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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

Case No. 2019-CP-40-4738

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 who, Michael Capers and
Sheron Capers are the

Appellants.

Appellants' Reply to Respondents' Return to
Motion to Reinstate with Memorandum

Pursuant to Rule 240(f), SCACR, Appellants Reply to Respondent's Return to
their Motion to Reinstate their appeal.

When the case was called at the roster meeting, Judge Newman informed the counsel she was going to refer the case to Judge Strickland to hear the Motion for Summary Judgment. No opportunity to object was available to counsel, there was no prior notice that any motions would be heard that day, and this was just a roster meeting, not a hearing on the record. Most importantly, if the order was only for motions, there would be no grounds for an objection and this appeal. Appellants concede motion is not heard with a jury and is only heard by a judge.

However, the Order of Reference that is on appeal is not just for Judge Strickland to hear the Motion for Summary Judgment as to the Appellants' Counterclaims. It refers the entire action to Judge Strickland. It says,

“IT IS ORDERED that, pursuant to Rule 53, SCRPC, 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.”

(Order of Reference filed February 14, 2022, emphasis added) The order denies the Appellants the Right to a Jury Trial and exceeds what was called for at the roster meeting.

As already stated in the Motion, the appellants had to immediately appeal the denial of their right to a jury trial or risk losing it for good.

WHEREFORE Appellants request that this Court Reinstate the Appellant's
Appeal.

THE FRENCH LAW FIRM, LLC

August 22, 2022

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Master-in-Equity

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Proof of Service

I certify that I have served the Reply to Return to Motion to Reinstate by emailing a copy of it to the email address on record in AIS, to the attorneys of record listed below.

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August 22, 2022

/s/Shawn M. French, Sr.
Shawn M. French, Sr.