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SC Court of Appeals

**THE STATE OF SOUTH CAROLINA
In the Court of Appeals**

APPEAL FROM BEAUFORT COUNTY
Cort of Common Pleas

2016-CP-07-01466

Benjamin C.P. Sapp, Special Referee, Circuit Court

Appeal Case No. 2023-001394

Deutsche Bank National Trust Company as Trustee for NovaStar
Mortgage Funding Trust, Series 2006-5 NovaStar Home Equity Loan
Asset-Backed Certificates, Series 2006-5 Respondent,

v.

Terry Lennette Grant Appellant.

SUPPLEMENT TO APPELLANT’S INITIAL REPLY BRIEF

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APPELLANT'S SUPPLEMENT REPLY TO RESPONDENT'S INITIAL BRIEF

SUPPLEMENT INTRODUCTION

Pursuant to SCACR Rule 208, Appellant hereby prepared and submitted her reply brief in response to Respondent's Initial Brief on October 21, 2024 at approximately 9:00am. However, Appellant, inadvertently left out replies to Respondents initial brief, specifically pages seven (7), eight (8) and nine (9) of Respondent's initial brief, which is the reason for this supplement to Appellant's reply brief.

Respondent's initial brief states on page 7, beginning at line 21-23, that a proposed order was submitted, to refer the action to Benjamin C. P. Sapp, as Special Referee, on February 14, 2023. There is no record of this "Proposed Order being submitted" via court records. Respondent had this Order prepared and submitted to Judge Carmen Mullen or her Clerk/Assistant. She just signed off on the Order Respondent has already prepared. Please take note of the following:

1) Order that was electronically signed/filed by Judge Carmen T. Mullen¹ has Respondent counsel's, Brock & Scott PLLC file number at the bottom right corner of the Order (B&S No: 15-22471) which the same identical Brock & Scott file number on the Orders that was created by Resppondent's counsel on Orders prepared for Judge's and Clerk of Court to sign off on for the Respondent's counsel in this case. 2) Order that was electronically signed/filed by Judge Marvin H. Dukes, III² which has the Respondent counseld, Brock & Scott PLLC file number at the bottom right corner of the Order (15-22471) which is the same identical Brock & Scott file number on the Orders that was created by Respondent's counsel on Orders prepared for the Judge's and Clerk of Court to sign off³ on for the Respondent's counsel in this

¹ See Appellant's Record on Appeal R.p.214 Order Signed by Judge Carmen T Mullen with B&S identifier

² See Appellant's Record on Appeal R.p.170 Order signed by Judge Marvin H Dukes, III with B&S identifier

³ See Appellant's Record on Appeal R.p. 268 Order signed by Clerk of Court with B&S indentifier 9/2016

case. 3) Orders that were created by the Respondent, prepared for Special Referee/Judge Benjamin C. P. Sapp⁴ to sign off on for Respondent's counsel which has the Respondent's file number on the bottom right corner of the Orders^{5,6}.

Appellant's Supplemental Memorandum to Support her Motion for Summary Judgment dated March 3, 2023 has clear, cogent and convincing evidence that support her defense and position. For example, the opposition/reconsideration and or Appeal of Special Referee's Appointment was filed because Respondent circumvent the procedural process by preparing the Order for Judge Carmen T Mullen to sign, while disregarding the legal process that afforded Appellant to participate in the selection process according to SCRCF 53(b) states where the parties consent... Respondent sent a prepared Order directly to the Judge for her signature. She just signed off on the Order. There was no consideration to the Appellant's right to participate. A replacement for Judge Dukes was already in place. On February 26, 2023 Judge H Steven DeBerry⁷ scheduled a motion hearing for March 7, 2023. This was filed and recorded on February 17, 2023. Judge Carmen T Mullen signed the Respondent's Order February 18, 2023. It was not filed into the court until February 21, 2023.

Respondent's initial brief states, "The Special Referee heard the parties perspective motions for summary judgement on May 4, 2023". Respondent further mentions that Vivian Michelle Woods appeared at the hearing on Appellant's behalf. She was not allowed to make arguments for Appellant. He, we have a statement that can be considered an oxymoron. If the

⁴ See Appellant's Record on Appeal R.p. 221 Order signed by Special Referee/Judge Benjamin C.P. Sapp with B&S identifier 6/28/2023

⁵ See Appellant's Record on Appeal R.p.226 Orders signed by Special Referee/Judge Benjamin C.P. Sapp with B&S identifier 9/1/2023

⁶ See Appellant's Record on Appeal R.p.232 Orders signed by Special Referee/Judge Benjamin C.P. Sapp with B&S identifier 11/21/2023

⁷ See Appellant's Record on Appeal R.p.269 Notice of Motion Scheduling with Judge DeBerry 2/17/2023

Appellant's representative was not allowed to present Appellant's information, how could Respondent claim that the Special Referee heard the parties motions for summary judgment. Appellant has appointed Ms. Woods as her power of attorney and denying her the opportunity to present Appellant's prepared information violated Appellant's right to due process of law. According to the South Carolina Uniform Power of Attorney Act section 62-8-101 (1)(6)(7) and 62-8-203 (1), (3), (4), (7), (8); 62-8-204 (5)b; 62-8-212 Claims and Litigation (1), (2), (6) if the Appellant has given that authority, that person is allowed to act in accordance to the powers that was granted by the Appellant.


The Special Referee listened to Respondent's Motions for Summary Judgment presentation; however, Appellant's Motions for Summary Judgment went moot. He stated he would examine everything carefully⁸. He then instructed the parties to submit a proposed order by June 5, 2023. Both parties submitted proposed orders by June 5, 2023. The Special Referee signed off on Respondent's order, as usual granting Respondent foreclosure on June 12, 2023, denying Appellant's motions. On June 28, 2023 the Special Referee filed an Order of Foreclosure. Appellant requested reconsideration of the Order of Foreclosure on July 7, 2023; However, the Special Referee denied Appellant's motion to reconsider on September 1, 2023. Appellant filed this appeal on September 5, 2023. Respondent's initial brief misrepresent the facts, even to you. Respondent states "the foreclosure sale was scheduled for November 3, 2023 (October 4, 2023, Notice of Sale). This appeal followed". As you know this appeal was filed prior to the Notice of Sale.

SIGNATURE PAGE TO FOLLOW

⁸ See Appellant's Record on Appeal R.p. 256-260 May 4, 2023 hearing

SUPPLEMENT TO APPELLANT'S INITIAL REPLY BRIEF
SIGNATURE PAGE

Respectfully Submitted



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October 21, 2024