV1011500354

Alan Nix .....Appellant,

v.

Churchill Park Homeowners Association, Inc., Churchill Park at Parkwest, Inc., Churchill Park,  
Catherine Brown, and David Brown ..... Respondents.

**RESPONDENT'S MOTION TO DISMISS APPEAL**

The Respondent, Churchill Park, improperly named as Churchill Park Homeowners Association, Inc. and improperly named as Churchill Park at Parkwest, Inc., pursuant to Rule 260(a), SCACR, respectfully moves the Court for an order dismissing the appeal filed by Appellant for failure to timely file and serve his initial brief as required by Rule 208(a)(1), SCACR. In support of the motion, Respondents would show the following to the court.

This appeal arises from a case originally filed by Appellant in the Magistrate's Court for Charleston County on February 24, 2017 against Respondent. The original Magistrate's Court case (2017CV1011500354) was dismissed on April 18, 2017. Subsequently, Appellant filed a Notice of Civil Appeal on June 28, 2018, and the matter was assigned Civil Action Number

2018-CP-10-3315 by the Clerk of Court for Charleston County. The appeal was heard on August 28, 2019 in the Circuit Court for Charleston County, and the circuit court denied the appeal and dismissed the action by Order of September 27, 2019. Appellant filed a Notice of Appeal with this Court on November 8, 2019.

It appears Appellant received the transcripts no later than February 29, 2020, as evidenced by his correspondence to this Court submitting the transcript for this appeal.

Pursuant to Rule 208(a)(1), SCACR Appellant's deadline to file and serve his initial brief was, at the latest, March 30, 2020. Pursuant to South Carolina Supreme Court Order 2020-000447, regarding Operation of the Appellate Courts During the Coronavirus Emergency, the due date for all Appellate Court filings are extended twenty (20) day, which would extend Appellant's deadline to file and serve his initial brief until April 20, 2020. To date, Appellant has not filed any brief in this matter or requested any extension of time related to brief filing.

For these reasons, Respondent respectfully requests that Appellant's appeal be dismissed with prejudice and for such other and further relief as the court deems just and appropriate.

*Attorney Signature Page to Follow*

Respectfully submitted,

LUZURIAGA MIMS, LLP

By: 

Kevin W. Mims

50 Immigration St, Suite 200

Charleston, SC 29403

kmims@lmlawllp.com

*Attorneys for Respondent Churchill Park*

Charleston, South Carolina

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PROOF OF SERVICE

The undersigned certifies that a copy of *Respondent's Motion to Dismiss* has been served upon the following counsel of record and pro se party by mailing a copy of the same by United States Mail, addressed as shown below this 19 day of May, 2020.

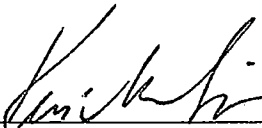
Alan G. Nix  
1401 Densmore Circle  
Mount Pleasant, SC 29466  
*Pro Se Appellant*

Andrew W. Countryman, Esquire  
Countryman Law Firm  
321 Wingo Way, Suite 102  
Mt. Pleasant, SC 29464  
*Attorney for Respondents McCabe,  
Trotter & Beverly, P.C., Stephanie  
Trotter, Ryan McCabe and Jamie  
McSweeney*

G. Troy Thames, Esq.  
Willson, Jones, Carter & Baxley, P.A.  
421 Wando Park Boulevard, Suite 100  
Mount Pleasant, SC 29464  
*Attorney for Respondents David Brown and Catherine Brown*

Respectfully submitted,

LUZURIAGA MIMS, LLP

By: \_\_\_\_\_

Kevin W. Mims  
50 Immigration St, Suite 200  
Charleston, SC 29403  
kmims@lmlawllp.com  
*Attorneys for Respondent Churchill Park*

Charleston, South Carolina



May 21, 2020

VIA U.S. MAIL

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

*Re: Alan Nix v. Churchill Park, et al.*  
*Appellate Case No.: 2019-001878*  
*Claim Number: 072-0000125-2017*  
*LM File Number: 114-20177015*

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Dear Ms. Kitchings::

Enclosed please find a check in the amount of \$50.00 for recently filed Motion to Dismiss in the above-referenced matter. Thank you for your assistance in this matter and if you have any questions, please do not hesitate to contact me.

With kindest regards, I am

Sincerely,

LUZURIAGA MIMS, LLP

s/ J. Barnwell Fishburne, Jr.

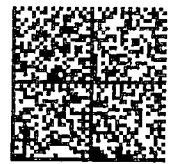
JBF/rh  
Enclosures



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