

No. 2024-001062

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SC Court of Appeals

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

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**Janet L. Nelums: Chrisopher Nelums Imperial Warehouse  
Finance, Inc, and Best Distributing Company..... Appellants**

v.

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

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**On APPEAL FROM RICHLAND COUNTY Court of Common  
Pleas Hon, BEN N. MILLER III as Special Referee Circuit  
Court Judge, Case No. 2017CP4001687**

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**Submitted: June 13,2024      Decided: May 13, 2024**

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**AMENDED FINAL BRIEF OF APPELLANTS'**

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\* Under Rule 267(e), SCACR, the cover of the final briefs should be the following colors: brief of appellant - blue; brief of respondent - red; reply brief - gray; an amicus curiae or intervenor - green.

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**Wednesday, April 9, 2025**

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**VIII.  
PARTIES TO THE PROCEEDING**

All parties appear in the caption of the case on the cover page.

Pursuant to rule 29.6 Corporate Disclosure, the Respondent Deutsche Bank National Trust Company has no lawful parent company nor is it registered and operating lawfully. Respondent, Deutsche Bank National Trust Company is a fiction being used in a scheme or artifice to defraud Plaintiff-Appellants of the subject property of this Instant case by a conspiracy of attorneys.

The undersigned Plaintiff-Appellant pro se, certifies that All parties appear in the caption of the case on the cover page. persons and entities as described in the fourth sentence of Fourth Circuit Rule 28.2.1 have an interest in the outcome of this case. These representations are made so that the judges of this court may evaluate possible disqualification or recusal.

**LIST OF COUNSELS**

- Matthew A. Abee for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset
- Madison Caroline Guyton for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset
- Vance L. Brabham, III for Deutsche Bank National Trust Company

- Attorney Mr. Ben N. Miller, III, Mckenzie Lybrand, LLP
- Jordan Daniel Beumer for Deutsche Bank National Trust Company

**1.**

- Tasha B. Thompson for Deutsche Bank National Trust Company
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- William Price Stork for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset
- Reginald Patrick Corley for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset
- Jessica S. Corley for Deutsche Bank National Trust Company
- Mary S. Williams, for Deutsche Bank National Trust Company

**STATEMENT REGARDING ORAL ARGUMENT**

Appellants request oral argument pursuant to Federal Rule of Appellate Procedure 34(a)(1) and Fifth Circuit Rule 28.2.3, only to the extent it would aid the Court in understanding the factual background of this case and clarify the legal issues presented. Plaintiff -Appellant suggests that the issues presented can be determined upon the record in Court,

**STATEMENT OF JURISDICTION**

This Appeal is from RICHLAND COUNTY Court of Common Pleas, Attorney Ben N. Miller III SC Bar # :3977 (“special referee.”), on May 13, 2024, (Lower Court Case No. 2017CP4001687) Attorney Ben N. Miller III SC Bar # :3977 SPECIAL REFEREE'S REPORT ON SALE, ORDER OF CONFIRMATION, AND ORDER FOR DEFICIENCY JUDGMENT- (Non-Jury Foreclosure), On May 13, 2024, Take Judicial Notice Supreme Court of South Carolina

ADMINISTRATIVE ORDER June 3, 2021, Rule 53(b) provides no authority for the order of reference in this case. In matters **2.** brought to our attention, The special referee appointed by the circuit court is typically a lawyer. See 28 U.S.C. § 636(c)(3); FED. R. CIV. P. 73(c), also See 28 U.S.C. §§ 636(c)(1) & (c)(3). in June May 13, 2024, Timely Notice of Appeal (C/A No:2017CP4001687), The Court of Appeals Court is asked to exercise jurisdiction under 28 U.S.C. § 1291, This Court has appellate jurisdiction pursuant to 28 U.S.C. § 1291.

### **STATUTES INVOLVED**

#### **Fifth Amendment to the Constitution**

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

#### **Fourteenth Amendment to the Constitution**

All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. 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 to any person within its jurisdiction the equal protection of the laws.

### **STANDARD OF REVIEW**

#### **3.**

Because the (“Special Referee”), concerns a “dispositive” matter, this Court’s review 28 U.S.C. § 1291 vests federal courts of appeal with jurisdiction over “All final decisions of the Circuit courts See. Fed. R. Civ. P. 72(b)(3). See also 28 U.S.C. § 636(b)(1), **CPC Patent Tech. Pty Ltd. v. Apple, Inc.**, 34 F.4th 801, 805 (9th Cir. 2022) Id at U.S.C. §636(c)(1)

### **STATEMENT OF ISSUES ON APPEAL**

1. Did the circuit court have the authority under section 28 U.S.C. § 636(b)(1)(A)—i.e., authority to rule on); Fed. R. Civ. P. 72(b)(1) those that a magistrate judge may not decide without the parties’ consent— “are dispositive a that the magistrate judge here lacked consent from the parties to rule on dispositive matters neither the Ben N. Miller, III SC Bar # :3977 (“special referee.”) lack subject-matter jurisdiction. See 28 U.S.C. § 636(b)(2), under 28 U.S.C. § 636(c)(1), 28 U.S.C. §636(c)(2). is not authorize nor the district court otherwise complied with the requirements and 28 U.S.C. §§ 636(c)(1) & (c)(3). of the sections?
2. Did the circuit court Judge err Under 28 U.S.C. § 636(c)(4); by not vacating the transfer “for good cause shown on its own motion, or under extraordinary circumstances shown by any party.” 28 U.S.C. § 636(c)(4); see also Fed. R. Civ. P. 73(b)(3). But § 636(c)(4)?
3. Did the circuit court clerk of court err Under

U.S.C. § 636(c)(2), and Rule 73(c).: by not sending the form AO 85A Notice, Consent, and Reference of a Dispositive Motion to a Magistrate Judge This notice provided that to consent to the jurisdiction of a special referee judge, a party must sign for the order of

4.

reference form and return it to the clerk's office  
See Id at Appendix-1?

5. Appellants is not the object of the statute charged violated and when jurisdiction is challenged it must be proven. There is no evidence of jurisdiction established in the record
6. Did DBNTC, SCOTT and CORLEY, NELSON MULLINS, intentionally conceal, with deception the menacing the Appellants with a screwdriver?
7. The question of who may bring a civil action arose under **Rule 17 (a)** of the South Carolina Rules of Civil Procedure, " [e]very action shall be prosecuted in the name of the real party in interest.?"
8. The General Assembly in including the specific requirements of section See FED. R. Civ. P. 53(b), 28 U.S.C. §§ 636(c)(1) & (c)(3). See 28 U.S.C. § 636 (b)(2) 28 U.S.C. § 636(c)(4); 28 U.S.C. §636(c)(5), that must be satisfied before authority to Rule 28 U.S.C. §§ 636(c) as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory.?"

### **STATEMENT OF THE CASE**

#### I. Factual and Procedural Background

On August 6, 2002, Appellants executed a deed of trust

securing a note for \$112,000 on a residential property in 813 N Highland Forest Drive Columbia, SC 29203. The lender, and beneficiary of the trust deed, was IndyMac Bank F.S.B., (a federally chartered savings bank). The Office of Thrift Supervision

**5.**

closed IndyMac on July 11, 2008, and FDIC as IndyMac's successor, the Federal Deposit Insurance Corporation assumed operations from an insolvent IndyMac," Deutsche Bank's third-tier unsecured claims are prudentially moot because Deutsche Bank cannot recoup any sums owed from an insolvent IndyMac," Deutsche Bank National Trust Co. claims to have been the trustee for 240 mortgage-backed security trusts created by IndyMac Bank

This appeal stems from a wrongful foreclosure action involving Deutsche Bank Prudentially Mooted Since 2009 and Terminated as Third-Tier 240 Mortgage Securitization Trust as Beneficiaries' Created by IndyMac and IndyMac Federal, Deutsche Bank, The pleaded cause of action for foreclosure action involving 813 N. Highland Forest Drive, Columbia, South Carolina 29203 (the "Property"), pending in some form since 2013 failed fatally, Fatal role "root" does not exist, the 9th Circuit was not convinced, however. It said the bank's argument would apply to non-creditors only, not to "a quintessential creditor" like Deutsche Bank. Also See: S.C. R. Civ. P. 17 (a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in

interest, The General Assembly in including the specific requirements of section See FED. R. Civ. P. 53(b), 28 U.S.C. §§ 636(c)(1) & (c)(3). See 28 U.S.C. § 636(b)(2) 28 U.S.C. § 636(c)(4); 28 U.S.C. §636(c)(5), that must be satisfied before authority to Rule

**6.**

28 U.S.C. §§ 636(c) as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory (See **Appendix 3**, Order on Mot. for Sanctions and Gatekeeper Order, Oct. 31, 2023). The Honorable Jeffrey M. Tzerman—a Special Referee appointed by the Richland County Clerk of Court after Master in Equity Joseph M. Strickland recused himself—issued his Order and Judgment of Foreclosure Sale in 2021 (the “Foreclosure Order”). (See **Appendix 4**, Order and J. of Foreclosure and Sale, Jul. 1, 2021). Simultaneously with the Foreclosure Order, Special Referee Tzerman issued an Order Setting Appeal Bond (**Appendix 5** Order Setting Appeal Bond, Jul. 1, 2021). (See **Appendix 6**, (See **Appendix 2**, Special Referee Jeffrey M. Tzerman Order of Recusal, Order, This Order is issued sua sponte in response to Defendants' Motion and Memorandum in Support of Temporary Injunction and Appointment of Receiver and Rule to Show Cause. I have carefully reviewed the Defendants' motion and note that it includes unsubstantiated allegations of wrongdoing by the Plaintiff Deutsche Bank's, Plaintiff's counsel, prior holders of the loan in question, prior servicers of the loan, and this Court itself.

Since Defendants Nelums have accused this Court of wrongdoing, my hearing arguments and ruling upon this motion could raise the "appearance of impropriety" pursuant to Canon 2 of the Code of Judicial Conduct, contained within Rule 501

**7.**

of the SC Rules of Professional Responsibility. Having concluded that I am unable to hear this motion, I am recusing myself and returning jurisdiction to the Circuit Court.

The Property was not auctioned until the Honorable Kristi F. Curtis exceeded her authority by violating The General Assembly in including the specific requirements of section See FED. R. Civ. P. 53(b), 28 U.S.C. §§ 636(c)(1) & (c)(3). See 28 U.S.C. § 636(b)(2) 28 U.S.C. § 636(c)(4); 28 U.S.C. §636(c)(5), that must be satisfied before authority to Rule 28 U.S.C. §§ 636(c) as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory, fundamental principles of law. First, all of our courts are bound to follow clear and unambiguous statutory law,

The Honorable Kristi F. Curtis issued an Order on Plaintiff's Motion for Sanctions and Gatekeeper Order (the "Gatekeeper Order"), which prohibited Appellants from further abuses of the judicial process and ordered that the matter be referred to a special referee. (See Ex. 2, Gatekeeper Order at 9.) The Honorable Ben N. Miller, III was appointed as special referee exceeded his authority by violating The General Assembly

in including the specific requirements of section See FED. R. Civ. P. 53(b), 28 U.S.C. §§ 636(c)(1) & (c)(3). See 28 U.S.C. § 636(b)(2) 28 U.S.C. § 636(c)(4); 28 U.S.C. §636(c)(5), that must be satisfied before authority to Rule 28 U.S.C. §§ 636(c) as South Carolina

**8.**

Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory, fundamental principles of law. First all our courts are bound to follow clear and unambiguous statutory law, and then sold the property at foreclosure in April 2024. (**Exhibit 4**, Report on Sale, Order of Confirmation, and Order for Deficiency Judgment, May 15, 2024). Deutsche Bank. Also See: S.C. R. Civ. P. 17 (a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest, the action is mandatory

A deed of trust may thus be assigned one or multiple times over the life of the loan it secures. But if the borrower defaults on the loan, only the current beneficiary may direct the trustee to undertake the nonjudicial foreclosure process. —only the \_true owner ‘or \_beneficial holder’ of a Deed of Trust can bring to completion a nonjudicial foreclosure under South Carolina law. see *Herrera v. Deutsche Bank National Trust Co.* (2011) 196 Cal .App.4th 1366, 1378 [bank and reconveyance company failed to establish they were current beneficiary and trustee respectively and therefore, failed to show they —had authority to conduct the foreclosure sale]; cf. *U.S. Bank Nat. Assn. v. Ibanez* (Mass. 2011)

941 N.E.2d 40, 51 [under Mass. law, only the original mortgagee or its assignee may conduct nonjudicial foreclosure sale].) It is a —straightforward application of well-established commercial and real-property law: a party cannot foreclose on a mortgage unless

**9.**

it is the mortgagee (or its agent)

in order to foreclose a mortgage by judicial action, one had to have the right to enforce the debt that the mortgage secured.

Foreclosing on Nothing: The Curious Problem of the Deed of Trust Foreclosure Without Entitlement to Enforce the Note

Foreclosing on Nothing: The Curious Problem of the Deed of Trust Foreclosure Without Entitlement to Enforce the Note, the

Appellants. Janet L. Nelums; Christopher Nelums challenge a

nonjudicial foreclosure on the ground that the foreclosing party is

not a valid assignee of the original lender (“IndyMac and IndyMac

Federal’), Deutsche Bank Prudentially Mooted Since 2009 and

Terminated as Third-Tier 240 Mortgage Securitization Trust as

Beneficiaries’ Created by IndyMac and IndyMac Federal, Also See:

S.C. R. Civ. P. 17 (a) Real Party in Interest. Every action shall be

prosecuted in the name of the real party in interest, as South

Carolina Supreme Court has held, "The term 'shall' in a statute

means that the action is mandatory,

See Sanctions and Gatekeeper Order, Oct. 31, 2023). Foreclosure

Sale in 2021, (See Order and J. of Foreclosure and Sale, Jul. 1,

2021) (See Order Setting Appeal Bond, Jul. 1, 2021). The Hon,

Ben N. Miller, III was appointed as special referee and then sold the property at foreclosure in April 2024, Sale, Order of Confirmation, and Order for Deficiency Judgment, May 15, 2024). See Special Referee Miller issued a Foreclosure Deed and

**10.**

Writ Of Assistance, and Appellants were removed from the Property in October 2024. See Foreclosure Deed, May 13, 2024. See Writ of Assistance, Sep. 11, 2024, Since 2009, Deutsche Bank third-tier unsecured claims are prudentially moot because Deutsche Bank cannot recoup any sums owed from an insolvent IndyMac," the three-judge panel in Pasadena ruled. Deutsche Bank cannot sue the FDIC over the billions it claims it lost when IndyMac collapsed in 2008, because there's no money left to recover, the 9th Circuit ruled, therefore See S.C. R. Civ. P. 17 (a) Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. Deutsche Bank is not Real Party in Interest, the pleaded Deutsche Bank cause of action for foreclosure involving 813 N. Highland Forest Drive, Columbia, South Carolina 29203 (the "Property"), pending in some form since 2013 failed Fatally, fatal role "root" does not exist, **one having no material interest cannot invoke the jurisdiction of The court as the Respondents in an Action**, only the original beneficiary, its assignee or an agent of one of these has the authority to instruct the trustee to initiate and complete a nonjudicial foreclosure sale, the action is mandatory

## STATEMENT OF THE FACTS

On May 13, 2024, the Special Referee for Richland County, Attorney Ben N. Miller, III SC Bar # :3977, SPECIAL REFEREE'S REPORT ON SALE, ORDER OF CONFIRMATION, AND ORDER FOR DEFICIENCY JUDGMENT, Pursuant to Rules 53(b) of the

### 11.

South Carolina Rules of Civil Procedure, without **the parties' consent to the master reference. 28 U.S.C. § 636(b)(2)**, Ben N. Miller, III SC Bar # :3977 (“special referee.”), lack subject-matter jurisdiction. See 28 U.S.C. § 636(b)(2), under 28 U.S.C. § 636(c)(1), 28 U.S.C. §636(c)(2). is not authorized in the above-entitled case to this foreclosure action for 813 N. Highland Forest Drive, Columbia, SC 29203 (Parcel 11916-2-16, See 28 U.S.C. § 636(b)(2) (1976) (magistrate special master appointment). Appointment of special Master’s to hear entire cases or evidence on key motions is tightly restricted. Also See FED. R. Civ. P. 53(b) (limiting nonjury master appointments to exceptional conditions); note 76 infra (construction of exceptional conditions). These restrictions apply to magistrates serving as special. Master’s except when the parties’ consent to the master reference. 28 U.S.C. § 636(b)(2) (1976); see note 43 infra. This subdivision implements the blind consent provision of 28 U.S.C. §636(c)(2) and is designed to ensure that neither the judge nor the magistrate attempts to induce a party to consent to reference of a civil matter under this rule to a magistrate with regard to the case-dispositive consent authority of magistrate judges, the Court added specifically that “[c]onsistent with Our precedents, the

Courts of Appeals have unanimously upheld the constitutionality of 28 U.S.C. § 636(c).” Id. at 1948 n.12. Also See 28 U.S.C. § 636(c)(4); see also Fed. R. Civ. P. 73(b)(3). But § 636(c)(4) only applies once a case has been transferred, On January 9.2024 the Nelums Case: **No: 2017CP4001687 has been Appointed to the**

## 12.

**Special** Referee for Richland County, Attorney Ben N. Miller, III SC Bar # :3977, The Chief Admin Judge Daniel McLeod Coble failed to vacate the transfer “for good cause shown on its own motion. See House Rep. No. 96–444, 96th Cong. 1st Sess. 8 (1979). This subdivision implements the broad authority of 1979 amendments to the Magistrates Act, 28 U.S.C. §636(c), which permit a magistrate to sit in lieu of a district judge and exercise civil jurisdiction over a case, when the parties Consent. **See McCabe**, *The Federal Magistrate Act of 1979*, 16 Harv. J. Legis. 343, 364–79 (1979). To exercise this jurisdiction, a magistrate must be specially designated under 28 U.S.C. §636(c)(1) by the district court or courts, he serves. The only exception to a magistrate's exercise of civil jurisdiction, which includes the power to conduct jury and nonjury trials and decide dispositive motions, is the contempt power. A hearing on contempt is to be conducted by the district judge upon certification of the facts and an order to show cause by the magistrate. See 28 U.S.C. §639(e). In view of 28 U.S.C. §636(c)(1) and this rule, it is unnecessary. to amend Rule 58 to provide that the decision of a magistrate is a “decision by the court” for the purposes of that rule and a “final decision of the district court” for purposes of 28 U.S.C. §1291 Governing appeals. Fed. R. Civ. P. 53),

the Supreme Court stated, “it has always been within the power of a court of chancery, with the consent of parties,” to refer proceedings to a special master. 6 **Kimberly v. Arms**, 129 U.S. 512, 524-25 (1889, “The Court Take Judicial Notice the Supreme Court of South Carolina AMINISTRATIVE ORDER The power of the circuit court to appoint a referee is governed by Rule 53 of the

### 13.

South Carolina Rules of Civil Procedure. Subsection (b) of the Rule provides only that "causes of action in a case" may be referred under the circumstances listed in the Rule. A discovery dispute is not a "cause of action." **Thus, Rule 53(b) provides no authority for the order of reference in this case.** In matters brought to our attention; the special referee appointed by the circuit court is typically a lawyer.

