

**RECEIVED**

**Jun 19 2024**

**SC Court of Appeals**

APPEAL ARISING  
THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland

Master in Equity

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Circuit Court No. 2023-CP-40-00090  
Appellate Case No. 2024-001011

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Michael Gilbert a/k/a Michael L. Gilbert ..... Appellant,

v.

Eastman Credit Union, Hammond School, Founders Federal Credit Union,  
Woodcreek Farms Homeowners Association and South Carolina Department of  
Revenue..... Respondents.

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**RESPONDENT EASTMAN CREDIT UNION'S MEMORANDUM IN OPPOSITION TO  
APPELLANT'S PETITION FOR FULL COURT REVIEW OF ORDER DENYING  
WRIT OF SUPERSEDEAS**

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Dean A. Hayes, SC Bar No. 66066  
McCabe, Trotter & Beverly, P.C.  
4500 Fort Jackson Blvd., Suite 335  
Columbia, South Carolina 29209  
Phone: (803) 724-5000 Fax: (803) 724-5001  
Email: [dean.hayes@mccabetrotter.com](mailto:dean.hayes@mccabetrotter.com)  
*Attorney for Respondent, Eastern Credit Union*

June 19, 2024  
Columbia, South Carolina

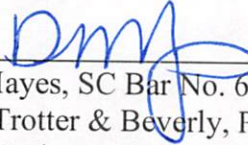
forth in the correspondence filed with the clerk of court on June 17, 2024 and marked as exhibit D, Gilbert was personally able, through his contact with Judge Strickland's office, to get the foreclosure sales cancelled a total of three times, with two of those times being under false pretenses. Gilbert also filed a previous motion to set aside the judgment of foreclosure and sale. This motion, a copy of which is marked as exhibit E, was filed by Gilbert's previous attorney on January 26, 2024. Judge Strickland denied that motion by an order filed on February 1, 2024. A copy of that order is marked as exhibit F.

Gilbert has filed his most recent motion to set aside the judgment of foreclosure and sale based on his allegation that he was not served with the summons and complaint; therefore, Gilbert alleges the judgment is void under Rule 60(b)(4), SCRPC. The South Carolina Supreme Court has noted that Rule 60(b)(4) "requires that motions to set aside a judgment that it is void must be brought within a reasonable time." *Sijon v. Green*, 298 S.C. 128 n.2, 345 S.E.2d 246, 248 n.2 (1986). See also *Rish v. Rish*, 435 S.C. 681, 688-89, 868 S.E.2d 719, 722-23 (Ct. App. 2021) (citing *Sijon* on this issue). ECU confidently stands by the affidavit of service showing that Gilbert was served with the summons and complaint in this action. However, even if Gilbert's allegation is true that he was not served with the summons and complaint, it is clear that he has known about the judgment since at least August 7, 2023, when he personally started communicating with Judge Strickland's office, and Gilbert has waited until the eve of his eviction to, for the first time, allege he was not served with the summons and complaint. Gilbert has clearly not brought his motion within a reasonable time.

The Court of Appeals, in its order of June 17, 2024 denying Gilbert's petition for supersedeas, cited *Wachesaw Plantation E. Cmty. Servs. Ass'n, Inc. v. Alexander*, 414 S.C. 355, 360, 778 S.E.2d 898, 901 (2105) in stating the transfer of the subject property does not moot the

appeal of a motion to vacate the foreclosure sale. If Gilbert really believes his most recent motion has merit, he has the opportunity to pursue his appeal even if he has been removed from the property. ECU requests that the Court of Appeals deny Gilbert's petition for full court review of the order denying the writ of supersedeas.

Respectfully submitted,



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*Attorney for Respondent Eastman Credit Union*

June 19, 2024  
Columbia, South Carolina



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FOR THE 5<sup>TH</sup> JUDICIAL CIRCUIT  
C/A No.: 2023-CP-40-00090

Eastman Credit Union,

Plaintiff,

v.

Michael Gilbert a/k/a Michael L. Gilbert;  
Hammond School; Founders Federal Credit  
Union; Woodcreek Farms Homeowners  
Association, Inc.; and South Carolina  
Department of Revenue,

Defendants

**ORDER AND JUDGMENT OF  
FORECLOSURE AND SALE**  
(MORTGAGE FORECLOSURE)  
(DEFICIENCY WAIVED)

*018512.00030*

Pursuant to Rule 53 of the South Carolina Rules of Civil Procedure, this matter was referred to the undersigned to make appropriate findings of facts, conclusions of law, and with the authority to enter final judgment in the case. Pursuant to the Order of Reference, a hearing was held on March 30, 2023, attended by the attorneys of record, the testimony was taken, which is reported herewith, and from the testimony and evidence, I find, conclude, and order as follows:

FINDINGS OF FACT

1. The lis pendens, summons, complaint, notice required by the Fair Debt Collection Practices Act, and the notice of foreclosure intervention were filed with the Court on January 6, 2023.
2. As shown by the acceptances of service and the affidavit of service on file with the Court, all of the defendants in this case were served with the lis pendens, summons, complaint, notice required by the Fair Debt Collection Practices Act, and the notice of foreclosure intervention.
3. As shown by the affidavit of default and non-military service filed with the Court on February 28, 2023, the defendant, Michael Gilbert a/k/a Michael L. Gilbert, is in default and is

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not in the military service of the United States of America as contemplated by the provisions of the Servicemembers Civil Relief Act.

