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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

APPEAL FROM CHARLESTON COUNTY DEC 08 2020  
Court of Common Pleas

**SC Court of Appeals**

The Honorable? Mikell Scarborough and  
The Honorable? Maite Murphy

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

Appellate Case No. 2020-001304

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

Appellants,

v.

Churchill Park,

Respondent,

Appellate Case Number 2020-001304

APPELLANTS' MOTION RELATED TO MS. ALLEN'S ORDER (DISMISSAL) DATED  
24 NOVEMBER 2020

## BACKGROUND AND ISSUES

Appellants' received an Order from Ms. Claire Allen of the South Carolina Court of Appeals dated 24 November 2020 on 2 December 2020. Ms. Allen states in her Order that this appeal is dismissed because Appellant has failed to order the transcript as well as file a motion to order the transcript outside of the filing deadlines as required by Rule 207. Clearly Ms. Allen reacted incorrectly to something without paying attention to several key facts, the vast majority of which was available to the SC Court of Appeals on 24 November 2020, and in most circumstances, actually filed with the SC Court of Appeals over three weeks before 24 November 2020. This motion and the facts and arguments made herein is not meant to be a complete and exhaustive list of the issues with Ms. Allen's Order of 24 November 2020, but merely to point out the obvious and key facts and issues sufficient to have the SC Court of Appeals correct this obviously erroneous Order.

The first and major issue with Ms. Allen's Order of 24 November 2020 and her stated rationale for issuing such order is substantially addressed in Appellants' motion filed in this case with the SC Court of Appeals on 2 November 2020. The title of that motion is "APPELLANT'S SECOND MOTION FOR EMERGENCY STAY OF SALE OF PROPERTY, ORDER TRANSCRIPT LATE (IN NECESSARY), CLARIFY DEFICIENCY ORDER OF 6 OCTOBER 2020, ADD ORIGINAL PARTIES BACK TO APPEAL". Appellant points out with specificity the part of that title which reads "**ORDER TRANSCRIPT LATE (IN NECESSARY)**". Hence, point one of this motion is the obvious fact that Ms. Allen's assertion that "*Appellant has failed ....as well as file a motion to order the transcript outside of filing deadlines*" is clearly not true and the evidence related to such had been in the SC Court of Appeals possession for over three weeks at the time Ms. Allen took the time to craft this Order in an attempt to dismiss this case.

Next, lets focus on the part of that title in parenthesis. Eg. **(IF NECESSARY)** Ms. Trotter, acting as an Agent of Judge Mikell Scarborough and Charleston County, sent a letter on 31 July 2020 stating that Judge Mikell Scarborough and Charleston County had apparently set a supplemental damages hearing in case 2017-CP-10-04031 on August 20, 2020 at 10:00 AM and that "*Pursuant to S.C. Code Ann 14-11-110 (as amended), the Plaintiff's attorney will be submit written testimony on behalf of the Plaintiff at the hearing listed above*" (See Ex. A)

S.C. Code Ann. 14-11-110 states:

**SECTION 14-11-110.** Master shall take testimony on application of party; procedure.

The master shall, upon the application of either party to any cause or proceedings in which equitable relief is demanded pending and at issue in his county, take in writing the testimony of any witness who may be produced before him by any party to the cause, ten days' notice of such application having been given to the opposite party. Such witness shall be subject to the same examination, cross-examination and reply and the same exceptions as to the admissibility of testimony may be taken as are allowed by law upon examination before the court except that in case any testimony be objected to the master shall receive the same subject to the exceptions, reporting the exceptions and his ruling thereon.

It is undisputed that case 2017-CP-10-04031 is a Charleston County, SC case and that Judge Mikell Scarborough is the appointed Master in Equity in Charleston County, SC. There are obviously many many many issues with how what happened, or didn't happen as the case may be, on 20 August 2020, but based on at least Ms. Trotter's own words in Exhibit A, it seems as if the only possible and remotely logical conclusion is that Ms. Trotter did exactly what she said she was going to do in the letter dated 31 July 2020 and "*submit written testimony on behalf of the Plaintiff at the hearing listed above*". With this being clarified at a pretty elementary level, Appellants' points the SC Court of Appeals, Ms. Allen, Ms. Abbott-Kitchings, etc. back to Appellants' motion filed 2 November 2020 and specifically to page four of that motion and the twenty nine pages included in that motion as Exhibit 1. Appellants' state that based on the above at this point in time, one can only conclude that Exhibit 1 of the motion filed with the SC Court of Appeals on 2 November 2020 in this case must be, can only be, exactly the transcript of the testimony Ms. Trotter was referring to in her letter dated 31 July 2020 when she stated "*Pursuant to S.C. Code Ann 14-11-110 (as amended), the Plaintiff's attorney will be submit written testimony on behalf of the Plaintiff at the hearing listed above*". Appellant argues there is literally no other explanation other than this being the case.

