

STATE OF SOUTH CAROLINA  
COUNTY OF GEORGETOWN

W.C. Jennings Company Inc.,

Plaintiff,

vs.

Joseph Failla, Renee Failla and Anderson  
Brothers Bank,

Defendants.

.....

Anderson Brothers Bank,

CounterClaim/Cross-Claim  
Plaintiff,

vs.

W.C. Jennings Company, Inc.,

Counterclaim Defendant,

Joseph Failla and Renee Failla a/k/a Renee F.  
Failla,

Cross-Claim Defendants.

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT

Case No. 2023-CP-22-00531

**MASTER IN EQUITY'S ORDER  
AND JUDGMENT OF FORECLOSURE  
AND SALE**

**(DEFICIENCY DEMANDED)**

RECEIVED

MAY 01 2025

SC Court of Appeals

Pursuant to Rule 53 SCRCP, the above-entitled matter was referred to the Master in Equity for Georgetown County to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in this cause. Any appeal from this Order is to the South Carolina Court of Appeals.

Pursuant to the Order of Reference granted in the above-entitled case, a hearing was held before The Honorable Joe M. Crosby, Master in Equity for Georgetown County on the 24th day of March 2025. At the hearing, Suzanne Taylor Graham Grigg and Robert Beatty appeared on behalf of Counterclaim/Cross-Claim Plaintiff Anderson Brothers Bank ("ABB"). On behalf of Counterclaim Defendant W. C. Jennings Company, Inc., ("Jennings Company"), Robert W.

Maring and William Jennings appeared at the hearing. Co-Defendants Joseph Failla (“J. Failla”) and Renee Failla a/k/a Renee F. Failla (“R. Failla” and together with J. Failla, the “Failla Defendants”) did not attend the hearing.

Prior to the hearing, on March 13, 2025, the Failla Defendants filed a Motion for Continuance. Due to length of time that the case has been pending, the Court denies the most recent continuance request (a detailed list of the multiple motions for continuance are included hereinbelow).

**FINDINGS OF FACT**

1. The Summons and Complaint (Mechanics Lien Foreclosure) (Breach of Contract) (Quantum Meruit) was filed by Jennings Company in the Office of the Clerk of Court for Georgetown County on July 7, 2023.
2. Service was made upon the Failla Defendants on July 13, 2023, as is shown by the Affidavits of Service filed in the Office of the Clerk of Court for Georgetown County on July 18, 2023.
3. Service was made upon ABB on July 20, 2023, as is shown by the Affidavit of Service filed in the Office of the Clerk of Court for Georgetown County on August 22, 2023.
4. On August 7, 2023, Failla Defendants filed an Answer in the Office of the Clerk of Court for Georgetown County.
5. On January 4, 2024, Jennings Company filed a Notice of Motion and Motion to Refer to Master in Equity in the Office of the Clerk of Court for Georgetown County.
6. On February 5, 2024, Jennings Company filed a Notice of Mediation in the Office of the Clerk of Court for Georgetown County.
7. On February 12, 2024, Failla Defendants filed a Motion for Continuance in the Office of the Clerk of Court for Georgetown County.

8. On February 21, 2024, a Mediation Results Report was filed in the Office of the Clerk of Court for Georgetown County.

9. On February 22, 2024, the Court's Order for Continuance was filed in the Office of the Clerk of Court for Georgetown County.

10. On March 12, 2024, ABB filed its Summons to Anderson Brothers Bank's Counterclaim and Cross-Claims Complaint to Foreclose its First Lien Priority Mortgage, Defendant Anderson Brothers Bank's Answer to Complaint, and Anderson Brothers Bank's Counterclaim and Cross-Claims Complaint to Foreclose its First Lien Priority Mortgage, Certificate of Exemption from ADR as to Defendant Anderson Brothers Bank's Counterclaim and Cross-Claims Complaint to Foreclose its First-Priority Mortgage, Certification of Compliance with the Coronavirus Aid, Relief, and Economic Security Act as to its Counterclaim and Cross-Claim Complaint and Lis Pendens as to Defendant Anderson Brothers Bank's Counterclaim and Cross-Claim Complaint to Foreclose its First-Priority Mortgage was filed in the Office of the Clerk of Court for Georgetown County.

