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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas

Benjamin C.P. Sapp, Special Referee

Case No. 2023-001394

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,

Respondent,

v.

Terry Lennette Grant,

Appellant.

Response to Respondent's MOTION TO DISMISS APPEAL

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NOW COMES Terry Lennette Grant, ("Appellant") pursuant to Rule 240, 260 of the South Carolina Appellate Court Rules, hereby moves this Court for an Order denying Respondent's Motion to Dismiss Appellant's appeal Case No:2023-001394, stating as follows:

BRIEF PROCEDURAL HISTORY

1) Respondent stated in their Motion to Dismiss to dismiss appeal that "Appellant initiated her appeal on May 23, 2023".

2) Appellant initiated her appeal by filing Notice of Appeal on September 5, 2023. Due to the complexity and ongoing litigation throughout the case and appeal, as a pro se litigant, Appellant made every effort and attempt to adhere to the South Carolina Rules of Appellate procedures to the best of her ability¹.

3) Respondent stated in their Motion to Dismiss this appeal, "Throughout this appeal, Appellant has repeatedly ignored the South Carolina Rules of Appellate procedure. Appellant was specifically directed on November 1, 2023 to file her initial brief and designation of matter along with a motion to file out of time within ten (10) days or the appeal would be dismissed. Appellant failed to submit her initial brief and designation of matter along with a motion to file out of time as set forth in this Court's November 1, 2023 letter, but rather filed a motion to file out of time on November 15, 2023, and her initial brief and designation of matter on November

¹ See also *Sause v. Bauer*, 138 S. Ct. 2561, 2563 (2018) (per curiam) (holding that "[i]n considering the defendants' motion to dismiss, the District Court was required to interpret the pro se complaint liberally"); *Haines v. Kerner*, 404 U.S. 519, 520–21 (1972) (per curiam).

16, 2023”.

4) Appellant has not ignored this Court’s guidance and explicit instruction. Appellant was directed on November 1, 2023 to file her initial brief and designation of matter along with a motion to file out of time within ten (10) days or appeal would be dismissed. Appellant complied by filing her initial brief, Designation of Matter², Motion to File out of time and proof service on November 15 & 16, 2023. Everything was submitted consistent and in compliance with the Notice received on November 1, 2023. Therefore, this Court should not dismiss the appeal.

5) Respondent stated in their footnote of the Motion to Dismiss, “Because of Appellant’s blatant disregard for the Rules of Appellate procedure, this Court was repeatedly forced to issue deficiency letters, a letter notifying Appellant that the transcript was overdue, a letter notifying Appellant that the time to file her initial brief and designation of matter has expired and a second notice that Appellant had failed to pay the required filing fee for the appeal.

6) Appellant received a notice in regards to the ordering of the transcripts; however, the Court was not aware that the transcripts were ordered prior. Appellant submitted the proper information as requested which cleared up any deficiencies brought to Appellant attention. The second notice that the Respondent is claiming Appellant “ignored or had “blatant disregard for Rules...”, was in reference to paying the \$250 filing fee; however, Court notice of October 3, 2023 was an residual answer to Appellant being denied Motion to Proceed Forma Pauperis and

² Matters to be included in Record on Appeal

informing the Appellant that the filing fee must be paid within 15 days of the date of the notice. Appellant paid the filing fee within the proper time given by the Court. Appellant sent the court a copy of the receipt of the money order, proof of mailing, and proof it was received on October 11, 2023. This does not constitute a blatant disregard for the Rules the Respondent is asserting. It is apparent that Respondent wants this Court to believe that Appellant deliberately ignored the Court's "explicit instruction", hoping not to allow the Court to review the facts and evidence that supports Appellant's appeal. Respondent decided to file a Motion to Dismiss instead of filing their reply brief as required South Carolina Appellate Rules.

7) Appellant's initial brief was structured according to Appellate Rules with the designation of matter included. All documents submitted are legitimate and are relevant to the Record on Appeal. Therefore this Court should not dismiss the appeal. In the alternative, Appellant agrees with Respondent and respectfully requests that this Court issue an Order requiring the Appellant to resubmit her brief and designation of matter to comply with the South Carolina Rules of Appellate, if the deem it necessary. In this case, Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings (*Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992).

ARGUMENT AND CITATION OF AUTHORITY

8) Appellant has submitted all necessary documents requested by this Court's and never

ignored the guidance and explicit instruction from this Court. The Appellant's filings were made according to the Appellate Rules of Civil procedures to the best of her ability and understanding³. The Respondent is merely pointing out minor technicalities to circumvent replying to the facts and evidence that clearly supports Appellant's position that's on appeal. The efforts Respondent is making, is to defeat Appellant by Rules and procedures so facts and evidence are never examined or reviewed.

9) Respondent cited *Forner v. Butler*, 319 S.C.275, 276 n.1, 460 S.E.2d 425.426 (1995) to support their Motion to Dismiss; however, this case is totally supporting Appellant's position the Rule 209 (h) SCACR, provided, "except as provided by Rule 211 and Rule 207(b)(i)(C) and (2), the appellate court will not consider a fact which does not appear in the Record on Appeal. Appellant facts are clearly in the Record on Appeal. Rule 207(b)(4) states that the only matters which should not appear in the record are those items a party believes to be not relevant to the appeal. If parties in this case considered a fact relevant and worthy of mention in the brief, the parties should have included matter in the record to support factual assertions". The Appellant submitted everything in the record on appeal that supports her assertion.

10) Respondent mentioned Rule 260(a) Dismissal and Reinstatement, S.C. App. Ct. R 260 (Whenever it appears **that an appellant**... has failed to comply with the requirements of these

³ See Donald H. Zeiger and Michele G. Hermann, *The Invisible Litigant: An Inside View of Pro Se Actions in the Federal Courts*, 47 N.Y.U.L.Rev. 157, 160 (1972) (since pro se litigants often are unable to comply with procedural rules, exceptions are carved out in practice.)

Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.") as a basis for their motion to dismiss. Appellant has not failed to comply. The court did not conclude that it appeared that the Appellant failed to comply with the requirement of these rules, otherwise they would have issued an order to dismiss Appellant's appeal⁴. Therefore, Respondent's Motion to Dismiss should be denied.

11) Respondent stated, "All litigants, whether pro se or represented by counsel, are held to the same standards and are expected to adhere to the Rules. of the Court. *See State v. Barnes*, 407 S.C. 27, 31, 753 S.E.2d 545, 547 (2014).⁵ This cited case does not state this as their opinion. This capital case was in regards to whether a person with mental illness have the capacity to waive their right to have an attorney and represent themselves as a pro se litigant. This cited case does not support Respondent's statement, it is not binding or persuasive, and grossly misapplied. Therefore, Respondent's Motion to Dismiss should be denied.

12) Respondent's Motion to Dismiss accused Appellant of citing authorities in name only and the authorities are not binding or persuasive and provide no context to the body. This is exactly what Respondent did when citing *State v. Barnes* to support their statement. Case cited does not apply, it is not binding or persuasive to support their Motion to Dismiss. Respondent's Motion to

⁴The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992)

⁵ See also *Sause v. Bauer*, 138 S. Ct. 2561, 2563 (2018) (per curiam) (holding that "[i]n considering the defendants' motion to dismiss, the District Court was required to interpret the pro se complaint liberally"); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (per curiam).

Dismiss should be denied because it lacks merit.

13) Respondent stated ("Appellant [who moved to be allowed to proceed pro se] acknowledged he understood he would be held to the same standards as an attorney regarding the rules of court and of evidence."). To the Contrary, See Donald H. Zeiger and Michele G. Hermann, *The Invisible Litigant: An Inside View of Pro Se Actions in the Federal Courts*, 47 *N.Y.U.L.Rev.* 157, 160 (1972) (since pro se litigants often are unable to comply with procedural rules, exceptions are carved out in practice.)⁶

14) Respondent cited *Henning v. Kaye*, 307, S.C. 436, 436, 415 S.E.2d 794, 794 (1992), respondent ignored the portion of this case that clearly supports Appellant. In this case the Motion to Dismiss was denied. The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992) As with this case, Therefore Respondent's Motion to Dismiss should be denied.

15) Respondent stated, that "Appellant's brief contains no statement of issues on appeal, statement of the case or standard review". This Motion to Dismiss lacks merit and the substance to stand because it is merely making statements of conjecture "a statement that is thought to be

⁶ See also *Sause v. Bauer*, 138 S. Ct. 2561, 2563 (2018) (per curiam) (holding that "[i]n considering the defendants' motion to dismiss, the District Court was required to interpret the pro se complaint liberally"); *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972) (per curiam).

true”. However, it is not supported by substantive laws. Therefore, Motion to Dismiss should be denied.

16) Respondent states, “Appellant’s initial brief and designation were so deficient as to make impossible for Respondent to brief the issues”. Upon information and belief, Appellant’s initial brief was not deficient. If there were any deficiencies, Appellant believes the Court would have informed Appellant. The Court has not informed Appellant of any further deficiencies.