4. The loan at issue in this case is subject to Administrative Order Number 2011-05-02-01 of the South Carolina Supreme Court, but as shown by the certification regarding mortgagor's right to foreclosure intervention filed in this case, the mortgagor, Michael Gilbert a/k/a Michael L. Gilbert, was provided with the notice of mortgagor's right to foreclosure intervention and did not respond.

5. The defendant, Hammond School, is named as a party by virtue of the judgment it obtained against Michael Lamar Gilbert in South Carolina Civil Action No. 2013-CP-40-05184.

6. The defendant, Founders Federal Credit Union, is named as a party by virtue of the judgment it obtained against Michael L. Gilbert in South Carolina Civil Action No. 2017-CP-40-03539.

7. The defendant, Woodcreek Farms Homeowners Association, Inc., is named as a party by virtue of the notice of lien filed against Michael Gilbert on June 16, 2022 in Book 2754 at page 2707.

8. The defendant, South Carolina Department of Revenue, is named as a party by virtue of the tax lien filed against Michael Gilbert as Tax Lien No.: 605322.

9. On or about June 16, 2020, Michael Gilbert a/k/a Michael L. Gilbert, in exchange for good and valuable consideration, executed and delivered to Plaintiff a note ("Note") wherein Michael Gilbert a/k/a Michael L. Gilbert agreed to pay to Plaintiff the principal amount of \$590,000.00, plus interest at the rate of 4.875% per annum, by making monthly payments of \$3,122.33, beginning on August 1, 2020, and continuing on the first day of each successive month until the Note was paid in full.

10. To better secure payments due under the terms of the Note, Michael Gilbert a/k/a Michal L. Gilbert executed and delivered to Plaintiff a mortgage ("Mortgage") covering the following real property ("Property"):

All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being shown and designated as Lot 30 on a plat of Woodcreek Farms Development, Tract D14, Phase 1, prepared by United Design Services, Inc. and recorded in the office of the Register of Deeds for Richland County in Plat/Record Book 297 at page 46. Reference to said plat is made for a more complete and accurate description.

This being the same property conveyed to Michael Gilbert by deed of Jessica Ann Brown and Thomas Louis Brown, Jr., dated June 15, 2020, recorded July 1, 2020, in the office of the Register of Deeds for Richland County in Book 2504 at page 3345.

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Property Address: 3 Redbay Court, Elgin, SC 29045

11. The Mortgage was recorded in the office of the Register of Deeds for Richland County on July 1, 2020, in Book 2504 at page 3349.

12. The Mortgage constitutes a purchase-money mortgage with the proceeds of the loan being used to purchase the Property.

13. Any interest the defendants in this case may have in the Property by virtue of the liens, judgments, or claims set forth above are junior in priority to the lien of the Mortgage being foreclosed by Plaintiff.

14. Payments on the Note and Mortgage (collectively "Loan Documents") are in default for failure to make the monthly payment due on July 1, 2022, and despite notice by Plaintiff, the default has not been cured; therefore, Plaintiff, as holder of the Loan Documents, has elected to exercise its option to declare the entire balance due under the terms of the Loan Documents immediately due and payable and to foreclose on the Property secured by the Mortgage.

15. The Loan Documents allowed Plaintiff to charge a late fee of 5.0% on any monthly payment not received by Plaintiff by the end of fifteen calendar days after the date the payment was due.

16. The Mortgage also required Michael Gilbert a/k/a Michael L. Gilbert to pay to Plaintiff a monthly amount to cover the property taxes and hazard insurance premiums on the Property, and this account currently has a deficit.

17. In the event the Loan Documents were placed in the hands of an attorney for collection or foreclosure, the Loan Documents provided that Plaintiff was entitled to recover the costs and reasonable attorney's fees of the collection or foreclosure action.

18. The Notice of Consumer's Right to Cure, as contemplated under S.C. Code Sections 37-5-110 and 37-5-111, has been given or is not required, and all conditions precedent to the acceleration of the debt and the foreclosure of the Mortgage have been performed or occurred.

19. Pursuant to the Administrative Order No. 2009-05-22-01, the loan that is the subject of this action is held by a non-participant in the Home Affordable Modification Program (HMP). Further, the HMP has expired.

20. Plaintiff and Michael Gilbert a/k/a Michael L. Gilbert entered into Loan Documents that are binding contracts.

21. The terms of the Loan Documents have been breached by Michael Gilbert's failure to make the monthly payments required by the Loan Documents.

