

No. 2024-001062

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

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SC Court of Appeals

**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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**APPELLANT'S MOTION TO GRANT FINAL BRIEF PLEADINGS  
AND APPELLANT'S MOTION TO DENY RESPONDENT'S  
RETURN MOTION TO DISMISS**

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**Janet Louise Nelums** *Janet Louise Nelums*  
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Plaintiff-Appellant pro se litigants**

**Thursday, April 30, 2025**

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COME NOW, Pursuant to Rule 240(c) (c)(1) (e) (f) (g), SCACR, Appellants Janet Nelums & Chris Nelums hereinafter "The"), Appellants, pro Se, moves the court in the above captioned proceedings: and respectfully requests the Court allow the filing of APPELLANTS MOTION TO GRANT FINAL BRIEF PLEADINGS AND APPELLANTS MOTION TO DENY RESPONDENT'S RETURN MOTION TO DISMISS, in lieu of The original brief. In support of his/her motion, Appellant's shows to the Court:

1. 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

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

**2. Rule 17— Parties Appellants and Respondent's Capacity**

**(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 that person's own name without joining the party for whose benefit the action is brought; and when a statute of the United States so provides, an action for the use or benefit of another shall be brought in the name of the United States. No action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until a reasonable time has been allowed after objection for ratification of commencement of the action by, or joinder or substitution of, the real party in interest; and such ratification, joinder, or substitution shall have the same effect as if the action had been commenced in the name of the real party in interest.

**3.** Before THE STATE OF SOUTH CAROLINA In the Court of Appeals are two motions submitted by the Respondent Deutsche Bank—a motion to dismiss, which 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), and all proceedings pending a ruling

on the motion to dismiss. Appellant opposes both motions.

Appellants have also file motion's

**4.** On 03/05/2025, Record - Record on Appeal Filed the Appellant's

**5.** On 03/05/2025, Record - Proof of Service of Record on Appeal Filed the Appellant's

**6.** The Appellant's Final Brief was filed on 03/25/2025

**7.** Appellant's File on April 09, 2025, Motion Amend Appellant's Final Brief

**8.** Respondent's File on 3/24/2025 Motion - Compel Conformity of the Record on Appeal

**9.** Respondent's File on April 15,2025 Respondent's Return to Appellants' Motion Requesting Permission to File Amended Final Brief

**10.** The Supremacy Clause is an article in the United States Constitution that specifies federal laws and Treaties made under the authority of the Constitution are The supreme law of the land. Found in Article VI, Clause 2, The clause provides that states cannot interfere with federal Law, and that federal law supersedes conflicting state laws. In addition, this supreme law is binding on state courts.

**11.** On information and belief, A misnomer is when someone is referred to by the wrong name or title. In legal situations, this can happen if a person or business is incorrectly named in a document, like a contract or court filing. It's important to correct misnomers to ensure that legal documents are valid and enforceable.

**12.** Under both the Fifth and Fourteenth Amendments to the U.S. Constitution, neither the federal government nor state governments may deprive any person “of life, liberty, or property without due process of law.” A similar due process provision was found in the Magna Charta, as well as early state constitutions. Chief Justice William Howard Taft explained the purpose behind the clauses in **Truax v. Corrigan** (1921) as follows: “The due process clause requires that every man shall have the protection of his day in court, and the benefit of the general law, a law which hears before it condemns, which proceeds not arbitrarily or capriciously, but upon inquiry, and renders judgment only after trial, so that every citizen shall hold his life, liberty, property and immunities under the protection of the general rules which govern society. It, of course, tends to secure equality of law in the sense that it makes a required minimum of protection for every

one's right of life, liberty, and property, which the Congress or the Legislature may not withhold.”

13. The Appellant's Final Brief was filed on 03/25/2025

14. Appellants of their right to file an amended complaint under Rule 15. If in conflict, the Local Rule must yield to the federal rule, here Rule 15. [ **See Colgrove v. Battin**, 413 U.S. 149, 161 n.18 (1973).

15. that Rule 15 confers a “right” to amend upon parties. **See Lacey v. Maricopa Cty.**, 693 F.3d 896, 927 (9th Cir. 2012), parties have twenty-one days “to amend as of right”); **Rick-Mik Enters., Inc. v. Equion Enters. LLC**, 532 F.3d 963, 977 (9th Cir. 2008), explaining in reamendment context that until a responsive pleading is filed, or a final judgment of the case is entered, the Appellants had an absolute right to amend”); **Shaver v. Operating Eng'rs Local 428 Pension Trust Fund**, 332 F.3d 1198, 1201 (9th Cir. 2003) (before a responsive pleading was filed and before the case was dismissed, the Appellants “had an absolute right to amend their complaint”); **Sanford v. Motts**, 258 F.3d 1117, 1120 (9th Cir. 2001) ([Rule 15(a)] “gives an Appellants one opportunity to amend as of right.