### **SUMMARY OF THE ARGUMENT**

The Plaintiffs-Appellant for Review should be granted, and the case remanded Because Section 636 prescribes the jurisdiction of (“special referee.”) judges. Subsection (b) relates to pretrial See FED. R. Civ. P. 53(b) (limiting nonjury master appointments to "exceptional" conditions); note 76 infra (construction of exceptional conditions). These restrictions apply to magistrates serving as special. Master’s except when the parties’ consent to the master reference. 28 U.S.C. § 636(b)(2) (1976); see note 43 infra. Under that provision, a district court may refer certain pretrial 4 See 28

U.S.C. § 636(b)(1)(A) (providing “a judge may designate a magistrate judge to hear and determine any pretrial matter pending before the court,” except in specified circumstances, including “a motion . . . for summary judgment”). These limited referrals do not require consent of the parties. matters to a

**14.**

magistrate judge.<sup>1</sup> See 28 U.S.C. § 636(b)(1)(A) (providing “Judge May designate a magistrate judge to hear and determine any pretrial matter pending before the court,” except in specified circumstances, including “a motion. . . for summary judgment”). These limited referrals do not require consent of the parties. Subsection 636(c) addresses referring the entire case to the magistrate judges. Under that provision, a district court may refer the entire case to a magistrate judge, but only if all parties consent.<sup>2</sup> See 28 U.S.C. § 636(c)(1) (empowering a magistrate judge to “conduct any or all proceedings in a jury or nonjury civil matter and order the entry of judgment in the case” upon “consent of the parties”); *see also* Fed. R. Civ.P. 73(a) (providing that “a magistrate judge may, if all parties consent, conduct a civil action or

proceeding”). This case involves the referral of the entire case to the magistrate judge under §636(c).

Section 636(c)(2) and Federal Rule of Civil Procedure 73 combine to provide the baseline procedure for obtaining consent to magistrate judge jurisdiction. Those procedures focus on the clerk of court—not the judges—to ensure

### 15.

consent is truly voluntary. *See* 28 U.S.C. §636(c)(2) (explaining the purpose to protect “the voluntariness of the party’s ‘consent’”); Fed. R. Civ P. 73(b)(1) advisory committee’s notes to the 1983 amendments.

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<sup>1</sup> “[A] the Supreme Court of South Carolina ADMINISTRATIVE ORDER The power of the circuit court to appoint a referee is governed by Rule 53 of the South Carolina Rules of Civil Procedure. Subsection (b) of the Rule provides only that “causes of action in a case” may be referred under the circumstances listed in the Rule. A discovery dispute is not a “cause of action.” Thus, Rule 53(b) provides no authority for the order of reference in this case. In matters brought to our attention; the special referee appointed by the circuit court is typically a lawyer

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<sup>2</sup> “The entitlement to an article III adjudicator is ‘a personal right’ and thus ordinarily ‘subject to waiver.’” *Wellness Intern. Network, Ltd. v. Sharif*, 575 U.S. 665, 678(2015). A party waives their right to adjudication by an article III judge by convention goer jurisdiction of a magistrate judge.

Both require the clerk of court to notify the parties of the magistrate judge’s availability to exercise jurisdiction under §636(c). The parties may then communicate their consent to the

clerk of court by “jointly or separately fil[ing] a statement consenting to the referral. Fed. R. Civ P. 73(b)(1). Only “if all parties have consented to the referral” may the clerks inform a district court judge or magistrate judge of a party’s response. And both §636(c)and Rule 73 permit the district court to remind the parties

## 16.

of the magistrate judge’s availability.<sup>3</sup> Even after a case is referred entirely to a magistrate judge, the district court retains the ability to vacate the referral. Section 636(c)(4) provides that a district court may vacate the transfer “for good cause shown on its own motion, or under **extraordinary** circumstances shown by any party.” *Id.*§636(c)(4); *see also* Fed. R. Civ. P. 73(b)(3). With that background in mind, STATE OF SOUTH CAROLINA, IN THE COURT OF COMMON PLEAS, COUNTY OF RICHLAND, at Richland County the Clerk of Court, Thus, Rule 53(b) provides no authority for the **Order of Reference** in this case. In matters brought to our attention, the special referee appointed by the circuit court is typically a lawyer Violated the procedural history of this case.

## **ARGUMENT**

Supreme Court of the United States **Kimberly v. Arms**:129 U.S. 512 (1889, Holding a court may not, through appointment of a

master or otherwise, "abdicate its duty to determine by its own judgment the controversy presented **See McCabe**, *The Federal Magistrate Act of 1979*, 16 Harv. J. Legis. 343, 364–79 (1979). In order to exercise this jurisdiction, a magistrate must be specially designated under 28 U.S.C. §636(c)(1) by the district court or courts, he serves 28 U.S.C. §636(c)(2) and is designed to ensure

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that neither the judge nor the magistrate attempts to induce a party to consent to reference of a civil matter under this rule to a magistrate. **See House Rep. No. 96–444**, 96th Cong. 1st Sess. 8 (1979). The rule opts for a uniform approach in implementing the consent provision by directing the clerk to notify the parties of their opportunity to elect to proceed before a magistrate and by requiring the execution and filing of a consent form or forms setting forth the election. However, flexibility at the local level is preserved in that local rules will determine how notice shall be communicated to the parties, and local rules will specify the time period within which an election must be made See: U.S. Supreme Court decision in **Murphy Bros. v. Michetti Pipe Stringing, Inc.** that the due process clause entitles a named defendant to procedural protections. Such protection includes choosing between an Article I and an Article III judge, **See In re Prudential Ins. Co. America Sales Practice Litig. Agent**, 278

F.3d 175, 181 (3d Cir.2002). Was Bad faith being a necessary predicate for a court to use its inherent authority, an untrue Statement is made in bad faith if the statement was made for a harassing or frivolous purpose. **Byrne v. Nezhat**, 261 F.3d 1075, 1125 (11th Cir. 2001). Bad faith can be inferred where an Attorney knowingly and deliberately makes blatantly incorrect

**18.**

statements. **See Crowe v. Smith**, 151 F.3d 217, 239 (5th Cir. 1998) (Finding adequate support in the record for the conclusion that an attorney acted in bad faith in providing “Blatantly incorrect discovery response” counsel Knew to be untrue at that the time it was offered). **See State v. Jeroid J. Price, 28177 (S.C. 2023), Smith v. Ocean Lakes Family Campground**, 315 S.C. 379, 381, 433 S.E.2d 909, 910 (Ct.App.1993) After The master has Exercised that authority, the order of reference terminates, and the power to Dispose Of the case returns to the circuit courts. Id **see also Cox v. Fleetwood Homes of Ga., Inc.**, 329 S.C. 157, 161, 494 S.E.2d 462, 464 (Ct.App.1997) (“[O]nce the Judge issues a ruling disposing of the case, his jurisdiction of the Matter, except for the correction of merely clerical Errors, end[s] **Barnett v. Piedmont Shirt Corp.**, 230 S.C. 34, 38,94 S.E.2d 1, 3 (1956), cert. Pending. A master who acts

after the reference Terminates does so without subject Matter jurisdiction, and the resulting Orders are void. **Bunkum v. Manor Properties**, 321 S.C. 95, 99, 467 S.E.2d 758, 761 (Ct.App.1996), (After the master Had entered final judgment, He Had no subject matter jurisdiction to hear the Motion for assessment of costs, Fees, expenses and damages against an appeal Bond.). Issues relating to subject Matter jurisdiction

**19.**

may be raised at any time, cannot be waived even by consent and should be taken notice of by this court on Our own motion, **See Johnson v. State**, 319 S.C. 62, 64, 459 S.E.2d 840, 841(1995) 18. **See: Scheuer v. Rhodes**, 416 U.S. 232, 94 Sc.D. 1683, 1687 (1974) Note: By law, A judge is a state officer. The judge then acts not as a judge, but as a private individual (in his person). When A judge acts as a trespasser of the law, when a judge does not follow the law, the Judge loses subject-matter jurisdiction and the judges' orders are not voidable, but VOID, and of no legal force or effect. The U.S. Supreme Court stated that "when a state officer acts under a state law in a manner violative of the Federal Constitution, he comes into conflict with the superior authority of that Constitution, and he is in that case stripped of his official or representative character and is subjected in his person to the

consequences of his individual conduct. The State has no power to impart to him any immunity from responsibility to the Supreme authority of the United States. **See Janove v. Bacon**, 6 Ill. 2d 245, 249, 218 N.E.2d 706, 708 (1955). Where service of process was not made pursuant to statute and Supreme Court Rules, See City of Columbia v. S.C. Pub. Serv. Comm'n, 242 S.C. 528, 532, 131 S.E.2d 705, 707 (1963) ("A writ of certiorari is used to keep an inferior tribunal within the scope of its powers."

**20.**

(Citing Ex parte Schmidt, 24 S.C. 363, 364 (1886); State ex rel. **Martin v. Moore**, 54 S.C. 556, 560, 32 S.E. 700, 701 (1899)); **State v. Ansel**, 76 S.C. 395, 412, 57 S.E. 185, 191 (1907) ("The Writ of certiorari is issued by a superior Court to an inferior judicial or quasi-judicial tribunal or officer to certify the record of trial to the superior Court for its review to ascertain whether the inferior tribunal exceeded its powers, or committed Substantial errors of law, but not to review the facts." (Citing Ex parte Riggs, 52 S.C. 298, 302, 29 S.E. 645 646 (1898). *See State ex rel. **McLeod v. Cnty. Ct. of Richland Cnty.***, 261 S.C. 478, 481, 200 S.E.2d 843, 844 (1973) ("The matters involved in this opinion is before the Court as A result of writs of *certiorari*, issued by the Chief Justice, ordering the Richland County Court to certify and

return to this Court true copies of all Records- also **See in Deutsche Bank Natl. Trust Co. v Castellanos**, 01/14/2008, 158 Misc3d 1115A, 2008 Slipup 50033(U), Judge Arthur M Schack, on January 14, 2008, denied a renewed application for a judgment of foreclosure and sale due to the plaintiff's lack of standing because Deutsche Bank had sold the note and mortgage to MTGLQ Investors, L.P., after filing a foreclosure action and had failed to notify the Court. Judge Schack noted the presence of an affidavit of merit executed by a Mr. Jeff Rivas,

**21.**

who was identified as Deutsche Bank's "Vice President Default Timeline Management." He then noted the presence of a mortgage assignment within the files executed the same date which identifies Mr. Jeff Rivas as the "Vice President Default Timeline Management" for Argent Mortgage Company, LLC, the assignor of the mortgage to Deutsche Bank. Judge Schack pointed out that if Mr. Rivas was acting as an officer of both the grantor and the grantee of the assignment that this would create a conflict. rendering the conveyance void. Judge Schack also directed that. Mr. Rivas' employment history be clarified in any future application for a foreclosure order. Judge Schack then referenced an earlier decision, issued in December. 17,

2007 where he noted at 3: “with HSBC, OCWEN and MERS, joining with Deutsche Bank and Goldman Sachs at Suite 100, the Court is now concerned as to why so many financial goliaths are in the same space. The Court ponders if Suite 100 is the size of Madison Square Garden to house all of these financial behemoths or if there is a more Nefarious reason for this corporate togetherness.” **In the Castellanos** case, Judge Schack stated: “Therefore, if Deutsche Bank’s seeks to renew its motion for a judgment of foreclosure and sale, it must provide an affidavit explaining why Suite 100 is such a popular venue for all

**22.**

of these corporations. Should Deutsche Bank fail to provide an adequate explanation in its affidavit, I will conclude that this corporate togetherness is evidence of corporate collusion, **See HSBC Bank, N.A. v Cherry**, 18 Misc. 3d 1102 (A), that the application of plaintiff, HSBC BANK N.A., AS INDENTURE TRUSTEE FOR THE REGISTERED NOTEHOLDERS OF RENAISSANCE HOME EQUITY LOAN TRUST 2005-4, RENAISSANCE HOME EQUITY LOAN ASSET-BACKED NOTES, SERIES 2005-4, for an order of reference for the premises located at 3570 Canal Avenue, Brooklyn, New York (Block 6978, Lot 20, County of Kings), is denied without prejudice, and it is further

also **See in Deutsche Bank Natl. Trust Co. v Maraj**, /31/2008, 18 Misc. 3d 1123(A), 2008 Slipup 50176(U), another foreclosure case decided by Judge Arthur Schack, the Judge noted many problems with the Assignment. As in the instant case before this Court, the Assignment was signed by an individual whose name and signatures appear regularly on mortgage-related documents, but she is “employed” by many different banks and mortgage companies. Judge Schack observed and ruled: “The Assignment by MERS, on behalf of INDYMAC, was executed by Erica Johnson-Seck, Vice President of MERS. The notary public, Mai La Thao, stated in the jurat that the assignment was executed in

**23.**

the State of Texas, County of Williamson (Williamson County is in the Austin metropolitan area, and it’s the county seat is Georgetown, Texas). The Court is perplexed as to why the assignment was not executed in Kansas City, the alleged "Principal place of business" for both the assignor and the assignee. Twenty-eight days later, on July 31, 2007, the same Erica Johnson-Seck executed. plaintiff's affidavit submitted in support of the instant application for a default judgment. Ms. Johnson-Seck, in her affidavit, states that she is "An officer of Deutsche Bank National Trust Company as Trustee under the

Pooling and Servicing Agreement series INDX 2006-AR6, the plaintiff herein." At the end of the affidavit, she states that she is a Vice President of DEUTSCHE BANK. Again, MaiLa Thao is the notary public, and the affidavit is executed in the State of Texas, County of Williamson. The Erica Johnson-Sack signatures on both the July 3, 2007, assignment and the July 31, 2007, affidavit is identical. Did Ms. Johnson-Sack change employers from July 3, 2007, to July 31, 2007, or does she engage in self-dealing by wearing two corporate hats? The Court is concerned that there may be fraud on the part of plaintiff DEUTSCHE BANK, or at least malfeasance. Before granting an application for an order of reference, the Court requires an affidavit from Ms.