17) Respondent, stated that “Appellant’s initial brief consists of rambling incoherent statements of Appellant’s dissatisfaction with Respondent’s efforts to foreclose its mortgage⁷ and numerous rulings that were not in Appellant’s favor”. Appellant’s initial brief consists of statements and facts, supported by concrete evidence that Respondent’s efforts to foreclose 1) on a “Note⁸” that does not exist; 2) to foreclose on this non-existing “Note” was perpetuated by submitting and introducing numerous fraudulent documents into the record that is on appeal. For example: the “Alleged Note” was submitted into the court record on June 22, 2017⁹, after the Respondent was granted a favorable ruling of the foreclosure judgment on May 28, 2014 (5/28/2014) (See Exhibit#1 “Alleged Note”, page 5 of 5 electronic court stamp June 22,

⁷ Respondent here admits to numerous efforts to foreclose its mortgage; however, Respondent does mention the efforts to foreclose on its “Note”. Further, support and admission that Respondent did not have a valid “Note” to foreclose on Appellant’s property.

⁸ In the state of South Carolina and federal law, the Note should be signed by the borrower and the lender. CFR 7 § 764.402 Loan closing signatures are required of the borrower, lender and closing attorney or agent.

⁹ Respondent entered this Alleged Note as an exhibit (Respondent/Plaintiff’s Exhibit#1) to support their motion for summary judgment and memorandum in support of MSJ filed June 22, 2017.

2017 and no foreclosure judgment stamp with 5/28/2014 affixed). Respondent introduced the “Alleged Note”, page 5 o 5 on January 13, 2023 for William H. Sloan, Esq’s deposition (See Exhibit # 2[Sloan Depo Ex. 2-pgs] Respondent’s exhibit). This version of the “Alleged Note” did not have the electronic court stamp June 22, 2017; however, it had two blue ink foreclosure stamps depicting “Judgment entered on this Note Case No:10-1690 Date:5/28/14¹⁰ Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina” and “Judgment entered on this Note Case No:16-1466 Date:8/3/21 Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina”.

18) Appellant initial brief consists of dissatisfaction of Respondent’s efforts to continue in introducing false and fraudulent documents¹¹ into the record, to illegally foreclosed on her property. Judge Dukes and Special Referee erred by deliberately ignoring this kind of egregious fraud upon the court, even after Appellant has supported her Defense with this kind of factual evidence. The Judge and Special Referee erred when they granted those numerous rulings not in Appellant’s favor¹².

¹⁰ Special Referee erred when he stated “5/28 of 2016” at the May 4, 2023 hearing, as reflected in the transcripts, page 24,line no:7-9 (16).(See Exhibit#3)

¹¹ SC Code § 41-8-70 (2013) In addition to other penalties provided for by law, a person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

¹² The debtor has presented a convincing argument for entitlement to such relief, So with figurative hand holding the nose, the Court, for the reasons set forth, will grant Debtor's motion for summary judgment”. Red'd No. 2:14-cv-8063-SDW, 2018 WL 473/924 (D.N.J. Augu. 12, 2013)

19) Respondent mentioned, “the numerous rulings not in Appellant’s favor”. Appellant’s initial brief consists of dissatisfaction with Respondent's efforts to illegally foreclose on Appellant property, while the trial court continued granting foreclosure judgments with false and fraudulent documents as described above. The Judge¹³ and Special Referee¹⁴ erred by ignoring the facts and evidence Appellant submitted in her defense of this illegal activity. The Special Referee erred by granting Respondent Motion for Summary Judgment. The Special Referee erred by denying Appellant’s Motion for Summary Judgment. The Special Referee¹⁵ erred by relying on false and fraudulent documents submitted by Respondent to secure foreclosure judgment. After using these false and fraudulent documents to secure the foreclosure judgment, one trial judge allowed the Respondent to vacate and dismiss these judgments that were granted. Why? If a foreclosure judgment was what the Respondent wanted, why was it not executed when granted?

¹³ Judge Marvin H. Dukes, III erred when he refused to examine the “Mortgage” and by not asking Respondent William Stork, Esq. for the “Note” as required by law: (See Exhibit #4 Transcript of hearing dated 8/3/21, page no: 2: index, Exhibits, (“ There were no exhibits marked during this hearing); page 4, Line Nos:6-8 Court erred by accepting “you word”. when Respondent stated, “Note delivered to Ameris as Nominee for NovaStar Mortgage”). This is a false and inaccurate statement by Respondent’s counsel of record William Stork, further supporting Appellant’s position that Respondent lacks standing to foreclose. (See Exhibit #4 Transcript of hearing dated 8/3/21, page no:6, lines. Nos:6-13(“I have the properly original endorsed note in my possession if you would like to inspect it prior to ruling”.) The Court: “ I will take Counsel’s word that, in fact, that’s what you have in your hand..”

¹⁴ SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

¹⁵When a bank in this case, Deutsche Bank National Trust Company failed to prove the elements, a judge is legally required to rule in favor of the homeowner. See GMAC Mortg., LLC v Ford, 73 A.3d 742,751 (conn. App. Ct 2013) (setting out what Connecticut law requires in a prima facie case for foreclosure);

20) Respondent stated, “Appellant’s brief does not comply with applicable rules of appellate procedure. Appellant’s initial brief does comply with applicable rules of appellate procedure. The table of exhibits contains reference to 58 exhibits to be included in Record on appeal is consistent with Rule 209, Rule 210(c)¹⁶, (f);

21) Respondent stated, “The table of exhibits and attaching of the exhibits to an appellate brief, is highly improper and not in compliance with any rule of appellate procedure”.

Respondent’ Motion to Dismiss contains no cited Rules or substantive laws to show that his the statement is consistent with said rules of appellate procedure. Respondent’s Motion to Dismiss lacks merit and the substance to stand, because it is merely making statements of conjecture, “a statement that is thought to be true” and is not supported by procedural or substantive law. Respondent’s Motion to Dismiss should be denied.

22) Respondent stated, “There is no indication as to whether any of the Appellant’s purported exhibits were introduced or considered by the Special Referee¹⁷ and some of the purported¹⁸ exhibits are simply filings or proposed orders submitted in this case and in prior foreclosure actions regarding the subject mortgage loan”. The exhibits that were introduced into the Record

¹⁶ SCAR 210 (C)Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included.

¹⁷ SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

¹⁸Definition Purported: <https://www.dictionary.com/browse/purport>:Purported-to present, especially deliberately, the appearance of being: profess or claim, often falsely: Ex: a document purporting to be official.

on appeal were submitted by the Respondent in their efforts to illegally foreclose on Appellant's property. The Respondent used the "purported exhibits to claim validity to bring this action. Why is the Respondent now indicating that these exhibits can not be relied upon, especially when Respondent created them, submitted them¹⁹, fabricated them, resubmitted them, revised and edited them and then resubmitted them into lower court. Appellant merely used these same exhibits created and submitted by the Respondent to further substantiate that Respondent did not have standing to foreclose on Appellant's property.

23) Further, Respondent stated, "There is no indication that the purported exhibits were considered by the Special Referee..." Respondent has made a profound admission that the Special Referee did not consider Respondent's or the Appellant's exhibits prior to ruling/making his decision and granting Respondent's another illegal foreclosure judgment against the Appellant's property. How could the ruling be made? Another clear example of patterns accepted by courts to overlook and/or ignore evidence and make rulings anyway. Once this was pointed out to the prior Judge in this case, who made previous erroneous rulings, he recused himself.

24) Respondent stated, "Some of the purported exhibits are simply filings or proposed orders submitted in this case and in prior foreclosure actions regarding the subject mortgage loan". Filings, Proposed Orders submitted in this case and prior foreclosure actions are in the Record on Appeal and just not some trivial irrelevant papers. All records in regards to this case that is on

¹⁹ Definition Submitted: <https://dictionary.cambridge.org/dictionary/english/submit>: Submitted-to give or offer something for a decision to be made by others:

appeal may be used according to SC Appellate Rule 208 “orders, judgments, decisions and proceedings” of the lower court; 209 to include portions of the “transcript, pleadings, orders, exhibits, or other materials” which may be properly included in the Record on Appeal [See Rule 210(c)]. Matters contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant.

25) Appellant can not state for a certainty, whether Special Referee Benjamin C.P. Sapp “considered” the “introduced exhibits”; however, Appellant can state for a certainty that throughout these proceedings, she used all exhibits that were introduced by Respondent to support her defense. Appellant included all exhibits when 1) she filed her Opposition to Respondent’s Motion for Summary Judgment; 2) during the hearing held on May 4, 2023, Special Referee Benjamin C.P. Sapp stated, “I do have Ms. Grant’s opposition to the summary judgment. I do have a copy of that. I’ll take issue under advisement. I will let Ms. Grant submit an order within 30 days to me supporting her opposition. I will read both of them thoroughly²⁰. I will review her motion. I’ll review her order. (Special Referee requested parties to submit a proposed order); 3) Appellant filed a Motion to Reconsider Special Referee Benjamin C.P. Sapp decision and attached all relevant exhibits; and 4) when Appellant submitted the requested

²⁰ SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

proposed order, she included all relevant exhibits.

