

STATE OF SOUTH CAROLINA)
)
 COUNTY OF CHARLESTON)
)
CHURCHILL PARK (incorp 31 July 2003))
 Plaintiff,)
 vs.)
)
ALAN NIX, NORMA NIX AND THE)
ESTATE OF NORMA NIX)
 Defendant.)

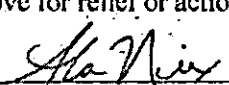
IN THE COURT OF COMMON PLEAS
 NINTH JUDICIAL CIRCUIT
 CASE NO.: 2017-CP-10-04031

MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET

RECEIVED

AUG 25 2021

SC Court of Appeals

Plaintiff's Attorney: McCabe, Musheff & Trotter, Bar No. _____ Address: 4500 Fort Jackson Blvd., Columbia, SC 29209 and PakMail 1121 Parkwest Blvd, Mt. Pleasant, SC 29466 (box B148) Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Alan Nix, Bar No. Pro Se Address: 1401 Densmore Circle, Mt. Pleasant, SC 29466 Phone: 843.991.4170 Fax _____ E-mail: agnix1@hotmail.com Other: _____
<input checked="" type="checkbox"/> MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) <input type="checkbox"/> FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) <input type="checkbox"/> PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: SCRCP 60(b); set aside all Orders entered after 6 May 2020 without Plaintiff's Compliance with SC Supreme Court Order requiring CARES Act Certificate of Compliance be filed Estimated Time Needed: 20 mins Court Reporter Needed: <input checked="" type="checkbox"/> YES / <input type="checkbox"/> NO	
SECTION II: Motion/Order Type	
<input checked="" type="checkbox"/> Written motion attached <input type="checkbox"/> Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<div style="display: flex; justify-content: space-between;"> <div>  Signature of Attorney for <input type="checkbox"/> Plaintiff / <input checked="" type="checkbox"/> Defendant </div> <div> 20 August 2021 Date submitted </div> </div>	
SECTION III: Motion Fee	
<input checked="" type="checkbox"/> PAID - AMOUNT: \$ 25. ⁰⁰ CH.# 1195 <input type="checkbox"/> EXEMPT:	
(check reason) <input type="checkbox"/> Rule to Show Cause in Child or Spousal Support <input type="checkbox"/> Domestic Abuse or Abuse and Neglect <input type="checkbox"/> Indigent Status <input type="checkbox"/> State Agency v. Indigent Party <input type="checkbox"/> Sexually Violent Predator Act <input type="checkbox"/> Post-Conviction Relief <input type="checkbox"/> Motion for Stay in Bankruptcy <input type="checkbox"/> Motion for Publication <input type="checkbox"/> Motion for Execution (Rule 69, SCRCP) <input type="checkbox"/> Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ <input type="checkbox"/> Other: _____	
JUDGE'S SECTION	
<input type="checkbox"/> Motion Fee to be paid upon filing of the attached order. <input type="checkbox"/> Other:	JUDGE CODE _____ Date: _____

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

RECEIVED
AUG 25 2021
SC Court of Appeals

CHURCHILL PARK;)

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

ALAN G. NIX, NORMA J. NIX AND)
THE ESTATE OF NORMA J. NIX)

**DEFENDANT'S RULE 60(b) MOTION
FOR ALL ORDERS ENTERED
BEFORE PLAINTIFF'S
COMPLIANCE WITH SOUTH
CAROLINA SUPREME COURT
ORDER DATED 6 MAY 2020
REQUIRING CERTIFICATE OF
COMPLIANCE WITH CARES ACT**

Plaintiff,)
)
)
)
Defendants,)

PLEASE TAKE NOTICE, Defendant Alan Nix hereby submits this motion to set aside all Orders entered in these prior to Plaintiff fully complying with the South Carolina Supreme Court Order dated 6 May 2020 entitled "*RE: Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act in Evictions and Foreclosures Forms*". This Order is included as **Exhibit A**.

I.
BACKGROUND

On 6 May 2020, South Carolina Supreme Court Justice Donald W. Beatty signed an Order entitled "*RE: Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act in Evictions and Foreclosures Forms*", herein after referred to as "*May 2020 SCSC CARES Act Order*". Chief Justice Beatty stated in the second paragraph of his *May 2020 SCSC CARES Act Order* "*I FIND it is appropriate to ensure that evictions and foreclosures filed in the trial courts of this State comply with the protections provided in the Coronavirus Aid, Relief, and Economic Security Act for certain tenants and homeowners.*"

Chief Justice Beatty went on to state in the fourth paragraph of his *May 2020 SCSC CARES Act Order* "*IT IS ORDERED that any party pursuing an eviction or foreclosure in a trial court of this State must submit to the court a signed, original, Certification of Compliance with*

the Coronavirus Aid, Relief, and Economic Security Act. For evictions and foreclosures filed on or after the date of this Order, the Certification of Compliance must be submitted along with the initial filing. For evictions and foreclosures filed before the date of this Order, the Certification of Compliance must be filed with the court prior to proceeding with the eviction or foreclosure. If a party required to file a Certification of Compliance neglects to do so the eviction or foreclosure shall terminate without further action taken."

