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OCT 05 2021

SC Court of Appeals

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

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

**The Honorable??? Mikell Scarborough and
The Honorable? Maite Murphy**

**Case Nos.: 2017-CP-10-04031 and
2014-CP-10-05407 and
2018-CP-10-03315**

Appellate Case No. 2021-00074

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

Appellants,

v.

**Churchill Park,
(not to be confused with the Real Party in
Interest, Churchill Park Homeowners'
Association, Inc.)**

Respondent,

**APPELLANTS' MOTION FOR PERMISSION TO FILE RULE 60(b) MOTION IN
CHARLESTON COUNTY CIRCUIT COURT**

Appellant Alan Nix files this motion requesting the SC Court of Appeals to enter an Order granting Appellant permission to file the attached Rule 60(b) Order in the lower court /

Charleston County Circuit Court. Given the nature of the issues, and specifically the timing set forth in portions of Rule 60(b), Appellant requests a prompt order in this matter. Additionally, assuming this motion is handled properly in Charleston County, such a motion should provide case load relief to the Court of Appeals since it seems highly unlikely this appeal will be required to go forward.

WHEREFORE, Appellants respectfully requests this Court:

1. Grant this request for Appellant to file included Rule 60(b) motion in Charleston County.
2. Any other and further relief as the Court deems just, prudent and proper.

October 5, 2021

Respectfully submitted,



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

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 / 2014-CP-10-04031

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

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: _____
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- MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)
- FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)
- PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

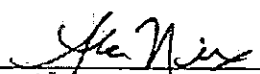
Nature of Motion: SCRCP 60(b); set aside all Orders entered after 6 May 2020 without Plaintiff's Compliance with SC Supreme Court Order requiring CARES Act Certificate of Compliance be filed, illegal sale of 1401 Densmore Circle Mt. Pleasant, SC on 6 October 2021

Estimated Time Needed: 20 mins Court Reporter Needed: YES / NO

SECTION II: Motion/Order Type

Written motion attached
 Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.


 Signature of Attorney for Plaintiff / Defendant 3 October 2021
 Date submitted

SECTION III: Motion Fee

PAID - AMOUNT: \$ 25.00 at \$100

EXEMPT: (check reason)

- Rule to Show Cause in Child or Spousal Support
- Domestic Abuse or Abuse and Neglect
- Indigent Status State Agency v. Indigent Party
- Sexually Violent Predator Act Post-Conviction Relief
- Motion for Stay in Bankruptcy
- Motion for Publication Motion for Execution (Rule 69, SCRCP)
- 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: _____
 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: _____
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CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: \$ _____

CONTESTED - AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

) IN THE COURT OF COMMON PLEAS
) THE NINTH JUDICIAL CIRCUIT
)

CHURCHILL PARK,

) CASE NUMBER: 2017-CP-10-04031
)

Plaintiff,

) And
)

) 2014-CP-10-05407
)

vs.

) CERTIFICATE OF SERVICE
)
)

ALAN G NIX, NORMA J NIX and the
ESTATE OF NORMA J NIX,

Defendants.
)
)

The undersigned hereby certifies that a copy of Defendant's 60(b) motion to set aside all Orders filed in these cases prior to Plaintiff's compliance with Chief Justice Beatty's 6 May 2020 Order requiring a CARES Act Certification was served upon all parties and/or their respective counsel of record via USPS, postage prepaid, in the United States Mail, addressed as shown, this

~~5~~ day of October 2021 to:

McCabe & Trotter
McCabe, Trotter & Beverly, P.C.
4500 Fort Jackson Blvd.
Columbia, SC 29209

Todd M. Musheff, Esq.
Law Offices of Todd M. Musheff
1121 Park West Blvd., Ste. B148 (Pak Mail)
Mount Pleasant, SC 29466

M.P. Morris
M.P. Morris Law Firm
336 Old Chapin Rd.
Lexington, SC 29072

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
(for Scarborough)

Rep. Ryan McCabe
SC House of Representatives
320A Blatt Bldg.
Columbia, SC 29201

Auto Owners Insurance Co.
6101 Anacapri Blvd.
Lansing, MI 48917

Anne Smith
SC Insurance Reserve Fund
1201 Main St., Ste. 500.
Columbia, SC 29201
(for Scarborough)

