

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM GREENVILLE COUNTY  
Court of the Common Pleas

Edward W. Miller, Circuit Court Judge  
G.D. Morgan, Jr., Circuit Court Judge

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Appellate Case No. 2024-002191  
Civil Action No. 2022-CP-23-05612

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Lakeview Loan Servicing, LLC  
and Loan Care LLC, .....Appellants

v.

Andrew E. Lewis, .....Respondent

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**MOTION TO REMAND JURISDICTION TO CIRCUIT COURT TO  
CORRECT TRANSCRIPT AND MOTION FOR EXTENSION OF TIME  
TO SERVE AND FILE INITIAL BRIEF AND DESIGNATION OF  
MATTER TO BE INCLUDED IN THE RECORD ON APPEAL**

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Appellants Lakeview Loan Servicing, LLC, and Loan Care, LLC respectfully move this Court to: (1) remand jurisdiction to the circuit for a period of 60 days to allow the parties to review the audio recording from the damages hearing transcribed by Legal Eagle and permit it to be corrected, if possible; and (2) grant a 30-day extension of time from the date of transfer of jurisdiction back to this Court from the circuit court to serve and file the Initial Brief on appeal and to serve and file their designation of matters to be included in the record on appeal. This Motion is UNOPPOSED by Respondent.

In support hereof, Appellants state as follows:

1. The underlying litigation stems from Respondent's complaint for damages against Appellants following a mortgage foreclosure on Respondent's real property.

2. On October 21, 2024, after a damages hearing, the circuit court entered an Order of Judgment awarding damages to Respondent in the sum of \$500,393.00.

3. Appellants timely appealed to this Court.

4. In the course of preparing for the appeal, it came to the undersigned's attention that the audio recording of the damages hearing, transcribed by Legal Eagle, included several portions that were purportedly inaudible to the transcriber. A copy of the September 5, 2024 Damages Hearing Transcript is attached as **Exhibit A**. *See Exhibit A*, Tr. 12, 18, 34, 38, 39).

5. Additionally, the transcription includes a misidentification of certain speakers at the damages hearing. *See, e.g. (Exhibit A*, Tr. 14:19 (identifying trial counsel, Benjamin D. Carnahan, as "Mr. Ellis").

6. Legal Eagle has advised counsel for Appellants that the audio recording can only be listened to in the presence of the Court and opposing counsel for Respondent.

7. Counsel for Respondent and Appellants have consented to allowing an audio recording of the hearing to be released to Appellants' counsel. Counsel for Appellants will also provide a copy of the recording to Respondent-Plaintiff's counsel to determine if both sets of counsel can agree upon the substance of the missing language. If such an agreement is reached, then counsel for the parties may submit that missing language to Legal Eagle to be incorporated into the transcript. If agreement cannot be reached, then the parties may submit this issue to the circuit court or to the Court of Appeals, as appropriate, for resolution. Legal Eagle may also correct the misidentification of counsel in the transcript.

8. Under Rule 205, SCACR, on "service of the notice of appeal, the appellate court shall have exclusive jurisdiction over the appeal." As a result, the

circuit court is presently without jurisdiction to enter the consent order on the parties' behalf and correct the September 5, 2024 hearing transcript.

9. Despite this, the hearing transcript is necessary to this Court's determination of the issues on appeal, and it is Appellants' intention to designate it as part of the record on appeal. *See* Rule 207, Rule 209, and Rule 210, SCACR.

10. Appellants, therefore, respectfully request this Court remand this matter to the circuit court for a period of 60 days to allow for entry of a consent order, review of the audio recording by counsel of record for the parties and attempt to correct the portions that have been transcribed as "inaudible" or "indiscernible," and correct the identity of trial counsel for Appellants. *See Arnal v. Fraser*, 371 S.C. 415, 641 S.E.2d 419, 422 n.4 (2007) (noting "[a] party can always seek a remand from an appellate court if the circumstances of the particular case require it").

11. Further, Appellants' Initial Brief and designation of matters to be included in the record on appeal are due to be served and filed on Tuesday, January 21, 2025. *See* Rule 208, Rule 209, and Rule 263, SCACR.

12. Under Rule 263, SCACR, Appellants request this Court grant a 30-day extension of time from the date of transfer of jurisdiction back to this Court from the circuit court to serve and file the Initial Brief on appeal and to serve and file their designation of matters to be included in the record on appeal. *See* Rule 263(b), SCACR (permitting the appellate court to extend or shorten time "prescribed by these rules for performing any act" other than service of the notice of appeal); *see also* Rule 208 and Rule 209, SCACR.