Chief Justice Beatty went on to state in the sixth paragraph of his *May 2020 SCSC CARES Act Order* "IT IS FURTHER ORDERED that Master- in-Equity courts statewide shall not hold a foreclosure sale, or issue a judgment of foreclosure, writ of assistance, or writ of ejectment n a foreclosure action until the party pursuing the foreclosure has complied with the provisions of this Order."

II.

ARGUMENT

On information and belief, on or about 31 July 2020, McCabe, Musheff and Trotter mailed a Notice of Hearing for 20 August 2020 for case 2017-CP-10-04031.

On information and belief, on or about 20 August 2020, McCabe, Musheff and Trotter, representing "Churchill Park" (incorporated 31 July 2003) and Ms. Sarah Schreiber of Charleston Legal Access, representing Norma J. Nix and The Estate of Norma J. Nix, participated together in such a meeting with Scarborough.

On information and belief, on or about 20 August 2020, McCabe, Musheff and Trotter filed various documents with the court. On information and belief, none of these documents purported to be a Certification of Compliance as required by Chief Justice Beatty's *May 2020 SCSC CARES Act Order*.

On information and belief, on or about 21 August 2020, Scarborough filed Orders in these cases. On information and belief, those Orders do not mention anything about a Certification of Compliance being filed as required by Chief Justice Beatty's *May 2020 SCSC CARES Act Order*.

On information and belief, one issue contained in Scarborough's Orders filed on or about 21 August 2020 is that he improperly set a sales date for the Defendants' home located in the Churchill Park Subdivision of Mount Pleasant, more particularly 1401 Densmore Circle, to be sold at a foreclosure sale scheduled for 6 October 2020.

On information and belief, on or about 13 October 2020 McCabe, Musheff and Trotter mailed some or all of the various documents they filed with the Court on or about 20 August 2020 to Defendants. On information and belief, the documents received by Alan Nix did not contain any documents that appeared to be something that appeared to be a Certification of Compliance required by Chief Justice Beatty's *May 2020 SCSC CARES Act Order*.

On information and belief, on or about 6 October 2020 Scarborough held a foreclosure sale and improperly sold Defendants' home located in the Churchill Park Subdivision of Mount Pleasant, more particularly 1401 Densmore Circle, to State Street Holdings Co. LLC for \$136,000 plus interest.

On information and belief, Scarborough knowingly and willfully improperly signed a deed on 23 October 2020 purporting to transfer title to Defendants' home to State Street Holdings Co. LLC because they had purportedly fully complied with Mr. Marshall Overton's 6 October 2020 bid at the afore cited 6 October 2020 foreclosure sale.

On information and belief, Scarborough improperly filed a Writ of Assistance on 31 December 2020, attached as **Exhibit B**, requiring the Defendants to vacate their home by Noon on 22 January 2021 or be forcibly removed by the Charleston County Sheriff's Department.

On information and belief, Scarborough held a hearing on 7 January 2021 related to his 31 December 2020 Writ of Assistance Order. As of the date of this motion, Defendant Alan Nix does not know who attended this hearing, at what time it was held, when notifications about this hearing were mailed, or any other information about this hearing.

On information and belief, Scarborough filed an Order on 8 January 2021 affirming his 31 December 2020 Writ of Assistance Order. **Exhibit C**.

On information and belief, Scarborough has most likely taken other improper actions in these cases since 8 January 2021.

On information and belief, the Plaintiff in these cases, "Churchill Park" (incorporated 31 July 2003), have never, either through its Agents, Employees, Officers and/or Directors, or through its attorneys McCabe, Musheff and Trotter, filed a Certification of Compliance in these cases as required by Chief Justice Beatty's *May 2020 SCSC CARES Act Order*.

On information and belief, Scarborough engaged in all of these improper actions since May 2020 knowing, or having should have known, that the Plaintiff in these cases, "Churchill Park" (incorporated 31 July 2003), nor their Agents, Employees, Officers, Directors, or attorneys (McCabe, Musheff and Trotter) have never filed a Certification of Compliance in these cases as required by Chief Justice Beatty's *May 2020 SCSC CARES Act Order*.


Defendants' reserve the right to augment this motion with a memorandum in support of this motion to be filed prior to the hearing on this matter.

WHEREFORE, Defendants, respectfully requests the Court to:

1. Enter an Order setting aside all Orders in these cases which were entered prior to the Plaintiff in these cases, "Churchill Park" (incorporated 31 July 2003) filing a Certification of Compliance in these cases compliant with Chief Justice Beatty's May 2020 SCSC Cares Act Order dated 6 May 2020.
2. Any and all other and further relief as the Court deems just, prudent, and proper.

August 20, 2021

Respectfully submitted,



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