

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2011-CP-18-1013

69854

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SEP 11 2013

SC Court of Appeals

The Bank of New York Mellon, as Successor Trustee
under NovaStar Mortgage Funding Trust, Series 2004-1,.... Appellant,

v.

Rachel R. Lindsay, Jeffrey Wayner, Tammy Wayner,
Tiffany Spann-Wilder, Esq., The Steinberg Law Firm,
and United States of America acting by and through its
agency, the Internal Revenue Service,..... Defendants,

Rachel R. Lindsay..... Respondent

v.

Saxon Mortgage Services, Inc..... Appellant.

NOTICE OF APPEAL

Pursuant to Rule 203 of the South Carolina Appellate Court Rules, The Bank of New York Mellon, as Successor Trustee under NovaStar Mortgage Funding Trust, Series 2004-1 and Saxon Mortgage Services, Inc., N.A. (jointly, the "Appellants") hereby timely appeal from the following Orders of the Honorable Diane S. Goodstein: Order denying Appellants' Joint Motion for Non-Jury Trial in the Equity Court and to Strike the Jury Demand of Defendant/Third-Party Plaintiff Rachel Lindsay entered August 14, 2013 (the "First Order") and Order denying Appellants' Motion to Alter or Amend the Order

Denying Appellants' Joint Motion for Non-Jury Trial in the Equity Court and to Strike the Jury Demand of Defendant/Third-Party Plaintiff Rachel Lindsay entered on August 22, 2013 (the "Second Order"). The orders are attached hereto as Exhibits A-B.

Appellants received written notice of the First Order on August 14, 2013 and timely filed a motion to Alter or Amend Judgment pursuant to Rule 59(e) on August 15, 2013 (attached as Exhibit C). Appellants received written notice of the Second Order on August 23, 2013. Thus, this appeal is timely served and filed pursuant to Rule 203(b)(1) of the South Carolina Appellate Court Rules.

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Attorneys for Appellants

Charleston, South Carolina

September 9, 2013

Other Counsel of Record:

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Attorney for United States of America acting by and through its agency, the Internal Revenue Service

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v.

Saxon Mortgage Services, Inc..... Appellant.

PROOF OF SERVICE

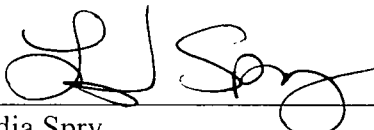
I HEREBY CERTIFY that I have served the **Notice of Appeal** on all counsel of record in
this action by depositing copies of it in the United States Mail, postage prepaid, addressed
to the below:

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*Attorney for United States of America acting by and through its agency, the
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By: 

Lydia Spry
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September 9, 2013

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SEP 11 2013

SC Court of Appeals

September 9, 2013

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: The Bank of New York Mellon, as Successor Trustee under NovaStar Mortgage
Funding Trust, Series 2004-1 v. Rachel R. Lindsay, et al.
Civil Action No.: 2011-CP-18-1013
Our File No.: 33576/01503

Dear Ms. Kitchings:

Enclosed please find the original and one copy of a Notice of Appeal in the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via the envelope provided for your convenience. Also enclosed is our Firm's check in the amount of \$100.00 as the required filing fee.

By copy of this letter to the Dorchester County Clerk of Court and counsel of record, we are serving them with a copy of this notice.

With kind regards, I remain

Very truly yours,


Merritt G. Abney

MGA:ls

Enclosures

cc: The Honorable Cheryl L. Graham
G. Thomas Hill, Esq.
Matthew J. Modica, Esq.

33576

902-52

200-2001

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The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
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200-2001