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Mar 24 2025

SC Court of Appeals

No. _____

IN THE

SUPREME COURT OF THE UNITED STATES

Tracie L. Green — PETITIONER

VS.

US Bank National Association et al — RESPONDENT(S)

MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS*

The petitioner asks leave to file the attached petition for a writ of certiorari without prepayment of costs and to proceed *in forma pauperis*.

Petitioner has previously been granted leave to proceed *in forma pauperis* in the following court(s):

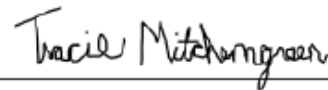
Lexington County Courthouse

US District Court of South Carolina

US Court of Appeals for the Fourth Circuit

Petitioner's affidavit or declaration in support of this motion is attached hereto.

A copy of the order of appointment is appended.



(Signature)

Case # 2022 CP3200784

Motion and Order (Affidavit) to Proceed in Forma Pauperis

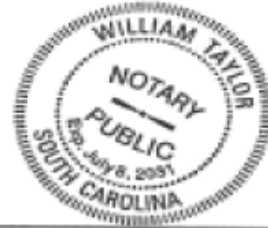
I, Trade Mitchem-Green, being duly sworn, state that I am the Defendant and that I do not have the funds available to pay the costs of filing and service in this case. I request that motion hearing requests, form motions, and proosed order/consent orders be made without cost to me.


Trade Mitchem-Green
Defendant

Sworn to before me this 3rd day of May, 20 22


Notary Public of South Carolina

My Commission expires: July 8, 2031



ORDER

- ☒ Leave is granted to proceed in forma pauperis.
- ☐ Leave is denied to proceed in forma pauperis. This case will be dismissed without further order of the court if the filing fee and associated costs are not paid on or before _____, 20_____. (Family Court Only)

Date: MAY 11, 20 22


Family Court Judge
Circuit Court Judge

_____, S.C.

NOTICE TO PLAINTIFF: The Court may assess costs against either party at hearing.

Custodial Parent (if applicable): _____

SCCA 405F (12/2009)

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Tracie L. Green — PETITIONER

vs.

US Bank National Association et al — RESPONDENT(S)

ON PETITION FOR A WRIT OF CERTIORARI TO

US Court of Appeals for the Fourth Circuit

PETITION FOR WRIT OF CERTIORARI BEFORE JUDGEMENT UNDER RULE 11
AND A REQUEST FOR AN IMMEDIATE STAY

Tracie Mitchem-Green
ProSe Defendant
P.O. Box 521
Yonkers, NY 10710
(803) 361-0602
Email: drgreen@myyahoo.com

March 23, 2025

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P.O. Box 521
Yonkers, NY 10710
(803) 361-0602
Email: drgreen@myyahoo.com

March 23, 2025

QUESTION(S) PRESENTED

Stated Issue: Invoking Rule 11, the facts will show that U.S. Bank National, with the assistance of accomplices, orchestrated and executed a plan to steal property under the guise of foreclosure.

The question presented is:

1. Are the elements of fraud satisfied in this foreclosure case (specifically, was and is there a scheme to defraud, intent to defraud, a material false statement(s), reliance by victim on those statement(s), and resulting damages)?

LIST OF PARTIES

All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

- John Doe
- Jane Doe

RELATED CASES

US Bank National Association v Tracie Green. No 25-1169. US Court of Appeals for the Fourth Circuit, Final Judgment pending.

US Bank National Association v Tracie Green. No 3:22-cv-04215-SAL. US District Court of the District of South Carolina. Final Judgment entered February 18, 2025.

US Bank National Association v Tracie Green. No 2022CP3200784. Lexington County
Courthouse. Final Judgment Pending.

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- i. December 6, 2024, Letter from the Court
- ii. January 2, 2025, Letter from the Court
 - a. April 4, 2024, Letter from the Court
 - b. June 13, 2024, Letter from the Court
- iii. February 4, 2025, Letter from the Court
- iv. March 18, 2025, Letter from the Court

APPENDIX B Document Related to US Court of Appeals for the Fourth Circuit

- i. February 21, 2025, Informal Brief Schedule
- ii. March 11, 2025, Order granting Informa pauperis

APPENDIX C Decision of US District Court for South Carolina

- i. February 11, 2025, Motion for Stay Pending Appeal
- ii. February 18, 2025, Order denying removal, stay and preliminary injunction; and revoking Informa pauperis status

APPENDIX D Decision of SC Court of Appeals

- i. February 2, 2023 Notice of Appeal with Stay Judgement for Sale or Delivery of Land
- ii. February 2, 2025 Payment for Appeal
- iii. March 18, 2025 Order of Dismissal

APPENDIX E Document Related to Lexington County Courthouse

- i. November 14, 2024 Order for Foreclosure
- ii. January 29, 2025 Order Denying Vacate of Judgment

TABLE OF AUTHORITIES CITED

CASES	PAGE NUMBER
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IN THE
SUPREME COURT OF THE UNITED
STATES PETITION FOR WRIT OF
CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

Federal Court

The opinion of the United States Court of Appeals is pending.

The opinion of the United States District Court of South Carolina appears at Appendix B and publishing is unknown.

State Court

The opinion of the SC Court of Appeals appears at Appendix C and publishing is unknown.

The final opinion of Lexington County Courthouse is pending. Initial opinions appears at Appendix D and publishing is unknown.

JURISDICTION

Federal courts:

The date is pending on which the United States Court of Appeals will decide on this case. The jurisdiction of this Court is expressly invoked under Rule 11 and 28 U. S. C. § 1254(1).

The date on which the United States District Court of South Carolina decided this case was February 18, 2025. A copy of that decision appears at Appendix B. The jurisdiction of this Court is expressly invoked under Rule 11 and 28 U. S. C. § 1254(1).

State courts:

The date on which the South Carolina Court of Appeals decided this case was March 18, 2025. A copy of that decision appears at Appendix C. The jurisdiction of this Court is expressly invoked under Rule 11 and 28 U. S. C. § 1254(1).

The dates on which the Lexington County Courthouse issued initial decisions on this case were November 14, 2024 and January 29, 2025; transfer to Federal Jurisdiction is in process. See Appendix D. The jurisdiction of the Court is expressly invoked under Rule 11 and 28 U. S. C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

INVOLVED

Constitution, Fourteenth Amendment, Section 1:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

Federal Rule of Civil Procedure 60:

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in the judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court's leave.

(b) Grounds for Relief from a Final Judgment, Order, or Proceeding. On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or mis conduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (any other reason that justifies relief.

(c) Timing and Effect of the Motion. (1) Timing. A motion under Rule 60 (b) must be made within a reasonable time—and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

(d) Other Powers to Grant Relief. This rule does not limit a court's power to: (1) entertain an independent action to relieve a party from a judgment, order, or proceeding; (3) set aside a judgment for fraud on the court.

Title VII Civil Rights Act of 1964:

"...Prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance.

As President John F. Kennedy said in 1963:

Simple justice requires that public funds, to which all taxpayers of all races [colors, and national origins] contribute, not be spent in any fashion which encourages, entrenches, subsidizes or results in racial [color or national origin] discrimination.

If a recipient of federal assistance is found to have discriminated and voluntary compliance cannot be achieved, the federal agency providing the assistance should either initiate funding termination proceedings or refer the matter to the Department of Justice for appropriate legal action....Title VI inhibits intentional discrimination..."—

Department of Justice

U.S Department of Housing and Urban Development (Washington, DC) [April 11, 2022 Letter]

FHA requires your mortgage servicer to review your situation, determine which assistance option you are eligible for, and then help you to complete the option.

HUD 21-115, dated July 23, 2021, Public Release Notice entitled "Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners:

For homeowners who can resume making their existing monthly mortgage payments, FHA has revised a COVID-19 Recovery Standalone Partial Claim...COVID-19 Recovery Modification, for homeowners who cannot resume making their current monthly mortgage payments...The COVID-19 Pre-foreclosure Sale, for homeowners who, after all retention options are exhausted are unable to keep their home...The COVID-19 Deed-in-Lieu of Foreclosure for homeowners who are unable to keep their home after all retention options are exhausted, and who are unable to complete a pre-foreclosure sale...the homeowner voluntarily offers the deed to HUD in exchange for release from all obligations under the mortgage...

STATEMENT OF THE CASE

This petition invokes Rule 11 with oral argument requested. This Petitioner respectfully moves the Court to grant writ of certiorari before judgement from US Court of Appeals for the 4th Circuit—before a full member Court and grant an immediate stay of all activity in lower courts, including auction/sale of the property in dispute. [In fairness to Respondent, this petitioner requests Chief Justice Roberts to excuse himself due to petitioner's direct communication with him prior to submission of this petition.]

As indicated in the Petitioner's February 7, 2025 Notice of Removal submitted to the District Court of South Carolina:

Tracie L. Green, as a ProSe Defendant, hereby removes this case from the South Carolina Court of Appeals to the United States District Court for the District of South Carolina, pursuant to 28 U.S.C. Codes, 1446, 1332 and FRCP 60.

- 1. The pending action is styled US Bank National Association v. Tracie L. Green; Cardinal Pines Homeowners' Association, Inc; Palmetto Citizens Federal Credit Union, Case#2022CP3200784, on appeal—from the State of South Carolina County of Lexington Court of Common Pleas, located at 205 East Main Street, Lexington, South Carolina 29072—before the South Carolina Court of Appeals, located at 1220 Senate Street, Columbia, South Carolina. A true and correct copy of the summons, complaint, and CARES ACT certification are attached as **Appendix A**.*

2. *As explained below, this Court has original subject matter jurisdiction over this civil action because the case involves important federal questions since the complaint charges Tracie L. Green breached a mortgage contract causing a deficiency; and the charges involve alleged federal and state law violations that have a federal preemption defense. In addition, diversity of citizenship is a factor, as Tracie is a resident of the state of New York. Moreover, co-defendants Cardinal Pines Homeowners' Association, Inc and Palmetto Citizens Federal Credit Union have never contested requests to transfer to Federal jurisdiction.*
3. *This case appears to be unique in nature, as multi-level fraud appears to be at work. As explained below, removal is required.*

I. THE NOTICE OF REMOVAL IS TIMELY

4. *This removal is timely, since it is filed within 30 days of the January 29, 2025, order denying Defendants motion to vacate judgement and within 10 days—of January 30, 2025, the date in which this Defendant was notified of the said order—to file an appeal.*

II. VENUE IS PROPER IN THE DISTRICT OF SOUTH CAROLINA

III. Under 28 U.S.C. 121, the United States District Court for the District of South Carolina is the proper venue for removal under 28 U.S.C. 1446 because the District of South Carolina encompasses Lexington and Richland Counties, where this state action is currently pending.

IV. BACKGROUND

5. *Though the Defense appeals the entirety of the January 29, 2025 Order Denying Motion to Vacate, the Court stated the following:*

Rule 60, SCRPC provides typical motion to vacate fact and legal patterns. *Fraud, mistake, Inadvertence or excusable neglect are reasons to grant, as is lack of subject matter jurisdiction. The court note that "Relief is granted for extrinsic fraud because it prevents full litigation of the case. Intrinsic fraud does not invalidate the judgement because that type of deception should have been discovered during the litigation itself...The fraud must be established by clear and convincing evidence and the movant must also show a meritorious defense. South Carolina Rules of Civil Procedure Second Edition by Professor James E. Flanagan University of South Carolina School of Law, Page 486. (1996).*

*Thereby, the Defense will focus on the fraudulent activity, though the Defense remains in stark objection to the entirety of both the November 14, 2024 Summary Judgement Order for the Plaintiff and the January 29, 2025 Order Denying Motion to Vacate (see **Appendix B**). The Defense has already detailed its objection to the Summary Judgement order in the documents recently returned to the Supreme Court of the United States after this Defendant noted what appeared to be additional fraudulent activity. A response is pending.*

Extrinsic and Intrinsic Fraud

6. *The foreclosure complaint is against this Defendants home, located at 123 Cardinal Pines Drive, Lexington, South Carolina 29073. According to the April 11, 2022 Letter from U.S Department of Housing and Urban Development/Federal Housing Administration (HUD/FHA), US Bank National Association was responsible for reviewing this Defendant's financial situation, determining the appropriate assistance option, and assisting this Defendant in completing the selected option. US*

Bank National Association failed to comply with the latter two steps.

7. *On October 6, 2021, a pleasant US Bank National representative abruptly hung up on this Defendent during the recorded conversation. Then, after receiving notice of a Partial Claim Approval, this Defendent sent an email to US Bank National Association on October 24, 2021 requesting more information and inquiring about being hung up on when recorded conversations had previously occurred. US Bank National did not respond; again, failing to comply with HUD/FHA guidelines by not providing the requested assistance.*
8. *After conducting self-initiated research into Partial Claims Approval, this Defendent uncovered US Bank National error as this Defendent indeed did not qualify for the COVID-19 Recovery Standalone Partial Claim, as she was unable to resume making current monthly mortgage payments as specified in HUD 21-115, dated July 23, 2021, Public Release Notice entitled "Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners." Enlightened, this Defendent emailed US Bank National Association on November 9, 2021, requesting a COVID-19 Loan Modification. US Bank National Association responded with a request for this Defendent to submit a new Mortgage Assistance Application.*
9. *This Defendent received another packet from US Bank, dated November 12, 2021 regarding continuation of the Partial Claim with around \$894 due December 1, 2021. On December 6, 2021, after receiving notifications that taxes and insurance had been paid but no response to the request for a loan modification, this Defendent sent a follow-up email to US Bank National Association requesting a loan modification as per FHA guidelines again.*
10. *On February 14 and February 15, 2022, this Defendent requested clarification of the need to submit another application; requesting again COVID-19 loan modification due to not qualifying for the partial claim as outlined by the HUD/FHA. Again, US Bank National Association did not respond.*
11. *Around February 18, 2022, this Defendent contacted HUD/FHA, to assist in conflict resolution, also informing them of the following unusual circumstances surrounding communications with US Bank National Association:*
 - *October 24, 2021— a pleasant US bank representative abruptly hangs up because the call was being recorded (even though notified of the recording at the initiation of the call).*
 - *December 7, 2021—a certified default letter from US Bank National Association, (dated December 3, 2021), giving this Defendent until January 2, 2022 to pay over \$17,000 with the remnants of a removed return receipt was retrieved from the mailbox. Then on December 28, 2021, receiving a letter from US Bank National Association, extending the date I needed to pay a total of \$17,372.34 from January 2, 2022 to January 23, 2022.*
 - *December 30, 2021—Retrieved from the mailbox a notice of certified mail from US Bank National Association: "12/29/21 Sorry we missed you while you were out" notice. Though this Defendent does not recall anyone coming to the door on the said date. A trip to the Post Office later revealed the mail to be a certified copy of the December 28, 2021 letter referenced above.*
12. *A case was opened (#461-5967115/Ticket #CAS-9985611). However, US Bank National proceeded to file the Summons for Foreclosure with the State of South*

Carolina County of Lexington Court of Common Pleas on March 4, 2022. The HUD/FHA case was closed due to the HUD/FHA inability to get involved in a legal dispute.

13. Despite being informed of erroneous information in the November 14, 2025 Judgment Order, Lexington County Courthouse persists in publicizing the errors, which continues to defame this Defendants character. The errors are:

14. Attorney Appointment and Guardian Ad Litem appointment. This Defendant's November 15, 2024 response reads:

Be it known, I never requested an attorney be provided for me; ...I ask again for the erroneous statement regarding the guardian ad litem to be corrected, please. Here again is the filed copy of USBank's demand that I file for the guardian ad litem...[was included in the summons and complaint]

Yet the errors remain available for public viewing. This is fraud.

15. As detailed in the January 31, 2025 Amended complaint filed with the US Court of Appeals, the Defendant's non-inclusive list of issues are as follows (with associated documents submitted for filing listed; NOTE: During the **virtual** Motion to Vacate hearing, the Defense was banned and sternly warned not to repeat topics already verbalized, thus repetitive items are not listed. However, the below occurrences were **REPETITIVE** in nature, of which the Court failed to adequately and appropriately address despite MULTIPLE requests from this Defendant):

1 22 25 CD3. PDF, CEASE AND DESIST No. 3 [UPDATED Criminal Complaint, Charges Requested with Certificate of Service] (4 pages)

1. Discrimination, made to provide court reporter though Informa pauperis status.

2. Fraud, missing/altered documents; printing e-filed documents.

3. Fraud, suspected association to Federal Case 3:20cv00054 BJDPDB.

1 14 25 Response.pdf, DEFENDANT'S REBUTTAL, Motion for Dismissal with Prejudice and Certificate of Service (75 pages)

4. Fraud, Plaintiff did not provide Defense with copy of PLANTIFF'S OBJECTION TO THE DEFENDANT'S MOTION TO VACATE JUDGEMENT, FILED JANUARY 13, 2025 1251PM

5. Fraud, Supreme Court jurisdiction active February 2023 -August 19, 2024. (detailed below)

6. Fraud, blatant illegal, unlawful activity ignored. (detailed below)

7. Fraud, concurrent jurisdiction proper procedure violated as per 15 U.S. Code 3612 and 45 U.S. Code 56.(detailed below)

8. Fraud, court activity ceased while case at District Court and Court of appeals; inconsistent with activity that occurred while at Supreme Court of the United States.

