

**RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

**RECORD ON APPEAL**

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

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Respectfully submitted,

March 30, 2025

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Roberta Moore  
3194 Pine Bluff Way  
Indian Land, SC 29707  
(803) 524-1842  
Appellant

**RECEIVED**

**Mar 10 2025**

SC Court of Appeals

**AMENDED INITIAL BRIEF OF APPELLANT**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

**RESPONSE TO INITIAL BRIEF OF RESPONDENT**

*Roberta Moore*

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN GRANTING SUMMARY JUDGMENT ON MARCH 8<sup>TH</sup>, 2024 WHEN COURT CASE CONTINUED BASED ON JUDGE'S DISPOSITION ON JULY 25, 2023 FOR REASONABLE EVIDENCE TO PROVE BREACH OF CONTRACT ACCOMPANIED BY FRAUDULENT ACT?
  
2. BASED ON COURT RULES AND PROCEDURES, COUNSEL FOR THE RESPONDENT FAILED TO MEET COURT ORDERED TIMELINE FOR FILING FINAL PAPERWORK, WHICH IN ESSENCE IS THE SAME REASON SHE WAS GRANTED SUMMARY JUDGEMENT.
  
3. DID THE JUDGE ERR IN GRANTING SUMMARY JUDGMENT WHEN THE RESPONDENT FAILED TO INCLUDE ALL LEGAL CONTRACTS IN QUESTION THAT WERE A PART OF THE COURT FILING IN HER REQUEST FOR SUMMARY JUDGMENT?
  
4. DID COUNSEL ERR IN FORMAL PAPERWORK SUBMITTED WHERE SHE INDICATED THAT THERE WERE NO OBJECTIONS IN COURT WHEN A LIST OF NOTARIZED OBJECTIONS WERE GIVEN TO HER AND THE COURT AT THE

TIME OF THE PROCEEDING? ALL INTERROGATORIES AND REQUESTS FOR ADMISSIONS THAT WERE ASKED AND ANSWERED IN WRITING WERE ALL A PART OF PUBLIC RECORD AND HAD BEEN SUPPLIED TO THE RESPONDENT PREVIOUSLY AND WAS UNNECESSARY AND DUPLICATIVE.

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## STATEMENT OF THE CASE

This is an action against Respondent, Rebecca Giesler for relief sought in for Breach of Contract and Breach of Contract accompanied by a Fraudulent Act. The circuit court granted the Respondent's motion to dismiss based on failure to respond to response for admission. Appellant seeks reversal of the judgment in that the Interrogatories and Response for Admissions Request was duplicative in nature and the Respondent already had all of the documentation which had been provided previously SC Rule 26. Also, the Respondent was given a written list of objections by the permission of the court which was notarized. (List provided to The Honorable Judge Brian Gibbons, Respondent's Legal Counsel, and included in Designation of Matter)

The Respondent indicates on her Initial Brief that the Appellant and the Respondent entered into two real estate contracts for the purchase and sale of the property located at 3194 Pine Bluff Way, Fort Mill, South Carolina. At which time it is now known that the property had an outstanding mortgage and lien which violates the *Dodd-Frank Act & SC Code § 39-5-10 (2023)*. The Respondent failed to include all of the binding agreements signed between the Appellant and Respondent that include the "Real Estate Contract of Sale", "Promissory Note For Sale", "Agreement To Buy and Sell Real Estate Residential", and "Addendum to Prior Contract Which Included The Steps of Foreclosure" (all of which are a part of the Lancaster County Public Index and also included in the Designation of Matter) (*SC Code § 32-3-10*). Upon finalization of contract, the Respondent, financed the aforesaid property to the Appellant which

at that time had an outstanding mortgage on the property. (*S.C. App. Ct. R. 3.4 & SC Code § 37-22-110*)

The Respondent indicates that the Appellant, failed to comply with the terms under the contract(s) and promissory note, including, among others, failure to pay property taxes, the failure to tender all monthly payments, and the failure to obtain financing by maturity date of the promissory note. In response to this, the Appellant has never received a tax bill from the County Of Lancaster or from the Respondent with any tax amounts or tax due dates. Therefore, no timelines has ever been established as to when the taxes are due. There is also a question in regards to the amount of taxes to be paid by the Appellant based on written communications between the Appellant and the now deceased husband of the Respondent. The Respondent indicates that Appellant failed to secure financing for the property by the maturity date of the promissory note, however, the contract clearly states new terms of the contract would be a 35 year mortgage with a higher interest rate if the financing was not secured in the initial 5 year period. Of which, the Appellant has paid all retroactive payments and is still paying at the present time. The contract does not indicate a deadline or a need for new financing because the 35 year mortgage at a higher interest rate replaces the initial 5 year mortgage. At no point has a bill for property taxes been issued to the Appellant by the County of Lancaster, nor the Respondent, since the inception of the contracts. The Respondent has refused to honor the the other written communications of the Respondent's now deceased husband in regards to how much of the property taxes the Appellant is to pay and at no point has Appellant received a bill from the County of Lancaster nor the Respondent.

The Respondent indicates there were several attempts to reach an amicable agreement, however, as noted in communications from Respondent and her attorney, the attempt for agreement was to demand on January 27, 2023 giving a deadline of February 3, 2023 for the Appellant to respond to a demand of either signing a new purchase agreement raising the price for the property to \$349,999 or the house would be sold. The demand given was \$89,000 over the contracted purchase price of the home. The Respondent indicated to the Appellant that there were mortgage payments in arrears and all of those payments needed to be paid and were paid in full within a 30 day timeframe from the date of the Respondent's demand. The Respondent's demand for a new contract was unwarranted because the original promissory note addresses the terms of the agreement if financing was not secured by the aforesaid date. The demand to have the Appellant sign a new agreement for \$89,000 more than the original agreement or be put out of the property without following the proper foreclosure proceeding as indicated in the signed, "Addendum to Prior Contract Which Included The Steps of Foreclosure" (included in Designation of Matter) is known as extortion or blackmail and is a criminal offense in accordance to *U.S. Federal Law 18 U.S.C. 873, SC Code § 16-13-240, and Penal Code 523*)

On April 24<sup>th</sup>, 2023, the Appellant initiated an action against the Respondent in regards to the binding mortgage agreement for sale of real estate property namely a "Real Estate Contract of Sale", "Promissory Note For Sale", "Agreement To Buy and Sell Real Estate Residential", and "Addendum to Prior Contract Which Included The Steps of Foreclosure" (all of which are a part of the Lancaster County Public Index and also included in the Designation of Matter). The Appellant then filed an amended complaint against the Respondent on June 8<sup>th</sup>, 2023 indicating eight causes of action, namely: (1) Violation of the South Carolina Unfair Trade Practices Act ("SCUPTA"); (2) Breach of Contract; (3) Breach of Contract Accompanied by a Fraudulent

Act; (4) Invasion of Privacy; (5) Negligence; (6) Gross Negligence; (7) Intentional Infliction of Emotional Distress; and (8) Negligent Infliction of Emotional Distress.

On June 19<sup>th</sup>, 2023 the Respondent filed a Motion to Dismiss which went before the Honorable Judge Gibbons on July 24<sup>th</sup>, 2023. At which time the motion was taken under advisement and partially granted with the exception of two causes of action. Those actions were Breach of Contract and Breach of Contract accompanied by a fraudulent act. (*Form 4, Electronically Filed July 25, 2024*) (SC Code § 16-13-240)

On September 23, 2023, Respondent served Appellant with Respondent's first set of Interrogatories, Request for Admissions, and Request for Production of Documents. The Respondent indicates that she filed a Motion for Summary Judgment on November 15, 2023. The Respondent never served this motion to the Appellant and did not receive a copy of it until Friday, January 5<sup>th</sup>, 2024 through regular mail with a copy of the court date which was scheduled for January 8<sup>th</sup>, 2024. .

The Respondent indicated in her response that the motion for summary judgment was heard by the Honorable Judge Gibbons on January 8, 2024 which is incorrect. The Honorable Judge Gibbons indicated on January 8, 2024 that he could not do anything involving the case because the case was not on his roster. The Honorable Judge Gibbons did confirm at that time that the following causes of action had not been dismissed: (1) Breach of Contract; and (2) Breach of Contract Accompanied By A Fraudulent Act.

On February 12<sup>th</sup>, 2024 the Motion to Dismiss was heard by the Honorable Judge Gibbons. At that time the Respondent's counsel and The Honorable Judge Gibbons were both given a notarized written list of objections to the Respondent's Interrogatories and Request for Admissions which Respondent indicated in the Motion To Dismiss that the lack thereof was the basis for the request for dismissal.

On March 5<sup>th</sup>, 2024, the judge granted a motion for summary judgement with the stipulation for the Respondent to prepare a formal order with 10 days. The Respondent failed to meet the timeline mandated by the court. *(Form 4, Electronically Filed March 5<sup>th</sup>, 2024 included in Designation of Matter)*

Not only did the Respondent fail to meet the court mandate. Also, there was still fraudulent actions that were still in question pending that needed to be ruled on which had not been dismissed and confirmed by the court on January 8, 2024 that they were still pending. *(Form 4, Electronically Filed July 25<sup>th</sup>, 2024 included in Designation of Matter)*

## RESPONSE TO RESPONDENT'S

### STANDARD OF REVIEW

The Respondent indicated Rule 56c, SCR, which provides summary judgment is proper when there is no genuine issue as to material fact and the moving party is entitled

to judgment as a matter of law. However, the trial court erred with granting summary judgement in this case because the court failed to consider the genuine issues that included the Breach of Contract to include the failure to follow the steps outlined in the Addendum To Contract, as well as, the second cause of Action being the Breach of Contract Accompanied By A Fraudulent Act, which both were genuine issues of material fact. *See Dawkins v Fields*, 345 S.C. 23, 545 S.E. 2d 515 (App. 2001)

The Respondent cited Rule 56, SCRPC in stating that the trial court must grant the motion “if the pleadings, depositions, answers to interrogatories, and admission on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. However, the pleadings on file clearly indicate the “material fact” of extortion along with the Respondent’s Breach of Contract. In the context of extortion, a “material fact” is any piece of information that is significant enough to influence the victim’s decision to comply with the extortionist’s demands. Also, the signed contractual agreements that the Respondent omitted from her Request for Summary Judgment significantly impacts the decision of summary judgment and proposed legal remedies. Based on the nature of the contracts, the demands made by the Respondent which constituted a fraudulent act, along with the contracts in question still being in place based on the mortgage terms in the signed contract stating new payment terms if alternate funding was not in place within the 5 year period. There are no due dates in the signed contract as to time frames in which taxes had to be paid, The court erred in granting summary judgment to the Respondent based on the material fact of contracts and letter of demand which constituted the fraudulent act. Complete discovery regarding the key contracts was

necessary in order to properly rule on the case. (*Veronie v 303 Assocs. LLC, S.C. Ct. App. Jan. 25, 2012*)

The Respondent cited in her response, “when plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted”. It is clear from the contracts submitted, and previous ruling from the Honorable Judge Gibbons, that the documents and facts submitted confirm that the court erred in granting summary judgment in that the information was not palpable in that it posed reasonable doubt. Also, evidence was already on file of which the Respondent was requesting in her Interrogatories and Request for Admissions. All of the information was already a matter of public record on the Public Index. The interrogatories and Requests for Admissions were irrelevant and all a part of public record. The Appellant did present to the Honorable Judge Gibbons, in court on February 12, 2024, and to the Respondent’s counsel, a written notarized response in court to all of the interrogatories and requests for admission.

The Respondent indicated that the Appellant failed to “raise and issue on appeal” with the Circuit Court. The Appellant filed the Notice Of Appeal in accordance with SC *Appellate Rule 203*, Notice Of Appeal. The Notice Of Appeal was filed with the lower court, the Court of Appeals, and served upon the Respondent within the timeframe given by *Appellate Rule 203*.

RESPONSE TO ARGUMENT FROM RESPONDENT

**A. Appellant failed to preserve all issues of this appeal with the Circuit Court**

The Respondent indicated that in South Carolina, the appellate courts do not allow the “plain error” standard when sitting in review of trial court’s decision. However, in civil cases, plain error review allows an appellate court to address an error that wasn’t timely objected to if that error is obvious and affects substantial rights, potentially leading to a miscarriage of justice. In review of the case, the judgment rendered directly affects the substantial rights of the Appellant in that the Respondent breached the contract and also committed an unlawful act against Appellant directly going against the Appellant’s constitutional rights.

The Respondent indicated that she has not received any response to the interrogatories and request for admissions. However, a notarized copy of interrogatories and request for admissions was provided to the Respondent’s counsel in court and also given to the Honorable Judge Gibbons on February 12<sup>th</sup>, 2024.

The Respondent indicated that the Appellant immediately appealed the Circuit Court’s order. The Appellant followed the SC Rules of Appeal and filed paperwork with both the Circuit Court and the Court of Appeals.

**B. Any argument concerning Respondent’s first set of interrogatories or Appellant’s response to interrogatories is irrelevant to this appeal.**

The Respondent indicated that the Appellant’s response to interrogatories are irrelevant to the appeal. However, the Request for Admissions were provided along

with the response to the interrogatories to the Honorable Judge Gibbons and the Respondent. The Requests for Admissions were all duplicative in nature and all a part of public record but a written notarized response was given in person in court.

**C. The Circuit Court correctly applied the clear language under SCRCP Rule 36.**

The Respondent indicated that the Appellant failed to respond to the interrogatories and request for admissions because it was duplicative in nature to documentation was already on file. This is true, however, a written response was submitted to the Honorable Judge Gibbons and given to the counsel of the Respondent. Judge Gibbons said he would look at it and the counsel for the Respondent never objected to the response being a part of the public record and to date has not objected.

**D. The Circuit Court reviewed the court file in its entirety.**

The Respondent is incorrect in saying that the Circuit Court reviewed the court file in its entirety. The sole dismissal of the case was based on the Appellant's failure to respond to the Response For Admissions. It did not consider the Breach of Contract or Breach of Contract Accompanied by A Fraudulent Act both causes which had survived the initial judgment. The Respondent's request for dismissal was based solely on the Appellant's failure to respond as she indicated in Section C of the Argument Section of her response to the Record of Appeal. Which confirms that the contracts, extortion letter, or any other parts that are included in the Designation of Matter were not considered in the summary judgment of the case.

**E. After the admissions were deemed admitted, no genuine issue of material fact existed under Appellant's Amended Complaint**

The Respondent hereby admits that the Requests for Admissions were provided and admitted summary judgment was granted based on what she indicated as no Requests for Admission. She hereby admits here that she received a response and it was admitted as evidence. She indicates that three elements must be proved, all of which were and are all a part of the Designation of Matter. 1) a binding agreement entered into by the parties. There are four signed contracts that were entered into by the parties. 2) breach or unjustifiable failure to perform the contract. The Respondent failed to get Bond For Title to get tax bills sent to the Appellant and the Respondent also failed to send the Appellant any tax bills to indicate what had to be paid and the deadlines for payment. Neither of the 4 contracts signed by the Respondent and the Appellant indicated any timelines by which the taxes had to be paid. The Appellant was instructed to go to the tax office to get the taxes switched to her name, which she did and the Appellant brought back the instructions to the Respondent's now deceased husband to do what the County required be done for the tax bills to go directly to the Appellant which the Respondent failed to do. So at no time has the Appellant ever received a tax bill for the property. 3) a fraudulent act accompanied by a breach. The Respondent put in writing a letter of demand to the Appellant (which is also a part of the Designation of Matter) with a threat to either pay \$89,000 more for the property or be forced to leave. The letter proves to be extortion, which is a fraudulent act according to SC Code 16-17-640 (3) (Blackmail). *(Any person who verbally or by printing or writing or by electronic communications ... compels any person to do any act, or to refrain from doing any lawful act, against his*

*will with the intent to extort money or any other thing of value from a person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail...)*

The Respondent also highlights that there was no written contract agreement for the Bond For Title and also highlighted where the Respondent's late husband indicated that they were not going to pursue the Bond For Title. Per the instructions of the County Clerk's office, the Bond For Title was necessary to get taxes for the property put in Appellant's name. Therefore, the Appellant has never gotten a tax bill from the County Tax office nor from the Respondent. The email memorandum from the Respondent's husband as taken as evidence by the Respondent, also indicates a reduction in what would be required as tax payment from the by the Respondent's late husband. At no point from the inception of the signed agreements has the Appellant received any tax bills from the County or tax bills from the Respondent with said due dates or amounts which would also be necessary for the Appellant to be able to file the taxes on the home.

In regards to the Respondent failing to provide mortgage history and payment records, the Respondent indicated that she sent over an updated Check Registry. The Respondent was told by the Appellant that the check registry was not sufficient for financial purposes. The check registry did not include Appellants name or in other pertinent information that could be used as a legal document to obtain financing. When a more formal document was requested from the Appellant to correct and send back over, she refused to do so. The Appellant was unable to use the information on the check register in order to get the home refinanced because the document was inaccurate and could not be considered a legal document. The Respondent told the Appellant to alter

the document but because it was a legal document, the Appellant could not do that. The Appellant also requested the Respondent submit payment information to help with getting Covid Assistance payments for the house that would be paid directly to the Respondent and she again failed to do that.

**F. Respondent's formal order was appropriately submitted.**

The Respondent admits that ex parte communication consists of prohibited communication between counsel and the court when opposing counsel or representation is not present. As the Respondent indicates in the Code of Judicial Conduct, the judge should not permit or consider ex parte communication or consider other communications made to the judge outside of the presence of the parties. Respondent indicated Section 7(a) where circumstances require ex parte communications for scheduling, administrative purposes or emergencies that do not deal with substantive matters or issues on the merits are authorized. The Respondent's actions in communicating with the clerk of court and the Judge were directly related to the outcome of the case and required revision of the court ordered document and all parties should have been notified of all communications. The Respondent failed to do that. The Respondent indicated that there was no substantive issue. A substantive issue refers to a topic that is important, real, and meaningful and there is nothing more important, real, or meaningful than the judgment of the case and the Respondent was requesting the judge to rewrite the judgment paperwork.

## ARGUMENTS

### Dawkins v Fields, 345 S.C. 23, 545 S.E. 2d 515 (App. 2001)

*"The plaintiffs moved to alter or amend the order granting summary judgment, arguing, among other things, that the court erred in (1) excluding the affidavit...*

*Additional Standard Of Review (Case Law – Citation 545 S.E.2d 515,345 S.C. 23)*

*"Summary judgment is proper where there is no genuine issue of material fact and the movant is entitled to judgment as a matter of law.<sup>2</sup> "Summary judgment should not be granted even when there is no dispute as to the evidentiary facts if there is dispute as to the conclusions to be drawn from those facts."<sup>3</sup> "In determining whether any triable issues of fact exist, the evidence and all inferences which can be reasonably drawn from the evidence must be viewed in the light most favorable to the nonmoving party."<sup>4</sup> Summary judgment should be invoked cautiously to avoid improperly denying a party a trial on the disputed factual issues.*

In this case the court erred by not considering the evidentiary facts in dispute as to the conclusions to be drawn because there were triable issues of fact that existed.

### Veronie v 303 Assocs. LLC, S.C. Ct. App. Jan. 25, 2012

*We hold the circuit court erred in dismissing the Veronies' complaint on the ground that it failed to allege the existence of a valid contract. Viewing the factual allegations in the complaint, and inferences from them, in the light most favorable to the Veronies, we find they pled sufficient facts which could entitle them to relief.*

*Veronie v. 303 Assocs. LLC, Unpublished Opinion No. 2012-UP-044, (S.C. Ct. App. Jan. 25, 2012)*

In this case the court erred by issuing summary judgment without verifying and validating the 4 contracts, along with the fraudulent demand made by the Respondent to the Appellant in question before issuing a summary judgment.

S.C. App. Ct. R. 3.4

*"A lawyer shall not:*

*(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;*

*(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;*

*(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;*

*(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;"*

In this case, the Respondent concealed the contractual agreement that was signed by all parties and relative to foreclosure procedures for the property. *(Exhibit D – Addendum to Prior Contracts)*

SC Code § 16-17-640 (2012)

*"Any person who verbally or by printing or writing or by electronic communications:*

*(1) accuses another of a crime or offense; (2) exposes or publishes any of another's personal or business acts, infirmities, or failings; or (3) compels any person to do any act, or to refrain from doing any lawful act, against his will; with intent to extort money or any other thing of value from any person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail and, upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court."*

In this case, the Respondent and her legal counsel both put in writing letters of demand giving the ultimatum of paying over \$100,000 more than the contracted amount for the home or being forced to leave. *(Correspondence Pg 1 and P4, included in the Designation of Matter)*

SC Code § 16-13-240

*“A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:*

*(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ten thousand dollars or more;*

*(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;*

*(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days.”*

In this case the Respondent sought to defraud Appellate by trying to force a new Purchase Agreement on her with the threat of losing home if she did not sign. *(Correspondence Pg 1 and Correspondence Pg 4 included in the Designation of Matter.)*

SC Code § 32-3-10

*“Agreements required to be in writing and signed.”*

In this case all agreements were in writing and signed by all parties. Yet Respondent is not disclosing in Motion to Dismiss, Addendum to Contract, Foreclosure Procedure. *(Exhibit D included in the Designation of Matter)*

SC Code § 39-5-10 (2023)

*“Trade” and “commerce” shall include the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or*

*mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.*

The Respondent entered a binding Real Estate Contract for Real Estate Property which at the time of contract, it still had a mortgage lien on it which was unlawful and constitutes an unfair trade practice. *(Transcript Dated July 24<sup>th</sup>, 2023, violates Dodd-Frank Act, Page 10, lines 5-23 included in the Designation of Matter)*

SC Code § 37-22-110

**SECTION 37-22-110**

*(2) "Act as a mortgage lender" means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.*

The Respondent acted as a Mortgage Lender which based on the law, because there was an outstanding lien against the house at the time of mortgage, it was unlawful for her to do so.

Dodd Frank Act

*"If the loan will be secured by a property that the borrower will use for residential purposes, then the person who arranges the loan is defined as a "loan originator," and must have a mortgage originator license. Seller-financiers must be licensed mortgage originators unless they qualify for one of the two exceptions, which will be discussed below."*

Respondent originating loan and was not a licensed mortgage originator when mortgage contract was originated. This hindered the process of getting Appellant's name on the deed in order for taxes to be reduced and billed to the Appellant. *(Transcript Dated July 24<sup>th</sup>, 2023, page 10, lines 5-19 included in the Designation of Matter)*

### Penal Code 523

*Penal Code 523 PC addresses extortion by sending a letter that threatens*

- *to injure the person,*
- *to accuse the person of a crime, or*
- *to reveal a damaging secret about the person.*

The Respondent and the Respondent's counsel both sent threatening letters which fall in line with the rules governing extortion because of the demand to pay approximately \$89,000 more for the property. *(Correspondence 1 and Correspondence 4 from Respondent and Respondent's legal counsel.)*

### SC Rule 26

*"The frequency or intent of use of discovery methods set forth in subdivision (a) shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought;"*

The interrogatories for which the case was dismissed were duplicative. All documents requested had already been provided and were part of the Public Index. Some of which were a part of Respondent's filings. *(Transcript from February 12<sup>th</sup>, 2024, page 6 – line 25, and page 7 – lines 1-3)*

### SC Rule 56

***"(d) Case Not Fully Adjudicated on Motion.** If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It may thereupon make an order specifying the facts that appear without*

*substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly."*

Respondent should not have been entitled to a summary judgment because there was a genuine issue related to Breach of Contract with A Fraudulent Act in which the Appellant was entitled to judgment.

### SC Appellate Rule 203

*(1) Appeals From the Court of Common Pleas. A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment. When a timely motion for judgment n.o.v. (Rule 50, SCRCPP), motion to alter or amend the judgment (Rules 52 and 59, SCRCPP), or a motion for a new trial (Rule 59, SCRCPP) has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion. When a form or other short order or judgment indicates that a more full and complete order or judgment is to follow, a party need not appeal until receipt of written notice of entry of the more complete order or judgment.*

In this case the Appellant followed all the proper procedures as indicted under Rule 203 with the Court of Appeals.

### U.S. Federal Law 18 U.S.C. 873

*Whoever, under a threat of informing, or as a consideration for not informing, against any violation of any law of the United States, demands or receives any money or other valuable thing, shall be fined under this title or imprisoned not more than one year, or both*

In this case, the Respondent's actions fall up under the U.S. Federal Law guidelines for blackmail.