11. On March 19, 2024, Affidavits of Service evidencing service of the foregoing documents upon the Failla Defendants were filed in the Office of the Clerk of Court for Georgetown County.

12. On March 22, 2024, an Acceptance and Acknowledgement of Service as to W.C. Jennings Company, Inc. evidencing service of the foregoing documents upon Jennings Company was filed in the Office of the Clerk of Court for Georgetown County.

13. On April 11, 2024, Jennings Company filed a Reply to Defendant Anderson Brothers Bank's Counterclaim and Cross-Claim Complaint to Foreclose its First-Priority Mortgage in the Office of the Clerk of Court for Georgetown County.

14. On April 15, 2024, a Motion for Continuance was filed by the Failla Defendants in the Office of the Clerk of Court for Georgetown County.

15. On April 16, 2024, an Answer to Defendant Anderson Brothers Bank's Counterclaim and Cross-Claim Complaint to Foreclose its First-Priority Mortgage was filed by the Failla Defendants in the Office of the Clerk of Court for Georgetown County.

16. On April 17, 2024, the Order for Continuance was filed in the Office of the Clerk of Court for Georgetown County.

17. On May 24, 2024, an Order of Reference was filed in the Office of the Clerk of Court for Georgetown County, referring this matter to the undersigned Master in Equity for Georgetown County.

18. A Notice of Hearing and Certificate of Service were filed in the Office of the Clerk of Court for Georgetown County on November 22, 2024, evidencing notice to all parties of the hearing scheduled for January 13, 2025. Said hearing was cancelled and rescheduled for March 24, 2025.

19. On December 23, 2024, a Motion for Continuance was filed by the Failla Defendants in the Office of the Clerk of Court for Georgetown County.

20. An Amended Notice of Hearing and Certificate of Service were filed in the Office of the Clerk of Court for Georgetown County on March 12, 2025, evidencing notice to all parties of the hearing scheduled for March 24, 2025.

21. On March 13, 2025, a Motion for Continuance was filed by the Failla Defendants in the Office of the Clerk of Court for Georgetown County.

**TESTIMONY RELATED TO CLAIMS OF ABB**

22. Mr. Robert Beatty, as the duly authorized representative of ABB, testified as follows:

23. On or about January 9, 2023, ABB extended a loan to Defendant J. Failla in the original principal amount of One Hundred Thousand and 00/100 Dollars (\$100,000.00) (the "Loan"), together with interest at the rate provided therein. The Loan is evidenced by that certain Consumer Note (the "Note") executed by Cross-Claim Defendant J. Failla in favor of ABB.

24. To secure payment of the indebtedness evidenced by the Note, according to the terms and conditions thereof, the Failla Defendants, on or about January 9, 2023, made, executed, and delivered to ABB that certain Mortgage of Real Estate (the "Mortgage") whereby the Failla Defendants granted ABB a mortgage lien on certain real property located in Georgetown County, South Carolina (the "Mortgaged Premises"), described as follows:

All that certain piece, parcel or lot of land situate, lying and being in the County of Georgetown, State of South Carolina, and designated as Lot 36, Section F, on a map of Litchfield Golf Co., Inc. recorded in the Office of the R.M.C. for Georgetown County in Plat Book AA at Page 62, as revised, all of which will more fully and in detail appear by reference to the aforesaid map which is incorporated herein and made a part and parcel hereof.

