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**SC Court of Appeals**

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

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

**Marvin H. Dukes III, Master in Equity & Special Circuit Court Judge**

**Appeal Case No. 2021-000434  
Circuit Court Case No. 2019CP0702178**

**JOSEPH CHAKYING SUN, Individually  
and JOSEPH CHAKYING SUN, as Trustee  
of The 2009 Sun's Family Trust in  
South Carolina, USA**

.....

**Appellant**

**v.**

**BLUFFTON PARK COMMUNITY  
OWNERS' ASSOCIATION, INC.**

.....

**Respondent**

**PETITION FOR REHEARING AND  
MOTION TO STAY ORDER ON APPEAL BOND**

COMES NOW, APPELLANT JOSEPH SUN, and moves the court for a rehearing on this court's order of June 30, 2021 dismissing his appeal for failure to pay the notice of appeal filing fee and shows the court as follows:

- (1) Appellant is a seventy-four (74) years old retiree on a small social security income and could not afford the notice of appeal filing fee. After his motion to proceed in forma pauperis was denied by the court, he filed a motion to reconsider on May 13, 2021. Appellant received a letter from the court dated May 25, 2021 titled "Enclosed is a copy of this Court's order." stating that

“The court will not entertain petitions for rehearing on motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party’s appeal. Therefore, No action will be taken on the portion of your motion requesting consideration.” (Copy of letter Exhibit A.) There was nothing else in the envelope containing the aforesaid letter-order.

Appellant misunderstood that he needed no action, and could pay the filing fee at a later date. He did not receive another order attached therewith because the cover letter stated that was the court’s order. Appellant had finally gathered sufficient money to pay the filing fee and the transcript. But when he called the court, he was told that the appeal case had already been dismissed for non-payment of notice of appeal filing fee. (Order Exh. B) Appellant did not receive the second part of the order and had no knowledge on the extended date to pay the filing fee.

The clerk of court was very kind to inform Appellant that she would send a copy of the second order to Appellant. Appellant prays the court for a rehearing and to reinstate his appeal as he will pay the filing fee as soon as the court would give him a date to do so.

(2) After the notice of appeal was filed and served on about April 16, 2021 in this case, respondent Bluffton Park requested a hearing at the court of common pleas without informing Appellant any detail. Appellant objected to respondent’s request based on Rule 205, SCACR that circuit court had no more jurisdiction and respondent gave no detail on the purpose of the hearing as Appellant could not prepare for it. (See attached Exhibit C.)

Appellant had included in the statement of issues on appeal: “Issue 5 that -

“It is error and abuse of discretion of the Master in Equity, to allow Plaintiff-Respondent to include the sale of Appellant’s house in the Master’s Decree of Foreclosure, Sale and judgment without first requiring an undertaking or bond to the Appellant, with two good sureties, in double the amount of the judgment of \$21,115.47 pursuant to *South Carolina Code §18-9-130(A)(2)*.”

At the Web-Ex hearing, the Master in Equity noticed that respondent filed a request for bond at the South Carolina supreme court and took the matter on advisement on June 24, 2021. The Master entered an order on June 28, 2021 on the appeal bond requiring Appellant to pay an appeal bond pursuant to SC Code of Law §18-9-170 but differing to Appellant's request for bond pursuant to SC Code §18-9-130(a)(2). (Copy of Masters Order is attached as Exhibit D.)

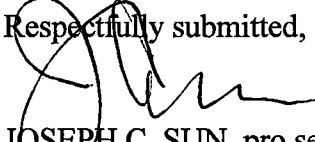
Not only the Master had no jurisdiction to hear any matter while notice of appeal was already filed at the time (even though it was dismissed on June 30, Exhibit B) the Master had no authority to hear and decide on any matter filed at the South Carolina Supreme Court. (Exhibit E)

Appellant prays the court to vacate the Master's Order on Appeal Bond. Appellant has no ability to pay the 1 ½ times the judgment for surety, and his daughter and he both require a home to stay. Appellant can show in this appeal that he does not owe the respondent any money. The respondent only obtained the within judgment through a series of denial of due process and violation of the rule of civil procedure as explained in the Appellant's Brief.

#### CONCLUSION

Appellant prays the court to reinstate the within appeal and instruct him to pay the appeal filing fee by a date certain. Appellant also prays that the circuit order on Appeal Bond be vacated or in the alternative allow a stay of execution pending the outcome of appeal.