[11 3 24 Defendants' Proposed Order, entitled MASTER'S ORDER AND JUDGEMENT FOR DEFENDANT, (8 pages) based on SC Code 15-36-10 was rejected by Judge Spence]

9. Fraud, US Bank National intentionally offered COVID-19 Recover Standalone Partial Claim instead of COVID-19 Loan Modification as per

July 23, 2021, HUD 21-115 Public Release Notice Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners. US Bank National ignored Defendants' multiple notices of the same.

10. Fraud, lawsuit is malicious in intent, filed 14 days after Defense contacted FHA/HUD to assist in conflict resolution.

11. Fraud, 7/13/22 Motion to Change Venue to Federal Jurisdiction; 8/22/22 allegations of perjury, mockery of judicial process, state law, and federal law; intentional non-adherence to federal guidelines; predatory lending; targeting/malicious intent; federal tampering never addressed by Court/Judge Spence.

12. Multiple Frauds ["First Summary Judgement Attempt" (just 5 months after filing foreclosure lawsuit):*

- a. * 8/3/22, Defendant received US Bank National's certified Notice of Home Acquisition in 60 to 90 days, dated July 28, 2022.*
- b. 8/3/22, Defendant submitted concern in filing Response to U.S. Bank National Certified Mail Letters, Dated July 28, 2022 (1 page).*
- c. *8/20/22, Defendant received a Notice of Foreclosure Hearing before Judge Spence for 9/13/22, with the said notice being filed 2 days earlier (on August 18, 2022).*
- d. 8/22/22, Defendant submitted 95-page "Notice of Home Acquisition" detailing unlawful activity.*
- e. * 9/1/22, Clerk of Court filed Defendant's 8/22/22 document (10 days after submitted). On same day, **US Bank National via Attorney Kay filed a NOTARIZED Attorney Affidavit of Fees stating "A hearing was held by the Master, who requires an order to be proposed by Plaintiff Counsel." DEFENDANT WAS NEVER NOTIFIED OF THIS HEARING AND NEVER RECEIVED PLAINTIFF PROPOSED ORDER, but did receive Plaintiff's 7/28/22 Notice of Pending Acquisition earlier. This indicates said meeting likely occurred in July 2022, without Defense knowledge or lawful participation.***
- f. * 9/13/22 Foreclosure Hearing cancelled, Status Conference held in its place.*
- g. *Less than 48 hours later, 9/14/22 1043pm, Judge McLeod struck case from active roster, causing direct conflict with Judge Spence directives.*
 - i. Order for dismissal if not restored to active roster in 180 days due to non-compliance.*
- h. *Case restored to active docket February 2, 2024 (past the 180-day timeframe), with the Order restoring to active roster being dated February 28, 2023.*
- i. After Defense raised concern, the following occurred:*
 - i. * 2/25/24, Clerk of Court removed all documents indexed online (i.e. not downloadable).*
 - ii. *Clerk of Court changed name of Defendant's indexed documents to*

- iii. generic labeling, while name of Plaintiff's documents remained unchanged with detailed labeling.
- iv. *Court ignored Defendants' 3/15/24 Motion to Dismissal with Prejudice due to Judge McLeod's order and simultaneous, concurrency with Federal jurisdictional proceedings. Motion hearing's were not held for Defense motions, only Plaintiff's initiated motions, as 1/24/25 Motion hearing is the second hearing Defendant is aware of since the 3/4/22 filing of this case.
- j. *Referral to Master-In-Equity Judge Spence occurred with agreement between Plaintiff and Clerk of Court Mona Huggins. Defense never consented to case transfer. *Court never addressed this concern, though requested by Defense.
- 13. Fraud, Clerk of Court filed Defendant's Motion to Move to Inactive Roster, dated 2/6/24, six days later, on 2/12/24; whereas Plaintiff's Motion for Summary Judgement was filed and indexed on 2/7/24.
- 14. Fraud, Judge Spence reminded of pending Federal proceedings (RICO case, Supreme Court Notice of Removal); Plaintiff breaching FHA/HUD COVID-19 guidelines, multiple "Summary Judgement" attempts; partial treatment with Clerk of Court (missing documents; altered documents; electronically filed documents not electronically filed).
- 15. Fraud, 1 14 25 Defendants Motion for Dismissal with prejudice ignored by Court.
[11 18 24 Response email correspondence, entitled Notice to Cease and Desist/Motion to Reconsider [detailing errors noted in Judge Spence 11 14 24 Judgement Order for Foreclosure], requesting correction ignored.
- 16. **Multiple Frauds***, Judge Spence Judgement Order document continued to be profiled publicly until January 24, 2025, despite Defendant's notifications.
 - a. *Page 2 of Judge Spence Judgement Order states Defendant failed to show up for Summary Judgment Hearing, but fails to mention Defense present via phone (even speaking with Judge Spence directly) due to Court refusal to acknowledge the notice of restraining order issued by Defense, limiting ability to be in person because of safety concerns.
 - i. Defendant details barring by Judge Spence in the Notice to Cease and Desist/Motion to Reconsider document, though Defense still attempted to attend due to Judge Spence not honoring the notice of restraining order.
 - ii. *Court ignores and fails to intervene in Defense report of persistent filing issues with Clerk of Court, fraudulently filed Summary Judgement by Plaintiff, mail fraud concerns, motion to reconsider judgement. Motion hearing was not scheduled.
- [1 6 25 CEASE AND DESIST No. 2 {Criminal Complaint, Charges Requested with Certificate of Service}]
- 17. Fraud, details Judge Spence operating on case actively being evaluated by Federal court **despite repeated notifications from Defense** (as discussed above)

18. Fraud, details Judge Spence 3/29/24 permitting Zoom attendance to Summary Judgement Hearing then changing his mind, knowing it would bar Defendant's attendance, due to out-of-state residency, safety concerns, and financial limitation.

a. Fraud, this was doubled as Judge Spence stated all outstanding motions would be heard. Thus, Judge Spence knowing majority of the motions were Defendant-derived, gives rise to possible reason Defendant was barred from 6.21.24 Summary Judgement Hearing by Judge Spence.

19. Fraud, court documents do not indicate that anyone, including Judge Spence, ever contacted law enforcement given the multiple reports of targeting, criminal activity, and harm reported by the Defense.

20. Fraud, Defense request for Judge Spence to assist in getting June 14, 2024 submitted document filed and indexed online by Clerk of Court never addressed to Defense's knowledge.

In Summary, Pursuant to SC Code Title 14 Chapter 11 and Rule 60 of the SC Rules of Civil Procedure, the Court erred by not vacating the November 14, 2024, judgement for foreclosure with prejudice due to fraud, misrepresentation or other misconduct of listed and unlisted adverse parties in this case as detailed above.

Communication with the Court on January 30, 2025 at 5:56am

Good Morning:

1. Judge Spence, have you ruled yet? I have not been notified however, I notice US Bank filed a Master Order 1.29.25 1636, which appears to indicate your judgement remains with the Plaintiff?

PLEASE PROFILE JUDGE SPENCE RULING ONLINE.

2. Public Index shows multiple filings but NO documents are indexed. I repeat, ALL DOCUMENTS HAVE BEEN REMOVED.

<https://publicindex.sccourts.org/lexington/publicindex/filings>

CLERK OF COURT, PLEASE RETURN ALL DOCUMENTS ONLINE.

Judge Spence's 13-page order for the Plaintiff (denying Motion to Vacate Judgement for foreclosure), was delivered via email at 1131am with a confidentiality clause instead of being indexed online as previous orders, despite this order being in response to a **public** hearing. A Request for Production is being issued.

16. The Defense stance is that the Court very well could have permitted this Defendants attendance to the Summary Judgement Hearing on June 21, 2024 but declined to (again, directly contradicting what the Court had already granted in March 2024). This is fraud.

17. The Clerks Office, responded that all documents were online, this Defense stands by

its repetitive statements of documents either not being filed, delay-filed, or being removed from the public index online, as is also notated in federally-filed documents; yet, the fraudulent activity persisted and is the only reason Plaintiff was able to file Summary Judgement on February 7, 2024. Whereas Plaintiff Motion to Move to an Inactive Roster, originally filed on February 6, 2024 was not filed and indexed online until February 12, 2024. All of this the Court was made aware of on multiple occasions, yet this case remained active.

18. In respectful objection of order denying the motion to vacate, the court reports that only this Defendant and Attorney John Kay were present. This is an error, as Plaintiff Attorney Gregory Wooten, and Defendant supporters Donna Washington Farmer and Ms. Givins were in attendance. This can be corroborated with the court transcript, however; fraud also plagues this process as follows:

- Defense being mandated to provide a court reporter until presenting the court with a notarized order acknowledging the Defense's in forma pauperis status. It is important to note here that the Defense was in objection the Hearing on the Motion to Vacate Judgement due to the severity of fraudulent activity and communication with the Supreme Court of the United States being incomplete, which still persists. Yet, Lexington County Courthouse persisted in state court activity anyway. As with the Plaintiff ignoring Defendant's requests, Lexington County Courthouse has ignored Defendant-issued Cease and Desist notices, particularly in the Summary Judgement order, ultimately defaming the Defenses character and persisting in displaying the errors in its public index online and daring to restate the errors in the order denying Motion to Vacate. There errors are as follows:*
- Here are email correspondences between the Defense and the Garber Court Reporting Agency on January 26, 2025 and January 28, 2025:*

1.26.25

Dear Garber Reporting,

*1. Please advise on all transcript details and costs for Case #2022CP3200784
Lexington Courthouse Common Pleas.*

2. Below is a prior related contact, dated July 22, 2024. No response was received.

[end]

1.28.25

Good Morning Mr. Greathouse,

Your 1.27.25 929am response was received and is summarized as follows:

- 1. Garber Reporting did not receive my July 2024 communication.*
- 2. Two hearing transcripts exist--*
 - a. 6.21.24, \$347.16 (digital copy)*
 - b. 1.24.25, completion pending.*

In response:

- 1. How many pages is the 6.21.24 transcript? Time duration?*
- 2. When will the 1.24.25 transcript be completed? Cost?...*

[end]

1.28.25 (Second Email)

Mr. Greathouse,

Thank you, Sir; I received your 936am correspondence. So what I understand is this:

- 1. The 6.21.24 transcript is 98 pages long, plus 8 exhibits, lasting over 2 hours. The reporters appearance fee has been paid and was EXcluded from the \$347.16 quoted price.*
- 2. The 1.24.25 transcript turnaround time is standardly 20 business days (approximate ready date 2/21/25). However, that you are aware of the attorney who scheduled the reporter has no decided if he wants a transcribed copy. Thus, the "ready date" time clock does not start until you receive a request for transcription. IF the scheduling attorney declines transcription, then I may request transcription, at an increased cost, including but not limited to paying for the "sealed original" transcript that would be provided to the Court. Please correct me if I am wrong.*

My response:

- 1. How much is the total cost for the 1.24.25 transcript, if the scheduling attorney declines transcription, everything included?*
- 2. What is the procedure if corrections are required/requested?*
- 3. What is the procedure for criminal cases?*

[end]

1 28 25 (Third Email)

Mr. Greenhouse,

Please forgive the detailed questions, Sir, as I am just trying to get a clear picture of the process and costs. I received your 240pm email; here is what I understand (again, feel free to correct me where I am wrong):

- 1. The exact cost of the 1 24 25 transcript is unknown. As per estimates, 115 pages may range between \$450 to \$800.*
- 2. A Errata sheet can be attached to the transcript for items requested to be corrected, though not usual for hearings. The Errata sheet will then be shared with all parties, but are not actually corrected in the transcript.*

My response to your request for clarification of my question regarding criminal cases: What I am requesting is is the procedure to obtain transcripts the same for criminal cases?

Thank you, Mr. Greenhouse, for your quick response and patience with the successive emails.

The Defense stance is the details provided by communication with the Garber Court reporter agency was not provided by the Plaintiff or the court, as the Defense made it clear of its inability to pay any legal fees. Now that the transcript has been taken, the Defense is obligated to request and pay for a transcript, given the level of fraudulent activity.

19. In summary, multi-faceted extrinsic and intrinsic fraud is clearly evident. Foremost, US Bank National certifying that it had complied with federal COVID-19 guidelines when in fact it had not, raises deliberate, malicious intent, as evidenced by Defense's multiple requests for assistance and explanation of partial claim approval going unanswered; and US Bank National Association refusing to comply with federal COVID-19 guidelines—specifically in HUD 21-115, dated July 23, 2021, Public Release Notice entitled "Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners", which instructs loan modification was the appropriate program the Defense qualified for. Based on these facts alone, this case should have been dismissed over three years ago, in 2022, soon after the March 4th filing date. Instead, Summary Judgement as well as Motion to Vacate the Summary Judgement orders have been granted, which are evidentiary of fraud. Although some manners are repletious, the Defense requests the Courts patience as the Plaintiff and state Court's awareness of fraudulent activity, with a lack of intervention, is presented. In the Writ of Certiorari to US District Court of South Carolina, Writ of Certiorari to US Court of Appeals for the Fourth Circuit, and Supplement Brief with Appendix documents submitted to the Supreme Court of the United States,

20. the following case occurrences are highlighted:

- The March 4, 2022 summons certified compliance to applicable law(s), despite US Bank National being informed on more than one occasion of the error in offering this Defendant a Partial Claims instead of a loan modification as outlined by HUD/FHA.
- This Defendant receiving:
 - i. a Notice of Pending Acquisition dated July 28, 2022;
 - ii. a Notice of Foreclosure hearing filed August 18, 2022, to review facts before Master-in-Equity James Spence so a final judgment can be entered.
 - iii. A Notice of the hearing being cancelled and a Status Conference scheduled in its place after this Defendant filed the following response (submitted on August 22, 2022 but not filed by the Clerk's office until September 1, 2022):

Question: If US Bank National, ...has acquired the rights to 123 Cardinal Pines Drive, Lexington, SC 29073 [DATED 7/28/22 AND NOT FILED WITH THE COURT], then why now has US Bank National scheduled a meeting [FILED 8/18/22] with the Honorable James O. Spence, Master-in-Equity, "...for the purpose of taking testimony, finding of facts and conclusions of law and to enter final judgment therein without further order of the court"? Has not US Bank National already obtained a final judgement without lawful judicial process?

- iv. Also filed September 1, 2022, a notarized Affidavit of Attorney Fees, Number 4 Section A "Nature, Extent, and Difficulty of Legal Services Rendered", where US Bank National Association admits to attending

a meeting held by the Master in Equity, that this Defendant was not made aware of.

- *The Status Conference filed and posted on the State of South Carolina County of Lexington Court of Common Pleas public index, whereas the Notice and subsequent cancellation of the Foreclosure hearing not being filed and posted online.*
- *This Defendant's 95-paged document, Notice of Home Acquisition, being filed September 1, 2022 801AM, though delivered to Lexington County Courthouse on six days prior.*
- *Lexington County Courthouse never addressing this Defendants multiple, filed objections to this case being referred to the Master-in- Equity, dating as far back to May 23, 2022; instead requesting a Jury trial. Other unanswered Motions and filed requests include:*
 - *Enforcement of Notice to Compel, filed April 20, 2022.*
 - *Motion for Jury Trial with Permission to Release Documents, filed May 23, 2022.*
 - *Enforcement of First Request for Production, filed June 20, 2022.*
 - *Online posting of Plaintiff's Responses to First Set of Requests for Admissions, dated July 12, 2022.*
 - *Enforcement of Second Request for Production, filed July 13, 2022.*
- *On June 8, 2022, Clerk of Court representative denied this Defendant the right to file Response to Notice of Denial of Loss Mitigation (30 pages) due to double-sided printing (though double-sided printing was accepted previously).*
- *On July 1, 2022, US Bank National [Plaintiff] filed Order to Referee to Special Referee [citing mutual agreement with this Defendant, which is incorrect as this Defendant was never informed]; order granted by Lexington County Courthouse on 7/5/22 [In FOUR DAYS, including a federal holiday]. NOTE: Despite being notified of this perjurious occurrence, Lexington County Courthouse did not attempt to correct this error.*
- *On the morning of July 6, 2022, documents electronically submitted to Lexington Courthouse not available for public viewing as of 7/7/22 1233 AM. [NOTE: Hand-delivered document, filed 7/6/22 832 AM, also not available for public viewing at 1233 AM [16 hour delay], but available at 232PM.]*
- *Multiple civil and criminal violations detailed in the 95-paged Notice of Home Acquisition [mailed 8/24/22; delivered 8/25/22; delayed filed 9/1/22, still not profiled online as of 9/5/22]*
- *As discussed in the Supplemental Brief with Appendix:*
 - *Clerk of Court Delay in Filing Submitted Documents*
 - *Delayed filing Defendant's Motion to Move to Inactive Roster, dated and submitted February 6, 2024 until February 12, 2024] thus permitting and accepting US Bank National Association to file Summary Judgement proceeding on February 7, 2024. Lexington County Courthouse then scheduled Status Conference [Summary Judgment proceeding] for February 27, 2024, one day after the Respondent's Brief of Opposition is due to Supreme Court of the United States.*
 - *Delayed filing Defendant's December 13, 2023 On Petition for Writ of*

Certiorari to US District Court of South Carolina [still not filed as of February 12, 2024].