CONCLUSION

For all the foregoing reasons, it is respectfully requested that Appellant's request for appeal be grant and judgment from the lower court be overturned.

Respectfully submitted,

March 10, 2025

*Roberta Moore*  
\_\_\_\_\_  
Roberta Moore  
3194 Pine Bluff Way  
Indian Land, SC 29707  
(803) 524-1842  
Appellant

RECEIVED

Mar 10 2025

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

PROOF OF SERVICE

I certify that I have served the RESPONSE TO THE INITIAL BRIEF OF RESPONDENT on Rebecca Giesler via e-mail on March 10, 2025 and will be depositing a copy of it in the United States Priority Mail, postage prepaid on March 10<sup>th</sup>, 2025 addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732.

May 10, 2025

*Roberta Moore*

Roberta Moore

3194 Pine Bluff\_\_ Way

Indian Land, South Carolina 29707

(803) 524-1842

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Aug 19 2024

SC Court of Appeals

**MOTION TO ACCEPT AMENDED INITIAL BRIEF**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

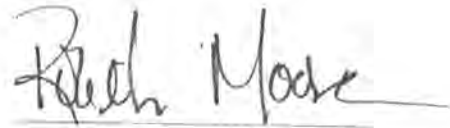
Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

**MOTION TO ACCEPT AMENDED INITIAL BRIEF**



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842

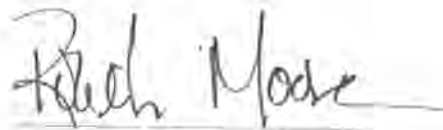
Now comes the Appellant, Robert Moore, moving the court to accept the Amended Initial Brief submitted on July 29, 2024, pursuant Rule 240 of the South Carolina Appellate Court Rules. The Amended Initial Brief corrects formatting errors and includes additional law and court cases for justification although the procedures do not put a requirement on the amount of cases or laws that have to be cited in the Initial Brief. The Amended Initial Brief also addresses the alternative request on Page 10 of the Respondent's Motion for Dismissal (Exhibit A) to have the Appellant resubmit the initial Brief and Designation of Matter.

*Page 10 – "In the alternative, this Court should issue and Order directing Appellant to resubmit her initial brief and designation of matter complying with the Rules."*

The Appellant respectfully requests the Court accepted the amended Initial Brief for filing.

August 18, 2024

Respectfully Submitted,

A handwritten signature in black ink that reads "Roberta Moore". The signature is written in a cursive style and is positioned above a horizontal line.

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842



Appellant's brief fails to comply with the [then applicable appellate court rules] in the following particulars: the components of the brief are incorrectly organized and labeled, the issues are not distinctively headed, the table of authorities is not alphabetized or referenced to the body of the brief, the statement of the case contains contested matter and omits required information, and the arguments contain no citations to the record or to the cases listed in the table of authorities.

Counsel is advised that the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide the appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.

*Id.* The Court further ruled that “[a]lthough this Court would be *completely justified in dismissing this appeal* based on appellant’s numerous violations of the Rules, we decline to do so and deny the motion to dismiss. *Id.* (emphasis added).

In *Henning*, the appellant’s brief failed to follow formatting guidelines and did not provide any citations in or to the record. Here, the flaws and deficiencies in Appellant’s Brief go well beyond mere technicalities. The Brief fails to comply with nearly every subsection of Rule 208, SCACR, and fails to properly set forth arguments and appropriate reasoning for this appeal. The Brief does not contain enough information to sufficiently state the issues on appeal and does not allow Respondent proper notice of the issues being appealed to sufficiently answer and defend against the appeal.

For all the foregoing reasons, this appeal should be dismissed in its entirety. In the alternative, this Court should issue an Order directing Appellant to resubmit her initial brief and designation of matter complying with the Rules.

B. This appeal should be dismissed because Appellant did not preserve any argument concerning any purported late filing issues or discovery issues for appellate review.

South Carolina appellate courts do not follow the “plain error” standard when sitting in review of a trial court's decision. *State v. Sheppard*, 391 S.C. 415, 421, 706 S.E.2d 16, 19 (2011) (“[T]he plain error rule does not apply in South Carolina state courts.”). “Instead, a party must have a

**MOTION TO ACCEPT DESIGNATION OF MATTER THAT WAS RETURNED**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

**Aug 19 2024**

SC Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

**MOTION TO ACCEPT DESIGNATION OF MATTER THAT WAS RETURNED**

Now comes the Appellant, Roberta Moore, respectfully requesting that the court accept the portions of the Designated Matter that was submitted on July 26, 2024 in accordance with Rule 209(b) of the South Carolina Appellant Court Rules.

The Designation of Matter that was returned included:

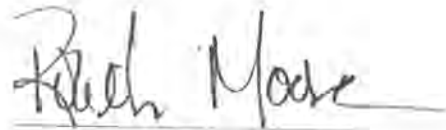
- (1) Form 4 Judgment Rulings from The Honorable Judge Brian Gibbons from each court date which were relevant to the continuance of the case, along with judgment ruling.

- (2) The Court Transcripts as ordered with the Initial Brief referencing the page number and line to be referenced in alignment with the Initial Brief of the Appellant.
- (3) The E-mail Correspondence and Letter from Respondent's Counsel are both relative to Page 13 (lines 19-24) of the Transcript of Proceedings dated July 24, 2024.
- (4) The Addendum to Prior Contracts. All copies of contracts along with the "Addendum to Prior Contracts" were all submitted as Exhibits with the Plaintiff's Initial Pleading which was filed on April 24, 2023.

All of the Designated Matter that was submitted was properly included and relative to the Appeal.

For the reasons stated along above, the Appellant respectfully requests that all Designated Matter be accepted.

August 18, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842

**MOTION TO DENY RESPONDENT'S MOTION FOR DISMISSAL AND TO  
OVERTURN LOWER COURT DECISION BASED ON EX-PARTE  
COMMUNICATIONS WITH CLERK OF LOWER COURT AND THE HONORABLE  
JUDGE BRIAN GIBBONS**

**RECEIVED**  
**Aug 19 2024**  
SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

**MOTION TO DENY RESPONDENT'S MOTION FOR DISMISSAL AND TO  
OVERTURN LOWER COURT DECISION BASED ON EX-PARTE  
COMMUNICATIONS WITH CLERK OF LOWER COURT AND THE HONORABLE  
JUDGE BRIAN GIBBONS**



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842

Now comes the Appellant, Roberta Moore, respectfully moving the Court to deny the Respondent's Motion for Dismissal based on the Respondent's failure to not only file the required paperwork by the court mandated deadline but also because the Respondent broke SC Code of Laws Section 58-3-260 by participating in ex parte communications as confirmed in writing in the Respondent's Motion For Dismissal submitted to the Court of Appeals on July 19<sup>th</sup>, 2024.

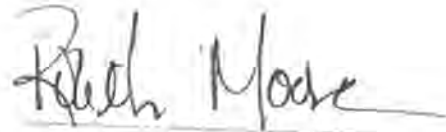
The Respondent's admittance in her Request For Dismissal of reaching out to the Clerk of the Lower Court, as well as, the judge, The Honorable Brian Gibbons without the presence and without notifying the Appellant are according to Rule 12(b)(3) considered misconduct by the Respondent and should therefore cause the prior judgment to be overturned in that it is believed that by the Counsel for the Respondent reaching out multiple times to the above parties without the knowledge of the Appellant, it is believed that she has compromised and swayed the outcome of the proceedings. At no point before or after was the Appellant advised of the ex parte communications that took place with the Respondent as she communicated with the Clerk of the Lower Court, as well as, The Honorable Judge Brian Gibbons.

## CONCLUSION

Based on SC Code of Laws Section 58-3-260, the Appellant hereby requests that the Respondent's Request for Dismissal be denied and respectfully requests that the prior Order for Judgement be overturned and action be taken rendering judgment in favor of the Appellant for the relief requested in the initial pleading of \$389,000, along with the proper judgment according to SC Code 16-17-640 being rendered for the fraudulent act that was committed.

August 18, 2024

Respectfully Submitted,

A handwritten signature in cursive script that reads "Roberta Moore". The signature is written in black ink and is positioned above a thin horizontal line.

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842

**RECEIVED**

**Jul 29 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant.

v.

Rebecca Giesler, ..... Respondent.

**RESPONSE TO RESPONDENT'S MOTION TO DISMISS APPEAL  
AND MEMORANDUM IN SUPPORT THEREOF**

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842  
Appellant

**NOW COMES** Appellant Roberta Moore, and hereby moves this Court to dismiss this Motion to Dismiss Appeal that has been filed by Respondent, Rebecca Giesler in its entirety pursuant to South Carolina Appellant Court Rules ("SCACR" or the "Rules") 260. The Appellant's Motion is based on Respondent participating in Ex Parte communications with Clerk and Judge of the Circuit Court. According to SC Code of Laws Section 58-3-260, Ex Parte communication is not permissible because the communication of the Respondent directly relates to the Judgment Order of the case and all parties should have been present and/or notified of these communications. The Appellant further responds as follows:

### **RESPONSE TO INTRODUCTION**

Respondent, Rebecca Giesler, filed a Motion for Summary Judgement on January 8, 2024, and said motion was heard by the Circuit Court on February 12, 2024. On March 5, 2024, the Circuit Court granted Summary Judgment in favor of Respondent and ordered Respondent's counsel to submit a formal order within 10 days of the Form 4 Order. The Respondent failed to meet the court required deadline. In Respondent's Motion For Dismissal, Respondent admits to contacting the Trial Clerk Administrator, as well as, the Honorable Judge Brian Gibbons without notifying the Appellant of any communications. According to SC Code 58-3-260, this is not allowed. All parties should either be present or notified of any communications with the court and/or the Judge seeing that the communication would have a direct impact on the decision of the case. Respondent's counsel failed to file paperwork by the stated deadline of the court, as well as, had Ex Parte communications with the court and based on these actions that both go against the judicial procedure, the Respondent's Motion for Dismissal should be denied and the prior ruling of the court should be overturned..

Respondent also admits in writing in her Motion To Dismiss, that she had contacted the Trial Court Administrator (and included written evidence in her Motion For Dismissal) requesting signature on 1 of 2 documents that she submitted for the Honorable Judge Brian Gibbons to sign, again, failing to include the Appellant in any communications with the Trial Clerk Administrator or the Judge on March 26<sup>th</sup>. She also indicates that she filed electronically both documents on March 26<sup>th</sup>, 2024, neither of which were copied or mailed to the Appellant and both of which were directly related to the outcome of the Judgment Order. The Appellant was not notified of any of these communications by the Respondent, the Respondent's Counsel, the Trial Clerk Administrator, nor the Honorable Judge Brian Gibbons and therefore should be dismissed and the Judgment Order should be nullified based on SC Rule 58-3-260.

Appellant filed a Request for Appeal with this Court on April 2, 2024. On April 19, 2024, the Court sent a letter confirming receipt of the appeal and assigned an appellate case number. The Appellate Court sent a notice of Deficiency to the Appellant and all Deficiencies were corrected by the timeline given by the Court. The Court granted the request from the Appellant to order the transcripts of the circuit court case outside of the allowed timeframe. Once received, transcripts were submitted to the Court. The Appellant has also submitted the corrected Deficiencies as required by the Court of Appeals for the Designation of Matter. The Appellant has also submitted for filing, a Revised Initial Brief.

Respondent notes that Appellant's Initial Brief was formatted incorrectly, however, a revised Initial Brief has already been submitted to the court. Respondent indicated that Appellant's initial brief is incomplete; fails to comply with formatting rules set out under Rule 208, SCACR; states erroneous facts; cites cases and statutes from Arizona and California; lists inappropriate is making an assumption by stating that there is no law to support the appeal. The

revised Initial Brief along with the Declaration of Matter that was submitted based on the Court's request includes the law and rationale for which the case is based. According to the format given by the State on the Form for Declaration of Matter, if only one code, case, or law supports all, then only one code needs to be used. This leaves the Respondent's comment regarding the lack of law thereof void of nature.

### **RESPONSE TO ARGUMENT**

The Respondent is requesting dismissal because Appellant has failed to comply to South Carolina Appellate Court Rules and states that the Appellant has failed to preserve any purported issues for Appellate Review. The Appeals Court has in place a process by which all Appellant's and Respondents must follow, which includes, the noting of Deficiencies with a timeframe by which they must be corrected. The Appellant has adhered to all the requests of the Appellate Court and has corrected the noted deficiencies by the deadlines given. The Respondent, notes the deficiencies of the Appellant but failed to note that she too had to correct deficiencies, inclusive of failing to pay the required fee for filing. The Respondent notes Rule 260(a), however, the Appellant has not failed to comply with the rules. All deficiencies were noted by the Appellate Court Clerk and corrected within the timeframe allotted. The respondent notes the following rules for appeal: (1) failure to timely serve a notice of appeal under Rule 203, SCACR; (2) failure to serve and file an initial brief and designation of matter under Rule 208(a)(4). However, the Appellant has met both of the rules for Appeal. The Deficiencies have been corrected and the paperwork was filed by the deadline given.

- 1. Appellant's Table of Contents do not accurately reference the section(s) to the pages of the Brief and fail to list the argument outline.*

The Respondent indicates that the Appellant's Initial Brief failed to comply with South Carolina Appellate Court Rules. This was not noted by the Clerk upon submission and all deficiencies have been corrected and submitted within the timeframe allotted. The Appellant has also submitted for filing a revised Initial Brief, as well as, the Designation of Matter that was noted as a Deficiency.

The Respondent indicates that the Appellant's Statements of Issue on Appeal and Standard of Review fail to comply with the Rules. The Respondent is making an assumption that the statements are not concise. The revised Initial Briefing which is on file clarifies the statements to include the following as noted:

1. *DID THE TRIAL COURT ERR IN GRANTING SUMMARY JUDGMENT ON MARCH 8<sup>TH</sup>, 2024 WHEN OUR CASE CONTINUED BASED ON JUDGE'S DISPOSITION ON JULY 25, 2023 FOR REASONABLE EVIDENCE TO PROVE BREACH OF CONTRACT ACCOMPANIED BY FRAUDULENT ACT?*
2. *BASED ON COURT RULES AND PROCEDURES, COUNSEL FOR THE RESPONDENT FAILED TO MEET COURT ORDERED TIMELINE FOR FILING FINAL PAPERWORK, WHICH IN ESSENCE IS THE SAME REASON SHE WAS GRANTED SUMMARY JUDGEMENT.*
3. *DID THE JUDGE ERR IN GRANTING SUMMARY JUDGMENT WHEN THE RESPONDENT FAILED TO INCLUDE ALL LEGAL CONTRACTS IN*

*QUESTION THAT WERE A PART OF THE COURT FILING IN HER REQUEST FOR SUMMARY JUDGMENT?*

4. *DID COUNSEL ERR IN FORMAL PAPERWORK SUBMITTED WHERE SHE INDICATED THAT THERE WERE NO OBJECTIONS IN COURT WHEN A LIST OF NOTARIZED OBJECTIONS WERE GIVEN TO HER AND THE COURT AT THE TIME OF THE PROCEEDING? ALL INTERROGATORIES THAT WERE ASKED AND ANSWERED IN WRITING WERE ALL A PART OF PUBLIC RECORD AND HAD BEEN SUPPLIED TO THE RESPONDENT PREVIOUSLY AND WAS UNNECESSARY AND DUPLICATIVE.*

*2. Appellant's Statements of Issue on Appeal and Standard of Review fail to comply with the Rules.*

The Respondent questions the conciseness of the Appellant's statements. Please note the following for clarity. (1) On the disposition dated, January 8<sup>th</sup>, 2024, the Honorable Judge Brian Gibbons indicated that "the breach of contract and breach of contract accompanied by a fraudulent act" were not dismissed. (2) Respondent's counsel failed to file the final paperwork by the timeframe ordered by the Honorable Judge Brian Gibbons and openly admits in her Motion for Dismissal that she proceeded to have Ex Parte communications with the Judge, as well as, the Trial Court Clerk which in turn should nullify the Judgment Order that was rendered in the Circuit Court. (3) Respondent's Counsel failed to include the Contract Addendum in her motion for dismissal which was a crucial part of the Appellant's case and was submitted as one of the documents in question. (4) Respondent's Counsel did err in saying that there were

no objections. Objection was given and a formal document was presented listing the objections to interrogatories.

The Appellant has submitted the Designation of Matter and a Revised Initial Brief that addresses the Respondent's failure to respond to the criminal codes that coincide with the aforementioned causes of action that include Breach of Contract and Breach of Contract Accompanied by a Fraudulent Act.

*3. The Respondent indicates that the Appellants Statement of Case is incomplete, lists erroneous information, and fails to comply with the rules.*

For clarity, on April 24<sup>th</sup>, 2023, the Appellant filed a complaint against the Respondent Rebecca Giesler. On May 7<sup>th</sup>, 2023, the Respondent filed their answer. On June 8<sup>th</sup>, 2023, the Appellant filed an amended Summons and Complaint. On June 19<sup>th</sup>, the Respondent filed their amended Answer along with a Motion to Dismiss. The Appellant filed a response to the Amended Answer on June 29<sup>th</sup>, 2023. On July 25<sup>th</sup>, 2023, the Honorable Judge filed a Partial Order of Dismissal (dismissing all but the Breach of Contract and Breach of Contract accompanied by a Fraudulent Act). On November 15<sup>th</sup>, the Respondent filed for Summary Judgement but the Appellant never received a copy of the filing. On January 8<sup>th</sup>, 2024, the Court issued an order indicating that the previous Motion To Dismiss did not include the causes of action for Breach of Contract and Breach of Contract accompanied by a fraudulent act. The Motion for Summary Judgement was heard by the Circuit Court on February 12<sup>th</sup>, 2024. On March 5<sup>th</sup>, 2024, the Circuit Court granted Summary Judgment in favor of Respondent and ordered Respondent's counsel to submit a formal order within 10 days of the Form 4 Order. On March 8<sup>th</sup>, 2024, Respondent's counsel emailed two formal, proposed orders to the Honorable Judge Brian Gibbons, stating that because the Form 4 Order did not specify whether Summary

Judgment was granted for both the Appellant's Complaint and Respondent's Counterclaim, or solely against Appellant's Complaint. After failing to receive a reply, Respondent's counsel forwarded the proposed orders to the trial court administrator on March 26<sup>th</sup>, 2024, and she advised to electronically file both orders and Judge Gibbons could review and sign the correct one. The Respondent's counsel indicates that on the same day, Judge Gibbons signed an Order in favor of Respondent as to Appellant's Complaint in its entirety and in favor of Respondent's counterclaim of breach of contract against Appellant. **The Appellant did not receive any documentation stating that and no records are included in the public index regarding the Ex Parte communications, the judge signing additional documents, or any changes in the final order that was received.**

The Appellant filed a Request for Appeal with this Court on April 2<sup>nd</sup>, 2024. On April 19<sup>th</sup>, 2024, this Court sent a letter confirming receipt of her appeal and assigning an appellate case number. The Court sent a deficiency letter to Appellant stating she had failed to file a copy of the Notice of Appeal with the Circuit Court. The Appellant had filed the paperwork but the Circuit Court Clerk was unsure of what to do with it and filed it away without scanning it into the system. After returning to the Circuit Court Clerk after receiving the notice of deficiency, the documents were resubmitted and properly scanned into the Public Index. The noted deficiencies (filing fee and filings with Circuit Court) were both corrected in in the timeframe given.

On April 29<sup>th</sup>, 2024 the Appellant was advised by the Appeals Clerk that the time to order the transcript had expired because the deadline was based on the initial date of filing and not the date after which the deficiency had been corrected. On May 8<sup>th</sup>, 2024, The Appellant filed a Motion for late ordering of transcript which was granted.

On July 5<sup>th</sup>, 2024, Appellant filed her initial brief. The Clerk of Appeals Court noted the deficiency of not receiving the Designation of Matter on July 17<sup>th</sup>, 2024, giving a deadline of 10 days to submit The Designation of Matter which was submitted by the given deadline, along with an Amended Initial Brief.

4. *The Respondent states that the Appellant's Legal Arguments lack case law, statutory law, and arguments supporting this appeal.*

The Appellant's initial brief was inclusive of case law and has been amended to include more statutory law even though there is no limit in law indicating how many cases of law or statutory law have to be included in the Initial Brief.

5. *The Respondent indicated that the Appellant's Initial Brief fails to reference the record.*

The Amended Brief which has already been submitted for filing does contain the reference of record.

6. *The Respondent indicated that Appellant failed to file a designation of matter to be included in the record on appeal.*

This was noted by the Appeals Court Clerk and a Statement of Deficiency was sent out to the Appellant to which the Appellant submitted all the necessary changes prior to the given deadline.

The Respondent gave an alternative to stating that the Court should issue an order directing the Appellate to resubmit her Initial Brief and Designation of Matter. The Appellant

has already submitted both the Amended Initial Brief and the Designation of Matter to the Court of Appeals for filing.

For all the foregoing reasons, inclusive of the Respondent's admission in writing of Ex Parte communications with the clerk and Judge of the Circuit Court in her Motion to Dismiss this Motion for Dismissal should be denied and the ruling of the Circuit Court should be reversed in favor of the Appellant. The Respondent admittedly acted in misconduct by communicating with the Clerk and the Judge of the Circuit Court in regard to the judgment order and because the Respondent is represented by Counsel, it is perceived to be intentional since Counsel is aware of the law concerning Ex Parte communications and the actions taken by contacting and requesting signatures on Orders without the Appellant's knowledge is an act where the Respondent made efforts to circumvent the law. (*"SC Rule 2,9 (A) A judge shall not initiate, permit, or consider ex parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter ..."*)

The Respondent and the Counsel for the Respondent acted egregiously in that they intentionally committed and act of omission in contacting Judge Gibbons (as noted in Respondent's Motion For Dismissal) without including the Appellant on any communications prior to the contact, nor after the contact was made.

Also, it is noted that the rationale for the Summary Judgment that the Respondent used to request dismissal was based on the Appellant's failure to file the necessary paperwork in a within the framework of the law. The same holds true for the Respondent. The Respondent failed to meet the mandate of the court and therefore the Respondent's order for Summary Judgment is nullified and should not be granted.

The Respondent continues to say that the Appellant did not object to Respondent's request for discovery. Whereas objections were listed in writing in the document the court allowed the Appellant to give to the court and to the Respondent's Counsel. All objections were listed and notarized. (Notarized list of Objections included in the Designation of Matter.)

The Respondent requested Summary Judgment based on her memorandum in support of Summary Judgment which did not include all the contracts in question. They were not a part of her request for Summary Judgment which was the basis for the Judges ruling and based on the Court issuing Summary Judgment in light of a questionable criminal act of extortion, it is perceived that only the Respondent's motion for Summary Judgment was considered and because the contract addendum and the extortion issue were not a part of the request for Summary Judgment, it was not considered.

The Respondent argues that the fourth issue of the criminal act of extortion was baseless and highly improper because the Circuit Court would not have had jurisdiction to rule on whether a criminal act of extortion occurred. Based on the Respondent's response, it can be concluded and validated that the case should not have been ruled based on Summary Judgment because the Circuit Court did not have the authority to grant a Summary Judgment on all the causes involved. Therefore, a Summary Judgment should not have been granted. The Appellant requested a jury trial on her complaint and summons to the court.

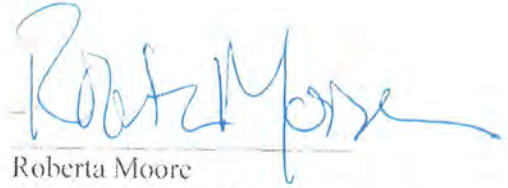
The Appellant has Amended her Initial Brief and presented relevant law and authority to support her arguments.