**24.**

Johnson-Sack, describing her employment history for the past three years." Further, the Court requires an explanation from an officer of plaintiff DEUTSCHE BANK as to why, in the middle of our national subprime mortgage financial crisis, DEUTSCHE BANK would purchase a non-performing loan from INDYMAC, and why DEUTSCHE BANK, INDYMAC and MERS all share office space in Suite 400/500. With the assignor MERS and assignee DEUTSCHE BANK appearing to be engaged in possible fraudulent activity by having the same Person executes the

assignment and then the affidavit of facts in support of the instant application; DEUTSCHE BANK's purchase of a non-performing loan from INDYMAC; and the sharing of office space in Suite 400/500 in Kansas City, the Court wonders if the instant foreclosure action is a corporate "Kansas City Shuffle..." also **See In Deutsche Bank v HARRIS**, Judge Arthur M. Schack, Kings, Index No. 39192/2007 (05 Feb 2008), decided the following. month Judge Schack again raised the issue of "troubling questions" he had about the representations in the Deutsche Bank application and denied Deutsche Bank's application for a Default Judgment. Judge Schack Ordered that Deutsche Bank could renew its application upon presentation to the Court, within forty-five (45) days of his decision and order,

**25.**

only if it produced the following: "an affidavit from Erica Johnson-Seck describing her employment history for the past three years; and an affidavit from an officer of plaintiff DEUTSCHE BANK NATIONAL TRUST COMPANY, explaining why: Plaintiff DEUTSCHE BANK NATIONAL TRUST COMPANY purchased a non-performing loan from INDYMAC BANK, F.S.B. (2) Plaintiff DEUTSCHE BANK NATIONAL TRUST COMPANY shares office space at 460 Sierra Madre Villa, Pasadena, CA

91107 with MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., and INDYMAC BANK, F.S.B.; (3) Plaintiff DEUTSCHE BANK NATIONAL TRUST COMPANY claims 460 Sierra Madre Villa, Pasadena, CA 91107 as its principal place of business in the October 23, 2007, Assignment of the instant mortgage, but executed the Assignment in Dakota County, Minnesota; and (4) Plaintiff DEUTSCHE BANK NATIONAL TRUST COMPANY claims 460 Sierra Madre Villa, Pasadena, CA 91107 as its principal place of business in the affidavit in support of the instant application, but the affidavit was executed in Williamson County, Texas.” (Note: DEUTSCHE BANK claims a different principal place of business in the instant case. It should also be noted that the issue of the true employer of Erica Johnson-Sack has also arisen in other Palm Beach County foreclosure cases,

**26.**

most recently, **See in IndyMac Federal Bank, FSB v. Israel Machado**, et al., Case No. 50 2008 CA 037322XXXX MB, and were Johnson-Sack claimed to be an officer of IndyMac, not of Deutsche Bank.), **See In Deutsche Bank v. Ezagui**, Judge Arthur\_M. Schack, Kings, Index No. 03724/2007 (21 Dec 2007) Judge Schack noted that in an affidavit in support of a Deutsche Bank application for default, a Ms. Tamara Price identified

herself as the "Vice President" of Deutsche Bank while also showing herself to be the Vice President of AMC Mortgage Services Inc. Judge Schack ordered Deutsche Bank to provide an affidavit within thirty days clarifying Ms. Tamara Price's employment history for the previous three years, as well as explaining why Deutsche Bank seemed to have purchased a non-performing loan from Ameriques and why Deutsche Bank and Ameri quest seemed to be sharing office space with Ameriques at 505 City Parkway West, Orange, CA 92868. **See in Deutsche Bank National Trust Company v. Williams, et al.**, Case No. 1:2007cv03029, N.D. Ohio, Judge Christopher H. Boyko gave DEUTSCHE BANK NATIONAL TRUST COMPANY seven days to file a copy of an executed assignment showing that DEUTSCHE BANK was the holder and owner of the Note and Mortgage as of the date the Complaint was filed or face dismissal;

**27.**

The same action was taken in two other Deutsche Bank cases decided by Judge Boyko: **See Deutsche Bank National Trust Company v. Tonia Benitez, et al.**, Case No. 1:2007cv03000, N.D. Ohio, and **Deutsche Bank National Trust Company v. Dorphine Desouza, et al.**, Case No. 1:2007cv01474, N. D. Ohio. These cases and 14 others were dismissed when the lenders did

not produce the Assignments as ordered. Amended General Order, No. 2006-16 (N.D. Ohio). On November 14, 2007, U.S. District Judge Kathleen M. Malley dismissed 32 foreclosure cases, including 24 cases filed by Deutsche Bank, in a mass dismissal because documentation that the plaintiff was the owner and holder of the Mortgage and Note being inadequate. According to Judge O'Malley's Order, "Appropriate documentation includes but is not limited to trust and/or assignment. documents executed before the action was commenced, or both as circumstances may require." As in the Instant cases, many of the cases O'Malley dismissed involved Documentation that an assignment occurred, but occurred after the filing of the complaint, **See In Deutsche Bank National Trust Co., trustee for Goldman Sachs v. Pope**, Case No. 16-2007-CA-008285 (Duval Co., Fla., Cir. Ct.) Circuit Judge Lance Day dismissed a

**28.**

foreclosure brought by Deutsche Bank, ruling there were "inconsistencies" in the plaintiff's documents. **See In Deutsche Bank Trust Company Americas v. Peabody**, 2008 NY Slip Op 51286(U), decided on June 26, 2008, Saratoga County Supreme Court Judge Thomas Nolan denied Deutsche Bank's

motion for summary judgment, noting: “Again, here, plaintiff offers no evidence that it took physical delivery of the note and mortgage before commencing this action, and again, the written assignment was signed after defendant was served. The assignment’s language purporting to give it retroactive effect, absent prior or contemporary delivery of the note and mortgage, is insufficient to grant it standing.” **See In Re Robin Hayes**, Debtor, Case No. 07-13967-JNF, U.S. Bankruptcy Court, District of Massachusetts, United States Bankruptcy Judge Joan N. Feeney, also criticized Deutsche Bank National Trust company and its documentation of a loan, starting (on pages 15-16):

“Although courts have been addressing the issues raised by Bankruptcy Judge Rosenthal in the Nosek case for some time, **see in re Foreclosure Cases**, No. 1:07CV2282, 2007 WL 3232430 (N.D. Ohio Oct. 31, 2007), problems associated with the practices are amplified in the instant case. The mortgage lender, its affiliates, assignees, and agents involved in this case,

**29.**

through the convoluted process of securitization, the submission of a 191-page, incomplete PSA, and reliance upon back-dated, unrecorded assignments, have confounded the identity of the current holder of the mortgage for the purpose of filing the

Motion for Relief from Stay, as well as the proof of claim. The Court and the Debtor are entitled to insist that the moving party establish its standing in a motion for relief from stay through the submission of an accurate history of the chain of ownership of the mortgage. Absent such proof, relief from stay is unwarranted and a proof of claim filed by the wrong party, to which an objection is filed, must be disallowed.” See **In Deutsche Bank Trust Company Americas v. Domin Codio**, et al. (Kings County Supreme Court, Index No. 6839/2010), the law firm of Knuckles, Komosinski & Elliott LLP representing foreclosure plaintiff Deutsche Bank National Trust Company, brought to our office a document that their attorney Fincey John, Esq. claimed was an original promissory note that our client Dominic Codio, the homeowner, had signed when he received a mortgage loan. Mr. Codio, who was present for the inspection of the document, immediately recognized that his signature and initials at the bottom of each page had been forged, and the document was a fake. See **Cpc Patent Technologies Pty Ltd v. Apple**, Inc., No.

**30.**

21-16212 (9th Cir. 2022), But when a magistrate judge issues a report and recommendation on a dispositive matter, a district judge must "make a de novo determination of those portions of

the report or specified proposed findings or recommendations to which objection is made." *Id.* § 636(b)(1)(C); *see also*. Fed. R. Civ. P. 72(b)(3), also *See* **SEC v. CMKM Diamonds, Inc.**, 729 F.3d 1248, 1260 (9th Cir. 2013) A decision that effectively denies "the ultimate relief sought" by a party or disposes of "any claims or defence's" is dispositive. **Flam v. Flam**, 788 F.3d 1043, 1046 (9th Cir. 2015) (quoting **United States v. Reyna-Tapia** , 328 F.3d 1114, 1118 (9th Cir. 2003) (en banc)). When a magistrate judge rules on a non-dispositive matter, a district judge may "reconsider" that ruling only if it is "Clearly erroneous or contrary to law." 28 U.S.C. § 636(b)(1)(A); accord Fed. R. Civ. P. 72(a). But when a magistrate judge issues a report and recommendation on a dispositive matter, a district Judge must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* § 636(b)(1)(C); *see also* Fed. R. Civ. P. 72(b)(3). *See* **Flam v. Flam**, 788 F.3d 1043, 1046 (9th Cir. 2015) (quoting **United States v. Reyna-Tapia**, 328 F.3d 1114, 1118 (9th Cir. 2003) (enbanc)). When a magistrate judge rules on a non-

### 31.

dispositive matter, a district judge may "reconsider" that ruling only if it is "clearly erroneous or contrary to law." 28

U.S.C. § 636(b)(1)(A); accord Fed. R. Civ. P. 72(a). But when a magistrate judge issues a report and recommendation on a dispositive matter, a district judge must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." Id. § 636(b)(1)(C); see also Fed. R. Civ. P. 72(b)(3). Also **See Wellness Intern. Network, Ltd. v. Sharif**, 575 U.S. 665, 678 (2015). A party waives Their right to adjudication by an article III judge by consenting to the jurisdiction of a magistrate judge. Both require the clerk of court to notify the parties of the magistrate judge's availability to exercise jurisdiction under § 636(c). The parties may then communicate their consent to the clerk of court by "Jointly or separately fil[ing] a statement consenting to the referral." Fed. R. Civ P. 73(b)(1). Only "if all parties have consented to the referral" may the clerks inform a district court judge or magistrate judge of a party's response. And both § 636(c) and Rule 73 permit the district court to remind the parties of the magistrate judge's availability even after a case is referred entirely to a magistrate judge, the district court retains the ability to vacate the referral Section 636(c)(4) provides that a

**32.**

district court may vacate the transfer "for good cause shown on

its own motion, or under extraordinary circumstances shown by any party.” Id. § 636(c)(4); see also Fed. R. Civ. P. 73(b)(3). With that background in mind, Plaintiff-Appellant Janet Louise Nelums and Chris Nelums requested the procedural history of this case. That this matter be Followed by the Court in order to ensure that all statutory rights and procedures are followed correctly, See: **SC Code Ann. § 14-3-310 (2012)**, the Supreme Court shall have power to issue writs or orders of injunction, Mandamus, quo warranto, prohibition, certiorari, habeas corpus and other remedial and original writs. See: **S.C. Code Ann. § 22-3-20 (2023)**, Civil actions in which magistrate has no jurisdiction. Also See: **S.C. Const. art. I, § 9** All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained. (1970 (56) 2684; 1971 (57) 315.), Also See: S.C. R. Civ. P. 17 **(a)** Real Party in Interest. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought, and when a statute so, provides is

mandatory under S.C. R. Civ. P. 17 (a), To have standing, one must have a personal stake in the subject matter of the lawsuit. i.e., one must be the "real party in interest." E.g., *Bailey v. Bailey*, 312 S.C. 454, 441 S.E.2d 325 (1994). A real party in interest is one who "has a real, actual, material or substantial interest in the subject matter of the action, as distinguished from one who has only a nominal, formal, or technical interest in, or connection with, the action." *Id.* at 458, 441 S.E.2d at 327 (emphasis added),

Mootness has many moods. Always the doctrine describes a situation where events in the world have so overtaken a lawsuit that deciding it involves more energy than effect, a waste of effort on questions now more pedantic than practical. In some cases, mootness bears, a constitutional countenance, acting as a jurisdictional bar against even entertaining a case. Other times mootness carries a more prudential complexion, permitting us to withhold relief we have the authority to grant. Other times still, a case finds itself mooted by a tangle of constitutional, prudential considerations. This appeal case involves mootness in at least its prudential sense. The Court Take Judicial Notice of Respondent's filed Jan 09, 2025, the Respondent's Return to Motion for Leave to File Sanctions admitted that Respondent Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage

**34.**

Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept. 1, 2002 (“DBNTC”) respectfully submits its Return to the Motion Requesting Permission to File Motion for Sanction filed by Appellants Janet and Christopher Nelums on December 18, 2024 Because Respondent’s (“DBNTC”) seeks equitable relief (the “Property”), pending in some form since 2013, but Deutsche Bank's third-tier unsecured claims are prudentially mooted since 2009, DEUTSCHE BANK TERMINATED AS TRUST BENEFICIARIES 2009 THIRD-TIER 240 MORTGAGE SECURITIZATION TRUST CREATED BY INDYMAC, INDYMAC FEDERAL, because Deutsche Bank cannot recoup any sums owed from an insolvent IndyMac," already being provided by coordinate branches of government and (“DBNTC”) offers no reason why the courts should duplicate those efforts. The pleaded cause of action for Respondent (“DBNTC”) failed fatally, fatal role "root" does not exist, Frivolous civil proceedings subject to sanctions pursuant to SCRPC, Rule. -11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Ann. §15-36-10 et. seq.

**CONCLUSION**

mandatory under section 28 U.S.C.§ 636(b)(1)(A)—i.e., authority

**35.**

to rule on); Fed. R. Civ. P. 72(b)(1) those that a magistrate judge may not decide without the parties' consent— "Are dispositive Ben N. Miller, III SC Bar # :3977 ("special referee.") judge here lacked consent from the parties to rule on dispositive matters neither the Pursuant to Rules 53(b) of the South Carolina Rules of Civil Procedure, without the parties' consent to the master reference. 28 U.S.C. § 636(b)(2), Ben N. Miller, III SC Bar # :3977 ("special Referee.") lack subject-matter jurisdiction. See 28 U.S.C. § 636(b)(2), under 28 U.S.C. § 636(c)(1), 28 U.S.C. §636(c)(2). is not authorize in the above-entitled case to this foreclosure action for 813 N. Highland Forest Drive, Columbia, SC 29203 (Parcel 11916-2-16. [ **See: Appendix-1**, See 28 U.S.C. § 636(b)(2) (1976) (Magistrate special master appointment). Appointment of special Master's to hear entire cases or evidence on key motions is tightly Restricted. See FED. R. Civ. P. 53(b) (Limiting nonjury master Appointments to "exceptional" conditions); note 76 infra (construction of exceptional conditions). These restrictions apply to magistrates serving as special Master's except when the parties' consent to the master Reference. 28 U.S.C. § 636(b)(2) (1976); see note 43 infra. [ **See: Appendix-1**, otherwise complied

**36.**

with the requirements and 28 U.S.C. §§ 636(c)(1) & (c)(3). of the sections and Under 28 U.S.C. § 636(c)(4); by not vacating the transfer “for good cause shown on its own motion, or under extraordinary circumstances shown by any party.” 28 U.S.C. § 636(c)(4); see also Fed. R. Civ. P. 73(b)(3). But § 636(c)(4) error. Under U.S.C. § 636(c)(2), and Rule 73: by not sending the form AO 85A Notice, Consent, and Reference of a Dispositive Motion to A Magistrate Judge This notice provided that to consent to the jurisdiction of a magistrate judge, a party must sign the form and return it to the clerk’s office, A record must be made in accordance with 28 U.S.C. §636(c)(5). error. Appellants ask this court to enter findings of fact, and conclusions of law based upon the record, consistent with the holding in **No. 2024-001062**, and to reverse and Vacate, Ben N. Miller, III SC Bar # :3977/ as Special Referee, Attorney fundamentally failed to follow the law. without satisfying any of the requirements set forth in the statute. The General Assembly in including the specific requirements of section See FED. R. Civ. P. 53(b), 28 U.S.C. §§ 636(c)(1) & (c)(3). See 28 U.S.C. § 636(b)(2) 28 U.S.C. § 636(c)(4); 28 U.S.C. §636(c)(5),

that must be satisfied before authority to Rule 28 U.S.C. §§ 636(c)

**37.**

as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory

March 27, 2025

Respectfully submitted,

\_\_\_\_\_  
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Plaintiff-Appellant pro se litigants

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was filed into Action No. 2024-001062 and served on this 27 day of March 2025, as indicated on Monday March 27, 2025, was served by Certified Registered which constitutes service on all parties.

The Honorable Kristi F. Curtis  
215 North Harvin Street  
Sumter, SC 29150  
OFFICE: (803) 436-2152  
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[kcurtissc@sccourts.org](mailto:kcurtissc@sccourts.org)

**RECEIVED**

APR 09 2025

SC Court of Appeals

Mr. Warren Stephen Curtis  
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**38.**

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

FINAL BRIEF OF

APPELLANTS'

Richland County, Sheriff Leon Lott

in His Official Capacity as The Sheriff of  
The Richland County Sheriffs Department

39.

ATTN: Sgt. Kyle Kovalchuk  
5623 Two Notch Road  
Columbia, S.C. 29223  
phone: 803-576-3000.  
fax: 803-576-319

Hon, Mr. Daniel McLeod Coble  
ATTN: Chief Judge Richland County  
1701 Main Street  
Columbia, SC 29202.  
Office: (803) 576-1773  
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**RECEIVED**

APR 09 2025  
SC Court of Appeals

### **CERTIFICATE OF COMPLIANCE**

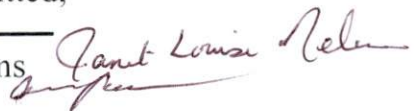
This Final Brief complies with the word limit of Local Rule 32.1(a)(4)(A) because, excluding the portions exempted by Fed. R. App. R. 32(f), this brief contains 9,8034 words.

This brief also complies with the typeface requirements of Fed. R. App. P. 32 (a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Bookman Old Style

April 9, 2025

Respectfully submitted,

\_\_\_\_\_  
Janet Louise Nelums  
Chris Nelums  
813 N. Highland Forest Dr,  
Columbia, SC 29203-1929



(803) 730-6003  
[jnelums@gmail.com](mailto:jnelums@gmail.com)  
[chrisnelums@yahoo.com](mailto:chrisnelums@yahoo.com)  
Plaintiff-Appellant pro se litigants

**40.**

## APPENDIX-1

(AO 85A (Notice, Consent))

UNITED STATES DISTRICT COURT  
for the

\_\_\_\_\_)  
Plaintiff) )  
v. ) Civil Action No.  
\_\_\_\_\_)  
Defendant)

**NOTICE, CONSENT, AND REFERENCE OF A DISPOSITIVE MOTION TO A MAGISTRATE JUDGE**

*Notice of a magistrate judge's availability.* A United States magistrate judge of this court is available to conduct all proceedings and enter a final order dispositive of each motion. A magistrate judge may exercise this authority only if all parties voluntarily consent.

You may consent to have motions referred to a magistrate judge, or you may withhold your consent without adverse substantive consequences. The name of any party withholding consent will not be revealed to any judge who may otherwise be involved with your case.

*Consent to a magistrate judge's consideration of a dispositive motion.* The following parties consent to have a United States magistrate judge conduct any and all proceedings and enter a final order as to each motion identified below (*identify each motion by document number and title*).

Motions: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<i>Printed names of parties and attorneys</i>	<i>Signatures of parties or attorneys</i>	<i>Dates</i>
_____	_____	_____
_____	_____	_____
_____	_____	_____

**Reference Order**

**IT IS ORDERED:** The motions are referred to a United States magistrate judge to conduct all proceedings and enter a final order on the motions identified above in accordance with 28 U.S.C. § 636(c).

Date: \_\_\_\_\_  
\_\_\_\_\_  
*District Judge's signature*  
\_\_\_\_\_  
*Printed name and title*

Note: Return this form to the clerk of court only if you are consenting to the exercise of jurisdiction by a United States magistrate judge. Do not return this form to a judge.