26) If the Special Referee Benjamin C. P. Sapp considered 1) Appellant's Motion for Summary Judgment; 2) Appellant's opposition to Respondent's Motion for Summary Judgment; 3) Appellant proposed order; 4) Appellant's Motion to Reconsider Special Referee decision and order in favor of Respondent; and 5) the entire record in the lower court for this case, with all relevant exhibits that were attached, and still ruled in favor of the Respondent. Then the Special Referee Benjamin C. P. Sapp erred in granting Respondent's Motion for Summary Judgment which gave Respondent's another illegal foreclosure judgment against Appellant with fraudulent documents that he examined²¹. For example: the "Alleged Note" was submitted into the court record on June 22, 2017²², after the Respondent was granted a favorable ruling of the foreclosure judgment on May 28, 2014 (5/28/2014) (See Exhibit #1: "Alleged Note", page 5 of 5 electronic court stamp June 22, 2017 and no foreclosure judgment stamp with 5/28/2014 affixed).

Respondent introduced the "Alleged Note", page 5 of 5 on January 13, 2023 for William H.

Sloan, Esq.'s deposition (See Exhibit # 2[Sloan Depo Ex. 2-pgs] Respondent's exhibit). This

version of the "Alleged Note" did not have the electronic court stamp June 22, 2017; however, it

had two blue ink foreclosure stamps depicting "Judgment entered on this Note Case No:10-1690

²¹SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

²² Respondent entered this Alleged Note as an exhibit (Respondent/Plaintiff's Exhibit#1) to support their motion for summary judgment and memorandum in support of MSJ filed June 22, 2017.

Date:5/28/14²³ Hon. Marvin H. Dukes, III Master-In-Equity Beaufort County, South Carolina”
and “Judgment entered on this Note Case No:16-1466 Date:8/3/21 Hon. Marvin H. Dukes, III
Master-In-Equity Beaufort County, South Carolina”.

27) If the Special Referee Benjamin C.P. Sapp²⁴ did not “consider” all the lower court records in this case, prior to signing Respondent’s Proposed Order, then Special Referee Benjamin C.P. Sapp erred in granting Respondent’s foreclosure judgment. By not considering the lower court records, the Special Referee overlooked and turned a blind eye to the false and fraudulent documents that were submitted into the record by the Respondent. For Example: The HUD -1 Closing Settlement Statement²⁵ (See Exhibit#5) submitted by the Respondent, was not signed by the Appellant, not signed by the lender and not signed by the closing attorney or agent as required by law.²⁶ In addition the Respondent attorney Chad W. Burgess openly admitted on two occasions that the HUD-1 Settlement Statement was not signed (See Exhibit#3 Transcript of hearing date May 4, 2023, page 22, lines No:19-20).

28) Respondent stated, “More problematic is that Appellant's brief contains no statement of

²³ Special Referee erred by stating the date 5/28 of 2016 at the May 4, 2023 hearing, as reflected in the transcripts, page 24, line no:7-9 (16). The correct date is 5/28/2014 (See Exhibit # [Sloan Depo Ex. 2-pgs] Respondent’s exhibit 2)

²⁴ SC Code § 15-36-10 (3)(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that:(a) the person has read the document; (4)(a)(i) An attorney or pro se litigant participating in a civil or administrative action or defense may be sanctioned for:(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document;

²⁵ CFR 7 Section 764.402 signature requirement (must be signed by borrower, lender and closing agent)

²⁶ CFR 7 Section 764.402 signature requirement (must be signed by borrower, lender and closing agent)

issues on appeal, statement of the case, or standard of review as required by Rule 208(b)(1)(B), (C), and (D), SCACR. Without these required contents, it is impossible for Respondent to frame its initial brief and designation of matter to be included in the record on appeal. The deficiencies In Appellant's brief also make it impossible for this Court to decipher what error(s) Appellant asserts were made by the trial court. The role of the appellate court is not to retry issues decided against a party in the lower court, but to examine the record and determine if the lower court committed error in its ruling(s). Appellant's brief wholly prevents the appellate court from carrying out this purpose”.

29) Appellant’s brief contains many statements of issues on appeal, statement of facts of the case, and standard review as required by Rule 208(b)(1)b,c, and; however, as a pro se litigant it may not be as perfect as a licensed attorney, but it is possible for the Respondent to frame their initial brief and their designation of matter to be included on appeal. There were no deficiencies brought to the Appellant’s attention at this time. The Court will decipher what error(s) was made by the trial court by examining the facts and evidence submitted in the Record on Appeal. Appellant realize that the role of the Appellate court is not to try the case; however, by examining the Record on Appeal and designation of matter, the Court could decipher and determine if the lower committed errors in its ruling. This is allowing the appellate court to carry out their purpose. In the alternative, Appellant respectfully requests this Court to issue an Order²⁷

²⁷ The court has decided “Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss

granting Appellant the necessary time to make the needed corrections, if necessary. Therefore, Respondent Motion to Dismiss should be denied.

30) Respondent stated, “Appellant's designation of matter to be included in the record on appeal also fails to comply with Rule 209(b) and (c), SCACR. Appellant's designation of matter includes items that are not clearly identified such as item 4 which lists "Answers" with no further clarification and item 7 which lists "Allonges one dated June 25, 2012 and the other surface January 13, 2023". Further, item 10 attempts to incorporate the highly inappropriate exhibits Appellant purported to attach to her brief”.

31) Appellant's designation of matter to be included in the record on appeal does comply with Rule 209(b) and (C), SCACR. It identifies the matter to be included which is in the record on appeal. Item 4 “Answers” was a typo and should have been deleted. Appellant apologizes for that mistake. Item 7 Allonges identified the two allonges and when they were created and/or entered into the record on appeal; however, they are two different allonges that are listed there and were submitted into the record on appeal. One was created on June 25, 2012 and affixed to the note as required by law. The second allonge was created for the January 13, 2023 deposition, which the Respondent entered into the record as an exhibit; however, it was also never affixed to the note as required by law. In addition, these documents were supposed to be the same.

as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992)

These are the two different allonges that were never attached to the “Note” as required by laws.²⁸

Meaning that these two allonges are relevant to record on appeal. Item 10 identifies all the relevant documents, exhibits, orders, and other relevant material that is included in the record on appeal and designated to the matters on appeal. The appellate rules instructed to include that information in the designation of matter. Further, the table of exhibits was include to identify each designation of matter and indicated exactly where in the initial brief those document were mention with identifying page numbers. As a pro se litigant, it may not be perfect; however, it was designed according to the appellate rules²⁹.

32) According to South Carolina Frivolous Civil Proceedings Sanction Act Section 15-36-10 specifically 3(a) The signature of an attorney or a pro se litigant constitutes a certificate to the court that: (a) the person has read the document; and 4(a) filing a frivolous pleading, motion, or document if:(i) the person has not read the frivolous pleading, motion, or document; iii) a reasonable attorney presented with the same circumstances would believe that the procurement, initiation, continuation, or defense of a civil cause was intended merely to harass or injure the other party; or (iv) a reasonable attorney presented with the same circumstances would believe

²⁸The allonge must be permanently affixed to the related note; Under South Carolina’s version of Uniform Commercial Code (UCC), stapling of allonges to promissory note underlying mortgage was sufficient to “affix” allonges to note, as required for signatures on allonges to be indorsements on note. In re McFadden (Bkrcty.D.S.C. 2012) 471 B.R. 136. Bills And Notes 183;

²⁹ See Donald H. Zeiger and Michele G. Hermann, The Invisible Litigant: An Inside View of Pro Se Actions in the Federal Courts, 47 N.Y.U.L.Rev.157, 160 (1972)(since pro se litigants often are unable to comply with procedural rules, exceptions are carved out in practice.

the pleading, motion, or document is frivolous, interposed for merely delay, or merely brought for any purpose other than securing proper discovery, joinder of parties, or adjudication of the claim or defense upon which the proceedings are based; (b) making frivolous arguments a reasonable attorney would believe were not reasonably supported by the facts; or (c) making frivolous arguments that a reasonable attorney would believe were not warranted under the existing law or if there is no good faith argument that exists for the extension, modification, or reversal of existing law.

33) Appellant's initial brief consists of facts, events, and evidence that supports why she is appealing the Special Referee's decision. Her arguments and evidence show patterns of rulings with fraudulent documents.

34) Why Respondent dismissed 1st foreclosure action case which was filed on December 1, 2009, but dismissed on February 12, 2010?

35) Why Respondent vacated and dismissed the 2nd foreclosure case filed April 12, 2010 which a foreclosure judgment was granted May 28, 2014, but dismissed on January 14, 2016?

36) Why Respondent consented to vacating and setting aside another foreclosure judgment which the case was filed June 29, 2016, foreclosure judgment granted August 3, 2021 and then vacated and set aside on May 6, 2022 by consent?

37) The fraudulent and illegal foreclosure and numerous rulings against Appellant were in

violation of federal and state³⁰ laws. If Appellant really had a Note due to the Respondent, Why is it taking three (3) lawsuits, (2) dismissal three (3) appeals and fourteen (14) years to foreclose?

38) If Appellant really had a valid Note and a valid Mortgage due to the Respondent, Why is the Respondent not reporting this alleged debt to the three (3) major credit reporting agencies in this country?

39) Why are there multiple versions of the alleged Adjustable Rate Note signature Page?

40) Why are there multiple versions of the alleged Allonge of Note?

41) Why did the Respondent not file the alleged Note and Mortgage when they filed their lawsuits on December 1, 2009?