## CONCLUSION

For the foregoing reasons, Appellant respectfully requests that this Motion For Dismissal be denied and the ruling of the Circuit Court be overturned based on the Respondent subverting and attempting to circumvent the judicial system. The Appellant is asking the courts to rule for the Respondent to -

1. Buy the Appellant out of the home. Based on legality, the house was illegally financed because the Respondent had a mortgage on it at the time of purchase (9 years ago) and set up a mortgage contract with the Appellant (as reflected in Real Estate Contract for Sale, Promissory Note For Sale, Agreement To Buy and Sale Real Estate, Promissory Note For Sale, and Addendum To Prior Contracts Noting Foreclosure Procedure – all of which are a part of the Designation of Matter), which was not lawful according to the Dodd-Frank Act and the Respondent refused to provide the necessary information for refinancing, therefore the Appellant is requesting that the Respondent refund all monies paid into the house along with the equity which has accumulated in the house over the last 9 years.
- 2) The Appellant is requesting that the decision of the Circuit Court be overturned.
- 3) The Appellant is requesting that the court proceed with the process of sending the case to the appropriate court for the charges of extortion to be heard and ruled upon.

Respectfully submitted this 29<sup>th</sup> Day of July, 2024.



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
[RLMOORE413@GMAIL.COM](mailto:RLMOORE413@GMAIL.COM)  
(803) 524-1842  
Appellant

**RECEIVED**

**Jul 29 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, #2168 Circuit Court Judge

Appellate Case No. 2024-000557

Amended Initial Brief Of Appellant, Letter Regarding  
Ex Parte Communications, & Response To  
Respondent's Motion To Dismiss

Roberta Moore,

Appellant,

v.

Rebecca Giesler,

Respondent.

PROOF OF SERVICE

I certify that I have served the Initial Brief Of Appellant on Rebecca Giesler by depositing a copy of it in the United States Priority Mail, postage prepaid, on July 29th, 2024, addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732, as well as, copied her attorney of record on paperwork submitted electronically to Court of Appeals on July 29th, 2024.

July 4th, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842  
Appellant

RECEIVED

Jul 29 2024

SC Court of Appeals

AMENDED INITIAL BRIEF OF APPELLANT

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

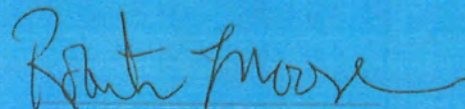
Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,

v.

Rebecca Giesler, ..... Respondent.

AMENDED INITIAL BRIEF OF APPELLANT



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

**AMENDED INITIAL BRIEF OF APPELLANT**

THE STATE OF SOUTH CAROLINA  
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APPEAL FROM LANCASTER COUNTY  
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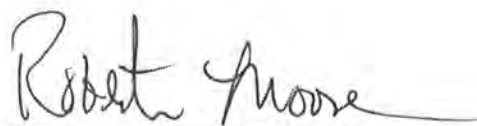
Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant.

v.

Rebecca Giesler, ..... Respondent.

**REVISED INITIAL BRIEF OF APPELLANT**



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

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STATEMENT OF ISSUES ON APPEAL

1. DID THE TRIAL COURT ERR IN GRANTING SUMMARY JUDGMENT ON MARCH 8<sup>TH</sup>, 2024 WHEN COUR CASE CONTINUED BASED ON JUDGE'S DISPOSITION ON JULY 25, 2023 FOR REASONABLE EVIDENCE TO PROVE BREACH OF CONTRACT ACCOMPANIED BY FRAUDULENT ACT?
2. BASED ON COURT RULES AND PROCEDURES, COUNSEL FOR THE RESPONDENT FAILED TO MEET COURT ORDERED TIMELINE FOR FILING FINAL PAPERWORK, WHICH IN ESSENCE IS THE SAME REASON SHE WAS GRANTED SUMMARY JUDGEMENT.
3. DID THE JUDGE ERR IN GRANTING SUMMARY JUDGMENT WHEN THE RESPONDENT FAILED TO INCLUDE ALL LEGAL CONTRACTS IN QUESTION THAT WERE A PART OF THE COURT FILING IN HER REQUEST FOR SUMMARY JUDGMENT?
4. DID COUNSEL ERR IN FORMAL PAPERWORK SUBMITTED WHERE SHE INDICATED THAT THERE WERE NO OBJECTIONS IN COURT WHEN A LIST OF NOTARIZED OBJECTIONS WERE GIVEN TO HER AND THE COURT AT THE

TIME OF THE PROCEEDING? ALL INTERROGATORIES THAT WERE ASKED AND ANSWERED IN WRITING WERE ALL A PART OF PUBLIC RECORD AND HAD BEEN SUPPLIED TO THE RESPONDENT PREVIOUSLY AND WAS UNNECESSARY AND DUPLICATIVE.

### STATEMENT OF THE CASE

This is an action against Respondent, Rebecca Giesler for relief sought in for Breach of Contract and Breach of Contract accompanied by a Fraudulent Act. The circuit court granted the Respondent's motion to dismiss based on failure to respond to interrogatories. Appellant seeks reversal of the judgment in that the Interrogatories Request was duplicative in nature and the Respondent already had all of the documentation which had been provided previously. Also, the Respondent was given a written list of objections by the permission of the court which was notarized. (List provided to The Honorable Judge Brian Gibbons, Respondent's Legal Counsel, and included in Designation of Matter)

On April 24<sup>th</sup>, 2023, the Appellant initiated an action against the Respondent in regards to the binding mortgage agreement for sale of real estate property namely a "Real Estate Contract of Sale", "Promissory Note For Sale", "Agreement To Buy and Sell Real Estate Residential", and "Addendum to Prior Contract Which Included The Steps of Foreclosure" (all of which are a part of the Lancaster County Public Index and also included in the Designation of Matter). The

Appellant then filed and amended complaint against the Respondent on June 8<sup>th</sup>, 2023 indicating 8 causes of action.

On June 19<sup>th</sup>, 2023 the Respondent filed a Motion to Dismiss which went before the Honorable Judge Gibbons on July 24<sup>th</sup>, 2023. At which time the motion was taken under advisement and partially granted with the exception of two cause of action. Those actions were Breach of Contract and Breach of Contract accompanied by a fraudulent act. *(Form 4, Electronically Filed July 25, 2024)*

On February 12<sup>th</sup>, 2024 another Motion to Dismiss was heard by the Honorable Judge Gibbons. At that time the Respondent's counsel and The Honorable Judge Gibbons was given a written list of objections to the Respondent's Interrogatories which the lack thereof was the basis for the request for dismissal.

On March 5<sup>th</sup>, 2024, the judge granted a motion for summary judgement with the stipulation for the Respondent to prepare a formal order with 10 days. The Respondent failed to meet the timeline mandated by the court. *(Form 4, Electronically Filed March 5<sup>th</sup>, 2024 included in Designation of Matter)*

Not only did the Respondent fail to meet the court mandate. Also, there was still fraudulent actions that were still in question pending that needed to be ruled on. *(Form 4, Electronically Filed July 25<sup>th</sup>, 2024 included in Designation of Matter)*

## ARGUMENTS

S.C. App. Ct. R. 3.4

*"A lawyer shall not:*

*(a) unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;*

*(b) falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;*

*(c) knowingly disobey an obligation under the rules of a tribunal, except for an open refusal based on an assertion that no valid obligation exists;*

*(d) in pretrial procedure, make a frivolous discovery request or fail to make a reasonably diligent effort to comply with a legally proper discovery request by an opposing party;"*

In this case, the Respondent concealed the contractual agreement that was signed by all parties and relative to foreclosure procedures for the property. (*Exhibit D – Addendum to Prior Contracts*)

SC Code § 16-17-640 (2012)

*"Any person who verbally or by printing or writing or by electronic communications:*

*(1) accuses another of a crime or offense; (2) exposes or publishes any of another's personal or business acts, infirmities, or failings; or (3) compels any person to do any act, or to refrain from doing any lawful act, against his will; with intent to extort money or any other thing of value from any person, or attempts or threatens to do any of such acts, with the intent to extort money or any other thing of value, shall be guilty of blackmail and, upon conviction, shall be fined not more than five thousand dollars or imprisoned for not more than ten years, or both, in the discretion of the court."*

In this case, the Respondent and her legal counsel both put in writing letters of demand giving the ultimatum of paying over \$100,000 more than the contracted amount for the home or being forced to leave. *(Correspondence Pg 1 and P4, included in the Designation of Matter)*

SC Code § 16-13-240

*"A person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty of a:*

*(1) felony and, upon conviction, must be fined not more than five hundred dollars and imprisoned not more than ten years if the value of the property is ten thousand dollars or more;*

*(2) felony and, upon conviction, must be fined in the discretion of the court or imprisoned not more than five years if the value of the property is more than two thousand dollars but less than ten thousand dollars;*

*(3) misdemeanor triable in magistrates court or municipal court, notwithstanding the provisions of Sections 22-3-540, 22-3-545, 22-3-550, and 14-25-65, if the value of the property is two thousand dollars or less. Upon conviction, the person must be fined not more than one thousand dollars, or imprisoned not more than thirty days."*

In this case the Respondent sought to defraud Appellate by trying to force a new Purchase Agreement on her with the threat of losing home if she did not sign. *(Correspondence Pg 1 and Correspondence Pg 4 included in the Designation of Matter.)*

SC Code § 32-3-10

*"Agreements required to be in writing and signed."*

In this case all agreements were in writing and signed by all parties. Yet Respondent is not disclosing in Motion to Dismiss, Addendum to Contract, Foreclosure Procedure. *(Exhibit D included in the Designation of Matter)*

SC Code § 39-5-10 (2023)

*"Trade" and "commerce" shall include the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.*

The Respondent entered a binding Real Estate Contract for Real Estate Property which at the time of contract, it still had a mortgage lien on it which was unlawful and constitutes an unfair trade practice. *(Transcript Dated July 24<sup>th</sup>, 2023, violates Dodd-Frank Act, Page 10, lines 5-23 included in the Designation of Matter)*

SC Code § 37-22-110

**SECTION 37-22-110**

*(2) "Act as a mortgage lender" means to engage in the business of making or servicing a mortgage loan for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, including soliciting, processing, placing, or negotiating a mortgage loan.*

The Respondent acted as a Mortgage Lender which based on the law, because there was an outstanding lien against the house at the time of mortgage, it was unlawful for her to do so.

Dodd Frank Act

*"If the loan will be secured by a property that the borrower will use for residential purposes, then the person who arranges the loan is defined as a "loan originator," and must have a mortgage originator license. Seller-financers must be licensed mortgage*

*originators unless they qualify for one of the two exceptions, which will be discussed below."*

Respondent originating loan and was not a licensed mortgage originator when mortgage contract was originated. This hindered the process of getting Appellant's name on the deed in order for taxes to be reduced and billed to the Appellant. *(Transcript Dated July 24<sup>th</sup>, 2023, page 10, lines 5-19 included in the Designation of Matter)*

#### Penal Code 523

*Penal Code 523 PC addresses extortion by sending a letter that threatens*

- *to injure the person,*
- *to accuse the person of a crime, or*
- *to reveal a damaging secret about the person.*

The Respondent and the Respondent's counsel both sent threatening letters which fall in line with the rules governing extortion because of the demand to pay approximately \$90,000 more for the property. *(Correspondence 1 and Correspondence 4 from Respondent and Respondent's legal counsel.)*

#### SC Rule 26

*"The frequency or intent of use of discovery methods set forth in subdivision (a) shall be limited by the court if it determines that: (i) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (ii) the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought;"*

The interrogatories for which the case was dismissed were duplicative. All documents requested had already been provided and were part of the Public Index. Some of which were a

part of Respondent's filings. (Transcript from February 12<sup>th</sup>, 2024, page 6 – line 25, and page 7 lines 1-3)

SC Rule 56

*“(d) Case Not Fully Adjudicated on Motion. If on motion under this rule judgment is not rendered upon the whole case or for all the relief asked and a trial is necessary, the court at the hearing of the motion, by examining the pleadings and the evidence before it and by interrogating counsel, shall if practicable ascertain what material facts exist without substantial controversy and what material facts are actually and in good faith controverted. It may thereupon make an order specifying the facts that appear without substantial controversy, including the extent to which the amount of damages or other relief is not in controversy, and directing such further proceedings in the action as are just. Upon the trial of the action the facts so specified shall be deemed established, and the trial shall be conducted accordingly.”*

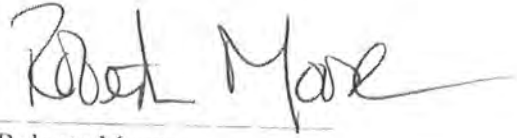
Respondent should not have been entitled to a summary judgment because there was a genuine issue related to Breach of Contract with A Fraudulent Act in which the Appellant was entitled to judgment.

#### CONCLUSION

For the reasons stated along with the fact that the Respondent's Counsel contacted the Honorable Judge Brian Gibbons and the Clerk of Circuit Court Ex Parte, this Court should reverse the judgment of the Circuit Court and this case should be ruled in favor of the Appellant. The Respondent also indicated that the Honorable Judge Brian Gibbons signed a new order but Appellant was never notified about a new order being sent over to him nor it being signed.

July 29, 2024

Respectfully submitted,

A handwritten signature in black ink that reads "Roberta Moore". The signature is written in a cursive style with a long horizontal flourish extending to the right.

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, SC 29707  
(803) 524-1842  
Appellant

**RECEIVED**

**Jul 29 2024**

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant,  
v.  
Rebecca Giesler, ..... Respondent.

PROOF OF SERVICE

I certify that I have served the REVISED INITIAL BRIEF on Rebecca Giesler by depositing a copy of it in the United States Priority Mail, postage prepaid on July 29<sup>th</sup>, 2024 addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732.

July 29, 2024

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

**RECEIVED**

**Jul 26 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

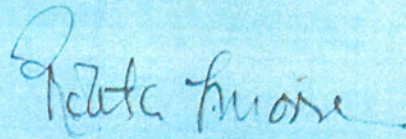
Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant.

v.

Rebecca Giesler, ..... Respondent.

REVISED INITIAL BRIEF OF APPELLANT  
WHICH INCLUDES DESIGNATION OF MATTER



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

**RECEIVED**

**Jul 26 2024**

**SC Court of Appeals**

**DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore..... Appellant,

v.

Rebecca Giesler..... Respondent,

**DESIGNATION OF MATTER TO BE  
INCLUDED IN THE RECORD ON APPEAL**

Appellant proposes the following be included in the Record on Appeal:

1. Order of July 25, 2023;
2. Order of February 12, 2024;
3. Order of March 5, 2024;
4. Complaint;
5. Response To Interrogatories Provided To Judge and Council In Court  
Listing All Objections
6. Transcript of Proceedings from July 24, 2023, pp. 1-20 and Transcript of  
Proceedings from February 12, 2024, pp 2-7
7. E-mail From Respondent Dated 1/29/2023
8. Additional Correspondence Pages 1-5
9. Notarized Statement Regarding Mortgage Payments
10. Defendant's Exhibits A, B, C, and D.

I certify that this designation contains no matter which is irrelevant to this appeal.

A handwritten signature in cursive script that reads "Roberta Moore". The signature is written in black ink and is positioned above a horizontal line.

Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

FORM 4

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2023CP2900493

Roberta Moore  
PLAINTIFF(S)

Rebecca Giesler  
DEFENDANT(S)

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.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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:

After further review and deliberation, the court GRANTS Defendant's motion to dismiss for the following causes of action: violation of the South Carolina Unfair Trade Practices Act (SCUTPA), invasion of privacy, negligence, gross negligence, intentional infliction of emotional distress, and negligent infliction of emotional distress.

The Court respectfully DENIES Defendants motion to dismiss as to the causes of action for breach of contract and breach of contract accompanied by a fraudulent act. As such, the case shall go forward on these causes of action at this time.

Attorney Cloud shall prepare and submit a more formal order for the Court within 10 days using language consistent with her legal arguments and memoranda.

Plaintiff is further encouraged to retain an attorney to represent her interests. It is so ordered.

ORDER INFORMATION

This order  ends  does not end the case.  See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/25/2023

Roberta Moore for Roberta Moore  
Rebecca Giesler for Rebecca Giesler  
Rebecca Giesler for Rebecca Giesler  
Roberta Moore for Roberta Moore

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Roberta Moore  
PLAINTIFF(S)

Rebecca Giesler  
DEFENDANT(S)

**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.
- 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
- STAYED DUE TO BANKRUPTCY**
- 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:

The court issued a form 4 on 7/25/2023 granting dismissal of several causes of action in this matter. The order incorrectly stated that it ended the case, however, that is incorrect as it was a scrivener's error.

The breach of contract and breach of contract accompanied by a fraudulent act causes of action are not dismissed.

**ORDER INFORMATION**

This order  ends  does not end the case

See Page 2 for additional information

**For Clerk of Court Office Use Only**

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 01/08/2024

Roberta Moore for Roberta Moore  
Rebecca Giesler for Rebecca Giesler  
Rebecca Giesler for Rebecca Giesler  
Roberta Moore for Roberta Moore

**NAMES OF TRADITIONAL FILERS SERVED BY MAIL**

RECEIVED

APR 26 2024

SC Court of Appeals

Roberta Moore  
PLAINTIFF(S)

Rebecca Giesler  
DEFENDANT(S)

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.
- ACTION DISMISSED (CHECK REASON):  Rule 12(b), SCRCP;  Rule 41(a), SCRCP (Vol. Nonsuit);  Rule 45(k), SCRCP (Settled);  Other
- ACTION STRICKEN (CHECK REASON):  Rule 40(j), SCRCP;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED DUE TO BANKRUPTCY
- 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:

Motion for Summary Judgment GRANTED.

Attorney for Defendant shall prepare a more formal order within 10 days consistent with her arguments and pleadings.

ORDER INFORMATION

This order  ends  does not end the case.

See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 03/05/2024.

Roberta Moore for Roberta Moore  
Rebecca Giesler for Rebecca Giesler  
Rebecca Giesler for Rebecca Giesler  
Roberta Moore for Roberta Moore

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2024 Mar 05 12:10 PM - LANCASTER - COMMON PLEAS - CASE#2023CP2900493

STATE OF SOUTH CAROLINA

COUNTY OF LANCASTER

Roberta Moore,

Plaintiff,

vs.

Rebecca Giesler,

Defendant.

COURT IN THE COURT OF COMMON PLEAS

SIXTH JUDICIAL CIRCUIT

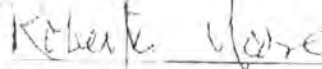
CASE No. 2023-CP-29-00497

**AMENDED SUMMONS**

(Jury Trial Demanded)

**TO THE DEFENDANT NAMED ABOVE BY AND THROUGH HER ATTORNEY  
OF RECORD, JENNIFER M. CLOUD, ESQ.:**

A lawsuit has been filed against you. Within fifteen days (twenty days, if served by mail or through a person designated by statute to accept service) after service of this Amended Summons on you (not counting the day you receive it), you must file with the court and serve on the Plaintiff an answer to the attached Amended Complaint or a motion under Rule 12 of the South Carolina Rules of Civil Procedure, unless the Court otherwise orders. If you fail to do so, judgment by default will be entered against you for the relief demanded in the Amended Complaint.



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
RLMoore#13@gmail.com (Email)  
803-524-1842 (Telephone)  
**PLAINTIFF, PRO SE**

Indian Land, South Carolina

June 8, 2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF LANCASTER	)	SIXTH JUDICIAL CIRCUIT
Roberta Moore,	)	CASE No. 2023-CP-29-00493
Plaintiff,	)	
vs.	)	
Rebecca Giesler,	)	<b><u>AMENDED COMPLAINT</u></b>
Defendant.	)	(Jury Trial Demanded)

The Plaintiff, Roberta Moore ("Plaintiff"), initiated this action against the Defendant, Rebecca Giesler ("Defendant"), by filing the original Summons and Complaint on April 24, 2023. Having been properly served with the original Summons and Complaint, Defendant filed a Motion to Dismiss; Answer and Counterclaim on May 7, 2023. Defendant's Motion to Dismiss; Answer and Counterclaim was served upon Plaintiff on May 10, 2023.

Pursuant to Rule 15(a), SCRPC, Plaintiff hereby amends her original pleading, as a matter of course, based on the allegations set forth below.

**PARTIES**

1. Plaintiff is a citizen and resident of Indian Land, Lancaster County, South Carolina.
2. Upon information and belief, Defendant is a citizen and resident of Fort Mill, York County, South Carolina.

**JURISDICTION AND VENUE**

3. This Court has subject-matter jurisdiction over the claims in this lawsuit under article V § 11 of the South Carolina Constitution and South Carolina Code § 14-5-350.

4. This Court has personal jurisdiction over Defendant because, upon information and belief, she is a citizen and resident of York County, South Carolina.

5. Venue is proper in this circuit under South Carolina Code § 15-7-30 because the most substantial part of the alleged act(s) and omission(s) giving rise to the cause(s) of action in this matter occurred in Lancaster County, South Carolina.

### FACTS

6. On or about July 27, 2015 Plaintiff and Alexis Moore entered into a binding mortgage agreement for the sale of real estate property namely an "Real Estate Contract of Sale" Exhibit A, "Promissory Note For Sale" Exhibit B, "Agreement To Buy and Sell Real Estate Residential" Exhibit C.

7. On December 8, 2016 Plaintiff, Alexis Moore, and Defendant signed "Addendum to Prior Contracts" addressing corrections to prior contracts and outlining "Steps of Foreclosure" for mortgage, Exhibit D.

8. On or about January 27, 2023, the Defendant acted with the Intentional Infliction of Emotional Distress with the intent to blackmail by giving the Plaintiff an ultimatum to tear up and to sign a new contract agreement in the amount of \$349,999 or was told home would be sold as is and was given the deadline of February 3, 2023 to respond. Pursuant SC law Section 16-17-640, Defendant acted with the ill intention of receiving monetary gain for the property in excess of \$89,000 over the contracted purchase price of the home.

9. On or about March 13, 2023, the Defendant again acted with Intentional Infliction of Emotional Distress in that the Plaintiff received communication from Attorney Jennifer Cloud

indicating a secured loan for \$349,000 needed to be secured or property would need to be vacated by May 1, 2023. Pursuant SC law Section 16-17-640, Defendant acted with the ill intention of receiving monetary gain for the property in excess of \$89,000 over the contracted purchase price of the home. Plaintiff also acted in bad faith in failing to honor the procedure outlined in signed "Addendum to Prior Contracts" which addresses the "Steps of Foreclosure". Exhibit D

10. There was a Breach of Good Faith and Fair Dealing along with Negligence when the Defendant failed to do what was required in order for the Plaintiff to assume tax payments for the property as per the Promissory Note and agreement. The Plaintiff was to get personal property taxes changed over to Plaintiff name in order for Plaintiff to be responsible for paying taxes on the dwelling. Plaintiff acted in good faith and did due diligence by going to the tax office to get billing changed and sent in Plaintiff's name. The County tax office requested "Bond For Title" from the Defendant in order for taxes to be billed to Plaintiff. The Defendant failed to act in good faith and fair dealing and never provided the Bond For Title to the County and therefore the Plaintiff has never received any tax bills from the County to be paid based on Defendant's negligence and failure to follow-through with County Tax Office request.

11. Defendant acted with ill intentions and negligence. Agreement was made with Defendant to pay outstanding arrears along with what the Defendant indicated was back taxes without any documentation nor bill validation along with getting house refinanced. Defendant willfully and intentionally withheld mortgage history and payment records which was requested by the Plaintiff and SC Home Rescue Program in order for arrears and taxes to be paid in full with the intent of impeding the process of what she was informed to be the necessary paperwork for loan approvals. Defendant willfully and intentionally withheld necessary documentation for payments to be paid by the SC Home Rescue Program and impeded the process of loan verification

that the Plaintiff repeatedly informed the Defendant was needed to get approved for mortgage refinancing.

12. Defendant did not act in Good Faith and Fair Dealing. Defendant impeded the process of mortgage refinancing and acted with ill intent by not providing the Plaintiff mortgage history and payment records necessary to get home refinanced along with withholding of 1098 mortgage interest tax document which has been provided every year for tax purposes well past government regulated deadline. Failure to provide the necessary documents for mortgage approval has caused substantial injury in that it jeopardizes the well-being of the Plaintiff and her family by putting them at risk of being homeless. The Defendant has acted in a deceptive practice and bad faith by reason of omission by intentionally failing to provide necessary mortgage payment statements and failure to respond to repeated requests that was necessary for loan approvals.