- *Judge Spence failure to intervene in disclosed partial treatment by Clerk of Court; in Attorney Weston blocking receipt of Supreme Court documents.*
- *Resumption of State Level Foreclosure Proceedings despite Current Supreme Court Proceedings [Respondent filed Motion to Resume Proceedings; and on February 7, 2024 Summary Judgment] with Judge subsequently ordering a Status Conference, scheduled for February 27, 2024 despite being notified of Supreme Court proceedings as well as Defendant's persistent objection to Master in Equity in lieu of a jury trial].*

It is of importance to note that the Court reaffirmed in its January 29, 2025 order denying the Motion to Vacate Judgement that all motions not argued during the June 21, 2025 Summary Judgement and Motion Hearing are deemed abandoned. Yet again, the Court errors in not acknowledging it barring the Defense for the hearing directly caused abandonment of multiple Defense motions. This is fraud.

V. REMOVAL IS REQUIRED

21. *Pursuant to 28 U.S.C. Code 1446 and 1332, a case may not be removed "on the basis of jurisdiction more than 1 year after the commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action." In addition, as already acknowledged by the Lexington County Courthouse, extrinsic evidence is grounds for vacating judgment of which there was a plethora of evidence provided; yet this case remains active. In as much as a preliminary auction was held on February 3, 2025 despite the appeal to South Carolina Appeals Court, which discussed the elements to validate a stay. However, Lexington County courthouse declined to cancel the auction despite the Defense multiple requests.*
22. *Governing guidelines and oaths from both federal and South Carolina Appellate Court Rules (SCACR), have been violated.*

Federal

- *Ethics Policies, Code of Conduct for United States Judges and Judicial Employees (United States Courts Ethics Policies; Code of Conduct for United States Judges; Code of Conduct for Judicial Employees; Guide to Judiciary Policy, Vol 2A, Ch. 3)*

...Judges may not hear cases in which they have either personal knowledge of the disputed facts, a personal bias concerning a party to the case, earlier involvement in the case...or a financial interest in any party or subject matter of the case...A judge should respect and comply with the law...should not allow family, social, political, financial, or other relationships to influence judicial conduct or judgement.

Employees of the Federal Judiciary are expected to observe high standards of conduct so that the integrity and independence of the Judiciary are preserved and the judicial employee's office reflects a devotion to serving the public...A judicial employee should not engage in any activities that would put into question the propriety of

the judicial employee's conduct in carrying out the duties of the office. A judicial employee should not allow family, social, or other relationships to influence official conduct or judgement. A judicial employee should not lend the prestige of the office to advance or to appear to advance the private interests of others. A judicial employee should not use public office for private gain.

- *Maintaining the Public Trust: Ethics for Federal Judicial Law Clerks, (2011)*
Five (5) canons of Code of Conduct for Judicial Employees:

- *Uphold the independence and integrity of the judiciary and of your office;*
- *Avoid impropriety and the appearance of impropriety in all activities;*
- *Adhere to appropriate standards in performing your duties;*
- *Avoid conflict with official duties and the appearance of impropriety in all outside activities; and*
- *Refrain from inappropriate political activities.*

Scrupulously follow these canons and the other rules that govern your conduct. Do not assume that good intentions are enough... You are responsible for conducting yourself to stop, think, and evaluate before you take action ...that may have ethical implications...

- *Judge Oath (Supreme Court of the United States)*

I...do solemnly swear (or affirm) that I will administer justice without respect to persons, and do equal right to the poor and to the rich, and that I will faithfully and impartially discharge and perform all the duties incumbent upon me as ...under the Constitution and laws of the United States. So help me God...

A. State-Level Plaintiff US Bank National Association Acted in Bad Faith Attempting to Prevent This State-Level Defendant From Removing The Action.

23. As discussed in detail above, US Bank National Association has attempted on more than one occasion to prevent this case from being removed. Some occurrences are re-highlighted here.

- *July 1, 2022, US Bank National (Plaintiff) filed Order to Referee to Special Referee [citing mutual agreement with this Defendant, knowing this was a perjurious action.*
- *In July 2022, US Bank National Association sending an Notice of Acquisition knowing it violated the law, but not filing a copy with Lexington County Courthouse and the said Court not requiring a copy be filed after receiving notification. Preceding this occurrence, having met with the Master-in-Equity James Spence without the State-level Defendant receiving notice or being present, all knowing this was fraud.*
- *February 7, 2024, US Bank National Association filing for Summary Judgement without first providing this Defendant a copy, while having knowledge of Lexington County Clerk of Court delaying this Defendant's*

Motion to Move to Inactive Roster, filed February 6, 2024, the day before as well as knowing Lexington County Courthouse error in agreeing to resume the state-level case having knowledge that the Supreme Court Case was still ongoing. Again, all knowing this was a perjurious action. This Defendant's, February 26, 2024 Defendant's Response and Rebuttal to Summary Judgement/Response to Email Communications/Motion for Recusal And Change of Venue (From State to Federal Jurisdiction) with Federal Investigation into ActiveTerrorism highlights the persistent fraud:

*It is important to note that the status conference scheduled for Tuesday, February 26, 2024 was scheduled 5 hours 16 minutes after US Bank filed the Motion for Summary Judgement and 3hours 12 minutes after the NEF filing on February 7, 2024. In stark contrast, Lexington Courthouse was and remains silent to this Defendant's submitted Motion to Move to Inactive Roster on February 6, 2024. Moreover, these occurrences mirror, in reverse, the events that occurred after the initial status conference held September 13, 2022, in which US Bank National's Motion to Move to Inactive Roster was SIGNED BY YOUR HONOR JUDGE WALTON MCCLEOD ON THE SAME DAY AT 1043PM, **BEFORE** BEING FILED WITH THE COURT [filed September 15, 2022 939am] while this Defendants Motion to Change Venue, submitted months earlier on **JULY 13, 2022**, was filing delayed by two days, and NEVER addressed by the Court...*

B. FRCP Rule 11 Has Been Violated with Notice and Reasonable Time to Respond Being Provided.

24. After being sent to US Bank National Association via appointed Counsel and submitted to Lexington County Courthouse, this Defendant requested a Justice or the Supreme Court to address, the EMERGENCY MOTION with Relief Requested by April 3, 2024: Petitioners' Motion to Stay Return to South Carolina, with transfer of State Level Proceeding to Federal Jurisdiction for the Petitioner(March 26, 2024, 40 pages. FedEx #272679762263); with additional requested documents housed in attached Appendix (April 11, 2024; pages 1a-12a. USPS #9505512956084103758090), in which persistent fraudulent activity are discussed in detail:

*Suspected Document Tampering and Partial Treatment at Lexington County Courthouse... Thus, the above documents contain clear evidence of suspected **intentional** mishandling of court documents by Lexington County Courthouse as well as egregious legal and civil right violations, of which multiple South Carolina based judges have been made aware, yet the problems persist. In fact, according to the February 28, 2023 [not 2024] motion, signed by a Judge on February 2, 2024 that restored the state level case back to an active roster, it is noted that US Bank National—with Judge approval—wants the state-level case's appeal to remain in the confines of South Carolina, extend only to South Carolina's Supreme Court;. Why?*

In addition, the EMERGENCY MOTION included concerning events that occurred

outside of judicial proceedings, prompting this Defendant to request a stay of Return to South Carolina.

Due to the evidence presented above—which clearly shows egregious safety breaches and the high probability of continuation if I return to South Carolina; and an immediate need for Federal transfer of all state-level court proceedings—this Emergency Motion is seeking for Chief Justice Roberts or the Supreme Court of the United States to stay my return to the state of South Carolina; and transfer South Carolina state-level proceedings to Federal Jurisdiction by April 3, 2024. Irreparable harm is imminent if the the Supreme Court does not intervene.

A response is pending. Additionally, there have been new occurrences that transpired recently, such as:

- 1. The Lexington County Assessors office changing the real estate tax from approximately \$800 to \$4000 based on a fraudulent mailing they reportedly received. The tax payment was due on January 15, 2025 to be paid by the Plaintiff. My requests for updates remain unanswered.*
- 2. As noted with other entities outlined in the Writ of Certorari to the District Court of SC, a new business CPI Security, reported an inability to retrieve the monthly payment from a Palmetto Citizens Federal Credit Union account. According tho to the said Bank, CPI Security last attempt to withdraw funds was September 2023. My requests for followup remain unanswered.*
- 3. In an assoicated racketerring case filed in New York, there appears to be a suspicious delay in processing, giving rise to yet another likely derailment attempt. Federal and State authorilites are aware.*

Ultimately, the preponderance of evidence indicates this case is overripe from removal to federal jurisdiction.

C. This Court Has Jurisdiction

- 25. The federal question is "Are the elements of fraud satisfied in this foreclosure case?" Specifically, is/was there a scheme to defraud, intent to defraud, a material false statement(s), reliance by victim on those statement(s), and resulting damages? The answer is unequivocally affirmative. Furthermore, US Bank National Association acting in bad faith in multiple attempts to prevent removal of the case to federal jurisdiction; some persons and members of the State of South Carolina persisting in showing clear hostility and unfair treatment toward this New York State Defendant, who resides in New York State now because of the said hostility. Appealing to SC Court of Appeals occurred only after the Court verbalized post judgement that an appeal had not been filed in the state Court of Appeals, completely ignoring this Defendants federal filings still pending with the Supreme Court of the United States. This appears to be yet another fraudulent occurrence. Ultimately, criminal charge requests have begun.*

As indicated in February 14, 2025 Defendants Response to Pending Report and Recommendation submitted to US District Court of South Carolina:

Documents from this Court have not been received yet. In respectful anticipation of this

Court upholding its December 2, 2022 Report and Recommendation from case No.3:22-cv-4215-SAL-SVH—remanding the case back to Lexington County Courthouse—and issuing the projected Notice of Right to File Objections to Report and Recommendations, this Defense Response is being submitted. To date in this new case, the Defense has submitted the following documents for filing with this Court:

- 1. 2.7.25 [USPS Priority #9502606586865038859106]: Civil Cover Sheet (1 page) and Attachment (2 pages); 2.7.25 Informa Pauperis Application (2 pages) and Addendum (3 pages); Notice of Removal (35 pages) with Appendix A (3.4.22 summons and complaint) and Appendix B (11.14.24 and 1.29.25 judgment orders).*
- 2. 2.10.25 [USPS Express #EI216984767US]: Addendum to Notice of Removal (CARES ACT certification; 4.11.22 FHA/HUD letter to Defense; 7.23.21 FHA/HUD 21-115 COVID Recovery Options for Homeowners, 9 pages); Proof of Service (3 pages); 2.9.25 Updated Informa Pauperis Application (2 pages) and Updated Addendum (4 pages)*
- 3. 2.11.25 [USPS Express #ER187705848US]: Motion for Stay or Injunction Pending Appeal (3 pages); Appendix A [SC Court of Appeals Notice of Appeal [Second Amendment] (2 pages), Appellant Letter to the Court (9 pages, Letter to SC Court of Appeals)]*
- 4. 2.12.25 Letter to the Clerk of Court [3 pages, Supreme Court of the United States document, contains Certificate of Service]—filing today.*
- 5. 2.14.25 [this current document] Defendants Response to Pending Report and Recommendation (7 pages); Notice of Appeal to the US Court of Appeals for the Fourth Circuit (1 page)—filing today...*

...In summary, two people have died [the second died along with Cristopher Washington]; and three [if my child were present] attempted murders have occurred (now including Donna Washington Farmer). Notification to the appropriate Authorities is still requested.

As discussed in the February 21, 2025, Informal Brief submitted to US Court of Appeals for the Fourth Circuit:

...Due to not receiving a response yet and prior documented mail tampering occurrences, Tracie L. Green [Mitchem-Green] appeals to the United States Court of Appeals for the Fourth Circuit from final judgment, date unknown.

As indicated in the above Notice of Appeal, fraud is clearly evident; and persists in this case. Mailed certified to the United States District Court the District of South Carolina; South Carolina (SC) Court of Appeals; Lexington County Courthouse; and associated parties, US Bank National Association Counsel, and Palmetto Citizens Federal Credit Union Counsel associated parties on February 14, 2024 (with expected arrival, February 18, 2025) were the following:

- o Defendants Response to Pending Report and Recommendation (7 pages)*
- o Notice of Appeal to the US Court of Appeals for the Fourth Circuit (1 page)*

According to the United States Postal Service, however, as of February 19, 2025, **all certified mailed documents had not arrived to any** of the parties or courts. Thus, the following day on February 20, 2025, the Defense faxed the following documents to all* —all were previously mailed [with tracking] (*a fax number was not located for Palmetto Citizens Federal Credit Union Counsel):

- Form 1 Notice of Appeal in a Civil Case [Second Amendment] (included Staying Judgement for Sale or Delivery of Land section)
- Form 8 Letter to the Appellate Court Clerk Filing the Notice of Appeal
- Form 9 Letter to Clerk of Lower Court Filing Notice of Appeal [
- Letter to Clerk of Lower Court Filing Notice of Appeal [Second Amendment]
- Appellant Letter to the Court
- November 14, 2024 Judgement Order
- Copy of the money order, \$250 filing fee.
- Defendants Response to Pending Report and Recommendation (7 pages)
- Notice of Appeal to the US Court of Appeals for the Fourth Circuit (1 page)
- Form 7 Proof of Service of a Notice of Appeal [Second Amendment] (February 2, 2025 electronic delivered documents; and second Proof of Service included mailed items and mailing addresses); third, Proof of Service included February 14, 2025 mailed items.

Documents faxed to SC Court of Appeals transmitted successfully; whereas, transmission was reportedly **interrupted** to the District Court of South Carolina; thus, it is unknown which documents transmitted successfully. All other courts and parties' reports show a "communication error". Thus, electronic delivery is pending completion of this Informal Brief.

It is important to address that on February 18, 2025, the very day the certified mailed documents (Defendants Response to Pending Report and Recommendation, Notice of Appeal to the US Court of Appeals for the Fourth Circuit, with Proof of Service of mailing) were scheduled to arrive, this Defense received an email at 337pm from the SC Court of Appeals regarding the following:

- Appellate Case Number
- Admonishing filings needing to be Rule 267-compliant.
- Reference to inclusion of personal data identifiers pursuant to Order 2014-04-15-02.
- Notification of 10-day grace period to correct insufficiencies in formatting of Proof of Service and Notice of Appeal. Otherwise, case will be dismissed.

In response, this Defense sent the following response less than 10 hours later:

Dear Ms. Harrison: I am in receipt of your two letters dated and received electronically on February 18, 2025 337pm. Below is my response:

1. This case was removed from your court on February 7, 2025 prior to the assignment of a case number; below is the February 8, 2025 notification with the first page and signature page of the Notice of Removal (35 pages; total file 75pages). Please advise if compliance to your directives is required.
2. I still am unsure what sensitive information you are referring to. Please

advise.

3. Did this court accept my Informa pauperis status?

Although I received notice of receipt from the SC Court of Appeals, I have not received a response. Moreover, as of the date of the letters received from the said court, the Express-mailed requested documents (including payment) has been awaiting a signature for pickup since February 4, 2025 650am, according to the United States Postal Service.

Below is delivery details for other entities (all mailed same time, in same manner):

- Lexington County Courthouse, signature-required, delivered February 5, 2025 153pm.
- US Bank National Association, available for pick-up February 6, 2025 1054am.
- Palmetto Citizens Federal Credit Union, available for pick-up February 7, 2025 801am.

It is important to note, this Defense has not received a response from US Bank National Association in this matter either. However, the SC Court of Appeals admonishing attorneys to include Attorney ID number gives rise that, once again, US Bank National Association has submitted a response to the courts, excluding this Defense once again. This is unlawful. This is fraud. [All documents received from SC Court of Appeals with a confidentiality clause; the Defense still awaits response regarding ability to freely distribute.] As of date of this document, this Defense is not in personal receipt of any mailed documents from any court or party...

...5. 2.14.25 [this current document] Defendants Response to Pending Report and Recommendation (7 pages); Notice of Appeal to the US Court of Appeals for the Fourth Circuit (1 page)—filing today

The tracking information for the latter mailed documents is as follows:

- US District Court of South Carolina, certified USPS#9589 0710 5270 1835 9352 81
- SC Court of Appeals, certified USPS#9589 0710 5270 1835 9353 04
- Lexington County Courthouse, certified USPS#9589 0710 5270 1835 9352 74
- Richardson Plowden [Counsel for Palmetto Citizens Federal Credit Union], certified USPS#9589 0710 5270 1835 9352 98
- Hutchen's Law Firm [Counsel for US Bank National Association], certified USPS#9589 0710 5270 1835 9353 11

Moreover, again according to USPS, an associated party still had not picked up the Express-delivered Motion for Stay or Injunction Pending Appeal packet as of February 15, 2025 although the important document had been available for pick up since February 12, 2025. Additional fraudulent activity is detailed in the February 7, 2025 Notice of Removal delivered to US District Court of South Carolina on February 13, 2025...

