

STATE OF SOUTH CAROLINA

COUNTY OF BEAUFORT

Deutsche Bank National Trust Company as  
Trustee for NovaStar Mortgage Funding  
Trust, Series 2006-5 NovaStar Home  
Equity Loan Asset-Backed Certificates,  
Series 2006-5,

Plaintiff,

v.

Terry Lennette Grant,

Defendant.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2016-CP-07-01466

**ORDER DENYING DEFENDANT'S  
MOTION TO STAY**

**RECEIVED**

**Nov 13 2023**

**SC Court of Appeals**

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), the above-entitled matter was referred to the undersigned Special Referee to make appropriate findings of fact and conclusions of law, with authority to enter a final Judgment in the cause. Any appeal from the decision of the Special Referee shall be directly to the South Carolina Court of Appeals.

Pursuant to the said reference, a hearing was held on May 4, 2023, on the parties' pending cross motions for summary judgment. On June 12, 2023, the undersigned issued an Order granting the Plaintiff's motion for summary judgment and denying the Defendant's motion for summary judgment (hereinafter "Order"). The Order was entered on June 28, 2023.

On July 7, 2023, Defendant, Terry Lennette Grant (hereinafter "Defendant" or "Grant"), requested reconsideration of the Order. An Order denying the Grant's motion to reconsider was filed on September 1, 2023.

Grant filed a Notice of Appeal to the South Carolina Court of Appeals on September 5, 2023, and the appeal remains pending. The Order granting the Plaintiff's motion for summary judgment directed the foreclosure sale of real property and, as such, the Order was not stayed by the pending

appeal pursuant to Rule 241(b)(4), SCACR. The foreclosure sale was scheduled for November 3, 2023. On November 2, 2023, at approximately 4:15 PM, Grant filed a Motion for a stay pending appeal and/or Motion to vacate judgment. The November 3, 2023, foreclosure sale proceeded as scheduled, attended by counsel for the Plaintiff. Despite being notified of the sale, Defendant did not attend the sale, nor did she contact the undersigned prior to the sale to inform the Court of her Motion. Out of an abundance of caution, immediately prior to conducting the November 3, 2023 foreclosure sale, the undersigned checked the Clerk of Court's records to determine if the Defendant had made any filings related to the sale. During this review, Defendant's Motion was discovered and reviewed as related to staying the sale. Defendant's Motion was denied, and the foreclosure sale proceeded as scheduled. This Court directed counsel for the Plaintiff to submit a formal order denying the stay.

Based upon careful review of the pleadings and subsequent filings made in this action, the applicable rules of civil procedure and case law concerning those rules, this Court makes the following findings of fact and conclusions of law as the grounds for denial of the Defendant's Motion:

**FINDINGS OF FACT:**

The Notice of the November 3, 2023 foreclosure sale was filed and served on the Defendant on October 4, 2023. Despite Defendant having ample opportunity to file and serve her Motion and request a hearing in compliance with the timing requirements set forth in SCRCR Rule 6(d), Defendant filed her Motion mere hours before the scheduled foreclosure sale. Based upon the timing of Defendant's Motion, Defendant deprived the Plaintiff sufficient notice and opportunity to respond to her request and she deprived this Court an opportunity to afford her the relief requested. Even had the Defendant immediately notified the Court and the parties of her Motion in the hours between its filing and the foreclosure sale, and a bond been set, it would have been

practically impossible for the Defendant to post the bond prior to the foreclosure sale in compliance with SC Code §18-9-170.

Therefore, this Court finds the Defendant's motion to be untimely and ineffective in requesting a stay of the foreclosure sale. The undersigned lacks jurisdiction to take up a motion for relief from judgment under SCRCP Rule 60(b) at this time and, as such, to the extent the Defendant's Motion requests such relief, this Court declines to take up that motion at present.

**CONCLUSIONS OF LAW:**

1. The Defendant's Motion to stay the foreclosure sale is untimely and therefore must be denied.
2. The November 3, 2023 sale, properly proceeded as scheduled without a stay being issued.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED:

1. The Defendant's Motion to stay the foreclosure sale is denied.
2. The November 3, 2023 foreclosure sale is unimpacted by the Defendant's Motion.