13. Defendant participated in civil conspiracy as the Defendant acted with coercion and negligence by sharing Plaintiff's personal financial information with Third Party, namely Michael Furlick. Michael Furlick is not a party of the signed contracts and no permission was granted by the Plaintiff to expose any of Defendant's personal loan information in relation to the confidential binding contracts or the status of the contract with Michael Furlick. The only permission that was granted to Defendant was granted in regards to sharing of mortgage payment history was granted for payment history to be shared with the SC Home Rescue Program in order for any arrears to be paid to Defendant through the SC Home Rescue Program which the Defendant willfully and intentionally failed to do. Defendant had no rights to communicate personal financial information or any to Michael Furlick which in turned led to Michael Furlick badgering and

harassing Plaintiff concerning mortgage agreement between Plaintiff and Defendant to which Defendant was a party.

14. Plaintiff hereby requests a settlement of no less than \$389,000. Settlement is comprised of monies paid into home from inception of contract which includes down payment according to "Promissory Note For Sale" in the amount of \$9,500, monthly payments which total as of the end of May 2023 the amount \$179,579.94, and partial equity of house based on purchase price of \$260,000 with balance of mortgage due being less than \$242,000 and property comp report currently valuing the home range up to \$567,000. Plaintiff's request is based on breach of good faith and fair dealing along with fraud and blackmail attempt according to SC Law Code 16-17-640.

15. As such, Plaintiff is informed and believes that Defendant's act(s) and omission(s) being complained of herein have caused her substantial damages, economic losses, and emotional distress.

16. Plaintiff is entitled to recover these substantial damages from Defendant, along with punitive damages, attorney's fees, costs, and other relief available to her.

**FIRST CAUSE OF ACTION**

**(Violation of the South Carolina Unfair Trade Practices Act: S.C. Code Ann. §§ 39-5-10, *et seq.*)**

17. Plaintiff herein incorporates by reference and restates all prior allegations of this Amended Complaint.

18. In failing and/or refusing to provide financial payment mortgage payment statement, Defendant used and/or employed unfair methods of competition or unfair or deceptive acts or practices within the meaning of S.C. Code Ann. § 39-5-20.

19. Defendant further used and/or employed unfair methods of competition or unfair or deceptive acts or practices within the meaning of S.C. Code Ann. § 39-5-20 when failing to provide requested information and documentation regarding Plaintiff's mortgage with any outstanding payments as requested by the SC Home Rescue Program.

20. Furthermore, Defendant used and/or employed unfair methods of competition or unfair or deceptive acts or practices within the meaning of S.C. Code Ann. § 39-5-20 when failing to do Bond for Title in order for Plaintiff to receive tax bills in order to pay personal property tax on the home, as described above.

21. As a result of Defendant's use and/or employment of an unfair or deceptive method, act, or practice within the meaning of S.C. Code Ann. § 39-5-20, Plaintiff has suffered and will continue to suffer ascertainable losses of money and/or property in an amount to be determined at trial, but no less than \$389,000.

22. Upon information and belief, Defendant's use and/or employment of the unfair or deceptive method, act(s), or practice(s) being herein complained of constituted a willful or knowing violation of S.C. Code Ann. § 39-5-20. As such, Plaintiff is entitled to three (3) times the actual damages sustained by Plaintiff, plus such other relief as this Court or the jury would deem necessary and proper.

23. Additionally, Plaintiff is entitled to recover reasonable attorney's fees and costs incurred in connection with this action.

**SECOND CAUSE OF ACTION**  
**(Breach of Contract)**

24. Plaintiff herein incorporates by reference and restates all prior allegations of this Amended Complaint

25. The above-described Contract "Real Estate Contract of Sale" Exhibit A, "Promissory Note For Sale" Exhibit B, "Agreement To Buy and Sell Real Estate Residential" Exhibit C, and "Steps Of Foreclosure" Exhibit D

26. Defendant breached the Contract by failing and/or refusing to get Bond For Title submitted to County Of Lancaster Property Tax Office for tax bill purposes and failed to act in good faith in providing mortgage payment statements for refinancing of property.

27. In so doing, Defendant also breached the implied covenant of good faith and fair dealing.

28. Defendant's breach has caused Plaintiff substantial economic damages and other consequential damages to be shown at trial.

29. As such, Plaintiff is entitled to all of her actual and consequential damages suffered as a direct and proximate result of Defendant's breach.

**THIRD CAUSE OF ACTION**  
**(Breach of Contract Accompanied by a Fraudulent Act)**

30. Plaintiff herein incorporates by reference and restates all prior allegations of this Complaint.

31. The above-described Contract "Real Estate Contract of Sale" Exhibit A, "Promissory Note For Sale" Exhibit B, "Agreement To Buy and Sell Real Estate Residential" Exhibit C, and and "Steps Of Foreclosure" Exhibit D.

32. Defendant breached the Contract by failing and/or refusing to perform its contractual duties. More specifically, Defendant failed to get Bond For Title, as described above,

Further, Defendant failed or refused to provide documentation for loan approval from SC Home Rescue Program and for Mortgage Refinancing.

33. Defendant breached contract by failing to honor the steps specified in the "Steps of Foreclosure" and making a demand for a new contract to be signed in excess of \$89,000 above the property purchase price which falls in line with South Carolina law Section 16-17-640 which constitutes blackmail/extortion by demanding the Plaintiff pay more for the already contracted home or threatening the Plaintiff with the possibility of homelessness for the Plaintiff and her family

34. In so doing, Defendant also breached the implied covenant of good faith and fair dealing.

35. Defendant's breach was accomplished with a fraudulent intention to the extent that Defendant had made promises that she knew or should have known would not be fulfilled.

36. Upon information and belief, Defendant's breach was accompanied by a fraudulent act in that her actions and conduct surrounding its breach—including her failure or refusal to provide mortgage payment statements and tax documents for refinancing—could be well characterized by dishonesty in fact, unfair dealing, and/or unlawful appropriation of Plaintiff's performance of her contractual duties by design.

37. Upon information and belief, Defendant acted with malice, fraudulent intent, and/or knowledge of unfair dealing.

38. As a direct and proximate result of Defendant's breach accompanied by a fraudulent act, Plaintiff has suffered substantial economic damages and other consequential damages to be shown at trial.

39. As such, Plaintiff is entitled to all of her actual and consequential damages suffered as a direct and proximate result of Defendant's breach accompanied by a fraudulent act.

with Plaintiff by sharing confidential financial information and personal contact information without authorization and without any legal pending action.

54. In failing or refusing intentionally and consciously to exercise the care which it was incumbent upon her to exercise and/or in engaging intentionally in an activity that it ought not to engage, Defendant failed to exercise the slight care that was necessary under the circumstances.

55. As a direct and proximate result and consequence of Defendant's negligence, carelessness, recklessness, willfulness, and/or wantonness (in the failure to secure Bond For Title, failure to send Payment Statements, and failure to send tax documents along with breaching her confidential relationship with Plaintiff by sharing confidential financial information and personal contact information, Plaintiff has sustained substantial economic and other damages, as shall be shown at trial.

56. Thus, Plaintiff is entitled to all actual damages as may be proven and is entitled to an award of punitive damages.

**SEVENTH CAUSE OF ACTION**  
**(Intentional Infliction of Emotional Distress)**

57. Plaintiff incorporates by reference and restates all prior allegations of this Amended Complaint.

58. Defendant acted in bad faith and a reckless manner by threatening and giving the Plaintiff an ultimatum to tear up and to sign a new contract agreement in the amount of \$349,999 or was told home would be sold as is and was given the deadline of February 3, 2023 to respond. Pursuant SC law Section 16-17-640, Defendant acted with the ill intention of receiving monetary gain for the property in excess of \$89,000 over the contracted purchase price of the home while

imposing a threat of homelessness on Plaintiff and family without going through the "Steps Of Foreclosure", Exhibit D that is a part of the signed agreement.

59. Defendant acted in bad faith by not responding to Plaintiff's requests for Mortgage Payment Statements, Tax Documents, in order for any the house to be refinanced.

60. Defendant acted in bad faith by not providing "Bond For Title" in order for Plaintiff to receive tax bills for property.

61. Thus, Plaintiff is entitled to all actual damages as may be proven and is entitled to an award of punitive damages.

**EIGHTH CAUSE OF ACTION**  
**(Negligent Infliction of Emotional Distress)**

62. Plaintiff incorporates by reference and restates all prior allegations of this Amended Complaint.

63. Defendant participated in the civil conspiracy and harassment along with 3rd Party namely Michael Furlick against Plaintiff and failed to interject and stop him from speaking on Defendant's behalf causing the Plaintiff to suffer embarrassment, harassment, stress, and overwhelming fear of losing her home leaving Plaintiff emotionally and physically stressed.

64. Defendant sent letter with the intent to extort/blackmail Plaintiff based on SC Law 16-17-640 demanding more than \$89,000 above the contracted amount for the sale of the property to the Plaintiff and in turn caused Plaintiff to be emotionally and physically stressed.

65. Defendant through negligence failed to do the Bond for Title as requested by the County of Lancaster Tax Office so that the Plaintiff could receive tax bills in order to pay property tax and Plaintiff has never been sent a tax bill since the inception of the signed contract indicating amount due or deadlines to pay. Defendant's negligence has caused Plaintiff to suffer emotional

distress based on the amount now due based on the negligence and failure of Defendant to get Bond for Title so Plaintiff could receive tax bills from county.

66. Thus, Plaintiff is entitled to all actual damages as may be proven and is entitled to an award of punitive damages.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that:

1. Judgment be entered in Plaintiff's favor and against Defendant.
2. Plaintiff be awarded actual damages, including the full sum paid by Plaintiff to Defendant to date and the additional costs necessary to rectify, remedy, and/or remediate such damaging results as have been caused by Defendant's conduct, actions, and/or omissions being complained of;
3. Plaintiff be awarded the treble damages, reasonable attorney's fees, and costs pursuant to the South Carolina Unfair Trade Practices Act;
4. Plaintiff be awarded consequential damages in an amount to be determined;
5. Plaintiff be awarded punitive damages.
6. Plaintiff be awarded pre-judgment interest in the amount to be determined at the legal rate;
7. Plaintiff be awarded reasonable attorney's and costs; and
8. Plaintiff be awarded such other and further relief as may be deemed just and proper by this Court and the jury.

Respectfully submitted this 8th day of June, 2023.



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
RLMoore413@gmail.com (Email)  
803-524-1842 (Telephone)  
**PLAINTIFF, PRO SE**

Indian Land, South Carolina

June 8, 2023



3. I object to each interrogatory to the extent that it calls for the disclosure of information outside the scope of the time, place, subject matter, and circumstances of the occurrences mentioned or complained of in the Complaint or Counterclaim against me.

**WITHOUT WAIVING THESE DEFENSES, I RESPOND AS FOLLOWS:**

1.

Object To Interrogatory. All contracts, addendums, e-mails, and texts were signed by and communicated between both parties. So defendant has access to all information

2.

There are no additional witnesses.

3.

There are no additional witnesses.

4.

Object To Interrogatory. All contracts, addendums, e-mails, and texts were signed by and communicated between both parties. So defendant has access to all information

5.

Object To Interrogatory. All contracts, addendums, e-mails, and texts were signed by and communicated between both parties. So defendant has access to all information

6.

Case law and case citations as identified on Amended Complaint but not limited to as other objections arise.

7. Object to interrogatory. Case is based on breach of contract and breach with fraudulent intent.

8.

Object to interrogatory. Case is based on breach of contract and breach with fraudulent intent.

9.

Defendant's actions included her failure to provide mortgage statements and necessary documents for loan approval and refinancing which is characterized by dishonesty and unfair dealing. Damages include inability to acquire necessary refinancing of mortgage loan based on the defendant's dishonesty and unfair dealings.

10.

Defendant's failure to provide necessary documents for mortgage refinance has caused economic loss in that Plaintiff is unable to refinance the house in order to receive the vested equity in the property.

11.

Defendant's failure to provide necessary documents for mortgage refinance has caused economic loss in that Plaintiff is unable to refinance the house in order to receive the vested equity in the property.

12.

Bond for Title steps was communicated in e-mail communication between Matthew Giesler and Plaintiff which Defendant has access to all e-mail communications.

13.

Defendant failed to provide mortgage statement for refinancing, Bond For Title, and failed to follow steps for foreclosure as per signed addendum.

14.

Details remain the same, Defendant breached contract by failing to honor specified steps of foreclosure as identified in addendum signed by both parties and instead attempted to extort \$89,000 above the contracted price for the home.

15.

The Defendant intentionally used the property to threaten me to either pay \$89,000 more for the property or to lose the property.

16.

The Defendant failed to fulfill the promises of the contract by failing to provide the information she knew was necessary for the Plaintiff to obtain financing for the property.

17.

The Defendant intended to extort money from the Plaintiff by making a demand to pay \$89,000 above the contracted amount for the house or be put out of the property. The Defendant also, entered into a mortgage loan with the Plaintiff while having a personal mortgage on the property.

18.

The Defendant acted with malice by deliberately and unlawfully trying to extort funds from Plaintiff and acted in unfair dealing by failing to provide the paperwork necessary for the Plaintiff to obtain financing.

19.

Although the Defendant was asked on many occasions to provide the paperwork necessary to obtain financing on the home, the Defendant willfully chose not to provide it in the timeframe needed and refused to give documentation that was necessary for financing.

20.

The contract outlines a provision that balloons the interest rate and payment if financing not obtained by August 31, 2020.

21.

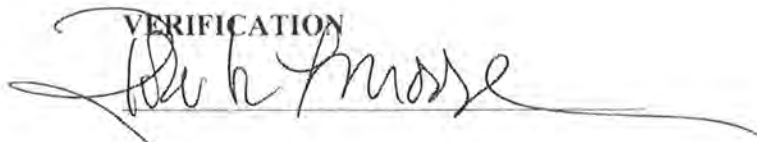
Object To Interrogatory. All contracts, addendums, e-mails, and texts were signed by and communicated between both parties. So defendant has access to all information.

Dated this 12 day of February, 2024.

Address/Phone/Email:

3194 Pine Bluff Way  
Indian Land, SC 29707  
803-524-1842

**VERIFICATION**



*Signature*

Roberta L. Moore

*Print Name*

Roberta Moore

Roberta L. Moore appeared before the undersigned officer, who is authorized to administer oaths, and said under oath that they have read the foregoing *Response to First Continuing Interrogatories*, and that the facts in it are true to the best of their knowledge and belief.

Bootsie Rochester  
Commission expires: 07/27/2033  
*Signature*



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RECEIVED  
Jun 04 2024  
SC Court of Appeals

STATE OF SOUTH CAROLINA  
COURT OF COMMON PLEAS  
COUNTY OF LANCASTER  
2023-CP-29-00493

Roberta Moore

Vs.

Rebecca Giesler

Lancaster, South Carolina

July 24, 2023

Before the Honorable Brian Gibbons

APPEARANCES

For the Plaintiff: Pro Se

For the Defendant: Jennifer Cloud

Reported by: Michael C. Watkins

Certified Court Reporter

1 THE COURT: All right. The last matter before the  
2 Court -- and, again, thank everybody for their patience --  
3 is Roberta Moore versus Rebecca Giesler, or Giesler. All  
4 right.

5 (Break in proceedings.)

6 THE COURT: This is a motion to dismiss on docket  
7 23-CP-29-493. And, again, as far as paperwork and arguments  
8 are concerned, y'all tailor them accordingly. I can read  
9 and everything that has been filed. I have seen the file in  
10 preparation, and I'm going to take the matter under  
11 advisement much like I have on pretty much everything I have  
12 this morning and further deliberate on whatever happens, but  
13 if y'all could hit the high points in your arguments I would  
14 appreciate it. And are you Ms. Cloud?

15 MS. CLOUD: I am, Your Honor.

16 THE COURT: All right. Ms. Cloud, it's your motion.  
17 You represent Miss -- is it Giesler or Giesler?

18 MS. CLOUD: Giesler.

19 THE COURT: You represent Ms. Giesler? All right. Let  
20 me hear from you then on your motion to dismiss, and then  
21 where is Ms. Moore?

22 MS. MOORE: That's me.

23 THE COURT: Hey, Ms. Moore, how are you? I'll hear  
24 from you then in your response, and in your response you can  
25 just sit right where you are and just speak into the

1 microphone. Okay?

2 MS. MOORE: Can I say one thing?

3 THE COURT: Yes, ma'am.

4 MS. MOORE: She did not serve me properly.

5 THE COURT: Okay. Ms. Cloud, do you disagree with  
6 that?

7 MS. CLOUD: I do.

8 THE COURT: All right. Let me see. The motion to --  
9 how did she not serve you properly with the motion to  
10 dismiss?

11 MS. MOORE: She didn't send anything -- well, she sent  
12 the notice of hearing by certified mail, but none of the  
13 other stuff, maybe one other thing by certified mail. But I  
14 don't see no affidavits or anything. She -- what she did  
15 was file electronically, and she put on the electronic thing  
16 putting in the mail, but --

17 THE COURT: Okay. All right. Well, I'll look at that  
18 when I review everything --

19 MS. MOORE: Okay.

20 THE COURT: -- and your position is contained in the  
21 record of the case, and I'll deal with it as we can go.  
22 Okay?

23 MS. CLOUD: Yes, Your Honor. And I --

24 THE COURT: All right. I'll hear from you then, Ms.  
25 Cloud.

1 MS. CLOUD: And then just on that, I have return  
2 receipts and the certified, so -- but --

3 THE COURT: All right. I'll look at it.

4 MS. CLOUD: Yes, Your Honor.

5 THE COURT: Yes, ma'am?

6 MS. CLOUD: All right. So Jennifer Cloud for the  
7 defendant. If it may please the Court?

8 THE COURT: Yes, ma'am.

9 MS. CLOUD: So this is the defendant's motion to  
10 dismiss. And so just very briefly, the facts of this case  
11 all hinge around breach of contract. So there have been two  
12 real estate contracts entered into, one promissory note, and  
13 there is a disputed addendum, which we won't bring up in  
14 this hearing. It's a seller financing transaction, and so  
15 the promissory note was seller financing, and so we are  
16 bringing a 12B6, and a 12B7 action. As you said, I will  
17 just kind of hit each action in our argument very briefly,  
18 and if you would like a little bit more explanation on any  
19 argument please just let me know.

20 THE COURT: Sure.

21 MS. CLOUD: So the first cause of action is under --  
22 they're alleging a violation of South Carolina Unfair Trade  
23 Practices Act. Case law has well settled that a breach of  
24 contract will not fall under this cause of action. Also,  
25 you must establish that there was an adverse impact on the

1 public interest. That is not here, it's a breach of  
2 contract claim in its heart, the -- of that cause of action,  
3 it's not here. There's no facts remotely to allege that.  
4 The next is a breach of contract in the amended complaint by  
5 the defendant (sic.) She states that the defendant breached  
6 the contract by failing to get bond for title. The  
7 plaintiff fails to identify what the contract is. She has  
8 it capitalized but it's not defined in any of her pleadings,  
9 so I'm -- we're not sure what contract she's saying is  
10 breached. There also is no supporting exhibits to show that  
11 anywhere says that she must get a bond for title, that the  
12 defendant must get a bond for title. And so, one, she has  
13 not alleged for facts for the existence of a contract, and  
14 so without that you can't really show a breach. She also  
15 has shown no damages, so there's no fact relating to any  
16 damages. For the third cause of action, which is breach of  
17 contract accompanied by a fraudulent act, again, we would  
18 state that she has not shown the existence of a contract,  
19 and/or she has not stated which contract she believed is  
20 breached. But as for this one under Rule 9B for anything  
21 with fraud you must plead it with particularity. The only  
22 alleged fact for particularity under this is in the amended  
23 complaint she states defendant breached the contract by  
24 failing and/or refusing to perform contractual duties.  
25 There is nothing at all alleging a fraud -- yeah, a

1 fraudulent act or anything of that nature. So we --

2 THE COURT: Well, let me ask you this, I don't want to  
3 steal the thunder from her argument, but I'm sure her  
4 argument is going to be something similar to this, I mean, a  
5 motion to dismiss, I simply look at the four corners of the  
6 paper. Isn't the four corners of the paper her pleadings,  
7 her amended pleadings, sufficient enough to get her past a  
8 hurdle of a motion to dismiss? Doesn't she have a --  
9 assuming her claims are true, which on a motion to dismiss I  
10 give her the benefit of the doubt, assuming that is true, is  
11 there a justiciable controversy that the plaintiff may be  
12 entitled to if she's allowed to pursue her case?

13 Understanding you have -- you and your client have the right  
14 to ultimately seek summary judgment, or get dismissal at a  
15 later time, but is there enough in her complaint that would  
16 survive a motion to dismiss?

17 MS. CLOUD: And, Your Honor, I don't believe so, not  
18 for some of these --

19 THE COURT: All right. Tell me why.

20 MS. CLOUD: Not for some of these cause of actions.  
21 The unfair trade practices, she alleges zero facts for that.  
22 She -- there is zero facts for negligent and emotional  
23 distress. There are zero facts for invasion of privacy.  
24 She doesn't even -- she says invasion of privacy is one big  
25 act, she doesn't --

1 THE COURT: So SCUTPA, emotional distress, invasion of  
2 privacy. What else?

3 MS. CLOUD: Negligence.

4 THE COURT: And this is a breach of contract action,  
5 not a negligence action.

6 MS. CLOUD: Yes, Your Honor.

7 THE COURT: Okay. What does she allege was -- I'm  
8 just -- I'm going to read everything, but what do you  
9 believe she fails to allege which would sustain her  
10 negligence action?

11 MS. CLOUD: A fiduciary duty to staff, and then the  
12 breach of that duty.

13 THE COURT: Okay.

14 MS. CLOUD: South Carolina has stated that there is not  
15 a duty between a creditor or debtor, mortgage servicing  
16 debtor, or between third parties who relationships arise  
17 through a lender or debtor, so there's no fiduciary duty  
18 there even if there was no breach. And she's also done  
19 gross negligence, so, of course, we would have the same  
20 exact argument. And then intentional infliction of  
21 emotional distress, the no reasonable man standard to endure  
22 it. No facts whatsoever that there's any type of damages  
23 like that. So -- and then let's see, the last infliction of  
24 emotional distress. So, Your Honor, we would --

25 THE COURT: All right. How many causes of action are

1 there?

2 MS. CLOUD: Eight.

3 THE COURT: All right. So negligent infliction of  
4 emotional distress. You believe that if this case proceeds  
5 it should only be on a breach of contract action.

6 MS. CLOUD: Yes, Your Honor.

7 THE COURT: And so you've alleged, one, two, three --  
8 SCUTPA, emotional distress, invasion of privacy, negligence,  
9 gross negligence, intentional infliction of emotional  
10 distress, and negligent infliction of emotional distress,  
11 that's a part of negligence, those seven should be  
12 dismissed, and this case should just focus on the alleged  
13 breach of contract.

14 MS. CLOUD: Yes, Your Honor.

15 THE COURT: Okay. And did she sue for breach of  
16 contract accompanied by a fraudulent act?

17 MS. CLOUD: I'm sorry?

18 THE COURT: Did she sue for breach of contract  
19 accompanied by a fraudulent act --

20 MS. CLOUD: She has, yes.

21 THE COURT: -- as well? All right. So that -- okay.

22 MS. CLOUD: And we're arguing that there is -- she did  
23 not plead with particularity.

24 THE COURT: Sure. So breach of K, and breach of K -- K  
25 is the initials you learned for contract, that's all that

1 means. Breach of K, and breach of K with fraudulent intent.  
2 Anything else?

3 MS. CLOUD: Well then, Your Honor, we do have a 12B7  
4 motion on all of the contracts and the promissory note.  
5 There is an Alexis Moore, and the plaintiff has failed to  
6 join her in any in the action, and she refuses to join her.

7 THE COURT: Okay. Thank you, ma'am.

8 MS. CLOUD: Thank you, Your Honor.

9 THE COURT: All right. Thank you, Ms. Cloud. All  
10 right. Let me hear from you then, Ms. Moore. And, again,  
11 you can just stay right where you are.