22. Under the terms and conditions of the Loan Documents, there is, as of March 30, 2023, due and owing from Michael Gilbert a/k/a Michael L. Gilbert to Plaintiff the following amount:

a) Principal .....	\$571,362.92
b) Interest from 06/01/2022 @ 4.875% .....	20,772.17
c) Escrow Balance (Taxes and Insurance).....	6,661.23
d) Late Fees.....	1,654.19
e) Costs of Action .....	542.26
f) Attorney's Fees .....	7,530.00
<b>TOTAL DEBT</b>	<b>\$608,522.77</b>

23. Plaintiff waives its right to enter personal judgment against Michael Gilbert a/k/a Michael L. Gilbert for any deficiency remaining owed after the proceeds from the foreclosure sale of the Property are applied to the debt owed Plaintiff under the terms of the Loan Documents.

**CONCLUSIONS OF LAW**

I, therefore, conclude that Plaintiff is entitled to judgment of foreclosure on the Mortgage, and the Property subject to the Mortgage should be ordered sold at public auction after due advertisement.

**ORDERS**

**IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:**

1. There is due to Plaintiff on the Note and Mortgage the amount of \$608,522.77, representing the "Total Debt" due to Plaintiff as set forth above, together with interest at the rate provided therein on the balance of the principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest from March 30, 2023 at the rate of 4.875% per annum.

3. Michael Gilbert a/k/a Michael L. Gilbert, the defendant liable for the aforesaid Mortgage debt, shall, on or before the date of sale of the Property, pay to the Plaintiff or the Plaintiff's attorney the amount of Plaintiff's debt, together with the costs and disbursements of this action.

4. That on default of payment at or before the time herein indicated, the Property described in the Mortgage, as set forth above, be sold by the Master in Equity at public auction at the Richland Country Courthouse, 1701 Main Street, Columbia, SC 29201 on some convenient sales day hereafter, on the following terms:

- A. FOR CASH: The Master in Equity will require a deposit of five (5.0%) percent on the bid (in cash or its equivalent) at the time of the sale, same to be applied to the purchase price only upon compliance of the bid, but in case of noncompliance within twenty (20) days same to be forfeited and applied to the costs and Plaintiff's debt.
- B. Interest on the bid shall be paid to the date of compliance at the rate of 4.875% per annum.
- C. The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.
- D. The Mortgage constitutes a first priority lien on the Property.
- E. The purchaser at the foreclosure sale is to pay for the deed preparation, for deed stamps, and the costs of recording the deed.

F. If the successful bidder at the foreclosure sale is not the Plaintiff in this action, interest on the balance of the bid shall be paid to the date of compliance at the interest rate listed above.

5. If Plaintiff is the successful bidder at the foreclosure sale for a sum not exceeding the amount of the costs, expenses, and indebtedness due to the Plaintiff, the Plaintiff may pay to the Master in Equity only the amount of costs and expenses crediting the balance of the bid on the indebtedness.

6. The Plaintiff has judgment against Michael Gilbert a/k/a Michael L. Gilbert for the full amount found to be due to Plaintiff on the Note and Mortgage.

7. As a personal or deficiency judgment is waived, the bidding will not remain open.

8. The Master in Equity will, by advertisement according to law, give notice of the time and place of the foreclosure sale, and the terms thereof, and will execute to the purchaser at the sale a deed to the Property sold. The Plaintiff, or any other party to this action, may become a purchaser at the foreclosure sale, and if, upon such sale being made, the purchaser should fail to comply with the terms thereof within twenty (20) days after the date of the sale, the Master in Equity may advertise the Property for sale on the next or some subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance is secured.

9. The Master in Equity will apply the proceeds from the foreclosure sale as follows:

FIRST: To the payment of the costs and expenses of this action;

NEXT: To the payment of Plaintiff or Plaintiff's attorney of the amount of Plaintiff's debt and interest, so much thereof as the purchase money will pay on same; and

NEXT: Any surplus will be held pending further order of the court.

10. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if Michael Gilbert a/k/a Michael L. Gilbert continues in possession of the Property after the deed has been issued after the foreclosure sale, the Sheriff of Richland County is directed to eject and remove the Michael Gilbert a/k/a Michael L. Gilbert from the Property, together with all personal property located thereon, and put the grantee under the deed in full, quiet, and peaceable possession of the Property, without delay, and to keep said grantee or his/her/its assigns in such peaceable possession.

11. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if the person(s) occupying the Property after the deed has been issued after the foreclosure sale is other than the Defendant in this action, the grantee in the deed shall serve upon the occupant(s) a rule to show cause to determine why the occupant(s) shall not be removed from the Property.

12. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that each defendant and all persons claiming under the defendant(s) be forever barred and foreclosed of all right, title, interest, claim and equity of redemption in the Property sold, or any part thereof.

13. IT IS FURTHER ORDERED that the deed issued pursuant to the foreclosure sale shall contain the names of only the first-named Plaintiff and the first-named defendant and the defendant who/which was the title holder of the Property at the time of the filing of the Lis Pendens in this action, and the name of the grantee, and the Master in Equity may omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

14. The Master in Equity retains jurisdiction to do all necessary acts incident to the foreclosure, including, but not limited to, the issuance of a writ of assistance.

15. Upon issuance of a Master in Equity's report on sale and disbursements, the Register of Deeds for Richland County is directed to release of record the Mortgage being

foreclosed, which mortgage lien is described as that mortgage originally given to Eastman Credit Union by Michael Gilbert a/k/a Michael L. Gilbert dated June 16, 2020, recorded July 1, 2020, in the Office of the Register of Deeds for Richland County in Book 2504 at page 3349.