[Print](#) [Save As...](#) [Reset](#)

APPENDIX-2  
(Hon, Tzerman Order Of Recusal)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO. 2017-CP-40-01687

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

ORDER OF RECUSAL

PLAINTIFF,

VS.

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

DEFENDANT(S).

(151091.00064RCO)

The above referenced case is a foreclosure action that was scheduled for sale on Tuesday, September 6, 2022, but this Court canceled the sale when the Defendants filed their Motion and Memorandum in Support of Temporary Injunction and Appointment of Receiver and Rule to Show Cause to allow the Plaintiff to respond to the Motion and for the Motion to be adjudicated.

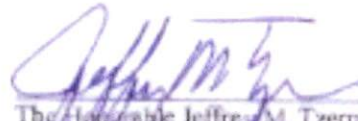
This Order is issued *ex sponte* in response to Defendants' Motion and Memorandum in Support of Temporary Injunction and Appointment of Receiver and Rule to Show Cause. I have carefully reviewed the Defendants' motion and note that it includes unsubstantiated allegations of wrongdoing by the Plaintiff, Plaintiff's counsel, prior holders of the loan in question, prior servicers of the loan, and this Court itself.

Since Defendants have accused this Court of wrongdoing, my hearing arguments and ruling upon this motion could raise the "appearance of impropriety" pursuant to Canon 2 of the Code of Judicial Conduct, contained within Rule 501 of the SC Rules of Professional

#1 Qmve

Responsibility. Having concluded that I am unable to hear this motion, I am recusing myself and returning jurisdiction to the Circuit Court.

IT IS SO ORDERED

  
The Honorable Jeffrey M. Tzerman  
Special Referee for Richland County

#2

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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

PLAINTIFF,

VS

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

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

CASE NO. 2017-CP-40-01687

CERTIFICATE OF SERVICE BY MAIL

(151091.00064RCO)

The undersigned hereby certifies that s/he is an employee of Scott and Corley, P.A. and is a person of such age and discretion as to be competent to serve papers and that on November \_\_\_ 2022, s/he mailed a copy of the Order of Recusal by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at the Scott and Corley, P.A. office, 2712 Middleburg Drive, Suite 200, Columbia, SC 29204.

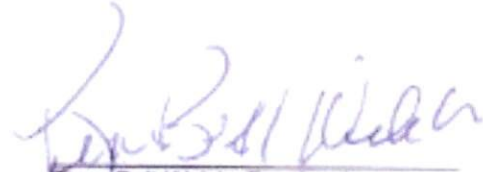
Addressee:

Adrienne L. Turner, Esq. (Attorney for Janet L. Nelums)  
P.O. Box 210638  
Columbia, SC 29221

Adrienne L. Turner, Esq. (Attorney for Christopher Nelums)  
P.O. Box 210638  
Columbia, SC 29221

Robert A. Bernstein, Esq. (Attorney for Best Distributing Company)  
PO Box 20519  
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Reng Bell-Welch, Paralegal  
SCOTT AND CORLEY, P.A.  
2712 Middleburg Dr., St 200 (29204)  
P.O. Box 2065 (29202)  
Columbia, South Carolina

APPELLANTS'

FINAL BRIEF OF

**Appendix 3**  
(Gatekeeper Order)

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT

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

Civil Action No. 2017-CP-40-01687

**Order on Plaintiff's Motion for Sanctions  
and  
Gatekeeper Order**

Plaintiff,

vs.

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

Defendants.

This is a foreclosure action involving 813 N. Highland Forest Drive, Columbia, SC 29203 (Parcel 11916-2-16) (the "Property"). On August 21, 2023, the Court heard the Motion for Sanctions Against Janet and Christopher Nelums and Entry of a Gatekeeper Order ("the Motion") filed by Plaintiff Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept 1, 2002 by WebEx. Present for the hearing was Matthew A. Abee of Nelson Mullins Riley & Scarborough LLP for Plaintiff, and Defendants Janet L. Nelums a/k/a Janet Nelums and Christopher Nelums, both appearing *pro se*. All parties were appropriately notified of the hearing.

After reviewing the Motion, relevant case law, and the record, I find it proper to enter a vexatious-litigant gatekeeper order barring Janet and Christopher Nelums ("Defendants") from filing new documents related to the Property without leave of the Court or the signature of a licensed attorney. The Court also makes the following findings of fact and conclusions of law.

## Findings of Fact

### A. 2013 Foreclosure Proceedings

As set forth in the Special Referee's Foreclosure Order, in August 2002, Janet L. Nelums signed a \$112,000 note to Plaintiff predecessor-in-interest. (Foreclosure Order and J. ¶ 11, July 1, 2021).<sup>1</sup> Defendants also signed a first-priority mortgage on the Property, which was recorded in the County Register of Deeds. (*Id.* ¶ 12.) Defendants defaulted on the mortgage, (*id.* ¶ 10), and Plaintiff sued them and others for foreclosure. (*Id.* ¶ 4.) Defendants answered and counterclaimed for (1) accounting; (2) failure to provide default notice; (3) breach of contract/rescission; (4) violation of the Truth in Lending Act; (5) violation of the Real Estate Settlement and Procedures Act; (6) predatory lending; (7) predatory servicing; (8) violation of the Fair Debt Collection Practices Act; and (9) malicious prosecution. (*Id.* ¶ 5.) The Clerk of Court referred the case to the Master in Equity in February 2014, but in November 2014, the Master recused himself. (*Id.* ¶ 4.) The Circuit Court then granted Plaintiff's motion for judgment on the counterclaims. (Order Granting Mot. for J. on the Pleadings, July 16, 2015; Foreclosure Order ¶ 5.) Then in November 2015, the case was stricken from the active roster under Rule 40(j), SCRCP. (*Id.* ¶ 4.)

### B. 2017 Foreclosure Proceedings and Ms. Nelums's Bankruptcy

Plaintiff restored the case to the roster in March 2017 (Case No. 2017-CP-40-01687) and the Clerk of Court referred the case to the Honorable Jeffrey M. Tzerman, Special Referee. (*Id.*)

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<sup>1</sup> This matter was previously referred to the Richland County Master in Equity Joseph M. Strickland. After he recused, the Clerk referred the matter to Special Referee Jeffrey M. Tzerman. Thereafter, the Special Referee also recused himself, vesting jurisdiction of the matter in the Circuit Court once again. Although Defendants sought to have the undersigned judge and Plaintiff's counsel also disqualified, the Court denies Defendants' motion and concludes it may properly consider the pending motions in this action. The Court rejects Defendants' claim that Plaintiff's current and former counsel is also disqualified from representing Plaintiff.

*Order on Plaintiff's Motion for Sanctions*  
*Case No. 2017-CP-40-01687*

Ms. Nelums petitioned for relief under Chapter 13 of the Bankruptcy Code (Case No. 18-05885-jw) in November 2018, and the Court stayed the foreclosure, (Foreclosure Order ¶ 9.). Then Ms. Nelums filed an adversary proceeding against Plaintiff and its servicing agent, Specialized Loan Servicing LLC ("SLS") (Case No. 19-80032-jw), in May 2019. (See Pl.s' Mot. Exhibit 4, Bankr. Order on Summ. J., March 17, 2020.)<sup>2</sup>

After discovery and a hearing, the Bankruptcy Court granted summary judgment against Ms. Nelums. (*Id.* at 1.) Among other arguments, the Bankruptcy Court rejected Ms. Nelums' claims that Plaintiff and SLS (1) were not creditors under the Bankruptcy Code; (2) lacked rights of payment under Article 3 of the South Carolina Commercial Code; (3) lacked standing to foreclose on the note and mortgage; (4) could not enforce the note and mortgage because of securitization; and (5) had no valid note and mortgage because servicing/pooling agreements between Plaintiff and SLS rendered them void. (*Id.* at 6–19.) Ms. Nelums' bankruptcy counsel withdrew shortly after the order. Ms. Nelums then filed a 112-page motion with 353 pages of attachment *pro se* titled "Motion Fraud Upon the Court Bogus Adversary Proceeding We Demand for a Mistrial," which the Court denied in a detailed 17-page order. (Pl.s' Mot. Exhibit 5, Order Denying Motion, May 22, 2020.) The Court rejected Ms. Nelums' claims that counsel for Plaintiff and SLS—the same firm previously representing Plaintiff in this foreclosure—committed fraud upon the court. (*Id.*)

In the month after granting summary judgment in the adversary proceeding, that court also dismissed Ms. Nelums' bankruptcy case. (Pl.s' Mot. Exhibit 6, Order Dismissing Bankr., April

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<sup>2</sup> Defendants raised no objection to the Court's consideration of the court filings in the collateral proceedings. These filings are appropriate subjects for taking judicial notice, and the Court does so here.

*Order on Plaintiff's Motion for Sanctions*  
*Case No. 2017-CP-40-01687*

21, 2020; *see also* Foreclosure Order ¶ 9.) This dismissal caused the Special Referee to restore this foreclosure to the active docket, and then issue his Foreclosure Order and Judgment in July 2021. (*Id.*)<sup>3</sup> In so doing, he rejected Defendants' claim—renewed in their pending Temporary Injunction Motion—that Plaintiff does “not have the right to foreclose on the property because said defendant, and each of them, did not properly comply with the terms of plaintiff's own scrutinization requirement[.]” (Def.s' Mot. Temp. Inj. at 29, ¶ 59.) In rejecting this claim, the Court noted that the bankruptcy court had already resolved Ms. Nelums' claim that Plaintiff lacked standing to foreclose. (Foreclosure Order at 8.)<sup>4</sup> The Special Referee then issued a \$150,000 appellate-bond order. (Order Setting Appeal Bond, July 1, 2021.)

### **C. Defendants' Frivolous RICO Lawsuit and Appeal**

While the case was proceeding towards a foreclosure sale, Defendants again turned to the federal courts by filing a *pro se* complaint in alleging RICO claims against Bankruptcy Judge John E. Waites, Special Referee Jeffrey Tzerman, foreclosure counsel, Defendants' prior retained counsel, Plaintiff, and SLS (Case No. 3:21-cv-2161). (Pl.s' Mot. Exhibit 7, Report and Recommendation, Aug. 31, 2021; Pl.s' Mot. Exhibit 8, Order Adopting R&R, Feb. 2, 2022.) Defendants commenced the lawsuit by filing a “Motion for an *Ex-Parte* Temporary Restraining

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<sup>3</sup> When the case was restored to the active roster in 2017, Attorney Adrienne L. Turner was listed as counsel of record for Defendants. She originally appeared as counsel for Defendants in 2014, about a year after they had filed their counterclaims *pro se*. (Not. Appearance, July 2014.) She represented Defendants when this Court granted Plaintiff's motion for judgment on the pleadings. Although she moved to withdraw as counsel in April 2021, no order granting the withdrawal was filed until February 10, 2023. Plaintiff does not seek sanctions against Ms. Turner and the Court determines that she has *not* been involved in the numerous frivolous filings from Defendants in any way.

<sup>4</sup> This Court has reviewed the filings from the bankruptcy proceedings that were filed with the Motion and agrees that the issues raised again by Defendants here have been raised and ruled upon already. Each court to have considered Defendants' challenges to the foreclosure have rejected them. So too does this Court.

*Order on Plaintiff's Motion for Sanctions*  
*Case No. 2017-CP-40-01687*

Order, Show Cause Order, and Permanent Injunction with Asset Freeze,” which the District Court characterized as “frivolous” for four reasons. (Pl.s’ Mot. Exhibit 6, R&R at 4–7.) The District Court dismissed the action and Defendants appealed (Case No. 22-1223). The Fourth Circuit Affirmed in June 2022. (Pl.s’ Mot. Exhibit 9, Unpublished Op., June 27, 2022.)

#### **D. Status of the 2017 Foreclosure**

In August 2022, Plaintiff gave notice of a September 7, 2022, foreclosure sale. Six days before the sale, Defendants filed their *pro se* Temporary Injunction Motion with this Court. The 47-page motion purports to assert 11 causes of action: lack of standing, fraud in the concealment, fraud in the inducement, intentional infliction of emotional distress, slander of title, quiet title, declaratory relief, violation of TILA, violation of RESPA, rescission, and anti-trust. This filing is frivolous as it raises the same issues Defendants had previously raised and had rejected in the previous proceedings. The motion also improperly and without any evidentiary support accuses Plaintiff, its counsel, and this Court of wrongdoing, fraud, ethics violations, and even treason. Because of the allegations created the appearance of impropriety, the Special Referee recused himself in November 2022. Plaintiff’s counsel also withdrew for the same reasons.

#### **E. Plaintiff’s Attempts to Confer with Defendants**

On February 7, 2023, Plaintiff’s counsel notified Defendants by letter that it intended to file its Motion for sanctions, enclosing a copy of the draft motion. (Pl.s’ Mot. Exhibit 10, Letter to Defendants.) The letter gave Defendants ten days to withdraw their Motion for Temporary Injunction and to agree to allow the foreclosure sale to proceed.<sup>5</sup> Plaintiff’s counsel mailed and

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<sup>5</sup> Although not required by Rule 11 or the FCPSA, DBNT gave this pre-filing notice out of an abundance of caution and so Defendants could be on notice that their frivolous conduct could result in monetary and non-monetary sanctions. *Burns v. Universal Health Servs. Inc.*, 340 S.C. 509,

*Order on Plaintiff's Motion for Sanctions*  
*Case No. 2017-CP-40-01687*

emailed a second letter on February 21, 2023, giving borrowers through Friday, February 24, 2023, to withdraw the motion. (Pl.s' Mot. Exhibit 11, Letter to Defendants (without enclosures).) Defendants failed to respond to Plaintiff's attempts to resolve the matter in good faith.

Based on the record and arguments presented at the hearing, the Court concludes that Defendants have abused the judicial process and engaged in a pattern of frivolous litigation aimed at stalling the foreclosure instead of the rightful administration of contested issues before the Court. The Court also finds that Defendants have been given ample opportunity to withdraw their frivolous filings and avoid the entry of this Order by the Court, but have refused or declined to do so despite notice that such filings could result in sanctions. As a result, the Court finds this gatekeeper order is reasonable, necessary, and appropriately tailored to address Defendants' conduct. The Court further finds it has the authority to enter this gatekeeper order under Rule 11, SCRCP, the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. § 15-36-10 through -100 ("FCPSA"), and its inherent authority.

#### **Conclusions of Law<sup>6</sup>**

"[A] court of equity may properly intervene to prevent continued and vexatious litigation[.]" *Ramantanin v. Poulos*, 240 S.C. 13, 25, 124 S.E.2d 611, 617 (1962). The State's courts have a history of issuing such pre-filing injunctions. See *Holmes v. E. Cooper Cmty. Hosp., Inc.*, 408 S.C. 138, 165 n.18, 758 S.E.2d 483, 498 n.18 (2014). Rule 11 and the FCPSA anticipate them as well. *Ex parte Bon Secours-St. Francis Xavier Hosp., Inc.*, 393 S.C. 590, 598, 713 S.E.2d 624, 628 (2011) (authorizing trial courts to issue under Rule 11 "a directive of a nonmonetary

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514, 532 S.E.2d 6, 9 (Ct. App. 2000) (requiring notice and an opportunity to respond to any motion for sanctions under Rule 11, SCRCP).

<sup>6</sup> Any conclusions of law that are findings of fact shall be so regarded, and vice-versa.

nature designed to deter the party or the party's attorney from bringing any future action in bad faith."); S.C. Code Ann. § 15-36-10 (authorizing sanctions that include "a directive of a nonmonetary nature, including injunctive relief, designed to deter a future frivolous action or an action in bad faith."). A trial court "has inherent power to do all things reasonably necessary to the administration of justice in the case before it," *State-Rec.*, 332 S.C. at 349, 504 S.E.2d at 593 (1998), including those necessary "to punish for offenses that are calculated to obstruct, degrade, and undermine the administration of justice." *Miller v. Miller*, 375 S.C. 443, 455, 652 S.E.2d 754, 760 (Ct. App. 2007) (quoting *Brandt v. Gooding*, 368 S.C. 618, 628, 630 S.E.2d 259, 264 (2006)).

"[B]ecause many of the terms used in the [FCPSA] also appear in Federal Rule 11, the South Carolina courts may look to decisions interpreting the Federal Rule to determine what constitutes a proper purpose and good faith with respect to potential liability of attorneys under the [FCPSA]." *Father v. S.C. Dep't of Soc. Servs.*, 345 S.C. 57, 72 n.34, 545 S.E.2d 523, 531 n.34 (Ct. App. 2001) (quoting Susan Taylor Wall & Joseph R. Weston, *An Analysis of Current Theories of Liability*, 45 S.C. L.Rev. 857, 871 (1994)), *aff'd*, 353 S.C. 254, 578 S.E.2d 11 (2003). The Fourth Circuit uses a four prong test for deciding when a gatekeeper order is warranted: (1) the party's history of litigation, in particular whether he has filed vexatious, harassing, or duplicative lawsuits; (2) whether the party had a good-faith basis for pursuing the litigation, or simply intended to harass; (3) the extent of the burden on the courts and other parties resulting from the party's filings; and (4) the adequacy of alternative sanctions. *Cromer v. Kraft Foods N. Am., Inc.*, 390 F.3d 812, 818 (4th Cir. 2004).<sup>7</sup> Pre-filing injunctions are appropriate where a litigant repeatedly

---

<sup>7</sup> Other states have adopted the *Cromer* test. *Barrington v. Dyer*, 282 N.C. App. 404, 409, 872 S.E.2d 88, 93 (N.C. Ct. App. 2022) (affirming trial court's gatekeeper order under *Cromer* standard). Thus, the Court concludes it is the proper test to be applied here.

sues "everyone that did anything even remotely connected to a foreclosure." *Scott v. U.S. Bank, N.A.*, No. 2:09-cv-516, 2011 WL 10618730, at \*1 (E.D. Va. Oct. 14, 2011).