12 MS. MOORE: Thank you, Your Honor.

13 THE COURT: Yes, ma'am.

14 MS. MOORE: This is Alexis Moore just so you know, this  
15 is my daughter.

16 THE COURT: Okay. All right.

17 MS. MOORE: She is a cosigner to the contract, not a  
18 co-borrower.

19 THE COURT: Okay.

20 MS. MOORE: So with that being said, they were saying  
21 she really did not have to be joined to the contract being a  
22 cosigner. And on top of that, no communication from the  
23 conception, the eight years of this contract, has ever been  
24 sent to her other than the letter that Jennifer Cloud sent  
25 trying to extort --

1 MS. CLOUD: Objection. I'm not extorting anybody --

2 MS. MOORE: Trying to get me to pay. Okay.

3 THE COURT: That's a better way of describing it. Go  
4 ahead.

5 MS. MOORE: Get me to pay \$90,000 more for my house or  
6 put me out.

7 THE COURT: So this is an owner financed house, is that  
8 what it is?

9 MS. MOORE: It's an owner financed house. But in my  
10 research I now understand why they were trying to say that  
11 she wasn't a mortgage lender because of the Dodd-Frank Act,  
12 because that house actually still had a mortgage on it and  
13 she should not have financed it that way.

14 THE COURT: Okay.

15 MS. MOORE: And they're trying to put on the  
16 paperwork -- I want to submit this to you -- they're trying  
17 to put on the paperwork that the house is valued at  
18 \$290,000. This will show you that this house is valued at  
19 almost \$500,000.

20 THE COURT: Okay. Mr. Deputy, hand that to Ms. Cloud  
21 just for the purpose of this hearing. Any objection to me  
22 looking at that, Ms. Cloud?

23 MS. CLOUD: No objection.

24 THE COURT: Hang on one moment. Okay. Hand that up to  
25 me. Yes, ma'am?

1 MS. MOORE: But I also had it -- did a market analysis  
2 on it as well. So in her motion to dismiss I notice she  
3 didn't put a lot of it in the memorandum of law, which I  
4 didn't get a chance to respond to because it came late and I  
5 didn't have the time to respond before coming here.

6 THE COURT: Yes, ma'am.

7 MS. MOORE: But she had put on there the court is the  
8 wrong jurisdiction, but it is the right jurisdiction. And  
9 based on further research it's now understandable that the  
10 defendant should have been -- should not have entered into  
11 the bank, which I just told you about, nevermind that. What  
12 she omitted in the memorandum of law was where she had said  
13 in her pleading -- in her argument that there was no  
14 contract -- well, that she alleged that I committed fraud by  
15 signing the defendant's name to this addendum that they're  
16 trying not to acknowledge, she included all of the contracts  
17 but not the addendum in her paperwork, and there was a  
18 verbiage in there that sounded like they were trying to  
19 accuse me of fraudulently signing this document. So this is  
20 another thing -- I'll give you all of these things --

21 THE COURT: Okay.

22 MS. MOORE: -- that I want to submit. But this is the  
23 paperwork. Her husband is deceased now and that's who we  
24 did all of the paperwork through. But this is the paperwork  
25 inclusive --

1 THE COURT: Whose husband is deceased?

2 MS. MOORE: The -- Ms. Giesler's husband is deceased.

3 THE COURT: Okay. Got it. Okay.

4 MS. MOORE: And everything initially went through him,  
5 all contracts. We were trying to get a bond for title but  
6 the county said that we couldn't do it unless -- well, it's  
7 all in here.

8 THE COURT: I'll look at all of that stuff.

9 MS. MOORE: Okay. As well as there was a portion in  
10 there that was talking about where she had given out my  
11 personal information, and then they came back and said that  
12 I was aware of who Mike Furlick (phonetically) was. But in  
13 the communications that I initially got from her --

14 THE COURT: Thank you, ma'am.

15 MS. MOORE: -- in the communications that I initially  
16 got from her she said that she had talked with her real  
17 estate attorney, and it was my assumption when I responded  
18 that I was responding to her attorney, not to just some  
19 strange person that she had given -- or now I know it's her  
20 dad, that she had given all of my personal information about  
21 the contract to. So I don't want to waste your time,  
22 because I know this has been --

23 THE COURT: You're not wasting my time, ma'am. This  
24 case is important to you, and I take everything I do very  
25 seriously, and I'm going to read -- I saw -- you sent in a

1 response at the end of June, I'm going to read through all  
2 of that. I'm going to read through everything.

3 MS. MOORE: Thank you. Now, she was saying that she  
4 had no obligation to send me any kind of statements. I was  
5 trying to get the loan transferred to my -- get it  
6 refinanced, and she refused to give me the documentation  
7 that I needed in order to get the loan refinanced. I asked  
8 her -- I'm not going to give you this, but she said that she  
9 was constantly communicating with me. This is how much I  
10 emailed her daily, two, three, four times a day trying to  
11 get the documentation, because you cannot get a mortgage  
12 loan without the documentation over the last eight years  
13 that I've been paying her, but she did not give me that.  
14 But I do have the documentation. I'm up 2:00, 3:00 in the  
15 morning because I'm so stressed out about what she's trying  
16 to do. So looking at the Consumer Financial Protection  
17 Bureau, 1026541, it says that she is supposed to give me  
18 periodic statements of my mortgage, you know, and things  
19 like that, but she never did that even after requested. And  
20 I told you about her posting the threat, you know, sending  
21 me the mail and email, and having her attorney follow  
22 through with the threat of -- well, with the what -- however  
23 you want to word it, paying her \$89,000 over the agreed upon  
24 contract.

25 THE COURT: How much do you think is left owed under

1 the contract?

2 MS. MOORE: I think it's around 240 that's owed on the  
3 contract. So -- and I sent her an email, and I'm like: Why  
4 would I pay you \$100,000 pretty much over --

5 THE COURT: How much do you believe you've paid?

6 MS. MOORE: That is part of -- in the paperwork that I  
7 sent.

8 THE COURT: I know it is, I'm just -- I'm asking  
9 just --

10 MS. MOORE: I want to say that I have paid like  
11 170,000.

12 THE COURT: All right. So the contract -- the contract  
13 sales price was 240?

14 MS. MOORE: The contract sales price was 260.

15 THE COURT: 250.

16 MS. MOORE: 260.

17 THE COURT: 260. You've paid 140 approximately.

18 MS. MOORE: Well, that was me calculating everything  
19 that I've paid over --

20 THE COURT: Again, I'm not holding you to these  
21 numbers. These are all things -- this lawsuit just started  
22 so I'm just trying to get an approximation in my head of,  
23 you know, what we're taking about here.

24 MS. MOORE: Yeah. I want to say when I calculated what  
25 I put into it, I want to say it all came up with -- maybe

1 it's 100 and something. I'm sorry, my mind is just going --

2 THE COURT: I know. I'm not holding you to anything.

3 MS. MOORE: Okay. But I guess at this point -- and  
4 she's saying that I need to, like I said, pay more money or  
5 she was going to put me out of the house without the proper  
6 procedure.

7 THE COURT: Has she filed a foreclosure action?

8 MS. MOORE: Nuh-uh, she hasn't filed any foreclosure  
9 actions. Because the payment -- what's in question right  
10 now is the taxes --

11 THE COURT: Sure.

12 MS. MOORE: -- on the house.

13 THE COURT: Who has always paid the taxes on the house?

14 MS. MOORE: Well, this is -- when we signed the  
15 agreement I was supposed to pay the taxes. This is where  
16 that bond for title came in --

17 THE COURT: Right.

18 MS. MOORE: -- and the communications with Matt.  
19 Because the agreement was that the taxes would be paid in my  
20 name so that I would not be paying renter's taxes, I would  
21 be paying owner occupied.

22 THE COURT: So who owns the deed to the house? Who  
23 owns the deed to the --

24 MS. MOORE: She does. She still has the deed.

25 THE COURT: This sounds to me like a rent to own type

1 situation.

2 MS. MOORE: Right. But she didn't do it as a rent to  
3 own.

4 THE COURT: Okay.

5 MS. MOORE: She did it --

6 MS. CLOUD: Your Honor --

7 THE COURT: Hang on. I'm just -- again, I'm not  
8 holding y'all to either thing, I'm just -- I want to make  
9 sure I understand the general idea before I start reading  
10 through all of this stuff.

11 MS. MOORE: Okay. Yeah --

12 THE COURT: I'm going to come back to you, Ms. Cloud.

13 MS. MOORE: Okay. So it wasn't done as a rent to own,  
14 it was done as a mortgage with a -- the interest rate went  
15 up after five years.

16 THE COURT: Sure.

17 MS. MOORE: Okay. So it started off as -- she did it  
18 like a -- they did it, Matt and her, did it like a 40 year  
19 mortgage. Okay. And then after five years the interest  
20 rate went up, so I am paying the higher interest rate. So  
21 the question about the taxes, Matt had made an agreement  
22 with me, and that's where I need to know if that email  
23 validates the agreement that he made with me because of the  
24 context of the email. Because he said that I would only  
25 have to pay half of the taxes since he couldn't do the bond

1 For type --

2 THE COURT: Got you.

3 MS. MOORE: Okay. So he made an agreement, she refuses  
4 to honor that agreement and she's saying because it's not a  
5 part of the signed contract.

6 THE COURT: How long ago did Mr. Giesler become  
7 deceased?

8 MS. CLOUD: 2017/2018.

9 THE COURT: 2017 -- so she inherited the property as  
10 his surviving spouse, and that's who y'all have been dealing  
11 with now since the past six years.

12 MS. MOORE: And when we say dealing with, she has never  
13 talked to me on the phone.

14 THE COURT: All right. Well, let me kind of cut to the  
15 chase here for the purpose of this hearing, and I don't want  
16 to -- you know, again, I'm going to read through everything.

17 MS. MOORE: Okay.

18 THE COURT: This lawsuit has just started, it's a  
19 motion to dismiss. First of all, anything in response to  
20 what she's told me in support of your motion to dismiss  
21 briefly?

22 MS. CLOUD: Well, Your Honor, there is no mortgage.

23 THE COURT: I'm sorry.

24 MS. CLOUD: There is no mortgage, so --

25 THE COURT: Okay. That's your position in the

1 paperwork, and I'm going to read through all of this. All  
2 right. Let me just say this, and I'm sure you've probably  
3 gone down this route -- hang on a second.

4 MS. CLOUD: Okay.

5 THE COURT: Let me say it and I'm sure you're probably  
6 going to go down this route. Y'all are at -- I'm not saying  
7 you won't be ultimately successful, I don't know what I'm  
8 going to do because I've got to read through everything, but  
9 y'all are at a distinct disadvantage when you're not a  
10 lawyer. Okay? I 100 percent recommend you hire an attorney  
11 to represent y'all's interest in this case. Okay?

12 MS. MOORE: Okay.

13 THE COURT: Your lawsuit, without ruling on whether  
14 it's going to keep going forward or not, or whether -- I  
15 mean, certainly your paperwork -- did you find that stuff on  
16 line, or did you --

17 MS. MOORE: I got it all.

18 THE COURT: What I'm getting at is --

19 MS. MOORE: And I have the law cited, too.

20 THE COURT: Sure. And there's a lot of allegations  
21 made, there's a lot of -- there's a lot of causes of action  
22 made. Okay? But, of course, this is a court of law first  
23 and foremost, but it's also a court that has to protect  
24 people's rights. Okay? And so obviously that's why we have  
25 court because there's a lot of he said/she said going back

1 and forth, and y'all get all of that. Okay? But I'm going  
2 to decipher through all of this, go through everything and  
3 figure out what if any of your causes of action should  
4 remain as a matter of law based upon the arguments  
5 presented. Okay? I don't know what I'm going to do yet.  
6 In the meantime I urge you, and I'm sure Ms. Cloud here  
7 would agree, not saying you're not easy to deal with, but  
8 it's a lot easier to deal with a lawyer on the other side,  
9 because that lawyer is not personally invested in it,  
10 doesn't have the emotions attached to it like you I do.  
11 This is your home, I get it, I understand. Okay? That's  
12 why you need to have a lawyer to kind of put that to the  
13 side and let's get down to the business and the heart of the  
14 matter really. Okay? So I'm not saying you're claim is  
15 defeated at this point in time because I don't know, I  
16 haven't made any decision yet, I just -- moving forward from  
17 today I urge you to consider getting an attorney. There's  
18 plenty of good attorneys in this area. If you don't want to  
19 be in Lancaster County because, you know, you don't want to  
20 be in Lancaster, there's plenty of good lawyers in Chester,  
21 plenty of good lawyers over in York. In fact, there's three  
22 of them right behind you right there. Okay? And so I would  
23 urge you to consider doing that. Okay? I'm not making you  
24 do that, I just think you should do that. Okay? Anything  
25 else for the purpose of this hearing?

1 MS. CLOUD: No, Your Honor.

2 THE COURT: All right. Anything else for the purpose  
3 of this hearing?

4 MS. MOORE: Yes. She said I don't have a mortgage, but  
5 they provide me with a 1098 every year showing me the  
6 mortgage payment and interest.

7 THE COURT: Right. See, you know, that may be an issue  
8 of fact, I don't know. And you know what I mean when I say  
9 that, I don't know. But let's see where this thing goes.  
10 Okay? I'm just trying to move the case forward. But I'm  
11 going to look through all of these legal issues, make a  
12 decision as to the legal issues, but I want you to get a  
13 lawyer. Okay?

14 MS. MOORE: That sounds good.

15 THE COURT: All right, thank you. Everything else  
16 good? All right. Y'all have a great day. We are -- I'm  
17 taking this matter under advisement and I'll issue a  
18 decision forthwith.

19 (End of the hearing.)

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1 I, the undersigned, Michael C. Watkins,  
2 Certified Court Reporter, do hereby certify that the  
3 foregoing is a transcript of the hearing in  
4 Lancaster County on July 24, 2023.

5 I further certify that I am not of counsel, nor  
6 interest to any party hereto.

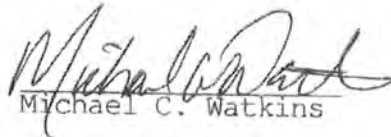
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May 24, 2024

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Michael C. Watkins

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Court Reporter

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SC Court of Appeals

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SC Court of Appeals

STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

COUNTY OF LANCASTER

2023-CP-29-00493

Roberta Moore

Vs.

Rebecca Giesler

Lancaster, South Carolina

February 12, 2024

Before the Honorable Brian Gibbons

APPEARANCES

For the Plaintiff: Pro Se

For the Defendant: Jennifer Cloud

Reported by: Michael C. Watkins

Certified Court Reporter

1 THE COURT: All right. The final civil matter to be  
2 heard this morning is a motion for summary judgment on a  
3 23-CP-29-493, Roberta Moore versus Rebecca Giesler. All  
4 right. And, Ms. Cloud, you represent Ms. Giesler, and it's  
5 your motion.

6 MS. CLOUD: Yes, Your Honor.

7 THE COURT: All right. There you are.

8 MS. CLOUD: May it please the Court? This motion for  
9 summary judgment is based upon the plaintiff's failure to  
10 answer our discovery requests, specifically our request for  
11 admissions. The discovery request was sent to the defendant  
12 on September 29th, and we have not gotten any response  
13 whatsoever, whether it be request for admissions for an  
14 answer to your interrogatories -- excuse me -- or a request  
15 for production.

16 THE COURT: That's on the two remaining causes of  
17 action, the breach of contract, and the breach of contract  
18 accompanied by a fraudulent act.

19 MS. CLOUD: Yes, Your Honor.

20 THE COURT: That's the ones that I left in. I'm  
21 catching up on it while I'm listening to you. Go ahead.

22 MS. CLOUD: Yes, Your Honor, that's correct.

23 THE COURT: Okay. Go ahead. Followed up after I  
24 issued an order on that, that's when you commenced discovery  
25 on those causes of action, or further discovery on those

1 causes of action, and you're stating that Ms. Moore has not  
2 replied to your request for admissions so they're deemed  
3 admitted, meaning that essentially it's a judgment on the  
4 pleadings converted to a summary judgment motion.

5 MS. CLOUD: Yes, Your Honor.

6 THE COURT: All right. Anything else on that? Because  
7 I'm going to take it under advisement and read and review  
8 everything.

9 MS. CLOUD: No, Your Honor. The only other thing is  
10 that there was a 12B7 with our 12B6 that was not decided,  
11 and there are just two parties to the contract that -- and  
12 so since this is a dispositive motion we will have a damages  
13 hearing afterwards if needed, but I would just like to  
14 resolve the issue of whether the plaintiff would put on the  
15 record that she would be solely liable under the contract if  
16 that is what she wishes, or whether we can add that other  
17 party since there were two parties to the contract.

18 THE COURT: Okay.

19 MS. CLOUD: But nothing further.

20 THE COURT: All right. Thank you very much, Ms. Cloud.  
21 All right, Ms. Moore, I'll be glad to hear from you. Good  
22 seeing you again.

23 MS. MOORE: Good seeing you.

24 THE COURT: How you been?

25 MS. MOORE: I'm doing okay.

1 THE COURT: Yes, ma'am.

2 MS. MOORE: I did take your advice about trying to find  
3 an attorney.

4 THE COURT: Yes, ma'am.

5 MS. MOORE: I went back to the one that I initially  
6 talked to that I retained, but he had kind of backed out on  
7 me because I asked too many questions, so -- but I did not  
8 respond to that, because whenever you read -- started  
9 reading that it was my -- she put my name at the top, then  
10 she put Alexis Moore in the body of it as the plaintiff the  
11 first sentence. And then she said factual context or  
12 whatever, factual background, she only put part of the  
13 contracts in there. She didn't put all of the contracts in  
14 there, she only put two. She added the addendums and all  
15 the other things that was attached to the initial case, so  
16 she only put part of that. Then she also put -- and I  
17 probably should have responded to that, but she also put in  
18 there that -- what am I trying to say? She also put in  
19 there the contract ended on August 20th, but there is a part  
20 of that contract that is kind of like a balloon payment,  
21 that after that time frame, after the 20th of -- that time  
22 frame, it goes to a different interest rate and it goes to a  
23 higher payment. She's only put part of the facts. The  
24 other piece was there's something on public index that she  
25 filed that she never sent to me. Okay? There's something

1 on the 15th of November that I never received. And then the  
 2 other part, I don't know what she's doing with how she's  
 3 sending this information out to me, of course it's not  
 4 coming certified for me to sign for. One piece ended up in  
 5 Washington or somewhere, but she's putting on the public  
 6 index that these things are being served to me. So I don't  
 7 know how that works as far as the service piece of it. I  
 8 would -- everything that I've sent out and I've noted as  
 9 served I wait until they actually get it, because you're not  
 10 really served until it's actually delivered or served upon  
 11 you. But she's putting it on there as sticking it in the  
 12 regular mail, so I do have the response to what she said.  
 13 But there's just a lot of facts that she's not -- that she's  
 14 kind of knocking out, so I do want the case to continue.

15 THE COURT: All right. Thank you, ma'am. Coming back  
 16 then, Ms. Cloud, when were the requests for admission served  
 17 on Ms. Moore?

18 MS. CLOUD: Your Honor, they were sent out  
 19 September 26th, and they were received by the defendant on  
 20 September 29th. Also I just want to say for the record, I'm  
 21 not exactly positive what Ms. Moore was referring, there's  
 22 no factual background and/or any other facts listed in my  
 23 first set of discovery. And I can provide the Court --  
 24 Exhibit B actually to the memorandum is the tracking.

25 THE COURT: Okay.

1 MS. CLOUD: Yes, Your Honor. That shows when it was  
2 delivered. And I can show any and all proof of delivery  
3 item filed with the public index if you wished.

4 THE COURT: All right. Anything else from you, Ms.  
5 Moore?

6 MS. MOORE: Yes. I would like for her to provide  
7 the -- I don't even know what it was for 11/15 that I was  
8 supposed to receive but I did not get it. And I do have  
9 tracking information as well. Like one thing she mailed out  
10 on January the 8th, I got it on January 17th from Rock Hill  
11 to Indian Land, so --

12 THE COURT: That was the notice of hearing, i guess?

13 MS. MOORE: Yeah. I guess that -- that one was a  
14 notice of hearing. But like I said, whatever she mailed  
15 out, or whatever she put -- and I didn't even see it on  
16 public index. I couldn't even see whatever it was from  
17 11/15, I don't know what that was, but I didn't receive it.

18 THE COURT: Okay. Well, let me do this like I did  
19 before, I'm going to take it under advisement because I've  
20 got to read through everything and consider the legal  
21 arguments made, and I'll decide this case based on the law  
22 and my review of all the documents. And, you know, I'm  
23 aware of what I previously ruled, I'm aware of what causes  
24 of action remain and we'll see where it goes. Okay?

25 MS. MOORE: Can I submit these? Can I give these to

1 her? Or it's too late.

2 THE COURT: Yes. You can go ahead and give that to  
3 her.

4 MS. MOORE: Okay. And can I give one to the Court to  
5 file?

6 THE COURT: You can give that to the -- yes. You can  
7 give that to the clerk. I'm not saying it will be accepted.  
8 I mean, the clerk will make it part of the public index, but  
9 I'm going to consider the record before me on whatever  
10 decision I make. Okay? All right.

11 MS. MOORE: Can we also make sure we consider the  
12 addendum that she did not include in this information?

13 THE COURT: Yes, ma'am. I'm going to consider all of  
14 that.

15 MS. MOORE: Thank you so much.

16 THE COURT: Thank you so much. Good seeing y'all  
17 again, take care. Ms. Cloud, take care. I'm going to take  
18 the matter under advisement.

19 (End of the hearing.)

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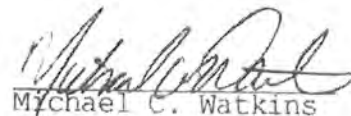
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1 I, the undersigned, Michael C. Watkins,  
2 Certified Court Reporter, do hereby certify that the  
3 foregoing is a transcript of the hearing in  
4 Lancaster County on February 12, 2024.

5 I further certify that I am not of counsel, nor  
6 interest to any party hereto.

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May 24, 2024

  
Michael C. Watkins  
Court Reporter

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I have taken time to review the last 2 years of payments and see there have been a dozen missed/late/short payments over that time. For example, no payments made in July 2021, November 2021, May 2022, August 2022, September 2022, December 2022, January 2023. And then there are the late payments and missing tax payments.

I was not contacted by you to pursue working out a payment plan for the arrears or creating a new agreement. According to the signed 'Promissory Note for Sale' document, item #6.B, I am well within my legal rights to foreclose the property and have you vacate. I have spoken with my attorney and will have them start the necessary paperwork to begin the foreclosure process if a new agreement is not made as stated in item #3 of the same document.

Whether we should move forward on a **new management for 5349 959** House will be sold as is. This will cover all your arrears and the outstanding principal. The March 15<sup>th</sup> closing date is acceptable to me.

Please advise by February 3<sup>rd</sup> whether this agreement is acceptable, so we can all move forward. This written notice has also been sent by certified mail.

Stephanie Greaver  
303-992-9123

February 3, 2023

Rebecca Giesler  
742 Pala Visto Court  
Fort Mill, SC 29715

Dear Beth

I am glad we had the opportunity to communicate through text on Thursday but I do feel the need to just reiterate my intentions through this letter since your response to my e-mails and texts have lessened since we talked about the addendum to the sales contract that was signed. As per your request, I did send over the copy via text of the addendum that we all signed when you requested it on Thursday.

I know you already know I tried to reach out to you multiple times with no response for several days. I am not sure why there was a sudden lack of response but I feel a need to put in writing the next steps for the house. As indicated in my e-mail and through all of our text messages, I have already completed paperwork for SC Homeowner Rescue Program to pay all the arrears which is all-inclusive through February. As I told you, they would be contacting you to finalize that payment. They also need a copy of the payment register as well that I indicated was needed for my mortgage purpose. **THIS IS PERTINENT AND I AM REQUESTING THAT YOU SEND ME A COPY OF THAT BY WEDNESDAY, FEBRUARY 8<sup>TH</sup>, SO THAT I CAN PROCEED WITH THE STEPS I NEED TO TAKE TO GET THE MORTGAGE TRANSFERRED OUT OF YOUR NAME.** Any delay in you getting this to me delays my timeline in getting the necessary approvals that I need to honor the agreement we made on January 25<sup>th</sup>. As per our text conversation on January 25<sup>th</sup> (in which you agreed), the arrears are to be paid by the end of February with the house being closed and out of your name by the 15<sup>th</sup> of March. That is the goal and my intent to do that but the paperwork I requested from you needs to be provided to me so that all of that can happen.