16. pursuant to Federal Rule of Civil Procedure 15(a), to

seek leave of court before filing his Second Amended Complaint. The panel held that Rule 15(a) does not impose any particular timing mechanism governing the order in which amendments must be made. Because plaintiff's First Amended Complaint, filed with consent of the opposing party, complied with Rule 15(a)(2) as an "Other amendment," Appellants was permitted to file a timely Second Amended Complaint "as a matter of course" under Rule 15(a)(1), without seeking leave of court. Accordingly,

RAMIREZ V. CTY. OF SAN BERNARDINO.

**17.** Appellants under Fed. R. Civ. P. 17(a)(1) claiming that The Deutsche Bank National Trust Company as Trustee is not the real party in interest, The Court finds Respondent argument meritless.

**18.** On September 12, 2024, Appellants filed their initial brief. On September 19, 2024, Respondent served and filed its motion to dismiss. On October 1, 2024, Appellants moved to amend their initial brief. No returns were filed. After careful consideration, we deny Respondent's motion to dismiss and alternative request to dispense with further briefing and affirm the order of the trial court. This court will consider the merits of This appeal after briefing is complete. Respondent's motion for

sanctions are also denied. <sup>1</sup> [ **See: APPENDIX-1** ]

**19.** On October 1, 2024, Respondents under Rule 240(c) shall apply to a return. Failure of a party to timely file a return may be deemed consent by that party to the relief sought in the motion or petition. as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory [See: APPENDIX-1

**20.** On October 1, 2024, Respondents under Rule 240(c)(1) failed to file proof of service of this, No returns were filed Motion as required by Rule 240(c)(1), SCACR. as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory [See: APPENDIX-1

**21.** On October 1, 2024, Respondents under Rule 240(e) Failure Return to Motion. Any party opposing a motion or Petition shall have ten (10) days from the date of service thereof to file a return with the clerk and serve on all parties a copy of the return: provided, as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory [See: APPENDIX-1

**22.** On October 1, 2024, Respondents under Rule 240(f) Failure to Reply. The moving party shall have five (5) days from

the date of service of a return to file a reply with the clerk and serve on all parties a copy of the reply, as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory [**See: APPENDIX-1**

**23.** On October 1, 2024, No returns were filed, Respondent Under Rule 240(g) Failed to file proof of Service of This Motion is required by Rule 240(c)(1), SCACR. Given Respondents failure to follow the South Carolina Appellate Court Rules, Respondents motion should be denied. Rule 240(g), SCACR ("Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition."). as South Carolina Supreme Court has held, "The term 'shall' in a statute means that the action is mandatory [**See: APPENDIX-1**

**24.** On May 5, 2025 Record - Record on Appeal Filed by Appellants Janet Nelums & Chris Nelums, No Deficiency Letter Were Sent to the Appellants, furthermore Upon review of this file, it appears the Court granted the appellants' motion to file an amended initial brief. Therefore, we are proceeding with this matter pursuant to the appellant's initial brief filed September 23, 2024. The designation of matter received on December 2, 2024, is accepted as filed. Thus, our records reflect it is

now time for the respondent's initial brief and designation of matter. If you wish to request further relief from the Court, you must file a motion.

**25. See: In Perez v. Deutsche Bank National Trust Co.**

(3D09-504), the third District highlighted one possible penalty for failing to timely file an appellate brief, the Appellees was excluded From oral argument and lost on the appeal. [**See: APPENDIX-2**

**26. In Deutsche Bank National Trust Co. v. Boglioli,**

154 So.3d 494, 495 (Fla. 4th DCA 2015), this court held that the bank failed to establish standing where the bank introduced an undated blank endorsement, the bank's only witness was unable to testify as to when the note was endorsed, and the bank failed to introduce a PSA through which the bank claimed it acquired the assignment of the note. Similarly, in the instant case, the Bank introduced an undated blank endorsement, the Bank's only witness was unable to testify as to when the note was endorsed, and the PSA was not introduced into evidence.