16. The following is a description of the Property ordered to be sold:

**Legal Description and Property Address:**

All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being shown and designated as Lot 30 on a plat of Woodcreek Farms Development, Tract D14, Phase 1, prepared by United Design Services, Inc. and recorded in the office of the Register of Deeds for Richland County in Plat/Record Book 297 at page 46. Reference to said plat is made for a more complete and accurate description.

This being the same property conveyed to Michael Gilbert by deed of Jessica Ann Brown and Thomas Louis Brown, Jr., dated June 15, 2020, recorded July 1, 2020, in the office of the Register of Deeds for Richland County in Book 2504 at page 3345.

TMS No.: R28808-02-02

Property Address: 3 Redbay Court, Elgin, SC 29045

17. IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled foreclosure sale of the Property, then the sale will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales day.

**IT IS SO ORDERED!**

*(Judge's signature page to follow.)*

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

JUDGMENT IN A CIVIL CASE  
 CASE NO. 2023 CP-40-00090

Eastman Credit Union

Michael Gilbert a/k/a Michael L. Gilbert;  
 Hammond School; Founders Federal  
 Credit Union; Woodcreek Farms  
 Homeowners Association, Inc.; and  
 South Carolina Department of Revenue

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Dean A. Hayes SC Bar # 66066	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
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**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.  See Page 2 for additional information.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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 JUDGMENT 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)
Eastman Credit Union	Michael Gilbert a/k/a Michael L. Gilbert	\$608,522.77
		\$
		\$

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

TMS No.: R28808-02-02 3 Redbay Court, Elgin, SC 29045

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. E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

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 A. Hayes, SC Bar No. 66066  
4500 Ft. Jackson Blvd., Suite 250  
Columbia, South Carolina 29209  
Phone: (803) 724-5000 Fax: (803) 724-5001  
Email: Dean.Hayes@mccabetrotter.com

Michael Gilbert a/k/a Michael L. Gilbert

\_\_\_\_\_  
ATTORNEY(S) FOR THE PLAINTIFF(S)

\_\_\_\_\_  
ATTORNEY(S) FOR THE DEFENDANT(S)

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

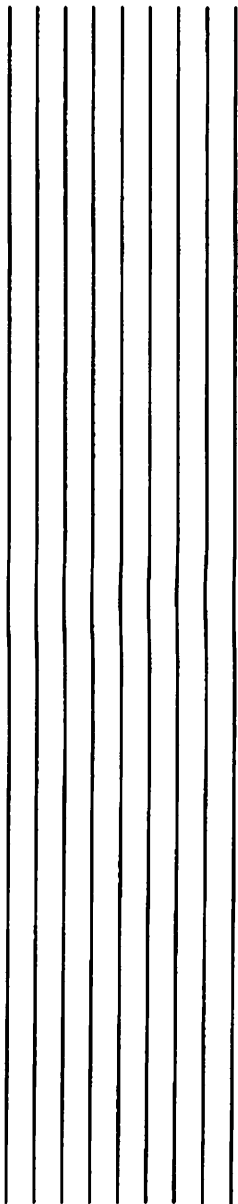
**Court Reporter:**

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), SCRCP.

**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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**Richland Common Pleas**

**Case Caption:** Eastman Credit Union vs Michael L Gilbert , defendant, et al

**Case Number:** 2023CP4000090

**Type:** Master/Order/Foreclosure & Sale and Form 4

**It is so Ordered**

**s/Joseph M. Strickland, 3055**

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

**MASTER'S DEED**



**TO ALL WHOM THESE PRESENT SHALL CONCERN:**

I, The Honorable Joseph M. Strickland, as Master in Equity for Richland County, in said State, send greetings:

**WHEREAS**, in an action in the Court of Common Pleas in Richland County between **Eastman Credit Union, as Plaintiff vs. Michael Gilbert a/k/a Michael L. Gilbert; Hammond School; Founders Federal Credit Union, et al., as Defendants, Case Number. 2023-CP-40-0090**, by an Order dated **April 20, 2023**, it was decreed that the property hereinafter described should be sold by the Master in Equity for Richland County on the terms and for purposes mentioned in the Order(s) granted in the case; and

**WHEREAS**, I the undersigned, as Master in Equity for Richland County, after due advertisement of the said property for sale at public outcry, did openly and publicly, and after the matter of auction, sell the said property on **January 2, 2024** for the sum of **\$526,000.00**, said sum being the highest amount bid at said sale and having been made by **Catamount Properties 2018, LLC**, and the bid was paid.

**NOW, KNOW ALL MEN**, That I, the undersigned, as Master in Equity for Richland County, pursuant to the foregoing and also in consideration of the said bid paid as aforesaid by the said hereinbelow named grantee, the receipt whereof is hereby acknowledged, have granted, bargained, sold, released, and by these presents do grant, bargain, and release the following described property unto the grantee,

**Grantee's Name: Catamount Properties 2018, LLC**  
**2015 Manhattan Beach Blvd. Ste. 100**  
**Redondo Beach, CA 90278**

**See attached property description.**

Subject to assessments, Richland County taxes, existing easements, easements and restrictions of record, and other senior encumbrances.

