

STATE OF SOUTH CAROLINA  
COUNTY OF HORRY

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2016-CP-26-08043

Waterfall Victoria Grantor Trust II, Series G,  
Plaintiff,

v.

E. Carroll Rogers a/k/a Ernest Carroll Rogers;  
Paulla W. Rogers; Branch Banking and Trust  
Company; Briarcliffe Acres Association; United  
States of America, Department of Treasury,  
Internal Revenue Service; South Carolina  
Department of Revenue,  
Defendant(s).

**ORDER GRANTING IN PART PLAINTIFF'S  
MOTION TO ALTER OR AMEND  
MASTER'S ORDER AND JUDGMENT OF  
FORECLOSURE AND SALE**

**RECEIVED**

**May 17 2024**

**SC Court of Appeals**

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure (hereinafter "SCRCP"), the above-entitled action was referred to the undersigned Master in Equity to make appropriate findings of fact and conclusions of law, with authority to enter a final Judgment in the action. This Court's Order and Judgment of Foreclosure and Sale was entered March 1, 2024, and Plaintiff timely filed a Motion to Alter or Amend pursuant to Rule 59(e), SCRCP. Based on the pleadings in this case and the respective parties' memoranda, this Court hereby grants Plaintiff's Motion to Alter or Amend in part and solely to the extent set forth herein. If a specific issue raised by the Plaintiff's Motion is not addressed herein, the Court denies the Plaintiff's Motion as to those issues and such findings of fact or conclusions of law set forth in this Court's Order entered March 1, 2024, (hereinafter the "March Order"), shall stand.

Paragraph 25 of the March Order stated: "I find in the interest of equity that, due to the length of time pending between the date of default and the bringing of this action, total interest awarded shall be limited to thirty-six (36) months." Evidence presented at the final hearing indicates a significant delay between the date of default and the filing of this action for foreclosure. However, evidence also indicated that this property was not abandoned by the resident owners (Defendant Mortgagors) but was continuously occupied by them from the date of default to date. The Defendant Mortgagors were not displaced from the home and derived a substantial benefit from many years of continuous occupancy without payment. This court recognizes a significant distinction between continued occupancy by a defaulting mortgagor, versus property that has been abandoned by a defaulting mortgagor over an extended period, prior to initiation of a foreclosure action. For this reason, this court of equity will award interest from

the date of default, March 1, 2015. The March Order is therefore amended and altered to reflect that Plaintiff is entitled to interest accrued through March 31, 2024, in the amount of \$148,489.43, which interest continues to accrue at the rate of 3.375% per annum, or \$ 34.32 per diem.

This Court further amends its finding of fact set forth in Paragraph No. 32 of the March Order to find, pursuant to Plaintiff's Supplemental Affidavit of Attorney's Fees filed March 11, 2023, that the sum of \$19,342.50 is a reasonable attorney's fee for the Plaintiff's attorneys for services performed through March 31, 2024, under the terms of the Note and Mortgage. The March Order is therefore amended and altered to reflect that Plaintiff is entitled to an award of attorneys' fees in the amount of \$19,432.50, plus costs incurred in this action in the amount of \$956.65.

Therefore, for the reasons stated herein, the amount due and owing on the Note and Mortgage, with interest at the rate provided in the Note, and other costs and expenses of collection through March 31, 2024, including attorney's fees, secured by the Note and Mortgage, is as follows:

Principal Balance Due	\$ 371,142.15
Interest Due from 3/1/2015 through 3/31/2024	\$ 148,489.43
Current Rate 3.37500%, Per Diem \$ 34.32	
Allowed Escrow Advanced	\$ 24,389.26
Prior Servicer Corporate Advances	\$ 13,706.94
Suspense Balance	\$ (96.00)
Foreclosure Costs through hearing	\$ 956.65
Foreclosure Attorney's Fees through the hearing	\$ 19,342.50
<b>TOTAL DEBT OWED</b>	<b>\$ 577,930.93</b>

IT IS, THEREFORE ORDERED, ADJUDGED AND DECREED:

That there is due to the Plaintiff on its note and mortgage the sum of \$577,930.93, representing the Total Debt due as of March 31, 2024, as set out above, together with interest thereon at the rate provided in the note to the date hereof. Interest shall continue to accrue on the judgment at the contractual amount of 3.375% per annum, or \$ 59.38 per diem. Except as explicitly set forth herein, all other findings of fact and conclusion of law made determined by this Court in its Order dated March 1, 2024, shall stand and remain.