42) Why did the Respondent not file the alleged Note and Mortgage when they filed their lawsuits on April 12, 2010

43) Why did the Respondent not file the alleged Note and Mortgage when they filed their lawsuit on June 29, 2016?

44) Why did Respondent fail to file the Assignment of Mortgage on December 1, 2009?

³⁰ [SC Code § 41-8-70 \(2022\)](#) In addition to other penalties provided for by law, a person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both.

- 45) Why didn't the Respondent file the Assignment of Mortgage³¹ dated December 2, 2009 when they filed the lawsuit on April 12, 2010?
- 46) Why was the allonge not affixed to the note as required by law?
- 47) Why Respondent have the allonge to Note created June 25, 2012?
- 48) Why did the Respondent have the Corrective Assignment of Mortgage created November 9, 2018, during which time the Appellant is under bankruptcy protection,?
- 49) Why did Respondent filed a Corrective Assignment of Mortgage on November 16, 2018 into the Beaufort County Recorder of Deed department, while Appellant was under bankruptcy protection?
- 50) Why did the Respondent use that Corrective Assignment of Mortgage³² after the Appellant came from under the bankruptcy?
- 51) Why did Respondent not provide bankruptcy with the Original Note and Mortgage?
- 52) Why Respondent submitted to the court a signature page of the alleged Note on June 22, 2017, but it does not reflect the judgment stamp dated 5/28/2014?
- 53) Why Respondent submitted another signature page of the alleged Note for the January 13, 2023 deposition and it reflects two judgment stamps, one of which is 5/28/2014 and the other 8/3/2021, but when the document was filed in 2017, there was no 2014 stamp?

³¹ **obel v. Mutual Development, Inc., 313 So. 2d 77 (Fla. App. 1st Dist. 1975)** A mortgage is a mere incident of, and ancillary to, the note or other obligation secured thereby, and an assignment of the pledge of the mortgage without an assignment of the pledge of the note or obligation secured thereby creates no right in the assignee or pledgee.

³² See *Merritt v Bartholick*, 36 N.Y.44,45 (1867)(“a transfer of the mortgage without the debt is a nullity, and no interest acquired by it”); See *Chase Home Fin. LLC v Higgins*, 2009 ME 136¶11, 985 A.2d 508, 510-11(setting out what Maine law requires in a prima facie case for foreclosure).

54) Where is the assignment of mortgage from GreenPoint Mortgage Inc to Respondent?

55) Where is the assignment of mortgage from SCBT to Respondent?

56) Where is the written evidence to support that Respondent disbursed any money on Appellant behalf?

57) Appellant and this Court has many questions that need to be answered by Respondent; However, all the answers are embedded in the record of appeal. Absent this appeal, the Appellant stand to be robbed legally, by illegal activities. This Court can stop this from happening by examining the record on appeal in its entirety.

58) Based upon the factual information contained herein, this Court should not dismiss this Appeal. Respondent has merely muddled this proceeding with false accusations, fraudulent documents and attempting to have this case dismissed on mere technicalities, to prevent this Court from examining the record on appeal in its entirety. The Respondent has violated many federal and state laws and are now trying to cover it by a mere motion to dismiss.

CONCLUSION

For reasons stated herein, Appellant is respectfully requesting that this Court issue an Order denying Respondent's Motion to Dismiss Appeal with prejudice. In addition, issue an Order granting Appellant the time to make any needed changes to conform its initial brief if it is necessary³³. Finally, Appellant is respectfully requesting this Court to consider sanctioning

³³ The court has decided "Although this Court would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules, we decline to do so and deny the motion to dismiss as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207, SCACR. *Henning v. Kaye*, 307 S.C. 436, 437-38 (S.C. 1992)

Respondent for making frivolous arguments which are not supported by facts, filing frivolous motion, documents and for the continuation of this civil suit merely to harass and/or injury Appellant and also to prolong these proceedings knowing that there have been multiple acts of fraud and fraud upon the Courts by the multiple law firms that represented the Respondent. h Granting other relief this Court deems just and proper.

Respectfully submitted,



Terry Lennette Grant, Pro Se
P O Box 21936
Hilton Head Island, SC 29925
843-301-5750
Terrygrantseries@gmail.com

Dated: December 18, 2023

Cc: Chad W. Burgess, S.C Bar No:72520
3800 Fernandina Road Ste. 110
Columbia, SC 29210
803-454-3540
chad.burgess@brockandscott.com
Attorney for Respondent, 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

MIN: [REDACTED] Loan Number: [REDACTED]

ADJUSTABLE RATE NOTE

(LIBOR Six-Month Index (As Published In *The Wall Street Journal*)-Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

SEPTEMBER 18, 2006 RICHFIELD OHIO
[Date] [City] [State]
226 WILDHORSE ROAD, HILTON HEAD ISLAND, SOUTH CAROLINA 29926
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$680,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION. I will make all payments under this Note in the form of cash, check or money order. I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 7.750%. The interest rate I will pay may change in accordance with Section 4 of this Note. The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month. I will make my monthly payments on the last day of each month beginning on NOVEMBER 1, 2006. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on OCTOBER 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date." I will make my monthly payments at P.O. BOX 808911, KANSAS CITY, MISSOURI 64184-8911 or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. \$ 4,871.60. This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

EXHIBIT

4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**(A) Change Dates**

The interest rate I will pay may change on the 1st day of OCTOBER, 2008, and on that day every 6th month thereafter. Each date on which my interest rate could change is called a "Change Date."

(B) The Index

Beginning with the first Change Date, my interest rate will be based on an Index. The "Index" is the average of interbank offered rates for six month U.S. dollar-denominated deposits in the London market ("LIBOR"), as published in *The Wall Street Journal*. The most recent Index figure available as of the first business day of the month immediately preceding the month in which the Change Date occurs is called the "Current Index."

If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding FOUR AND 950/1000 percentage points (4.950 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 10.750 % or less than 7.750 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage point(s) (1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 14.750 %. My interest rate will never be less than 7.750 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

(F) Notice of Changes

The Note Holder will deliver or mail to me a notice of any changes in my interest rate and the amount of my monthly payment before the effective date of any change. The notice will include information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

5. BORROWER'S RIGHT TO PREPAY ** See attached Prepayment Note Addendum.

I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED**(A) Late Charges for Overdue Payments**

If the Note Holder has not received the full amount of any monthly payment by the end of 25 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal that has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses that might result if I do not keep the promises that I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions read as follows:


Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18. "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

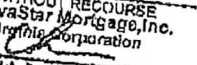
 (Seal)
 TERRY LENETTE GRANT -Borrower _____ (Seal)
 -Borrower -Borrower

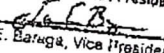
_____ (Seal) _____ (Seal)
 -Borrower -Borrower

_____ (Seal) _____ (Seal)
 -Borrower -Borrower

Pay to the order of:
 Deutsche Bank National Trust
 Company, as Trustee

WITHOUT RECOURSE
 NovaStar Mortgage, Inc.
 A Virginia Corporation


 David A. Pappas, Sr. Vice President


 Larry E. Baruga, Vice President

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

[Sign Original Only]

MIN: 100080190058808478

Loan Number: 06-A19021

ADJUSTABLE RATE NOTE
(LIBOR Six-Month Index (As Published In *The Wall Street Journal*)-Rate Caps)

THIS NOTE CONTAINS PROVISIONS ALLOWING FOR CHANGES IN MY INTEREST RATE AND MY MONTHLY PAYMENT. THIS NOTE LIMITS THE AMOUNT MY INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MAXIMUM RATE I MUST PAY.

SEPTEMBER 18, 2006
[Date]

RICHFIELD
[City]

OHIO
[State]

226 WILDHORSE ROAD, HILTON HEAD ISLAND, SOUTH CAROLINA 29926
[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$ 680,000.00 (this amount is called "Principal"), plus interest, to the order of Lender. Lender is NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION
I will make all payments under this Note in the form of cash, check or money order.

I understand that Lender may transfer this Note. Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 7.750 %. The interest rate I will pay may change in accordance with Section 4 of this Note.

The interest rate required by this Section 2 and Section 4 of this Note is the rate I will pay both before and after any default described in Section 7(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payments on the 1st day of each month beginning on NOVEMBER 1, 2006. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on OCTOBER 1, 2036, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at P.O. BOX 808911, KANSAS CITY, MISSOURI 64184--8911

or at a different place if required by the Note Holder.

(B) Amount of My Initial Monthly Payments

Each of my initial monthly payments will be in the amount of U.S. \$ 4,871.60. This amount may change.

(C) Monthly Payment Changes

Changes in my monthly payment will reflect changes in the unpaid principal of my loan and in the interest rate that I must pay. The Note Holder will determine my new interest rate and the changed amount of my monthly payment in accordance with Section 4 of this Note.

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If the Index is no longer available, the Note Holder will choose a new index that is based upon comparable information. The Note Holder will give me notice of this choice.

(C) Calculation of Changes

Before each Change Date, the Note Holder will calculate my new interest rate by adding FOUR AND 950/1000 percentage points (4.950 %) to the Current Index. The Note Holder will then round the result of this addition to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next Change Date.