**TOGETHER**, with all and singular the hereditaments, rights, members and appurtenances whatsoever to the said property belonging or in any wise incident or appertaining, and the reversions and remainders, rents, issues, and profits thereof, and also any estate, right, title, interest, dower, possession, benefit, claim or demand therein whatsoever of all parties to the said suit and of all other persons who might rightfully claim the same or any part thereof by, from, or under them, or either of them;

Book 2901-1884		
2024007471	2/21/2024 08:49:04:310 Master's Deed-Foreclosure	
Fee: \$15.00	County Tax: \$578.60	State Tax: \$1367.60
2024007471 John T. Hopkins II Richland County R.O.D.		

**TO HAVE AND TO HOLD** the said property, with its hereditaments, privileges, and appurtenances, unto the said grantee, its successors and assigns for their own use, benefit, and behoof forever.

**IN WITNESS WHEREOF**, I, the undersigned, as Master in Equity for Richland County, under and by virtue of the said Order(s), have hereunto set my Hand and Seal the 12<sup>th</sup> day of February in the year of our Lord Two Thousand and Twenty-Four, and in the Two Hundred and Forty-seventh year of the Sovereignty and Independence of the United States of America.

**SIGNED, SEALED AND DELIVERED**

In the Presence of:

*Angela Walker*  
*John McNeill*

*Joseph M. Strickland* (Seal)  
The Honorable Joseph M. Strickland  
Master in Equity, Richland County

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

I, *Sebrina Sheffield*, do hereby certify that The Honorable Joseph M. Strickland, as Master in Equity for Richland County, personally appeared before me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and official seal this 12<sup>th</sup> day of February, 2024.

*John McNeill*  
NOTARY PUBLIC FOR SOUTH CAROLINA  
My commission expires February 9, 2028



**Legal Description and Property Address:**

All that certain piece, parcel or tract of land, together with improvements thereon, situate, lying and being in the County of Richland, State of South Carolina, being shown and designated as Lot 30 on a plat of Woodcreek Farms Development, Tract D14, Phase 1, prepared by United Design Services, Inc. and recorded in the office of the Register of Deeds for Richland County in Plat/Record Book 297 at page 46. Reference to said plat is made for a more complete and accurate description.

This being the same property conveyed to Michael Gilbert by deed of Jessica Ann Brown and Thomas Louis Brown, Jr., dated June 15, 2020, recorded July 1, 2020, in the office of the Register of Deeds for Richland County in Book 2504 at page 3345.

TMS No.: R28808-02-02

Property Address: 3 Redbay Court, Elgin, SC 29045

STATE OF SOUTH CAROLINA }  
COUNTY OF RICHLAND } AFFIDAVIT FOR TAXABLE OR EXEMPT TRANSFERS

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this affidavit and I understand such information.
2. The property was transferred by JOSIE M. STRICKLAND, AS MASTER IN EQUITY FOR RICHLAND COUNTY to CATAMOUNT PROPERTIES 2018, LLC on 02/12/2024.

3. Check one of the following: The deed is
- (A)  subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
- (B)  subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as distribution to a trust beneficiary.
- (C)  exempt from the deed recording fee because (See Information section of affidavit): \_\_\_\_\_ (Explanation required)  
(If exempt, please skip items 4-7, and go to item 8 of this affidavit.)

If exempt under exemption #14 as described in the Information section of this affidavit, did the agent and principal relationship exist at the time of the original sale and was the purpose of this relationship to purchase the realty?  
Check Yes  or No

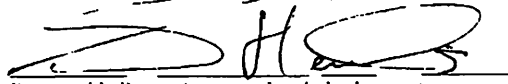
4. Check one of the following if either item 3(a) or item 3(b) above has been checked. (See Information section of this affidavit):
- (A)  The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$526,000.00
- (B)  The fee is computed on the fair market value of the realty which is \_\_\_\_\_
- (C)  The fee is computed on the fair market value of the realty as established for property tax purposes which is \_\_\_\_\_
5. Check YES  or NO  to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. If "YES," the amount of the outstanding balance of this lien or encumbrance is \_\_\_\_\_

6. The deed recording fee is computed as follows:
- (A) Place the amount listed in item 4 above here: 526,000.00
- (B) Place the amount listed in item 5 above here: 0.00  
(If no amount is listed, place zero here.)
- (C) Subtract Line 6(b) from Line 6(a) and place the result here: 526,000.00

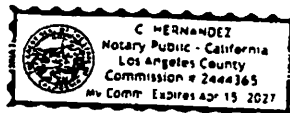
7. The deed recording fee is based on the amount listed on Line 6(c) above and the deed recording fee due is: 526,000.00

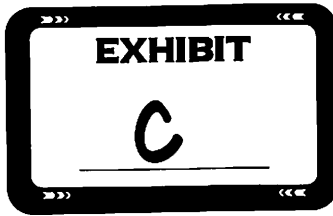
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as: G. Hercules-Deed Administrator for Catamount Properties

9. I understand that a person required to furnish this affidavit who wilfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

