

RECEIVED

DCASE NO. 2025-000382

MAR 18 2025

**THE STATE OF SOUTH CAROLINA SC Court of Appeals
In The Court of Appeals**

John C. Nelums; Delmarshi Nelums; Woodlake Homeowners Association, Inc., Appellants

v.

Deutsche Bank National Trust Company as Trustee for Residential Asset Securitization Trust 2005-A8CB Mortgage Pass-Through Certificates Series 2005-H, et Al.....Respondent

ON APPEAL FROM RICHLAND COUNTY Court of Common Pleas Hon Joseph M. Strickland Master in Equity Judge/ as Special Referee, Attorney Bar # 5388 Court of Common Pleas Judge (Lower Court Trial Court C/A NO: 2021-CP-40-000895)

Submitted: February 28 ,2025 Decided: February 19, 2025,

MOTION TO BE RELIEVED, OR WITHDRAWAL AS COUNSEL FOR APPELLANTS AND TO PROVIDE APPELLANTS APPLICATION FOR A STAY OF PROCEEDINGS UNSTILL PENDING RESOLUTION ARE RESOLVED

TO THE HONORABLE PRESIDING JUSTICE, AND TO THE HONORABLE ASSOCIATE JUSTICES OF THE COURT OF APPEAL OF THE STATE OF SOUTH CAROLINA In The Court of Appeals

John C. Nelums; (“Nelums”) and Delmarshi Nelums (“Nelums”)

Pursuant to RULE 262, RULE 1.9, RULE 1.16m, RULE 1.4, RULE

264 (b), RULE 1.7, RULE 240 SCACR, with sound minds are the

Pro se Appellants ON APPEAL FROM RICHLAND COUNTY Court

of Common Pleas Hon Joseph M. Strickland Master in Equity
Judge/ as Special Referee, Attorney Bar # 5388 Court of Common
Pleas Judge (Lower Court Trial Court C/A NO: 2021-CP-40-
000895) The new Appellant Case No, 2025-000382 was
Submitted: February 28 ,2025 Decided February 19, 2025, and
paid by Appellants John C. Nelums; Delmarshi Nelums; As Pro se
Appellants file on February 28, 2025, [See: payment from All South
Federal Credit Union from John C. Nelums to South Carolina
Court of Appeals-APPENDIX-A]. and there is not a legally binding
contract retaining Mr. Sean Adegbola, Esquire in the new
Appellant Case No: 2025-000382, at 8859 Arbor Glen Drive North
Charleston SC 29418, Mr. Sean Adegbola, services were not
requested in this Case, The Appellants John C. Nelums; Delmarshi
Nelums; Demand this Court to relieve as counsel for the
representative appellant in this appeal. Mr. Sean Adegbola,
Esquire is not the Local Attorney for The Appellants John C.
Nelums; Delmarshi Nelums as We request relief as counsel, motion
for withdrawal from representing Appellants John C. Nelums;
Delmarshi Nelums; On Demand, the rule in this jurisdiction is that
a client has the absolute right to terminate the attorney-client
relation at any time in the new Appellant Case No: 2025-000382,

with or without cause. Good Cause Exists for Motion to Be Relieved as Counsel and terminated in the new Appellant Case No: 2025-000382, as requested by The Appellants John C. Nelums; Delmarshi Nelums the Rules of this Court.

RULE 1.9: DUTIES TO FORMER CLIENTS

(a) A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly represent a person in the same Or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client and (d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law. The lawyer may retain a reasonable

nonrefundable retainer.

RULE 1.16: DECLINING OR TERMINATING REPRESENTATION

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if: (1) the representation will result in violation of the Rules of Professional Conduct or other law; (2) the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

RULE 1.7: CONFLICT OF INTEREST: CURRENT CLIENTS

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

1.4: COMMUNICATION

1. failing (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0 (f) (g), is required by these Rules; failing (2) reasonably consult with the client about the means by

which the client's objectives are to be accomplished.

2. failing (3) keep the client reasonably informed about the status of the matter; in case No: 2023-000491

3. failing (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the clients to make informed decisions regarding the representation.

4. The Bible defines a double-minded man in James 1:7-8: unstable and doubtful.

5. Failing (b) [1] Reasonable communication between the lawyer and the clients is necessary for the clients effectively to participate in the representation.

6. Mr. Sean Adegbola, Esquire. failure to protect his client's best interest Under the South Carolina Constitution and Laws

7. Failing to communicate for (12) Months to his client!

8. the conflict and who stands to be harmed by that conflict.