... In addition, the February 12, 2025 Supreme Court of the United States priority-mailed document, with an expected delivery of February 14, 2025, still had not arrived as of February 15, 2025. Here is an excerpt of the letter that accompanied the mailing (NOTE: A copy of the letter was electronically provided to the SC Court of Appeals, Lexington County Courthouse, and both associated parties on the same date):

Letter to the Clerk of Court

Dear Clerk Harris (Angela Jimenez),

I am in receipt of your February 4, 2025 letter as of yesterday, February 11, 2025; a copy is included below. As requested, a copy of the November 14, 2024 judgement order is included. In addition, I am returning, as-is, the documents received rubber-band together. Please be advised that this case has already been referred to the US District Court for the District of South Carolina.

This 3-paged letter included a copy of the Supreme Court of the United States Clerk's February 4, 2025 Letter and a Certificate of Service. The documents returned as-is should have included documents mailed to the Supreme Court since November 14, 2024 Judge Order for foreclosure. They are:

- *December 3, 2024 (USPS Priority, #9505515221334338556124):*
 - *12/2/24 Emergency Motion with Relief Requested by December 17, 2024: Motion to Vacate the Judgements of the US District Court of South Carolina, US Court of Appeals for the Fourth Circuit; and the Supreme Court of the United States and Remand; and Hold All Further Action in Abeyance Pending Disposition of the Motion (9 pages) with Appendix and Proof of Service (28 pages)*
- *December 30, 2024 (USPS Express #ER155361474US):*
 - *12/2/24 Emergency Motion with Relief Requested by December 17, 2024: Motion to Vacate the Judgements of the US District Court of South Carolina, US Court of Appeals for the Fourth Circuit; and the Supreme Court of the United States and Remand; and Hold All Further Action in Abeyance Pending Disposition of the Motion (9 pages) with Appendix and Proof of Service (28 pages)*
 - *12/27/24 Petitioner Application to Extend Time to File Petition for Writ of Certorari [Includes Informa pauperis] (13 pages); with Appendix: (2 pages[titlepage, table of contents]), 12/2/24 Emergency Motion with Relief Requested by December 17, 2024: Motion to Vacate the Judgements of the US District Court of South Carolina, US Court of Appeals for the Fourth Circuit; and the Supreme Court of the United States and Remand; and Hold All Further Action in Abeyance Pending Disposition of the Motion (9 pages) with Appendix and Proof of Service (28 pages); December 6, 2024 Response Letter Received (1 page).*
 - *12/28/24 Proof of Service (1 page)*

*To avoid confusion, this Defense only served documents on the associated parties as specified in this Courts FAQs—Pro Se Parties; thus, no other Court system was served copies of this Informal Brief or associated documents. **It's this Defense's expectation that the SC Court of Appeals and other lower courts will comply with the authority and jurisdiction of the US Court of Appeals for the Fourth Circuit by not dismissing a case they no longer have jurisdiction over.** In summary, fraudulent activity is apparent and this Court, the US Court of Appeals for the Fourth Circuit, is again jurisdictionally positioned to address this issue.*

On March 18, 2025, which is **28 days** after the stated date of dismissal [February 28, 2025],

South Carolina Court of Appeals dismissed this Case, citing "Appellant has failed to serve and

file an amended notice of appeal in the correct format...". However, this Petitioner never received a response from the said Court to the following February 25, 2025 submission:

Defense Response

I am in receipt of the following 2/24/25 emailed communications:

1. Judge Spence at 734am states:
 - a. Is uncertain that both Federal and State can have simultaneous jurisdiction.
 - b. Requests Plaintiff to request SC Court of Appeals to issue ruling stating which court has jurisdiction; and if with present filings, should the March 5, 2025 deficiency sale be postponed.
2. Attorney Kay, at 950am states:
 - a. Burden of proof to stop March 5th sale is on the Defense.
 - b. Defense admits in 2/22/25 pleadings a "now" understanding that stay is not automatic.
 - c. Defense tried this maneuver in 2023 seeking to stall foreclosure action.
 - d. Previously, the Federal Court denied the previous removal for a lack of subject matter, therefore the Federal Court cannot have jurisdiction at this time for the same reason.
 - e. Has a copy of Order issued by US District Court on February 18, 2025 denying removal attempt. States this is a closed case from previous removal attempt with case remanded back to state court. A case previously denied cannot be removed. Case remains in state jurisdiction.
 - f. Defense will likely attempt to appeal US District Court decision, however, there is no state-level stay of foreclosure. Also, the Fourth Circuit found it lacked jurisdiction to review the remand order; thus unlikely for the Fourth Circuit to change its mind. The Rooker-Feldman Doctrine does bar the Defense from appealing to a federal court that does not have jurisdiction.
 - g. As of now, there isn't federal court action pending and no state court stay in place. If Defense appeals to US Court of Appeals for the Fourth Circuit, there is no stay of state court action unless Defense stay issued.
3. Judge Spence, at 950am states:
 - a. Unaware of US District Court February 18, 2025 ruling. Instructs Plaintiff to file most recent email message.

***If the Defense is not correct in the above synopsis, please correct. ***

Mailed items received today, February 25, 2025:

1. South Carolina Court of Appeals (postmarked February 18, 2025) appears to be exact same letters (2) received via email on said date.
 - a. Appellate Case Number
 - b. Admonishing filings needing to be Rule 267-compliant.
 - c. Reference to inclusion of personal data identifiers pursuant to Order 2014-04-15-02.

- d. *Notification of 10-day grace period to correct insufficiencies in formatting of Proof of Service and Notice of Appeal. Otherwise, case will be dismissed.*
2. *US District Court District of South Carolina (postmarked February 18, 2025) Copy of order denying motion for reconsideration; motion for stay and motion for a preliminary injunction; and also terminating as moot motion for leave to proceed in forma pauperis by Judge Lydon.*
3. *US District Court of District of South Carolina (postmarked February 21, 2025)*
 - a. *February 20, 2025 Filed copy of Notice of Appeal (to 4th Circuit), Defendants Response to Pending Report and Recommendations, Letter to the Clerk of Court (Supreme Court of the United States); February 14, 2025 Proof of Service; photograph of envelope with apparent tracking number atop; Appeal Transmittal Sheet. Also, Civil Docket for Case (5 pages); and Name and Address Update Form*
4. *United States Court of Appeals for the Fourth Circuit (postmarked February 21, 2025). New Case No 25-1169, with due dates provided for informal opening brief, informal response brief, and informal reply brief.*
5. ***Supreme Court of the United States (postmarked February 20, 2025). Letter, dated February 19, 2025, indicating Defense inability to file an extension of time to file a petition for writ of certiorari for a case not reviewed by US Court of Appeals or by highest state court.***

Defense Response:

1. *Defense will reserve its response to Plaintiff's statement for submission to the US Court of Appeals for the 4th Circuit.*
2. *In the same manner of verbal pleading Plaintiff extended to Defense in the February 3, 2025 428pm email, the Defense humbly reciprocates: Attorney Kay, Sir, I **strongly** urge you to get with your client and discuss the events surrounding its quest to acquire my home. It would be best for your team to willingly divulge its actions than for the actions to be found out by other means.*

Correspondences Defense requests responses to:

1. ***Lexington County Courthouse, please advise if the March 5, 2025 final auction is stayed with current Federal activity. [Below is the current federal motion for stay as well as the February 2, 2025 state-level stay submitted.]***
2. ***SC Court of Appeals, is the February 18, 2025 directives redacted, including the pending February 28, 2025 dismissal due to this case still being under federal jurisdiction since February 7, 2025?***

Again, a response was not received from South Carolina Court of Appeals; that is, until its

dismissal of this already removed case just 24 hours after Defense did not lawfully attend

Lexington County Courthouse March 17, 2025 Appeal Bond hearing, of which was within the jurisdiction of South Carolina Court of Appeals only to perform as the stay was submitted to the

latter court. Law enforcement has been alerted. In the interest of justice, Defendant invokes

Rule 11 , requesting oral arguments and transfer to Federal Jurisdiction with a criminal investigation initiated.

REASONS FOR GRANTING THE PETITION

As discussed in the February 27, 2025 *Emergency Motion for Dismissal with Prejudice and To Compel* submitted to the US Court of Appeals for the Fourth Circuit:

The Defense submits this emergency motion for immediate dismissal with prejudice and request the attached proposed order to be awarded to the Defense for the following reasons:

1. Defense submitted multiple documents for filing on 2/22/25 712pm to SC Court of Appeals and Lexington County Courthouse; neither Court has filed the documents as evidenced by SC Court of Appeals responding with an electronic copy of the filed documents and Lexington County Courthouse profiling a copy of the documents on the public index.
2. The Plaintiff 2/24/25 1051am documents has been filed with Lexington County Courthouse and now one of the two documents is available for viewing after Defense notified Clerk of Court documents on 2/26/25 that those two documents are the only recent documents not downloadable; still the Plaintiffs letter is not available. **This is fraud and discrimination.**
3. Defense 2/25/25 1159pm and 2/26/25 1216am electronic communications also have not been filed and profiled on Lexington County Courthouse public index.
4. Standard civil procedure demands Plaintiff provides Defense with a copy of all documents provided to the Court. Despite Defense request to compel Plaintiff to follow the law, the Defense has not been provided with said documents and all courts remain silent. **This is fraud and discrimination.**
5. As is discussed in the attached 2/25/25 Defense Response, the Plaintiff was respectfully admonished to divulge its actions willingly before they are uncovered. The Plaintiff has not responded. Due to the above occurrences, Defense feels pressed to respond urgently:
 - a. Various breeches have been repetitive in nature without requested intervention, ultimately contributing and furthering fraudulent activity at Lexington County Courthouse. Specifically:
 - i. As per the Supreme Court of the United States, federal jurisdiction ended August 19, 2024; Plaintiff state-level motion for summary judgment was submitted on February 7, 2024. **This is fraud, state court did not have jurisdiction at this time. Thus, the summary judgement order is fraudulent and illegal.**
 - ii. All were made aware of Defense communication with Supreme Court of the United States being incomplete. Yet, state proceedings persisted. **This is fraud.**

- b. Defense statement “now” understands stay is not automatic [in the 2/11/25—not 2/25/25 as Plaintiff reports—Motion for Stay or Injunction Pending Appeal— is in reference to Defense ever evolving awareness of the legal process. Regardless, Defense timely submitted a state-level motion to stay foreclosure activity with a copy provided on 2/2/25, but the preliminary auction was conducted anyway. **This is fraud.** Again, the motion for stay requirement was met and submitted the day before the 2/3/25 auction; hence, the auction should have been postponed pending SC Court of Appeals ruling.
 - c. Regarding retrying a case, there is a legal position where cases can be revisited if additional evidence is discovered post-judgment; this is what fuels the Defense claim of fraud.
 - d. Plaintiff seems to be referencing year 2022 after issuing notice of Home Acquisition on July 28, 2022 without due process. Defense asks Plaintiff this one question: Plaintiff you referenced similarity to the past, then what prevented a deficiency sale from occurring in 2022?
 - e. The question that Plaintiff fails to answer is how was Defense able to prevent a deficiency sale in 2022, as it is now 3 years later? The Defense persists that in 2022 Plaintiff illegally obtained permission to acquire Defense home and once Defense submitted the 8/22/22 Notice of Home Acquisition, the Plaintiff and its accomplices attempted—and still are—to cover the fraud returning to civil rules of procedure (i.e. scheduling a status conference in lieu of a hearing scheduled **after** Plaintiff mailed acquisition documents to Defense. **This is fraud.**
6. With Judge Spence acknowledgement that both state and federal court cannot have jurisdiction simultaneously, the Defense submits the following requests with this Motion to Dismiss with Prejudice:
- a. Compel State of South Carolina courts to comply with civil procedure in this case. Specifically,
 - i. Respect Defense legal right to appeal and honor the federal stay submitted by halting any and all foreclosure activity associated with 123 Cardinal Pines Drive, Lexington, SC 29073. NOTE: The state-level stay was not honored as Lexington County Courthouse held the preliminary auction on 2/3/25 despite a stay in place. **This is illegal and discrimination.**
 - ii. Compel Lexington County Courthouse to respond to Defense request: **Please advise if the March 5, 2025 final auction is stayed with current Federal activity. [Below is the current federal motion for stay as well as the February 2, 2025 state-level stay submitted.]**
 - iii. Compel SC Court of Appeals to provide Defense an electronically-filed copy of all submitted documents as it has done before and provide a response to the Defense question: **Is the February 18, 2025 directives redacted, including the**

pending February 28, 2025 dismissal due to this case still being under federal jurisdiction since February 7, 2025?

- b. Dismiss case based on gross breach of civil procedure, discrimination, and fraud.*
- c. Award Defense attached proposed order in its entirety (previously submitted to Lexington County Courthouse)*
- d. Submit a referral to law enforcement for investigation, including delayed mail occurrences.*

A response is pending.

The egregious circumstances provided above underscore and satisfy the legal requirements of fraud. U.S. Bank National Association, along with multiple accomplices, persistent attempts to obscure the truth and subvert law are clearly evident. On February 4 2025, this court determined this is a new case, thus the District Court's order indicating the case is a closed case; denying removal, stay and preliminary injunction; and revoking inform a pauperis status cannot be upheld. In addition, the SC Court of Appeals dismissal is untimely and in error as it no longer has jurisdiction and was issued past the stated 10-day grace period. Lastly, Lexington County Courthouse attempting to execute a task lawfully delegated to SC Court of Appeals, when the latter court no longer held jurisdiction is fraud.

This Court ruled in the June 13, 2022 decision on *Kemp v United States* (No 21-5726):

In sum, nothing in the text, structure, or history of Rule (b) persuades us to narrowly interpret the otherwise broad term "mistake" to exclude judicial error of law. Because Kemp's Rule 60(b) motion alleged such a legal error, we affirm the Eleventh Circuit's judgment that the motion was cognizable under Rule 60(b)(1), subject to a 1-year limitations period, and therefore, untimely.

This petition is within the 1-year limitation period alleging legal error, thus this petition is timely.

The Constitution, Fourteenth Amendment, Section 1 expressly indicates states shall **not** enforce laws that limit the privileges, steal property without due process, and/or deny equal legal protection of any American citizen. In regards to Title VI Civil Rights Act of 1964, the Department of Justice wrote*Title VI inhibits intentional discrimination...* this petition details

recurrent breeches of the Constitution and Title VI Civil Rights Act of 1964, clearly indicating intentional discrimination. In additon, in the Petitioner's March 6, 2025 *AMENDED Motion to Dismiss with Prejudice with Previously Submitted Motions for Stay and Certificate of Service* and March 17, 2025, *Letter to the Court/Motion to Stay all State-level Court Activity Pending Federal Jurisdiction Completion* submitted to Lexington County Courthouse:

**Motion to Dismiss with Prejudice with Previously Submitted Motions for Stay
and Certificate of Service**

Reasons for Dismissal with Prejudice:

1. *Request for hearing to appeal bond not held prior to preliminary auction/sale.*
2. *Simultaneous, concurrent State and Federal jurisdiction is unlawful. **This is fraud.***
 - a. *Federal jurisdiction (US Court of Appeals for the Fourth Circuit) is in progress, with pleadings due on same day (March 17, 2025) of requested hearing for appeal bond.*
 1. *Federal question: "Are the elements of fraud satisfied in this case?"*
3. *March 4, 2025 Defendant's Motion to Move to Inactive Roster has not been scheduled for hearing yet.*
4. ***Intrinsic and Extrinsic Fraud***
 - a. *Supreme Court of the United States Jurisdiction Feb 13, 2023 to Aug 19, 2024.*
 - b. *State-Level Summary Judgement filed and accepted by Lexington County Courthouse February 7, 2024, outside of its jurisdiction. **This is fraud.***
 1. *Clerk of Court delay-filing Defense February 6, 2024 Motion to Move to Inactive Roster until February 12, 2025. **This is fraud.***
 - c. *Summary Judgement state-level hearing held on June 21, 2024, outside of its jurisdiction. **This is fraud.***
 - d. *February 2, 2025 preliminary auction/sale conducted despite appeal and motion for stay submitted to South Carolina Court of Appeals. **This is fraud.***
 - e. *Multiple Defense documents not filed by Lexington County Clerk of Court despite repeated requests. **This is fraud.***
 - f. *Multiple, repetitive incidences of suspected mail tampering/delayed mail. **This is fraud.***

Here is the motion filed yesterday; a response has not been received from the Court.

**March 4, 2025 Motion to Move to Inactive Roster with Previously Submitted
Motions for Stay With Certificate of Service**

*Due to current federal jurisdiction and this Courts acknowledgement simultaneous state jurisdiction is unlawful, the Defense motions to move this case to inactive roster [including canceling any and all auctions and further state level activity] pending completion of **all** federal activity as per the rules of civil procedure. Included below are the Motion for stays.*

Note: Federal documents submitted for filing on March 3, 2025 appear to also be unusually delayed [as per multiple previous reports of suspected mail tampering]; these documents remain in New York as of the date and time of this filing. Hence, attached are copies with requests for all courts to file the documents as mailing delays seem to be a persistent issue. **The Defense request for investigation please.** **Note2:** Multiple Defense documents are missing from Lexington County Public Index, as last filed document is dated 2/7/25. Please file any and all documents submitted.