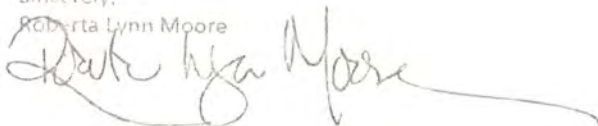
As long as we have the necessary paperwork by Wednesday, we should be well able to get all the necessary approvals done and the house closed on time. If for any reason that is not the case and we have anything we need from you, we will then exercise our right to sell the home as indicated in the addendum that I sent over to you under "Timeline Of Foreclosure", Part 2, section C where the property would be sold at market value, the balance of my mortgage contract with you will be paid along with any outstanding balance and **THE REMAINING BALANCE WOULD COME TO ME** as outlined in the agreement that we all signed on December 8<sup>th</sup>, 2016.

I requested a copy of my payment register from you. The last one I have is from Matt. Again that is pertinent in me doing what I need to do to release you and to keep us from having to take other steps.

Thank you in advance for getting me the necessary paperwork so that we can close on the home as agreed.

Sincerely,

Roberta Lynn Moore



February 25, 2023

Rebecca Giesler  
742 Pela Vista Court  
Fort Mill, SC 29715

Dear Becky,

As you can see, all of my mortgage payments are up-to-date including my payment for March which now has to be made because of your failure to provide me with the legal documents I have requested from you over and over during the month of February in order for me to get loan approvals. It is very evident at this point that this has been intentional on your part. I have requested corrected payment registers on multiple occasions along with corrected tax information in accordance to the agreement that Matt made with me on being responsible for only half of the tax payment per year.

Based on your failure to provide me with the legal documents that you are obligated to give within a set timeframe of request, you have hindered my loan process. It appears that we may have to get legal intervention on the tax payments which also gives us the opportunity to get legal counsel on the other issues that have occurred over the last 30 days in regards to you trying to extort money out of me by trying to give me an ultimatum to tear up my contract and sign a new contract or else you would foreclose. The issues with you sharing my personal information with outside sources. The issues with you failing to provide me with my payment register and corrected amortization information as requested almost every day throughout the month of February. Again, it is very evident that you were trying to push me to the point of foreclosure by not providing me with the information I requested even after I shared with you the purpose for which it was needed. My payments are now up-to-date other than the discrepancy in the tax payment which will be paid at closing based on legal intervention if necessary. Until that time we will remain under our current signed contract. If by chance the withholding of information continues, I will exercise my legal rights.

As I mentioned to you earlier this week, I have still not gotten my tax document which should have been given to me by January 31<sup>st</sup>. Again, as I mentioned in my e-mail in response to your e-mail saying you have taxes to claim on this house. You are not legally able to do that. You have resided in this residence 0% of the time and the house is financed to me by you.

There are many things here you have done that are not legally ethical. Please provide me with the information I have requested from you so that each of us can move forward respectfully. Again, I am hereby requesting my corrected amortization statements, my loan payoff (based on our signed contract), my corrected payment register, and my tax document.

**\*\*\*PLEASE NOTE AT NO TIME WAS I MAILED A FORECLOSURE DOCUMENT IN ALIGNMENT WITH THE SIGNED MORTGAGE CONTRACT WHICH WOULD INCLUDE AMOUNT DUE AND MY BALANCE OF MY LOAN ALONG WITH OTHER INFORMATION AS NOTED IN CONTRACT. SO MY LOAN IS NOT IN JEOPARDY OF FORECLOSURE. SO AT THIS POINT, YOU HAVE NO LEGAL RIGHTS TO FORECLOSE ON MY HOME. I DID HOWEVER RECEIVE AN EXTORTION DOCUMENT WHICH WAS WRITTEN AS AN ULTIMATUM TO GIVE YOU MORE THAN \$120,000 MORE THAN WHAT IS DUE ON MY LOAN.**

Sincerely,

  
Roberta Lynn Moore



Thursday, March 13, 2023

**VIA USPS CERTIFIED MAIL**

Roberta Lynn Moore & Alexis Moore  
3194 Pine Bluff Way  
Fort Mill, SC 29707

**RE: Breach of Note- Failure to Pay Property Taxes and Failure to Secure Lending**

Ms. Roberta Moore and Alexis Moore,

Please be advised that Rebecca Giesler has retained my firm to represent her interests in the property located at 3194 Pine Bluff Way, Fort Mill, SC 29707. I have been provided with the following: a copy of the "Agreement to Buy and Sell Real Estate Residential" dated July 24, 2015, and executed on July 27, 2015; a copy of the "Real Estate Contract of Sale" dated and executed July 27, 2015; a copy of the "Promissory Note for Sale" dated and executed July 28, 2015; and a copy of the "Addendum to Prior Contracts" executed December 8, 2016.

Please be further advised that pursuant to the Promissory Note, you are liable for the property taxes to be paid. The only exception to this was that it was agreed upon that Mr. and Mrs. Giesler would pay up to \$2000.00 towards the tax bill received at the end of 2015. Currently, property taxes are in arrears from the year 2017 to present. Said breach gives Ms. Giesler the right to accelerate the loan and make it immediately due and payable.

Also, it was brought to my attention that a mortgage was never executed between the parties to this transaction. As such, there is no way for a foreclosure to be initiated as a promissory note cannot be foreclosed upon. The proper remedy under a default of a promissory note is a breach of contract claim requesting damages.

My client has authorized me to convey two options to you before filing a lawsuit: (1) pending the **TIMELY** April 10<sup>th</sup> payment **AND** obtaining a secured loan for \$349,00.00 on or before May 1, 2023. Ms. Giesler will convey title to the property to you; or (2) you will need to vacate the property by May 1, 2023.

Should you fail to secure financing by that date, fail to make the April 10<sup>th</sup> payment, or fail to vacate the premise by May 1, 2023, or any combination of default, I have been instructed to immediately file suit for all damages and possession under the promissory note.

This demand serves as official notice to you and may not be tendered in court as evidence. This letter is not an exhaustive list of remedies available to my client and does not limit my client in any way moving forward in legal proceedings.

Thank you for your cooperation and prompt attention to this matter.

*Jennifer Cloud, Esq.*  
Jennifer Cloud, Esq.

Jennifer Cloud  
Attorney at Law in NC & SC  
The Cloud Law Firm  
803 693-5721  
jennifer@cloudlawsc.com

April 10, 2023

Rebecca Giesler  
742 Pela Vista Court  
Fort Mill, SC 29715

Dear Rebecca,

Thank you for your e-mail dated March 5, 2023 indicating that all of my mortgage payments are up-to-date and indicating my monthly payment and the due date being due the first of the month. You also indicated in your e-mail to me about the tax payments being outstanding but of course that is because of two issues. The first issue being your failure to provide me with the documentation I requested from you on multiple occasions (sometimes more than once a day) and of course the other issue being the taxes have not been adjusted as per the agreement with Matt, the final amount due cannot be determined and the financing cannot be secured without this information being correct. Not to mention as I indicated on the attachment on my e-mail to you on February 28, 2023, which is the copy of the certified letter that I sent you that you failed to sign for even though I e-mailed you a copy of it (and also mailed another copy to you via regular mail), the financing along with what would have been a payment for the back taxes was hindered by your intentional withholding of the documents that I requested from you that were necessary for the securing of the financing along with my 1098 form that should have been given to me by mid-February but was not.

As of today, I still have not gotten the corrected tax amount from you and I am formally disputing (again) what you are saying I owe based on what Matt indicated would be the payment amount for the taxes. Once that is determined (if necessary by court process), I can then proceed with what I need to do. Until that time, as you said in your e-mail to me, the house payment of \$2,145.21 will be deposited as per our contract on the 1<sup>st</sup> of the month (being late after 10 calendar days).

Please note that this is nothing new concerning my dispute of the tax amount and it has been in question for a while as per all of our written documentation over the last few months and this amount could not be paid along with the other monies because as I have told you multiple times in writing that this is incorrect and I am not in agreement with it. So therefore it cannot be paid until this issue is resolved.

Thank you again for your update on the payments being up-to-date. Please let me know what needs to happen to get the tax issue resolved according to the agreement with Matt and at that time I will be able to make arrangements for that since you failed to provide me with my documents to do this earlier through the SC Housing Rescue Program which you knew would have handled the payment of any back payments and the taxes. Unfortunately, that is on you for this not being taken care of by now and again I am very concerned about you trying to extort money out me by trying to raise the price of the house over \$100,000 more than our contract.

Sincerely,



Roberta-Lynn Moore

NOTARIZED STATEMENT

April 9, 2024


To: Rebecca Giesler and To Whomever Else It May Concern

This is to confirm that as of today April 9, 2024, there are no mortgage payments 60-days in arrears. All mortgage payments that were in arrears as of notification received at the end of January 2023 were deposited in the bank and paid in full within a 30 day timeframe by February 28, 2023 and the receipt of those payments was confirmed in writing by you, Rebecca Giesler, in March of 2023. No payments have went into 60-day arrears since that time.

Also, according to the signed contracts and addendums, there is no established deadline by which taxes have to be paid. Therefore, according to the signed contract, there is no breach of contract at this point.

Signed This Day: 4/9/24

Printed Name: Roberta L. Moore

Signature: 

Notarized By: Timothy Jeffery

Dated: 4/9/24

Exhibit A

STATE OF SOUTH CAROLINA )  
COUNTY OF Lancaster )

REAL ESTATE CONTRACT OF SALE

Roberta Lynn Moore and Alexis Moore ("Buyer")  
Matthew and Rebecca Giesler ("Seller")

FOR AND IN CONSIDERATION of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Buyer and Seller agree as follows:

1. PROPERTY. Buyer agrees to purchase from Seller and Seller agrees to sell and convey to Buyer all that certain piece, parcel or lot of land, together with any improvements thereon, located in the State and County aforesaid and being described as follows:  
Street Address 3894 Pine Bluff Way  
City / State / Zip Fort Mill (Columbia) SC 29708  
Subdivision / Lot No. Legacy Park  
Tax Map No. 0009 P - 08 - 016.00 ("Property").

2. PURCHASE PRICE. The Purchase Price is \$ 260,000.<sup>00</sup>

3. EARNEST MONEY. The Earnest Money is \$ 3,000.<sup>00</sup>  
paid by  Cash  Check  Other: cashier check  
and held in trust by Matthew Giesler  
The Earnest Money is refundable only as stated within this Contract or if the Seller does not comply with any obligations under this Contract.

4. FINANCING. Buyer's purchase of the Property will be financed by  Lender  Seller  Other: \$25,500 financed per Promissory Note  
Time is of the essence. Buyer agrees to apply for financing for this transaction within five (5) business days of acceptance of this Contract. Buyer will provide Seller with documentation from Buyer's lender confirming loan approval. If financing approval is not obtained within ten (10) business days of acceptance of this Contract, the Earnest Money must be refunded to the Buyer and this Contract will terminate. In a cash transaction, Buyer agrees to provide Seller with written verification of sufficient and available funds for the closing date specified herein within five (5) business days of acceptance of this Contract; otherwise, this Contract is void and the Earnest Money will be refunded to the Buyer.

5. APPRAISAL. This Contract is contingent on the Property appraising for the Purchase Price or more. If the Property appraises for less than the Purchase Price, Seller may elect to sell for the appraised value; and in such case, the Buyer agrees to proceed with the sale at the reduced price. If Seller does not agree to sell the Property at the lower appraised value, the Buyer will have the option of: (a) proceeding with this transaction without regard to the

RLM RM  
Buyer's Initials  
Date: 11/21/2015

1 of 5

MG RM  
Seller's Initials  
Date: 11/21/2015

ELECTRONICALLY FILED - 2023 May 07 7:21 PM - LANCASTER - COMMON PLEAS - CASE#2023CP2900493

appraised value, or (b) terminating this Contract with the Earnest Money refunded to Buyer. The lender's appraisal or an appraisal prepared by a licensed real estate appraiser selected and paid for by the Buyer will be acceptable for purposes herein.

6. ADDITIONAL CONTINGENCIES. This Contract is contingent upon one of the following:  
[ ] Completion of the sale and closing of the Buyer's property located at:

Seller will continue to market the Property subject to this Contract as long as this contingency remains. If Seller accepts another offer for the Property before this contingency is removed, this Contract will terminate and the Earnest Money will be refunded to the Buyer. Buyer agrees to provide documentation regarding the sale of his property upon request.

- [ ] Completion of the sale and closing of the Buyer's property located at:

Seller will remove the Property subject to this Contract from the market. Buyer agrees to provide documentation regarding the sale of his property upon request.

[x] Other: - 1st floor and carpet replaced with laminate or carpet  
- contingencies completed per Agreement to Buy dated July 27, 2015  
- payment terms per Preliminary Pk to be executed at closing  
- Earnest money is non-refundable as buyer will move in prior to a loss.

7. FIXTURES AND PERSONAL PROPERTY. This sale includes fixtures and improvements of any kind that now exist and are attached to or planted on the Property, such as but not limited to the house, garage, wiring, plumbing and lighting fixtures, chandeliers, light bulbs, switch plates, duct covers, built-in equipment and appliances, stove, refrigerator, cabinets, shelves, valances, screens, shutters, awnings, wall-to-wall carpeting, attached mirrors, ceiling fans and controls, attic fans and controls, fireplace screens and artificial fireplace logs, curtains and rods, blinds, window shades, draperies and rods, television antennas, satellite dish system and equipment, heating and air-conditioning units, window air conditioning units, security and fire detection equipment, water softener system, garage door openers and controls, fences, lamp posts, mail boxes, trees, shrubbery, landscaping, landscape lighting, outdoor cooking equipment, swimming pool, above ground pool, swimming pool equipment and maintenance accessories, entry gate controls, mailbox keys, and door keys.

8. CONDITION OF PROPERTY. Except as provided in this Contract, the Buyer acknowledges that Seller gives no guarantee or warranty of any kind, express or implied, and has made no representation as to the physical condition, merchantability, or fitness for a particular purpose of the Property or the improvements, services, appliances or systems thereof, and any implied warranty is hereby disclaimed by the Seller. Seller agrees to deliver

2 of 5

JM RM  
Buyer's Initials  
Date: 7/27/2015

MLR PR  
Seller's Initials  
Date: 7/27/2015

the heating, cooling, plumbing and electrical systems, well and/or septic systems, and any built-in appliances in operable condition at the time of closing. Buyer and Seller agree to waive the property condition disclosure statement required by South Carolina Code Section 27-50-10 et seq.

- 9. **INSPECTION AND REPAIRS.** Buyer has the right to obtain a home inspection of the Property performed by a licensed professional inspector of his choice and at his expense within ten (10) business days after acceptance of this Contract. Buyer has the right to have an inspection of the heating and air conditioning of the Property performed by a heating and air conditioning company of his choice and at his expense within ten (10) business days after acceptance of this Contract. Buyer also has the right to have a wood infestation inspection of the Property performed by a licensed and bonded exterminator of his choice and at his expense within ten (10) business days after acceptance of this Contract. If Buyer provides Seller with a copy of the home inspection report, heating and air conditioning report, and/or wood infestation report within two (2) business days after completion of said report(s), then the parties have the option of: (a) negotiating payment for the repair of any defect, including the treatment of wood destroying insects, mentioned in said report(s); or (b) terminating the Contract with the Earnest Money refunded to Buyer. If Buyer does not provide Seller with a copy of any inspection report within two (2) business days after completion of said report(s), then Buyer accepts the Property in the condition referenced in any inspection report.
- 10. **LENDER REQUIRED REPAIRS.** Unless otherwise agreed in writing, neither party is obligated to pay for lender required repairs, which includes treatment for wood destroying insects. If the parties do not agree to pay for the lender required repairs or treatments, this Contract will terminate with the Earnest Money refunded to the Buyer.
- 11. **COMPLETION OF REPAIRS.** Unless otherwise agreed in writing, any repairs or treatments commenced under the terms of this Contract must be completed in a reasonable amount of time and before closing. All required permits must be obtained, and repairs and treatments must be performed by persons who are licensed or otherwise authorized by law to provide such repairs or treatments. At Buyer's election, any transferable warranties received by Seller with respect to repairs or treatments will be transferred to Buyer at Buyer's expense.
- 12. **POSSESSION.** Unless otherwise agreed in writing, Seller will vacate the Property and give possession to the Buyer at closing. Seller agrees to deliver the Property free of debris and in clean condition with landscaping maintained. Seller will give Buyer access to the Property for the purpose of a walk through inspection within twenty-four (24) hours prior to closing.
- 13. **CASUALTY.** Seller shall keep in force sufficient hazard insurance on the Property to protect all interests until this transaction is closed. In case the Property is destroyed wholly or partially by fire or other casualty prior to closing, Buyer shall have the option for ten (10) business days after receiving notice of such damage of: (a) proceeding under this Contract with the Property in its damaged condition and receiving any insurance proceeds payable to Seller by reason of such damage, or (b) terminating the Contract with the Earnest Money refunded to Buyer.

3 of 5

AM Rm  
Buyer's Initials  
Date: 7/27/2015

Wm Rm  
Seller's Initials  
Date: 7/27/2015

14. COMMISSION FEES. Buyer and Seller agree that this Contract was negotiated at arms length without the assistance of any real estate agents or brokers and that no commissions or fees are payable to any real estate agent or broker in connection with this Contract.

15. CONVEYANCE. Seller agrees to convey marketable fee simple title to the Property via a proper general warranty deed free from encumbrances except as stated herein. Said conveyance will be made subject to all easements, restrictions, covenants, and conditions of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules, and regulations.

16. TRANSACTION COSTS. Buyer acknowledges responsibility for customary fees applicable to buyers, including all fees associated with obtaining financing, title search/abstract, title insurance, attorney's fees, and mortgage recording fees. Seller acknowledges responsibility for customary fees applicable to sellers including deed preparation, deed stamps, satisfaction of any outstanding liens, and associated recording fees. The parties agree to adjust the transaction costs as follows: All closing costs paid by the Buyer

17. ADJUSTMENTS. Real property taxes, utility charges, rents, association/regime fees, and other assessments are prorated as of the date of closing. Tax adjustment is based on the tax information available on the date of closing, which may be the prior year's tax bill. As a result, Buyer and Seller understand and acknowledge that an adjustment for the difference between the tax amount used at closing and the next tax bill is not possible at closing and will not be made after closing.

18. CLOSING. This transaction will close on or before August 31 ~~July 27~~, 2015. If this transaction cannot close as scheduled due to no fault of either party, then the closing date may be extended for a period up to ten (10) additional business days without the execution of an amendment to this Contract.

19. DEFAULT. If Buyer fails to comply with any term of this Contract, Buyer will be in default, and Seller will have the right to retain the Earnest Money as full and final settlement of any claims Seller may have in connection with this Contract, thereby releasing both parties from this Contract. If Seller fails to comply with any term of this Contract, Seller will be in default, and Buyer will have the option of: (a) terminating this Contract, having the Earnest Money refunded, and having the Seller reimburse reasonable expenses incurred by Buyer related to the purchase of the Property, including but not limited to title examination, appraisal, and loan application costs; or (b) pursuing any legal and equitable remedies available to Buyer, including an action to compel specific performance of this Contract or an action for damages for breach, separately or alternatively.

20. DESCRIPTION OF PARTIES. The parties to this Contract acknowledge that words of masculine gender are used in this Contract in the singular as a matter of convenience only and that said words also mean and include corresponding words of the feminine gender and in the plural as appropriate.

4 of 5

AM RM  
Buyer's Initials  
Date: 7/27/2015

MR RR  
Seller's Initials  
Date: 7/27/2015

- 21. **BINDING CONTRACT.** This Contract is binding on the parties and their heirs, successors, and assigns.
- 22. **ASSIGNMENT.** The rights or interests of the parties to this Contract may not be assigned without the written consent of all parties, which consent shall not be unreasonably withheld.
- 23. **ELECTRONIC COMMUNICATIONS.** The parties agree that the offer, any counteroffer, and acceptance of any offer or counteroffer may be communicated by use of fax or e-mail and that signatures, initials, and handwritten or typewritten modifications to this Contract delivered via such electronic means are deemed to be valid and binding upon the parties as an original of this Contract.
- 24. **EXPIRATION OF OFFER.** The Buyer's offer to purchase the Property is revoked if the Seller does not accept or counter the offer in writing by noon on July 28, 20 15.
- 25. **ENTIRE AGREEMENT.** The parties agree that this Contract expresses the entire agreement between the parties and that there is no agreement, oral or otherwise, modifying the terms herein.

WITNESS our hands and seals on the dates indicated below.

_____	<u>Rozette Moore</u>	<u>7/27/15</u>
Buyer's Witness	Buyer	Date
_____	<u>Amy Moore</u>	<u>7/27/2015</u>
Buyer's Witness	Buyer	Date
_____	<u>Shirley K. [Signature]</u>	<u>7/27/2015</u>
Seller's Witness	Seller	Date
_____	<u>R. [Signature]</u>	<u>7/27/2015</u>
Seller's Witness	Seller	Date

All terms and conditions of this Contract, including all counteroffers initialed and dated by Buyer and Seller, were accepted by both parties on July 27, 20 15.

PROMISSORY NOTE FOR SALE

July 28, 2015                      Fort Mill                      South Carolina  
 [Date]                                      [City]                                      [State]

3194 Pine Bluff Way, Fort Mill, SC 29708  
 (Property Address)

1. **PROMISE TO PAY:** This Promissory Note ("Note") is made on July 28, 2015, by Roberta Lynn Moore and Alexis Moore (the "Obligor") ("Obligor" as used herein shall have the same meaning in the plural as it does in the singular) promises to pay two hundred and sixty thousand dollars (U.S. \$260,000.00) (this amount is called "Principal"), Obligor will make all payments under this Note in the form of electronic payment, check, or money order. Obligor understands that the Obligee may transfer this Note. The Obligee or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder." A total of \$9,500.00 will be paid by seller on the below schedule for what is considered the down-payment, resulting in \$250,500.00 being financed by obligee.

- a. July 29, 2015 payment \$3,000.00
- b. Closing Date before August 31, 2015 - no net payment
  - i. \$500.00 will be paid by buyer for remaining initial down payment.
  - ii. \$500.00 will be credited on this payment amount per Clause 10 of the Agreement to Buy signed on July 24, 2015. *July 27, 2015 RM-AM*
- c. Monthly payment on mortgage \$1,602.38 (principal and interest)
- d. May 15, 2016 payment \$1,500.00
  - i. \$500.00 will be credited for carpet replacement on 2<sup>nd</sup> floor.
- e. May 15, 2017 payment \$1,500.00
- f. May 15, 2018 payment \$1,500.00
- g. May 15, 2019 payment \$1,500.00
- h. August 31, 2020 final payment estimated to be \$244,090.97
  - i. \$500.00 will be credited towards closing costs from Seller.

2. **INTEREST:** Interest will be charged at an annual fixed interest rate of 7.25% for an amortization term length of 40 years on a total of \$250,500.00 financed. The table on page four demonstrates the payment breakdown.

3. **EXTENSION:** If financing is not secured before August 31, 2020 to make final payment, then the remaining balance of \$244,090.97 will adjust to an interest rate of 10.25% based on 35 years remaining on the term for a monthly payment of \$2,145.21 until closing or a new agreement is reached.

4. **PAYMENTS:** Obligor's monthly payment will be in the amount of one thousand six hundred two dollars and thirty eight cents (U.S. \$1,602.38). Obligor will pay principal and interest by making a payment every month. Obligor will make the monthly payment on the first day of each month beginning on September 1, 2015. On August 31, 2020, assuming Obligor still owes amounts under this Note, Obligor will pay those amounts in full on that date, which is called the "Maturity Date." Obligor will make the monthly payments every month for the term of sixty months, after which obligor may pay one final payment of \$244,090.97 in addition to any outstanding payments owed, minus any additional principal payments made prior to maturity date outside the down payment amounts specifically listed above.

Obligor will make the monthly payments to Matthew Giesler, 612 Bannerman Lane, Fort Mill, SC 29715 or at a different place if required by the Note Holder. Preference is to have electronic payments for the monthly payment.

*RM AM*  
*RM 7/27/15*

5. **OBLIGOR'S RIGHT TO PREPAY:** Obligor has the right to make payments of Principal at any time before they are due. A payment of Principal only is known as a "Prepayment." When Obligor makes a Prepayment, Obligor will tell the Note Holder in writing that Obligor is doing so. Obligor may not designate a payment as a Prepayment if Obligor has not made all the monthly payments due under the Note. Prepayment will apply to principle only but does not change the amount financed as the downpayment are not being financed so early payments will not credit against finance.

