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Aug 22 2022
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY

Jeannette W. McBride, Clerk of Court

Jocelyn Newman, Circuit Court Judge

Appellate Case No. 2022-000327

U.S. National Bank Association, as Trustee Successor in Interest
to Wachovia Bank, National Association f/k/a First Union
National Bank, as Trustee for Long Beach Mortgage Loan Trust
2001-4 Respondent,

v.

Michael R. Capers, Sheron K. Capers, South Carolina
Department of Revenue, County of Richland, and Rolling Creek
Community Homeowners Association, Inc.

Of Whom, Michael R. Capers and Sheron K. Capers are the Appellants.

RETURN TO APPELLANTS' MOTION TO REINSTATE APPEAL

Dean A. Hayes, SC Bar No. 66066
McCabe, Trotter & Beverly, P.C.
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Attorney for Respondent

August 22, 2022
Columbia, South Carolina

By letter dated August 11, 2022, the Court of Appeals requested that the respondent, U.S. National Bank Association, as Trustee Successor in Interest to Wachovia Bank, National Association f/k/a First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust 2001-4 (“U.S. National Bank”), specifically address whether the counterclaims filed by the appellants, Michael R. Capers and Sheron K. Capers (“Capers”), are legal and compulsory, thereby entitling them to a jury trial. This is a case where U.S. National Bank filed a foreclosure action against the Capers. In the Capers’ response to the summons and complaint, they set forth four counterclaims: (1) violation of the South Carolina Unfair Trade Practices Act; (2) breach of contract; (3) failure to ascertain attorney preference under S.C. Code Ann. § 37-10-102(a)(1); (4) and violation of 15 U.S.C. 1641. U.S. National Bank concedes that the first, second and fourth counterclaims are legal and compulsory in this foreclosure case.

However, this should not end the discussion as to whether the Capers’ appeal should be dismissed. In order to understand the reference of the case to Judge Joseph Strickland, the Richland County Master in Equity, the sequence of events in referring the case need to be set forth. As shown by the attached Exhibit A, U.S. National Bank filed a motion for summary judgment as to the Capers’ counterclaims on October 8, 2021. On October 28, 2021, U.S. National Bank filed a motion for an order of reference, a copy of which is attached as Exhibit B. On February 8, 2022, U.S. National Bank filed a memorandum in support of its motion for summary judgment and motion for order of reference, and a copy of this memorandum, without the attached exhibits, is attached as Exhibit C.

This case appeared on the February 14, 2022 jury roster before Circuit Court Judge Jocelyn Newman, and as shown by the emails attached as Exhibit D, when Judge Newman’s law clerk inquired about the status of the case, I informed the law clerk that all of the parties had agreed to

a continuance of the case through the February 14, 2022 term of court and that U.S. National Bank had an outstanding motion for summary judgment and an outstanding motion for an order of reference, both of which had been filed months earlier but not heard. Judge Newman did not grant the motion for a continuance of the case through the February 14, 2022 term of court, so the attorney for the Capers and I both appeared at the roster meeting. When this case was called by Judge Newman at the roster meeting, the Capers' attorney and I both stood for the case. I informed Judge Newman of the request for a continuance and the outstanding motions, and Judge Newman said she would like to refer the case to Judge Strickland, the Master in Equity, for him to hear U.S. National Bank's motion for summary judgment. Neither the Capers' attorney nor I objected, so Judge Newman requested a proposed order of reference, which was submitted to the Court and signed by Clerk of Court on February 14, 2022. U.S. National Bank's motion for summary judgment was scheduled to be heard by Judge Strickland on April 14, 2022, but the hearing was continued when the Capers' notice of appeal was filed.

The case was referred to Judge Strickland to hear U.S. National Bank's motion for summary judgment. Once referred pursuant to Rule 53, SCRPC, Judge Strickland had the power to hear the motion for summary judgment. *See Smith Companies of Greenville, Inc. v. Hayes*, 311 S.C. 358, 360, 428 S.E.2d 900, 902 (Ct. App. 1993) ("When a case is referred to a master, Rule 53© gives the master the power to conduct hearings in the same manner as the circuit court, unless the order of reference specifies or limits his powers."). If the motion for summary judgment was denied, Judge Strickland could have returned the case to the circuit court. Also, the Capers, by their silence at the roster meeting when Judge Newman stated that she would like to refer the case to Judge Strickland should be estopped to object to the reference or be deemed to have waived any right to object to the reference.