This 6<sup>th</sup> day of July, 2021

Respectfully submitted,  
  
JOSEPH C. SUN, pro se  
P. O. Box 2543  
Bluffton, SC 29910  
843-226-8788



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 25, 2021

Joseph C. Sun  
Post Office Box 2543  
Bluffton SC 29910

Re: Bluffton Park Community Association Inc. v. Joseph Chakyng Sun  
Appellate Case No. 2021-000434

Dear Mr. Sun:

Enclosed is a copy of this Court's order.

We received your Motion to Reconsider, or in the Alternative, Extension of Time. Pursuant to Rule 240(i) of the South Carolina Appellate Court Rules (SCACR), "The court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal." Therefore, no action will be taken on the portion of your motion requesting consideration.

Very truly yours,

*V. Claire Allen*

CLERK

cc: Scott Matthew Wild, Esquire

-A-

# The South Carolina Court of Appeals

Bluffton Park Community Owners' Association, Inc.,  
Respondent,

v.

Joseph Chakyng Sun, as Trustee of The 2009 Sun's  
Family Trust in South Carolina, USA; Joseph Chakyng  
Sun, Individually; Liling Sun n/k/a Liling Walsh; Oleysa  
Matyushevsky; Christine Varg; and Citizens Opposed to  
Domestic Abuse, Defendants,

of whom Joseph Chakyng Sun, as Trustee of The 2009  
Sun's Family Trust in South Carolina, USA and Joseph  
Chakyng Sun, Individually is the Appellant,.

Appellate Case No. 2021-000434

The Honorable Marvin H. Dukes, III  
Beaufort County  
Trial Court Case No. 2019CP0702178

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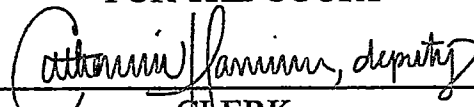
## ORDER

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Appellant Joseph C. Sun has failed to provide the notice of appeal filing fee, as required by Rule 203 of the South Carolina Appellate Court Rules, and as requested in the Court's order dated May 25, 2021. Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY

  
CLERK

-B-

Columbia, South Carolina

cc:  
Joseph C. Sun  
Scott Matthew Wild, Esquire

**FILED**  
**Jun 30 2021**

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )

IN THE COURT OF COMMON PLEAS  
FOURTEENTH JUDICIAL CIRCUIT

2021 JUN -3 AM 11: 27

BLUFFTON PARK COMMUNITY )  
ASSOCIATION, Inc. )

JERRI ANN ROSENEAU  
BEAUFORT COUNTY, S.C.  
CLERK OF COURT

CIVIL ACTION  
NO. 2019-CP-07-02178

v. )

DEFENDANTS' RESPONSE TO  
PLAINTIFF'S REQUEST FOR  
HEARING

JOSEPH CHAKYING SUN, et al )  
Defendants. )

Defendants Joseph Sun (hereinafter Sun) and the 2009 Suns Family Trust (hereinafter the Trust) hereby respond to Plaintiff's request for hearing as follows:

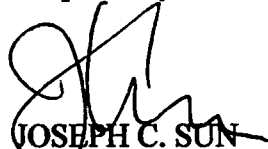
Plaintiff Bluffton Park Community Association (hereinafter Bluffton Park) requests the court to grant a hearing without filing or serving any motion or document informing defendants any detail. Defendants can only guess on Plaintiff's purpose of the hearing requested. For that reason alone, no hearing should be granted as Defendants are not required to speculate, without more they cannot prepare for any argument or present any evidence for the hearing.

It is a denial of the defendants' right to due process here, in addition to numerous illegal acts already committed by the Plaintiff that the defendants now has to guess, that Plaintiff wishes to present certain issues at a hearing of which defendants are not sure. Reviewing the Beaufort County Public Index, Plaintiff seems to have filed a "formal objection/sufficiency of surety" at the Supreme Court with a copy put in the county public index. But this court has no authority to hear anything filed at the South Carolina Supreme Court after Notice of Appeal had already been filed and served on April 16, 2021. Therefore, this court has no more jurisdiction on any matter relating to the judgment in this case which would be affected by the outcome of the appeal. (Rule 205, SCRAP.) Therefore, Plaintiff's request for a hearing must be denied.

If and when the Supreme Court would ever remand the matter to this court for determination, Defendants Sun and the Sun Trust would include the provisions in South Carolina Code Section 18-9-130(A)(2) that "(2) A plaintiff may not enforce a sale of property after a notice of appeal is filed without giving an undertaking or bond to the defendant, with two good sureties, in double the appraised value of the property or double the amount of the judgment, conditioned to pay all damages the defendant may sustain by reason of the sale in case the judgment is reversed."