Parties who may be injured by the conflict of interest include the present client

9. Please take the following actions as part of the termination process:

a. Cease all work on our cases and take no further action on my behalf.

b. Provide me with a final accounting of all fees incurred to date and issue any refunds that may be due.

c. Return all original documents, files, and any other materials related to our case to us at your earliest convenience.

d. Mr. Sean Adegbola, Esquire 8859 Arbor Glen Drive North
Charleston SC 29418,

e. Communicate with any necessary parties to inform them of the termination of your representation and provide them with my contact information for further correspondence.

f. Mr. Sean Adegbola, Esquire was terminated by the Nelums
On May 1, 2023

g. DISQUALIFICATION FOR CONFLICT OF INTEREST

h. 1.26 Pro Se Filings When Party is Represented by an Attorney, Clerks should not accept filings from a pro se party who is represented by counsel in that matter. However, should a pro se party file a motion to relieve or substitute counsel, these filings should be accepted by the clerk. *Miller v. State*, 388 S.C. 347, 697 S.E.2d 527 (2010), states in part:

"We also take this opportunity to remind judges and clerks of court of our directive in *Foster* not to accept substantive documents, with the exception of motions to relieve counsel, filed pro se by a party who is represented by counsel."

Federal Laws are enforceable in state courts, therefore please refrain from not accepting pleadings under federal rule FPRC 5(d)(2) under the often-mistaken claim that federal laws do not apply in state courts, but the Supreme Court of the United States made it clear that federal laws are enforceable in state courts.

“Federal law is enforceable in state courts not because Congress has determined that federal courts would otherwise be burdened or that state courts might provide a more convenient forum — although both might well be true — but because the Constitution and laws passed pursuant to it are as much laws in the States as laws passed by the state legislature. The Supremacy Clause makes those laws “the supreme Law of the Land,” and charges state courts with a coordinate responsibility to enforce that law according to their regular modes of procedure. “The laws of the United States are laws in the several States, and just as much binding on the citizens and courts thereof as the State laws are. . . . The two together form one system of jurisprudence, which constitutes the law of the land for the State; and the courts of the two jurisdictions are not foreign to each other, nor to be treated by each other as such, but as courts of the same country, having

jurisdiction partly different and partly concurrent." [**Howlett v. Rose, 496 US 356 - Supreme Court 1990**]

The Clerk of the Court is a ministerial position not having the authority of a tribunal. Therefore, the Clerk of the Court is required to carry out its ministerial duties without acting as a tribunal, and dismissing paperwork based upon legal conclusions that exceeds its jurisdiction.

Under Full Faith and Credit Clause under Article 4 Section 1

of the U.S. Constitution this court must honor judgments by courts within the territories of the United States of America, especially the highest court on the land The Supreme Court of the United States.

The Supreme Court of the United States in matter *United States v. Lombardo, 241 U.S. 73, 76-77, 36 S.Ct. 508, 60 L.Ed. 897*

(1916) requires the clerk's office must accept possession and file pleadings regardless of local rules. The provisions of the Federal Rules of Civil Procedure concerning filing supplement, rather than alter, the Lombardo approach: [**"United States v.**

Lombardo, 241 U.S. 73, 76-77, 36 S.Ct. 508, 60 L.Ed. 897

(1916). *Lombardo has long been considered as establishing the "physical delivery" rule such that the date of delivery is the date of*

*filing for statutory purposes. See, e.g., Wiggins v. Internal Revenue Service, 59 A.F.T.R.2d 87-445, 87-1 USTC P 9180, 1986 WL 15574, *2 (D.Md.1986). The provisions of the Federal Rules of Civil Procedure concerning filing supplement, rather than alter, the Lombardo approach: The clerk shall not refuse to accept for filing any paper presented for that purpose solely because it is not presented in proper form as required by these rules or any local rules or practices.” **Stone Street Capital, Inc. v. McDonald's Corp., 300 F. Supp. 2d 345 - Dist. Court, D. Maryland**] The clerk of the court, as a recorder, is required to accept pleadings and file them.*

The Federal Rules of Civil Procedure was the agreed format for the court proceedings.