TMS No.: 04-0181-015-00-00

DERIVATION: This being the same property conveyed to Joseph Failla and Renee F. Failla, as joint tenants with the right of survivorship and not as tenants in common by Deed from Carnice H. Lambert, Jr., dated June 28, 2021, recorded July 2, 2021, in Book 4162, Page 453, in the Office of the Register of Deeds for Georgetown County, South Carolina.

ADDRESS: 1120 Crooked Oak Drive, Georgetown, SC 29585

25. The Mortgage was filed and recorded in the Office of the Georgetown County Register of Deeds on January 9, 2023, in Book 4462 at Page 105.

26. ABB's Mortgage constitutes a valid first mortgage lien upon the Mortgaged Premises.

27. It appears to the Court that pursuant to certain documents recorded in the Georgetown County Register of Deeds' Office, Litchfield Crossing Development Co., LLC, a South Carolina Corporation as Successor and/or assign of The Litchfield Company of South Carolina Limited Partnership, a South Carolina Limited Partnership, as Declarant for Litchfield Golf Co., Inc. ("LCD") and/or The Litchfield Company, LLC ("TLC"), as prior owner(s) in the chain of title for the Mortgaged Premises, retained and currently holds a right of first refusal to purchase the Mortgaged Premises, if the property is sold or conveyed. **To the extent LCD and/or TLC holds a right of first refusal to purchase the Mortgaged Premises, the foreclosure sale of the Mortgaged Premises will be made subject to LCD and/or TLC's right of first refusal.**

28. J. Failla's obligations under the terms and conditions of the Note and the Mortgage are in default for, among other reasons, the failure to repay the indebtedness in accordance with the terms thereof.

29. The Note and the Mortgage provide that in the event of default in any of the terms thereof, the whole amount of debt secured by the Mortgage will become immediately due and payable.

30. By reason of the failure of J. Failla to comply with the terms and conditions of the Note and the Mortgage, ABB has declared the entire indebtedness immediately due and payable, and, as a further result of the said default, ABB is entitled to foreclose its mortgage lien on the Mortgage Premises.

31. ABB has sent notice of the default as required by and conforming to applicable law.

32. The amount of the debt due and owing on the Note, with interest at the rate provided in the Note, and other costs and expenses of collection, including reasonable attorneys' fees is as

follows:

Principal Balance as of March 24, 2025	\$102,002.60
Interest as of March 24, 2025 Per Diem: \$22.35673; Interest Rate: 8.00%	\$ 12,167.63
Other: ( <i>late fees</i> )	\$ 165.35
Attorneys' Fees and Costs (allowed by the Court)	\$ 16,673.00
<b>TOTAL DEBT ON THE NOTE AS OF MARCH 24, 2025</b>	<b>\$131,008.58</b>

33. ABB seeks a judgment of foreclosure as to the Mortgaged Premises for the full amount of the indebtedness found to be due and owing to ABB under the Note and Mortgage.

34. Counterclaim Defendant Jennings Company may claim an interest in the Mortgaged Premises by virtue of that certain Notice and Certificate Mechanic's Lien recorded April 20, 2023, in Book MLB 78, at Page 338, Georgetown County Register of Deeds' Office (the "Mechanic's Lien"). The Mechanic's Lien was recorded after ABB's Mortgage and it is, therefore, junior in priority to ABB's mortgage lien, and said interest may be extinguished as to the Mortgaged Premises through this foreclosure action.

35. J. Failla and R. Failla each hold a one-half ( $\frac{1}{2}$ ) undivided ownership interest in the Mortgaged Premises.

36. ABB is entitled to a judgment barring the Defendants and all persons claiming by or through the Defendants from all right, title and interest in or to the Mortgaged Premises, and each and every part thereof.

37. ABB does not waive, but specifically demands judgment against J. Failla for the full amount found to be due and owing under the Note and Mortgage, with the right to enter personal judgment against J. Failla for any deficiency remaining after the sale of the Mortgaged Premises.

