

**THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT**

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APPEAL FROM RICHLAND COUNTY  
IN THE COURT OF COMMON PLEAS  
THE HONORABLE JOSEPH M. STRICKLAND  
RICHLAND COUNTY MASTER IN EQUITY

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CASE NO. 2022-00157  
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Capital Bank, N.A., formerly known as NAFH National Bank,  
successor in interest to Carolina National Bank and Trust Company,  
and to First National Bank of South Carolina,

Appellant,

V.

Rosewood Holdings, LLC, D. Christopher Twitty, and  
First Citizens Bank and Trust Company, Inc.

Defendants

Of Whom Rosewood Holdings, LLC and D. Christopher Twitty are

Respondents

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**RETURN TO APPELLANT'S MOTION TO  
CERTIFY APPEAL OR FOR AN EXPEDITED APPEAL**  
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SC Court of Appeals

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SC SUPREME COURT

## RETURN TO MOTION

The Respondents submit that there is no sufficient justification presented which would justify transferring this appeal to the Supreme Court. Moreover, the case cited (Charlotte-Mecklenburg Hosp. Auth. v. SC DHEC 692 S.E.2d 894(2010)) does not contain any language which support the Appellant's request to expedite the appeal. Any reference to expediting the appeal does not even rise to the level of being dicta. In that case, the Court certified the appeal and then dismissed it.

First, Rule 204 SCRAP cites as its criteria for transfer to this Court the following:

**Certification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance.**

(emphasis added)

Respondents submit that the issue raised in this appeal is neither a matter of significant public interest nor a legal principal of major importance.

Deficiency foreclosures are but a tiny fraction of all mortgage foreclosures. The percentage of actions that are started as a deficiency foreclosure but that actually result in a deficiency is a very small portion of those actions. A decision in this case will affect only a minuscule portion of the cases.

There is also no significant public interest being affected. Deficiency judgments usually affect only the parties involved. It is significant that the only Court order supporting Appellant's position is a Masters Order issued more than ten years ago.

Appellant has submitted no justifiable reason why its interest should be preferred to those litigants already in line and patiently waiting their turn to be heard.

Second, the record in the trial court shows long periods of time in which the Appellant took no action at all

July 23, 2012 Judgment entered finding amount of debt

August 6, 2012 Sale

January 11, 2013 Report on sale

Inaction for three years

July 23, 2015 Deficiency Judgment entered.

Inaction for three years

August 22, 2018 Execution issued

Inaction for a year

November 27, 2019 Service of discovery document

Inaction for almost three years

August 4, 2022 Referral to Master for supplemental proceedings

October 14, 2022 Order dismissing the proceedings

In the almost eight years since the issuance of the judgment on which the Appellant relies, Appellant took no action for more than seven of those years.

Appellant has therefore through inaction created the urgency for which it now seeks relief.

Third, after the appeal was filed, Appellant (Appellant is represented by one of the larger law firms in the state) asked for and received no less than five separate extensions of time to perfect its appeal. By contrast, the Respondents (represented by a solo practitioner) asked for none. If Appellant was so concerned that its time was going to run out, one would have thought that it would have found a way not to have to ask for even a single extension.

#### CONCLUSION

Enforcement of a judgment through supplemental proceeding is either an equitable remedy or in the nature of an equitable remedy. Equity aids the vigilant but does not reward those who sit on their rights.

There is no compelling reason to grant the Appellant's request.

The motion for an expedited appeal should be denied and the Court should consider this appeal when it is reached in its regular docket order. If July 23, 2025, should happen to arrive before there is a final decision on the appeal, the appeal should be dismissed as moot.



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May 2, 2023

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APPEAL FROM RICHLAND COUNTY  
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CASE NO. 2022-001597  
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SC Court of Appeals

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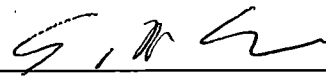
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**PROOF OF SERVICE**  
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I certify that I have served one copy of the Respondents' Return to Appellant's Motion to Certify or For an Expedited Appeal on the Appellant by depositing it in the United States Mail, postage prepaid, on May 4, 2023, addressed to its attorney of record,

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May 4, 2023