  
Responsible Person Connected with the Transaction  
G. Hercules  
Print or Type Name Here

Sworn this 15 day of Feb 20 24  
Notary Public for California  
My Commission Expires: Apr 15, 2027





STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
)  
)  
EASTMAN CREDIT UNION, )  
)  
Plaintiff(s), )  
)  
vs. )  
)  
Michael Gilbert a/k/a Michael )  
L. Gilbert; Hammond School; )  
Founders Federal Credit Union; )  
Woodcreek Farms Homeowners )  
Association and South Carolina )  
Department of Revenue, )  
)  
Defendant(s), )

IN THE COURT OF COMMON PLEAS  
CIVIL CASE NO. 2023CP4000090

**ORDER FOR WRIT OF  
ASSISTANCE**

**TO THE SHERIFF OF RICHLAND COUNTY, SOUTH CAROLINA:**

Pursuant to Rule 53, South Carolina Rules of Civil Procedure the above captioned matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment and Writ of Assistance in the cause.

1. By Order of this Court dated May 17, 2024 the Court decreed that:

"In the event the successful bidder is other than the Defendant(s) in possession herein, the Sheriff of Richland County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession."

2. The successful bidder was Catamount Properties 2018, LLC, who has paid the bid in full and has obtained a deed to the subject property.


3. The occupants of 3 Redbay Court, Elgin, SC 29045, refuse to vacate the premises.

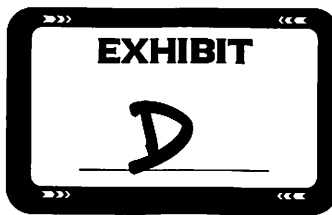
Now, therefore, upon motion of Catamount Properties 2018, LLC successful bidder in the above entitled action,

**IT IS ORDERED**, that if the property is not vacant as of June 17, 2024 at 1:00 p.m., that you, do eject and remove from the premises the occupant of the property sold, together with all personal property located thereon, put the successful bidder or assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

**IT IS SO ORDERED**

Columbia, South Carolina  
May 17, 2024

  
\_\_\_\_\_  
JOSEPH M. STRICKLAND, MASTER  
IN EQUITY FOR RICHLAND COUNTY



**From:** Dean Hayes  
**To:** Hannah Gerald; [Strickland.joseph@richlandcountysc.gov](mailto:Strickland.joseph@richlandcountysc.gov); FRISTELLA CORNELIUS  
**Cc:** [Ellison.deloris@richlandcountysc.gov](mailto:Ellison.deloris@richlandcountysc.gov); [dreher.andria@richlandcountysc.gov](mailto:dreher.andria@richlandcountysc.gov); [kbrannon@mavnardnexsen.com](mailto:kbrannon@mavnardnexsen.com); Bob Thomas; [shaun@cranfordlawfirm.com](mailto:shaun@cranfordlawfirm.com); [kiera.dillon@columbiasc.gov](mailto:kiera.dillon@columbiasc.gov); Walter B Todd, Jr.; [wvbarr@wvbarriaw.com](mailto:wvbarr@wvbarriaw.com); Kenneth Davis; Tierney F. Goodwyn  
**Subject:** RE: C.A. No. 2023-CP-40-00090 Eastman Credit Union v. Michael Gilbert, et al.  
**Date:** Thursday, June 13, 2024 10:40:00 AM  
**Attachments:** [Def Gilbert Mot. to Stay.pdf](#)  
[Def Gilbert Notice of Motion to set Aside Default.pdf](#)

---

Judge Strickland:

I represent the plaintiff, Eastman Credit Union, in this case, and we object to Michael Gilbert's motion to stay and motion to set aside the judgment and foreclosure sale. Mr. Gilbert is alleging, for the first time, that he was not served with the lis pendens, summons and complaint in this case on January 22, 2023 as shown by the affidavit of service filed in this case. The basis for Mr. Gilbert's motion is that the judgment is void pursuant to Rule 60(b)(4), SCRPC.

