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**Jan 31 2024**

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**SC Court of Appeals**

No: 2024-000039

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**The South Carolina Court of Appeals**

**State of South Carolina**

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**NATIONSTAR MORTGAGE LLC, d/b/a**

**MR. COOPER**

Respondent

v.

**Carolyn Brantley, et al.**

Appellants

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On Appeal from the:

**THE COURT OF COMMON PLEAS**

**JASPER COUNTY**

Case Number: **2022CP2700306**

Judge: **James A. Grimsley III (Special Referee)**

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**Appellant's Response To RESPONDENT'S "RETURN TO  
MOTION FOR STAY PENDING APPEAL filed January 29, 2024"**

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## *I. INTRODUCTION*

### **Appellant's Response To RESPONDENT'S "RETURN TO MOTION FOR STAY PENDING APPEAL filed January 29, 2024"**

Before the Honorable South Carolina Appeals Court, Appellant Carolyn Brantley respectfully submits this response to the opposition filed by Respondent, Nationstar Mortgage, regarding the Appellant's motion for stay pending appeal which is deficient with regards to a certificate of service. Appellant request the court to deny this deficient instrument.

In this critical juncture, where the Appellant seeks relief through a stay pending the resolution of the appeal, the response from Nationstar Mortgage fails to adequately address the substantive legal and factual issues raised by the Appellant. Moreover the "factual background related to "Sovereign Citizen" and other matters are completely non existent, and therefore not factual at all. Moreover, Respondent Nationstar representation as the "note holder" contradicts prior facts of record of NationStar Mortgage as a Servicer of Servicing Company. This response aims to correct the record, clarify the misrepresentations, and emphasize the necessity of granting the stay to prevent irreparable harm to the Appellant. The appellant will suffer irreparable harm if the stay if not granted. The court should ignore the response filed by respondent because firstly, it fails to comply with the court rules, and secondly, because it lacks merit.

## *II. RELIEF SOUGHT*

In light of the foregoing arguments and the deficiencies in the response provided by Nationstar Mortgage, the Appellant respectfully requests that this Honorable Court grant the motion for stay pending appeal. This relief is sought to prevent irreparable harm to the Appellant during the pendency of the appeal process. The stay is critical to maintaining the status quo and ensuring that the Appellant's rights are not unduly prejudiced while the appellate review is underway. The Appellant asserts that the balance of equities tips decidedly in favor of granting this stay, as the potential harm to the Appellant in the absence of such relief far exceeds any inconvenience that may be experienced by the Respondent.

### III. STATEMENT OF OPPOSITION

This response vehemently opposes the arguments presented by Nationstar Mortgage in their response to the Appellant's motion for stay pending appeal. Crucially, the opposition from Nationstar Mortgage fundamentally fails to surmount the arguments laid forth in the motion for stay pending appeal, notably lacking in both substance and legal rigor. The Appellant respectfully submits that the opposition provided by Nationstar Mortgage is deficient in several key respects.

Firstly, it fails to provide the required Certificate of Service and the factual summary presented by Nationstar Mortgage is, in part, erroneous and misleading. It contains inaccuracies and misrepresentations that not only fail to address the substantive issues at hand but also deviate from the factual narrative pertinent to this case. Such inaccuracies are not trivial, as they bear directly on the Court's understanding and evaluation of the motion for stay pending appeal.

Furthermore, Nationstar Mortgage has not demonstrated, either factually or legally, how the imposition of a stay would result in substantial harm to them. This is a critical oversight, as the burden rests on the Respondent to articulate and substantiate any potential harm that might arise from granting the stay. It is telling that their response lacks any concrete analysis or evidence to this effect, which is indicative of the absence of significant harm to Respondent, Nationstar Mortgage.

Additionally, it is essential to underscore the nature of Nationstar Mortgage's involvement in this case. The assertion by Nationstar Mortgage throughout the proceedings that it acts merely as a servicer and not the actual holder of the alleged mortgage note is of paramount importance.