Natalie Ham
Charleston County Attorney
4045 Bridge View Dr.
Charleston, SC 29405
(for Scarborough and CHS County)

Bill Tuten
Charleston County Administrator
4045 Bridge View Dr.
Charleston, SC 29405

Scarlett Wilson
Solicitor, 9th Circuit
O.T. Wallace Bldg.
101 Meeting St.
Charleston, SC 29401

Jenny Abbott Kitchings
Clerk of Court, SC Court of Appeals
1220 Senate St.
Columbia, SC 29201

Dated: October 3, 2021.

Respectfully submitted,

By:



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

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

CHURCHILL PARK;)

Plaintiff,)

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

Defendants,)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

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

**DEFENDANTS' 60(b) MOTION
TO SET ASIDE 6 OCTOBER 2020
MASTER'S SALE OF DEFENDANTS'
HOME AND VOID MASTER'S DEED
DATED 23 OCTOBER 2020**

PLEASE TAKE NOTICE, Defendant Alan Nix hereby submits this motion to set aside the Charleston County Master in Equity sale of defendants' family home located at 1401 Densmore Circle, Mt. Pleasant, SC 29466 which occurred on 6 October 2020 as well as voiding Scarborough's Master's Deed dated 23 October 2020 in which he improperly issued a Master's Deed for Defendant's family home to State Street Holding, LLC without Additional Party State Street Holding, LLC complying with Mr. Marshall Overton's 6 October 2020 bid and without the Plaintiff ever complying with Chief Justice Beatty's 6 May 2020 Order entitled "*RE: Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act in Evictions and Foreclosures Forms*"

BACKGROUND and ARGUMENT

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 in a foreclosure action until the party pursuing the foreclosure has complied with the provisions of this Order.*"

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, none of which purported to be a Certification of Compliance as required by Chief Justice Beatty's May 2020 SCSC CARES Act Order.

On information and belief, due to Plaintiff's lack of compliance with Chief Justice Beatty's 6 May 2020 Order entitled "*RE: Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act in Evictions and Foreclosures Forms*", case number 2017-CP-10-04031 terminated no later than the morning of 20 August 2020. (*If a party required to file a Certification of Compliance neglects to do so the eviction or foreclosure shall terminate without further action taken*)

On or about 21 August 2020, despite case number 2017-CP-10-04031 terminating no later than the morning of 20 August 2020, Scarborough filed Orders in these cases none of which mention the Plaintiff's compliance with Chief Justice Beatty's May 2020 SCSC CARES Act Order. One of Scarborough's Orders 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.

Starting sometime in September 2020, Scarborough, the Plaintiff and the Plaintiff's attorneys began running advertisements of the sale of Defendant's home in the Charleston Post & Courier despite knowing, or having should have known, that due to Plaintiff's ongoing lack of compliance with Chief Justice Beatty's May 2020 SCSC CARES Act Order that case 2017-CP-10-04031 had terminated no later than 20 August 2020. See Exhibits A and B.

On information and belief, on or about 23 October 2020 a party and/or their attorneys for cases 2014-CP-10-05407 and 2017-CP-10-04031 provided Scarborough with a deed for the Defendants' home located at 1401 Densmore Circle which included materially inaccurate statements of fact. One of those materially inaccurate statements reads: "*NOW THEREFORE KNOW ALL MEN, That I, the undersigned, as a Master in Equity for Charleston County, pursuant to the foregoing and in consideration of the sum of One Hundred Thirty Six Thousand and no/100 (\$136,000.00) Dollars as paid by the hereinafter named Grantee, the receipt of whereof is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant and release unto the grantee, STATE STREET HOLDINGS, LLC, 5105 Forest Drive, Columbia, South Carolina, 29206, the following described property:*"

It is undisputed that as of 23 October 2020, State Street Holdings, LLC had not paid Charleston County *One Hundred Thirty Six Thousand and no/100 (\$136,000.00) Dollar.*

It is undisputed that State Street Holdings, LLC had to pay Charleston County over \$136,800 (One hundred thirty six thousand eight hundred dollars) no later than 5 November 2020 to comply with Mr. Overton's bid of 6 October 2020.

