

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

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

S.C. COURT OF APPEALS
Unpublished Opinion No. 2023-UP-315

RECEIVED

FEB 16 2024

SC Court of Appeals

Capital Bank, N.A., formerly known as NAFH National Bank,
successor in interest to Carolina National Bank and Trust Company,
and to First National Bank of South Carolina,

Appellant,

V.

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

Respondents

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

Petitioners

**REPLY TO RETURN TO PETITION
FOR WRIT OF CERTIORARI
TO THE COURT OF APPEALS**

RECEIVED

FEB 16 2024

S.C. SUPREME COURT

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Attorney for the Petitioners

REPLY

It is clear that the holding of the Court of Appeals is based entirely on its finding that a Motion pursuant to Rule 59(e) was not made. Respondents concede that this ground was not set forth in its brief. Return P. 8. Despite Respondent's insistence that the Court of Appeals made a ruling on the merits raised in its appeal, the rest of the Court of Appeals' decision is simply dicta. The Court of Appeals simply did not address the merits of the appeal because it used a perceived procedural error to avoid making that decision.

The issue of whether or not the judgment had expired was simply not ripe for adjudication until the Respondent made efforts in 2022 to collect the judgment by supplemental proceedings. This effort was made more than 10 years after the date of the Sale when the amount of the deficiency was actually determined.

The Court of Appeals did not properly consider the mechanics and procedure for consideration of such a motion.

Although the Petitioner believes that the Master in Equity was correct in his ruling and the Court of Appeals was wrong in its opinion, if this Court disagrees with the Master, it should not permit the Court of Appeals to be "right for the wrong reasons."

CONCLUSION

The Petitioner prays for an Order granting a Writ of Certiorari to the Court of Appeals.

The Petitioner suggests that the Court grant the Writ, reverse the Court of Appeals and remand the case to the Court of Appeals for a proper consideration of the grounds set forth by the Respondent in its appeal to the Court.

s/Spencer Andrew Syrett
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February 16, 2024

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Defendants

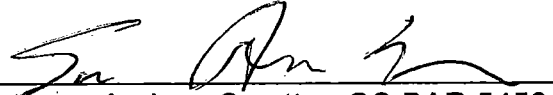
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PROOF OF SERVICE

I certify that I have served one copy of the Petitioners' Reply to Return to Petition for Writ of Certiorari on the Appellant by depositing it in the United States Mail, postage prepaid, on February 16, 2024, addressed to its attorney of record, Robert L. Widener.

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February 16, 2024