Finally, the court does not have to consider Respondents's purported opposition because the response is critically defective as it fails to comply with the court rules on regarding services.

**IV. REASONS THE MOTION SHOULD BE GRANTED**

**RESPONDENT HAS FAILED TO COME FORWARD WITH A MERITIOUS ARGUMENT & THE HARM TO APPELLANT IN THE ABSENCE OF A STAY OUTWEIGHTS ANY POTENTIAL HARM TO RESPONDENT, HAVE FAILED TO COMPLY WITH RULES OF COURT REGARDING CERTIFICATE OF SERVICE & CERTIFICATE OF COMPLIANCE**

This distinction of note holder and servicer is critical in this appeal, as it bears directly on their standing and the potential impact of the stay on their interests. The Appellant contends that, as a servicer and not the holder of the note, Nationstar Mortgage's claim to any substantial harm from the granting of a stay is further diminished.

**I. Failure to Comply with Court Rules Regarding Certificates of Service and Compliance**

The Respondent, Nationstar Mortgage, has failed to adhere to the requisite court rules concerning the filing of a Certificate of Service and a Certificate of Compliance. This oversight not only contravenes the procedural mandates of the South Carolina Court of Appeals but also undermines the integrity of the judicial process. The Certificate of Service is a fundamental requirement, ensuring that all parties are properly notified of filed documents. Its absence raises serious concerns about the due process and fair notice.

**II. Inconsistencies in Status as a Servicer/Note Holder:** Moreover, the Respondent's inconsistent representation of its status as either a Servicer or a Note Holder in this case is troubling and warrants scrutiny. This ambiguity is not just a matter of semantics; it has significant legal implications regarding the Respondent's standing and the arguments they can legitimately advance. As a servicer, their role and interests in the mortgage note are distinctly different from those of a note holder. This distinction is crucial in evaluating the merits of the case and the respective positions of the parties involved.

The shifting portrayal by the Respondent of their role - alternating between a Servicer and a Note Holder - raises questions about the credibility of their arguments and their legal standing. It is imperative for the Court to address these inconsistencies to ensure that the legal arguments and positions put forth are grounded in a clear and accurate understanding of the Respondent's actual role and interests in this matter.

**V. CONCLUSION & PRAYER**

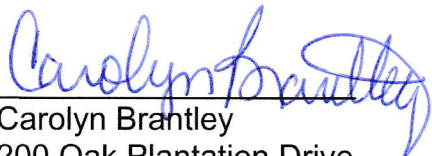
In conclusion, the Appellant respectfully submits that these procedural oversights and substantive inconsistencies are not merely technicalities, but rather they are indicative of fundamental flaws in the Respondent's approach to this case. Such issues warrant serious consideration by the Court, as they bear directly on the fairness, clarity, and integrity of the judicial process.

Appellant pray for the following:

1. Strike the Opposition filed by Respondent for failure to comply with Rule 240 of The South Carolina Appellate Court Rules, specifically Rule 240, provide detailed guidelines regarding the filing of motions and petitions in the appellate court, and
2. Grant Appellant's motion for Stay pending appeal.
3. All other relief this court deems just in this matter.

Respectfully Submitted,

DATED: January 31, 2024



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PROOF OF SERVICE

I hereby certify that the foregoing Appellant's Response To RESPONDENT'S "RETURN TO MOTION FOR STAY PENDING APPEAL filed January 29, 2024" has been filed in the office of the Clerk for the The South Carolina Court of Appeals and a true and correct copy of the same has been provided to counsel listed below in the manner indicated on January 31, 2024

- Checkboxes for service methods: CMS Case Management System, VIA FAX #, UNITED STATES FIRST CLASS MAIL (POSTAGE PREPAID), THIRD PARTY CARRIER, UNITED STATES EXPRESS MAIL (PRIORITY EXPRESS), via email, UNITED STATES CERTIFIED MAIL, RETURN RECEIPT REQUESTED (POSTAGE PREPAID)

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Handwritten signature: Carolyn Brantley 01/31/2024