Hence, returning to Ms. Allen's statements of apparent fact of her Order attempting to dismiss this case on 24 November 2020, Appellant DID file a motion to order the transcript outside of the filing deadlines on 2 November 2020, if necessary, and actually included that apparent transcript of the testimony apparently taken in front of the Master in Equity of Charleston County on 20 August 2020 of "*any witness who may be produced before him by an party to the cause*" as Exhibit 1 in the 2 November 2020 motion.

Furthermore, when Appellants' were praying to this Court in the 2 November 2020 motion, the fifth prayer states "*Notify Appellants' if Exhibit 1 is responsive to Ms. Abbott-Kitchings demands.*" Since 2 November 2020, Appellants' have received two pieces of correspondence from the SC Court of Appeals about this case. One Ms. Allen's Order of 24 November 2020 attempting to dismiss this appeal and the second, Judge Williams Order filed 6 November 2020. Of course Judge Williams denied Appellants' first prayer of the 2 November 2020 motion, and then went on to attempt to straighten out the 6 October 2020 letter Order, but did not speak to Appellants' fifth prayer about Ms. Abbott-Kitchings demands about transcripts. Hence, a relatively reasonable person can conclude based on the facts of this unique (hopefully) situation, words of Ms. Trotter from 31 July 2020, and the fact that Judge Williams, by not addressing the issue about transcripts in his 6 November 2020 Order related to Appellants' 2 November 2020 motion which contained the 29 page Exhibit 1, meant that Judge Williams agreed, even as bizarre as the situation obviously is, that the 29 pages of Exhibit 1 from 2 November 2020 is exactly what Ms. Trotter and Judge Mickell Scarborough and Charleston County intended to be the testimony "*taken in writing of any witness who may be produced before him by any party to the cause*" as specified in *S.C. Code Ann 14-11-110 (as amended)*.

But, as to attempt to leave as few material stones unturned related to this hopefully unique situation, Appellants' points this Court back to page four of the 2 November 2020 motion which reads in part "*Second, since the motion filed with this court on 22 October 2020 lays out some significant problems with Scarborough's jurisdiction of case 2017-CP-10-04031, not to mention the improper enabling conduct by Public Official Armstrong and Charleston County, clearly asking an employee of Charleston County to provide a transcript of those proceedings is improper. Hence, please coordinate with Ms. Kohn to have a Court Reporter from Court Administration provide whatever transcript is required.*"

First, as stated previously, it does not appear as if Ms. Kohn and Court Administration has taken any action related to this since 2 November 2020. Second, and granted this is a recent development, Appellants' filed another Notice of Appeal of Judge Mikell Scarborough's Order (ironically also) dated 2 November 2020 last week in this case. Even though that Notice of Appeal only contains the necessary stuff, Appellants' advise this Court to review the Orders contained in the Notice of Appeal filed last week for additional issues with Judge Mikell Scarborough's jurisdiction of case 2017-CP-10-04031.... Consequently, it is almost totally

improper to have a transcript produced by a Charleston County employee instead of a Court Administration employee given these circumstances. To clarify, if there is at least a better than average chance that the Charleston County Master in Equity doesn't have, and never had, anything remotely resembling proper jurisdiction of case 2017-CP-10-04031, then clearly a Charleston County employee who provides exclusive Court Reporter services to the Charleston County Master in Equity couldn't possibly be an appropriate person to transcribe whatever else may or may not have occurred on 20 August 2020, not to mention that whatever else may or may not have occurred on 20 August 2020 is completely inconsequently, legally speaking, if the Charleston County Master in Equity doesn't have, and never had, anything remotely resembling proper jurisdiction of case 2017-CP-10-04031.....