This 1st day of June, 2021

Respectfully submitted,

  
JOSEPH C. SUN  
P. O. Box 2543  
Bluffton, SC 29910  
843-226-8788


### CERTIFICATE OF SERVICE

This is to certify that I have this date served the Plaintiff a copy of this document, by depositing a copy of same in the U.S. Mail to:

Scott M. Wild, Esq.  
P. O. Box 6867  
Hilton Head Island, SC 29938

and by email to: [scott@wildlawfirm.com](mailto:scott@wildlawfirm.com)

This 1st day of June, 2021.

  
JOSEPH C. SUN  
P. O. Box 2543  
Bluffton, SC 29910

STATE OF SOUTH CAROLINA )  
COUNTY OF BEAUFORT )  
Bluffton Park Community Association, Inc., )  
Plaintiff(s), )  
vs. )  
Joseph Chakyng Sun, et al., )  
Defendant(s). )

IN THE COURT OF COMMON PLEAS

CASE NO: 2019-CP-07-02178

ORDER ON APPEAL BOND

This came before me June 24<sup>th</sup>, 2021 on the issue of an appeal bond to stay the sale of real estate in this HOA foreclosure action. As of this date, no bond has been posted or tendered by any party. At the hearing (held by Web-ex), Defendant Sun indicated that he had not posted a bond and did not intend to post a bond on his belief that SC Code of Laws 18-9-130(a)(2) controlled and said section required the Plaintiff to post a bond. Plaintiff references SC Code of Laws 18-9-170 as the controlling section in a case of the sale of real estate for foreclosure of an HOA lien and seeks to have Defendant Sun post a bond. I respectfully differ with Defendant's opinion and find that SC Code of Laws 18-9-170 is controlling.

As such, I find that the property can be sold as an exception to Appellate Court Rule 241, and Order that the same be done.

I find that the Defendant may stay the sale by posting an undertaking, as set forth in SC Code of Laws 18-9-170 in an amount not to exceed 1 1/2 times the judgment amount, together with the other requirements and provisions as set forth in 18-9-170.

In the event that Defendant fails to post as set forth hereinabove, the Plaintiff may advertise and sell the property with the sale to be held not before the August 2021 sales date.

IT IS SO ORDERED:

Honorable Marvin H. Dukes, III  
Master in Equity and Special Circuit Court  
Judge for Beaufort County

June 28, 2021  
Beaufort, South Carolina



**Beaufort Common Pleas**

**Case Caption:** Bluffton Park Community Association Inc VS Joseph Chakyng Sun ,  
defendant, et al  
**Case Number:** 2019CP0702178  
**Type:** Order/Other

So Ordered:

s/Marvin H. Dukes III #3069

**STATE OF SOUTH CAROLINA  
In The Supreme Court**

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

**Marvin H. Dukes, III Master in Equity  
and Special Circuit Judge**

**CASE NO. 2019-CP-07-02178**

**JOSEPH CHAKYING SUN as Trustee  
of The 2009 Suns Family Trust, and  
JOSEPH CHAKYING SUN, Individually ..... Appellants**

**v.**

**BLUFFTON PARK COMMUNITY  
ASSOCIATION, INC. .... Respondent**

**I. FORMAL OBJECTION TO THE CIRCUIT COURT ON SUFFICIENCY OF  
SURETIES; and  
II. PARTIAL RETURN ON MOTION FOR CONSIDERATION ON ALREADY FILED  
PETITION FOR WRIT OF MANDAMUS**

COMES NOW, Respondent Bluffton Park Community Association, Inc. (hereinafter, "Plaintiff/Respondent") and files its 1) Formal Objection to the Circuit Court on Sufficiency of Sureties; and 2) Partial Return on Motion for Consideration on Already Filed Petition for Writ of Mandamus, and would respectfully show the following unto this Honorable Court.

**I.**

On April 18, 2021, Plaintiff/Respondent received First Notice of Appeal via e-mail. See e-mail and Notice of Appeal, and the corresponding Certificate of Service purporting to serve via e-mail on April 16, 2021 attached hereto as Exhibit "A". Thereafter, on April 27, 2021, nine days after receipt of the Notice of Appeal, Plaintiff/Respondent notified Mr. Sun and the Honorable Marvin H. Dukes, III, Master in Equity for Beaufort County, South Carolina via e-mail that it was objecting to the sufficiency Defendant/Appellants' sureties. A formal objection was not filed with the Court at that time because undersigned counsel had not received notice that Appellants had filed their appeal with the Court of Common Pleas, the result of which is that the Court of Common

- E -

Pleas did not have jurisdiction over the appeal or this matter, and because no sureties were actually named. A copy of the April 27, 2021 e-mail is attached hereto as Exhibit "B". On the date hereof, Plaintiff/Respondent learned of the filing of said Notice of Appeal on April 20, 2021 thereby giving this Court jurisdiction over the matter.