Respectfully submitted,

s/ Dean A. Hayes

Dean A. Hayes, SC Bar No. 66066

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Attorney for Respondent

August 22, 2022

Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No: 2019-CP-40-04738

U.S. National Bank Association, as Trustee
Successor in Interest to Wachovia Bank,
National Association f/k/a First Union
National Bank, as Trustee for Long Beach
Mortgage Loan Trust 2001-4,

Plaintiff,

vs.

Michael R. Capers, Sheron K. Capers, South
Carolina Department of Revenue, County of
Richland, and Rolling Creek Community
Homeowners Association, Inc.,

Defendants.

**PLAINTIFF'S MOTION FOR
SUMMARY JUDGMENT
AS TO DEFENDANTS'
COUNTERCLAIMS**

21184.2

TO: SHAWN M. FRENCH, ATTORNEY FOR THE DEFENDANTS:

YOU WILL PLEASE TAKE NOTICE that the Plaintiff, U.S. National Bank Association et al., by and through their undersigned attorney, will, on the tenth day hereafter or as soon thereafter as the court may allow, move before the Court of Common Pleas, at the Richland County Courthouse, 1701 Main Street, Richland, South Carolina 29201, for an order, pursuant to Rule 56, SCRPC, granting Plaintiff summary judgment as to the counterclaims set forth by the defendants, Michael R. Capers and Sheron K. Capers. This motion is based on the pleadings filed in this case, the discovery responses, and South Carolina statutes and case law.

s/ Dean A. Hayes
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ATTORNEY FOR PLAINTIFF

October 8, 2021; Columbia, SC

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No: 2019-CP-40-04738

U.S. National Bank Association, as Trustee
Successor in Interest to Wachovia Bank,
National Association f/k/a First Union
National Bank, as Trustee for Long Beach
Mortgage Loan Trust 2001-4,

Plaintiff,

vs.

Michael R. Capers, Sheron K. Capers, South
Carolina Department of Revenue, County of
Richland, and Rolling Creek Community
Homeowners Association, Inc.,

Defendants.

**NOTICE OF MOTION AND MOTION
FOR ORDER OF REFERENCE**

21184.2

PLEASE TAKE NOTICE that the Plaintiff will, on or after the tenth day this Notice of Motion and Motion for Order of Reference is served, or as soon thereafter as the Court may allow, move that this mortgage foreclosure case be referred to Joseph M. Strickland, Master in Equity for Richland County, pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, with authority to enter final judgment, and appeal, if any directly to the South Carolina Supreme Court or Court of Appeals, as set forth in the South Carolina Appellate Court Rules.

Respectfully submitted,

s/ Dean A. Hayes

Dean A. Hayes, S.C. Bar No. 66066
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ATTORNEY FOR PLAINTIFF

October 28, 2021
Columbia, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
C/A No: 2019-CP-40-04738

U.S. National Bank Association, as Trustee
Successor in Interest to Wachovia Bank,
National Association f/k/a First Union
National Bank, as Trustee for Long Beach
Mortgage Loan Trust 2001-4,

Plaintiff,

vs.

Michael R. Capers, Sheron K. Capers, South
Carolina Department of Revenue, County of
Richland, and Rolling Creek Community
Homeowners Association, Inc.,

Defendants.

**PLAINTIFF'S MEMORANDUM
IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT
AND MOTION FOR ORDER OF
REFERENCE**

21184.2

The plaintiff, U.S. National Bank Association, as Trustee Successor in Interest to Wachovia Bank, National Association, f/k/a First Union National Bank, as Trustee for Long Beach Mortgage Loan Trust 2001-4 ("Plaintiff"), respectfully submits this memorandum in support of Plaintiff's motion for summary judgment as to the counterclaims set forth by the defendants, Michael R. Capers and Sheron K. Capers ("Defendants"), and in support of Plaintiff's motion for an order of reference.