It is undisputed that State Street Holdings, LLC has never paid Charleston County an amount over \$136,000 and consequently was in default of Mr. Overton's 6 October 2020 bid as of 6 November 2020.

It is undisputed that as of 6 November 2020, State Street Holdings, LLC / Mr. Overton's \$6800 deposit of 6 October 2020 should have been forfeited to the costs of cases 2014-CP-10-05407 and 2017-CP-10-04031.

It is undisputed that Scarborough, instead of applying Mr. Overton's \$6800 bid to the costs of cases 2014-CP-10-05407 and 2017-CP-10-04031 on 6 November 2020, knowingly, willfully and unlawfully signed over Defendants' home to State Street Holdings, LLC on 23 October 2020 knowing, or having should have known, that State Street Holdings, LLC had not complied with Mr. Overton's 6 October 2020 bid of \$136,000 plus interest through the date of compliance.

It is undisputed that "Churchill Park" (incorporated 31 July 2003), has 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* and as such, Scarborough's Master in Equity sale of Defendants' home on 6 October 2020 was invalid, should never have been held and must be set aside. (*"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."*)

As such, it is undisputed that any deed associated with an invalid Master in Equity sale, regardless of whether full compliance with a bid was ever legally made, is invalid, should not have been signed and/or filed and must be voided and removed from the Public Record.

Defendant's reserve the right to file a memorandum related to this motion prior to a hearing being held for such a motion.

WHEREFORE, Defendants, respectfully requests the Court to:

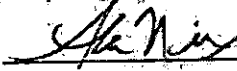
1. Enter an Order setting aside Mikell Scarborough's / Charleston County's 6 October 2020 Master in Equity sale of 1401 Densmore Circle, Mt. Pleasant, SC 29466.
2. Enter an Order voiding Mikell Scarborough's Master's Deed signed on 23 October 2020 purporting to transfer 1401 Densmore Circle, Mt. Pleasant, SC 29466 to State Street Holdings, LLC and ordering the Charleston County Register of Deeds to

remove the same deed, as well as any other subsequent deeds in the chain of title, from the Public Record.

3. Enter an Injunction against all parties other than Defendants / Defendants' family from transferring, renting, selling, or otherwise using the Defendant's family home located at 1401 Densmore Circle, Mt. Pleasant, SC 29466 and order the Charleston County Register of Deeds to file the same in its records.
4. Any and all other and further relief as the Court deems just, prudent, and proper.

October 3, 2021

Respectfully submitted,



Alan G. Nix
1401 Densmore Circle
Mount Pleasant, SC 29466
(843) 991-4170
agnix1@hotmail.com

Public Auctions

MASTER'S SALE BY VIRTUE of a decree heretofore granted in the case of CHURCHILL PARK, V.E. ALAN G. NIX AND ESTATE OF NORMA J. NIX, C/A No. 2017-CP-10-04031. The following property will be sold on 10/06/2020 at 11:00AM, at County Council Chambers, Public Service Building 4045 Bridge View Drive, North Charleston, SC 29405, to the highest bidder.

All that certain piece, parcel or lot of land, together with the improvements thereon, situate, lying and being in the Town of Mount Pleasant, County of Charleston, State of South Carolina, and being more particularly shown and delineated as Lot 22 on that certain plat by Southeastern Surveying, Inc. entitled "A FINAL SUBDIVISION PLAN OF CHURCHILL PARK, PHASE III, PARCEL 10, PARKWEST OWNED BY C. RICHARD DOBSON BUILDERS, INC. LOCATED IN THE TOWN OF MOUNT PLEASANT CHARLESTON COUNTY, SOUTH CAROLINA", dated December 31, 1999, and recorded in Plat Book ED at Page 904, in the RAC Office for Charleston County, South Carolina.

This being the same property, to given to Alan G. Nix and Norma J. Nix by deed of C. Richard Dobson Builders, Inc. dated 07/13/2001 and recorded in the Charleston County Register of Deeds Office on 07/17/2001 in Book C377 at Page 591.