AND IT IS SO ORDERED.

SIGNATURE PAGE TO FOLLOW.

**FORM 4**

**STATE OF SOUTH CAROLINA  
COUNTY OF HORRY**

**IN THE COURT OF COMMON PLEAS  
JUDGMENT IN A CIVIL CASE  
CASE NO.: 2016-CP-26-08043**

Waterfall Victoria Grantor Trust II, Series G

E. Carroll Rogers a/k/a Ernest Carroll Rogers, et al.

PLAINTIFF(S)

DEFENDANT(S)

Attorney for :  Plaintiff  Defendant  
or  
 Self-Represented Litigant

Submitted by: McMichael Taylor Gray, LLC

**DISPOSITION TYPE (CHECK ONE)**

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

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

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

**ORDER INFORMATION**

This order  ends  does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

**INFORMATION FOR THE PUBLIC INDEX**

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

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount to be Enrolled (List amount(s) below)
Waterfall Victoria Grantor Trust II, Series G	E. Carroll Rogers a/k/a Ernest Carroll Rogers	\$ 577,930.93

If applicable, describe the property, including tax map information and address, referenced in the order:

ALL AND SINGULAR, that certain piece, parcel or lot of land, situate, lying and being in Dogwood Neck Township, County of Horry, State of South Carolina, in Briarcliffe Acres Development, designated as Lot 306, as shown on a map prepared by T.M. Jordan, C. E., and Robert Bellamy dated October 1, 1954, and recorded in Plat Book 17 at Page 41, in the Office of the Clerk of Court for Horry County.

This being the same property conveyed unto E. Carroll Rogers and Paulla W. Rogers by Deed of Linda Evans Bauer dated February

18, 1997 and recorded in the Office of the Register of Deeds for Horry County on February 19, 1997 in Deed Book 1922, Page 745. Thereafter, Paulla W. Rogers conveyed her interest in the subject property to E. Carroll Rogers by Deed dated January 9, 2008 and recorded in the Office of the Register of Deeds for Horry County on January 25, 2008 in Deed Book 3310, Page 1566.

Property Address: 306 Ocean View Drive, Myrtle Beach, SC, 29572  
TMS No.: 156-09-02-013

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

<b>Circuit Court Judge</b>	<b>Judge Code</b>	<b>Date</b>
<b>For Clerk of Court Office Use Only</b>		

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2024 and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 2024 to attorneys of record or to parties (when appearing pro se) as follows:

McMichael Taylor Gray, LLC  
3550 Engineering Drive, Suite 260  
Peachtree Corners, GA 30092

Roger P. Roy, Jr.  
Roy & Casper, LLC  
Attorney for E. Carroll Rogers a/k/a Ernest Carroll Rogers  
PO Box 4086  
N. Myrtle Beach, SC 29597

Paulla W. Rogers  
2300 Court Road 243E  
Wildwood, FL 34785

Branch Banking and Trust Company  
CT Corporation System, Registered Agent  
2 Office Park Court, Suite 103  
Columbia, SC 29223

Briarcliffe Acres Association  
243 Dogwood Lane  
Myrtle Beach, SC 29572

Robert M. Sneed  
Assistant United States Attorney  
Attorney for United States of America  
Department of Treasury Internal Revenue Service  
U.S. Attorney's Office  
55 Beattie Place, Suite 700  
Greenville, SC 29601

Kiera C. Dillon  
Associate Counsel  
Attorney for South Carolina Department of  
Revenue  
300A Outlet Pointe Blvd  
Columbia, SC 29212

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

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

\_\_\_\_\_  
**CLERK OF COURT**

**Court Reporter:**

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

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

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

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## Horry Common Pleas

**Case Caption:** Waterfall Victoria Grantor Trust II Series G, plaintiff VS E Carroll Rogers , defendant, et al  
**Case Number:** 2016CP2608043  
**Type:** Master/Order/Other

So Ordered

s/Alan D. Clemmons 3088 Master in Equity