A paper is filed upon delivering it (A) to the clerk. FPRC 5(d)(2)

The job of the clerk of the court “*is to file pleadings and other documents, maintain the court's files and inform litigants of the entry of court orders.*” **Sanders v. Department of Corrections,**

815 F. Supp. 1148, H49(N.D. Ill. 1993). (Williams v.

Pucinski, 01C5588 (N.D.Ill. 01/13/2004).)

The duty of the clerk is to make his record correctly represent the proceedings in the case. **Wetmore v. Karrick, 27 S. Ct. 434,**

205 U.S. 141 (U.S. 03/11/1907 Failing to file documents

presented and reflect the documents on the docket is a failure to perform the ministerial duties of the Clerk of Court.

It is hereby the order of this court of record that the Clerk of the Court for the [**THE STATE OF SOUTH CAROLINA In The Court of Appeals**] fulfils its obligations under the authority of law and file any documents presented for said purpose.

On March 04, 2025, Catherine S. Harrison, Chief Deputy Clerk of the South Carolina Court of Appeals as stated in her letter to that Mr. Sean Adegbola, Esquire 8859 Arbor Glen Drive North Charleston SC 29418, Appellants John C. Nelums; Delmarshi Nelums; As Pro se Appellants, she stated that there was some Deficiencies Dear Counsel: This Court has received your clients' notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter, and there is not a legally binding contract retaining Mr. Sean Adegbola, Esquire in the new Appellant Case No: 2025-000382, Appellants John C. Nelums; Delmarshi Nelums; As Pro se Appellants MOTION TO BE RELIEVED, OR WITHDRAWAL AS COUNSEL FOR APPELLANTS AND TO PROVIDE APPELLANTS WITH ADDITIONAL TIME TO

FILE THEIR BRIEF, Appellants notice of appeal was timely Filed
And Submitted: February 28 ,2025 Decided: February 19, 2025,
To this Court.

Appellants John C. Nelums; Delmarshi Nelums; As Pro se
Appellants, appeals the order judgment of the Hon Joseph M.
Strickland Master in Equity Judge/ as Special Referee, Attorney
Bar # 5388 Court of Common Pleas Judge (Lower Court Trial
Court C/A NO: 2021-CP-40-000895) as Special Referee issued an
order dated Feb 19, 2025, which was received by appellant's, on
February 26, 2025. Pursuant to Rules 53(b) of the South
Carolina Rules of Civil Procedure, without the parties' Consent to
the master and Attorney Mr. Sean Adegbola, Esquire in the new
Appellant Case No: 2025-000382, at 8859 Arbor Glen Drive
North Charleston SC 29418, reference. 28 U.S.C. § 636(b)(2), lack
subject-matter jurisdiction. See, under 28 U.S.C. § 636(c)(1), The
ground for this motion is that other impending professional
matters and obligations have created a need for additional time to
prepare the Initial Brief

1. On May 1,2023 Motion to be relieved as counsel filed Jeff
Barnes, Esq. W.J. Barnes, P.A. **The old Appeal Case Number**
2023-000491 Lower Court Case No: 2021-CP-40-00895

APPENDIX-B

2. March 04, 2025, Jenny Abbott Kitchings Clerk Catherine S. Harrison Chief Deputy Clerk, Dear Counsel: Appellate Case No. 2025-000382, This Court has received your clients' notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter. **APPENDIX-C**

3. A “Motion to stay proceeding” is a request made to this Court to Temporarily pause or suspend a legal proceeding, until specific issue like the clerk in this Court clerical error, unintentional mistake by sending Mr. Sean Adegbola, Esquire The Appellate New Case No. 2025-000382,

4. See: **In U.S. v. Jenkins**, the U.S. Court of Appeals for the Fourth Circuit handed down an opinion with an interesting wrinkle for appellate practitioners. It took up the question of when an appellate record that's incomplete, on account of a clerical error, can be fixed.

WHEREFORE, it is requested that this application be granted and that Mr. Sean Adegbola, Esquire be permitted to withdraw as counsel for the Appellants John C. Nelums; Delmarshi Nelums; As Pro se Appellants, and upon the granting of such application, that all further proceedings be stayed for 90 days after the granting of this motion to enable Appellants John C. Nelums; Delmarshi Nelums; As Pro se Appellants with sound minds, in the event that they wishes to pursue this action.