13. This extension is necessary in order to allow counsel for Appellants sufficient time to review the hearing transcript upon correction and to prepare and finalize the Initial Brief. In addition, out-of-state counsel for Appellants, who is applying for *pro hac vice* admission to appear for this Court, is diligently working on this appeal; however, counsel's workload also includes (i) a three-week trial commencing January 13, 2025, in Sarasota County, Florida, case number 2020-CA-003588; and (ii) an oral argument in the Third District Court of Appeal for Florida in case number 3D23-1860.

14. This is Appellants' first request for extension of time to file their Initial Brief.

15. Counsel for Appellants has conferred with counsel for Respondent who DOES NOT OBJECT to the relief requested in this Motion.

16. This Motion is not being made for the purpose of delay and no party will be unfairly prejudiced by the relief requested in this Motion.

WHEREFORE, for the above reasons, Appellants, Lakeview Loan Servicing, LLC, and Loan Care, LLC, respectfully request this Court grant this Motion and (1) remand jurisdiction to the circuit for a period of 60 days to allow the parties to review the audio recording from the damages hearing transcribed by Legal Eagle and permit it to be corrected, if possible; and (2) grant a 30-day extension of time from the date of transfer of jurisdiction back to this Court from the circuit court to serve and file the Initial Brief on appeal and to serve and file their designation of matters to be included in the record on appeal.

**DATED: January 13, 2025.**

Respectfully Submitted,

BURR & FORMAN, LLP

/s/ Bernie W. Ellis

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*Counsel for Lakeview Loan Servicing, LLC  
and LoanCare, LLC*

# Exhibit A



1 I mean, the only thing that I could assume would be that  
2 their background check showing a foreclosure, they receding  
3 their offer.

4 It's just that was our forever home. We just got  
5 married in '15 we -- my two people in a five bedroom, four  
6 bathroom house, planning on having kids there and being there  
7 as long as possible. We also knew it was a great place to  
8 be. It was a great investment. We done a lot of research,  
9 and we love Greenville. We love that location and being able  
10 to live there has really impacted us.

11 Q. Did you contemplate suicide during that time?

12 A. There was a point, I did.

13 Q. So this was the darkest era of your life.

14 A. Without a doubt.

15 Q. You mentioned a June 2020 appraisal. Mr. Lewis that  
16 you -- 2020

17 A. This is, as is estimate was 792, for 90 day  
18 marketing time, the recommended list price was 801.

19 Q. Okay. And do you call the what (inaudible)

20 A. Seven, I'm sorry, no I don't, 75 maybe.

21 Q. That's fine. That difference in equity between 801  
22 and the 470 are those the damages you are seeking here today?

23 A. Yes, sir.

24 Q. And does that calculate out to \$461,393?

25 A. Yes, sir. I believe it does.

1 Q. What was the amount of those loan modifications?

2 A. At least \$21,000.

3 Q. And have you also incurred attorney fees?

4 A. Yes, sir, I have.

5 Q. How much attorney fees have you incurred.

6 A. At this moment 25,000.

7 Q. So the total amount of damages, actual damages that  
8 you're seeking is \$525,393.

9 A. Yes, sir.

10 MR. JOHNSON: Under the causes of action in the  
11 complaint, there was a cause of action for a UTPA violation,  
12 and we would also seek trouble damages on that basis, Your  
13 Honor.

14 THE COURT: All right. I noted.

15 MR. JOHNSON: Your Honor, that's all the questions I  
16 have for Mr. Lewis.

17 THE COURT: All right, cross.

18 CROSS-EXAMINATION

19 BY MR. ELLIS

20 Q. Good afternoon, Mr. Lewis. I just kind of want to  
21 back up a little bit here. You acquired the property at 4  
22 Glacier Wing on June 10, 2016 is that right?

23 A. Correct.

24 Q. Okay, and in order to acquire that property, you got  
25 a loan, correct?

1 (Indiscernible)

2 Q. Okay, we agree sir that -- that is a copy of the of  
3 the complaint that the foreclosure complaint that was filed,  
4 and if you look at the stamp there, it says, July 26, 2017.

5 A. Correct.

6 Q. Okay. And the Defendants are: you, your wife,  
7 Southern First Bank, Calvary Portfolio Services and then the  
8 Greenville Clerk and the Greenville County Public Defender,  
9 correct?

10 A. Correct.

11 Q. And turn your attention to paragraph 10 there, and  
12 it says (as read) as a Defendant, Southern First Bank, they  
13 made party by a virtue of a mortgage given by Andrew E Lewis,  
14 Edward Lewis, Catherine Joyce Parker, in the amount of  
15 \$64,200. Does that refresh your recollections to the amount  
16 of the mortgage to Southern First -- second mortgage first --  
17 for Southern First Bank?