This is an action for foreclosure of a mortgage on real property located in Richland County, South Carolina and generally described as 309 Rolling Creek Circle, Irmo, SC 29063. The mortgage secures a note for the principal amount of \$310,250.00, and both the note and the mortgage are dated August 10, 2001. The note and mortgage were signed by the Defendants. The Plaintiff alleges that the Defendants are in default for failing to make the monthly mortgage payments due since September 1, 2003 (yes, 2003). The Defendants themselves admit that they

have not tried to make any monthly mortgage payments since 2004. Deposition of Sheron Capers, P. 17, line 23 through p. 18, line 4 (attached as **Exhibit A**). This is the second foreclosure action filed against Defendants based on these same allegations of default. On April 1, 2004, a foreclosure action was filed against Defendants in South Carolina Civil Action Number 2004-CP-40-01640, however, due to various factors such as the death of the Defendants' first attorney, the Defendants apparent dissatisfaction with their second attorney, and the dissolution of the law firm acting as Plaintiff's first attorney, the case was delayed and was ultimately dismissed, along with numerous other cases, by Judge Strickland's "Omnibus Order of Dismissal Without Prejudice" that was filed on September 17, 2017.

In response to Plaintiff's complaint for foreclosure of the mortgage in the present case, Defendants filed an answer asserting four counterclaims and demanded a jury trial. The four counterclaims were: (1) violation of South Carolina Unfair Trade Practices Act; (2) breach of contract; (3) failure to ascertain attorney preference under S.C. Code Ann. 37-10-102(a)(1) and (4); and violation of 15 U.S.C. 1641 by Plaintiff's alleged failure to Defendants when servicing of the loan was transferred.

Violation of South Carolina Unfair Trade Practices Act
Summary Judgment Based on S.C. Code § 39-5-150

The South Carolina Unfair Trade Practices Act is set forth in Article 1, Chapter 5 of Title 39 of the South Carolina Code of Laws. South Carolina Code § 39-5-150 provides: "No action may be brought under this article more than three years after discovery of the unlawful conduct which is the subject of the suit."

All of Defendants' factual allegations related to violations of the South Carolina Unfair Trade Practices Act ("UTPA") are regarding acts by Plaintiff that allegedly occurred prior to the calendar year 2005. The factual allegations by Defendants to support this cause of action are set

forth in paragraph 42 of Defendants' answer and counterclaim. If you compare the factual allegations set forth in paragraph 42 of Defendants' present answer and counterclaim with the allegations Defendants set forth in paragraph 22 of the amended answer and counterclaim Defendants filed in the prior foreclosure action, South Carolina Civil Action Number 2004-CP-40-01640, ("2004 Case") you'll see that the allegations are identical. Defendants' amended answer and counterclaim in the 2004 Case, a copy of which is attached as **Exhibit B**, was filed on September 26, 2008. Defendants answer and counterclaim in the present case was filed on September 30, 2019, which is eleven years after they first set forth these same allegations in the 2004 Case.

Also, in the present case, Plaintiff served discovery on Defendants that specifically asked when Plaintiff or its predecessor in interest were alleged to have taken the wrongful actions that Defendants asserted to support their UTPA cause of action. Attached as **Exhibit C** are Defendants' responses to Plaintiff's first set of interrogatories to Defendants, and in paragraphs 13 through 20 of these responses, Defendants never allege any action by Plaintiff or its predecessor in interest that occurred after June 10, 2004. Because Defendants clearly discovered the alleged violations more than three years prior to setting them forth in the present action, Defendants' counterclaim for violation of the UTPA is barred by the statute of limitations. Therefore, Plaintiff is entitled to summary judgment as to the UTPA cause of action.

Breach of Contract
Summary Judgment Based on S.C. Code § 15-3-530(1)

Defendants' second counterclaim against Plaintiff is a breach of contract cause of action. "An action for breach of contract must be commenced within three years." *Prince v. Liberty Life Ins. Co.*, 390 S.C. 166, 169, 700 S.E.2d 280, 282 (Ct. App. 2010). "Under the 'discovery rule, the statute of limitations begins to run when a cause of action reasonably ought to have been

discovered.” *Id.* (citing *Dean v. Ruscon Corp.*, 321 S.C. 360, 363, 468 S.E.2d 645, 647 (1996).