The Note Holder will then determine the amount of the monthly payment that would be sufficient to repay the unpaid principal that I am expected to owe at the Change Date in full on the Maturity Date at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my monthly payment.

(D) Limits on Interest Rate Changes

The interest rate I am required to pay at the first Change Date will not be greater than 10.750 % or less than 7.750 %. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than ONE AND 000/1000 percentage point(s) (1.000 %) from the rate of interest I have been paying for the preceding 6 months. My interest rate will never be greater than 14.750 %. My interest rate will never be less than 7.750 %.

(E) Effective Date of Changes

My new interest rate will become effective on each Change Date. I will pay the amount of my new monthly payment beginning on the first monthly payment date after the Change Date until the amount of my monthly payment changes again.

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I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under this Note.

I may make a full Prepayment or partial Prepayments without paying any Prepayment charge. The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under this Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount before applying my Prepayment to reduce the Principal amount of this Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payments unless the Note Holder agrees in writing to those changes. My partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

6. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me that exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial Prepayment.

7. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charges for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of 15 calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be 5.000 % of my overdue payment of principal and interest. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal that has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

8. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Unless the Note Holder requires a different method, any notice that must be given to the Note Holder under this Note will be given by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

9. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

10. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

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Transfer of the Property or a Beneficial Interest in Borrower. As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law. Lender also shall not exercise this option if: (a) Borrower causes to be submitted to Lender information required by Lender to evaluate the intended transferee as if a new loan were being made to the transferee; and (b) Lender reasonably determines that Lender's security will not be impaired by the loan assumption and that the risk of a breach of any covenant or agreement in this Security Instrument is acceptable to Lender.

To the extent permitted by Applicable Law, Lender may charge a reasonable fee as a condition to Lender's consent to the loan assumption. Lender also may require the transferee to sign an assumption agreement that is acceptable to Lender and that obligates the transferee to keep all the promises and agreements made in the Note and in this Security Instrument. Borrower will continue to be obligated under the Note and this Security Instrument unless Lender releases Borrower in writing.

If Lender exercises the option to require immediate payment in full, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

JUDGMENT
Entered on this Note
Case No.: 10 - 1290
Date: 5/28/14
Hon. Marvin H. Dukes, III
Master-In-Equity
Beaufort County, South Carolina


TERRY LENNETTE GRANT (Seal)
-Borrower

(Seal)
-Borrower

(Seal)
-Borrower

JUDGMENT
Entered on this Note
Case No.: 16-1464
Date: 8/3/21
Hon. Marvin H. Dukes, III
Master-In-Equity
Beaufort County, South Carolina

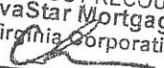
(Seal)
-Borrower

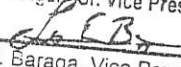
(Seal)
-Borrower

(Seal)
-Borrower

Pay to the order of:
Deutsche Bank National Trust
Company, as Trustee

WITHOUT RECOURSE
NovaStar Mortgage, Inc.
A Virginia Corporation


David A. Pazgan, Sr. Vice President


Larry E. Baraga, Vice President

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

[Sign Original Only]

PREPAYMENT ADDENDUM TO NOTE

Loan Number: 06-A19021

Date: SEPTEMBER 18, 2006

Borrower(s): TERRY LENNETTE GRANT

THIS PREPAYMENT ADDENDUM TO NOTE (the "Addendum") is made this 18th day of SEPTEMBER, 2006, and is incorporated into and shall be deemed to amend and supplement that certain promissory note (the "Note") made by the undersigned ("Borrower") in favor of NOVASTAR MORTGAGE, INC., A VIRGINIA CORPORATION

("Lender") and dated the same date as this Addendum. Repayment of the Note is secured by a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument") given by Borrower in favor of Lender and dated the same date as this Addendum. To the extent that the provisions of this Addendum are inconsistent with the provisions of the Note, the provisions of this Addendum shall supersede the inconsistent provisions of the Note.

ADDITIONAL COVENANTS. In addition to the covenants and agreements made in the Note, Borrower and Lender further covenant and agree as follows:

Section 5 of the Note is amended to read in its entirety as follows:

5 . BORROWER'S RIGHT TO PREPAY; PREPAYMENT CHARGE

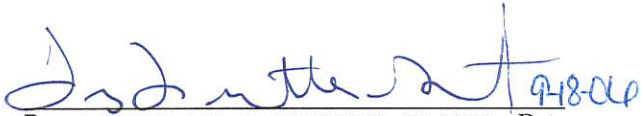
I have the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When I make a Prepayment, I will tell the Note Holder in writing that I am doing so. I may not designate a payment as a Prepayment if I have not made all the monthly payments due under the Note.

The Note Holder will use my Prepayments to reduce the amount of Principal that I owe under the Note. However, the Note Holder may apply my Prepayment to the accrued and unpaid interest on the Prepayment amount, before applying my Prepayment to reduce the Principal amount of the Note. If I make a partial Prepayment, there will be no changes in the due dates of my monthly payment unless the Note Holder agrees in writing to those changes.

If the Note provides for changes in the interest rate, my partial Prepayment may reduce the amount of my monthly payments after the first Change Date following my partial Prepayment. However, any reduction due to my partial Prepayment may be offset by an interest rate increase.

If within TWENTY-FOUR (24) months from the date the Security Instrument is executed I make a full Prepayment or one or more partial Prepayments, I will pay a Prepayment charge in an amount equal to TWO percent (2.000 %) of the amount prepaid.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and provisions contained in this Addendum.



Borrower TERRY LENNETTE GRANT Date

Borrower

Date

Borrower Date

Borrower Date

Borrower Date

Borrower Date

Loan# 71971014

ALLONGE TO NOTE

This endorsement is a permanent part of the Note in the amount of \$680,000.00

NOTE DATE: September 18, 2006

BORROWER NAME: TERRY LENNETTE GRANT

PROPERTY: 226 Wildhorse Road, Hilton Head Island, SC 29926

PAY TO THE ORDER OF:

WITHOUT RECOURSE

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, BY ITS ATTORNEY IN FACT, OCWEN LOAN SERVICING, LLC



Signer: Ernie A. Stephens

Title: *Authorized Signer*

1 APPEARANCES OF COUNSEL:
2 FOR THE PLAINTIFF:
3 CHAD W. BURGESS, ESQUIRE
4 BROOK S. BROWN, FISC
5 3800 Fernandina Road
6 Suite 110
7 Columbia, South Carolina 29210
8 803.424.3540
9 chad.burgess@brockandscott.com
10 laura.browne@brockandscott.com
11
12 FOR THE DEFENDANT, PRO SE, LIMITED POWER OF
13 ATTORNEY ON BEHALF OF TERRY LENNETTE GRANT:
14 VIVIAN MICHELLE WOODS
15 11 Southwood Park Drive
16 Apartment 108
17 Hilton Head, South Carolina 29926

1 I N D E X
2
3
4 PAGE
5 5 OPENING REMARKS ----- 4
6
7
8
9
10
11
12
13
14
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16
17
18
19
20
21
22
23
24 CERTIFICATE ----- 29
25 (NO EXHIBITS MARKED.)

1 THE COURT: We'll call the case.
2 This is State of South Carolina,
3 County of Beaufort. This is Deutsche
4 Bank National Trust Company as Trustee
5 for NovaStar Mortgage Funding Trust
6 Series 2006-5, NovaStar Home Equity
7 Loan Asset-Backed Certificate Series
8 2006-5, as the plaintiff, versus Terry
9 Lennette Grant and others, Catherine
10 Allis as well. It's case number
11 2016-CP-07-01466.
12 Present in the courtroom today are
13 Chad Burgess with Brock & Scott for the
14 plaintiff. Also present today is
15 Vivian Michelle Woods of 11 Southwood
16 Park Drive, Apartment 108, Hilton Head
17 Island, South Carolina, who has a
18 special limited power of attorney to be
19 here on behalf of Terry Lennette Grant.
20 The special limited power of
21 attorney authorizes her to initiate,
22 prosecute, discontinue, or defend
23 actions or other legal proceedings
24 touching my property, real or personal
25 or any part thereof, or touching any

1 matter which I or my property, real or
2 personal, may be in any way concerned,
3 period. To defend, settle, adjust,
4 make allowances, compound, submit to
5 arbitration, and compromise all
6 accounts reckoning claims and defend
7 whatsoever that now or hereafter shall
8 be pending between me and any person,
9 firm or corporation or other legal
10 entity in such manner and respects as
11 my agent shall deem proper.
12 Furthermore, it does -- the agent
13 does not have the authority to make any
14 decisions that would cause me harm
15 financially as it relates to any legal
16 actions pending or in the future during
17 the execution of my agent's fiduciary
18 duties.
19 Mr. Burgess, this is your motion.
20 I'm happy to hear from you, sir.
21 MR. BURGESS: Good morning, Your
22 Honor. May it please the Court.
23 Your Honor, Chad Burgess here on
24 behalf of the plaintiff in this action.
25 Your Honor, just a brief couple of