The *Cromer* elements are met here. *First*, Defendants have a history of *pro se* filings in state and federal court. Given the duplicative claims and arguments they have raised, Defendants have a history of "vexatious, harassing, or duplicative lawsuits" establishing the first prong. This is especially true given that other courts have previously considered and rejected Defendants' foreclosure challenges. *Second*, Defendants have presented no good-faith basis for accusing DBNT and well-respected members of the South Carolina Bar of fraud, ethical violations, and even starting "a war against South Carolina. [sic] constitution," and claiming they "will be jailed." (Mot. Temp. Inj. at 7, ¶ 11.) *Kalos v. Centennial Sur. Assocs.*, No. CCB-12-1532, 2012 WL 6210117, at \*6 (D. Md. Dec. 12, 2012) (considering litigants' decision to sue counsel connected to previous litigation in granting pre-filing injunction). Such claims can be intended only to harass those parties and stall the foreclosure. *Third*, Defendants repeated frivolous filings have placed a burden on Plaintiff and its counsel, as well as the now nine judges across four courts who have been called to respond to Defendants' claims. Further, Defendants have been put on notice by a federal judge that their claims were frivolous. *Id.* (considering prior warnings that claims were frivolous when granting gatekeeper order).

*Fourth*, monetary sanctions cannot address Defendants' repeated abuses of the court system and the waste of time their filings have caused. Defendants' involvement in foreclosure proceedings suggest they may not have liquid assets available to satisfy monetary sanctions. Defendants' repeated filings seek only to stall Plaintiff's ability to sell the Property at foreclosure and secure the equitable relief this Court has already determined it is entitled to. A sanction short of prohibiting Defendants from presenting frivolous filings would be inadequate.

As a result, the Court finds and concludes that the gatekeeper order Plaintiff seeks is both appropriate and narrowly tailored to permit Plaintiff to exercise its remedies under the mortgage.

### Order

Therefore, it is **ORDERED** that:

1. Defendants are **PROHIBITED** from filing, presenting, or serving additional documents, papers, or pleading related to the Property, Plaintiff, SLS, and/or this foreclosure until the Property can be sold and the foreclosure proceedings completed unless (i) Defendants secure leave of the undersigned to present the document to the Clerk of Court, or (ii) the filing is signed by a member of the South Carolina Bar in good standing. This order is not meant to prohibit Defendants from resorting to the judicial branch to redress the claims, but is necessary to prevent additional frivolous proceedings from being initiated by Defendants. *Defendants are cautioned that a failure to comply with the provisions of this order is punishable by contempt of Court.*

2. The Clerk of Court is **ORDERED** that it may *not* accept for filing any document, paper, or pleading from Defendants in this foreclosure unless it is accompanied by a separate Order from the undersigned permitting the filing or unless it is signed by a member of the South Carolina Bar in good standing. Plaintiff's counsel is **ORDERED** to provide a copy of this order to the Clerk of Court, specifically directing her and her deputies' attention to this provision of the Order.

3. To remedy Defendants' frivolous pleadings aimed at delaying this matter and ensure this foreclosure proceeds towards a timely resolution, it is **ORDERED** that Plaintiff shall file a motion to refer this matter to a special referee in this matter given the recusal of the Richland County Master in Equity. Upon the filing of such motion, the Richland County Clerk of Court refer this matter to another appropriate special referee for the resolution of all remaining issues and judgments necessary in this action. *See* Rule 53, SCRPC. Upon the entry of the order of



reference, the special referee shall be further empowered to enforce, modify, or amend the terms of this gatekeeper order as he or she deems appropriate to remedy the frivolous litigation in which Defendants have engaged to date.

4. Plaintiff's counsel is **ORDERED** to serve a copy of this order on Defendants by regular mail and to file a certificate of service, in accordance with Rule 5, SCRPC.

**IT IS SO ORDERED.**

[Court's electronic signature page to follow.]



Richland Common Pleas

**Case Caption:** Deutsche Bank National Trust Company , plaintiff, et al vs Christopher Nelums , defendant, et al  
**Case Number:** 2017CP4001687  
**Type:** Order/Sanctions

So Ordered

s/ Kristi F. Curtis, Circuit Court Judge, No. 2762



\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*  
NOTICE OF ELECTRONIC FILING [NEF]

**A filing has been submitted to the court RE:** 2017CP4001687

**Official File Stamp:** 10-31-2023 04:17:58 PM  
**Court:** CIRCUIT COURT  
Common Pleas  
Richland  
**Case Caption:** Deutsche Bank National Trust Company , plaintiff, et al vs Christopher Nelums , defendant, et al  
**Document(s) Submitted:** Order on Plaintiff's Motion for Sanctions and Gatekeeper Or Order on Plaintiff's Motion for Sanctions and Gatekeeper Order  
**Filed by or on behalf of:** Kristi F. Curtis

This notice was automatically generated by the Court's auto-notification system.

**The following people were served electronically:**

Matthew A. Abee for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset  
Madison Caroline Guyton for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset  
Vance L. Brabham, III for Deutsche Bank National Trust Company  
Adrienne LaVonne Turner for Christopher Nelums  
Jordan Daniel Beumer for Deutsche Bank National Trust Company  
Tasha B. Thompson for Deutsche Bank National Trust Company  
Henry Guyton Murrell for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset  
William Price Stork for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset  
Reginald Patrick Corley for Deutsche Bank National Trust Company, Home Equity Mortgage Loan Asset  
Jessica S. Corley for Deutsche Bank National Trust Company

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Ntc/Non Party  
Janet L Nelums for Janet L Nelums  
Christopher Nelums for Christopher Nelums  
Robert A Bernstein for Best Distributing Company  
Imperial Warehouse Finance Inc  
Janet L Nelums for Janet L Nelums  
Christopher Nelums for Christopher Nelums  
Janet Nelums

## **Appendix 4**

(Foreclosure Order and Judgment)

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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

PLAINTIFF,

VS.

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

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

CASE NO. 2017-CP-40-01687

SPECIAL REFEREE'S ORDER GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AND ORDER AND JUDGMENT OF FORECLOSURE AND SALE

DEFICIENCY DEMANDED AGAINST JANET L. NELUMS

(151091.00064RCO)

TO: Scott and Corley, P.A.  
Attorneys for Plaintiff  
2712 Middleburg Drive, Suite 200  
Columbia, SC 29204  
(803) 252-3340

Adrienne L. Turner, Esquire (Attorney for Janet L. Nelums)  
P.O. Box 210638  
Columbia, SC 29221

Adrienne L. Turner, Esquire (Attorney for Christopher Nelums)  
P.O. Box 210638  
Columbia, SC 29221

Robert A. Bernstein, Esq. (Attorney for Best Distributing Company)  
PO Box 20519  
Charleston, SC 29413

Imperial Warehouse Finance, Inc.  
1910 Pacific Ave., Ste. 13050  
Dallas, TX 75201

Pursuant to Circuit Court Rule 53(b) of the South Carolina Rules of Civil Procedure, the above-entitled matter was referred to the undersigned to make appropriate findings of facts and conclusions of law with authority to enter a final judgment in the cause.

Pursuant to the said Order of Reference, a hearing was held by this Court. The hearing was conducted in full compliance with Supreme Court Order 2020-04-22-01 (*RE: Operation of the Trial Courts During the Coronavirus Emergency*), as amended. At the hearing, evidence was presented and from the documents and records received into evidence by this Court, I find, conclude and order as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this action and the parties hereto and it is the proper forum for the adjudication of this matter.

2. The Court has determined that Plaintiff has complied with the Administrative Order of the Supreme Court dated May 2, 2011 (2011-05-02-01) and the Administrative Order of the Supreme Court dated May 22, 2009 (2009-05-22-01). The Court has further determined that Plaintiff has fully complied with the Administrative Orders of the Supreme Court dated April 30, 2020 (2020-04-30-02) and May 6, 2020 (2020-05-06-01).

3. The Lis Pendens, Summons, and Complaint (and any amendments thereto or joinders thereto) as well as service affidavits for all defendants have been filed with the Clerk of Court for this county.

4. This action was originally commenced with the filing of Lis Pendens, Summons and Complaint on June 6, 2013 as Case No. 2013-CP-40-03334. The Defendants Christopher and Janet L. Nelums filed an Answer with Counterclaims on July 1, 2013. Plaintiff filed a Reply to Answer and Counterclaims on August 7, 2013. An Order of Reference referring the case to the Master-in-Equity for Richland County was filed February 18, 2014. An Order of Recusal was filed by the Richland County Master-in-Equity on November 13, 2014. The case was removed from the active trial docket by Consent Order filed November 13, 2015. The case was restored to the active docket by Consent Order filed March 22, 2017 and assigned the current Case Number 2017-CP-40-01687. The order also referred the matter to Jeffrey M. Tzerman as Special Referee.

5. The Defendant Imperial Warehouse Finance, Inc. is in default as shown by the Certificate filed herein. The Defendant Best Distributing Company filed an Answer on June 24, 2013. By Order filed July 16, 2015, Plaintiff was granted Judgment on the Pleadings as to the counterclaims of Defendants Christopher and Janet Nelums in their entirety and said counterclaims were dismissed with prejudice. The Defendants Christopher Nelums and Janet Nelums filed a Second Amended Answer and Counterclaim filed on May 28, 2021. The Defendants did not seek leave of court to file the amended pleading as required by the South Carolina Rules of Civil Procedure and Plaintiff's counsel objected to




the amended pleading at the hearing. The court finds that the amended pleading was not filed in accordance with the court rules and Plaintiff's motion to strike the amended pleading is granted.

6. All of the above-named Defendants and/or all attorneys of record were notified of the time, date, and place of the hearing of this matter. Defendant Christopher Nelums appeared at the hearing and stated that the Defendant Janet Nelums and Attorney Adrienne Turner would not be appearing. Defendant Christopher Nelums further stated that their attorney Adrienne Turner had been relieved as counsel in this matter. This court finds that no motion seeking withdrawal as counsel was provided to or served upon the Special Referee prior to hearing and this court has not issued any order relieving Defendants' counsel. The record confirms proper notice of hearing was provided to all parties and specifically to Defendants' counsel of record.

7. According to the affidavit(s) and certifications filed herein, any Defendant who is in default has been reviewed for his/her eligibility under The Servicemembers' Civil Relief Act of 2003 ("SCRA") and any amendments thereto and this review does not indicate any Defendant is eligible for such protections.

8. No Defendant raised any credible issues related to Plaintiff's standing to prosecute this action, and Plaintiff is the real party in interest as contemplated by Rule 17(a), SCRCP. The Court finds that any issues related to Plaintiff's standing or ability to prosecute this action not previously raised are waived. Unless specifically denied by an answering Defendant, all allegations in the Complaint of Plaintiff are deemed admitted in full. The court notes that the issue of Plaintiff's standing was previously adjudicated in an adversarial proceeding in the United States Bankruptcy Court with Plaintiff being granted summary judgment on the issue and this court has taken judicial notice of the Order filed March 17, 2020 in United States Bankruptcy Court Adversarial Proceeding No. 19-80032-jw. The court further notes that Plaintiff is in physical possession of the original promissory note and Plaintiff's counsel presented the original promissory note to the court at hearing.

9. Plaintiff filed a Motion for Summary Judgment on November 13, 2017 with supporting affidavits and memorandum of law. A hearing on the motion was scheduled for March 12, 2018 but continued, with the court requesting further documentation from the Plaintiff as to the payments alleged by Defendants Christopher and Janet Nelums to have been paid on the account during and subsequent to a prior bankruptcy matter but allegedly not properly credited to the account. Plaintiff also reviewed the account for loss mitigation, but the parties were unable to reach an agreement to resolve the arrearage. Plaintiff's counsel submitted a detailed statement to the court by letter dated October 19, 2018 confirming that all the payments referenced by Defendants Christopher and Janet Nelums had been properly credited to the account and providing supporting documentation, including an itemized payment history and



relevant documents from the Defendants' 2008 Bankruptcy Case Mo. 08-01310-dd. The case was rescheduled for hearing to be held on November 21, 2018. The case was stayed pursuant to a Chapter 13 Bankruptcy Petition filed by Defendant Janet Nelums on November 19, 2018 as Case No. 18-05885-jw and an Order Removing Case from Active Docket was filed on November 29, 2018. The 2018 Bankruptcy case was dismissed by Order filed April 21, 2020. The court notes that Defendant Janet Nelums also filed an adversarial proceeding as Bankruptcy Case No. 19-80032-jw and the United States Bankruptcy Court ruled in favor of Plaintiff herein on cross-motions for summary judgment in that matter pursuant to Order filed March 17, 2020. The case was restored to the active roster by order filed February 22, 2021.

10. A second hearing on Plaintiff's Motion for Summary Judgment was held on June 4, 2021. A motion for summary judgment is appropriate only when it is clear there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Shumpert v. Time Insurance Co.*, 328 S.C. 574, 493 S.E.2d 111 (Ct. App. 1997). In ruling on a motion for summary judgment, the trial court must view the evidence and all inferences which can be reasonably drawn therefrom in the light most favorable to the non-moving party. *Id.* Under Rule 56(c), the party seeking summary judgment has the initial burden of demonstrating the absence of a genuine issue of material fact. Once the moving party meets its initial burden, the non-moving party may not rest on mere allegations or denials in the pleadings; rather the non-moving party must come forward with specific facts showing there is a genuine issue for trial. *Boone v. Sunbelt Newspapers, Inc.* 347 S.C. 571, 556 S.E. 2d 732 (Ct. App. 2001). The counterclaims alleged by Defendants Christopher and Janet Nelums in their Answer were adjudicated and dismissed with prejudice by Order filed July 16, 2015. At the previous hearing herein, Defendants disputed whether full credit had been given for all payments submitted. Plaintiff's counsel previously submitted the Trustee's Report on Distributions from the previous Chapter 13 Bankruptcy and an itemized payment history, which confirmed that all payments questioned by defendants had been properly credited to the account. Plaintiff also submitted the Trustee's Report showing that no payments were made by the Defendants Christopher and Janet Nelums during their most recent Bankruptcy case. Plaintiff's counsel further confirmed that the Defendants Christopher and Janet Nelums had been reviewed for loss mitigation but had declined a proposed loan modification. In support of the motion, Plaintiff has filed an updated Affidavit of Indebtedness which includes an itemization of the debt, itemized payment history and notice of breach. Plaintiff also submitted relevant documents from the most recent Chapter 13 Bankruptcy by Janet Nelums, including the PACER summary of the case, the Proof of Claim submitted for this mortgage debt, the Trustee's Report showing no disbursements on the claim and the Order Dismissing the Bankruptcy Case. The records from the recent bankruptcy cases show that Defendant

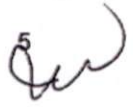
Janet Nelums objected to the proof of claim for the mortgage debt and the matter was litigated in an Adversarial Proceeding conducted by the United States Bankruptcy Court. By Order filed March 17, 2020, the United States Bankruptcy Court approved the proof of claim. This court further notes that the order from the Adversarial Proceeding fully adjudicated the issues that Defendants seek to raise again in their latest amended pleading filed by defendants without leave of court. One of the primary contentions by the Defendants is that Plaintiff is not the real party in interest and/or is not the holder in due course of the mortgage debt. The Order from the Adversarial Proceeding made a specific finding that Plaintiff was in physical possession of the original promissory note, which was presented for inspection during those proceedings, and that the mortgage was properly assigned to Plaintiff pursuant to the chain of assignments filed in the public record. Defendant Christopher Nelums admitted that he was present during and participated in the adversarial proceeding. Plaintiff's counsel also presented the original promissory note to the court in this proceeding, thereby providing it standing to demand payment thereon under the applicable statutory and caselaw of South Carolina. This court cannot make a finding contrary to the previous adjudication by the United States Bankruptcy Court on the identical issues. Additionally, the evidence presented clearly establishes that the Plaintiff is the holder in due course of the note and mortgage, that the mortgage loan is in default and Plaintiff is entitled to foreclose on the account. The court finds that Plaintiff has met the requisite burden of proof and is entitled to an Order granting summary judgment as to the foreclosure cause of action.

11. For value received, Janet L. Nelums made, executed and delivered an Adjustable Rate Note dated August 6, 2002, promising thereby to pay to the order of IndyMac Bank, F.S.B., a federally chartered savings bank the sum of \$112,000.00 with interest at the initial rate of 9.87500% per annum. Other terms and conditions are stated in the Note, which is of record herein.

12. To better secure the payment of the Note described above, the said Christopher Nelums and Janet L. Nelums, made, executed and delivered to IndyMac Bank, F.S.B., a federally chartered savings bank, a Mortgage in writing, dated August 6, 2002, covering real property in Richland County, which is the same as that described in the Complaint or Amended Complaint. The Mortgage was filed on August 20, 2002 and is of record in the Office of the Clerk of Court/Register of Deeds for Richland County in Book 695 at Page 1050. The Mortgage evidences and secures the repayment of money advanced by the mortgagee to, or on behalf of, the mortgagor(s).

13. Thereafter, said Mortgage was assigned to Plaintiff by assignment instrument dated April 20, 2004 and recorded May 21, 2004 in Book 937 at Page 3357.

14. The note and mortgage were subsequently modified by an Agreement for Modification or Extension of a Mortgage dated April 8, 2003 and a second Loan Modification dated May 25, 2010 which

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were also entered into evidence as exhibits.

15. Pursuant to the South Carolina Lis Pendens Statute (S.C. Code Section 15-11-10, et. seq.) Counsel for Plaintiff has accomplished a Report on Title whereby Counsel for Plaintiff has, upon information and belief, named all parties who claim or may claim an interest in the subject property. This Court further finds that this Report on Title is a recoverable charge, expense, or cost as provided for in the Mortgage and/or Note contracts and the amount is found to be reasonable.