Respectfully submitted,

*John C. Nelums
Delmarshi Nelums*

**John C. Nelums Delmarshi Nelums
315 Bentwood Ln
803-513-9903
Columbia, SC 29229-8981
Appellant pro se litigants**

March 18, 2025

CERTIFICATE OF SERVICES

I HEREBY CERTIFY that a copy of the foregoing MOTION TO BE RELIEVED, OR WITHDRAWAL AS COUNSEL FOR APPELLANTS AND TO PROVIDE APPELLANTS APPLICATION FOR A STAY OF PROCEEDINGS UNSTILL PENDING RESOLUTION ARE RESOLVED
Respondent on Tuesday, 18 March 2025, was served by Certified Registered Letter or by Hand on Tuesday, 18 March 2025, to the below listed parties:

Joseph M. Strickland
Judge Master-in-Equity
Richland County Judicial Center
1701 Main Street, Room 212
Columbia, SC 29201
Telephone: (803) 576-1900
Fax: (803) 576-1865

Sarah O. Leonard
February 11, 2025
John S. Kay (S.C. Bar No. 7914)
John B. Kelchner (S.C. Bar No. 13589)
Ashley Z. Stanley (S.C. Bar No. 74854)
Alan M. Stewart (S.C. Bar No. 15576)
Sarah O. Leonard (S.C. Bar No. 80165)
Attorneys for Plaintiff
Hutchens Law Firm LLP
P.O. Box 8237
Columbia, SC 29202
(803) 726-2700
john.kay@hutchenslawfirm.com
john.kelchner@hutchenslawfirm.com
ashley.stanley@hutchenslawfirm.com
alan.stewart@hutchenslawfirm.com
sarah.leonard@hutchenslawfirm.com

Jeanette McBride
Richland County Clerk of Court
Richland County Judicial Center
1701 Main Street, Room 205 (29201)
Post Office Box 2766
Columbia, South Carolina 29202

Hon, Mr. Daniel McLeod Coble

RECEIVED
MAR 18 2025
SC Court of Appeals

**COUNTY: RICHLAND
CHIEF ADMIN JUDGES
1701 Main Street
Columbia, SC 29202
Office: (803) 576-1773
dcoblej@sccourts.org**

Alan M. Stewart, S.C. Bar # 15576
HUTCHENS LAW FIRM
P.O. Box 8237 (29202)
240 Stoneridge Drive, Suite 400
Columbia, SC 29210
Phone: (803) 726-2700
Fax: (803) 726-2832

Michael Brian Wren, S.C. Bar # 69669
Of Davidson & Wren, PA
1611 Devonshire Drive,
Second Floor Columbia,
South Carolina 29204
Office: (803) 806-8222
Fax: (803) 806-8855
mwren@dml-law.com

Richland County, Sheriff Leon Lott
in His Official Capacity as The Sheriff of
The Richland County Sheriffs Department
and Civil Process Division
5623 Two Notch Road Columbia, S.C. 29223
phone: 803-576-3000.
fax: 803-576-319

Richland County, Sheriff Leon Lott
in His Official Capacity as The Sheriff of
The Richland County Sheriffs Department
ATTN: Sgt. Kyle Kovalchuk
623 Two Notch Road
Columbia, S.C. 29223
phone: 803-576-3000.
fax: 803-576-319