Express United States Postal Service, mailed with tracking:

- | | |
|--|---------------|
| 1. Supreme Court of the United States | ER174167028US |
| 2. United States Court of Appeals for the Fourth Circuit | ER174166994US |
| 3. Lexington County Courthouse | ER174167005US |
| 4. Hutchen's Law Firm | ER174166985US |
| 5. Richardson Plowden | ER174167014US |

**Letter to the Court/Motion to Stay all State-level Court Activity Pending Federal
Jurisdiction Completion**

Dear Lexington County Courthouse:

In response to this Defense' March 14, 2025 1237AM correspondence—discussing including but not limited to notice of Defense inability to attend March 17, 2025 9am Appeal bond hearing, case currently under FEDERAL jurisdiction, noted document tampering with Defense submitted records, and request for Clerk to file Federal documents submitted by Defense—the following were received:

1. Judge Spence at 928am:
 - a. The mandatory Monday 17, 2025 hearing will be held.
 - b. Valid reason and proof must be furnished to court and opposing party for continuance. Court will examine the request evidence and advise parties.
 - c. Request advisement if there are any state or federal action that requires postponement of Defense bond hearing request.
2. Attorney Kay
 - a. Denies any state or federal action that requires postponement of Defense bond hearing request.

- b. *Requests Defense to pay court reporters appearance fee if hearing is postponed and/or if Defense chooses not to attend.*

In response, the Defense submits the following:

1. *Postponement due to illness. Please advise what verification to provide to court and Plaintiff.*
2. *Defense March 7, 2025 1132pm correspondence remains unaddressed; here is an excerpt:*
 7. *When will the court address the harm done to the Defense with holding the initial auction/sale unlawfully due to appeal and motion for stay in place? When will the recurrent bullying, harm, discrimination, and maltreatment committed against the Defense be remedied?*

Be advised the SCRCF 60 states RELIEF IS DUE from this Courts judgment for foreclosure and denial to vacate; and the current actions of this Court is UNLAWFUL as corrections can ONLY be made with the Appeals Court. Here is an excerpt from the SCRCF 60 law verbatim:

“(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake or a mistake arising from oversight or omission whenever one is found in the judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellate court and while it is pending, such a mistake may be corrected only with the appellate court’s leave.

Attached is a copy of the Defense’s March 14, 2025, March 7, 2025, two March 6, 2025, and March 4, 2025 correspondences. The Defense kindly requests again this Court and the Plaintiff to follow the law; this attempt to correct is unlawful. Furthermore, the stay of foreclosure was not submitted to this court but to the SC Court of Appeals and the federal judiciary; thus, the hearing is unlawful.

Both this Court and the Plaintiff is aware of current Federal jurisdiction over this case. Specifically, the US Court of Appeals for the Fourth Circuit has current jurisdiction, of which this state-level courts actions are contested. Again, please honor the rule of law. Lastly, the Defense regrets the any expense the Plaintiff or anyone else has because of the scheduling of the hearing. However, Plaintiff was made aware of Defense contesting the hearing. Thus any expense accrued is fully the Plaintiffs. In addition, the Plaintiff is also fully aware of the Defense Informa pauperis status.

The Defense thereby motions this state-level court to halt any and all state proceedings, granting the already submitted March 4, 2025 Motion to move to inactive roster request pending completion of federal jurisdiction. The Plaintiff is aware of federal proceedings.

Both motions were ignored and never addressed by the said Court. In accordance to the Constitution and Title VI Civil Rights Act of 1964 and the Department of Justice, the criteria for fraud has been satisfied. Moreover, Rule 60(a), (b)(1)(2)(3)(4)(5)(6), (c) (1)(3), and (d)(1)(3) of

the Federal Rule of Civil Procedure are also all satisfied.

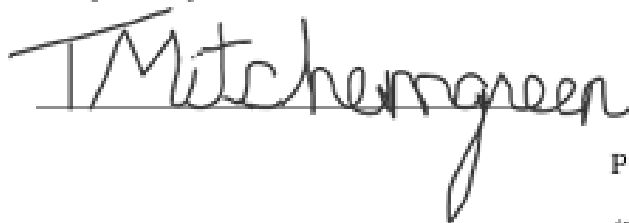
The U.S Department of Housing and Urban Development Public Release Notice 21-115, dated July 23, 2021, entitled *Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners* was not adhered to because US Bank National Association refused to assist the Petitioner as required by federal mandate and failed to offer loan modification, including Deed-in-Lieu-Of-Foreclosure options as mandated by HUD/FHA despite repeated requests from the Petitioner. Thus the request for foreclosure is unlawful and fraudulent, with intent in question.

In summary, The Petitioner invokes the jurisdiction of the Supreme Court of the United States under 28 U. S. C. § 1254(1) and Rule 11. This petition invokes Rule 11 with oral argument requested. This Petitioner respectfully moves the Court to grant writ of certiorari before judgement from US Court of Appeals for the 4th Circuit—before a full member Court and grant an immediate stay of all activity in lower courts, including auction/sale of the property in dispute. It is apparent, this case presents issues of importance beyond the particular facts and parties involved, making it “...imperative to public importance as to justify deviation from normal appellate practice and to require immediate determination in this Court.”

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink that reads "Tracie Mitchem-Green". The signature is written in a cursive, flowing style. The first letter 'T' is large and prominent, and the last letter 'n' has a long, sweeping tail that extends downwards.

March 23, 2025

Tracie Mitchem-Green
PO Box 521, 1585 Central Park Avenue
Yonkers, NY 10710
(803) 3610602, drgreen@myyahoo.com

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

December 6, 2024

Tracie L. Green
PO Box 521
Yonkers, NY 10710

RE: Green v. US Bank National Association/ Petition for Rehearing
"Emergency Motion to Vacate Judgments"
No: 23-6591

Dear Ms. Green:

Your application that was received December 6, 2024 is herewith returned for the following reason(s):

Your petition for a writ of certiorari was denied by the Court on May 20, 2024, with rehearing denied on August 19, 2024, therefore this Court no longer has jurisdiction over your case.

Sincerely,
Scott S. Harris, Clerk
By: 
Robert Meek
(202) 479-3027

Enclosures

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

January 2, 2025

Tracie L. Green
PO Box 521
Yonkers, NY 10710

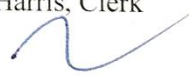
RE: Green v. US Bank National Association/ Petition for Rehearing
"Emergency Motion to Vacate Judgments"
No: 23-6591

Dear Ms. Green:

Your application that was received January 2, 2025 is herewith returned for the following reason(s):

Per your request, attached are letters from the Court dated June 13, 2024, and April 4, 2024.

The case is considered closed, and no further filings are authorized. Denial of a petition for a writ of certiorari is normally without a separate written opinion.

Sincerely,
Scott S. Harris, Clerk
By: 

Robert Meek
(202) 479-3027

Enclosures

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

 COPY

April 4, 2024

Tracie L. Green
PO Box 521
Yonkers, NY 10710

RE: Green v. US Bank National Association
Application for Stay
No: 23-6591

Dear Ms. Green:

Your application for a stay received March 29, 2024 is herewith returned for the following reason(s):

You failed to comply with Rule 23.3 of the Rules of this Court which requires that you first seek the same relief in the appropriate lower courts and attach copies of the orders from the lower courts to your application filed in this Court.

You must attach a certificate of service showing that you have served all parties with a copy of the application.

Sincerely,
Scott S. Harris, Clerk
By:

Robert Meek
(202) 479-3027

Enclosures

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001

 COPY

June 13, 2024

Tracie L. Green
PO Box 521
Yonkers, NY 10710

RE: Green v. US Bank National Association/ Petition for Rehearing
USAP4 No. 23-1176
No: 23-6591

Dear Ms. Green:

The petition for rehearing in the above-entitled case was postmarked June 7, 2024 and received June 11, 2024 and is herewith returned for failure to comply with Rule 44 of the Rules of this Court. The petition must briefly and distinctly state its grounds and must be accompanied by a certificate stating that the grounds are limited to intervening circumstances of substantial or controlling effect or to other substantial grounds not previously presented.

You must also certify that the petition for rehearing is presented in good faith and not for delay.

Also, the petition exceeds the 15 page limitation set out in Rule 33.2(b).

Please correct and resubmit as soon as possible. Unless the petition is submitted to this Office in corrected form within 15 days of the date of this letter, the petition will not be filed. Rule 44.6.

Sincerely,
Scott S. Harris, Clerk
By:

Angela Jimenez
(202) 479-3392

Enclosures

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

February 4, 2025

Tracie L. Green
PO Box 521
Yonkers, NY 10710

RE: Green v. US Bank National Association/ Extension of Time
Lexington County South Carolina (No Case No.)

Dear Ms. Green:

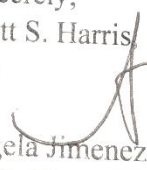
The application for an extension of time within which to file a petition for a writ of certiorari in the above-entitled case was postmarked January 29, 2025 and received February 4, 2025. The application is returned for the following reason(s):

The lower court opinion must be appended dated November 14, 2024. Rule 13.5.

You are informed you may not file an extension of time to file a petition for writ of certiorari for a case that has not been reviewed by a United States court of appeals or by the highest state court in which a decision could be had. 28 USC 1254 and 1257.

It is impossible to determine the timeliness of your application for an extension of time without the lower court opinions.

Sincerely,
Scott S. Harris, Clerk
By:


Angela Jimenez
(202) 479-3392

**SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, DC 20543-0001**

March 18, 2025

Tracie L. Green
PO Box 521
1585 Central Park Avenue
Yonkers, NY 10710

RE: Green v. US Bank National Association/ "Emergency Motion Before Judgment"
USAP4 No. 25-1169

Dear Ms. Green:

The above-entitled motion was received on March 18, 2025. These papers fail to comply with the Rules of this Court and are herewith returned.

You may seek review of a decision only by filing a timely petition for writ of certiorari. The papers you submitted are not construed to be a petition for writ of certiorari. Should you choose to file a petition for writ of certiorari, you must submit the petition within the 90 day time limit allowed under Rule 13 of the Rules of this Court. A Copy of the Rules of this Court and a sample petition for a writ of certiorari are enclosed.

To the extent you intend to file a petition for writ of certiorari which seeks review of case No. 25-1169 before judgment under Rule 11, which remains pending in the Court of Appeals for the Fourth Circuit, the cover of the petition and the statement of jurisdiction must expressly invoke Rule 11.

Sincerely,
Scott S. Harris, Clerk
By:

Angela Jimenez
(202) 479-3392

Enclosures

Filed: February 21, 2025

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

INFORMAL BRIEFING ORDER

No. 25-1169, US Bank National Association v. Tracie Green
3:22-cv-04215-SAL

This case has been placed on the court's docket under the above-referenced number, which should be used on papers subsequently filed in this court. The case shall proceed on an informal briefing schedule pursuant to Local Rule 34(b). The Informal Brief Form is attached. Informal briefs shall be served and filed within the time provided in the following schedule. **Only the original informal brief is required; no copies need be filed unless requested by the court.**

Informal opening brief due: 03/17/2025

Informal response brief permitted within 14 days after service of informal opening brief (filing of an informal response brief is not required).

Informal reply brief permitted within 10 days after service of informal response brief, if any.

If the informal opening brief is not served and filed within the scheduled time, the case will be subject to dismissal pursuant to Local Rule 45 for failure to prosecute. Extensions of briefing deadlines are not favored by the court and are granted only for good cause stated in writing.

The court will not consider issues that are not specifically raised in the informal opening brief. If a transcript is necessary for consideration of an issue, appellant must order the transcript within 14 days of filing the notice of appeal, using the court's **Transcript Order Form**. Parties who qualify to proceed without prepayment of fees and costs may apply for preparation of the transcript at government expense. In direct criminal appeals in which the appellant has waived the right to counsel and elected to proceed pro se, the motion for transcript at government expense is filed in the Court of Appeals and transcript is ordered by

FILED: March 11, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1169
(3:22-cv-04215-SAL)

US BANK NATIONAL ASSOCIATION

Plaintiff - Appellee

v.

TRACIE L. GREEN, a/k/a Tracie Ledora Mitchem-Green

Defendant - Appellant

and

CARDINAL PINES HOMEOWNERS' ASSOCIATION, INC.; PALMETTO
CITIZENS FEDERAL CREDIT UNION

Defendants

ORDER

The court grants leave to proceed in forma pauperis.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

February 11, 2025

Page 1 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Case No. _____
Jury trial: Yes

Against

Tracie L. Green;
Cardinal Pines Homeowners' Association, Inc.;
Palmetto Citizens Federal Credit Union

Motion for Stay or Injunction Pending Appeal

Pursuant to Federal Rules of Civil Procedure 62, this ProSe Defendant moves for this Court to stay Lexington County Courthouse November 14, 2024 judgement order and January 29, 2025 denial to vacate judgment order to prevent further foreclosure and auctioning activities pending appeal completion. Copies of both orders were previously included with the Notice of Removal on file with this Court.

As discussed in the Notice of Appeal [Second Amendment] submitted to the South Carolina Court of Appeals on February 2, 2025 (2 pages; See **Appendix A**, which also includes Appellant Letter to the Court (9 pages)):

...Staying Judgement for Sale or Delivery of Land: Pursuant to SC Code 18-9-170 (2023), the below signed appellant, during the possession of such property, will not commit or suffer to be committed any waste thereon and if the judgment be affirmed, will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall prove that in case the judgment appealed from be affirmed and the land be final sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgment; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, or any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant

Appendix C

February 11, 2025

Page 2 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Case No. _____
Jury trial: Yes _____

Against

Tracie L. Green;
Cardinal Pines Homeowners' Association, Inc;
Palmetto Citizens Federal Credit Union

of the interest on the debt falling due during the pendency of such appeal. Due to the presence of criminal activity occurring and this Defendants Informa pauperis status, this court is requested to utilize the pending \$3 million judgement in lieu of the requested two sureties.

The undersigned now understands that a stay is not automatic in this case. However, given the strong, compelling evidence of fraudulent activity detailed in the Notice of Removal, a stay is warranted in the interest of justice. Moreover, financial responsibility is evident, as the contested property, 123 Cardinal Pines Drive, Lexington, South Carolina 29073 (valued at approximately \$230,000, judgement order is for \$150,213.73), is occupied by the undersigned with a strong security system through CPI Security; while the undersigned remains a resident of New York (having left South Carolina for safety concerns). However, as discussed in the Notice of Removal, evidence shows that CPI Security may be involved with the fraud, thus law enforcement has been notified. Therefore, the judgement (i.e. acquisition of said property) is secure and not in danger of loss. Irreparable harm will be done if a stay is not granted halting the acutioning of this property, which has been a home of the undersigned for 18 years. Lastly, granting a stay or injuction is in the best interest of the public as noted in this January 31, 2025 500pm correspondence:

...If this court and plaintiff proceeds with sale despite notice of appeal, its considered theft. Thus danger to public as they would be encouraged to participate in fraudulent activity...

February 11, 2025

Page 3 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Case No. _____
Jury trial: Yes _____

Against

Tracie L. Green;
Cardinal Pines Homeowners' Association, Inc.;
Palmetto Citizens Federal Credit Union

Again, the undersigned now understands that a stay is not automatic. However, despite the February 2, 2025 submission to the Court of Appeals addressing the stay, Lexington County Courthouse still proceeded with the auction on February 3, 2025, now labeling it a preliminary auction, while adding a final auction date for March 2025. It is the duty of this Court to determine if Lexington County Courthouse actions were proper or intended to cause harm and distress given that a stay request had been filed the day prior.

Conclusion

For the foregoing reasons, the United States District Court for the District of South Carolina should grant a stay or injunction to Lexington County Courthouse November 14, 2024 judgement order and January 29, 2025 denial to vacate judgment order to prevent further foreclosure and auctioning activities pending appeal completion.

Certificate of Service

I hereby certify that on this 11th day of February 2025, a copy of the foregoing Motion was mailed, postage prepaid, to Plaintiff US Bank National Association via Counsel Hutchen's Law Firm, PO Box 8237, Columbia, South Carolina 29202; and Co-Defendant Palmetto Citizens Federal Credit Union via Counsel Richardson Plowden, PO Drawer 7788, Columbia, SC 29202.



Tracie Mitchem-Green
PO Box 521
1585 Central Park Ave,
Yonkers, New York 10710
(803) 361-0602, drgreen@myyahoo.com
ProSe Appellant

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Plaintiff,

v.

Tracie L. Green, a/k/a Tracie Ledora
Mitchem-Green; Cardinal Pines
Homeowners' Association, Inc.; Palmetto
Citizens Federal Credit Union,

Defendants.

C/A No. 3:22-cv-4215-SAL

ORDER

This is a closed case. In November 2022, Defendant Tracie L. Green, proceeding pro se and in forma pauperis, filed a notice of removal that purported to remove a mortgage foreclosure action ("foreclosure action") filed in the Court of Common Pleas in Lexington County, South Carolina. In December 2022, the magistrate judge assigned to this matter issued a Report and Recommendation ("Report"), recommending this court remand the case to the Court of Common Pleas of Lexington County, South Carolina, for lack of subject matter jurisdiction and because Defendant had not complied with the procedure required for removal under 28 U.S.C. § 1446. [ECF No. 13.] Defendant filed a response to the Report, but she failed to raise any specific objections to the Report or to address the jurisdictional and procedural defects in her case. [ECF No. 24.] Accordingly, the court adopted the report and remanded this matter to the Lexington County Court of Common Pleas. *Id.*

Defendant then appealed this court's decision to the Fourth Circuit. In October 2023, the Fourth Circuit dismissed the appeal for lack of jurisdiction, noting this court had expressly determined it lacked subject matter jurisdiction. [ECF No. 38.]