AND IT IS SO ORDERED.

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The Honorable Benjamin C.P. Sapp  
Special Referee for Beaufort County

Dated: \_\_\_\_\_  
Beaufort, South Carolina

**FORM 4**

STATE OF SOUTH CAROLINA  
COUNTY OF BEAUFORT  
IN THE COMMON PLEAS COURT

JUDGMENT IN A CIVIL CASE

CASE NO. 2016-CP-07-01466

Deutsche Bank National Trust Company as  
Trustee for NovaStar Mortgage Funding Trust,  
Series 2006-5 NovaStar Home Equity Loan  
Asset-Backed Certificates, Series 2006-5

Terry Lennette Grant

DEFENDANT(S)

PLAINTIFF(S)

**Submitted by:** Brock & Scott, PLLC  
Westpark Center  
3800 Fernandina Road, Suite 110  
Columbia, SC 29210

**Attorney for :**  Plaintiff  Defendant  
or  
 Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED** (*CHECK REASON*):  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN** (*CHECK REASON*):  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*):  Affirmed;  Reversed;  Remanded;  Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:**  See attached order (formal order to follow)  Statement of Judgment by the Court:

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the  
Clerk :

**INFORMATION FOR THE JUDGMENT INDEX**

**Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.**

<b>Judgment in Favor of (List name(s) below)</b>	<b>Judgment Against (List name(s) below)</b>	<b>Judgment Amount To be Enrolled (List amount(s) below)</b>
		N/A

If applicable, describe the property, including tax map information and address, referenced in the order: All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being on Hilton Head Island, County of Beaufort, State of South Carolina, designated as Parcel A and containing 0.46 acres as shown on a survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139. This being the same property designated as Parcel A and containing 0.46 acres as shown on that survey entitled "3.99 AC., Wild Horse Road," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191.

ALSO:

A non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through those certain parcels owned by Terry Lennette Grant described as Parcel B and Access & Drain Field Easement on both that survey entitled "3.99 AC.," prepared for Ms. Terry L. Grant by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated December 22, 2003 and recorded December 31, 2003 in the Office of the Register of Deeds for Beaufort County, South Carolina in Plat Book 96 at Page 191 and that survey entitled "An Asbuilt Survey of Parcel A, Wild Horse Road," prepared for Terry L. Grant by Cook Land Surveying, by Donald R. Cook, Jr., S.C.R.L.S. #19010, dated February 13, 2013 and recorded in the Office of the Register of Deeds for Beaufort County South Carolina in Plat Book 136 at Page 139, including without limitation a non-exclusive, appurtenant, assignable easement and right of way, which shall run with the title to Parcel A containing 0.46 acres, referenced above, or any portions thereof, for ingress, egress and access of vehicular and pedestrian traffic to and from Wild Horse Road over, across, and through the "asphalt drive" as shown on the survey recorded in Plat Book 136 at Page 139.

SUBJECT to all easements, rights of way, covenants and restrictions, if any, more particularly identified in the above referenced Plat or otherwise recorded in the Office of the Register of Deeds for Beaufort County, South Carolina, which are applicable to the above described property.

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time

the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details. E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.**

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**Circuit Court Judge** **Judge Code** **Date**

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_ day of \_\_\_\_\_, 2023 and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_ day of \_\_\_\_\_, 2023 to attorneys of record or to parties (when appearing pro se) as follows:

Terry Lennette Grant  
PO Box 21936  
Hilton Head Island, SC 29925

Terry Lennette Grant  
226 Wild Horse Road  
Hilton Head Island, SC 29926

Chad W. Burgess, Esquire  
Brock & Scott, PLLC  
3800 Fernandina Road Suite 110  
Columbia, SC 29210

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**ATTORNEY(S) FOR THE DEFENDANT(S)**

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**ATTORNEY(S) FOR THE PLAINTIFF(S)**

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**CLERK OF COURT**

**Court Reporter:** John A Sullivan

**E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.**

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**ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.**

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

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