



FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2011CP1801013

CERTIFIED COPY

Bank Of New York Mellon

Rachel R Lindsay

AUG 14 PM 3:01

Rachel R Lindsay

America United States
Of

Internal Revenue Service

Cheryl A. ...
CLERK OF COURT
DORCHESTER COUNTY

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: Plaintiff Defendant
 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: _____
- 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)

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.

Edgar Dickson

2153

8/14/2013

Circuit Court Judge

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on **8/14/2013**, and a copy mailed first class or placed in the appropriate attorney's box on **8/14/2013**, to attorneys of record or to parties (when appearing pro se) as follows:

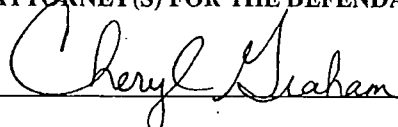
H. Michael Bowers/Laura Johnson Evans 25 Calhoun Street Ste. 250 Charleston, SC 29401
Benjamin Rush Smith III Meridian/17Th Floor 1320 Main Street Columbia, SC 29201
Dow Ambrose Davidson/Merritt Gordon Abney 151 Meeting St., Ste. 600 Charleston, SC 29401

Matthew J. Modica 151 Meeting St., Ste. 200 Charleston, SC 29401
G. Thomas Hill 6209 Savannah Hwy. Ravenel, SC 29470

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter


Cheryl Graham - Clerk of Court

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.

STATE OF SOUTH CAROLINA)
)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL CIRCUIT

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

Civil Action No. 2011-CP-18-1013

vs.)

ORDER

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.)

2013 AUG 14 PM 3:03
RECEIVED
CLERK OF COURTY
DORCHESTER COUNTY

Rachel R. Lindsay,)
)
Third-Party Plaintiff,)
)
vs.)
)
Saxon Mortgage Services, Inc.,)
)
Third-Party Defendant.)

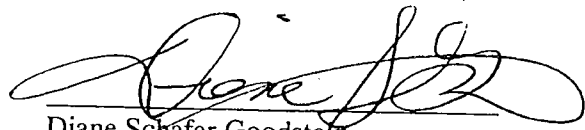
This matter came before the Court on joint Motions for a Non-Jury Trial in the Equity Court and to Strike the Jury Demand of the plaintiff The Bank of New York Mellon ("Plaintiff") and Third-Party Defendant Saxon Mortgage Services, Inc. ("Saxon" and jointly with Plaintiff, "Movants"). Defendant/Third-Party Plaintiff Rachel Lindsay ("Lindsay") filed a Memorandum of Law in Response to the Plaintiff and Third Party Defendant's Motion to Deny the Defendant/Third Party Plaintiff the Right to a Jury Trial. The Court heard oral argument on May 24, 2013. Present at the hearing were G. Thomas Hill, Esq., representing Lindsay, and Merritt G. Abney, Esq., representing Movants. Both parties stated their respective positions on the record.

Based upon the motions, supporting documentation, and arguments made, the Court finds as follows:

1. The Plaintiff filed a foreclosure action against the Defendant "Lindsay".
2. The Defendant "Lindsay" filed an Answer and Counterclaim in response to the Plaintiff's Complaint, together with a Third Party Complaint against Third Party Defendant "Saxon Mortgage".
3. The Answer, Counterclaim and Third Party Complaint asserted the causes of action of Breach of Contract, Negligence, Fraud, Negligent Misrepresentation, Promissory Estoppel, Violation of the South Carolina Unfair Trade Practices Act, Quantum Meruit, Intentional Infliction of Emotional Distress, Invasion of Privacy, Defamation/Libel Per Se, Intentional Interference with Existing Contracts, Intentional Interference with Prospective Economic Advantage, Declaratory Judgment for Compliance with Homeowner Affordability and Stability Plan, and Declaratory Judgment ordering correction of credit reports.
4. That Defendant/Third Party Plaintiff has asserted compulsory counterclaims of a legal nature in said Answer, Counterclaim and Third Party Complaint.
5. Based upon the above, the Court finds that Defendant/Third Party Plaintiff "Lindsay" has asserted sufficient compulsory counterclaims of a legal nature which affords "Lindsay" the right to a trial by a jury of her peers.

IT IS THEREFORE ORDERED that the Movants' Motion for a Non-Jury Trial in the Equity Court and to Strike the Jury Demand is DENIED.

AND IT IS SO ORDERED.



Diane Schafer Goodstein
Circuit Court Judge
First Judicial Circuit

St. George, South Carolina

7-30, 2013