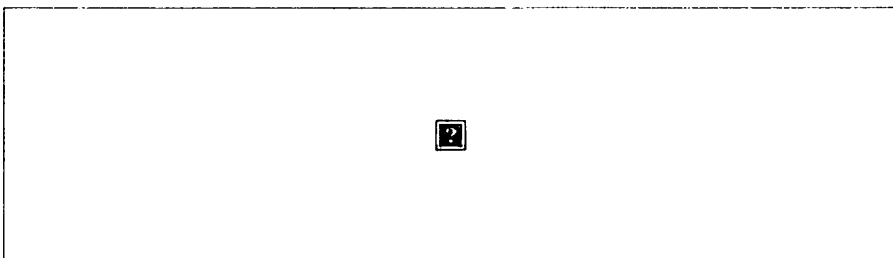
The South Carolina Supreme Court has noted that Rule 60(b)(4) "requires that motions to set aside a judgment on the ground that it is void must be brought within a reasonable time." *Sijon v. Green*, 289 S.C. 128 n2, 345 S.E.2d 246, 248 n.2 (1986); *see also Rish v. Rish*, 435 S.C. 681, 688-89, 868 S.E.2d 719, 722-23 (Ct. App. 2021) (citing *Sijon* on this issue and discussing it). By any definition, Mr. Gilbert's motion has not been brought within a reasonable time. As the court is well aware, Mr. Gilbert's first foreclosure sale in this case was scheduled for August 7, 2023, but he was able to get the sale continued by filing bankruptcy. His second sale in this case was scheduled for November 6, 2023, but he was able to get it continued by contacting the court and stating that he was still in bankruptcy, which was true, but what Mr. Gilbert conveniently forgot to inform the court was that the bankruptcy stay on the property had been lifted to allow the foreclosure to continue. The sale of Mr. Gilbert's property was rescheduled for December 4, 2023, but he was able to get that sale continued by contacting the court and providing the court with a document that appeared to show that Eastman Credit Union had written off the debt. After being provided with an affidavit from my client that stated the document provided by Mr. Gilbert did not originate from my client and appeared to be a false document, the court rescheduled the foreclosure sale for January 2, 2024. Mr. Gilbert also attempted to get that sale continued by contacting the court and Eastman Credit Union directly, but his attempts to get the sale continued failed; however, he was able to get the compliance date extended by informing the court at the sale that he was in negotiations with Eastman Credit Union to reinstate the loan, which from all the information I have was a false statement. Mr. Gilbert also filed a motion to set aside the judgment on January 26, 2024, which the court denied.

Eastman Credit Union does not believe a hearing is necessary on Mr. Gilbert's most recent motions. Eastman Credit Union stands by the service of process in this case, and the court is already aware that Mr. Gilbert has, since at least August 7, 2023, been fully involved in this case. Clearly, Mr. Gilbert's motion has not been made within a reasonable time.

Thanks.

Dean

Dean A. Hayes  
Shareholder  
McCabe, Trotter & Beverly, P.C.  
4500 Fort Jackson Blvd., Suite 335  
Columbia, SC 29209  
Main: (803) 724-5000  
Direct: (803) 724-5006  
Fax: (803) 724-5001  
Email: [dean.hayes@mccabetrotter.com](mailto:dean.hayes@mccabetrotter.com)



**From:** Hannah Gerald <[hgerald@boykinlawsc.com](mailto:hgerald@boykinlawsc.com)>  
**Sent:** Wednesday, June 12, 2024 5:07 PM  
**To:** [Strickland.joseph@richlandcountysc.gov](mailto:Strickland.joseph@richlandcountysc.gov)  
**Cc:** [Ellison.deloris@richlandcountysc.gov](mailto:Ellison.deloris@richlandcountysc.gov); [dreher.andria@richlandcountysc.gov](mailto:dreher.andria@richlandcountysc.gov); Dean Hayes <[Dean.Hayes@mccabetrotter.com](mailto:Dean.Hayes@mccabetrotter.com)>; [kbrannon@maynardnexsen.com](mailto:kbrannon@maynardnexsen.com); Bob Thomas <[robert.thomas@dor.sc.gov](mailto:robert.thomas@dor.sc.gov)>; [shaun@cranfordlawfirm.com](mailto:shaun@cranfordlawfirm.com); [kiera.dillon@columbiasc.gov](mailto:kiera.dillon@columbiasc.gov); Walter B Todd, Jr. <[wtodd@wbt-law.com](mailto:wtodd@wbt-law.com)>; [wvbarr@wvbarrlaw.com](mailto:wvbarr@wvbarrlaw.com); Kenneth Davis <[kdavis@boykinlawsc.com](mailto:kdavis@boykinlawsc.com)>; Tierney F. Goodwyn <[tgoodwyn@boykinlawsc.com](mailto:tgoodwyn@boykinlawsc.com)>  
**Subject:** C.A. No. 2023-CP-40-00090 Eastman Credit Union v. Michael Gilbert, et al.  
**Importance:** High

Judge Strickland,

Attached please find the Defendant Michael Gilbert's Motion to Stay and Motion to Set Aside Default filed with the court today in the above-referenced matter.

Please schedule an emergency hearing for a Motion to Set Aside Default for the above-referenced matter. There is an Order for Writ of Assistance deadline for June 17, 2024. We would like an emergency hearing on this matter on June 13<sup>th</sup> or June 14<sup>th</sup> of this week; or, in the alternative, we respectfully ask the

Court to suspend the Writ of Assistance until a hearing can be scheduled in this matter to Set Aside the Default.

Sincerely,

Hannah H. Gerald  
Office/Business Manager  
Boykin & Davis, LLC  
P.O. Box 11844  
Columbia, South Carolina 29211  
Telephone: (803) 254.0707  
Fax: (803) 254.5609

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ELECTRONICALLY FILED - 2024 Jan 26 11:34 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4000090