On February 12, 2025, Defendant filed a packet of documents that have been docketed as a motion for reconsideration (ECF Nos. 42, 45),¹ a motion to stay and for preliminary injunction (ECF No. 43), and a motion for leave to proceed in forma pauperis (ECF Nos. 44, 46). But, for the same reasons already identified by this court, this court lacks subject matter jurisdiction over this matter. It has been remanded, and this is a closed case. None of the information provided in Defendant's submissions to the court cures the jurisdictional and procedural defects in her case. Accordingly, Defendant's pending motions for reconsideration (ECF Nos. 42, 45) and her motion to stay and for a preliminary injunction (ECF No. 43) are **DENIED**. Her motion for leave to proceed in forma pauperis (ECF Nos. 44, 46) is **TERMINATED AS MOOT**.²

IT IS SO ORDERED.

February 18, 2025
Columbia, South Carolina


Sherri A. Lydon
United States District Judge

¹ These are styled as a notice of removal, but they concern the same state court foreclosure action that this court has already remanded to state court.

² The magistrate judge previously granted a motion to proceed in forma pauperis in this case. *See* ECF No. 10.



THIS DOCUMENT CONTAINS A TIME WATERMARK - HOLD UP TO LIGHT TO VIEW

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COVENTRY, N.H. 03843-0001
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MORDER

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PAY EXACTLY
PAY TO THE
ORDER OF

1585 Central Park Ave 190 Box 522, Yonkers, NY 10710

MOBILE DEPOSIT PROHIBITED

MOBILE DEPOSIT PROHIBITED

The South Carolina Court of Appeals

U.S. Bank National Association, Respondent,

v.

Tracie L. Green; Palmetto Citizens Federal Credit Union,
Defendants,

of which Tracie L. Green is the Appellant.

Appellate Case No. 2025-000179

The Honorable James O. Spence
Lexington County
Trial Court Case No. 2022CP3200784

ORDER

Appellant has failed to serve and file an amended notice of appeal in the correct format, as required by Rule 203 of the South Carolina Appellate Court Rules (SCACR) and this Court's letter dated February 18, 2025. Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT
BY Catherine H. Annis, Deputy
CLERK

Columbia, South Carolina

cc:

Tracie L. Green

John Sanford Kay, Esquire

Sarah Oliver Leonard, Esquire

Ashley Zarrett Stanley, Esquire

Kenneth Gregory Wooten, III, Esquire

FILED
Mar 18 2025

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

U.S. Bank National Association,
PLAINTIFF,

vs.

Tracie L. Green; Palmetto Citizens Federal
Credit Union,

DEFENDANT(S)

MASTER'S ORDER AND JUDGMENT OF
FORECLOSURE AND SALE

(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2022-CP-32-00784

DEFICIENCY REQUESTED

TO:
Hutchens Law Firm LLP
Attorney for Plaintiff

Pursuant to Rule 53 SCRPC, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the case. Pursuant to the said Order of Reference a hearing was held on June 21, 2024 on the Plaintiff's motion for summary judgment, attended by John S. Kay, Esq., attorney for the Plaintiff. The Defendant, Tracie L. Green ("Green" or "Defendant") did not appear at the hearing, despite notice of the hearing having been sent to all parties on June 3, 2024.

The Court Reporter present at the hearing was Kathryn Bostrom with Garber Reporting Services whose contact information is: 3200 Devine Street, Suite 103 Columbia, South Carolina 29205, email: info@garberreporting.com and phone number (803) 256-4500. Lexington County does not have a staff court reporter. The parties to each case must pay for a court reporter. Tracie L. Green can obtain a copy of the transcript of the June 21, 2024 hearing by contacting the court reporting service to arrange to pay the court reporter for the transcript.

Based upon the arguments of counsel, exhibits presented, review and consideration of the case record filings and a review and consideration of those matters raised and argued by Defendant, I find conclude and order as follows:

Ms. Green called the Court the morning of the hearing requesting to be allowed to appear virtually or by telephone. It is, and has been, this Court's policy to conduct contested matters in-

person with a court reporter. The request by Ms. Green has been made several times previously and it has been explained to her that while a status conference can be attended virtually since there is no swearing of witness, direct or cross examination etc., , this court's practice is that contested hearing must be conducted in-person.

Ms. Green has discussed in previous emails to the Court that she believes she cannot come to South Carolina for fear for her life. Ms. Green has indicated that the reasons for her belief extend from a racial component and a possibility of terrorist activity or something related to her previous work at a nursing home. The last reason she gave for not being able to appear in person was due to her limited finances. The subject of this foreclosure action is a parcel of real property located in Lexington County known as 123 Cardinal Pines Drive Lexington, South Carolina. This was the Defendant's address at the time of the filing of the action and is the location where she was served with the pleadings on March 8, 2022. The Defendant apparently moved to the state of New York at some point in the litigation and still maintains a residence in New York.

The court:

- (1) calls attention to and incorporates by reference Defendant's multitude of filings, motions or pleadings.
- (2) notes that court standard practice is to discuss court process that it is party's responsibility to argue any and all previously filed motions on the date of hearing. The Court takes notice that many motions are filed, then abandoned or resolved and not argued by the parties.
- (3) notes that the court notified parties by email that because it was a contested testimony hearing, then the hearing is in person, and
- (4) that the Court will address all motions raised and argued.
- (5) calls attention to the Summary Judgment hearing testimony where court questioned Plaintiff counsel about status of various filings.

The Court further notes that since Defendant did not appear to argue the below filings/ or motions, since Defendant did not appear to argue these matters, the court deems these motions abandoned:

(1)**GAL.** The Defendant had previously filed a motion requesting that a Guardian ad Litem be appointed for her. A Guardian ad Litem was not appointed in this case as the Defendant is not under a disability as would allow for the appointment of a GAL pursuant to the South Carolina Rules of Civil Procedure.

(2) **APPOINTED ATTORNEY.** The Defendant also appeared to argue that since she could not afford or obtain an attorney, then the court should appoint an attorney for her. While the landmark 1963 Supreme Court case *Gideon v. Wainwright* established that indigent defendants have a right to counsel in criminal cases, the extension of this right to a "Civil Gideon" in civil court cases has never been established. South Carolina has not adopted or established a right to a Civil Gideon (other than certain Family Court type cases etc.), so the Defendant does not have the legal right to have counsel appointed for her in this case.

(3)**CONTINUANCE.** This case has been continued numerous times at the request for the Defendant; however, there is no provision for a continuance to an indefinite date in the future when the Defendant might have funds to travel to South Carolina for a hearing.

(4) **SAFETY.** With regards to the concerns the Defendant has about her safety at a hearing, the Court had advised the Defendant that a member of the Lexington County Sheriff's Department would meet the Defendant at her car in the courthouse parking lot and escort her safely to and from the courtroom to allay any fears she might have in appearing in court.

(5)**LOSS MITIGATION.** With regards to loss mitigation activities during the course of the foreclosure action, Plaintiff filed a Notice of Denial Loss Mitigation on May 20, 2022, pursuant to the requirements of the South Carolina Supreme Court Administrative Order for 2011.

(6) **JURY TRIAL DEMAND.** The Defendant was served with the summons and complaint in this case on March 8, 2022, but did not attempt to request a jury trial until May 23, 2022. (The Court again calls attention to and incorporates by reference the various matters filed and submitted in this case during the time period under discussion).

The Defendant also filed a second request for a jury trial on July 6, 2022. The pleadings filed by Defendant did not include any compulsory counterclaims.

Rule 38, South Carolina Rules of Civil Procedure provides that a party may demand a jury trial not later than 10 days after the service of the last pleading directed to such issue. I find that the Defendant did not request a jury trial in this case in a timely fashion.

The Plaintiff's case is one for foreclosure of a mortgage and was properly referred to this court by Order dated July 5, 2022.

(7) VENUE. On July 15, 2022, Defendant filed a motion for change of venue in what appears to be an attempt to move the case to federal court from state court. The property in question is located in Lexington County and the Plaintiff's cause of action is for foreclosure of a mortgage on this property. Therefore, the proper venue for the case is the Court of Common Pleas for Lexington County, South Carolina.

(8) NOTICE OF REMOVAL. On November 28, 2022, Tracie L. Green filed a Notice of Removal with the United States District Court for the District of South Carolina seeking to remove the within case to federal court. On December 2, 2022, United States Magistrate Judge, Shiva V. Hodges, issued a Report and Recommendation wherein the Court recommended the matter be remanded to state court for lack of subject matter jurisdiction and failure to follow the removal procedures in 28 U.S.C. § 1446. United States District Court Judge, Sherri A. Lydon, adopted the Report of the Magistrate Judge in its entirety and issued an Order on January 23, 2023 remanding the case to the Lexington County Court of Common Pleas.

(9) FEDERAL COURT NOTICE OF APPEAL. On February 14, 2023 Tracie L. Green filed a Notice of Appeal to appeal the Order of Remand to the United States Court of Appeals for the Fourth Circuit. On October 2, 2023, the appeal was dismissed by the United States Court of Appeals for the Fourth Circuit. Thereafter, Green petitioned the United States Supreme Court for a writ of certiorari. The petition was denied by the United States Supreme Court by Order dated May 20, 2024.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

As there are no pending matters in federal court, this case is properly before this Court for final disposition.

"The purpose of summary judgment is to expedite dispositions of cases which do not require the services of a fact finder." *George v. Faber*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). A motion for summary judgment must be granted "if the pleadings, depositions, answers to interrogatories, and admissions 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." *Standard Fire v. Martine Contracting*, 301 S.C. 418, 421, 392 S.E.2d 460, 462; Rule 56(c), SCRCP. If the non-moving party has not shown a genuine issue of material fact, "summary judgment, if appropriate, shall be entered against him." Rule 56(e), SCRCP.

"Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings." *Regions Bank v. Schwauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438, (Ct. App. 2003) (citing Rule 56(c), SCRCP; *SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 497, 392 S.E.2d 789, 792 (1990); *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610 (Ct. App. 1999)). "Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." *Id.* To avoid the granting of a Motion for Summary Judgment by Plaintiff, "[i]t is not sufficient that one create an inference which is not reasonable. Similarly, it is not sufficient that one create an issue of fact that is not genuine." *Matt v. Corley*, 281 S.C. 525, 527, 316 S.E.2d 406, 407, (1984). "The trial court should grant summary judgment against a party who has failed to make a showing sufficient to establish the existence of an essential element of that party's case." *Harrell v. Rose's Stores*, 315 S.C. 344, 346, 433 S.E.2d 905, 906, (Ct. App. 1993) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)).

The Lis Pendens, Summon, Complaint, Notice of Foreclosure Intervention were filed on March 4, 2022. Service was accomplished on the Defendant, Tracie L. Green on March 8, 2022 at the property address of 123 Cardinal Pines Drive South Carolina 29073.

The Defendant has not denied signing the Note and the Mortgage in this case and did not file any affidavit in opposition to the Plaintiff's motion for summary judgment or the Plaintiff's affidavit in support of the motion for summary judgment. Plaintiff is entitled to foreclose the property because Defendant has breached the terms of the Note and Mortgage. An action for foreclosure of a mortgage is, in essence, that of breach of contract. "The elements for a breach of contract are the existence of the contract, its breach, and the damages caused by such breach." *South Glass & Plastics Co. v. Kemper*, 399 S.C. 483, 491-92, 732 S.E.2d 205, 209 (Cl. App. 2012) (citing *Fuller v. Eastern Fire & Casualty Ins. Co.*, 240 S.C. 75, 89, 124 S.E.2d 602, 610 (1962)). Plaintiff has shown the existence of the contract – the Note and Mortgage executed by the Defendant. The Plaintiff has also shown that the contract was breached by the Defendant's failure to make the monthly payments on the Note and Mortgage. Lastly, the Plaintiff's affidavit lists the amount of damages suffered by the Plaintiff as a result of the Defendant's breach.

Plaintiff's Counsel also submitted an affidavit of attorney fees in this matter for the sum of \$6,345.00. I find that this sum is reasonable considering the pleadings and issues involved in the matter. In addition, plaintiff's counsel represented the Plaintiff in the federal court action during this case and appeals to both the Fourth Circuit Court of Appeals and the United States Supreme Court.

Additional Findings of Fact and Conclusions of Law

1. The Defendant, Tracie L. Green, executed a Promissory Note dated June 9, 2014, promising thereby to pay to the order of U.S. Bank N.A. the sum of One Hundred Twenty Thousand Nine Hundred Fifty-Seven And 00/100 (\$120,957.00) with interest at 4.75 percent per annum. The Defendant also executed a mortgage in favor of U.S. Bank, N.A., dated June 9, 2014, covering real property in Lexington County, known as 123 Cardinal Pines Drive, Lexington, South Carolina. The mortgage was filed on June 19, 2014, and is of record in the Office of the Register

of Deeds - Lexington County in Mortgage Book No. 17023, at Page 139. The mortgage constitutes a first mortgage on the subject property.

2. Payment due on the Note has not been made as shown by the Plaintiff's Affidavit of Debt, and the Plaintiff, as the holder thereof, has elected to require immediate payment of the entire amount due thereon and filed this action to do so.

3. I find that since the inception of this action, plaintiff's attorney has assumed responsibility for the institution of this action and has searched and updated the title on the subject property from the date the current owner received the property or the date the mortgage was executed to the date of the filing of the Lis Pendens.

The Firm has been responsible for the preparation of the following pleadings.

1. Notice of Foreclosure Intervention
2. Lis Pendens
3. Summons and Complaint
4. Order of Reference
5. Notice of Hearing
6. Proposed Master's Order and Judgment of Foreclosure and Sale
7. Notice of Sale
8. Record of Hearing
9. Other documents as applicable pertaining to service, foreclosure intervention and prosecution of the action.
10. The preparation of pleadings in the federal court matter where the Defendant sought to remove the state court foreclosure case to federal court, including appeals to the Fourth Circuit Court of Appeals and the Supreme Court of the United States of America.

Additionally, the Firm has arranged for service of process on the Defendant(s), and has scheduled and attended the hearings and status conferences in the matter, and reviewed numerous documents emailed and filed in the case by the Defendant. Future duties include forwarding copies of the Master's Order and Judgment of Foreclosure and Sale to the Defendant(s), advising the Defendant(s) of the date that the property will be sold, arranging and coordinating the amount to be bid by Plaintiff, representation of Plaintiff at sale and preparation of after sale documentation as required. The Court is required to examine the Plaintiff's request for attorney's fees in view of six factors:

1. The nature, extent, and difficulty of the case.
2. The time necessarily devoted to the case and labor involved in the case.
3. The beneficial results to the client of the representation.
4. The reasonableness of the fee
5. The professional standing of counsel
6. The contingency of compensation

Plaintiff's counsel has in excess of 34 years of experience in handling default and contested foreclosure litigation matters in South Carolina. Plaintiff's counsel's normally hourly rate for \$300.00 per hour. In light of the nature, extent and difficulty of this case, including the removal of the case to federal court and the subsequent appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court, the extremely large volume of documents filed in the case, the potential liabilities inherent in a foreclosure matter, the attendant responsibilities and the outcome obtained for the Plaintiff, I find that the attorneys' fees in the amount of Six Thousand Three Hundred forty-Five And 00/100 (\$6,345.00) are reasonable.

4. The amount due and owing on the Note, with interest at the rate provided in the Note, and other costs and expenses of collection, including attorneys' fees, secured by the Note and Mortgage, is as follows:

a)	Principal Balance due as of 4/1/2020	\$109,060.11
b)	Interest Due from 3/1/2020 to 7/1/2024 at 4.750%	\$22,448.40
c)	Escrow Advances	\$10,573.50
	Hazard Insurance	\$5,696.00
	MIP/PMI Payments	\$1,980.30
	Last Positive Balance	-\$230.93
	Taxes	\$3,128.13
d)	Foreclosure Costs	\$1,786.72
e)	Attorney Fees	\$6,345.00
	TOTAL DEBT	\$150,213.73

Interest for the period from the date shown above, through the date of this Judgment at the above stated rate to be added to the above stated "Total Debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the current rate of 4.75% per annum (pursuant to the terms of the Note and Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

5. That the Defendant, Palmetto Citizens Federal Credit Union, is made a party by virtue of a mortgage given by Tracie Ledora Green in the amount of Twelve Thousand And 00/100 (\$12,000.00) dated February 23, 2010 and recorded March 4, 2010, in Book No. 14125, at Page 135 in the Office of the Register of Deeds for Lexington County; thereafter, Palmetto Citizens Federal Credit Union subordinated its mortgage lien to the Plaintiff's mortgage lien by virtue of a Subordination of Mortgage dated May 7, 2014 and recorded June 19, 2014 in Book 17023 at Page 152 in said records. Said lien is junior in priority to the Plaintiff's first mortgage lien.