16. This Court therefore finds that this Mortgage constitutes a first lien on the mortgaged premises.

17. The Court finds that Plaintiff and its counsel have fully complied with all of their obligation(s) as required under the specific terms of the Note and Mortgage being foreclosed as well as all applicable Federal or State statutes or regulations, including, but not limited to, the furnishing of any notices, where applicable (e.g. post referral loss mitigation solicitation letter and/or acceleration warning letter, if or where applicable); the review of this Mortgage loan for compliance with the Home Affordability Modification Program (HMP), if applicable; and moreover and prior to the filing of this judicial proceeding, the Defendant(s) had not raised or have not established any compliance defenses or objections as to the servicing of any applicable banking or consumer laws by Plaintiff and/or its counsel.

18. According to the records of Plaintiff and its counsel, neither Plaintiff nor its counsel is aware of any party to this action currently being on active duty or recently discharged. The Notice of Hearing issued by Counsel for Plaintiff specifically requests any defendant eligible under the SCRA contact Plaintiff's counsel. The Court finds that Counsel for the Plaintiff shall be entitled to recover its charges from the Plaintiff for this Certification/Report to the Court as part of its professional duties in prosecuting this action.

19. According to the records of Plaintiff and its counsel, neither Plaintiff nor its counsel is aware of any party to this action currently being under the protection of the United States Bankruptcy Court. Any demand for a deficiency is not applicable if a party has received a discharge in bankruptcy during the life of the mortgage or is currently under the active protection of the bankruptcy courts. Moreover, any party to this action who is a discharged borrower to the debt of the Plaintiff shall not be subject to and is specifically excluded from both the calculation and collection of any amounts due and owing to the Plaintiff, as required by Rule 71(a) of the South Carolina Rules of Civil Procedure. The Court finds that Counsel for Plaintiff shall be entitled to recover its charges from Plaintiff for this Certification/Report to the Court as part of its professional duties in prosecuting this action and the Court finds such charges to be reasonable.

20. Payment due on the Note has not been made as provided for in the Note and Plaintiff has



elected to require immediate payment of the entire amount due thereon and has placed the Note and Mortgage in the hands of the attorney herein for collection.

21. With respect to attorney fees and in view of the potential financial liabilities and likely continuing professional obligations inherent in judicially prosecuting a real property mortgage credit matter, the attendant professional duties and responsibilities, and the size of the mortgage debt and consistent with similar case proceedings before this Honorable Court, I find that a reasonable attorney's fee in this matter would be \$11,052.50. This award is consistent with the laws of this state in the awarding of attorney fees. I have considered the six (6) factors (none of these factors is controlling in the singular) as follows: (1) the nature, extent and difficulty of the legal service rendered; (2) the time and labor necessarily devoted to the case; (3) the professional standing of counsel; (4) the contingency of compensation; (5) the fee customarily charged in the locality for similar legal services; and (6) the beneficial results obtained. *Taylor v. Medenica*, 331 S.C. 575, 503 S.E.2d 458 (1998); *Baron Data Systems v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (S.C. 1989), *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997). Pursuant to the language in the Note and Mortgage, this Court has specifically reviewed and satisfied itself with all six (6) factors, as well as the disclosed client billing by Plaintiff's counsel considered in awarding reasonable attorneys' fees and costs/expenses/charges in this matter as set forth herein in this paragraph as well as Paragraph 23. As itemized below, I find all of the itemized fees and costs/expenses/charges to be reasonable.

22. Although I have heretofore given consideration to all six (6) factors in the awarding of attorney fees and costs herein, jurisdiction over the fee award shall be reserved as granted in the Order of Reference with the right to re-visit the question of attorney fees should the action proceed in an unexpected way and/or to facilitate the assessment and payment of any such current or additional professional compensation.

23. The amount due and owing on the Note, with interest at the rate provided in the Note, including attorney's fee and allowable costs and charges allowable under and secured by the Note and Mortgage, is as follows:

(a) Principal due	\$128,124.03
(b) Interest Due from 07/01/2010 to 06/04/2021	\$82,234.24
(c) Escrow Adjustments	\$21,150.54
(d) Broker's Price Opinion/Appraisals	\$2,255.00
(e) Previous Bankruptcy Fees/Costs	\$29,370.40
(f) Property Inspections	\$0.80
(g) Paid Attorney's Costs	\$2,259.79

(h) Paid Attorney's Fees	\$8,537.50
(i) Attorney's fees (awarded herein, but unpaid)	\$2,515.00
<b>TOTAL DEBT secured by Note and Mortgage including interest to date shown</b>	<b>\$276,447.30</b>

Interest shall continue to accrue on the unpaid principal balance shown in (a) above, at the current rate of 5.875% from the date of hearing until entry of judgment, and such interest shall be added to the above stated "Total Debt": to comprise the amount of the judgment debt entered herein. Interest after the date of entry of judgment at the rate of 5.875% per annum (pursuant to the terms of the Note and Mortgage) shall accrue on the judgment debt and shall be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the Mortgage through the date of compliance with the terms of judicial sale. (Items (e) through (o) are subject to supplemental revision by Plaintiff's counsel and/or modification by the Court, with such items including but not limited to post-judgment escrow and corporate advances, and costs related to the publication and sale of the subject property.)

24. Based upon a search of the public records of the aforesaid county pursuant to the South Carolina Lis Pendens statute, all persons or entities having an interest or lien or possible claim in or upon the mortgaged premises subordinate to the lien of Plaintiff as of the date and time of the filing of the Lis Pendens herein have been made defendants.

25. Plaintiff is seeking the usual foreclosure of mortgage and has in the Complaint expressly demanded the right to a personal or deficiency judgment against Janet L. Nelums.

26. The Defendant(s) below named claim(s) or may claim a lien or interest upon or interest in the subject property:

(a) The Defendant, Imperial Warehouse Finance, Inc., by virtue of that certain mortgage from Janet Nelums and Christopher Nelums to Fidelity First Lending, Inc., d/b/a Valley Pine Mortgage, dated December 04, 2000, in the original amount of \$95,000.00, and recorded on December 11, 2000, in the Office of the Richland Clerk of Court/Register of Deeds in Book 465, at Page 1691. Thereafter, said mortgage was assigned to Southern Pacific Bank, a California Corporation by assignment instrument Dated December 4, 2000 and recorded February 12, 2001 in Book 482 at Page 2589; thereafter, said mortgage was assigned to Imperial Warehouse Finance, Inc. by assignment instrument dated May 1, 2001 and recorded May 14, 2001 in Book 517 at Page 2458. Thereafter, said mortgage was purportedly assigned to Mortgage Guarantee Collateral Acceptance by assignment instrument dated May 1, 2001 and recorded August 7, 2002 in Book 691 at Page 1760; however, said assignment instrument is invalid. The record reflects that the complaint alleged this mortgage had been paid but not satisfied or released of

*[Handwritten signature]*

record. The record further reflects that the pleadings were properly served upon the defendant, but no answer or responsive pleading was filed. Defendant Christopher Nelums also testified at hearing that this mortgage had been paid. The court hereby finds that this mortgage has been paid and should be satisfied or released of record.

27. The Defendants below-named claim or may claim a subordinate lien or junior interest upon or interest in the subject property, including but not limited to the subordinate lien or junior interests specifically described below, and in the event there is a surplus from the sale of the subject property, the validity, priority and amount of any such lien claim will be determined at a hearing subsequent to the sale, in accordance with the Circuit Court Rules 53 and/or 71. The subject Defendant(s) is/are further made a party due to the similarity in name(s) to the primary defendants against whom they claim or may claim a lien and in order to clear title to this property as follows:

(a) The Defendant, Best Distributing Company, by virtue of that certain judgment against Christopher Nelums, et al in the original amount of \$6,013.56, recorded on July 25, 2008, in the Office of the Richland Clerk of Court/Register of Deeds as Case No. 2008-CP-40-02647.

28. None of the named Defendant(s) has/have established any claims or defenses, legal or equitable, for relief against Plaintiff, and therefore, no relief, be it legal or equitable, shall be granted to any of the named Defendant(s). In addition, all persons and/or entities who may be or may have been entitled to claim through or under the title or interest of the named Defendant(s) in the subject property shall likewise be absolutely barred and forever foreclosed of any rights, titles, or interests.

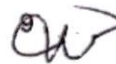
29. Plaintiff is granted leave to submit an Amended or Supplemental Affidavit of Attorney Fee and Costs for any additional fees and costs incurred in this matter but not included in order and/or subsequently occurred.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

1. Plaintiff has met the requirements of the Administrative Order of the South Carolina Supreme Court (2011-05-02-01) issued by Chief Justice Jean H. Toal, dated May 2, 2011, and also that Plaintiff has met the requirements of the Administrative Order of the South Carolina Supreme Court (2009-05-22-01) issued by Chief Justice Jean H. Toal, dated May 22, 2009. Furthermore, Plaintiff has fully met the requirements of the Administrative Orders of the South Carolina Supreme Court (2020-04-30-02) and (2020-05-06-01) issued by Chief Justice Donald W. Beatty, dated April 30, 2020, and dated May 6, 2020.

2. After review of the pleadings of the parties, the Plaintiff's motion for summary judgment



and attached exhibits, the documents and prior orders from the Bankruptcy cases and the arguments presented at hearing, I find that the Plaintiff has met its burden of establishing its right to foreclose upon the subject property. Further, I find that it submitted credible evidence as to the amount of the total debt owed on the property as of the date of its affidavit. Additionally, Defendants have failed to come forward with any specific facts showing there is a genuine issue for trial.

3. With the production of the Note, Mortgage, applicable Assignment(s), and Affidavit of Indebtedness and Affidavit of Attorney's fees Plaintiff has provided ample evidence that it is entitled to foreclosure in this matter and has properly established its damages due to the Defendant's breach of the terms and conditions of the Note and Mortgage. Furthermore, no Defendant has provided any evidence of any specific facts which would tend to show there is a genuine issue of material fact for trial. Therefore, Plaintiff's Motion for Summary Judgment should be granted and Plaintiff should have judgment of foreclosure of the Mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

4. All of the named Defendant(s) has/have not established any claims or defenses, legal or equitable, for relief against Plaintiff, and therefore, no relief, be it legal or equitable, shall be granted to any of the named Defendant(s). In addition, all persons who may be entitled to claim through or under the title or interest of the named Defendant(s) in the subject property shall likewise be absolutely barred and forever foreclosed.

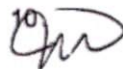
5. Plaintiff should have a personal or deficiency judgment against Janet L. Nelums.

6. The mortgage from Janet Nelums and Christopher Nelums to Fidelity First Lending, Inc., d/b/a Valley Pine Mortgage, dated December 04, 2000 and recorded on December 11, 2000, in the Office of the Richland Clerk of Court/Register of Deeds in Book 465, at Page 1691 and thereafter assigned to Southern Pacific Bank, a California Corporation by assignment instrument recorded February 12, 2001 in Book 482 at Page 2589 and thereafter assigned to Imperial Warehouse Finance, Inc. by assignment instrument dated May 1, 2001 and recorded May 14, 2001 in Book 517 at Page 2458 should be released as to the subject property.

Now, on motion or notice of Plaintiff's attorney,

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. Plaintiff has met the requirements of the Administrative Order of the South Carolina Supreme Court (2011-05-02-01) issued by Chief Justice Jean H. Toal, dated May 2, 2011, and also that Plaintiff has met the requirements of the Administrative Order of the South Carolina Supreme Court (2009-05-22-01) issued by Chief Justice Jean H. Toal, dated May 22, 2009. Furthermore, Plaintiff has fully met the requirements of the Administrative Orders of the South Carolina Supreme Court (2020-04-



30-02) and (2020-05-06-01) issued by Chief Justice Donald W. Beatty, dated April 30, 2020, and dated May 6, 2020.

2. Plaintiff's Motion for Summary Judgment is granted.

3. That there is due to Plaintiff on the obligation and mortgage as set forth in the Complaint or Amended Complaint the sum of \$276,447.30, 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.

4. The amount due in the preceding paragraph (the "total debt" as set forth in Paragraph hereinabove, and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff (may be supplemented as permitted by the Court) and shall bear interest hereafter at the rate of 5.875 percent per annum.

5. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint or Amended Complaint, as hereinafter set forth, be sold by this Court at public auction, after giving Notice of the time and place of such sale by advertisement according to law. Any sales date is tentative and may be rescheduled at any time prior to the sale without further order of this Court, provided notice of the new sales date is duly advertised as required by law. The sale shall be according to the following terms, that is to say:

(a) CERTIFIED FUNDS: The Special Referee will require a deposit of 5% on the amount of the bid (in certified funds or equivalent, said 5% deposit being due and payable immediately upon the closing of the bidding, same to be applied to the purchase price only upon compliance with the bid, but in case of non-compliance within 20 days same to be forfeited and applied to the costs and Plaintiff's debt.

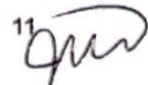
(b) Interest on the balance of the bid shall be paid to the day of compliance at the rate of 5.875 percent.

(c) The sale shall be subject to taxes and assessments, existing easements and restrictions of record and prior liens of record.

(d) This Mortgage constitutes a first lien covering the real estate and improvements therein described, if applicable, any mobile/manufactured home located thereon.

(e) Purchaser to pay for deed stamps/transfer taxes and costs of recording the satisfaction of mortgage by foreclosure and the deed, with Plaintiff to pay the Statutory allowed fee to the preparer of said deed (be it this Court or Counsel for Plaintiff).

6. If Plaintiff be the successful bidder at said sale, for a sum not exceeding the amount of costs, expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the Court only the amount of

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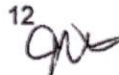
the outstanding costs and expenses crediting the balance of the bid on Plaintiff's indebtedness.

7. Personal or deficiency judgment being demanded, the bidding will remain open for a period of thirty (30) days after the sale date. Plaintiff may waive its right to a deficiency judgment prior to sale, in which case the bidding will not remain open after the date of sale, but compliance with the bid may be made immediately.

8. This Court will by advertisement according to law, give notice of the time and place of such sale, and the terms thereof. Any sales date is tentative and may be rescheduled at any time prior to the sale without further order of this court, provided notice of the new sales date is duly advertised as required by law. This Court will execute to the purchaser, or purchasers, a deed to the premises sold. 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 20 days after the date of sale, then this Court 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. In the event Plaintiff is the successful bidder, at its option, or the option of its assignee, the deed may be taken subject to payment by grantee of any taxes or assessments constituting a lien against the property sold under this order and hereinafter more fully described. All bidders are hereby and herein noticed that in the event the successful bidder is a third party, neither Plaintiff nor Plaintiff's counsel make any warranties or representations of any kind as to the subject property, including but not limited to its title or habitability on behalf of the third-party bidder or any subsequent purchasers.

9. That, in addition to all notices to the property owner(s) which are required by the South Carolina Rules of Civil Procedure or other law, in a case involving property owner's SCRCR Rule 55 default, or in any other case or circumstance where property owner(s) would not ordinarily receive a copy of the Order of Foreclosure and/or the Notice of Sale, the party seeking foreclosure (Foreclosing Party) shall, within five (5) days of the execution of this Order cause this Order and the Notice of Sale (if available) to be served by US Mail upon said property owner(s). A Certificate of Service, pursuant to Rule 5, SCRCR, shall be filed with the Clerk of Court expeditiously. In cases where the Notice of Sale is executed later in time than the Order, service shall be accomplished separately, and shall be sent no later than five (5) days from receipt by the Foreclosing Party.

10. The sale will not be held unless either Plaintiff's attorney or Plaintiff's bidding agent is present at the sale and either Plaintiff's attorney or Plaintiff's bidding agent enters the authorized bid of Plaintiff for this individually captioned matter. In the alternative, Plaintiff's counsel, if permitted by the Court, may advise this Court directly of its authorized bidding instructions. In the event a sale is inadvertently held without Plaintiff's Counsel or Counsel's bidding agent entering the authorized bid of

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Plaintiff for this specifically captioned matter, the sale shall be null and void and the property shall be re-advertised for sale on the next available sale date.

11. In the event of a third party bidder wherein the successful third party bidder fails to deliver the required deposit in certified (immediately collectible) funds to this Court by close of bidding on the day of the sale, this Court will re-sell the subject property at the most convenient time thereafter (including the day of sale) upon notification to counsel for Plaintiff.

12. That this Court shall apply the proceeds of the sale as follows:

FIRST: To the payment of the amount of the permitted costs, charges, and expenses of this action, including any Guardian ad Litem or SCRA Attorney Fee or fees of any attorneys appointed by motion of Plaintiff's Counsel and under Order of the Court;

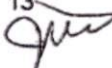
NEXT: To the payment to Plaintiff or Plaintiff's attorney, of the amount of Plaintiff's debt and interest or so much thereof as the purchase money will pay on the same; and Plaintiff's attorney shall receive and disburse such funds only in total and absolute compliance with the debt, interest, escrow, and related calculations of this Court including the Court's award for attorney fees, court permitted charges and taxable costs pursuant to Rules 54 and 71, South Carolina Rules of Civil Procedure;

NEXT: Any surplus will be held pending further order of the Court as provided for in the South Carolina Rules of Civil Procedure and particularly Rule 71(c) of the South Carolina Rules of Civil Procedure.

13. It is further ORDERED, that if the successful bidder is other than the person(s) or entity in possession herein, the Sheriff of this County is ordered and directed to evict and remove from the premises the occupants of the property sold, together with all personal property located thereon, and put the successful bidder 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.

14. And it is further ORDERED, ADJUDGED AND DECREED that none of the named Defendant(s) has/have established any claims or defenses, legal or equitable, for relief against Plaintiff, and therefore, no relief, be it legal or equitable, shall be granted to any of the named Defendant(s). In addition, all persons and/or entities who may be or may have been entitled to claim through or under the title or interest of the named Defendant(s) in the subject property shall likewise be absolutely barred and forever foreclosed of any rights, titles, or interests.