<b>STATE OF SOUTH CAROLINA</b>	)	<b>IN THE COURT OF COMMON PLEAS</b>
	)	<b>FIFTH JUDICIAL CIRCUIT</b>
<b>COUNTY OF RICHLAND</b>	)	<b>CASE NO.:2023-CP-4000090</b>
	)	
<b>EASTMAN CREDIT UNION,</b>	)	
	)	
<b>Plaintiff,</b>	)	<b>MOTION TO VACATE JUDGEMENT</b>
	)	
<b>-vs-</b>	)	
	)	
<b>MICHAEL GILBERT a/k/a</b>	)	
<b>MICHAEL L. GILBERT; Hammond</b>	)	
<b>School Founders Federal Credit Union;</b>	)	
<b>Woodcreek farms Homeowners Association</b>	)	
<b>and</b>	)	
<b>South Carolina Department of Revenue ,</b>	)	
	)	
<b>Defendant.</b>	)	

This action was commenced by the filing of a Complaint with the Court for Richland County on. While this action was pending, the Defendant Michael Gilbert commenced a Chapter 13 Bankruptcy Action, Case No.: 23-02328 for the District of South Carolina. During the confirmation process of the Bankruptcy, the Defendant Motion to Extend the Automatic Stay, upon information and belief was never filed by his original Attorney. The Defendant while attending the sale hearing was given thirty-days (30) by the Judge or Master in Equity to take appropriate actions in order to address the foreclosure proceedings.

The Defendant has since hired another Bankruptcy Counsel to complete his Chapter 13 Filing and Plan confirmation. The Defendant, has since filed a Motion in Bankruptcy Court to reinstate his bankruptcy case with his s newly retained counsel, and believes in good faith his plan can be confirmed.

**WHEREFORE,** the Plaintiff prays for an Order, vacating and/or dismissing these proceedings; filed with the Court on April 20, 2023.

**Respectfully Submitted,**

/s/William Joseph Virgil Barr  
**William Joseph Virgil Barr, Esq**  
**WV Barr Law LLC**  
**SC Bar#104883**  
**Federal ID#13433**  
**106 North Academy Street**  
**Kingstree, South Carolina 29556**  
**Telephone: (843) 530-4224**  
**Attorney for the Plaintiff**

**Dated: January 26, 2024**  
**Kingstree, SC 29556**

ELECTRONICALLY FILED - 2024 Jan 26 11:34 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4000090

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

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2023-CP-40-0090



Eastman Credit Union,

Michael Gilbert a/k/a Michael L. Gilbert; Hammond

School; Founders Federal Credit Union, et al.,

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: The Honorable Joseph M. Strickland

Attorney for :  Plaintiff  Defendant  
 or  
 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.  See Page 2 for additional information.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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) X Statement of Judgment by the Court: **MOTION TO VACATE JUDGMENT IS DENIED.**

ORDER INFORMATION

This order  ends  does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT 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)
		\$
		\$
		\$

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Richland County Master in Equity

2024  
 Judge Code

February 1, 2024  
 Date

ELECTRONICALLY FILED - 2024 Feb 01 11:33 AM - RICHLAND - COMMON PLEAS - CASE#2023CP4000090



**RECEIVED**

**Jun 19 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

---

APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland

Master in Equity

---

Circuit Court No. 2023-CP-40-00090  
Appellate Case No. 2024-001011

---

Michael Gilbert a/k/a Michael L. Gilbert ..... Appellant,

v.

Eastman Credit Union, Hammond School, Founders Federal Credit Union,  
Woodcreek Farms Homeowners Association and South Carolina Department of  
Revenue..... Respondents.

---

**PROOF OF SERVICE**

---

I certify that I have served Respondent Eastman Credit Union’s Memorandum in Opposition to Appellant’s Petition for Full Court Review of Order Denying Writ of Supersedeas on the counselors of record listed below, by electronic mail and U.S. Mail copy of the same on June 19, 2024, addressed to:

Kenneth A. Davis, Esq.  
Tierney F. Goodwyn, Esq.  
Post Office Box 11844  
Columbia, South Carolina 29211  
Attorneys for Appellant

Kyle A. Brannon  
1230 Main Street Suite 700  
Columbia, SC 29201  
Attorney for Respondent Founders Federal  
Credit Union

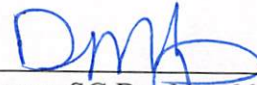
Kiera C. Dillon, Esq.  
Robert J. Thomas Jr., Esq.  
300A Outlet Pointe Boulevard Columbia, SC  
29210  
Attorneys for Respondent  
South Carolina Department of Revenue

Shaun W. Cranford  
PO BOX50684  
Columbia, SC 29250  
Attorney for Respondent  
Wood Creek Farms Homeowners Association

Walter B. Todd, Jr.  
Post Office Box 1549  
Columbia, SC 29202  
Attorney for Hammond School

Richland County Sheriff's Department  
Attn: Civil Process Division  
P.O. Box 143  
Columbia, SC 29202

Richland County Master-in-Equity  
Richland County Clerk of Court  
PO Box 192  
Columbia, SC 29201



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Dean A. Hayes, SC Bar No. 66066  
McCabe, Trotter & Beverly, P.C.  
4500 Fort Jackson Blvd., Suite 335  
Columbia, South Carolina 29209  
Phone: (803) 724-5000 Fax: (803) 724-5001  
Email: [dean.hayes@mccabetrotter.com](mailto:dean.hayes@mccabetrotter.com)  
*Attorney for Respondent Eastman Credit Union*

June 19, 2024  
Columbia, South Carolina