

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GEORGETOWN )

IN THE COURT OF COMMON PLEAS

Kennedy Funding, Inc., )  
 )  
Plaintiff, )

Civil Action No. 2011-CP-22-00180

vs. )

Pawleys Island North, LLC, Will )  
Darwin Wheeler, Peggy Wheeler-Cribb )  
and J. Mars Sapp, )  
 )  
Defendants. )

**Order Granting Plaintiff's Motion for**  
**Summary Judgment as to Defendant**  
**J. Mars Sapp**

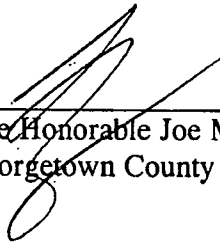
This motion is before the Court on plaintiff Kennedy Funding, Inc.'s ("Plaintiff" or "Kennedy Funding") motion for summary judgment as to the claim(s) asserted by defendant J. Mars Sapp ("Sapp"). The parties appeared before this Court for oral argument on January 17, 2012. Robert H. Jordan represented Kennedy Funding and Paul H. Hoefler represented Sapp. Counsel did not appear for the other named defendants.

This case involves a foreclosure action filed by Kennedy Funding as lender against Pawleys Island North, LLC as borrower. Kennedy Funding additionally brought claims against defendants Will Darwin Wheeler and Peggy Wheeler-Cribb to collect on personal guarantees. Kennedy Funding named defendant Sapp as a possible subordinate lien holder with an interest in the subject property. Sapp answered the complaint, asserting that he was a judgment lien holder, and requested that his lien be declared senior to Kennedy Funding's lien. Kennedy Funding filed this motion for summary judgment requesting an order dismissing Sapp's claim of a lien interest superior to Kennedy Funding's lien interest. In the alternative,

Kennedy Funding moved for an order declaring Sapp's lien junior and subordinate to Kennedy Funding's lien.

Pursuant to South Carolina Rule of Civil Procedure 56, relevant statutory and common law, and having reviewed the pleadings, the written memoranda from counsel, exhibits provided by counsel, and considered the oral arguments made during the summary judgment hearing, the Court finds that Kennedy Funding is entitled to summary judgment as to Sapp's lien superiority claim. Specifically, the Court rules that Sapp's claim to possess a lien superior to that of Kennedy Funding is dismissed and Sapp's lien, if any, is declared junior and subordinate to Kennedy Funding's lien. The Court does not make any finding as to the legitimacy of Sapp's lien and limits its ruling only to find that if such lien does exist, it is junior to Kennedy Funding's lien.

AND IT IS SO ORDERED.

  
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The Honorable Joe M. Crosby  
Georgetown County Master-In-Equity

Georgetown, South Carolina

14 Feb, 2012