18 A. Yes.

19 Q. Okay. All right, and at some point around this time  
20 you became unemployed, is that right?

21 A. I was going to take the job at Sonic, yes.

22 Q. Okay. You were unemployed. I wasn't clear on your  
23 answer there.

24 A. I was employed in 2017. I was employed.

25 Q. I'm sorry.

1 into evidence.)

2 THE COURT: All right. Redirect.

3 MR. JOHNSON: Thank you, Your Honor.

4 THE COURT: Any objection to Plaintiff's Exhibit number  
5 one, which was the appraisal?

6 (Whereupon, An Appraisal was marked  
7 as Plaintiff's Exhibit Number One  
8 and was admitted into evidence with  
9 no objection.)

10 REDIRECT EXAMINATION

11 BY MR. JOHNSON:

12 (Indiscernible)

13 Q. You testified not only about that appraisal for  
14 801,000.

15 A. Yes, sir.

16 Q. You testified about the actual foreclosure sale for  
17 470,000. (Indiscernible)

18 MR. ELLIS: (Indiscernible)

19 THE COURT: What's your basis? Well I think at this  
20 point he is just asking what it is. I think then his next  
21 question then would be objectionable. We are not in front of  
22 a jury, so I know what your objection going to be.

23 MR. JOHNSON: (Indiscernible)

24 THE COURT: All right. You may step down. All right.  
25 Any additional witnesses? I will give y'all briefly just --

1 just saw you out of the corner of my eye. I need to let you  
2 go sit down.

3 The Defense says that in four years, he only made a few  
4 payments. He lived in the house all those years, but only  
5 made a few payments. Looks like, yeah, that would have been  
6 mortgage payments and any other payments in those four years.  
7 How many payments did he make out of those four years he  
8 lived in the house?

9 MR. JOHNSON: Your Honor, again I don't know the exact  
10 answer to that, if you want Mr. Lewis to tell you. I mean to  
11 the extent of his knowledge, I'm happy for him to do that.  
12 Your Honor, they recovered any payments that they missed in  
13 the judgment that they received.

14 THE COURT: And the foreclosure.

15 MR. JOHNSON: And so this really goes to the amount of  
16 equity that my client was deprived of from this process.

17 THE COURT: All right. Anything else? Let me hear from  
18 the Defendant.

19 MR. ELLIS: (Indiscernible)

20 THE COURT: Would you have gotten your money -- would  
21 you have gotten your money back when you did sell the  
22 property, though. You sell the property in a foreclosure  
23 sell and you didn't -- what you say is the value of the  
24 property wouldn't really include any payments. He may have  
25 been living in the house for four, five or six years without

1 making payments although you did testify he did make some  
2 payments. But do you get that back, when you sell the  
3 property?

4 MR. ELLIS: (Indiscernible)

5 THE COURT: So your argument there is had he -- had made  
6 the payments. When it was sold at foreclosure, he would have  
7 had more equity in it and it then he would not have any  
8 damages.

9 MR. ELLIS: (Indiscernible)

10 THE COURT: He did testify that he got in the end, it  
11 sold for 760, didn't he? He did testify to that.

12 Mr. Ellis: (Indiscernible)

13 THE COURT: I'll take that under advisement. I'll let  
14 you know of my decision. I've read everything but I'll read  
15 it again and I'll consider all the arguments and testimony  
16 here and I will let you know of my decision. Thank you.

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**RECEIVED**

**Jan 13 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
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Lakeview Loan Servicing, LLC  
and Loan Care LLC, .....Appellants

v.

Andrew E. Lewis, .....Respondent

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**PROOF OF SERVICE**

I hereby certify that a copy of the above and foregoing Motion has been duly served on Respondent by sending a copy via electronic mail addressed to Respondent’s attorneys of record at the addresses set forth below:

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BURR.COM

January 13, 2025

**VIA EMAIL (ctappfilings@sccourts.org)**

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

**RECEIVED**  
**Jan 13 2025**  
**SC Court of Appeals**

**Re: Lewis v. Lakeview Loan Servicing, LLC, et al.**  
**Appellate Case No. 2024-002191**

Dear Ms. Kitchings:

Please find a Motion to Remand Jurisdiction to Circuit Court to Correct Transcript and Motion for Extension of Time. Also attached is Appellants' Proof of Service.

Appellants also uploaded earlier a separate letter requesting an extension of time for their initial brief and designation of matter while the motion is pending. A copy of that letter is also submitted herewith.

Appellant will send checks for the motion and the letter in the amount of \$50.00 each via Federal Express.

With kind regards, I am

Very truly yours,

Burr & Forman LLP

Bernie Ellis

BWE

Encls

cc: Townes B. Johnson, III, Esq.  
Christian H. Thorndike, Esq

AL • DE • FL • GA • MS • NC • SC • TN