Property Address:
1401 Densmore Circle
TAAS# 5980300096

TERMS OF SALE: The successful bidder, other than the plaintiff, will deposit with the Master, at conclusion of the bidding, five per cent (5%) of his bid, in certified funds, as evidence of good faith, same to be applied to purchase price if compliance is made; but in the event compliance is not made, the deposit shall be forfeited and applied first to costs of the action and then to plaintiff's debt. Should the successful bidder at the regularly conducted sale fail or refuse to make the required deposit at time of bid or comply with the other terms of the bid within thirty (30) days, then the Master may re-sell the property on the same terms and conditions on some subsequent Sales Day, but at the risk of the defaulting bidder(s).

NOTICE: The foreclosure deed is not a warranty deed; interested bidders should satisfy themselves as to the quality of title to be conveyed by obtaining an independent title search prior to the foreclosure sale date.

No personal or deficiency judgment being demanded, the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately.

Purchaser to pay for documentary stamps on Master's Deed. The successful bidder will be required to pay interest on the balance of the bid from date of sale to date of compliance with the bid at the rate of 8.75% per annum.

SUBJECT TO ASSESSMENTS, CHARLESTON COUNTY TAXES, EXISTING EASEMENTS, EASEMENTS AND RESTRICTIONS OF RECORD AND OTHER SENIOR ENCUMBRANCES. SPECIFICALLY, THIS SALE IS SUBJECT TO A SENIOR MORTGAGE HELD BY First Federal Savings and Loan Association of Charleston RECORDED IN Book E377 at Page 82.

Stephanie Trotter Kellahan
Attorney for Plaintiff
P.O. Box 212649
Columbia, SC 29221
(803) 724-5002

The Honorable
Mikel R. Scarborough
Master in Equity for
Charleston County

AD# 1875811

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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In The 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
2018-CP-10-03315**

Appellate Case No. 2021-00074

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 Appellant Alan Nix's motion for approval to file SCRCF 60(b) motion in lower court / Charleston County 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 5th day of October 2021 to:

McCabe & 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. B148 (Pak Mail)
Mount Pleasant, SC 29466

M.P. Morris
M.P. Morris Law Firm
336 Old Chapin Rd.
Lexington, SC 29072

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
(also Scarborough's attorney?)

Anne Smith
SC Insurance Reserve Fund
1201 Main St., Ste. 500.
Columbia, SC 29201

Natalie Ham
Charleston County Attorney
4045 Bridge View Dr.
Charleston, SC 29405
(Scarborough's staff's attorney? and
Hasselden's attorney)

Chief Keel, Esq./ SLED Public Corruption Expert
SC Law Enforcement Division
4400 Broad River Rd.
Columbia, SC 29210

Scarlett Wilson
Charleston County Solicitor Office
O.T. Wallace Bldg.
101 Meeting St.
Charleston, SC 29401

Dated: October 4, 2021

Respectfully submitted,

By:



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

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OCT 05 2021

SC Court of Appeals

5 October 2021

Alan Nix
1401 Densmore Circle
Mount Pleasant, SC 29466

Ms. Jennie Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate St.
Columbia, SC 29201

RE: Churchill Park v. Alan G. Nix, Norma J. Nix and the Estate of Norma J. Nix
Notice of Appeal – Case Numbers: 2017-CP-10-04031, 2014-CP-10-05407 and 2018-CP-10-03315
Appellate Case Number: 2021-00074

Ms. Abbott Kitchings,

Please find enclosed:

1. Motion for permission to file Rule 60(b) motion in lower court / Charleston County
2. Proof of Service.
3. Check number 1901 in the amount of \$50.00 drawn on Navy Federal Credit Union.
4. Copies of the motion and Proof of Service to be returned with your clock stamp
5. Self-addressed and postage prepaid envelope to return the enclosed copies of the Motion and Proof of Service (Exhibits not included for return)

Thank you for your assistance.

Best regards,



Alan Nix

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SC Court of Appeals

SC COURT OF APPEALS

2021-00074

5 OCT 2021