Thus, while it appears Mikell Scarborough as the appointed Master in Equity for Charleston County, would have been totally within his jurisdiction to *"take in writing the testimony of any witness who may be produced before him by any party to the cause"* for *"any cause or proceedings in which equitable relief is demanded pending and at issue in his county"* pursuant to SC Code 14-11-110, which presumably, and ultimately the only option is, the 29 pages contained in Exhibit 1 of the motion filed in this case on 2 November 2020. Additionally, as this Court can now view for itself, the only thing scheduled to occur on 20 August 2020 was *"Pursuant to S.C. Code Ann 14-11-110 (as amended), the Plaintiff's attorney will be submit written testimony on behalf of the Plaintiff at the hearing listed above"*. Lastly, based on the Orders contained in the Notice of Appeal filed with this Court last week in this case, it appears as there are some anomalies as it relates to SC Code 14-11-310, which further goes to the Appellants' comments on page four of the motion filed 2 November 2020. Eg. *"Second, since the motion filed with this court on 22 October 2020 lays out some significant problems with Scarborough's jurisdiction of case 2017-CP-10-04031, not to mention the improper enabling conduct by Public Official Armstrong and Charleston County, clearly asking an employee of Charleston County to provide a transcript of those proceedings is improper."*

Hence, to wrap up this section of this motion a bit succinctly, in direct response to Ms. Allen's comments and assertions in her Order dated 24 November 2020 attempting to dismiss this appeal:

1. *"Appellant has failed to order the transcript..."*

- a. There is no transcript to order related to this matter that is material in any legally valid respect because the 29 pages contained in Exhibit 1 from Appellants' 2 November 2020 motion is the only possible option to what Ms. Trotter, as an Agent for Charleston County and the Charleston County Master in Equity scheduled to occur by letter dated 31 July 2020. (See Exhibit A) The only possible transcript pursuant to S.C. Code 14-11-110 related to this matter was provided to this court as Exhibit 1 to the 2 November 2020 motion, which a reasonable person can only conclude that Judge Williams agreed with based on his 6 November 2020 Order.
  - b. Since nothing else was scheduled to occur by Ms. Trotter, as an Agent for Charleston County and the Charleston County Master in Equity on 20 August 2020 other than "*Pursuant to S.C. Code Ann 14-11-110 (as amended), the Plaintiff's attorney will be submit written testimony on behalf of the Plaintiff at the hearing listed above*" nothing else should have occurred, hence, whatever else occurred was not scheduled, was clearly improper, and obviously intended for improper purposes.
  - c. Now this Court and the SC Judicial machine has some follow the money evidence included in the Orders filed with the Notice of Appeal last week in this case, further making the case as to Scarborough's and Charleston County's lack of jurisdiction in case 2017-CP-10-04031.
2. "*Appellant has failed to....file a motion to order the transcript outside of the filing deadlines....*"

- a. Obviously not true if one just reads the caption of the 2 November 2020 motion filed in this case. To assist in this analysis, here it is again.  
**"APPELLANT'S SECOND MOTION FOR EMERGENCY STAY OF SALE OF PROPERTY, ORDER TRANSCRIPT LATE (IN NECESSARY), CLARIFY DEFICIENCY ORDER OF 6 OCTOBER 2020, ADD ORIGINAL PARTIES BACK TO APPEAL"**.
- b. Even more obviously not true if one actually reads the 2 November 2020 motion.

**ISSUE 2**

**Inclusion / Exclusion of Judge Murphy's 27 September 2019  
Order in case 2018-CP-10-03315 entitled ORDER ENJOINING  
THE PLAINTIFF FROM RE-FILING THIS MATTER AND  
IMPOSING SANCTIONS UPON THE PLAINTIFF**

The Appellants' are more confused now than previously about this situation even though this Court has routinely made it appear to be obvious. In Ms. Catherine H\_\_\_'s letter Order of 6 October 2020, she states "*The appeal of the September 27, 2019 order in case 2018-CP-10-03315 is not timely served. Accordingly, this appeal will proceed without consideration of this order.*"

When the Appellant's requested a clarification of this situation in the 2 November 2020 motion, Judge Williams stated "*As to Appellant's request for clarification of the October 6, 2020 letter, this court notes Appellant's appeal of the September 27, 2019 is dismissed because Appellant failed to timely serve the notice of appeal. See Rule 203, SCACR.*"