6. That the Plaintiff does not waive but specifically demands judgment against the Defendant(s), Tracie L. Green, for the full amount found to be due to Plaintiff on the note and mortgage held by plaintiff, with the right to enter personal judgment against the Defendant(s), Tracie L. Green for any deficiency in this action remaining after sale of the mortgaged premises.

7. As a personal or deficiency judgment is demanded, the bidding will remain open for a period of thirty (30) days pursuant to S.C. Code Ann. Section 15-39-720 (1976).

8. The loan is not applicable for the Home Affordable Modification Program as that program sunset on December 31, 2016.

CONCLUSION OF LAW

I, therefore, conclude as follows:

1. The Plaintiff should have judgment of foreclosure of the mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. There is due to the Plaintiff on the obligation and mortgage set forth in the Complaint the sum of One Hundred Fifty Thousand Two Hundred Thirteen And 73/100 Dollars (\$150,213.73) representing the "Total Debt" due Plaintiff as set forth supra, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the current rate of 4.75% percent per annum.

3. That the Defendants liable for the aforesaid mortgage debt shall, on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

4. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, be sold by the Master-in-Equity at public auction at The Lexington County Judicial Center 205 East Main Street, Courtroom 3-A, Lexington County Courthouse, Lexington County, South Carolina, on some convenient sales day hereafter, on the following terms, that is to say:

A. FOR CASH: The Master-in-Equity will require a deposit of Five percent (5%) on the amount of the bid (in cash or equivalent) at the time of the sale, same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within Thirty (30) days same to be forfeited and applied to the costs and Plaintiff's debt.

B. Interest on the balance of the bid shall be paid to the day of compliance at the current rate of 4.75% percent.

C. The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.

D. The above referenced instrument constitutes a first lien priority mortgage on the subject property.

E. The Purchaser is to pay for the deed preparation, for Deed Stamps and costs of recording the Deed.

F. If the successful bidder is a third party other than the Plaintiff, interest on the balance of the bid shall be paid to the date of compliance at the rate listed in the figures above.

5. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of the Plaintiff in full, Plaintiff may pay to the undersigned Master-in-Equity only the amount of the costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

6. The Plaintiff has judgment against the Defendant(s), Tracie L Green, for the full amount found to be due the Plaintiff on the note and mortgage, with right to enter a personal judgment against the Defendant(s), Tracie L Green, for any deficiency in this action remaining after sale of the mortgaged premises.

7. As a personal or deficiency judgment is demanded, the bidding will remain open for a period of thirty (30) days pursuant to S.C. Code Ann. Section 15-39-720 (1976).

8. That the Master-in-Equity will, by advertisement according to law, give notice of the time, and place of sale, and the terms thereof; and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within Thirty (30) days after date of sale, then the Master-in-Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

9. That the Master-in-Equity will apply the proceeds of the sale as follows:

FIRST: To payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

NEXT: To the payment to the Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest, so much thereof as the purchase money will pay on the same.

NEXT: Any surplus will be held pending further order of the court.

10. It is further ORDERED, ADJUDGED AND DECREED if the named defendant(s) continues in possession of the property after a deed has been issued to the purchaser, then the Sheriff of Lexington County is directed to eject and remove named defendant(s) from the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

11. It is further ORDERED, ADJUDGED AND DECREED if the person(s) occupying the property after the deed has been issued to the purchaser is other than the named defendant(s), the purchaser shall serve the occupants with a Summons and Rule to Show Cause to determine why the occupant(s) should not be removed from the property.

12. And it is further ORDERED, ADJUDGED AND DECREED that each Defendant and all persons whomsoever claiming under him, her or them, be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

13. And it is further ORDERED, ADJUDGED AND DECREED that any prior lien that has been paid in full is hereby satisfied and canceled of record.

14. IT IS FURTHER ORDERED that the Deed of conveyance made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder of the mortgaged property at the time of filing of the Notice of Pendency of the within action, and the name of the Grantee, and the Master-in-Equity is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.

15. The Master-in-Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

16. Upon issuance of a Master-in-Equity Report on Sale and Disbursements, the Register of Deeds - Lexington County is directed to release of record the mortgage lien being foreclosed, which mortgage lien is described as follows:

That Mortgage originally given to U.S. Bank N.A. by Tracie L Green, dated June 19, 2014 and recorded Book No. 17023, at Page 139.

17. The following is a description of the premises herein ordered to be sold:

All that certain piece, parcel or lot of land, together with improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown and designated as Lot 6 on a Bonded plat of Cardinal Pines Subdivision prepared by Anderson and Associates Land Surveying, Inc., dated June 26, 2006, revised March 12, 2007 and recorded in the office of the Register of Deeds for Lexington County in Plat Slide 943 at Page 5. This further being shown on a plat prepared for Tracie L. Green by Anderson and Associates Land Surveying, Inc., dated June 12, 2007 to be recorded simultaneously herewith in Record Book 12135 at Page 7. reference to said plat is made for a more complete and accurate description, Be all measurements a little more or less.

Being the same parcel conveyed to Tracie L. Green from Hurricane Construction, Inc. by virtue of a deed dated June 29, 2007 and recorded July 3, 2007 in Deed Book 12135 at Page 8, in the Office of the Register of Deeds for Lexington County, South Carolina.

Assessor's Parcel No: 006614-01-006

123 Cardinal Pines Drive
Lexington, SC 29073
TMS# 006614-01-006

18. IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-described property, then the sale of the property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales day.

JUDGE'S SIGNATURE PAGE TO FOLLOW

FORM 4

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

JUDGMENT IN A CIVIL CASE
CASE NO: 2022-CP-32-00784

U.S. Bank National Association,
PLAINTIFF(S)

Tracie L. Green; Palmetto Citizens Federal Credit
Union
DEFENDANT(S)

Submitted by: John S. Kay (SC Bar #: 7914); Ashley Z. Stanley (SC Bar #: 74854); Alan M. Stewart (SC Bar #: 15576); Sarah O. Leonard (S.C. Bar #: 80165); Gregory Wooten (S.C. Bar #: 73586); Louise M. Johnson (S.C. Bar #: 16586).

Attorney for: ☒ Plaintiff ☐ Defendant or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CITING REASON):** ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(c), SCRCP (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CITING 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 (CITING APPLICABLE RULE):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: Foreclosure Action

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
U.S. Bank National Association	Tracie L. Green	N/A

If applicable, describe the property, including tax map information and address, referenced in the order: 123 Cardinal Pines Drive, Lexington, SC 29073 / TMS# 006614-01-006

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

_____ James D. Spruce Master-in-Equity	_____ 3068 Judge Code	_____ Date
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For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

John S. Kay (SC Bar #: 7914); Ashley Z. Stanley (SC Bar #: 74854); Alan M. Stewart (SC Bar #: 15576); Sarah O. Leonard (S.C. Bar #: 80165); Gregory Wooten (S.C. Bar #: 73586); Louise M. Johnson (S.C. Bar #: 16586);

Tracie L. Green PhD SE/SRL (see below for address)

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4 ATTACHMENT

Tracie L. Green
123 Cardinal Pines Dr
Lexington, SC 29073

Tracie L. Green
P.O. Box 521
Yonkers, N.Y. 10710

Palmetto Citizens Federal Credit Union
c/o Nelson Weston, Esq.
1900 Barnwell Street
Columbia, SC 29201



Lexington Common Pleas

Case Caption: Us Bank National Association VS Tracie L. Green , defendant, et al

Case Number: 2022CP3200784

Type: Master/Order/Foreclosure & Sale and Form 4

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

U.S. Bank National Association,
PLAINTIFF,

vs.

Tracie L. Green, Palmetto Citizens Federal
Credit Union,
DEFENDANT(S)ORDER DENYING MOTION TO VACATE
C/A NO. 2022-CP-32-00784MORTGAGE FORECLOSURE
DEFICIENCY REQUESTED

Plaintiff and Defendant argued Defendant's motion to vacate by Zoom Virtual hearing on January 25, 2025 attended by John S. Kay, Esq., attorney for the Plaintiff and Defendant, Tracie L. Green.

Lexington County does not have a staff court reporter. The parties to each case must pay for a court reporter. Plaintiff or Defendant may obtain a copy of the transcript of the hearing by contacting Garber Reporting Services, 3200 Devine Street, Suite 103 Columbia, South Carolina 29205, email: info@garberreporting.com and phone number (803) 256-4500 to arrange to pay the court reporter for the transcript.

Based upon the parties' arguments, exhibits presented, review and consideration of the case record filings and a review and consideration of those matters raised and argued by the parties, I find, rule, and order as follows:

1. The Court granted Plaintiff's Motion for Summary Judgement by November 14, 2024 e-filed Order. The Court has not received notice of any state court appeal.
2. Defendant's "Motion to Vacate Judgement for Foreclosure" was heard by this court, despite Defendant's argument that the motion did not comply with South Carolina Rules of Procedure.
3. This Court notes that while it considered all arguments raised by Defendant, all arguments were evaluated against what Defendant actually filed in her Motion to Vacate and analysis of motions to vacate case law and procedure.

4. Rule 60, SCRCF provides typical motion to vacate fact and legal patterns. Fraud, Mistake, inadvertence or excusable neglect are reasons to grant, as is lack of subject matter jurisdiction. The court note that "Relief is granted for extrinsic fraud because it prevents full litigation of the case. Intrinsic fraud does not invalidate the judgment because that type of deception should have been discovered during the litigation itself, and granting relief whenever a witness's testimony might have been misleading undermines the stability of all judgments. The fraud must be established by clear and convincing evidence and the movant must also show a meritorious defense." South Carolina Civil Procedure Second Edition by Professor James F. Flanagan University of South Carolina School of Law, Page 486. (1996)
5. Federal v State Jurisdiction. Defendant argues this court has no jurisdiction to proceed while her federal court appeal (and any other agency type appeal) is proceeding. Defendant's conclusion under these case facts is erroneous. Rule 41 (d) Federal Rules of Appellate Procedure, 28 USC App Fed. Procedure and Federal Local Rule 41 provides proper process/procedure to obtain a stay, noting that the motion should be denied without an articulated showing that the motion is not frivolous or merely filed for delay.
6. Defendant's federal court action was dismissed and remanded back to the state court. It is important to note that there is no specific federal court order staying state court action.
7. State Jurisdiction. This case is a mortgage foreclosure. The Defendant was served with the summons and complaint in this case on March 8, 2022, but did not attempt to request a jury trial until May 23, 2022. (The Court again calls attention to and incorporates by reference the various matters filed and submitted in this case during the period under discussion). The Defendant also filed a second request for a jury trial on July 6, 2022. The pleadings filed by Defendant did not include any compulsory counterclaims.

Rule 38, South Carolina Rules of Civil Procedure provides that a party may demand a jury trial no later than 10 days after the service of the last pleading directed to such issue. I find that the Defendant did not request a jury trial in this case in a timely fashion. The Plaintiff's case is one for foreclosure of a mortgage and was properly referred to this court by Order dated July 5, 2022. The Defendant was in default and there was no filed jury counterclaim. The Court also notes that after the matter was referred to Equity Court, the court set a September 13, 2022 hearing date. Once court determined the matter was

not contested, the court changed this hearing to a status conference. Defendant never told the court of a jury trial demand.

8. **Fraud.** While this court notes that Defendant has filed multitudes of documents, pleadings, motions etc., there is no persuasive claim or proof of fraud sufficient to grant a motion to vacate.
9. **Bank Fraud/ Acquiring Home.** Defendant's claims that Plaintiff committed fraud when Plaintiff sent the required federal notice of foreclosure process (generically referred to as "Home Acquisition claim" is a misunderstanding of both process and law. This form is a required form sent out to notify parties that the foreclosure process has started possible time parameters, and loss mitigation information. Some states are writ foreclosure states and the process is much quicker. South Carolina is a judicial foreclosure state that requires four (4) basic steps: (a) lawsuit filed (b) dispositive hearing held (c) property sold at public auction (d) Court delivers deed to purchaser after compliance. The Court explained this process at hearing to Defendant. Defendant still owns her home since the 4- step process has not occurred.
10. **Allegations of Clerk of Court Fraud.** Defendant argues that the Lexington County Clerk of Court has improperly filed, mislabeled or not filed certain un- specified documents, while filing all of Plaintiff's documents as submitted. The Court explained and finds, that (a) this court, without specific authority, does not have jurisdiction to tell Clerk of Court how to file documents. (b) this court explained, at hearing, that Lexington is in the state e-filing system. That system has a set number of Nature of Action (case subtypes) and Initiating actions when matters are e-filed. The Court notes that it is not uncommon to see entries submitted by attorneys and judges labeled "Order/Other" or "Filing/Other" presumably because Clerk staff is unable to determine the complete nature of the filing. The court finds no persuasive evidence that indicates Clerk of Court fraud or any other improper activity.
11. **Court Fraud/ requiring personal appearance at Summary Judgment / All outstanding hearing versus virtual appearance.**

The summary judgment motion was set as an all-day in person proceeding. This process had been discussed at status conference. Defendant's claim that she was barred from the hearing is completely false and without merit.

To the contrary, because of the nature of the matters e-mailed and filed, the court required her physical presence so that the court could listen, watch, evaluate all matters raised by Defendant in person, rather than to do so by a virtual hearing.

There is no absolute right to a virtual hearing for this type hearing. An in- person hearing also guaranteed that all parties, Plaintiff, Defendant and Judge, could see who else might be in the hearing. South Carolina has open courtrooms and any one can attend a hearing virtually or in person, but if they attend virtually, parties cannot always see and hear all activity as clearly as they could in person.

The Court would not separately schedule a motion every time Defendant filed such documents that were labeled motions or could be argued to be motions. This process is standard for the Equity Court. General practice is for Equity Court to set a single day/time to argue all outstanding motions.

The reason the Summary judgment motions was set for an all-day hearing was because the court allocated time not only for Plaintiff to present its motion, but to allow the remainder of the day for Defendant to argue any of the many motions, filing etc. on record, since this was motion hearing day on any and all motions to be argued.

Those motions not argued are deemed abandoned.

12. Defendant called the Court the morning of the hearing requesting to be allowed to appear virtually or by telephone. It is, and has been, this Court's policy to conduct contested matters in-person with a court reporter. The request by Ms. Green has been made several times previously and it has been explained to her that while a status conference can be

attended virtually since there is no swearing of witness, direct or cross examination etc., , this court's practice is that contested hearing must be conducted in-person.

13. Ms. Green has discussed in previous emails to the Court that she believes she cannot come to South Carolina for fear for her life. Ms. Green has indicated that the reasons for her belief extend from a racial component and a possibility of terrorist activity or something related to her previous work at a nursing home. The last reason she gave for not being able to appear in person was due to her limited finances. The subject of this foreclosure action is a parcel of real property located in Lexington County known as 123 Cardinal Pines Drive Lexington, South Carolina. This was the Defendant's address at the time of the filing of the action and is the location where she was served with the pleadings on March 8, 2022. The Defendant apparently moved to the state of New York at some point in the litigation and still maintains a residence in New York.

14. The Court now includes portions of the filed Summary Judgment Order for reference:

- The Court calls attention to and incorporates by reference Defendant's multitude of filings, motions or pleadings.
- notes that court standard practice is to discuss court process that it is party's responsibility to argue any and all previously filed motions on the date of hearing. The Court takes notice that many motions are filed, then abandoned or resolved and not argued by the parties.
- notes that the court notified parties by email that because it was a contested testimony hearing, then the hearing is in person, and
- that the Court will address all motions raised and argued.
- calls attention to the Summary Judgment hearing testimony where court questioned Plaintiff counsel about status of various filings.
- The Court further notes that since Defendant did not appear to argue the below filings/ or motions, since Defendant did not appear to argue these matters, the court deems these motions abandoned:

--**GAL.** The Defendant had previously filed a motion requesting that a Guardian ad Litem be appointed for her. A Guardian ad Litem was not appointed in this case, as the Defendant is not under a disability as would allow for the appointment of a GAL pursuant to the South Carolina Rules of Civil Procedure.

--**APPOINTED ATTORNEY.** The Defendant also appeared to argue that since she could not afford or obtain an attorney, then the court should appoint an attorney for her. While the landmark 1963 Supreme Court case *Gideon v. Wainwright* established that indigent defendants have a right to counsel in criminal cases, the extension of this right to a "Civil Gideon" in civil court cases has never been established. South Carolina has not adopted or established a right to a Civil Gideon (other than certain Family Court type cases etc.), so the Defendant does not have the legal right to have counsel appointed for her in this case.

--**CONTINUANCE.** This case has been continued numerous times at the request for the Defendant; however, there is no provision for a continuance to an indefinite date in the future when the Defendant might have funds to travel to South Carolina for a hearing.

-- **SAFETY.** With regards to the concerns the Defendant has about her safety at a hearing, the Court had advised the Defendant that a member of the Lexington County Sheriff's Department would meet the Defendant at her car in the courthouse parking lot and escort her safely to and from the courtroom to allay any fears she might have in appearing in court.

--**LOSS MITIGATION.** With regards to loss mitigation activities during the course of the foreclosure action, Plaintiff filed a Notice of Denial Loss Mitigation on May 20, 2022, pursuant to the requirements of the South Carolina Supreme Court Administrative Order for 2011. (Further note: During Motion to Vacate Plaintiff argued that Defendant did not complete all loss mitigation package(s) and further noted that some of Loss Mitigation was available only if property was owner occupied. Defendant acknowledges property has not been owner occupied since she moved to New York.)