Defendants/Appellants JOSEPH CHAKYING SUN as Trustee of The 2009 Suns Family Trust, and JOSEPH CHAKYING SUN, Individually (hereinafter, collectively "Defendants/Appellants") in filing their appeal failed to comply with the provisions of S.C. Code Ann. § 18-9-10 et seq. Specifically, Defendants/Appellants have failed to comply with the following requirements:

1. Execution of a written undertaking, with two sureties, that during possession of such property by the appellants they will not commit or suffer to be committed any waste thereon and that they will pay rental value of the property if the appeal is unsuccessful. S.C. Code Ann. § 18-9-170;
2. Service of the written undertaking with the Notice of Appeal. S.C. Code Ann. § 18-9-200; and
3. Failure to provide affidavits of two sureties with a written undertaking that they are each worth double the amount specified therein. S.C. Code Ann. § 18-9-210.

For these reasons, Plaintiff/Respondent files its Formal Objection to the Circuit Court on Sufficiency of Sureties pursuant to S.C. Code Ann. § 18-9-210.

## II.

On April 30, 2021 Plaintiff/Respondent received a copy of Defendants/Appellants' Motion for Consideration on Already Filed Petition for Writ of Mandamus, a copy of which is attached hereto as Exhibit "C" along with the corresponding email transmitting it.<sup>1</sup> Among the relief requested in said motion is for a stay of execution of the Order granting foreclosure. Plaintiff/Respondent would respectfully show that Defendants/Appellants are not entitled to such relief and in fact should have the Appeal as to the foreclosure dismissed.

As grounds therefor Plaintiff/Respondent points to SCACR Rule 241. While stays are normally automatic under SCACR 241(a), in cases of foreclosure there are exceptions thereto listed in SCACR 241(b). One such exception as listed in SCACR 241(b)(4) which pertains to foreclosures and sales of land. Said section specifically cites S.C. Code Ann. § 18-9-170. Under SCACR 241(b) all exceptions and prerequisites must be strictly complied with.

Defendants/Appellants specifically failed to comply with S.C. Code Ann. § 18-9-170 by failing to make an undertaking and offer sureties, among other things. Furthermore, pursuant to S.C. Code Ann. § 18-9-200, any undertaking or surety offering under S.C. Code Ann. § 18-9-170 "must be served on the adverse party with the notice of appeal".

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<sup>1</sup> Note the Certificate of Service purporting to have e-mailed it to the undersigned on April 27, 2021.

Defendants/Appellants' Notice of Appeal did not contain any undertaking or promise, nor offer any surety as served upon the undersigned or filed with the Clerk of Court for Beaufort County, South Carolina. Accordingly, there can be no stay of the foreclosure sale.

**LAW OFFICE OF SCOTT M. WILD, LLC**

By: s/Scott M. Wild  
SC Bar # 76528  
Attorney for the Respondent  
Post Office Box 6867  
Hilton Head Island, SC 29938  
(843) 785-9453  
scott@wildlawfirm.com

This 30<sup>th</sup> day of April, 2021,

Hilton Head Island, Beaufort County, South Carolina.

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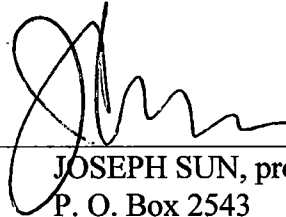
**SC Court of Appeals**

**PROOF OF SERVICE**

I certify that I have this date served the Appellant's Petition for Rehearing and Motion to Vacate or in the Alternative to Stay Order on Appeal Bond on Respondents' counsel by depositing a copy of same in the U.S. Mail postage prepaid to:

Scott M. Wild, Esq.  
P. O. Box 6867  
Hilton Head Island, SC 29938  
email: [scott@wildlawfirm.com](mailto:scott@wildlawfirm.com)

This 6th day of July, 2021



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JOSEPH SUN, pro se  
P. O. Box 2543  
Bluffton, SC 29910  
843-226-8788

J.C. Sun  
P.O. Box 2543  
Bluffton, SC 29910

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JUL 08 2021

**SC Court of Appeals**

Clerk of Court  
South Carolina Court of Appeals  
P. O. Box 11629  
Columbia, SC 29122



U.S. POSTAGE  
- \$0.95  
FCM LETTER  
29910 0000  
Date of sale  
07/06/21  
06 2SSK  
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2921181629 8012