1 housekeeping issues. There are two
2 pending motions for summary judgment.
3 The plaintiff has a motion that was
4 filed back on -- let me get the exact
5 date.
6 It was filed on September 7, 2022.
7 The defendant also has a pending motion
8 for summary judgment that's
9 subsequently filed. And she's also
10 filed in opposition to plaintiff's
11 motion for summary judgment.
12 Related to Ms. Wood's appearance
13 here at the hearing, I do understand
14 she has a power of attorney. I have
15 reviewed that document. Your Honor,
16 our argument is that Ms. Woods,
17 notwithstanding the power of attorney,
18 still does not have the authority under
19 South Carolina law to represent
20 Ms. Grant in this action. So she can't
21 appear and make arguments related to
22 the matter and represent her in that
23 capacity as doing so would be
24 unauthorized practice of law.
25 We have a plethora of case law on

1 that specific point. So I would ask
2 that Ms. Woods not be allowed to make
3 any arguments at this hearing.
4 THE COURT: Okay.
5 Ms. Woods, are you -- you're not a
6 licensed attorney, are you, ma'am?
7 MS. WOODS: No, I'm not. And I'm
8 not practicing law. The information
9 that I'm presenting is the same
10 information that she has submitted
11 herself. I'm just repeating what she
12 has already submitted so --
13 THE COURT: You're just here on
14 her behalf --
15 MS. WOODS: Yes.
16 THE COURT: -- just say that
17 you're submitting that information
18 that's already been submitted to the
19 Court; correct?
20 MS. WOODS: Yes. I already submitted
21 to the Court, yes. And anything
22 that --
23 THE COURT: But you're not going
24 to try to make any legal arguments
25 today, you're just here to make sure

1 that I am here to read the arguments
2 that have been submitted to the Court
3 by her?
4 MS. WOODS: Any legal arguments
5 that she has already -- I will reading
6 from what she already submitted.
7 THE COURT: Ma'am, it's in the
8 court record. You don't have to read
9 it today.
10 MS. WOODS: Okay.
11 THE COURT: It's already been
12 submitted. And I would -- it would
13 probably behoove you not to read it
14 today, ma'am, to be quite honest with
15 you because it's already in the court
16 record. Okay? I'll read it.
17 MS. WOODS: Okay.
18 THE COURT: Okay? All right.
19 MR. BURGESS: Your Honor, I will
20 stipulate to the filings for the
21 record, Your Honor. Everything that
22 Ms. Grant has filed, her motions,
23 returns --
24 THE COURT: That's fine.
25 MR. BURGESS: -- affidavits and

1 evidentiary --
2 THE COURT: Of course. He'll
3 stipulate to the fact that it is in the
4 record and I will review it, ma'am.
5 Okay?
6 MS. WOODS: Okay.
7 THE COURT: Okay.
8 Go ahead, Mr. Burgess.
9 MR. BURGESS: Thank you, Your
10 Honor.
11 Your Honor, this is a foreclosure
12 action that relates to a note mortgage
13 that was entered into by Ms. Grant back
14 on September 18th, 2006. The original
15 amount of the loan was \$680,000. Your
16 Honor, subsequently, the note and
17 mortgage was recorded September 26th,
18 2006 in Book 2448 at Page 823.
19 Those documents were subsequently
20 transferred to the plaintiff. The
21 plaintiff is in possession of the
22 original note. Copies of the note as
23 well as the assignments of mortgage,
24 the mortgage itself have all been
25 submitted to the Court on numerous

1 occasions with the plaintiff's motion
2 for summary judgment.
3 We've also submitted an affidavit
4 in support of judgment. In fact, there
5 are affidavits regarding the amount of
6 indebtedness or summary judgment filed
7 in this action January -- July 17,
8 2017, July 27, 2018, April 2, 2021,
9 August 25, 2022, and April 3, 2023.
10 Those documents are all in the
11 record in terms of affidavits related
12 to the amount of the plaintiff's debt
13 and the interest into and existence of
14 this particular loan.
15 Your Honor, of note, this is not
16 the first foreclosure action related to
17 this. It is actually foreclosure
18 action number three. There was an
19 original action entered into in 2009 --
20 I guess I should start with the 2009
21 action.
22 And these are matters that Your
23 Honor to take judicial notice of. That
24 action was filed December 1, 2009 was
25 2009-CP-07-5612, and that action was

1 not -- it was not involving our law
2 firm. And that action was dismissed
3 before it was served. It was
4 voluntarily dismissed.
5 Subsequently, there was an action
6 brought April 12, 2010, and that's
7 2010-CP-07-1690. And that case
8 proceeded, was referred to by Judge
9 Dukes. And the defendant in this case
10 appeared in that action and there was
11 litigation regarding the subject note
12 and mortgage.
13 As a part of that action, Judge
14 Dukes entered into an order dated --
15 and it's a very long order dated
16 February 7, 2014. Now, the gravamen of
17 that order, as a part of the 2010
18 action, the plaintiff was seeking to
19 reform the subject mortgage and to
20 create an easement for ingress and
21 egress over some other property owned
22 by Ms. Grant that had been subdivided
23 away from this property. And, Your
24 Honor, I'll let that order speak for
25 itself.

1 Again, that was an order that
2 Ms. Grant disputed and contested. But
3 nonetheless, it was an entry of an
4 order by Judge Dukes which reformed the
5 mortgage and granted partial summary
6 judgment. It established standing to
7 enforce the note and mortgage. It
8 established the right to reformation as
9 well as the easement.
10 Now, the remaining foreclosure
11 portion of the action remained pending
12 in the 2010 case and came before a
13 final hearing in which Judge Dukes did
14 enter an order of foreclosure in that
15 action. Subsequently, the foreclosure
16 portion of the case was vacated
17 pursuant to Rule 60, and the
18 foreclosure portion of the case was
19 dismissed.
20 The judge's order reforming the
21 note and mortgage was never challenged.
22 It was never vacated. It remains the
23 only order from any of the previous
24 foreclosure actions that is of record
25 currently and it is still in full force

1 and effect.
2 So essentially, the property
3 description over which the plaintiff is
4 seeking to have this particular
5 mortgage foreclosure occur was
6 established back in the 2010
7 foreclosure action back on February
8 7th, 2014 as well as the plaintiff's
9 right to easement. Those causes of
10 action are not present in the current
11 case because all this is in a
12 foreclosure of the property described
13 in that previous case.
14 So with that being said, Your
15 Honor, the Court is constraining by
16 Judge Dukes prior order related to
17 property description standing and
18 easement. The foreclosure portion was
19 dismissed and that's the portion of the
20 case that we're currently pursuing.
21 This case was instituted, and
22 subsequently, the defendant had an
23 attorney who appeared for her in this
24 case. She's filed a number of answers.
25 She admits to the note and mortgage in

1 her answers, each filed in the record
2 in this case, I believe those are --
3 and I'll go through them very quickly,
4 Your Honor.
5 Her first answer was on October
6 28, 2016. And that answer was filed on
7 her behalf by attorney Williams Sloan.
8 The gravamen of that answer was that
9 she admits entering into the note and
10 mortgage. However, she is denying the
11 request for relief sought by the
12 plaintiff. There were no counterclaims
13 or any other issues of note related to
14 that answer. That answer speaks for
15 itself. It is of record in this
16 particular case. Again, on October 28,
17 2016.
18 Your Honor, the second answer that
19 Ms. Grant filed was an amended answer
20 dated July 21, 2017. That, again, is
21 of record here in this particular
22 action. And again, Ms. Grant admits
23 entering into the subject note and
24 mortgage. And again, that answer is
25 signed by Attorney William Sloan on

1 behalf of Ms. Grant.
2 And in terms of the admissions of
3 entering into the subject of the
4 mortgage, we believe this establishes
5 as a matter of law based on her
6 admissions.
7 She filed yet another answer, an
8 amended answer, on -- or actually, the
9 summons and complaint were amended in
10 this action subsequent to her answers.
11 The summons and complaint were amended
12 November 9, 2017 and Ms. Grant
13 responded to the that amended
14 complaint. Again, Williams Sloan
15 responding on her behalf on December 7,
16 2017, again, with the same admissions
17 related to the interest and to the note
18 and mortgage.
19 Just a moment to explain why
20 that's important, Your Honor. Part of
21 the defendant's motion for summary
22 judgment and her opposition to the
23 plaintiff's motion for summary judgment
24 is this idea that she did not enter
25 into the subject loan back in 2006,

1 that she walked away from the closing
2 table. And for first time in three
3 foreclosure actions, she's bringing
4 about this idea that she somehow was
5 not involved in the underlying closing.
6 And obviously, based on Judge
7 Dukes's prior order and her very own
8 admissions in this action, her now new
9 story that she somehow didn't enter
10 into the loan cannot hold water as a
11 matter of law. She's bound by both
12 Judge Dukes's order and the admissions
13 that she made through her attorney in
14 this particular case.
15 And, Your Honor, in addition to
16 that, in response to the request for
17 admissions that the defendant was
18 served with in this action, William
19 Sloan, again, in response to the
20 request for admissions, admits that
21 Ms. Grant entered into the subject
22 note. He admits the subject mortgage,
23 which is of public record, but he
24 denies the legal description, which
25 that was an issue covered in 2010