Yet, as of the date of this appeal, Appellants' haven't received an Order dismissing the appeal related to Judge Murphy's Orders in case 2018-CP-10-03315, including but not limited to her extremely inaccurate, (and easily known to be factually extremely inaccurate) order entitled "ORDER ENJOINING THE PLAINTIFF FROM RE-FILING THIS MATTER AND IMPOSING SANCTIONS UPON THE PLAINTIFF". Appellants' request this Court explain this situation with enough facts involved that layPersons like the Appellants can understand what was so clearly wrong. If the original appeal of Judge Murphy's Order in case 2018-CP-10-03315 entitled "ORDER ENJOINING THE PLAINTIFF FROM RE-FILING THIS MATTER AND IMPOSING SANCTIONS UPON THE PLAINTIFF" isn't dismissed, and clearly Charleston County continues to use this order in a very prejudicial and improper manner in many cases involving Appellants and their property located in the Churchill Park Subdivision of the Development known as Dunes West in Mount Pleasant, SC, including related to the matters involved in this appeal, then clearly Judge Murphy's extremely inaccurate order entitled "ORDER ENJOINING THE PLAINTIFF FROM RE-FILING THIS MATTER AND IMPOSING SANCTIONS UPON THE PLAINTIFF" should be included in this appeal. Additionally, Judge Murphy's extremely inaccurate order entitled "ORDER ENJOINING THE

PLAINTIFF FROM RE-FILING THIS MATTER AND IMPOSING SANCTIONS UPON THE PLAINTIFF” was included in the Notice of Appeal filed last week for the same reason.

Since Charleston County and Judge Mikell Scarborough and everyOne that they work with went ahead and sold Appellant’s home located in the Churchill Park Subdivision of the Development known as Dunes West in Mount Pleasant, SC and this Court denied multiple motions of Appellants to prevent that, similar to the numerous denials of motions by Appellant Alan Nix in appeals 2018-00056 and 2018-00174 to file Rule 60(b) motions in cases 2014-CP-10-05407 and 2017-CP-10-04031 during 2018 and 2019, the good news is Appellants aren’t seeking any of those clearly improper requests from the Court of Appeals in this motion. However, Appellants do make a general request of the SC Court of Appeals, as a cog in the SC Judicial machine, along with any other Agencies and Associations that have jurisdiction in such matters of obvious Judicial and Public Corruption matters, to take any and all necessary steps to at least end such overt and obvious misconduct by Persons like which have been involved in these cases for so long. Appellant Alan Nix fears without at least the appearance of a little bit of oversight, investigation and appropriate discipline, such gross misconduct can only be construed by Persons like involved in this case as, even though unspoken, approval of such obvious and egregious misconduct.

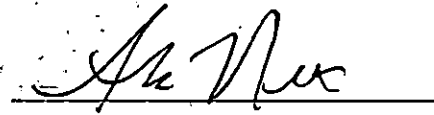
WHEREFORE, Appellants respectfully requests this Court:

1. Toll the Statute of Limitations related to all matters which could and should have been validly asserted but cannot be due to Judge Murphy’s Order dated 27 September 2019, for case 2018-CP-10-03315, entitled ORDER ENJOINING THE PLAINTIFF FROM RE-FILING THIS MATTER AND IMPOSING SANCTIONS UPON THE PLAINTIFF and Public Official Armstrong, Charleston County’s and Scarborough’s knowing and willful improper conduct in these matters.
2. Clarify if and when the Appellant’s appeal of the September 27, 2019 is dismissed because Appellant failed to timely serve the notice of appeal. If the appeal of the September 27, 2019 is not dismissed, restore that order to the orders included in this appeal.
3. Obviously file an Order rescinding Ms. Allen’s Order dated 24 November 2020.


4. Have Court Administration assume control of any and all recordings and other evidence in the possession of Charleston County related to 20 August 2020.
5. Perhaps, considering the circumstance, return the enclosed check in the amount of \$50 to Appellants. All things considered, perhaps it would be more appropriately utilized for necessities and Salvation Army Christmas donation.
6. Any other and further relief as the Court deems just, prudent and proper.

December 8, 2020

Respectfully submitted,



Alan G. Nix (individually)  
1401 Densmore Circle  
Mount Pleasant, SC 29466  
(843) 991-4170



Alan G. Nix (as co-PR for Estate of Norma J. Nix)  
1401 Densmore Circle  
Mount Pleasant, SC 29466  
(843) 991-4170



Ethan Nix, co-PR for Estate of Norma J. Nix  
1784 Walhalla Hwy.  
Pickens, SC 29671  
(864) 419-8654

**Exhibit**

**A**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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DEC 08 2020

**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

Appellate Case No. 2020-001304

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

Appellants,

v.