Obligor has the option to fully satisfy this Note prior to the outlined expectation by paying the amount due in full at any point as indicated in the table on page 4, assuming all payments are current, and the yearly payments are also complete.

Obligor may make a full Prepayment or partial Prepayments without paying a Prepayment charge. The Note Holder will use Obligor's Prepayments to reduce the amount of Principal that Obligor owes under this Note. If Obligor makes a partial Prepayment, there will be no changes in the due date or in the amount of Obligor's monthly payment unless the Note Holder agrees in writing to those changes.

6. **FAILURE TO PAY AS REQUIRED**

(A) **Late Charge for Overdue Payments:** If the Note Holder has not received the full amount of any monthly payment by the end of ten calendar days after the date it is due, Obligor will pay a late charge to the Note Holder. The amount of the charge will be 5.0% of Obligor's overdue monthly payment. Obligor will pay this late charge promptly but only once on each late payment.

(B) **Default and Notice of Default:** If Obligor does not pay the full amount of each monthly payment on the date it is due, Obligor will be in default. If Obligor is in default, the Note Holder may send Obligor a written notice telling Obligor that if Obligor does not pay the overdue amount by a certain date, the Note Holder may require Obligor to pay immediately the full amount of Principal which has not been paid. That date must be at least thirty (30) days after the date on which the notice is mailed to Obligor or delivered by other means. When Obligor is in default for successive months the Obligor may foreclose on the property if payments are outstanding beyond 60 days. Further the Obligor must vacate the property if payments are outstanding beyond 60 days.

(C) **No Waiver By Note Holder:** Even if, at a time when Obligor is in default, the Note Holder does not require Obligor to pay immediately in full as described above, the Note Holder will still have the right to do so if Obligor is in default at a later time.

(D) **Payment of Note Holder's Costs and Expenses:** If the Note Holder has required Obligor to pay immediately in full as described above, the Note Holder will have the right to be paid back by Obligor for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. **GIVING OF NOTICES:** Unless applicable law requires a different method, any notice that must be given to Obligor under this Note will be given by delivering it or by mailing it by first class mail to Obligor at the address stated below or at a different address if Obligor gives the Note Holder a notice of Obligor's different address. Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3 above or at a different address if Obligor is given a notice of that different address.

8. **OBLIGATIONS OF PERSONS UNDER THIS NOTE:** If more than one Obligor signs this Note, each Obligor is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any Obligor who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the

new check  
 JM RM  
 7/27/15

obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each Obligor individually or against all Obligors together. This means that any one Obligor may be required to pay all of the amounts owed under this Note.

9. **PROPERTY TAX:** Obligor is responsible for property tax payments and for establishing with the county tax office as a primary residency for the reduced tax rate. Obligee will cover up to \$2,000.00 towards tax costs for the bill received at the end of 2015.

10. **HOME OWNER INSURANCE and ASSOCIATION:** Obligor is responsible maintaining home owner insurance to cover the value of the property, Obligor has 60 days to send confirmation of insurance coverage. Obligor is responsible for home owner association fees for 2016 and beyond.

11. **MISCELLANEOUS:** Obligor understands that any of the following activities are permitted under this Note and will not constitute a waiver of rights by Note Holder, nor a requirement of prior notice: (a) accept as a partial payment a check or other payment marked "paid in full" or "accord and satisfaction" with similar language; (b) renew or permit additional time for payment of any amount owing; (c) accept partial payments; (d) add or release any obligated person; (e) at Note Holder's cost, periodic updates on Obligor's credit report may be obtained to determine Obligor's compliance with the terms and conditions of this Note; or (f) the obligation evidenced by this Note may be reported to credit reporting agencies.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

\_\_\_\_\_  
(Seal)  
- Obligor  
*Roberta L. Moore*  
Roberta L. Moore

Street Address: 3194 Pine Bluff Way  
City, State: Fort Mill, SC 29708  
County: Lancaster

\_\_\_\_\_  
(Seal)  
- Obligor  
*Alexis Moore*  
Alexis Moore

Street Address: 3194 Pine Bluff Way  
City, State: Fort Mill, SC 29708  
County: Lancaster

\_\_\_\_\_  
(Seal)-  
- Obligee  
*Matthew K. Goshier*  
Matthew K. Goshier  
*Rebecca Goshier*  
Rebecca Goshier

Street Address: 612 Bannerman Lane  
City, State: Fort Mill, SC 29715  
County: York

*AM*  
*RM*  
*7/27/15*

**Payment Schedule**

1	9/1/2015	7.250%	1,513.44	1,602.38	0.00	88.94	250,411.06
2	10/1/2015	7.250%	1,512.90	1,602.38	0.00	89.48	250,321.58
3	11/1/2015	7.250%	1,512.36	1,602.38	0.00	90.02	250,231.56
4	12/1/2015	7.250%	1,511.82	1,602.38	0.00	90.56	250,141.90
5	1/1/2016	7.250%	1,511.29	1,602.38	0.00	91.11	250,052.29
6	2/1/2016	7.250%	1,510.72	1,602.38	0.00	91.66	249,962.23
7	3/1/2016	7.250%	1,510.36	1,602.38	0.00	92.22	249,872.01
8	4/1/2016	7.250%	1,509.61	1,602.38	0.00	92.77	249,773.24
9	5/1/2016	7.250%	1,508.05	1,602.38	0.00	93.33	249,679.91
10	6/1/2016	7.250%	1,506.48	1,602.38	0.00	93.90	249,586.01
11	7/1/2016	7.250%	1,507.92	1,602.38	0.00	94.46	249,491.95
12	8/1/2016	7.250%	1,507.34	1,602.38	0.00	95.04	249,396.91
13	9/1/2016	7.250%	1,498.77	1,602.38	0.00	95.61	249,300.90
14	10/1/2016	7.250%	1,506.19	1,602.38	0.00	96.19	249,204.71
15	11/1/2016	7.250%	1,505.61	1,602.38	0.00	96.77	249,107.94
16	12/1/2016	7.250%	1,505.03	1,602.38	0.00	97.35	249,010.59
17	1/1/2017	7.250%	1,504.44	1,602.38	0.00	97.94	248,912.65
18	2/1/2017	7.250%	1,503.85	1,602.38	0.00	98.53	248,814.12
19	3/1/2017	7.250%	1,503.25	1,602.38	0.00	99.13	248,714.99
20	4/1/2017	7.250%	1,502.65	1,602.38	0.00	99.73	248,615.26
21	5/1/2017	7.250%	1,502.05	1,602.38	0.00	100.33	248,514.93
22	6/1/2017	7.250%	1,501.44	1,602.38	0.00	100.94	248,413.99
23	7/1/2017	7.250%	1,500.83	1,602.38	0.00	101.55	248,312.44
24	8/1/2017	7.250%	1,500.22	1,602.38	0.00	102.16	248,210.28
25	9/1/2017	7.250%	1,499.60	1,602.38	0.00	102.78	248,107.50
26	10/1/2017	7.250%	1,498.98	1,602.38	0.00	103.40	248,004.10
27	11/1/2017	7.250%	1,498.36	1,602.38	0.00	104.02	247,900.08
28	12/1/2017	7.250%	1,497.73	1,602.38	0.00	104.65	247,795.43
29	1/1/2018	7.250%	1,497.10	1,602.38	0.00	105.28	247,690.15
30	2/1/2018	7.250%	1,496.46	1,602.38	0.00	105.92	247,584.23
31	3/1/2018	7.250%	1,495.82	1,602.38	0.00	106.56	247,477.67
32	4/1/2018	7.250%	1,495.18	1,602.38	0.00	107.20	247,370.47
33	5/1/2018	7.250%	1,494.53	1,602.38	0.00	107.85	247,262.63
34	6/1/2018	7.250%	1,493.88	1,602.38	0.00	108.50	247,154.17
35	7/1/2018	7.250%	1,493.22	1,602.38	0.00	109.16	247,044.96
36	8/1/2018	7.250%	1,492.56	1,602.38	0.00	109.82	246,935.19
37	9/1/2018	7.250%	1,491.90	1,602.38	0.00	110.48	246,824.66
38	10/1/2018	7.250%	1,491.23	1,602.38	0.00	111.15	246,713.51
39	11/1/2018	7.250%	1,490.56	1,602.38	0.00	111.82	246,601.69
40	12/1/2018	7.250%	1,489.89	1,602.38	0.00	112.49	246,489.20
41	1/1/2019	7.250%	1,489.21	1,602.38	0.00	113.17	246,376.03
42	2/1/2019	7.250%	1,488.52	1,602.38	0.00	113.86	246,262.17
43	3/1/2019	7.250%	1,487.83	1,602.38	0.00	114.55	246,147.62
44	4/1/2019	7.250%	1,487.14	1,602.38	0.00	115.24	246,032.38
45	5/1/2019	7.250%	1,486.45	1,602.38	0.00	115.93	245,916.45
46	6/1/2019	7.250%	1,485.75	1,602.38	0.00	116.63	245,799.82
47	7/1/2019	7.250%	1,485.04	1,602.38	0.00	117.34	245,682.48
48	8/1/2019	7.250%	1,484.33	1,602.38	0.00	118.05	245,564.43
49	9/1/2019	7.250%	1,483.62	1,602.38	0.00	118.76	245,445.67
50	10/1/2019	7.250%	1,482.90	1,602.38	0.00	119.48	245,326.19
51	11/1/2019	7.250%	1,482.18	1,602.38	0.00	120.20	245,205.99
52	12/1/2019	7.250%	1,481.45	1,602.38	0.00	120.93	245,085.06
53	1/1/2020	7.250%	1,480.72	1,602.38	0.00	121.66	244,963.40
54	2/1/2020	7.250%	1,479.99	1,602.38	0.00	122.39	244,841.03
55	3/1/2020	7.250%	1,479.25	1,602.38	0.00	123.13	244,717.88
56	4/1/2020	7.250%	1,478.50	1,602.38	0.00	123.86	244,594.00
57	5/1/2020	7.250%	1,477.76	1,602.38	0.00	124.62	244,469.38
58	6/1/2020	7.250%	1,477.00	1,602.38	0.00	125.38	244,344.00
59	7/1/2020	7.250%	1,476.25	1,602.38	0.00	126.13	244,217.87
60	8/1/2020	7.250%	1,475.48	1,602.38	0.00	126.90	244,090.97

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AGREEMENT TO BUY AND SELL REAL ESTATE RESIDENTIAL

1. PARTIES: This legally binding Agreement entered into on July 24, 2015 between, Buyer(s) Roberta Lynn Moore & Alexis Moore, (hereinafter called "BUYER"), and Seller(s) Matthew & Rebecca Giesler, (hereinafter called "SELLER"). The property shall be deeded in the name(s) of Roberta Lynn Moore & Alexis Moore

2. PROPERTY TO BE SOLD: Subject to terms and conditions herein, Seller agrees to sell and Buyer agrees to buy the following described property with improvements and fixtures thereon:

Lot Block Section Subdivision Legacy Park
Address 3194 Pine Bluff Way
Tax Map # 0008P-08-016.00 City Fort Mill Zip 29708
County of Lancaster, State of South Carolina.

Seller represents that the property is connected to [X] public sewer system or to [ ] septic tank or to [ ] public water or to [ ] well system or to [ ] other

No personal property will convey as a part of this sale, except as described: Appliances and blinds in the house. Including washer and dryer.

3. CONVEYANCE SHALL BE MADE: Conveyance shall be made subject to all easements as well as covenants of record (provided they do not make the title unmarketable) and to all governmental statutes, ordinances, rules and regulations. Seller agrees to convey by marketable title and deliver a proper general warranty deed, if applicable, free of encumbrances, except as herein stated. Seller agrees to pay all statutory deed recording fees. The deed shall be delivered at the stipulated place of closing, and transaction closed on or before August 31, 2015, not later than 9:00 p.m. Time is of the essence. Seller and Buyer authorize their respective attorneys and the settlement agent to furnish to Listing Broker and Selling Broker copies of the final HUD-1 settlement statement for the transaction for their review prior to closing.

4. POSSESSION: Possession of said property will be given to Buyer at the time of closing. Seller agrees to deliver property free of debris and in a clean condition. The property, including but not limited to, landscaping and lawn, shall be maintained in the same condition from the effective date of this agreement until possession is delivered, ordinary wear and tear excepted. Possession by Buyer before closing or by Seller after closing shall be subject to the terms and conditions of a separate agreement to be executed prior to closing or occupancy.

5. PURCHASE PRICE shall be two hundred sixty thousand dollars, \$ 260,000.00

6. METHOD OF PAYMENT: Purchase price shall be paid as follows: [ ] Cash; or [ ] Subject to Financing. Financing to be obtained by [ ] Conventional [ ] Seller [ ] VA [ ] FHA [X] Other terms: Seller financed for 5 years. Promissory note is separate.

7. EARNEST MONEY: This offer is accompanied by an earnest money deposit of \$ 3,000.00. Buyer and Seller authorize Matthew Giesler as Escrow Agent, to hold and disburse earnest money according to the terms of this agreement. Earnest money paid by [ ] Cash, [ ] Check, or [X] Other. Broker does not guarantee payment of a check or checks accepted as earnest money. All escrow money received shall be deposited as required by South Carolina law and South Carolina Real Estate Commission Rules and Regulations. At the consummation of this sale, the earnest money deposit shall be credited to the Buyer.

THE PARTIES UNDERSTAND THAT, UNDER ALL CIRCUMSTANCES, INCLUDING DEFAULT, THE ESCROW AGENT HOLDING THE EARNEST MONEY DEPOSIT WILL NOT DISBURSE IT TO EITHER PARTY UNTIL BOTH PARTIES HAVE EXECUTED AN AGREEMENT AUTHORIZING THE DISBURSEMENT OR UNTIL A COURT OF COMPETENT JURISDICTION HAS DIRECTED A DISBURSEMENT.

[Signature] BUYER [Signature] BUYER [Signature] SELLER [Signature] SELLER HAVE READ THIS PAGE

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8. **LOAN PROCESSING AND APPLICATION:** Buyer's obligation under this agreement is contingent on Buyer obtaining said loan. Buyer shall apply for a NA % loan (loan-to-value ratio) within NA days from the execution of this Agreement and shall provide Seller with satisfactory loan approval within NA days. Time is of the essence. Should the Buyer fail to make loan application or receive approval within said period, and to diligently pursue the application, the Seller shall have the option to terminate this Agreement, with written notice. Buyer also agrees to provide all documents or information requested by the lending company in a prompt and timely manner. Buyer will take any action that is needed or requested by Lender to process the loan application. Buyer further hereby gives permission to Lender to disclose pertinent information concerning the Buyer's credit-worthiness or any other information needed for the loan processing to the listing or cooperating broker(s) or agent(s). If Buyer fails to comply with these above conditions, Buyer shall be in default of this agreement subject to the terms of paragraph 16. FHA Mortgage Insurance  will  will not be added to the mortgage. VA funding fee  will  will not be added to the mortgage.

9. **CLOSING COSTS:** Unless otherwise agreed, closing costs, including all loan charges and prepaid recurring items, shall be paid as follows:  
(a) SELLER shall provide or pay for preparation of deed, any recording charge based on value of property, and all costs necessary to deliver a marketable title, including recording of satisfactions and property taxes to the day of closing.  
(b) BUYER shall pay, unless otherwise agreed herein, the cost of the Buyer's credit report, property insurance, appraisal, survey, cost of obtaining loan, discount points, title examination, escrow deposits, and prepaid expenses. The Buyer shall also pay, if applicable, interim interest and mortgage insurance premium or VA funding fee. Buyer's hazard insurance policy shall provide coverage as required by lender. Other terms: All closing costs to be paid by buyer.

10. **HOME PROTECTION PLAN COVERAGE:** Both parties understand that a third party home warranty Plan  will  will not be issued at closing. If applicable, the warranty premium will be paid at closing by the  Buyer or  Seller not to exceed \$ 500.00

11. **EXPIRATION OF OFFER:** The offer from Buyer shall be withdrawn at 12 o'clock P M. on July 28, 2015 unless accepted or countered by Seller in written form prior to such time. Time is of the essence.

12. **EXTENSION AGREEMENT:** If the transaction has not closed within the stipulated time limit because a contingency has not been satisfied through no fault of either party, then both parties agree to extend this agreement for a period not to exceed 15 consecutive days from the original closing date. Closing shall occur within this time extension, but in no event shall closing occur later than the above extension date. Time is of the essence.

13. **ADJUSTMENTS:** Taxes, water, all sewer assessments, sewer charges, fuel oil, rents as when collected, insurance premiums, if applicable, and other assessments, including homeowner's association fees, shall be adjusted as of the date of closing. Tax proration pursuant to this Agreement are to be based on the tax information available on the date of closing, and are to be prorated on that basis. **BUYER TO BE RESPONSIBLE FOR APPLYING FOR ANY APPLICABLE TAX EXEMPTIONS.** Property taxes and rent, as well as other expenses and income of the property, if applicable, shall be apportioned to the date of closing. Annual expenses or income shall be apportioned using 365 days. Monthly property expenses or income shall be apportioned by the number of days in month of closing. Prorations at closing shall be final.

14. **NON-RESIDENT TAX:** Seller covenants and agrees to comply with the provisions of South Carolina Code Section 12-8-580 (as amended) regarding withholding requirements of sellers who are not residents of South Carolina as defined in the said statute.

15. **RISK OF LOSS OR DAMAGE:** In case the property herein referred to is destroyed wholly or partially by fire or other casualty prior to delivery of deed, Buyer or Seller shall have the option for ten (10) days thereafter of proceeding hereunder, or of terminating this Agreement.

16. **DEFAULT:** If Buyer or Seller fails to perform any covenant of this Agreement, the other may elect to seek any remedy provided by law, including but not limited to attorney fees and actual costs incurred (as defined in paragraph 17), or terminate this Agreement with a five day written notice. If terminated, both parties shall execute a written release of the other from this contract and both shall agree to hold the Escrow Agent harmless. If either Buyer or Seller refuses to execute release, Escrow Agent will hold the earnest money in trust until said releases are executed or until a court of competent jurisdiction dictates legal disposition.

[Signature] BUYER [Signature] BUYER [Signature] SELLER [Signature] SELLER HAVE READ THIS PAGE

17. **ACTUAL COST INCURRED** shall include all costs and expenses incurred or obligated for by Buyer, Seller or Broker in an effort to consummate this sale. Such costs shall include, but are not limited to, cost of credit report, appraisal, survey, inspections and reports, title examination, and Broker's fee or commission for this sale.

18. **SURVEY, TITLE EXAMINATION, AND INSURANCE:** The Listing and Cooperating Broker(s) and their Agent(s) recommend that Buyer have a survey of the subject property made, have examination as to the title to the property, obtain owner's title insurance, and that Buyer obtain appropriate hazard insurance coverage effective with the time of closing. All hazard insurance to be canceled and new policies furnished by Buyer at closing unless otherwise stipulated in this Agreement. Flood insurance, if required by Lender, at Buyer's option shall be assigned to Buyer with permission of carrier, and premium prorated to date of closing.

19. **CONDITION OF PROPERTY:**





(A) **Seller's Property Condition Disclosure Statement:** (check one)

- Buyer and Seller agree that Seller will not complete nor provide Buyer a Seller's Property Condition Disclosure statement in accordance with South Carolina Code of Laws, as amended, Section 27-50-30, Paragraph (13).
- Buyer and Seller agree that a Seller's Property Condition Disclosure statement, as required by South Carolina Code of Laws, as amended, Section 27-50-10, et seq., has been provided to Buyer by Seller prior to the ratification of this agreement. If the Seller discovers, after his delivery of a disclosure statement to a Buyer, a material inaccuracy in the disclosure statement or the disclosure is rendered inaccurate in a material way by the occurrence of some event or circumstance, the Seller shall correct promptly the inaccuracy by delivering a corrected disclosure statement to the Buyer or make reasonable repairs necessitated by the occurrence before closing. Buyer understands that the Seller's Property Condition Disclosure statement is not intended to replace a professional home inspection. Buyer understands and agrees that the Seller's Property Condition Disclosure statement contains statements made solely by the Seller. The Buyer and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for the accuracy of any information contained in the Seller's Property Condition Disclosure statement. The Buyer and Seller understand and agree that the Listing and Selling Broker and all affiliated agents have fully met the requirements of Section 27-50-70 of the South Carolina Code of Laws, as amended.

(B) **Inspection:** Buyer at Buyer's expense shall have the privilege and responsibility of inspecting the structure, square footage, environmental concerns including but not limited to radon gas, lead-based paint and lead-based paint hazards, wetlands study, appurtenant buildings, heating, air conditioning, electrical and plumbing systems as well as built-in appurtenant equipment or appliances prior to the day of closing or possession. In the event repairs are necessary to place the heating system, air conditioning, plumbing, and electrical system to be conveyed in operative condition and to make the roof free of leaks, and the dwelling structurally sound, the Seller shall be notified within 5 consecutive days after both parties have signed this Agreement. Time is of the essence. If Buyer fails to notify Seller within this time, Buyer shall have waived any and all rights under the terms of this paragraph. If Lender's commitment requires any additional inspections or certifications, these are to be provided by Buyer.

(C) **Maintenance:** After any inspection by Buyer and after repairs, if any, made as a result of any such inspection, the Seller agrees to maintain the heating, air conditioning, plumbing, and electrical systems, as well as all appliances to be conveyed in operative condition, normal wear and tear excepted, until the day of closing or the day possession is given, whichever occurs first. Seller agrees to maintain the property, including lawn, shrubbery and grounds until the day of closing or possession, whichever occurs first.

(D) **Wood Infestation Report:** If the property to be sold has been previously occupied,  The Buyer  The Seller shall, at their expense, have the property inspected and shall obtain a current Wood Infestation Report (CL100) from a licensed and bonded pest control operator, on or before July 28, 2015. Time is of the essence. If Buyer fails to have the property inspected by this date, Buyer shall have waived any and all rights under the terms of this paragraph. The Seller makes no warranties with regard to matters covered by such report or any other improvement unless specifically stated in this agreement. If the infestation report reveals the presence of or damage by termite infestation or other wood destroying organisms, Seller shall remedy such deficiencies and shall furnish Buyer with a report of a qualified inspector that property is free from infestation or damage herein mentioned or that infestation or damage has been treated and/or repaired as appropriate in a workmanlike manner on or before closing. If the property to be sold has not been previously occupied, Seller shall certify that the dwelling has been treated by soil poisoning for the prevention of termites and other wood destroying organisms and shall provide the Buyer, at closing, a written certification from a licensed pest control operator.

 BUYER  BUYER  SELLER  SELLER HAVE READ THIS PAGE

(E) **Repairs:** The cost of all repairs to heating system, air conditioning, plumbing, and electrical system to be conveyed, and to make the roof free of leaks, and the dwelling structurally sound and wood infestation treatment, if any, required by section (D) above, to be paid by Seller. If the Seller refuses to make these repairs and treatment, the Buyer shall have the option to (1) accept the property in its present condition, (2) negotiate with the Seller for the payment of these repairs and treatment, or (3) terminate this Agreement, subject to paragraph 7. The repairs to any other items are the sole responsibility of Buyer. The obligations of Seller under paragraph 19 terminate on the day of closing or on the day possession is given, whichever occurs first.

(F) **Residential Dwellings Built before 1978:** (check one of the following)

This contract is contingent upon a risk assessment or inspection of the property for the presence of lead-based paint and/or lead-based paint hazards which shall be done, at the Buyer's expense, by midnight on the tenth day after ratification of this contract or by midnight on \_\_\_\_\_, 20\_\_\_\_. (Intact lead-based paint that is in good condition is not necessarily a hazard. See EPA pamphlet "Protect Your Family From Lead in Your Home" for more information). This contingency will terminate at the above predetermined deadline unless the Buyer (or Buyer's agent) delivers to the Seller (or Seller's agent) a written contract addendum listing the specific existing deficiencies and corrections needed, together with a copy of the inspection and/or risk assessment report. The Seller may, at the Seller's option, within \_\_\_\_\_ days after Delivery of the addendum, elect in writing whether to correct the condition(s) prior to settlement. If the Seller will correct the condition, the Seller shall furnish the Buyer with certification from a risk assessor or inspector demonstrating that the condition has been remedied before the date of the settlement. If the Seller does not elect to make the repairs or if the Seller makes a counter-offer, the Buyer shall have \_\_\_\_\_ days to respond to the counter-offer or remove this contingency and take the property in "as-is" condition or this contract shall become void. Upon such termination, the earnest money deposit of Buyer shall be returned to Buyer and neither party shall have any further rights hereunder. The Buyer may remove this contingency at any time without cause; or

Buyer waives the opportunity to conduct a risk assessment or inspection for lead-based paint and/or lead-based paint hazards.