1 action which was covered by Judge
2 Dukes's order.
3 But in terms of entering into the
4 subject note and mortgage, those facts
5 are established as a matter of law.
6 And, Your Honor, to back that up, as
7 part of that 2010 action, as part of
8 this action, Ms. Grant had provided in
9 the records with her documents, a copy
10 of an unsigned HUD-1, which we
11 stipulated that is a copy of the HUD
12 that shows where the funds from the
13 closing of this loan were directed.
14 And as part of that, Your Honor,
15 the HUD shows that there was a payoff
16 of Green Point prior mortgage from 2004
17 and it shows there was a payoff of a
18 SCBA2 second mortgage, and also a
19 payoff of federal taxes as well as
20 payoff of South Carolina Department of
21 Revenue tax lien.
22 And, Your Honor, as part of this
23 matter, we have included the prior
24 mortgage, the Green Point mortgage that
25 was foreclosed upon or was paid off as

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28:2	speak 14:14	tax 17:21,18:8,10,13
Rule 12:17	speak 14:14	19:12,20:7,8
Russell 25:14	special 4:16,30	taxes 17:19,18:13
	specific 7:1	19:13,22:12
S	stamps 23:25	terms 10:11,15:2,17:3
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22:5	stipulate 6:10,9:9	Times 23:12
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Exhibit #7

Transcript of hearing dated August 3,
2021

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
)
COUNTY OF BEAUFORT) C/A 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,)
)
Plaintiff,)
)
v.)
)
Terry Lennette Grant; Catherine Alls,)
)
Defendants.)
-----)

HEARING

Tuesday, August 3, 2021
10:30 a.m. - 10:35 a.m.

The hearing before The Honorable Marvin H. Dukes, III, Master-In-Equity for Beaufort County, was taken at 102 Ribaut Road, Courtroom 3, Beaufort, South Carolina on the 3rd day of August, 2021, before Barbara J. Howell, Court Reporter and Notary Public in and for the State of South Carolina.



CREEL COURT REPORTING, INC.
1230 Richland Street / Columbia, SC 29201
(803) 252-3445 / (800) 822-0896

APPEARANCES

William P. Stork, Esquire
Brock & Scott, PLLC
Westpark Center
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
Attorney for the Plaintiff

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THE COURT	7
Certificate	8

EXHIBITS

(There were no exhibits marked during this hearing.)



1 CALL TO ORDER:

2 **THE COURT:** Good morning, then. We're here in 2016-
3 CP-07-01466, this is Deutsche Bank versus Grant
4 and Alls. This is a Motion for Summary
5 Judgment that was previously filed and served.
6 It is 10:30 a.m. on the third day of August,
7 2021.

8 The names of the Defendants have been
9 called three times in the hallway without
10 result. Additionally, the deputy station
11 downstairs reports that no one has come in and,
12 for this hearing, and had to take their
13 telephone back to the car or anything like
14 that. So, it's a fair assumption, at this
15 point, that no one from the defense side is
16 going to appear.

17 So I'm happy to hear from you, sir.

18 **MR. STORK:** Thank you very much, Your Honor.

19 MOTION FOR SUMMARY JUDGMENT

20 PLAINTIFF'S ARGUMENT FOR THE MOTION - MR. STORK:

21 **MR. STORK:** May it please the Court. Will Stork
22 with Brock and Scott representing the
23 Plaintiff.

24 This is an action for foreclosure of a
25 note and mortgage. The note being entered into



1 by the Defendant, Terry Grant, on September 18,
2 2006, and payable to the order of NovaStar
3 Mortgage, Inc., the sum of 680,000 dollars with
4 interest, and an adjustable rate initially of
5 7.75 percent.

6 This note was secured by a mortgage
7 delivered to Ameris, as nominee for NovaStar
8 Mortgage, encumbering the subject real
9 property; which mortgage was recorded with the
10 Beaufort County registry on September 26, 2006,
11 in book 2448 at page 823. Thereafter, the
12 mortgage was assigned to Deutsche -- to the
13 Plaintiff by assignment recorded December 10th,
14 2009, in book 2915 at page 902.

15 It is of record that the legal description
16 and the mortgage was previously reformed by
17 Order granting Plaintiff's Motion for Partial
18 Summary Judgment recorded February 7th, 2014,
19 in Civil Action Number 2010-CP-07-01690.

20 The last payment was credited to this
21 account on December 1st, 2007. No demand has
22 been made. The arrearage has not been cured.
23 Total debt at this time is 1,624,441 dollars
24 and 87 cents.

25 Plaintiff filed, in addition to



1 Plaintiff's Motion for Summary Judgment,
2 Plaintiff filed an Affidavit in Support of
3 Judgment testifying as to the existence of the
4 debt, the breach of the debt, the damages,
5 which under U.S. Bank v. Hills is the prima
6 facie case for foreclosure. That Affidavit
7 also included a detailed breakdown of the
8 outstanding debt figures.

9 Additionally, Plaintiff filed a Affidavit
10 of Attorney's Fees and Costs. No affidavits in
11 opposition have been received; there's really
12 been no communication from either Defendant
13 Grant or Defendant Alls for the past quite some
14 time.

15 So, at this time, Judge, it's Plaintiff's
16 position there is no genuine issue of material
17 fact and that summary judgment would be proper.
18 We are requesting a September 7th, 2021, sales
19 date, and deficiency is waived in this matter,
20 Judge.

21 **THE COURT:** Thank you very much. And let's see. I
22 understand the Plaintiff asserts that there are
23 no COVID holds or anything like that on this
24 loan at this time, is that accurate?

25 **MR. STORK:** That's correct, Your Honor. A



1 Certificate of Compliance with the Cares Act
2 order was filed, I believe, a little later on
3 last week along with an Amended Affidavit of
4 Default.

5 **THE COURT:** Okay. Thank you very much.

6 **MR. STORK:** And, Your Honor, I do have the properly-
7 endorsed original note in my possession if you
8 would like to inspect prior to ruling.

9 **THE COURT:** Thank you. I will take Counsel's word
10 that, in fact, that's what you have in your
11 hand, but will ask you to go down the hall at
12 the conclusion of this and get Jackie to stamp
13 it and give it back to you.

14 **MR. STORK:** Certainly, Judge. I will do that, so.

15 **THE COURT:** All right.

16 **RULING BY THE COURT:**

17 **THE COURT:** I've had an opportunity to review the
18 file, which actually, after thumbing through
19 it, I'm familiar with from the past and note,
20 of course, the absence of the Defendant and the
21 fact that no affidavits have been filed on her
22 behalf.

23 I find it appropriate to grant the relief
24 requested, and I will do so. And also the
25 September sales date, I will grant. Ask that



1 the original Note be stamped and returned to
2 the Plaintiff and I've also asked the Plaintiff
3 to just copy the bankruptcy attorney from the
4 former bank- -- the previous bankruptcy and
5 that would be Mr. Matthews, it appears from the
6 documents I see in the file, but double-check
7 on that.

8 **MR. STORK:** Certainly, Judge.

9 **THE COURT:** Just, please, send him a copy of the
10 Notice of Sale and Order. All right. Anything
11 else for this record, then?

12 **MR. STORK:** Nothing further from the Plaintiff, Your
13 Honor.

14 **CLOSING REMARKS - THE COURT:**

15 **THE COURT:** All right. Then that will conclude the
16 record on 1466. Thank you very much.

17 (There being nothing further, the hearing concluded
18 at 10:35 a.m.)



Exhibit #3

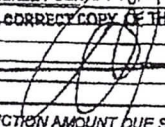
HUD 1 Closing Statement

A. U.S. DEPARTMENT OF HOUSING & URBAN DEVELOPMENT SETTLEMENT STATEMENT	B. 1 - OF LOAN:				
	1. <input type="checkbox"/> FHA	2. <input type="checkbox"/> FmHA	3. <input checked="" type="checkbox"/> CONV. UNINS.	4. <input type="checkbox"/> VA	5. <input type="checkbox"/> CONV. INS.
	8. FILE NUMBER: 80385C-06			7. LOAN NUMBER: 06-A19021	
	8. MORTGAGE INS CASE NUMBER:				

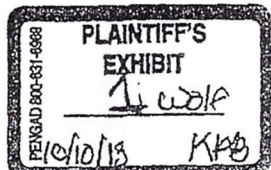
C. NOTE: This form is furnished to give you a statement of actual settlement costs. Amounts paid to and by the settlement agent are shown. Items marked "POC" were paid outside the closing; they are shown here for informational purposes and are not included in the totals.