15. 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 the filing of the notice of

13  


pendency of the within action, and the name of the grantee, and the applicable recorder of deeds is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said deed.

16. This Court will retain exclusive jurisdiction to do all necessary acts incident to this foreclosure, including, but not limited to, all matters post-sale which may affect the transfer of the title to the subject real property and all improvements thereon, as well, the issuance of a Writ of Assistance.

17. Upon issuance of this Court's Report on Sale and Disbursements, the Clerk of Court/Register of Deeds is directed to release of record the mortgage lien being foreclosed, which mortgage lien is described as follows:

Mortgage from Christopher Nelums and Janet L. Nelums to IndyMac Bank, F.S.B., a federally chartered savings bank, dated August 6, 2002, covering real property in Richland County, filed on August 20, 2002, and is of record in the Office of the Clerk of Court/Register of Deeds for Richland County in 695, at Page 1050.

18. This sale is specifically subject to all title matters of record, including but not limited to any other senior lien or encumbrance, and any interested party should consider performing an independent title examination of the subject property as no warranty is given at all by the Court, Plaintiff or its Counsel.

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

All that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being about seven (7) miles North of the City of Columbia, County of Richland, State of South Carolina, being shown and delineated as Lots 16 and 17, Block G, Section II, Highland Forest Subdivision, as more fully shown and delineated on a plat of Highland Forest Subdivision (Section II) by McMillan Engineering Company dated July 17, 1972, last revised on September 24, 1973, and recorded in the Office of the Clerk of Court for Richland County in Plat Book X at Page 2809.

Lot 16:

This being the same property conveyed unto Christopher Nelums and Janet L. Nelums by virtue of a Deed from Marshalene Mae Frady, James Randolph Swindler, Marguerite Rebecca Spears, Nancy W. Swindler and Jane Gill, (Personal Representatives of the Estate of Timothy M. Swindler Estate) and Jane Gill and Ray P. Turner, individually, dated May 18, 1999 and recorded May 21, 1999 in Book 308 at Page 2191 in the Office of the Register of Deeds of Richland County, South Carolina.

Lot 17:

This being the same property conveyed unto Christopher Nelums and Janet L. Nelums by virtue of a Deed from Marshalene Mae Frady, James Randolph Swindler, Marguerite Rebecca Spears, Nancy W. Swindler and Jane Gill, (Personal Representatives of the Estate of Timothy M. Swindler Estate), and Jane Gill and Ray P. Turner, individually, dated December 9, 2000 and

recorded December 11, 2000 in Book 465 at Page 1703 in the Office of the Register of Deeds of Richland County, South Carolina.

TMS No. 11916-2-16

Property address: 813 N Highland Forest Drive  
Columbia, SC 29203

20. IT IS FURTHER ORDERED that if Plaintiff or 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 as ordered by this court.

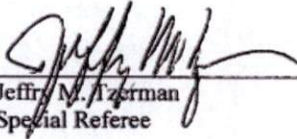
21. IT IS FURTHER ORDERED that no Defendant raised any credible issues related to Plaintiff's standing to prosecute this action. Therefore, any issues related to Plaintiff's standing or ability to prosecute this action are waived.

22. All of the named Defendant(s) has/have not established any claims or defenses, legal or equitable, for relief against Plaintiff, and therefore, no relief, be it legal or equitable, shall be granted to any of the named Defendant(s). In addition, all persons who may be entitled to claim through or under the title or interest of the named Defendant(s) in the subject property shall likewise be absolutely barred and forever foreclosed.

23. IT IS ORDERED that Plaintiff is entitled to a personal or deficiency judgment against Janet L. Nelums.

24. The mortgage from Janet Nelums and Christopher Nelums to Fidelity First Lending, Inc., d/b/a Valley Pine Mortgage, dated December 04, 2000 and recorded on December 11, 2000, in the Office of the Richland Clerk of Court/Register of Deeds in Book 465, at Page 1691 and thereafter assigned to Southern Pacific Bank, a California Corporation by assignment instrument recorded February 12, 2001 in Book 482 at Page 2589 and thereafter assigned to Imperial Warehouse Finance, Inc. by assignment instrument dated May 1, 2001 and recorded May 14, 2001 in Book 517 at Page 2458 is hereby released as to the subject property.

**AND IT IS SO ORDERED.**

  
Jeffrey M. Zerman  
Special Referee

Camden, South Carolina  
June 29, 2021

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS**

**FORM 4  
JUDGMENT IN A CIVIL CASE**

**CASE NO. 2017-CP-40-01687**

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

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

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: Scott and Corley, P.A.	Attorney for : <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
--------------------------------------	--

**DISPOSITION TYPE (CHECK ONE)**

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED FOR BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

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

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

**ORDER INFORMATION**

This order  ends  does not end the case.  
Additional Information for the Clerk :

The property which is the subject of this action shall be sold at public sale pursuant to the Master in Equity's Report and Judgment of Foreclosure and Sale.

<b>INFORMATION FOR THE JUDGMENT INDEX</b>		
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)
N/A		
If applicable, describe the property, including tax map information and address, referenced in the order: TMS No. 11916-2-16 Property address: 813 N Highland Forest Drive, Columbia, SC 29203		

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.**

Jeffrey M. Tzerman ~~Master in Equity~~ Special Referee Judge Code \_\_\_\_\_ Date 6/15/21

**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:

Scott and Corley, P.A.  
P.O. Box 2065  
Columbia, SC 29204

Adrienne L. Turner, Esquire (Attorney for Janet L. Nelums)  
P.O. Box 210638  
Columbia, SC 29221

Adrienne L. Turner, Esquire (Attorney for Christopher Nelums)  
P.O. Box 210638  
Columbia, SC 29221

Robert A. Bernstein, Esq. (Attorney for Best Distributing Company)  
PO Box 20519  
Charleston, SC 29413

Imperial Warehouse Finance, Inc.  
1910 Pacific Ave., Ste. 13050  
Suite 525  
Dallas, TX 75201

Attorney for Plaintiff

Attorney for 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 judgment to parties who are not E-Filers 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 hear and a decision rendered.

\_\_\_\_\_  
\_\_\_\_\_  
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**Appendix 5**  
(Appeal Bond Order)

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

CASE NO. 2017-CP-40-01687

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

ORDER SETTING APPEAL BOND

PLAINTIFF,

VS.

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

DEFENDANT(S).

(151091.00064RCO)

This is a foreclosure action as to certain property located in Richland County. At the hearing held on June 4, 2021, the Defendant Christopher Nelums stated his intention to appeal the Order Granting Summary Judgment and Order and Judgment of Foreclosure and Sale. Therefore, this order is for the purpose of setting an appeal bond should the defendants seek to stay the foreclosure sale during the pendency of any appeal.

Pursuant to § 18-9-170 S.C. Code of Laws, a judgment providing for the sale or delivery of real property shall not be stayed on appeal unless a written undertaking is executed on the part of appellant, with two sureties, to the effect that during the possession of such property by the appellant he will not commit or suffer to be committed any waste thereon and that if the judgment be affirmed he will pay the value of the use and occupation of the property from the time of the execution of the undertaking until 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. The statute further provides that when the judgment directs the sale of land to satisfy a mortgage thereon, the undertaking shall provide in case the judgment appealed from be affirmed and the land sold for less than the judgment debt and costs thereon 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 sums shall be duly entered as a payment on the judgment.

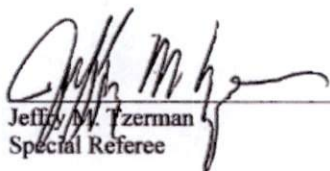
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After careful consideration of the factors set forth in the statute, the Court finds the Defendant(s) shall post an appeal bond of not less than One Hundred Fifty Thousand and 00/100ths (\$150,000.00) Dollars to stay the foreclosure sale;

The court further finds that the issuers of such appeal bond must be properly licensed issuers of such bonds and have a security license to issue such bonds within the State of South Carolina;

The court further finds that any appeal bond issued in this matter must comply with the requirements of § 18-9-170, S.C. Code of Laws.

**AND IT IS SO ORDERED.**

  
Jeffrey M. Zerman  
Special Referee

Camden, South Carolina  
June 29, 2021

#2

**Appendix 6**  
(Report on Sale)

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF RICHLAND ) IN THE COURT OF COMMON PLEAS  
 ) JUDGMENT NO. 2017CP4001687

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

Plaintiff, )

vs. )

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

Defendants. )

**SPECIAL REFEREE'S REPORT  
ON SALE, ORDER OF  
CONFIRMATION, AND ORDER  
FOR DEFICIENCY JUDGMENT  
(Non-Jury Foreclosure)**

1. On June 29, 2021, the Honorable Jeffrey M. Tzerman as Special Referee in the above-captioned foreclosure action issued his Special Referee's Order Granting Plaintiff's Motion for Summary Judgment and Order and Judgment of Foreclosure and Sale. On the same date, the Special Referee issued an Order Setting Appeal Bond. Both the Judgment and the Order were filed on July 1, 2021, with the Richland County Clerk of Court.

2. No appeal was filed to the Judgment.

3. By Order filed November 16, 2022, Judge Tzerman recused himself as Special Referee in the case.

4. On October 31, 2023, the Honorable Kristi F. Curtis as Circuit Court Judge issued her Order on Plaintiff's Motion for Sanctions and Gatekeeper Order for the reasons stated therein. In the Order, the Defendants Janet L. Nelums and Christopher Nelums were specifically

"...prohibited from filing, presenting, or serving additional documents, papers, or pleading related to the Property, Plaintiff, SLS, and/or this foreclosure until the Property can be sold, and the foreclosure proceedings completed unless (i) Defendants secure leave of the undersigned to present the document to the Clerk of Court, or (ii) the filing is signed by a member of the South Carolina Bar in good standing."

*Draw  
Page 1*

-2-

5. Pursuant to additional terms of Judge Curtis's Order, the Richland County Clerk of Court on January 9, 2024, issued her Order appointing the undersigned as Special Referee to conduct a foreclosure sale and to issue related post-sale documents.

6. On February 20, 2024, the undersigned issued his Notice of Special Referee's Sale scheduling the foreclosure sale for April 1, 2024.

7. On March 25, 2024, the Defendants Janet L. Nelums and Christopher Nelums filed with the Richland County Clerk of Court documents which were not signed by a licensed South Carolina attorney and were not authorized by Order of Judge Curtis. On the Motion Coversheet, the Defendants checked the box indicating "No Hearing Requested." The coversheet also has the following note: "Filer was aware of order dated 10-31-2023 and still requested his 3 motions be filed."

8. On April 28, 2024, the Nelums sent the undersigned an email with documents attached. Again, this submission was without the authority of Judge Curtis and without the signature of a licensed South Carolina attorney.

9. To the extent that the filing of March 25, 2024, and the email of April 28, 2024, constitute motions, the relief is denied as being a submission in violation of the October 31, 2023, Order of Judge Curtis.

10. Pursuant to the Judgment of Foreclosure and Sale by the Honorable Jeffrey M. Tzerman dated June 29, 2021, and filed with the Clerk of Court on July 1, 2021, and after due legal advertisement and publication according to law, on April 1, 2024, the undersigned as Special Referee conducted an auction of the property therein described and received from the Plaintiff Deutsche Bank National Trust Company as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing Agreement dated September 1, 2002, ("Plaintiff") a bid of \$201,388.37, that being the highest bid made on sales day.

*BH*  
*Page 2*

-3-

11. The bidding remained open for thirty (30) days as required by the Decree and by Section 15-39-720, Code of Laws of South Carolina, 1976, and on May 1, 2024, the Plaintiff was declared the successful bidder, no further bids having been made.

12. The Plaintiff has paid the costs of the action as required by the Judgment.

13. The undersigned executed and delivered to the Plaintiff a good and sufficient deed of conveyance to the property so sold.

14. The undersigned has paid out and disbursed all funds received in accordance with the Computation attached hereto.

15. Pursuant to the Judgment of Foreclosure and Sale previously issued by Judge Tzerman, I find that the Plaintiff is entitled to have a personal and deficiency judgment against the Defendants Janet L. Nelums, also known as Janet Nelums, and Christopher Nelums in the amount of \$125,237.31 as shown on the attached Computation, together with interest thereon at the rate of 5.875% per annum from May 1, 2024, until paid.

IT IS ORDERED that:

1. The sale of the subject property and the within Report are hereby confirmed.

2. The Plaintiff Deutsche Bank National Trust Company as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing Agreement dated September 1, 2002, have a personal and deficiency judgment against the Defendants Janet L. Nelums, also known as Janet Nelums, and Christopher Nelums in the amount of \$125,237.31 as shown on the attached Computation, together with interest thereon at the rate of 5.875% per annum from May 1, 2024, until paid.

3. Any relief sought by the Defendants Janet L. Nelums, also known as Janet Nelums, and Christopher Nelums in the documents filed with the Clerk of Court on March 25, 2024, and emailed to the undersigned on April 28, 2024, is hereby denied in that the filing and submission

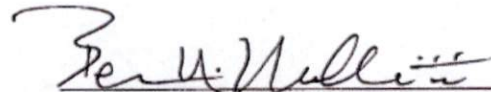
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Page 3

were in contravention of the Order of Kristi F. Curtis filed October 31, 2023.

AND IT IS SO ORDERED.

May 13, 2024

Columbia, South Carolina

  
BEN N. MILLER III as Special Referee

*Done  
Page 4*

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND ) IN THE COURT OF COMMON PLEAS  
 JUDGMENT NO. 2017CP4001687

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

Plaintiff, )

vs. )

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

Defendants. )

**COMPUTATION OF  
 DEFICIENCY JUDGMENT**  
 (Non-Jury Foreclosure)

A. Amount due Plaintiff per Special Referee's Order and Judgment of Foreclosure and Sale dated June 29, 2021:

(a)	Judgment amount with interest on principal amounts to June 4, 2021.	\$276,447.30
(b)	Interest on judgment amount from June 4, 2021, to May 1, 2024, at 5.875% per annum (1061 days)	<u>47,214.50</u>

TOTAL DEBT PER JUDGMENT \$323,661.80

(c)	Special Referee's fees and commission paid by the Plaintiff.	\$ 2,138.88
(d)	Publication costs paid by the Plaintiff.	<u>825.00</u>

TOTAL DEBT PER JUDGMENT \$326,625.68

B. Amount bid the Plaintiff \$201,388.37

C. Amount of Deficiency against the Defendants Janet L. Nelums, also known as Janet Nelums, and Christopher Nelums (A-B). \$125,237.31

BALANCE OF FEES PAYABLE TO SPECIAL REFEREE:

Reference fee	\$ 125.00
Commission	<u>2,013.88</u>
Balance due	\$ 2,138.88

*Bruce*

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2017-CP-40-01687

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

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

DEFENDANT(S)

Submitted by: Scott and Corley, P.A.	Attorney for: <input type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant or <input type="checkbox"/> Self-Represented Litigant
--------------------------------------	--

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered  See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):**  Rule 12(b), SCRPC;  Rule 41(a), SCRPC (Vol. Nonsuit);  Rule 43(k), SCRPC (Settled);  Other
- ACTION STRICKEN (CHECK REASON):**  Rule 40(j), SCRPC;  Bankruptcy;  Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  Other
- STAYED FOR BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**  
 Affirmed;  Reversed;  Remanded;  Other

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

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

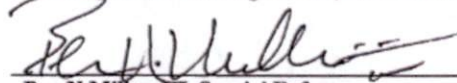
ORDER INFORMATION

This order  ends  does not end the case.  
 Additional Information for the Clerk:

The property which is the subject of this action sold at public sale pursuant to the Special Referee's Report and Judgment of Foreclosure and Sale.

INFORMATION FOR THE PUBLIC 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)
Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept 1, 2002	Janet L. Nelums a/k/a Janet Nelums	\$125,237.31
If applicable, describe the property, including tax map information and address, referenced in the order: TMS No. 11916-2-16 Property address: 813 N Highland Forest Drive, Columbia, SC 29203		

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.

  
 Ben N Miller, III, Special Referee  
 SCRPC Form 4C (02/2017)

Judge Code

5-13-2024  
 Date  
 Page 1 of 2

**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:

Scott and Corley, P.A.  
P.O. Box 2065  
Columbia, SC 29204

Adrienne L. Turner, Esq. (Attorney for Janet L. Nelums)

P.O. Box 210638  
Columbia, SC 29221

Adrienne L. Turner, Esq. (Attorney for Christopher Nelums)

P.O. Box 210638  
Columbia, SC 29221

Janet L. Nelums  
813 N. Highland Forest Drive  
Columbia, SC 29203

Christopher Nelums  
813 N. Highland Forest Drive  
Columbia, SC 29203

Robert A. Bernstein, Esq. (Attorney for Best Distributing Company)

PO Box 20519  
Charleston, SC 29413  
Imperial Warehouse Finance, Inc.  
1910 Pacific Ave., Ste. 13050  
Suite 525

Dallas, TX 75201  
Defendants / Attorney for Defendant(s)

Attorney for Plaintiff

\_\_\_\_\_  
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 judgment to parties who are not E-Filers 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.

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**SCOTT AND CORLEY, P.A.**  
Attorneys and Counselors at Law

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Street Address:  
2712 Middleburg Drive, Suite 200  
Columbia, SC 29204

TELEPHONE: (803) 252-3340  
FACSIMILE: (803) 252-3346

Mailing Address  
P.O. Box 2065  
Columbia, SC 29202

May 14, 2024

Clerk of Court for Richland County  
Post Office Box 2766  
Columbia, SC 29202-2766

RE: Deutsche Bank vs. Janet Nelums  
Case No. 2017-CP-40-01687  
SLF No. 151091.00064

Dear Ms McBride:

Enclosed please find the Special Referee's Report on Sale, Order of Confirmation, and Order for Deficiency Judgment to be filed in the above-referenced matter. Please file the original and return a clocked original in the envelope provided.