(G) **Megan's Law:** The Buyer and Seller agree that the Listing and Selling Broker and all affiliated agents are not responsible for obtaining or disclosing any information contained in the South Carolina Sex Offender Registry. The Buyer and Seller agree that no course of action may be brought against the Listing and Selling Broker and all affiliated agents for failure to obtain or disclose any information contained in the South Carolina Sex Offender Registry. The Buyer agrees that the Buyer has the sole responsibility to obtain any such information. The Buyer understands that Sex Offender Registry information may be obtained from the local sheriff's department or other appropriate law enforcement officials.

(H) **Disclaimer:** The Buyer acknowledges the Seller, except as provided in subparagraphs (B), (C), (D), and (E) of this section, gives no guarantee or warranty of any kind, expressed or implied, as to the physical condition of the property or to the conditions of or existence of improvements, services, appliances or system thereto, or as to merchantability or fitness for a particular purpose as to the property or improvements thereof, and any implied warranty is hereby disclaimed by the Seller. Neither Buyer nor Seller will hold Cooperating or Listing Broker responsible for any act of negligence or intent by any inspection or repair company employed by Seller or Buyer for the purposes of this agreement. The Seller is not required to make any repairs under any circumstances until Purchaser's financing has been approved.

20. **APPRAISED VALUE:** (check one)

This agreement is not contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price.

This agreement is contingent on the lot or parcel with building and improvements thereon, if any, appraising, according to the lender's appraisal or other appraisal as agreed, for the selling price or more; if the lot or parcel with building and improvements thereon appraises for less than the selling price, the seller may elect to sell for the appraised value. In such case, the Buyer agrees to proceed with the consummation of this sale at the reduced price. However, if Seller does not agree to sell at the appraised value, the Buyer shall have the option of proceeding with the consummation of the Agreement without regard to the amount of the appraised valuation, or terminate the agreement without penalty.

 BUYER  BUYER  SELLER  SELLER HAVE READ THIS PAGE

21. **DISCLAIMER BY BROKERS AND AGENTS:** The parties acknowledge that the Listing and Cooperating Broker(s) and their Agent(s): (1) Give no guaranty or warranty of any kind, express or implied, as to the physical condition of the property or as to condition of or existence of improvement services or systems, thereto, included but not limited to termite damage, roof, basement, appliances, heating and air conditioning systems, plumbing, sewage, electric systems, and to the structure; (2) Give no warranty, express or implied, as to the merchantability or fitness for a particular purpose as to the property or such improvements thereto and any implied warranty hereby disclaimed; (3) Give no warranty as to title; (4) Give no guaranty on warranty concerning (a) any certification or inspection concerning the condition of the property, (b) any matters which would be reflected by current survey of the property, and (c) the accuracy of the published square footage of the property; (5) Buyer acknowledges that Seller and Seller's Agents have not made any oral or written commitments to Buyer regarding (a) projected income or economic benefit for Buyer from rentals; (b) rental arrangements except that Buyer may rent the unit if Buyer so desires or (c) other economic benefits to the Buyer.

22. **COASTAL TIDELANDS & WETLANDS ACT:** In the event the property is affected by the provisions of the South Carolina Coastal Tidelands & Wetlands Act (Section 48-39-10, et seq., South Carolina Code of Laws), an Addendum will be attached to this Agreement incorporating the required disclosures at  Buyer's  Seller's expense.

23. **MEDIATION CLAUSE.** Any dispute or claim arising out of or relating to this Agreement, the breach of this Agreement or the services provided in relation to this Agreement, shall be submitted to mediation in accordance with the Rules and Procedures of the Dispute Resolution System of the NATIONAL ASSOCIATION OF REALTORS®. Disputes shall include representations made by the Buyer(s), Seller(s) or any real estate broker or other person or entity in connection with the sale, purchase, financing, condition or other aspect of the property to which this Agreement pertains, including without limitation allegations of concealment, misrepresentation, negligence and/or fraud. Any agreement signed by the parties pursuant to the mediation conference shall be binding.

This mediation clause shall survive for a period of 120 days after the date of the closing. The following matters are excluded from mediation hereunder: (a) judicial or non-judicial foreclosure or other action or proceeding to enforce a deed of trust, mortgage, or land contract; (b) an unlawful detainer action; (c) the filing or enforcement of a mechanic's lien; (d) any matter which is within the jurisdiction of a probate court; (e) the filing of a interpleader action to resolve earnest money disputes. The filing of a judicial action to enable the recording of a notice of pending action, for order of attachment, receivership, injunction, or other provisional remedies, shall not constitute a waiver of the right to mediate under this provision, nor shall it constitute a breach of the duty to mediate.





24. **SURVIVAL:** If any provision herein contained which by its nature and effect is required to be observed, kept or performed after the closing, it shall survive the closing and remain binding upon and for the benefit of the parties hereto until fully observed, kept or performed.

25. **ENTIRE BINDING AGREEMENT:** This written instrument, including the additional terms and conditions set forth on the reverse, expresses the entire agreement and all promises, covenants, and warranties between the Buyer and Seller. It can be changed only by a subsequently written instrument signed by both parties. Both Buyer and Seller hereby acknowledge that they have not received or relied upon any statements or representations by either Broker or their agents which are not expressly stipulated herein. The benefits and obligations shall inure to and bind the parties hereto and their heirs, assigns, successors, executors, or administrators. Whenever used, singular includes plural, and use of any gender shall include all.

26. **FACSIMILE AND OTHER ELECTRONIC MEANS:** The parties agree that the offer, any counteroffer and/or acceptance of any offer or counteroffer may be communicated by use of a fax or other secure electronic means, including but not limited to electronic mail and the internet, and the signatures, initials and handwritten or typewritten modifications to any of the foregoing shall be deemed to be valid and binding upon the parties as if the original signatures, initials and handwritten or typewritten modifications were present on the documents in the handwriting of each party.

27. **TRUST ACCOUNT INTEREST/CHARITABLE CONTRIBUTION:** According to the rules and regulations of the South Carolina Real Estate Commission and the Code of Laws of South Carolina, 1976, as amended, any interest earned on Buyer's earnest money deposit would belong to Buyer until the closing of the transaction referenced in this agreement. It is understood that Broker may place deposited earnest monies into an interest bearing trust account and that Broker will retain all interest incurred in said account in which case all interest earned on Broker's interest bearing trust account shall be donated on a regular basis to a charity of Broker's choice.

28. **CONTINGENCIES:** These stipulations shall preempt printed matter herein: (attach and reference addendum if necessary) First floor carpet will all be replaced with laminate flooring and carpeting in the back bedroom.  
First floor bathroom window will be repaired. Microwave vent will be replaced. Trim to be painted for touch up throughout house.

 BUYER  BUYER  SELLER  SELLER HAVE READ THIS PAGE

THIS IS A LEGALLY BINDING AGREEMENT. BOTH BUYER AND SELLER SHALL SEEK FURTHER ASSISTANCE IF THE CONTENTS ARE NOT UNDERSTOOD. BOTH BUYER AND SELLER ACKNOWLEDGE RECEIPT OF A COPY OF THIS AGREEMENT. ALL TERMS AND CONDITIONS OF THIS AGREEMENT DO NOT SURVIVE CLOSING UNLESS OTHERWISE SPECIFIED.

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties.

BUYER: [Signature] Date July 27, 2015 Time 10:00pm

WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

BUYER: [Signature] Date July 27, 2015 Time 10:01pm

WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

SELLER: [Signature] Date July 27, 2015 Time 9:00 PM

WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

SELLER: [Signature] Date July 27, 2015 Time 9:00 PM

WITNESS: \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

LISTING AGENT AND COMPANY \_\_\_\_\_ NA \_\_\_\_\_

SELLING AGENT AND COMPANY \_\_\_\_\_ NA \_\_\_\_\_

ESCROW AGENT ACKNOWLEDGMENT \_\_\_\_\_ NA \_\_\_\_\_

**Addendum to Prior Contracts**

December 28, 2015

Contracts attached:

Agreement to Buy and Sell Real Estate Residential Agreement Dated July 24, 2015  
Real Estate Contract of Sale Dated July 27, 2015  
Promissory Note for Sale Dated July 28, 2015

Correction to Contracts:

The property address is located in Lancaster County as indicated on the agreements, but the zip code should be 29707. The property was listed as 29708 which is not correct. This has no impact on the other terms of the agreement and is solely a correct to confirm the property is in Lancaster County and not York County.

Failure to Comply with Contracts:

Should the obligator fail to meet the payment or other terms on any given month, the obligee will notify them with request for full retribution owed in 15 days when feasible, if continued payments are missed for subsequent months, the property owner may proceed with the steps below for foreclosure. Prior to foreclosure, at a minimum, the obligee will provide conditions that may be met to satisfy and get back to commitment levels of payment or other terms necessary. As foreclosure is a time consuming and costly process, all parties agree to work towards a settlement in advance of moving towards foreclosure.

Steps of Foreclosure:

If the parties are unable to come to an agreement to settle outstanding payments amicably, the obligee may proceed with hiring legal council to proceed with foreclosure. Notification will be given to Obligator in advance of this occurring via certified mail or email with confirmed response.

If payment is unable to be made under the terms of the other agreements, a mutual agreement to sell the property will take place, in which all conditions and payment to the obligator must be made prior to any to the obligee, but any property value above what is owed will be provided to the obligee.

Methods to exit the foreclosure process

- A. Oblige catches up on missed or outstanding mortgage payments
- B. Oblige gets a loan modification to reduce their payments

- C. The property is sold at a amount less than what is owed (short sale)
- D. Deed in lieu of foreclosure

The manner in which foreclosure will take place is through judicial foreclosure in which the courts will assist with deciding based on all evidence provided. This is the last step in settling as all other options have been attempted without success.

Timeline of Foreclosure:

1. Pre-foreclosure

- a. At 30 days a pre-lien letter will be sent to obligee.
- b. If failure to comply within the subsequent 30 days a formal lien letter will be sent, which would be at 60 days of outstanding payments.
- c. If after 90 days of any outstanding payment the obligee has not complied with payments a notice of default will be filed with the local authority in Lancaster County. This notice of default will provide instruction on what is required to pay and how much time will be allowed to make those payments.

2. Auction

- a. If the notice of default is not met for payments which would indicate over 120 days outstanding payments, then the property will be sold.
- b. If unable to sell the property for above the amount owed to the obligator in full, then the obligee will be responsible for paying any further outstanding amounts after the sale of the house.
  - i. In order to get the best value for the property for all parties, it is critical to agree a sale should proceed early on so the house can be prepared and sold without going to public auction.
- c. If the property sells for above the amount owed to obligator, plus all payments outstanding, the remaining balance above costs of closing paid will go to obligee.

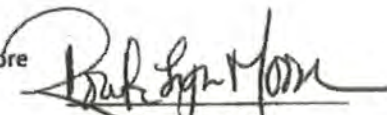
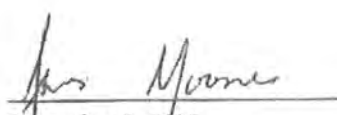
3. Return to obligator of the property

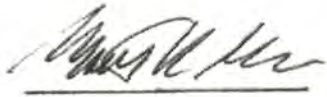
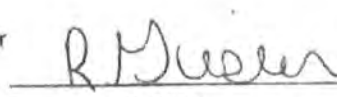
- a. If the auction or sale process does not proceed, the property will return to obligator in full after 150 days of outstanding payments.
- b. Outstanding payments will still be the responsibility of obligee until the time the property can be sold.

Obligator Default:

If a lien is placed on the property due to any fault of obligator, notification must be provided to the obligee of the default of the subject property. The obligee will then be allowed to move forward with a purchase of the property per the terms of the prior agreements.

Signature

Roberta Lynn Moore		Alexis Moore	
Signature		Signature	
Date	December 8, 2016	Date	December 8, 2016

Matthew Giesler		Rebecca Giesler	
Signature		Signature	
Date	December 8, 2016	Date	December 8, 2016

**RECEIVED**

**Jul 26 2024**

SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court Of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore, ..... Appellant

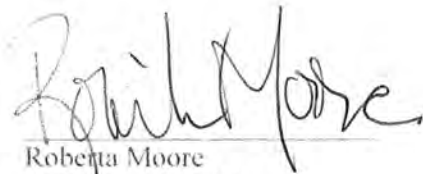
v.

Rebecca Giesler, ..... Respondent.

PROOF OF SERVICE

I certify that I have served the REVISED INITIAL BRIEF OF APPELLANT WHICH INCLUDES DESIGNATION OF MATTER on Rebecca Giesler by depositing a copy of it in the United States Priority Mail, postage prepaid on July 26<sup>th</sup>, 2024 addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732.

July 26, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842

Exhibit E

July 28, 2024

Shelby Spencer  
Team Lead – Civil  
South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

RECEIVED

Aug 12 2024

SC Court of Appeals

Dear Mrs. Spencer,

After reviewing the Respondent, Rebecca Giesler's, Motion For Dismissal, it has been brought to the attention of the Appellant, Roberta Moore, that the Respondent has had communications with the Clerk of the Circuit Court, as well as, the judge in regards to the judgment concerning the case from the lower court without the Appellant's knowledge or presence. According to SC Code of Laws Section 58-3-260, this ex parte communication is not permissible because it directly relates to the judgment of the case and all parties should have been present and/or notified of these communications.

With this knowledge, the Appellant is respectfully requesting that the Respondent's Motion For Dismissal be denied and that the appeal to overturn the decision of the lower court be granted. The Respondent's actions are believed to have swayed the outcome of the case in that at no point in the proceedings was there any mention of the counterclaim that the Respondent requested ruling on via ex parte communications. According to Rule 12(b)(3), the Respondent's actions are considered misconduct by the Respondent and therefore should render the judgment of the lower court void and dismissed in it's entirety because neither, the Clerk of the Lower Court, the Judge of the lower court, nor the Respondent or the Respondent's Counsel notified the Appellant of any of these communications.

In regards to the service of process for the recent Motion For Dismissal from the Respondent, the Respondent has also included false information about the service of paperwork accordance to SC Rules for Service of paperwork. The date of service would be the date that the Respondent deposited the paperwork with the United States Postal Service. The Respondent indicated that this was done on July 19<sup>th</sup>, 2024, however, it was not taken to or received by the Postal Service until July 24<sup>th</sup>, 2024. So the information that the Respondent submitted to the courts was false and can be considered as perjury in that the Respondent certified that the information they were providing was true when it was not. The failure of the Respondent to mail documentation on the date indicated also impedes the judicial process of having 10 days to respond and is deemed as an intentional action by the Respondent. Please see attached documentation from the United States Postal Service reflecting the dates in which the registered mail was processed. This mail was processed without a requirement for signature.

Thank you for your immediate assistance in this matter.

Best Regards,



Roberta Moore

cc: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
Mary Singleton, [msingleton@sccourts.org](mailto:msingleton@sccourts.org)  
Jennifer Cloud, [jennifer@cloudlawsc.com](mailto:jennifer@cloudlawsc.com)

**RECEIVED**

**Jul 05 2024**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, #2168 Circuit Court Judge

Appellate Case No. 2024-000557

Roberta Moore,

Appellant,

v.

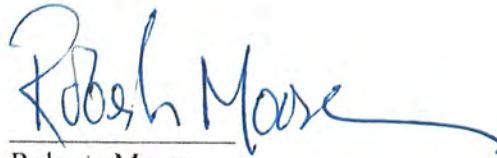
Debbie Griesler,

Respondent.

---

INITIAL BRIEF OF APPELLANT

---



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842  
Appellant

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Greyhound Corp v. Superior Court - 56 Cal 2d 384-385)

STATUTES

S.C. Rules of Civil Procedure 56 .....

CCP 2019.030.....

## STATEMENT OF ISSUES ON APPEAL

1. DID JUDGE ERR IN GRANTING SUMMARY JUDGMENT ON MARCH 8, 2024 WHEN COURT CASED CONTINUED BASED ON JUDGES DISPOSITION ON JULY 25, 2023 FOR ACTIONS IN QUESTION REGARDING BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT??
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3. DID JUDGE ERR IN GRANTING SUMMARY JUDGMENT WHEN RESPONDENTS COUNSEL FAILED TO INCLUDE ALL OF THE CONTRACTS IN QUESTION IN HER REQUEST FOR SUMMARY JUDGMENT THAT WERE ALREADY RECORDED ON THE PUBLIC INDEX AND A PART OF THE COURT FILE.
4. DID COUNSEL ERR IN FORMAL PAPERWORK SUBMITTED AFTER REQUIREED DEADLINE WHERE SHE INDICATED THAT THERE WERE NO OBJECTIONS TO THE INTERROGATORIES WHEN WRITTEN RESPONSES WERE GIVEN AND ALL INTERROGATORIES THAT WERE ASKED AND DISCOVERY REQUESTED WERE A MATTER OF PUBLIC RECORD AND HAD BEEN SUPPLIED PREVIOUSLY AND THEREFORE ACCORDING TO CCP 2019.030 WAS UNNECESSARILY CUMULATIVE AND DUPLICATIVE.

## STATEMENT OF THE CASE

On April 24th, 2023, the Appellant filed a complaint against the Respondent to which the Respondent filed an answer and counterclaim. The Appellant then filed an amended complaint against the Respondent on June 8th, 2023 indicating eight causes of action.

On June 19th, 2023 the Respondent filed a Motion to Dismiss which went before The Honorable Judge Gibbons on July 24th, 2023. The Motion was taken under advisement and partially granted with the exception of two causes of action. Those actions were Breach of Contract and Breach of Contract accompanied by a fraudulent act.

On February 12th, 2024 another Motion to Dismiss was heard by the Honorable Judge Gibbons. At that time the Respondent's counsel and The Honorable Judge Gibbons was given a written list of objections to the Respondent's Interrogatories which was counsel's basis for dismissal.

iv  
STANDARD OF REVIEW

Based on the substantial evidence submitted to The Honorable Judge Gibbons that indicated a Breach of Contract along with a fraudulent act as defined by 18 U.S. Code § 1341, Frauds and swindles, along with violation of South Carolina Code of Laws, Section 16-17-640, this case should be reinstated.

v  
ARGUMENTS

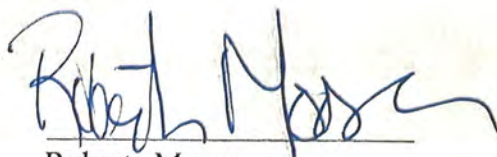
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CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

1, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842  
Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, #2168 Circuit Court Judge

Appellate Case No. 2024-000557

Initial Brief Of Appellant

Roberta Moore,

Appellant,

v.

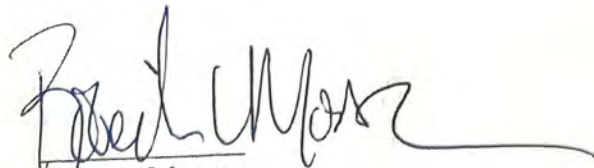
Rebecca Giesler,

Respondent.

PROOF OF SERVICE

I certify that I have served the Initial Brief Of Appellant on Rebecca Giesler by depositing a copy of it in the United States Priority Mail, postage prepaid, on July 5th, 2024, addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732, as well as, copied her attorney of record on paperwork submitted electronically to Court of Appeals on July 5th, 2024.

July 5th, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842  
Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, #2168 Circuit Court Judge

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Appellate Case No. 2024-000557

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Roberta Moore,

Appellant,

v.

Rebecca Giesler,

Respondent.

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INITIAL BRIEF OF APPELLANT

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Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842  
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vi  
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CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

July 4, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
(803) 524-1842  
Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

Brian M. Gibbons, #2168 Circuit Court Judge

---

Appellate Case No. 2024-000557

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Initial Brief Of Appellant

---

Roberta Moore,

Appellant.

v.

Rebecca Giesler,

Respondent.

---

PROOF OF SERVICE

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I certify that I have served the Initial Brief Of Appellant on Rebecca Giesler by depositing a copy of it in the United States Priority Mail, postage prepaid, on July 5th, 2024, addressed to her attorney of record, Jennifer M. Cloud, 1467 Ebenezer Road, Rock Hill, South Carolina 29732, as well as, copied her attorney of record on paperwork submitted electronically to Court of Appeals on July 5th, 2024.

July 4th, 2024



Roberta Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29732  
(803) 524-1842  
Appellant

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

FILED  
OFFICE OF  
CLERK OF COURT

2024 APR 26 A 9:38

APPEAL FROM LANCASTER COUNTY  
Court of Common Pleas

CLERK OF COURT  
LANCASTER, SC

Brian M Gibbons, #2168 Circuit Judge

**RECEIVED**

Appellate Case No. 2024-000557

APR 26 2024

SC Court of Appeals

Roberta Moore

Appellant,

v.

Rebecca Giesler,

Respondent.

NOTICE OF APPEAL

The Appellant, Roberta Moore, appeals the order of the Honorable Brian M. Gibbons, Granting Summary Judgment dated March 5, 2024, Appellant received written notice of entry of this order Granting Summary Judgment on March 8, 2024 which indicated a more complete order was to be filed by Respondent's Counsel of Record within 10 days which the Respondent's Counsel of Record failed to do. Appellant received completed order of filing on March 28, 2024, which was after the court mandated deadline ordered in the case disposition by the Honorable Judge Brian M. Gibbons'.

2. Appeal requested based on Respondent's request for discovery was for items that were already a matter of public record on the public index (and/or) authored (and/or) signed by the

Respondent. Respondent abused the discovery process by making unnecessary requests for materials that she already had in possession and by asking questions and for materials that had no relevance to the case. The Respondent's request for discovery was unreasonably cumulative and duplicative and placed more unwarranted burden on the Appellant and should not have been allowed. *Greyhound Corp. v. Sup Ct (Clay ) 56 C2d at 384-385*. Answers and materials requested had already been given in previous responses in prior documents served upon Respondent and were all documented on the Public Index as Addendums to previous filings. Documents requested were listed as Addendums in Respondent's initial paperwork on file on the Public Index.

*(According to CCP 2019.030, the court shall restrict the frequency of extent of use of a particular discovery method if it determines that*

*· the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome or less expensive.*

*· the selected method of discovery is unduly burdensome or expensive, taking into account the needs of the case, the amount in controversy and the importance of the issues at stake in the litigation.*

3. Appeal requested based on Respondent's request for summary judgment omitted contract addendum that was in dispute which is already a part of the public record and a relevant part of the case as indicated previously by Judge Brian M. Gibbons when he ordered previous

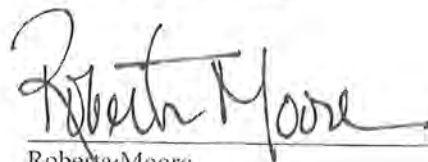
disposition of case on July 25, 2023 where he continued the actions for Breach of Contract and Breach of Contract accompanied by a fraudulent act.

4. Appeal requested based on Respondent's request for summary judgment should not have been granted based on the Respondent breach of contract also being accompanied by a fraudulent act as indicated on the Public Index and also in the case disposition of the Honorable Judge Brian Gibbons issued on July 25, 2023.

*According to Rule 56 of the Federal Rules of Civil Procedure, " The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law."*

This was not the case, because it had already been determined by The Honorable Judge Brian Gibbons that there was enough material fact as a matter of law to proceed based on the case disposition issued on July 25, 2023.

Respectfully Submitted,



Robert Moore  
3194 Pine Bluff Way  
Indian Land, South Carolina 29707  
RLMoore413@gmail.com (Email)  
803-524-1842 (Telephone)  
APPELLANT

*(Counsel Of Record for Respondent to appear on next page)*

Indian Land, South Carolina

April 26th, 2024

Counsel of Record for  
Respondent:  
Jennifer M. Cloud, Esq  
Cloud Law Firm  
1467 Ebenezer Road  
Rock Hill, SC 29732  
Attorney for Respondent  
(803) 693-5721  
SC Bar #103939