

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Bank of America, N.A.,

PLAINTIFF,

vs.

Zachariah Floyd, South Carolina Department
of Revenue, and Bullhead Investments, LLC,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A NO: 2011-CP-27-07324

**ORDER DENYING DEFENDANT'S
MOTION FOR RECONSIDERATION**

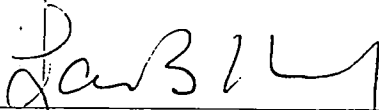
F11-04830

On June 26, 2013, a hearing was held on the motion for reconsideration filed by the defendant, Zachariah Floyd. Present at this hearing were the pro se defendant, Zachariah Floyd, and Dean A. Hayes, attorney for the plaintiff.

Zachariah Floyd moves that the court reconsider the order signed on December 5, 2012, that referred this foreclosure action to Cynthia Graham Howe, as Master in Equity for Horry County. Floyd asserts that the allegations in his amended answer and counterclaim regarding the failure of the plaintiff to ascertain his preference as to an attorney for the closing of the loan entitles him to a jury trial. However, in *Wells Fargo v. Smith*, 398 S.C. 487, 730 S.E.2d 328 (Ct. App. 2012), the Court of Appeals held that such allegations are permissive, not compulsory, therefore, a party who asserts such claims is not entitled to a jury trial. For this reason,

IT IS ORDERED that the motion for reconsideration filed by the defendant, Zachariah Floyd, be and hereby is denied.

IT IS SO ORDERED!



THE HONORABLE LARRY B. HYMAN, JR.
CIRCUIT COURT JUDGE

Conway, South Carolina
July 15, 2013

RECEIVED

AUG 16 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF HORRY

Bank of America, N.A.,

PLAINTIFF,

vs.

Zachariah Floyd, South Carolina Department
of Revenue, and Bullhead Investments, LLC,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A NO: 2008-CP-14-00496

CERTIFICATE OF SERVICE

F11-04830

I, Elizabeth Kozlerek, an employee of the Korn Law Firm, P.A., attorneys for Plaintiff in the above-captioned action, certify that **PLAINTIFF'S PROPOSED ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION** was served on counsel for the Defendants by causing a copy of the same to be deposited into the United States Mail, addressed as follows:

Zachariah Floyd
4 Spirit Place
Myrtle Beach, SC 29577
PRO SE DEFENDANT

Milton G. Kimpson, Esquire
S.C. Department of Revenue
Office of General Counsel for Litigation
Post Office Box 12265
Columbia, SC 29211
ATTORNEY FOR DEFENDANT SC DEPARTMENT OF
REVENUE

Richard L. Jackson
BROCK & SCOTT, PLLC
1315 Westbrook Plaza Drive, Suite 100
Winston-Salem, NC 27103
ATTORNEY FOR DEFENDANT BULLHEAD INVESTMENTS,
LLC

[SIGNATURE PAGE TO FOLLOW]

this 19th day of July, 2013.

Columbia, SC
File No. F11-04830

KORN LAW FIRM, P.A.



Elizabeth Kozlarek
Law Clerk to Dean A. Hayes

5-28-13
22

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2011- CP-26-07324

BANK OF AMERICA NA

ZACHARIAH FLOYD ET AL

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: CLERK OF COURT	Attorney for : <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant
	or <input type="checkbox"/> Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 13, 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

FILED
HORRY COUNTY
13 MAY 30 AM 8:48
CLERK OF COURT
MELANIE HOGGINS WARD

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

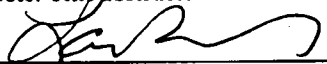
IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: MOTION TO RECONSIDER CONTINUED TO THE NEXT AVAILABLE NON JURY MOTION TERM OF COURT.

ORDER INFORMATION

This order ends does not end the case.
Additional Information for the Clerk :

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A	N/A	N/A
		\$
		\$
If applicable, describe the property, including tax, map information and address, referenced in the order.		

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.

	2152	May 28, 2013
Circuit Court Judge	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

DEAN HAYES

ZACHARIAH FLOYD

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: KAY H. HARDWICK