Should you have any questions, please do not hesitate to contact me.

Very truly yours,

**SCOTT AND CORLEY, P.A.**

  
Lynn Ellis  
Senior Paralegal

Enclosures: As stated

**Appendix 7**  
(Foreclosure Deed)

Book 2924-2697

2024021753 05/20/2024 12:22:33 327

Master's Deed-Foreclosure

Fee: \$15.00

County Tax: \$0.00

State Tax: \$0.00



2024021753

John T. Hopkins II

Richland County R.O.D.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

SPECIAL REFEREE'S  
DEED OF FORECLOSURE

I, Ben N. Miller III as Special Referee, in the said State, send greetings:

**WHEREAS**, in an action in the Court of Common Pleas in Richland County between Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept 1, 2002, as Plaintiff and Janet L. Nelums a/k/a Janet Nelums; Christopher Nelums; Imperial Warehouse Finance, Inc.; and Best Distributing Company, as Defendants, by an Order filed on June 29, 2021, it was decreed that the property hereinafter described should be sold on the terms and for the purposes mentioned in the Orders granted in the case (see Judgment Roll No. 2017CP4001687).

**NOW THEREFORE KNOW ALL MEN**, that I, the undersigned as Special Referee, pursuant to the foregoing Decree and its resulting sale occurring on April 01, 2024, and for and in consideration of the sum of Two Hundred One Thousand Three Hundred Eighty-Eight and 37/100 (\$201,388.37) as paid by the hereinafter named grantee, the receipt whereof is hereby acknowledged, have granted, bargained, sold, and released, and by these presents do grant and release the following described property unto the grantee: **Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B, 6200 S Quebec St., Suite 300, Greenwood Village, CO 80111:**

All that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being about seven (7) miles North of the City of Columbia, County of Richland, State of South Carolina, being shown and delineated as Lots 16 and 17, Block G, Section II, Highland Forest Subdivision, as more fully shown and delineated on a plat of Highland Forest Subdivision (Section II) by McMillan Engineering Company dated July 17, 1972, last revised on September 24, 1973, and recorded in the Office of the Clerk of Court for Richland County in Plat Book X at Page 2809.

Lot 16:

This being the same property conveyed unto Christopher Nelums and Janet L. Nelums by virtue of a Deed from Marshalene Mae Frady, James Randolph Swindler, Marguerite Rebecca Spears, Nancy W. Swindler and Jane Gill, (Personal Representatives of the Estate of Timothy M. Swindler Estate) and Jane Gill and Ray P. Turner, individually, dated May 18, 1999 and recorded May 21, 1999 in Book 308 at Page 2191 in the Office of the Register of Deeds of Richland County, South Carolina.

Lot 17:

This being the same property conveyed unto Christopher Nelums and Janet L. Nelums by virtue of a Deed from Marshalene Mae Frady, James Randolph Swindler, Marguerite Rebecca Spears, Nancy W. Swindler and Jane Gill, (Personal Representatives of the Estate of Timothy M. Swindler Estate), and Jane Gill and Ray P. Turner, individually, dated December 9, 2000 and recorded December 11, 2000 in Book 465 at Page 1703 in the Office of the Register of Deeds of Richland County, South Carolina.

TMS No. 11916-2-16

Return to Scott and Corley, P.A., P.O. Box 2065, Columbia, SC 29202

*Ben Miller*  
*Page 1*



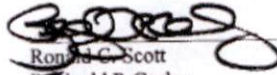
STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND ) AFFIDAVIT

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says, to the best of my knowledge:

1. I have read the information on this affidavit and I understand such information.
2. The property being transferred is located at 813 N Highland Forest Drive, Columbia, SC 29203, bearing Richland County Tax Map Number 11916-2-16, was transferred by Special Referee's Deed to Deutsche Bank National Trust Company, as  Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B on May 13, 2024.
3. Check one of the following: The deed is
  - (a)  subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
  - (b)  subject to the deed recording fee as a transfer between a corporation, a partnership, or other entity and a stockholder, partner or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
  - (c)  exempt from the deed recording fee because: **Exemption 13: The deed is transferring realty subject to a mortgage to the mortgagee pursuant to foreclosure proceedings. §12-24-40(13).**
4. Check one of the following if either item 3(a) or 3(b) above has been checked.
  - (a)  The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$ \_\_\_\_\_
  - (b)  The fee is computed on the fair market value of the realty which is \$ \_\_\_\_\_
  - (c)  The fee is computed on the fair market value of the realty as established for property tax purposes which is \$ \_\_\_\_\_
5. Check YES  or NO  to the following: A lien or encumbrance existed on the land, tenement, or realty before the transfer and remained on the land, tenement, or realty after the transfer. (This includes, pursuant to Code Section 12-59-140(E)(6), any lien or encumbrance on realty in possession of a forfeited land commission which may subsequently be waived or reduced after the transfer under a signed contract or agreement between the lien holder and the buyer existing before the transfer.) If "YES", the amount of the outstanding balance of this lien or encumbrance is \$ \_\_\_\_\_.
6. The deed recording fee is computed as follows:
  - (a) Place the amount listed in item 4 above here \_\_\_\_\_
  - (b) Place the amount listed in item 5 above \_\_\_\_\_
  - (c) Subtract Line 6(b) from Line 6(a) and place the result here \_\_\_\_\_
7. The deed recording fee due based on the amount listed on Line 6(c) above and the deed recording fee due is: \$ \_\_\_\_\_.
8. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as  Attorney for Specialized Loan Servicing as servicer for Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed Certificates, Series SPMD 2002-B.
9. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year, or both.

SWORN TO before me this  
14 day of May, 2024.

  
(Printed Name): Frances L. Ellis (L.S.)  
Notary Public for South Carolina  
My Commission Expires: 07/26/2027

  
Ronald C. Scott  
Reginald P. Corley  
Angelia J. Grant  
Allison E. Heffernan  
H. Guyton Murrell  
Jordan D. Beumer  
Attorneys for the Plaintiff

**Appendix 8**  
**Writ of Assistance**

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

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

PLAINTIFF,

VS.

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

DEFENDANT(S).

(241136.00207)

IN THE COURT OF COMMON PLEAS

CASE NO. 2017-CP-40-01687

**WRIT OF ASSISTANCE**

**THIS WRIT OF ASSISTANCE APPLIES TO ALL OCCUPANTS AND OTHERS (including their possessions) WITH RESPECT TO THE PROPERTY DESCRIBED BELOW.**

This matter came before me regarding the above named Defendant(s) Janet L. Nelums and Christopher Nelums **or any occupant of the property located at 813 N Highland Forest Drive, Columbia, SC 29203**, to issue a Writ of Assistance by this Court to the Sheriff of Richland County, South Carolina, ordering and directing him to remove, peaceably or forcibly, the Defendant(s) Janet L. Nelums and Christopher Nelums, together with any and all persons claiming under and through said Defendants, and this Writ of Assistance specifically and further authorizing the removal of all of their personal property, no matter the type, kind, or value, which is located within or on the subject premises described herein; and said judicial authorization herein shall be accomplished with the removal of said personal property to the curb.

It appears that the subject premises were sold by judicial sale held on April 1, 2024. As a result of said sale, the Plaintiff became the owner of the subject property by virtue of a Master's Deed filed in Book R2924, page 2697 in the Office of the Register of Deeds for Richland County. Therefore, Plaintiff is entitled to possession of the subject premises.

By virtue of the completion of the April 1, 2024 judicial foreclosure sale and the deficiency judgment foreclosure sale held on May 1, 2024 and issuance by the Court the judicial Foreclosure Deed, the mortgage that is the subject of this foreclosure action was, at that time, released by operation of law, as well as in bidding compliance with the prior Order of Judgment of Foreclosure and Sale heretofore entered by this Court as to the subject property.

Plaintiff is the "Immediate Successor in Interest" as defined under the Protecting Tenants at Foreclosure Act ("PTFA"). Protecting Tenants at Foreclosure Act of 2009 §§ 701-703, Pub. L. 111-22, Div. A, Title VII §§ 701-703, as restored by Public Law 115-174, Section 304 of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018.

*Bma  
Page 1*

In accordance with the PTFA, and as evidenced by the Affidavit filed herein, Plaintiff provided sufficient, requisite notice to Defendant(s) and any occupant(s) of potential rights that may be afforded any such Defendant(s) or occupant(s) of the subject property under the PTFA; and

No Defendant nor occupant has replied or otherwise asserted any interest in the real property (including any improvements thereon) described in the Special Referee's Deed dated May 13, 2024, and recorded in the Office of the RMC/ROD for Richland County in Book R2924, page 2697 on May 20, 2024.

NOW, THEREFORE,

UPON MOTION OF Scott and Corley, P.A., attorney for Plaintiff,

IT IS HEREBY ORDERED that the Plaintiff is entitled to recover possession of the below described property.

All that certain piece, parcel or lot of land, with any improvements thereon, situate, lying and being about seven (7) miles North of the City of Columbia, County of Richland, State of South Carolina, being shown and delineated as Lots 16 and 17, Block G, Section II, Highland Forest Subdivision, as more fully shown and delineated on a plat of Highland Forest Subdivision (Section II) by McMillan Engineering Company dated July 17, 1972, last revised on September 24, 1973, and recorded in the Office of the Clerk of Court for Richland County in Plat Book X at Page 2809.

Lot 16:

This being the same property conveyed unto Christopher Nelums and Janet L. Nelums by virtue of a Deed from Marshalene Mae Frady, James Randolph Swindler, Marguerite Rebecca Spears, Nancy W. Swindler and Jane Gill, (Personal Representatives of the Estate of Timothy M. Swindler Estate) and Jane Gill and Ray P. Turner, individually, dated May 18, 1999 and recorded May 21, 1999 in Book 308 at Page 2191 in the Office of the Register of Deeds of Richland County, South Carolina.

Lot 17:

This being the same property conveyed unto Christopher Nelums and Janet L. Nelums by virtue of a Deed from Marshalene Mae Frady, James Randolph Swindler, Marguerite Rebecca Spears, Nancy W. Swindler and Jane Gill, (Personal Representatives of the Estate of Timothy M. Swindler Estate), and Jane Gill and Ray P. Turner, individually, dated December 9, 2000 and recorded December 11, 2000 in Book 465 at Page 1703 in the Office of the Register of Deeds of Richland County, South Carolina.

TMS No. 11916-2-16

Property address: 813 N Highland Forest Drive, Columbia, SC 29203


IT IS FURTHER ORDERED that, upon service of a copy of this Order, the Sheriff of Richland County, South Carolina or his authorized deputies be, and they hereby are, directed and authorized to post a copy of this Order, and/or serve a copy of this Order upon the occupant(s) of the referenced property.

ORDERED, ADJUDGED AND DECREED that the Sheriff of Richland County is herein and hereby ordered and directed to, with whatever force necessary, eject and remove from the premises the occupants and their personal possessions from the real property located at **813 N Highland Forest**

*BNA*  
*Page 2*

Drive, Columbia, SC 29203 with the individuals occupying the property to be removed not before October 7, 2024.

IT IS SO ORDERED

  
Ben N. Miller, III  
Special Referee for Richland County

Columbia, South Carolina  
Sept. 10, 2024

*BNM*  
*Page 3 -*

**Appendix 9**  
**Affidavit of Service**



Oct 10 4AM

Richland County Sheriff's Department

SEP 18 2024

AFFIDAVIT OF SERVICE or NON-SERVICE

Date Entered: 09/17/2024
File Number: C202406584
DSS Number: 0
Foreign Case #: 2017CP4001687

STATE OF SOUTH CAROLINA )
COUNTY OF RICHLAND )

Date \_\_\_\_\_

Plaintiff Attorney Scott & Corley, P.A. PO Box 2065 Columbia, SC 29202

Plaintiff Deutsche Bank National Trust Company, 0

Defendant(s) Janet L. Nelums Christopher Nelums or current occupants 813 N. Highland Forest Dr. Columbia, SC 29203

PERSONALLY APPEARED Before Me C Pickering, duty sworn says that he/she served, or attempted to serve, the following civil paper(s):

Writ of Assistance

1

on the defendant. Janet L Nelums, Christopher Nelums, as follows:

(x) By personally handing the process to the defendant at 813N Highland Forest Dr Columbia on 9/23/24 8:19 AM

( ) By handing the process to \_\_\_\_\_ at \_\_\_\_\_, SC on \_\_\_\_\_, a person of suitable age and discretion then residing in the defendant's usual place of abode.

( ) By handing the process to \_\_\_\_\_, the registered corporate agent or officer of the company at \_\_\_\_\_, SC on \_\_\_\_\_ and leaving him/her a copy

( ) WAS UNABLE to locate and serve the above process on the defendant, after diligent efforts by checking the City/Telephone Directory, and going to the address given for the defendant, and by questioning persons in the vicinity of the address. THE PROCESS IS RETURNED UNEXECUTED.

(x) COMMENTS: 10/10/24 9 AM Return to do execution, Tiffany Williams representative determine less than 500 \$ AD ONE House unoccupied.

Deponent knows the person served to be the defendant and Deponent is not a party to the action. SWORN TO Before me this

23 day of September 2024 Kenneth Coleman

Deputy Sheriff, Richland County C Pickering 52383

NOTARY PUBLIC FOR SOUTH CAROLINA MY COMMISSION EXPIRES P.O. Box 143 Columbia, SC 29202

KENNETH COLEMAN Notary Public State of South Carolina My Commission Expires May 28, 2014

Tiffany Williams

(803 252 3340 (Tessie Corley) Tiffany Williams

ELECTRONICALLY FILED - 2024 OCT 11 11:45 AM - RICHLAND - COMMON PLEAS - CASE#2017CP4001687

**Appendix 10**  
**Envelope of Service**

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MAIL SERVICE®

PRIORITY  
MAIL  
EXPRESS®

Retail



29201

RDC 07

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PME  
COLUMBIA, SC 29223  
DEC 21, 2024

\$32.55

S2324E503239-7



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MAIL  
EXPRESS®



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P.O. Box 290942  
Columbia, S.C. 29229-0046

PAYMENT BY ACCOUNT (if applicable)  
Federal Agency Acct. No. or Postal Service® Acct. No.

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 SIGNATURE REQUIRED (Note: The maker must check the "Signature Required" box if the maker: 1) Is the addressee's signature; OR 2) Purchases additional insurance; OR 3) Purchases COD service; OR 4) Purchases Return Receipt service. If the box is not checked, the Postal Service will leave the item in the addressee's mail receptacle or other secure location without attempting to obtain the addressee's signature or delivery.  
Delivery Options  
 No Saturday Delivery (delivered next business day)  
 Sunday/Holiday Delivery Required (additional fee, where available)  
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TO: (PLEASE PRINT) PHONE: 803, 799-2000  
Nelson Mullis Riley & Scarborough LLP  
Matthew A. Abree, S.E. Bar 101100  
Madison C. Guyton, S.E. Bar 105205  
1320 Main Street 17th Floor  
P.O. Box 11070 (29211-1070)  
Columbia, S.C.  
ZIP + 4® (U.S. ADDRESSES ONLY)  
29201

ORIGIN (POSTAL SERVICE USE ONLY)			
<input type="checkbox"/> 1-Day	<input type="checkbox"/> 2-Day	<input type="checkbox"/> Midway	<input type="checkbox"/> DPO
PO ZIP Code 29223	Scheduled Delivery Date (MMDDYY) 12/27/24	Postage \$ 32.55	
Date Accepted (MMDDYY) 12/21/24	Scheduled Delivery Time 7:00 PM	Insurance Fee \$	COD Fee \$
Time Accepted 11:49 AM		Return Receipt Fee \$	Live Animal Transportation Fee \$
Special Handling/Fragile \$	Sunday/Holiday Premium Fee \$	Total Postage & Fees \$ 32.55	
Weight lbs. ozs.	<input type="checkbox"/> Flat Rate <input type="checkbox"/> Acceptance Employees Initials		
DELIVERY (POSTAL SERVICE USE ONLY)			
Delivery Attempt (MMDDYY) Time	Employee Signature <input type="checkbox"/> AM <input type="checkbox"/> PM		
Delivery Attempt (MMDDYY) Time	Employee Signature <input type="checkbox"/> AM <input type="checkbox"/> PM		

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■ \$100.00 Insurance included.

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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

**RECEIVED**

**Jan 09 2025**

**SC Court of Appeals**

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

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

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

v.

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

of which

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

---

**Proof of Service**

---

I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys  
for Respondent Deutsche Bank National Trust Company, as Trustee for Home Equity Mortgage  
Loan Asset-Backed Trust, Series SPMD 2002-B, Home Equity Mortgage Loan Asset-Backed  
Certificates, Series SPMD 2002-B under the Pooling and Servicing agreement dated Sept 1, 2002,  
certify that I have served parties to this appeal with the documents referenced below on the date  
set forth below:

Document(s):           **Respondent's Return to Motion for Leave to File Sanctions**

Served:                 Janet L. Nelums  
813 North Highland Forest Drive  
Columbia, SC 29203-1929  
jnelums@gmail.com

Christopher Nelums  
813 N. Highland Forest Drive  
Columbia, SC 29203  
chrisnelums@yahoo.com  
johnnelums@yahoo.com

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: /s/ Matthew A. Abee

Matthew A. Abee, SC Bar No. 101100  
E-Mail: matt.abee@nelsonmullins.com  
Mary S. Williams, SC Bar No. 105883  
E-Mail: mary.williams@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

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

Columbia, South Carolina  
January 9, 2025