

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable Ben N. Miller, III, Special Referee

Appellate Case No. 2024-001062
Case No. 2017-CP-40-01687

Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept. 1, 2002Respondent,

v.

Janet L. Nelums a/k/a Janet Nelums, Christopher Nelums, Imperial Warehouse Finance, Inc., and Best Distributing Company., Defendants,

of which Janet L. Nelums and Christopher Nelums are the Appellants.

Respondent’s Motion to Compel Conformity of the Record on Appeal

Respondent Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept. 1, 2002 (“DBNTC”) moves the Court for an order compelling Appellants Janet and Christopher Nelums to conform the Record on Appeal filed March 5, 2025, to the requirements set forth in Rule 210 of the South Carolina Appellate Court Rules. DBNTC also moves the Court to hold the deadline for final briefs in abeyance until Appellants have filed a conforming record.

Background

Appellants filed their initial Designation of Matter on November 18, 2024. The Court rejected that filing in a November 19 Deficiency Letter and required conformity with the South Carolina Rules of Appellate Procedure within ten days. Appellants filed a revised Designation of Matter and corresponding Record on Appeal on December 2, 2024. On December 3, the Court rejected Appellants' Record on Appeal for improper timing. In a December 4 letter, DBNTC sought the Court's clarification as to which of Appellants' multiple filings were operative and requested an extension of time for filing its Initial Brief. The Court granted that extension on December 5, 2024. DBNTC then filed its initial brief and designation of matter on February 3, 2025. Appellants filed their Record on Appeal with the Court on March 5, 2025. Although they filed a proof of service, Appellants have not yet served the record on DBNTC.¹

Argument

Rule 210 of the South Carolina Appellate Court Rules requires appellants file the record on appeal within thirty days of the last-filed brief. Rule 210(a), SCACR. Subsection C requires appellants to "include all matter designated by any party." Rule 210(c), SCACR. In their December 2 Designation of Matter, Appellants designated seven orders (Appellants designated the October 31, 2023, Gatekeeper Order twice) and acknowledged that no hearing transcripts would be designated. In turn, DBNTC filed and served counter-designations from an extensive record in this case from the more than ten years of litigation in this foreclosure.

Upon review of the Record of Appeal Appellants filed (but did not serve), it is apparent that Appellants failed to include multiple materials designated by DBNTC and have included appellate case filings that are already properly before this Court and were not otherwise designated.

¹ This is consistent with Appellants' previous failures in this case to serve filings on DBNTC.

This includes, among others, the Order on Appeal Bond; the Order Granting Motion for Judgment on the Pleadings; and DBNTC's Motion for Sanctions, which includes the Bankruptcy Order on Summary Judgment. Moreover, the Record on Appeal is improperly indexed, out of compliance with the structure required by Rule 210(c), and includes superfluous title pages as part of its pagination. Thus, the Record on Appeal is not properly reflective of the designations made by the parties in this case and is insufficient for DBNTC to finalize its briefing. Because of these shortcomings, DBNTC asks the Court to compel Appellants to file a properly designated Record on Appeal that is inclusive of all materials designated by both parties and hold the final briefing deadlines in abeyance until a proper record is served and filed and there is adequate time to review its contents for conformity.

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Columbia, South Carolina
March 24, 2025