“The discovery rule applies to breach of contract actions.” *Id.*

In Defendants’ breach of contract cause of action, the Defendants do not set forth any additional factual allegations. A review of the Defendants’ answer and counterclaim reveals that the Defendants are relying on the allegations Defendants previously set forth to support Defendants’ UTPA counterclaim. As stated above, Defendants were aware of these allegations when they filed their amended answer and counterclaim on September 26, 2008, in the 2004 Case, as they asserted the same factual allegations in that case. As shown by the “Motion Amend Complaint” attached as **Exhibit D**, the Defendants also filed a motion in the 2004 Case to allege a breach of contract action against Plaintiff. Also as stated above, Defendants never allege any action by Plaintiff or its predecessor in interest that occurred after June 10, 2004. Because Defendants were aware of these allegations more than three years before bringing the breach of contract action in the present case, Defendants’ breach of contract action is barred by the statute of limitations set forth in S.C. Code § 15-3-530(1).

Violation of S.C. Code Ann. 37-10-102(a)(1), Failure to Ascertain Attorney Preference §
Statute of Limitations Based on S.C. Code § 37-10-105(A) and Defendants Not Entitled to
Jury Trial on This Cause of Action
Statute of Limitations Based on S.C. Code § 37-10-105(A)

Defendants’ third counterclaim is that the Plaintiff or its predecessor in interest allegedly violated S.C. Code § 37-10-102(A) (“Attorney Preference statute”) by failing to ascertain Defendants’ preference as to the attorney to handle the closing of the loan at issue in this case. “A violation of the Attorney Preference statute is enforced by section 37-10-105(A) of the South Carolina Code.” *Wells Fargo Bank, NA v. Smith*, 398 S.C. 487, 498-99, 730 S.E.2d 328, 334 (Ct. App. 2012). Section 37-10-105(A) provides for a three-year statute of limitations for actions commenced after May 2, 1997. However, it does allow for a violation of the Attorney Preference

statute to be “brought more than three years from the date of the occurrence of the violation as a matter of defense by recoupment or setoff in such action.” S.C. Code § 37-10-105(A).

Defendants admit that the closing of the loan in question occurred on August 10, 2001. Deposition of Sheron Capers, P. 5, line 1 through P. 7, line 5 (attached as Exhibit A). Since the alleged violation occurred on or before August 10, 2001, it is more than three years prior to the date Defendants served their counterclaim the present case, as Defendants’ answer and counterclaim were served on September 25, 2019. Thus, Defendants may assert a violation of the Attorney Preference statute only as a defense, not as a counterclaim against Plaintiff.

Defendants Not Entitled to Jury Trial on This Cause of Action

Even if Defendants can assert a counterclaim against Plaintiff for violation of the Attorney Preference statute, Defendants are not entitled to a jury trial on this cause of action. “Generally, the relevant question in determining the right to trial by jury is whether an action is legal or equitable; there is no right to trial by jury for equitable actions.” *Wells Fargo Bank*, 398 S.C. at 494, 730 S.E.2d at 332 (quoting *Lester v. Dawson*, 327 S.C. 263, 267, 491 S.E.2d 240, 242 (1997)). “If a complaint is equitable and the counterclaim legal and compulsory, the defendant has a right to trial by jury on the counterclaim.” *Id.* (citing *C & S Real Estate Servs., Inc. v. Massengale*, 290 S.C. 299, 302, 350 S.E.2d 191, 193 (1986) *modified by Johnson v. S.C. Nat’l Bank*, 292 S.C. 51, 354 S.E.2d 895 (1987)). “A mortgage foreclosure is an action in equity.” *Id.* (quoting *U.S. Bank Trust Nat’l Ass’n v. Bell*, 385 S.C. 364, 373, 684 S.E.2d 199, 204 (Ct. App. 2009)).

In a case directly on point, the South Carolina Court of Appeals has determined that a violation of the Attorney Preference statute is a legal but permissive cause of action when asserted as a counterclaim in a foreclosure action. *Wells Fargo Bank*, 398 S.C. at 498-99, 730 S.E.2d at 334-35. Since the counterclaim is not compulsory, the Court determined that there was no right

to a jury trial when a violation of the Attorney Preference statute is set forth as a counterclaim in a foreclosure action. *Id.* Defendants are therefore not entitled to a jury trial on their counterclaim for the alleged violation of the Attorney Preference statute.