**TESTIMONY RELATING TO CLAIMS OF W.C. JENNINGS**

38. William Jennings, owner and sole shareholder of Plaintiff W.C. Jennings Company Inc. testified as follows:

39. The Plaintiff is a company providing construction services in Georgetown County, South Carolina.

40. That Plaintiff is a licensed contractor authorized to perform construction services in the State of South Carolina.

41. That Failla Defendants operated as their own contractor to construct a residence on the property subject to this foreclosure.

42. During the summer of 2023 the Failla Defendants contracted with the Plaintiff, W.C. Jennings Company, Inc. to provide materials and labor for framing of the home that was being constructed on the property subject to this foreclosure.

43. That the Plaintiff, W.C. Jennings Company Inc. did provide materials and labor for the construction of the home.

44. Mr. Jennings further testified that the indebtedness due and owing to Jennings Company by the Failla Defendants was the amount of \$29,572.49 for material, supplies and labor, and the amount of \$4,941.32 for attorneys' fees and costs due to Robert W. Maring. Jennings Company anticipates that it will occur additional fees and costs.

**CONCLUSIONS OF LAW**

I, therefore, conclude as follows:

1. ABB should have judgment of foreclosure of its Mortgage and the Mortgaged Premises should be ordered sold at public auction after due advertisement. The sale shall be made subject to taxes and assessments that are due on the day of sale. After making the required deposit, the successful bidder at the sale should be required to pay interest from entry of the Master in

Equity's Order and Judgment of Foreclosure and Sale at the contract rate of interest of 8.00% per annum until the date of compliance.

2. ABB seeks entry of a deficiency judgment order against J. Failla for any amount remaining due and owing to the ABB after application of the sales proceeds.

3. ABB is entitled to a judgment of foreclosure of ABB's Mortgage for the full amount of the indebtedness found to be due and owing to ABB on the Note.

4. Jennings Company is entitled to judgment of foreclosure of its Mechanic's Lien.

5. Jennings Company is seeking an order of judgment against the Failla Defendants for any amount remaining due and owing to Plaintiff, Jennings Company after the application of the sales proceeds.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. ABB is entitled to a judgment of foreclosure of ABB's Mortgage for the full amount of the indebtedness found to be due and owing to ABB on the Note.

2. There is due to ABB on the Note and Mortgage set forth in the Complaint, as amended herein, the sum of One Hundred Thirty-One Thousand Eight and 58/100 Dollars (\$131,008.58), representing the "Total Debt" due to ABB on the Note, together with interest at the contract rate of 8.00% on the principal balance from March 25, 2025, to the date of judgment.

3. The Total Debt amount due in the preceding paragraph (supra, and later accrued interest on the principal at the contract rate of 8.00% per annum to the date of judgment) shall constitute the total judgment debt due to ABB and shall bear interest *after* the date of judgment at the contract rate of interest of 8.00% per annum.

4. Based on the testimony and exhibits admitted at the foreclosure hearing, there is due to Jennings Company, the sum of Thirty-Four Thousand Five Hundred Thirteen and 81/100

Dollars (\$34,513.81), representing the "Total Debt" due to Jennings Company, together with interest at the from March 25, 2025, to the date of judgment.

5. Defendant J. Failla shall, on or before the date of sale of the property hereinafter described, pay to ABB's attorney the amount of ABB's debt as aforesaid, together with the costs and expenses of this action.

6. The Failla Defendants shall, on or before the date of the sale of the property hereinafter described pay to Plaintiff Jennings Company's attorney the amount of W.C. Jennings Company, Inc's debt as aforesaid, together with the costs and expenses of this action.

7. On default of payment at or before the time herein indicated, the Mortgaged Premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity for Georgetown County or his agent at public auction, at Conway, South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on the next Tuesday succeeding such holiday), on the following terms, that is to say:

(a) FOR CASH: The Master in Equity or his agent will require a deposit of 5% on the amount bid (in cash or equivalent) same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within thirty (30) days same to be forfeited and applied to the costs and any surplus pending further order of the Court.