— **JURY TRIAL DEMAND.** The Defendant was served with the summons and complaint in this case on March 8, 2022, but did not attempt to request a jury trial until May 23, 2022. (The Court again calls attention to and incorporates by reference the various matters filed and submitted in this case during the time period under discussion). The Defendant also filed a second request for a jury trial on July 6, 2022. The pleadings filed by Defendant did not include any compulsory counterclaims. Rule 38, South Carolina Rules of Civil Procedure provides that a party may demand a jury trial not later than 10 days after the service of the last pleading directed to such issue. I find that the Defendant did not request a jury trial in this case in a timely fashion. The Plaintiff's case is one for foreclosure of a mortgage and was properly referred to this court by Order dated July 5, 2022. Defendant did not appear on motion hearing date to argue this motion, so this motion was deemed abandoned.

— **VENUE.** On July 15, 2022, Defendant filed a motion for change of venue in what appears to be an attempt to move the case to federal court from state court. The property in question is located in Lexington County and the Plaintiff's cause of action is for foreclosure of a mortgage on this property. Therefore, the proper venue for the case is the Court of Common Pleas for Lexington County, South Carolina.

— **NOTICE OF REMOVAL.** On November 28, 2022, Tracie L. Green filed a Notice of Removal with the United States District Court for the District of South Carolina seeking to remove the within case to federal court. On December 2, 2022, United States Magistrate Judge, Shiva V. Hodges, issued a Report and Recommendation wherein the Court recommended the matter be remanded to state court for lack of subject matter jurisdiction and failure to follow the removal procedures in 28 U.S.C. § 1446. United States District Court Judge, Sherri A. Lydon, adopted the Report of the Magistrate Judge in its entirety and issued an Order on January 23, 2023 remanding the case to the Lexington County Court of Common Pleas.

– **FEDERAL COURT NOTICE OF APPEAL.** On February 14, 2023, Tracie L. Green filed a Notice of Appeal to appeal the Order of Remand to the United States Court of Appeals for the Fourth Circuit. On October 2, 2023, the appeal was dismissed by the United States Court of Appeals for the Fourth Circuit. Thereafter, Green petitioned the United States Supreme Court for a writ of certiorari. The petition was denied by the United States Supreme Court by Order dated May 20, 2024.”

15. Why Court allowed virtual hearing rather than in person for Defendant’s Motion to Vacate?

The Court’s standard practice for virtual hearings is for the hearings to be virtual with in person option. Defendant’s motion to vacate was set for a one (1) hour period 4:00 p.m. -5:00 p.m. based upon court’s examination of the filed motion and belief that the argument should take an hour or less.

The hearing lasted until after 6:00 p.m. The court requested Defendant to summarize each reason to vacate to ensure the Court could consider all proper arguments. Instead, Defendant requested to read all or part of previous filings. The Court explained that it had read all the pleading, that the pleading were on file, and that Defendant did not need to read to Court this same information. Defendant then read all or a portion of filed pleadings. The Court then would summarize what court believed to be the focus of the reading. Then Defendant would ask to be able to further explain what she meant by what she wrote. The Court allowed some, but not all of these requests because the court had been copied with the previous filings, and some of the matters raised had already been raised and discussed previously.

The Court then directed Plaintiff—on or before end of day Monday the 27th-- to send Court and Defendant a confirmation list of matters raised by Defendant. Defendant would then have until end of day Tuesday the 28th to reply with any other Rule 60's valid reasons to vacate.

Defendant requested additional time by email. The Court declined to grant, noting that this hearing was Defendant's Motion. Defendant had obligation to be prepared to present her arguments in an orderly fashion, not simply reading and then explain various filings. In addition, the court notified both Plaintiff and Defendant that they had the above-described time line, which gave them 2-3 days additional time to summarize information that should have been presented at the hearing.

16. Post hearing requested Issue Identification Compliance.

The parties responded as follows. The Court notes that while many issues were raised, the court evaluated the issues against (i) what Defendant filed in her Motion to Vacate (ii) Matters raised and resolved by Summary Judgement Order. (iii) Proper Legal Motion to Vacate Matters (iv) Matters barred by Defendant's failure to appeal in State court.

As directed, Plaintiff responded as follows:

Pursuant to the Court's instructions from Friday's hearing, I have listed the issues raised by Dr. Green in arguing her motion to vacate and I have listed those below:

1. Federal court vs. state court jurisdiction in the case and whether there is a stay of state court proceedings.
2. Notice of Pending Acquisition (NOPA) letter that Defendant received and whether there is a lack of due process.
3. Defendant claims she was barred from attending the summary judgment hearing.
4. Covid relief and loss mitigation issues.
5. Unknown hearing issue
6. Documents moved or removed online (public index)
7. Order of Reference issue
8. Order restoring the case issue
9. Unaddressed issues (motions or questions not addressed in previous hearings)
10. Notice filled by Defendant seeking Restraining Order
11. Defendant claims U.S. Supreme Court had jurisdiction and Plaintiff was barred from filing its motion for summary judgment

As directed, Defendant responded as follows:

1/28/25

RECEIVED:

1/27/25 1020am email from Judge Spence requesting Plaintiff and Defense resend documents to Joy Davidson and Equity Court; and Plaintiff [Bridgette Dull] 1049am email indicating all of Plaintiff documents are filed and indexed; if disagree, advise of titles of documents not indexed.

Sent to only 5 recipients, Plaintiff (Attorney John Kay's) 1/27/25 432pm correspondence recalled list of issues allegedly raised by this Defense during this case second Motion Hearing [known by Defense], held 1/24/25 are as follows:

1. Federal court vs state court jurisdiction, whether there is a stay of state court proceedings.
2. Notice of Pending Acquisition (NOPA) letter received by Defense, whether lack of due process.
3. Defense claim barred from attending summary judgement hearing.
4. COVID relief and loss mitigation issues.
5. Unknown hearing issue
6. Documents moved or removed online public index
7. Order of Reference
8. Order restoring the case
9. Unaddressed motions/questions not addressed during first motion hearing.
10. Defense Restraining Order notice
11. Defense claim US Supreme Court had jurisdiction and Plaintiff barred from filing its motion for summary judgement.

Again, only sent to 5 recipients, Judge Spence 1/27/25 439pm correspondence acknowledged receipt of Attorney Kay's list requested at 1/24/25 hearing. Reiterated Defendant has until end of business day to provide additional issues, as time extension not permitted.

DEFENSE RESPONSE:

Since Defense is having trouble following or understanding all Plaintiff has listed, to ensure completeness, Defense list of issues are as follows (with associated documents submitted for filing listed):

1/22/25 CD3, PDF, CEASE AND DESIST No. 3 [UPDATED Criminal Complaint, Charges Requested with Certificate of Service] (4 pages)

1. Discrimination, made to provide court reporter though inform a pauperis status.
2. Fraud, missing/alted documents; printing e-filed documents.
3. Fraud, suspected association to Federal Case 3:20ev00054 BJD/PDB.

1/14/25 Response.pdf, DEFENDANT'S REBUTTAL, Motion for Dismissal with Prejudice and Certificate of Service (75 pages)

5. Fraud, Plaintiff did not provide Defense with copy of PLAINTIFF'S OBJECTION TO THE DEFENDANT'S MOTION TO VACATE JUDGEMENT, FILED JANUARY 13, 2025 1251PM
6. Fraud, Supreme Court jurisdiction active February 2023 -August 19, 2024. (detailed below)
7. Fraud, blatant illegal, unlawful activity ignored. (detailed below)

Page 10 of 13

8. Fraud, concurrent jurisdiction proper procedure violated as per 15 U.S. Code 3612 and 45 U.S. Code 56.(detailed below)

9. Fraud, court activity ceased while case at District Court and Court of appeals; inconsistent with activity that occurred while at Supreme Court of the United States.

[11 3 24 Defendants' Proposed Order, entitled MASTER'S ORDER AND JUDGEMENT FOR DEFENDANT, (8 pages) based on SC Code 15-36-10 was rejected by Judge Spence]

10. Fraud, US Bank National intentionally offered COVID-19 Recover Standalone Partial Claim instead of COVID-19 Loan Modification as per July 23, 2021, HUD 21-115 Public Release Notice Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners. US Bank National ignored Defendants' multiple notices of the same.

11. Fraud, lawsuit is malicious in intent, filed 14 days after Defense contacted FHA/HUD to assist in conflict resolution.

12. Fraud, 7/13/22 Motion to Change Venue to Federal Jurisdiction; 8/22/22 allegations of perjury, mockery of judicial process, state law, and federal law; intentional non-adherence to federal guidelines; predatory lending; targeting/malicious intent; federal tampering never addressed by Court/Judge Spence.

13. Multiple Frauds* ["First Summary Judgement Attempt" (just 5 months after filing foreclosure lawsuit)]:

a. * 8/3/22, Defendant received US Bank National's certified Notice of Home Acquisition in 60 to 90 days, dated July 28, 2022.

b. 8/3/22, Defendant submitted concern in filing Response to U.S. Bank National Certified Mail Letters, Dated July 28, 2022 (1 page).

c. *8/20/22, Defendant received a Notice of Foreclosure Hearing before Judge Spence for 9/13/22, with the said notice being filed 2 days earlier (on August 18, 2022).

d. 8/22/22, Defendant submitted 95-page "Notice of Home Acquisition" detailing unlawful activity.

e. * 9/1/22, Clerk of Court filed Defendant's 8/22/22 document (10 days after submitted). On same day, US Bank National via Attorney Kay filed a NOTARIZED Attorney Affidavit of Fees stating "A hearing was held by the Master, who requires an order to be proposed by Plaintiff Counsel." DEFENDANT WAS NEVER NOTIFIED OF THIS HEARING AND NEVER RECEIVED PLAINTIFF PROPOSED ORDER, but did receive Plaintiff's 7/28/22 Notice of Pending Acquisition earlier. This indicates said meeting likely occurred in July 2022, without Defense knowledge or lawful participation.

f. * 9/13/22 Foreclosure Hearing cancelled, Status Conference held in its place.

g. *Less than 48 hours later, 9/14/22 1043pm, Judge McLeod struck case from active roster, causing direct conflict with Judge Spence directives.

i. Order for dismissal if not restored to active roster in 180 days due to non-compliance.

h. *Case restored to active docket February 2, 2024 (past the 180-day timeframe), with the Order restoring to active roster being dated February 28, 2023.

i. After Defense raised concern, the following occurred:

i. * 2/25/24, Clerk of Court removed all documents indexed online (i.e. not downloadable).

ii. *Clerk of Court changed name of Defendant's indexed documents to generic labeling, while name of Plaintiff's documents remained unchanged with detailed labeling.

iii. *Court ignored Defendants' 3/15/24 Motion to Dismissal with Prejudice due to Judge McLeod's order and simultaneous, concurrency with Federal jurisdictional proceedings. Motion

hearing's were not held for Defense motions, only Plaintiff's initiated motions, as 1/24/25 Motion hearing is the second hearing Defendant is aware of since the 3/4/22 filing of this case.

j. *Referral to Master-In-Equity Judge Spence occurred with agreement between Plaintiff and Clerk of Court Mona Huggins. Defense never consented to case transfer. *Court never addressed this concern, though requested by Defense.

14. Fraud, Clerk of Court filed Defendant's Motion to Move to Inactive Roster, dated 2/6/24, six days later, on 2/12/24; whereas Plaintiff's Motion for Summary Judgement was filed and indexed on 2/7/24.

15. Fraud, Judge Spence reminded of pending Federal proceedings (RICO case, Supreme Court Notice of Removal); Plaintiff breaching FHA/HUD COVID-19 guidelines, multiple "Summary Judgement" attempts; partial treatment with Clerk of Court (missing documents; altered documents; electronically filed documents not electronically filed).

16. Fraud, 1 14 25 Defendants Motion for Dismissal with prejudice ignored by Court.

[11 18 24 Response email correspondence, entitled Notice to Cease and Desist/Motion to Reconsider [detailing errors noted in Judge Spence 11 14 24 Judgement Order for Foreclosure], requesting correction ignored.

17. Multiple Frauds*, Judge Spence Judgement Order document continued to be profiled publicly until January 24, 2025, despite Defendant's notifications.

a. *Page 2 of Judge Spence Judgement Order states Defendant failed to show up for Summary Judgment Hearing, but fails to mention Defense present via phone(even speaking with Judge Spence directly) due to Court refusal to acknowledge the notice of restraining order issued by Defense, limiting ability to be in person because of safety concerns.

i. Defendant details barring by Judge Spence in the Notice to Cease and Desist/Motion to Reconsider document, though Defense still attempted to attend due to Judge Spence not honoring the notice of restraining order.

ii. *Court ignores and fails to intervene in Defense report of persistent filing issues with Clerk of Court, fraudulently filed Summary Judgement by Plaintiff, mail fraud concerns, motion to reconsider judgement. Motion hearing was not scheduled.

[1 6 25 CEASE AND DESIST No. 2 [Criminal Complaint, Charges Requested with Certificate of Service]

18. Fraud, details Judge Spence operating on case actively being evaluated by Federal court despite repeated notifications from Defense (as discussed above)

19. Fraud, details Judge Spence 3/29/24 permitting Zoom attendance to Summary Judgement Hearing then changing his mind, knowing it would bar Defendant's attendance, due to out-of-state residency, safety concerns, and financial limitation.

a. Fraud, this was doubled as Judge Spence stated all outstanding motions would be heard. Thus, Judge Spence knowing majority of the motions were Defendant-derived, gives rise to possible reason Defendant was barred from 6.21.24 Summary Judgement Hearing by Judge Spence.

20. Fraud, court documents do not indicate that anyone, including Judge Spence, ever contacted law enforcement given the multiple reports of targeting, criminal activity, and harm reported by the Defense.

21. Fraud, Defense request for Judge Spence to assist in getting June 14, 2024 submitted document filed and indexed online by Clerk of Court never addressed to Defense's knowledge.

In Summary, Pursuant to SC Code Title 14 Chapter 11 and Rule 60 of the SC Rules of Civil Procedure, Defense again motions this Court to vacate the November 14, 2024 judgement for foreclosure with prejudice due to fraud, misrepresentation or other misconduct of listed and unlisted adverse parties in this case as detailed above; and grant Defendant the \$3 million dollar judgement as requested in the November 3, 2024 Proposed Order.

Attached are the following documents previously submitted for filing:

- 8 22 22 FINAL Response.pdf [Notice of Home Acquisition] (95 pages)-see email #2
- 6 14 24 Response.pdf [Case Status Update: Response] (10 pages)
- 11 3 24 Appendix to RSJ (35 pg)FINAL.pdf
- 11 3 24 RSJ FINAL.pdf [Defendants Rebuttal to Plaintiffs Second Summary Judgement Attempt] (15 pages)
- 11 3 24 Proposed Order FINAL (8pgs).docx
- 11 3 24 Proposed Order Judge Signature Pages.pdf (6 pgs)
- Nov 11 Response to Judge Request.pdf (16 pages)
- 1 6 25 CCCR.pdf (48 pages)
- 1 22 25 CD3.pdf (4 pages)

28 25 (Second Email)

Attachment:

8 22 22 FINAL Response.zip [contains 8 22 22 FINAL Response.pdf, Notice of Home Acquisition] (95 pages)

The Court notes that it has not printed all e-filed attached documents because they appear to be matters previously emailed, filed or argued.

CONCLUSION

Defendant argued here in the post hearing submission, and by previous emails et. al., that virtually every action taken by this Court, Circuit Court, State Court, Clerk of Court etc. are all fraud based actions directed against her. This court finds no legally sufficient proof or persuasive evidence or argument that the described actions were legally fraudulent as required by law.

The court has reviewed proper legal standards for this and other motions and appeals, as well as examined the vast amount of emails, copied papers, self-described filings sent to Court and Clerk Office to be e- filed, to the best of our ability.

This trial court finds, reasons, and rules that Defendant's Motion to Vacate is denied factually, procedurally and legally.

AND IT IS SO ORDERED.

January 29, 2025


James O. Spence
Lexington Master-in-Equity

No. _____

IN THE
SUPREME COURT OF THE UNITED STATES

Tracie L. Green — PETITIONER

vs.

US Bank National et al — RESPONDENT(S)

PROOF OF SERVICE

I, Tracie L. Mitchem-Green, do swear or declare that on this date, March 23, 2025, as required by Supreme Court Rule 29 and previously permitted by this Court, I have served the enclosed WRIT OF CERTORARI TO US COURT OF APPEALS FOR THE FOURTH CIRCUIT PETITION FOR WRIT OF CERTORARI BEFORE JUDGEMENT UNDER RULE LL AND A REQUEST FOR AN IMMEDIATE STAY [EXCLUDING INFORMA PAUPERIS] electronically on each party to the above proceeding or that party's counsel, and on every other person required to be served as indicated below:

File: 3 23 25 WC4th (NO IFP or Letter) COMPLETE.pdf (85 pages plus this Proof of Service)

1. US Court of Appeals for the Fourth Circuit
2. Lexington County Courthouse
3. Hutchens Law Firm
4. Richardson Plowden

I declare under penalty of perjury that the foregoing is true
and correct. Executed on March 23, 2025


(Signature)