Violation of 15 U.S.C. 1641

Defendants' fourth counterclaim is that Plaintiff violated 15 U.S.C. 1641 by failing to notify Defendants of transfers of ownership of their mortgage. Defendants do not specify any specific transfers of ownership of which they were not notified. Section 1641(g), which contains the notification requirement, was a 2009 amendment to the 1968 Truth in Lending Act ("TILA"). As stated above, the loan documents in question in the present case were signed on August 10, 2001. Since Congress did not enact § 1641(g) until 2009, there was no requirement to notify a borrower when the *owner* of the mortgage changed before 2009. In 2015, the Ninth Circuit Court of Appeals was presented with the question of whether the new notification requirement of § 1641(g) applied retroactively in *Talaie v. Wells Fargo Bank*, 808 F.3d 410 (9th Cir. 2015). The Ninth Circuit relied on the U.S. Supreme Court case, *Landgraf v. USI Fil Prods.*, 511 U.S. 244 (1994), which articulated a clear presumption against retroactive legislation. In *Talaie*, the Ninth Circuit found that all the concerns identified in *Landgraf* applied with regard to retroactive application of § 1641(g); therefore, § 1641(g) should not be applied retroactively. *Talaie*, 808 F.3d at 411-14.

Finally, Defendants in this case have admitted they intentionally stopped paying their mortgage in 2004. Deposition of Sheron Capers, P. 16, line 25 through P. 18, line 4; P. 41, lines 13-15 (attached as Exhibit A). Therefore, for any transfers after 2004, Defendants would not have suffered any damages by any failure to be notified of the identity of the new creditor.

CONCLUSION

Pursuant to Rule 56 of the South Carolina Rules of Civil Procedure, Plaintiffs are entitled to an order granting Plaintiff summary judgment as to Defendants first, second, and fourth counterclaims. Plaintiff is also entitled to an order holding that Defendants' third counterclaim, which is an alleged violation of the Attorney Preference statute, may only be asserted by Defendants as a defense by way of a setoff, and that by asserting a violation of the Attorney Preference statute as a counterclaim in this foreclosure action, Defendants have waived any right they may have had to a jury trial on this thgird counterclaim.

Because Defendants have failed to assert any legal and compulsory counterclaims that survive summary judgment, Plaintiff is also entitled to an order striking Defendants' request for a jury trial and granting Plaintiff's motion to refer this foreclosure case to the Richland County Master in Equity for a hearing pursuant to Rule 53, SCRCP.

Respectfully,

s/ Dean A. Hayes

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ATTORNEY FOR PLAINTIFF

February 8, 2022
Columbia, South Carolina

Dean Hayes

From: Dean Hayes
Sent: Monday, February 7, 2022 5:36 PM
To: 'Newman, Jocelyn Law Clerk (Mark C. Watkins)'; kiera.dillon@dor.sc.gov; info@thefrenchlawfirm.com; SCEF; courtorders@dor.sc.gov; laurenshogan@gmail.com; shawn@thefrenchlawfirm.com
Cc: PAUL GUNTER
Subject: RE: February 14th- Jury Roster - 2019CP4004738

Mr. Watkins:

Thank you for inquiring. I represent the plaintiff in this foreclosure action, and I received consents from all of the attorneys this afternoon to a continuance of the case, so I will be e-filing a proposed order of continuance tomorrow. Plaintiff has an outstanding motion for summary judgment as to the counterclaims of the defendants, Michael Capers and Sheron Capers, and plaintiff also has an outstanding motion for an order of reference. These motions were filed last fall but have not yet been heard.

Thank you.

Dean

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McCABE, TROTTER & BEVERLY, P.C.
COMMUNITY ASSOCIATION AND CONSTRUCTION LAW

NOTICES

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From: Newman, Jocelyn Law Clerk (Mark C. Watkins) <jnewmanlc@sccourts.org>

Sent: Monday, February 7, 2022 4:49 PM

To: kiera.dillon@dor.sc.gov; info@thefrenchlawfirm.com; SCEF <SCEF@mccabetrotter.com>; courtorders@dor.sc.gov; laurenshogan@gmail.com; shawn@thefrenchlawfirm.com; Dean Hayes <Dean.Hayes@mccabetrotter.com>

Cc: PAUL GUNTER <GUNTER.PAUL@richlandcountysc.gov>

Subject: RE: February 14th- Jury Roster - 2019CP4004738

Good afternoon,

The above-referenced matter is currently on the Richland County Common Pleas Jury Roster for the Week of February 14th, 2022 and Judge Newman is the presiding judge for the roster meeting. Could you please provide us with a status update? If this matter is ready to move forward with trial, please provide us with the anticipated length of the trial.

