

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Master in Equity

Mikell R. Scrborough, Master in Equity, Charleston County

---

Case No.: 2005-CP-10-1224

---

Green Tree Servicing, LLC as servicer for Bankers Trust Company  
of California, N.A ..... Respondent

v.

Isaih Ulmer and Deborah J. Ulmer ..... Appellant.

---

MOTION TO DISMISS BY RESPONDENT

---

B. LINDSAY CRAWFORD, III  
THEODORE VON KELLER  
SARA C. HUTCHINS  
CRAWFORD & VON KELLER, LLC  
POST OFFICE BOX 4216  
COLUMBIA, SOUTH CAROLINA 29240  
(803) 790-2626  
ATTORNEYS FOR RESPONDENT

RECEIVED  
MAY 16 2013

SC Court of Appeals

The Respondent, Green Tree Servicing, LLC, as servicer for Bankers Trust Company of California, N.A. (Hereinafter referred to as "Green Tree"), pursuant to Rule 231, SCACR, moves the Court for an order dismissing the appeal filed by the appellant. In support of the motion, the respondent shows the following to the court::

1. The appeal is not within the Court's jurisdiction as the Appellant failed to file timely a Notice of Appeal within 30 days after the entry receipt of written notice of the order as required by Rule 203(b), SCACR.

2. That on March 22, 2005, Respondent, filed a Lis Pendens, Summons, and Complaint in the Office of the Clerk of Court for Charleston County. A copy of said Lis Pendens, Summons and Complaint is attached hereto as Exhibit A.

3. That on Marcy 22, 2005, Respondents Isaiah Ulmer, Jr. and Deborah J. Ulmer were served with a copy of the Lis Pendens, Summons and Complaint, as evidenced by the Affidavits of Service filed in the Office of the Clerk of Court for Charleston County on April 13, 2005. A copy of said Affidavits of Service are attached hereto as Exhibit B.

4. That on November 14, 2007, a Master's Order and Judgment of Foreclosure and Sale, signed by the Honorable Mikell Scarborough, Master in Equity for Charleston County, was filed in the Office of the Clerk of Court for Charleston County. A copy of said Order is attached hereto as Exhibit C.

5. That Respondents did not file an Answer to the Complaint or otherwise respond as evidenced by the November 14, 2007, Master's Order and Judgment of Foreclosure and Sale, Findings of Fact, paragraph 4.

6. That the November 14, 2007 Master's Order and Judgment of Foreclosure and Sale and Notice of Sale were served on Brian N. Davis, Esquire on March 21, 2012, by depositing a

copy of the same in a United States Postal Service mailbox, postage pre-paid as evidenced by the Certificate of Service filed in the Office of the Clerk of Court for Charleston County on March 26, 2012. A copy of said Certificate of Service is attached hereto as Exhibit D.

7. That the November 14, 2007 Master's Order and Judgment of Foreclosure and Sale and Notice of Sale were again served on Brian N. Davis, Esquire on June 14, 2012, by depositing a copy of the same in a United States Postal Service mailbox, postage pre-paid as evidenced by the Certificate of Service filed in the Office of the Clerk of Court for Charleston County on June 15, 2012. A copy of said Certificate of Service is attached hereto as Exhibit E.

8. On July 3, 2012, the real property and mobile home that were the subject of this foreclosure action were sold at public auction, with the Plaintiff/Respondent's bid of \$28,000.00 being the highest bid.

9. That on July 13, 2012, the Honorable Mikell R. Scarborough, Master in Equity for Charleston County signed a Master's Order of Sale and Disbursement. Said Order was filed on July 18, 2012, in the office of the Clerk of Court for Charleston County and a copy is attached hereto as Exhibit F.

10. That on July 18, 2012, the Office of the Clerk of Court for Charleston County provided Notice to all counsel of record of the Master's Order of Sale and Disbursement. Said notice was mailed first class mail. See Exhibit G attached hereto.

11. That on October 10, 2012, Appellant, by and through counsel filed a Notice of Motion and Motion to Set Aside Sale, Master's Deed and Order of Sale and Disbursement. A copy of said motion is attached hereto as Exhibit H.

