

93426

RECEIVED

OCT 19 2020

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Deadra L. Jefferson and Maite Murphy, Circuit Court Judges

Appellate Case No. 2019-001951

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

v.

Churchill Park, Churchill Park Homeowner's Association, Inc., Churchill Park at Parkwest, Inc., Churchill Park at Park West Association, Inc., Southern Community Services, LLC, Park West Master Association, Inc., LPPM, Inc., McCabe, Trotter & Beverly, PC, Larry Ridlehover, Stephanie Trotter, Ryan McCabe, Jamie McSweeney, Mike Hurd, Sheri Cothran, David Brown, Catherine Brown, Stephen Sumner, Richard Riccoboni, Rick Cumberland, Park West Master Association, Inc., Park West Amenity Association, Inc., C. Richard Dobson Builders, Inc., D.R. Horton, Inc., Brian Gardner, Dodds & Hennessey LLP, Kim Atkeson, Jennifer Williamson, Jessica Turner, Kevin Steelman, Landtech Development, LLC, Landtech Incorporated of South Carolina, Land Tech Charleston, LLC, Park West Development, Inc., Rogers, Townsend Thomas, PC, Henry Munn, Individually Directors, Officers, Agents, Attorneys, Accountants, Independent Contractors, Investors, Successors, Predecessors, Parents, Subsidiaries, Sister and Affiliated entities, Partners, and Members of all named Entities . . .
.....Respondents.

**RESPONDENTS CHURCHILL PARK, IMPROPERLY NAMED AS
CHURCHILL PARK AT PARK WEST, INC. AND IMPROPERLY NAMED AS
CHURCHILL PARK AT PARK WEST ASSOCIATION, INC., AND STEPHEN
SUMNER'S MOTION TO DISMISS**

The Respondents, Churchill Park, improperly named as Churchill Park at Park West, Inc. and improperly named as Churchill Park at Park West Association, Inc., and Stephen Sumner, pursuant to Rule 260(a), SCACR, respectfully move the Court for an order dismissing this appeal filed by the Appellants for failure to comply with Rule 208 and 203, SCACR.

Rule 203(d)(1)(B)

On November 25, 2019, Appellants filed a Notice of Appeal with this court. By letter from the clerk of court dated December 11, 2019, this court advised Appellants that a copy of the notice of appeal must be filed with the clerk of the trial court. The clerk's letter likewise stated that Appellants' deficiencies must be corrected within ten days of December 11, 2019 or the appeal will be dismissed. Upon information and belief, no copy of the notice of appeal has been filed with the trial court as required by Rule 203(d)(1)(B).

Because Appellants have failed to file a notice of appeal with the trial court, this court is without appellate jurisdiction to entertain the appeal and the case should be dismissed. *See Wells Fargo Bank, N.A. v. Fallon Properties S.C., LLC*, 422 S.C. 211, 220–21, 810 S.E.2d 856, 861 (2018) (stating “[t]he requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to “rescue” the delinquent party by extending or ignoring the deadline for service of the notice.”).

Rule 208(b)(1)(E)

Rule 208(b)(1)(E), *SCACR*, states in relevant part that “[t]he brief shall be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, **followed by discussion and citations of authority.**” Rule 208(b)(1)(E), *SCACR* (emphasis added). *See State v. Crocker*, 366 S.C. 394, 399 n. 1, 621 S.E.2d 890, 893 n. 1 (Ct.App.2005) (holding conclusory statements unaccompanied by argument and citation to authority are insufficient to preserve an issue for appellate review, and noting failure to provide such argument and citation renders an issue abandoned); *See also Noisette v. Ismail*, 304 S.C. 56, 58, 403 S.E.2d 122, 124 (1991) (holding

the court should not address an issue which was not explicitly ruled on by the trial court or brought to the trial court's attention in a motion to alter or amend). Here, Appellants merely make conclusory statements throughout the initial brief and fail to cite any authority at any time. This court should therefore find all issues are abandoned on appeal or otherwise not preserved for appellate review.

For these reasons, Respondents respectfully request that Appellants' appeal be dismissed with prejudice and for such other and further relief as the court deems just and appropriate.

Respectfully submitted,

LUZURIAGA MIMS, LLP

By: 

Kevin W. Mims

50 Immigration St, Suite 200

Charleston, SC 29403

kmims@lmlawllp.com

***ATTORNEY FOR RESPONDENTS
CHURCHILL PARK, IMPROPERLY NAMED
AS CHURCHILL PARK AT PARK WEST, INC.
AND IMPROPERLY NAMED AS CHURCHILL
PARK AT PARK WEST ASSOCIATION, INC.,
AND STEPHEN SUMNER***

Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

OCT 19 2020

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY

Deadra L. Jefferson and Maite Murphy, Circuit Court Judges

Appellate Case No. 2019-001951
Circuit Case No. 2019-CP-10-00067

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

v.

Churchill Park, Churchill Park Homeowner's Association, Inc., Churchill Park at Parkwest, Inc., Churchill Park at Park West Association, Inc., Southern Community Services, LLC, Park West Master Association, Inc., LPPM, Inc., McCabe, Trotter & Beverly, PC, Larry Ridlehover, Stephanie Trotter, Ryan McCabe, Jamie McSweeney, Mike Hurd, Sheri Cothran, David Brown, Catherine Brown, Stephen Sumner, Richard Riccoboni, Rick Cumberland, Park West Master Association, Inc., Park West Amenity Association, Inc., C. Richard Dobson Builders, Inc., D.R. Horton, Inc., Brian Gardner, Dodds & Hennessey LLP, Kim Atkeson, Jennifer Williamson, Jessica Turner, Kevin Steelman, Landtech Development, LLC, Landtech Incorporated of South Carolina, Land Tech Charleston, LLC, Park West Development, Inc., Rogers, Townsend Thomas, PC, Henry Munn, Individually Directors, Officers, Agents, Attorneys, Accountants, Independent Contractors, Investors, Successors, Predecessors, Parents, Subsidiaries, Sister and Affiliated entities, Partners, and Members of all named Entities . . .
.....Respondents.

PROOF OF SERVICE

The undersigned certifies that a copy of *Respondents' Motion to Dismiss* has been served upon the following pro se party and counsel of record by mailing a copy of the same by United States Mail, addressed as shown below this 15th day of October, 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

**ATTORNEY FOR RESPONDENTS
CHURCHILL PARK, IMPROPERLY NAMED
AS CHURCHILL PARK AT PARK WEST, INC.
AND IMPROPERLY NAMED AS CHURCHILL
PARK AT PARK WEST ASSOCIATION, INC.,
AND STEPHEN SUMNER**

Charleston, South Carolina



October 15, 2020

VIA U.S. MAIL

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

RECEIVED

OCT 19 2020

SC Court of Appeals

*Re: Alan Nix v. Churchill Park, et al.
Appellate Case No.: 2019-001951*

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of our Motion to Dismiss for filing, as well as a check for the \$50 filing fee in the above-referenced matter. I would appreciate your returning a file-stamped copy to me in the envelope provided. By copy of this letter, I am serving a copy of the same on all counsel of record and the pro se appellant. 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

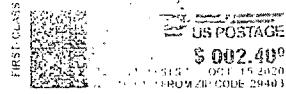
A handwritten signature in black ink, appearing to read "Kevin W. Mims".

Kevin W. Mims

Cc: Mr. Alan G. Nix
Andrew W. Countryman, Esq.
G. Troy Thames, Esq.



LUZURIAGA MIMS, LLP
50 Immigration Street, Suite 200 • Charleston, SC 29403



RECEIVED
OCT 10 2020
SC Court of Appeals

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