D. NAME AND ADDRESS OF BORROWER:	E. NAME AND ADDRESS OF SELLER:	F. NAME AND ADDRESS OF LENDER:
Terry Lennette Giant 226 Wild Horse Road Hilton Head Island, SC 29926		Novastar Mortgage, Inc 4059 Kinross Lakes Parkway #200 Richfield, OH 44288

G. PROPERTY LOCATION: 226 Wild Horse Road Hilton Head Island, SC 29926 Beaufort County, South Carolina	H. SETTLEMENT AGENT: 20-4567849 Wolf & Mogil, LLC PLACE OF SETTLEMENT 94 Main Street, Suite C-102 Hilton Head Island, SC 29926	I. SETTLEMENT DATE: September 18, 2006 Disburse: 09/22/06
---	--	---

J. SUMMARY OF BORROWER'S TRANSACTION		K. SUMMARY OF SELLER'S TRANSACTION	
100. GROSS AMOUNT DUE FROM BORROWER:		400. GROSS AMOUNT DUE TO SELLER:	
101. Contract Sales Price		401. Contract Sales Price	
102. Personal Property		402. Personal Property	
103. Settlement Charges to Borrower (Line 1400)	156,029.96	403.	
104. Payoff first mortgage to Green Point Mortgage	387,810.25	404.	
105. Payoff second mortgage to South Carolina Bank and	101,768.42	405.	
<i>Adjustments For Items Paid By Seller in advance</i>		<i>Adjustments For Items Paid By Seller in advance</i>	
106. PR Taxes to		406. PR Taxes to	
107. County Taxes to		407. County Taxes to	
108. Assessments to		408. Assessments to	
109.		409.	
110.		410.	
111.		411.	
112.		412.	
120. GROSS AMOUNT DUE FROM BORROWER	645,708.63	420. GROSS AMOUNT DUE TO SELLER	
200. AMOUNTS PAID BY OR IN BEHALF OF BORROWER:		500. REDUCTIONS IN AMOUNT DUE TO SELLER:	
201. Deposit or earnest money		501. Excess Deposit (See Instructions)	
202. Principal Amount of New Loan(s)	680,000.00	502. Settlement Charges to Seller (Line 1400)	
203. Existing loan(s) taken subject to		503. Existing loan(s) taken subject to	
204.		504. Payoff of first Mortgage	
205.		505. Payoff of second Mortgage	
206.		506.	
207.		507.	
208.		508.	
209.		509.	
<i>Adjustments For Items Unpaid By Seller</i>		<i>Adjustments For Items Unpaid By Seller</i>	
210. PR Taxes to		510. PR Taxes to	
211. County Taxes to		511. County Taxes to	
212. Assessments to		512. Assessments to	
213.		513.	
214.		514. I HEREBY CERTIFY THIS TO BE A	
215.		515. TRUE & CORRECT COPY OF THE ORIGINAL	
216.		516.	
217.		517. BY: 	
218.		518.	
219.		519.	
220. TOTAL PAID BY/FOR BORROWER	880,000.00	520. TOTAL REDUCTION AMOUNT DUE SELLER	
300. CASH AT SETTLEMENT FROM/TO BORROWER:		600. CASH AT SETTLEMENT TO/FROM SELLER:	
301. Gross Amount Due From Borrower (Line 120)	645,708.63	601. Gross Amount Due To Seller (Line 420)	
302. Less Amount Paid By/For Borrower (Line 220)	(680,000.00)	602. Less Reductions Due Seller (Line 520)	
303. CASH (FROM) (X TO) BORROWER	34,291.37	603. CASH (TO) (FROM) SELLER	0.00

By signing page 2 of this statement, the signatories acknowledge receipt of a completed copy of page 1 of this two page statement.



L. SETTLEMENT CHARGES

700. TOTAL COMMISSION Based on Price		\$	@	%	PAID FROM BORROWER'S FUNDS AT SETTLEMENT	PAID FROM SELLERS FUNDS AT SETTLEMENT
Division of Commission (line 700) as Follows:						
701. \$	to					
702. \$	to					
703. Commission Paid at Settlement						
704.	to					
800. ITEMS PAYABLE IN CONNECTION WITH LOAN						
801. Loan Origination Fee	2.9500 %	to	EM5 Financial Services		20,060.00	
802. Loan Discount	%	to				
803. Appraisal Fee		to	High Tide Appraisals		400.00	
804. Credit Report		to				
805. Underwriting Fee		to	Novastar Mortgage, Inc		995.00	
806. Processing Fee		to	EM5 Financial Services		500.00	
807. Assumption Fee		to				
808. Tax Service Fee		to	First American		60.00	
809. Flood Certification Fee		to	FIS		7.00	
810. MERS Fee		to	MERS		3.95	
811.						
900. ITEMS REQUIRED BY LENDER TO BE PAID IN ADVANCE						
901. Interest From	09/22/08 to 10/01/08	@ \$	144.380000/day (9 days %)		1,299.42	
902. Mortgage Insurance Premium for	months to Coastal Plains				882.95	
903. Hazard Insurance Premium for	1.0 years to					
904. Flood Insurance Premium	1.0 years					
905.						
1000. RESERVES DEPOSITED WITH LENDER						
1001. Hazard Insurance	months @ \$		per month			
1002. Mortgage Insurance	months @ \$		per month			
1003. PR Taxes	months @ \$		per month			
1004. County Taxes	months @ \$		per month			
1005. Assessments	months @ \$		per month			
1006. Flood Insurance Premium	months @ \$		per month			
1007.	months @ \$		per month			
1008.	months @ \$		per month			
1100. TITLE CHARGES						
1101. Settlement or Closing Fee	to					
1102. Abstract of Title Search	to	Carolina Abstract			125.00	
1103. Title Examination	to					
1104. Title Insurance Binder	to	Confidential Escrow and Title			75.00	
1105. Document Preparation/POA	to					
1106. SC Gain Filing Fee	to					
1107. Attorney's Fees	to	Wolf & Mogil, LLC			450.00	
<i>(includes above item numbers:)</i>						
1108. Title Insurance	to	Chicago Title Insurance Company			1,245.00	
\$498.00 to Chicago Title Insurance Company, \$747.00 to Confidential Escrow & Tit						
<i>(includes above item numbers:)</i>						
1109. Lender's Coverage	\$	880,000.00		1,245.00		
1110. Owner's Coverage	\$					
1111. Seller Attorney Fees						
1112. Misc. Costs						
1113. Title Update		Wolf & Mogil, LLC				
1114. Courier/Copies/Tools	to	Wolf & Mogil, LLC			65.00	
1115. Electric Deposit		Palmetto Electric				
1116. Release Processing Fee	to	Wolf & Mogil Expense Account			15.00	
1117. E-Mail Loan Package Expense	to	Wolf & Mogil, LLC			25.00	
1118. Overnight/Express Mail	to	Wolf & Mogil, LLC			45.00	
1200. GOVERNMENT RECORDING AND TRANSFER CHARGES						
1201. Recording Fees: Deed \$			Mortgage \$ 26.00;	Releases \$		26.00
1202. City/County Tax/Stamps: Deed				Mortgage		
1203. State Tax/Stamps: Revenue Stamps				Mortgage		
1204. Power of Attorney/Assignment	to	Beaufort County Registrar of Deeds				
1205. Recording Waiver		Wolf & Mogil Expense Account			7.00	
1300. ADDITIONAL SETTLEMENT CHARGES						
1301. Survey	to					
1302. Pest Inspection	to					
1303.						
1304. Regime Fee						
1305. See add'l disc, exhibit	to					
1400. TOTAL SETTLEMENT CHARGES (Enter on Lines 103, Section J and 602, Section K)					129,743.81	
					156,028.96	

Certified to be a true copy.

CERTIFICATION ADDENDUM TO HUD-1 SETTLEMENT STATEMENT

Loan Number: 06-A19021

Property Address: 226 WILDHORSE ROAD, HILTON HEAD ISLAND, SOUTH
CAROLINA 29926

I have carefully reviewed the HUD-1 settlement statement and to the best of my knowledge and belief, it is a true and accurate statement of all receipts and disbursements made on my account or by me in this transaction. I further certify that I have received a copy of the HUD-1 Settlement Statement.

ADDITIONAL DISBURSEMENTS EXHIBIT

Borrower: Terry Lennette Grant
 Lender: Novastar Mortgage, Inc
 Settlement Agent: Wolf & Mogli, LLC
 (843)842-2202
 Place of Settlement: 94 Main Street, Suite C-102
 Hilton Head Island, SC 29926
 Settlement Date: September 18, 2006
 Disbursement Date: September 22, 2006
 Property Location: 226 Wild Horse Road
 Hilton Head Island, SC 29926
 Beaufort County, South Carolina

PAYEE/DESCRIPTION	NOTE/REF NO	BORROWER	SELLER
South Carolina Department of Revenue SC Tax		22,837.33	
IRS Federal Tax		106,906.28	
Total Additional Disbursements shown on Line 1305		\$ 129,743.81	\$ 0.00

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Benjamin C/P. Sapp, Special Referee

Case No. 2016-CP-07-01466

(Appellate Case No. 2023-001394)

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.....Respondents.

v.

Terry Lennette Grant, Pro Se.....Appellant,

**RESPONSE TO RESPONDENT’S MOTION TO DISMISS APPEAL
PROOF OF SERVICE**

Terry Lennette Grant, Pro Se
P O Box 21936
Hilton Head Island, SC 29925
843-301-5157
terrygrantseries@gmail.com

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com

Counsel for Respondents

**RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL
PROOF OF SERVICE**

This is to certify that I, Terry Lennette Grant sent true copies of **RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL** to the attorney of record named below. A true copy was sent via email of records and/or U.S.Postal Service, on this day or soon thereafter with adequate postage prepaid for the following:

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Rd Ste 110
Columbia, SC 29210
Email: chad.burgess@brockandscott.com

Counsel for Respondents

RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL

December 18, 2023



Terry Lennette Grant, Pro Se, Appellant
P O Box 21936
Hilton Head Island, SC 29925
843-301-5750
terrygrantseries@gmail.com