**27. Even if the PSA had been introduced into evidence, the evidence still would have been insufficient to establish standing.**

**In Balch v. LaSalle Bank N.A.**, 2015 WL 4641534, at \*1 (Fla. 4th DCA Aug 5, 2015), this court held that “evidence that the note

was transferred into the trust prior to the foreclosure action is insufficient by itself to confer standing because there was no evidence that the indorsee had the intent to transfer any interest to the trustee.” In support, the Balch court cited **Jelic v. LaSalle Bank, National Ass'n**, 160 So.3d 127, 130 (Fla. 4th DCA 2015), which reversed a final judgment of foreclosure, in part because There was no evidence that the party transferring the note into a PSA had no intent to transfer an interest to the trustee.

**28.** Similarly, in **Jarvis v. Deutsche Bank National Trust Co.**, 40 Fla. L. Weekly D1416 (Fla. 4th DCA June 17, 2015), this court held that “evidence that the note was physically transferred into a trust prior to Deutsche Bank filing foreclosure complaint does not, by itself, establish standing.” “[A] plaintiff must prove not only physical possession of the original note but also, if the plaintiff is not the named payee, possession of the original note endorsed in favor of the plaintiff or in blank (which makes it bearer paper).” Id. (quoting **Kiefert v. Nationstar Mortg., LLC**, 153 So.3d 351, 353 (Fla. 1st DCA 2014).

**29.** Respondents may be using a strategy tactical delay motivating the appeal.

**30.** Because the substitution of Deutsche Bank Prudentially Mooted Since 2009 and Terminated as Third-Tier 240 Mortgage

Securitization Trust as Beneficiaries Created by IndyMac and IndyMac Federal, 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; as the appellants do not prejudice the Government, and because Appellants believe such an amendment to the pleadings is permitted under Rule 17 of the Federal Rules of Civil Procedure, appellants ask this Court to deny respondent's motion to dismiss and grant appellant's motion to File Appellants Final Brief the pleadings. Respondent's motion for a Return motion to dismiss is now moot.

Respectfully submitted on this 30 day of May 1, 2025

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## 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 30 day of April 2025, as indicated on Wednesday, April 30, 2025, was served by email and Certified Registered which constitutes service on all parties.

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APPENDIX-1

(ORDER)

Appellate Case No.2024-001062

## The South Carolina Court of Appeals

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,

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.

Appellate Case No. 2024-001062

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### ORDER

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On September 12, 2024, Appellants filed their initial brief. On September 19, 2024, Respondent served and filed its motion to dismiss. On October 1, 2024, Appellants moved to amend their initial brief. No returns were filed.

After careful consideration, we deny Respondent's motion to dismiss and alternative request to dispense with further briefing and affirm the order of the trial court. This court will consider the merits of this appeal after briefing is complete. Respondent's motion for sanctions is also denied.<sup>1</sup>

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<sup>1</sup> To the extent Respondent is requesting fees and costs, we deny the request without prejudice as premature. *See* Rule 222(d), SCACR ("A party desiring costs to be taxed shall, within fifteen (15) days of the issuance of the remittitur, serve and file a motion requesting that costs be assessed under this [r]ule.").

Appellants' motion to file an amended initial brief is granted. Appellants shall serve and file their designation of matter within ten days of the date of this order.

  
\_\_\_\_\_  
FOR THE COURT C.J.

Columbia, South Carolina

cc:  
Janet Nelums  
Christopher Nelums  
Matthew A. Abee, Esquire  
Madison Caroline Guyton, Esquire  
Jordan Daniel Beumer, Esquire  
Vance L. Brabham, III, Esquire  
Jessica S. Corley, Esquire  
Reginald Patrick Corley, Esquire  
Henry Guyton Murrell, Esquire  
William Price Stork, Esquire  
Tasha B. Thompson, Esquire

## APPENDIX-2

### (Third District Court of Appeal)

Deutsche Bank was precluded from participating at oral argument in this case for failure to timely file a brief answer.

**Third District Court of Appeal**  
**State of Florida, January Term, A.D. 2010**

Opinion filed February 10, 2010.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D09-504  
Lower Tribunal No. 08-7264

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**Angel Perez, et al.,**  
Appellant,

vs.

**Deutsche Bank Trust Co., etc.,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Scott J. Silverman, Judge.

John H. Ruiz, for appellant.

David J. Stern and Karina M. Musela (Plantation), for appellee.

Before WELLS and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

SHEPHERD, J.

This is an appeal from a final summary judgment of foreclosure obtained by Deutsche Bank Trust Company Americas as Trustee,<sup>1</sup> against Angel and Maria Perez. Because the Bank has failed to demonstrate that there is no genuine issue as to any material of fact, and that the moving party is entitled to a judgment as a matter of law, we reverse this case for further proceedings.

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<sup>1</sup> Deutsche Bank was precluded from participating at oral argument in this case for failure to timely file an answer brief.