If not already completed, please file a proposed consent order of continuance as soon as possible if you wish to have this case continued beyond the aforementioned trial roster date.

Thank you for your attention to this matter. Continue to have a wonderful day.

Best regards,

Mark C. Watkins, Esq.

Law Clerk to The Honorable Jocelyn Newman

1701 Main Street, Suite 223

Columbia, SC 29202

Phone: 803-576-1780

jnewmanlc@sccourts.org

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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE FIFTH JUDICIAL CIRCUIT  
C/A No: 2019-CP-40-04738

U.S. National Bank Association, as Trustee  
Successor in Interest to Wachovia Bank,  
National Association f/k/a First Union  
National Bank, as Trustee for Long Beach  
Mortgage Loan Trust 2001-4,

Plaintiff,

**ORDER OF REFERENCE**

vs.

Michael R. Capers, Sheron K. Capers, South  
Carolina Department of Revenue, County of  
Richland, and Rolling Creek Community  
Homeowners Association, Inc.,

Defendants.

21184.2

This is a foreclosure action in which the defendants, Michael R. Capers and Sheron K. Capers, have filed counterclaims. Plaintiff has filed a motion for summary judgment as to those counterclaims and has also filed a motion for the case to be referred, pursuant to Rule 53, SCRCPP, to Joseph M. Strickland, as Master in Equity for Richland County.

IT IS ORDERED that, pursuant to Rule 53, SCRCPP, this case be and hereby is referred to Joseph M. Strickland, as Master in Equity for Richland County, to hear any motions, to take testimony and to direct entry of final judgment in this action, and with appeal, if any, to the South Carolina Supreme Court or the Court of Appeals, as provided by the South Carolina Appellate Court Rules.

IT IS SO ORDERED!

*(Signature Page to Follow)*



Richland Common Pleas

**Case Caption:** Us Bank National Association As Trustee , plaintiff, et al vs Michael R Capers , defendant, et al  
**Case Number:** 2019CP4004738  
**Type:** Order/Referred to Master or Special Referee

So Ordered

s/Jeanette W. McBride, by Virginia F. Belcher,  
Chief Deputy Clerk of Court

**RECEIVED**

**Aug 22 2022**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY

Jeannette W. McBride, Clerk of Court

Jocelyn Newman, Circuit Court Judge

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Appellate Case No. 2022-000327

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U.S. National Bank Association, as Trustee Successor in Interest  
to Wachovia Bank, National Association f/k/a First Union  
National Bank, as Trustee for Long Beach Mortgage Loan Trust  
2001-4 ..... Respondent,

v.

Michael R. Capers, Sheron K. Capers, South Carolina  
Department of Revenue, County of Richland, and Rolling Creek  
Community Homeowners Association, Inc.

Of Whom, Michael R. Capers and Sheron K. Capers are the ..... Appellants.

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**PROOF OF SERVICE**

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I, Dean A. Hayes, an attorney with the law offices of McCabe, Trotter & Beverly, PC, attorneys for Respondent, hereby certify that I have served a copy of the Return to Appellants' Motion to Reinstate Appeal upon the below named individuals and/or counsel this the 22<sup>nd</sup> day of August, 2022, via email as follows:

Shawn M. French, Sr. (SC Bar No. 75007)  
[shawn@thefrenchlawfirm.com](mailto:shawn@thefrenchlawfirm.com)

Kiera Courtney Dillon (SC Bar No. 79891)  
[kiera.dillon@dor.sc.gov](mailto:kiera.dillon@dor.sc.gov)

Lauren Sutton Hogan (SC Bar No. 72613)  
[Hogan.Lauren@richlandcountysc.gov](mailto:Hogan.Lauren@richlandcountysc.gov)

*s/ Dean A. Hayes*

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*Attorney for Respondent*

August 22, 2022  
Columbia, South Carolina