12. A hearing on said motion was held on December 10, 2012, and on January 28, 2013, the Honorable Mikell R. Scarborough, Master in Equity for Charleston County executed an Order

Dismissing the Motion to Set Aside Sale, after finding that Plaintiff/Respondent had properly provided Defendant/Appellant's counsel with adequate notice of the hearing. Judge Scarborough denied the aforementioned motion for failure to prosecute, and further denied the motion to vacate the order of sale as the affidavit of Defendant/Appellant Isiah Ulmer failed to establish a meritorious defense as required under the Rule 60(b), South Carolina Rules of Civil Procedure. A copy of the Order Dismissing the Motion to Set Aside Sale is attached hereto as Exhibit I.

13. A copy of said Order Dismissing the Motion to Set Aside Sale was served on Brian N. Davis, as counsel for Defendants/Appellants on February 22, 2013 via Facsimile, U.S. Mail and E-mail, as evidenced by said correspondence attached hereto as Exhibit J.

14. That Defendants/Appellants filed their Notice of Appeal as to the November 14, 2007 Master's Order and Judgment of Foreclosure and Sale on April 9, 2013, one year and nineteen days after receipt of the written notice of entry of the order.

15. That Defendants/Appellants filed their Notice of Appeal as to the July 18, 2012, Master's Order of Sale and Disbursement on April 9, 2013, eight months and twenty-two days after receipt of the written notice of entry of the order.

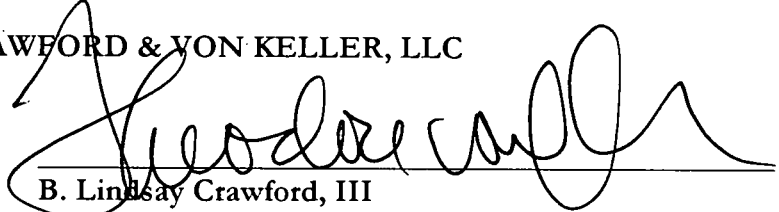
16. That Defendants/Appellants filed their Notice of Appeal as to the February 13, 2013, Motion to Set Aside Sale on April 9, 2013, forty-six days after receipt of the written notice of entry of the order.

17. In light of the above, Appellants have failed to timely file their notice of appeal pursuant to 203(b), SCACR, and said appeal should therefore be dismissed.

WHEREFORE, Respondent moves for dismissal of the appeal based on Appellant's failure to comply with the South Carolina Appellate Court Rules.

CRAWFORD & VON KELLER, LLC

BY:

A handwritten signature in black ink, appearing to read "B. Lindsay Crawford, III", written over a horizontal line.

B. Lindsay Crawford, III  
Theodore von Keller  
Sara C. Hutchins  
Post Office Box 4216  
Columbia, South Carolina 29240  
(803) 790-2626  
Attorneys for Respondent

Columbia, South Carolina

May 6, 2013

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Master in Equity

Mikell R. Scarborough, Master in Equity, Charleston County

---

Case No.: 2005-CP-10-1224

---

Green Tree Servicing, LLC as servicer for Bankers Trust Company  
of California, N.A ..... Respondent

v.

Isaih Ulmer and Deborah J. Ulmer ..... Appellant.

---

PROOF OF SERVICE

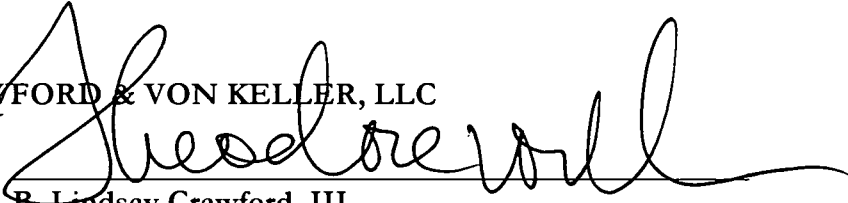
---

I certify that I have served the Respondent's Motion to Dismiss and Memorandum in Support of the Motion to Dismiss by depositing a copy of it in the United States Mail, postage prepaid, on May 06, 2013, addressed to its Appellant at the following address:

Brian N. Davis  
DAVIS & DAVIS, LLC  
Post Office Box 31839  
Charleston, SC 29417  
Attorney for Appellants

CRAWFORD & VON KELLER, LLC

BY:

  
B. Lindsay Crawford, III  
Theodore von Keller  
Sara C. Hutchins  
Post Office Box 4216  
Columbia, South Carolina 29240  
(803) 790-2626  
Attorneys for Respondent

Columbia, South Carolina  
May 14, 2013

**RECEIVED**  
MAY 16 2013  
SC Court of Appeals