(b) Interest on the balance of the bid shall be paid through the day of compliance at the contract rate of interest of 8.00%.

(c) The sale shall be subject to the taxes and assessments due on the day of such sale, and existing easements and restrictions of record.

(d) Purchaser shall pay for the preparation of the deed, bill of sale and costs of recording the deed.

8. If ABB is the successful bidder at said sale, for a sum not exceeding the amount of costs, expenses, and the indebtedness of ABB in full, ABB may pay to the Master in Equity for Georgetown County only the amount of the costs and expenses, crediting the balance of the bid on ABB's indebtedness.

9. Personal or deficiency judgment having not been waived, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. Section 15-39-720, (1976).

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

11. The Master in Equity for Georgetown County shall apply the proceeds of the sale as follows:

First: To payment of the costs and disbursements of this action;

Next: To the payment to ABB or its attorney, of the amount of ABB's debt and interest or so much thereof as the purchase money will pay on the same;

Next: To the payment of Jennings Company or its attorney, of the amount of Jennings Company's Mechanic's Lien and interest or so much thereof as the purchase money will pay on the same;

Next: To the payment of any parties holding subordinate liens prior to and/or at the time of foreclosure in the amounts of their total claims and interest in accordance with Rule 71(b),

SCRCP, with any surplus to be held and paid pursuant to Rule 71(c), SCRCP.

It is further ORDERED, ADJUDGED AND DECREED that in the event the successful bidder is other than Cross-Claim Defendant J. Failla and if a Writ of Assistance is presented, the Sheriff of Georgetown County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in such peaceable possession.

And it is further ORDERED, ADJUDGED AND DECREED that Defendants and all persons whosoever claiming under Defendants be forever barred and foreclosed of all right, title, interest, and equity of redemption in the said Mortgaged Premises so sold, or any part thereof. **To the extent LCD and/or TLC holds a right of first refusal to purchase the Mortgaged Premises, the foreclosure sale of the Mortgaged Premises will be made subject to LCD and/or TLC's right of first refusal.**

12. IT IS FURTHER ORDERED that, pursuant to S.C. Code Ann. § 30-9-31 (Supp. 1987), the deed of conveyance made pursuant to said sale shall be indexed in the grantor index by the Registrar of Deeds in the name of the owner of record of the Mortgaged Premises immediately prior to execution of the deed, as well as in the name of the Master in Equity for Georgetown County, who executes such deed as grantor.

13. The Master in Equity will retain jurisdiction to do all the necessary acts incidental to this foreclosure including, but not limited to, the issuance of a Writ of Assistance and disposing of any surplus funds pursuant to Rule 71 (c), SCRCP.

14. The Mortgaged Premises ordered to be sold is described as follows:

All that certain piece, parcel or lot of land situate, lying and being in the County of Georgetown, State of South Carolina, and designated as Lot 36, Section F, on a map of Litchfield Golf Co., Inc. recorded in the Office of the R.M.C. for Georgetown County in Plat Book AA at Page 62, as revised, all of which will more fully and in detail appear by reference to the aforesaid map which is incorporated

herein and made a part and parcel hereof.

TMS No.: 04-0181-015-00-00

DERIVATION: This being the same property conveyed to Joseph Failla and Renee F. Failla, as joint tenants with the right of survivorship and not as tenants in common by Deed from Carnice H. Lambert, Jr., dated June 28, 2021, recorded July 2, 2021, in Book 4162, Page 453, in the Office of the Register of Deeds for Georgetown County, South Carolina.

ADDRESS: 1120 Crooked Oak Drive, Georgetown, SC 29585

15. IT IS FURTHER ORDERED, ADJUDGED AND DECREED that if ABB or ABB'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 sales will be rescheduled for the next available sales day.

AND IT IS SO ORDERED.

**[SIGNATURE PAGE OF MASTER IN EQUITY TO FOLLOW]**