Churchill Park,

Respondent,

PROOF OF SERVICE

The undersigned certifies that a copy of the Appellants' Motion to Rescind / Correct Ms. Allen's Order to Dismiss filed 24 November 2020 has been served upon the individuals listed below by mailing or hand delivering a copy of the same, postage prepaid, in the United States Mail, addressed as shown, this 8<sup>th</sup> day of December 2020 to:

Plaintiff Attorneys:  
Ryan McCabe & Stephanie Trotter  
McCabe, Trotter & Beverly, P.C.

Todd M. Musheff, Esq.  
Law Offices of Todd M. Musheff

4500 Fort Jackson Blvd.  
Columbia, SC 29209

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

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

Sarah Schreiber  
Charleston Legal Access  
3775 Spruill Ave., Ste. B  
North Charleston, SC 29405

Alan Wilson  
SC Attorney General  
1000 Assembly St.  
Columbia, SC 29201

First Federal Savings & Loan Association  
of Charleston dba CenterState Bank, N.A.  
c/o Nicole Comer  
700 Gervais St.  
Columbia, SC 29202

State Street Holdings, LLC  
c/o MP Morris Law Firm  
336 Old Chapin Rd.  
Lexington, SC 29072

CenterState Bank, N.A.  
Office of General Counsel  
1951 8<sup>th</sup> Street NW  
Winter Haven, FL 33881

Peter McCoy  
U.S. Attorney, South Carolina  
1441 Main St., Ste. 500  
Columbia, SC 29201

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

Judge Murphy  
5200 East Jim Bilton Blvd.  
St. George, SC 29477

Troy Thames  
Wilson, Jones, Carter, Baxley  
421 Wando Park Blvd.  
Mt. Pleasant, SC 29464

Joe Dawson  
Charleston County Attorneys  
4045 Bridge View Dr.  
Charleston, SC 29405

Tonnya Kohn  
Court Administration  
1220 Senate St.  
Columbia, SC 29201

Chief Keel  
SC Law Enforcement Div.  
4400 Broad River Rd.  
Columbia, SC 29210

Kevin Mimsi  
Luzuriaga Mims  
50 Immigration St.  
Charleston, SC 29403

Dated: December 8, 2020

Respectfully submitted,

By:



Alan G. Nix  
1401 Densmore Circle  
Mount Pleasant, SC 29466  
(843) 991.4170

Physical Address:  
4500 Fort Jackson Blvd.  
Suite 250  
Columbia, South Carolina  
29209

Mailing Address:  
Post Office Box 212069  
Columbia, SC 29221

Locations in:  
Mount Pleasant, SC  
Myrtle Beach, SC



**MCCABE, TROTTER & BEVERLY, P.C.**

COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

[www.mccabetrotter.com](http://www.mccabetrotter.com)

Phone: (803) 724-5000

Fax: (803) 724-5001

Stephanie Trotter Kellahan  
Shareholder

Stephanie.Kellahan@mccabetrotter.com

July 31, 2020

Sarah Anne Schreiber, Esq.  
1630 Meeting Street, Suite 106  
Charleston, SC 29405  
*Attorney for the Estate of Norma J. Nix*

Alan G. Nix  
1401 Densmore Circle  
Mount Pleasant, SC 29466

RE: Churchill Park vs. Alan G. Nix and Estate of Norma J. Nix  
Civil Action Number: 2017-CP-10-04031, and 2014-CP-10-05407  
Our File Number: 17990.0001

Dear Sarah Anne Schreiber, Esq. and Alan G. Nix:

Enclosed please find a copy of the Notice of Hearing in this matter.

Pursuant to S.C. Code Ann. § 14-11-110 (as amended), the Plaintiff's attorney will submit written testimony on behalf of the Plaintiff at the hearing listed above.

If you plan to attend the hearing, we would appreciate you leaving a message at (803)724-5000.

Yours very truly,  
Stephanie Trotter Kellahan

STK/atc  
Enclosure

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DEC 08 2020  
SC Court of Appeals

COURT OF APPEALS

2020-1304

8 DEC 2020