APPENDIX-A

A copy of the Nelums Check which is for this Appeal

ORIGINAL CHECK HAS MICROPRINTING IN SIGNATURE LINE, VISIBLE FIBERS & TRUE WATERMARK-HOLD TO LIGHT TO VIEW

ALLSOUTH
Federal Credit Union

730 Elmwood Avenue
Columbia, SC 29201
(803) 736-3110

No. 907124 67-7903
2532

Date: February 27, 2025

Pay to the Order of **SOUTH CAROLINA COURT OF APPEALS**

Amount \$ **250.00**

Two Hundred Fifty and 00/100***** DOLLARS

AllSouth Federal Credit Union
Columbia, SC

CA# 2021-CP-40-00895

Memo

William A. Koehler
Authorized Signature

Negotiate within six months of issue date

⑈907124⑈ ⑆25327903⑆ 10411630⑈

PLEASE DETACH BEFORE DEPOSITING AND RETAIN FOR YOUR RECORDS

ALLSOUTH
Federal Credit Union

730 Elmwood Avenue
Columbia, SC 29201
(803) 736-3110

No. 907124 67-7903
2532

Date: February 27, 2025

Pay to the Order of **SOUTH CAROLINA COURT OF APPEALS**

Amount \$ **250.00**

Two Hundred Fifty and 00/100***** DOLLARS

AllSouth Federal Credit Union
Columbia, SC

CA# 2021-CP-40-00895

Memo

NON-NEGOTIABLE
Authorized Signature

MEMBER COPY

APPENDIX-B

A Motion to be relieved as counsel filed Jeff Barnes, Esq. Appeal

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

**APPEAL FROM RICHLAND COUNTY
Court of Common Pleas**

Joseph M. Strickland, Court of Common Pleas Judge

Appeal Case Number: 2023-000491
Lower Court Case No. 2021-CP-40-00895

DEUTSCHE BANK NATIONAL TRUST
COMPANY, AS TRUSTEE FOR RESIDENTIAL
ASSET SECURITIZATION TRUST 2005-A8CB
MORTGAGE PASS-THROUGH CERTIFICATES
SERIES 2005-H

Respondent,

v.

JOHN C. NELUMS, DELMARSHI NELUMS, and
WOODLAKE HOMEOWNERS ASSOCIATION,
INC.,

Defendants,

Of Which JOHN C. NELUMS and DELMARSHI
NELUMS are the Appellants.

**MOTION TO BE RELIEVED AS COUNSEL FOR
APPELLANTS AND TO PROVIDE APPELLANTS
WITH ADDITIONAL TIME TO FILE THEIR BRIEF**

Jeff Barnes, Esq. and W.J. Barnes, P.A. move to be relieved as co-counsel for Appellants and as grounds state that Appellants have refused to communicate with Mr. Barnes as to the pending appeal and also that Appellants are in breach of their contract with W.J. Barnes, P.A.

In view of this Motion, and the fact that Mr. Barnes was retained as primary appellate counsel, it is requested that Appellants be given thirty (30) additional days to file their Brief, whether they do so through their co-counsel Sean Adegbola, Esq. or on their own.

WHEREFORE, Jeff Barnes, Esq. and W.J. Barnes, P.A. move to be relieved as counsel for

Appellants for the reasons set forth, and for any other and further relief which is just and proper.

May 1, 2023.

/s/ Jeff Barnes, Esq.

Jeff Barnes, Esq.

PHV withdrawing counsel

W.J. Barnes, P.A.

1515 North Federal Highway, Suite 300

Boca Raton, Florida 33432

Tel: (561) 864-1067

e-mail: jeff@wjarneslaw.com

Sean Adegbola, Esq.

Attorney for John Nelums

7075 Cross Country Road

Unit 41704

North Charleston, South Carolina 29418

Tel: (843) 352-8661

e-mail: sean@adegbolalawfirm.com

APPENDIX-C

A March 04, 2025, Jenny Abbott Kitchings Clerk Catherine S. Harrison
Chief Deputy Clerk, Dear Counsel: Appeal



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

CATHERINE S. HARRISON
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1230 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 04, 2025

Mr. Sean Adegbola, Esquire
8859 Arbor Glen Drive
North Charleston SC 29418

Re: Deutsche Bank National Trust Company v. John C. Nelums
Appellate Case No. 2025-000382

Dear Counsel:

This Court has received your clients' notice of appeal, and the case has been assigned the appellate case number that appears above. Please use this number on all future correspondence relating to this matter.

All parties to this matter are advised that all filings must comply with the requirements of Rule 267 of the South Carolina Appellate Court Rules (SCACR). The SCACR are available online at www.sccourts.org/courtreg. Additionally, any filings submitted by counsel admitted in South Carolina must include counsel's bar number.

The attention of the parties is directed to the order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. The order can be found at www.sccourts.org/courtOrders/displayOrder.cfm?orderNo=2014-04-15-02. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will *not* review

filings for redaction or to determine if materials should be sealed.

This is to advise that the title in the above matter has been changed to read as follows:

Deutsche Bank National Trust Company, as Trustee for Residential Asset Securitization Trust 2005-ASC Mortgage Pass-Through Certificates Series 2005-H, Respondent,

v.

John C. Nelums, Delmarshi Nelums, and Woodlake Homeowners' Association, Inc., Defendants,

of which John C. Nelums and Delmarshi Nelums are the Appellants.

All future records in this matter should be changed to reflect this title. If you have any questions, please do not hesitate to contact this office.

Very truly yours,


CLERK

cc: Delmarshi Nelums
John C. Nelums
John Sanford Kay, Esquire
John Brian Kelchner, Esquire
Sarah Oliver Leonard, Esquire
Ashley Zarrett Stanley, Esquire
Alan Martin Stewart, Esquire