

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
Mikell R. Scarborough, Master in Equity

Case No. 2006-CP-10-2859
Appellate Case No. 2012-212524

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OCT 15 2013
SC Court of Appeals

Deutsche Bank National Trust Company, as
Trustee of Ameriquest Mortgage Securities, Inc.,
Asset Backed Pass Through Certificates, Series
2005-R4CGM under the Pooling and Servicing
Agreement dated as of May 1, 2005, without
Recourse.....Respondent,

v.

Vandora M. Huggins-Edwards a/k/a Vandora
H. Edwards; Sylvia Anne Lawrence a/k/a
Sylviatte Anne Lawrence; Glenn M. Huggins;
Michael Huggins; Donnell Huggins; Samuel
Huggins; Ira Huggins a/k/a Ira S. Huggins;
Derwin Huggins; Andrean Huggins Cotton
a/k/a Adrienne Huggins Cotton; Sharon H. Smack;
Dewayne Dixon; Kimberly Nelms; Timothy Nelms;
Jennifer Nelms; Michael A. Brown;
Demetrius Huggins Nelms, a minor;
Darius Simmons, a minor; Dondre Simmons, a minor;
Reginald Huggins; Joseph Huggins; Heather Huggins;
Barbara Huggins; any other Heirs-at-Law or Devisees of
Ricky Henry Huggins, Deceased, their heirs,
Personal Representatives, Administrators, Successors and
Assigns, and all other persons entitled to claim through them;
any other Heirs-at-Law or Devisees of Henry Buster Huggins, Jr.,
Deceased, their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled to claim
through them; any other Heirs-at-Law or Devisees of
Michelle Huggins, Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other persons entitled
to claim through them; any other Heirs-at-Law or Devisees
of Buster Huggins, Sr., Deceased, their heirs, Personal
Representatives, Administrators, Successors and

Assigns, and all other persons entitled to claim through them;
all unknown persons with any right, title or interest
in the real estate described herein; also any persons
who may be in the military service of the United States
of America, being a class designated as John Doe;
and any unknown minors or persons under a disability
being a class designated as Richard Roe; South Carolina
Department of Revenue; Safeway Finance; Ford Motor
Credit Company; General Motors Acceptance Corporation;
White Directory Holdings Carolina, Inc. d/b/a The Talking
Phone Book; Monogram Credit Card Bank of Georgia;
Michael Twitty; Deborah Twitty; the United States of America,
by and through its agency, the Internal Revenue Service;
and John C. Bigler..... Defendants,

Of whom Vandora M. Huggins-Edwards a/k/a Vandora
H. Edwards is theAppellant.

**RESPONDENT’S MOTION TO CORRECT
RECORD ON APPEAL, OR,
IN THE ALTERNATIVE, TO DISMISS THE APPEAL**

Sean M. Foerster
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803) 771-7900
sean.foerster@rtt-law.com

Attorneys for Respondent Deutsche Bank
National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset
Backed Pass Through Certificates, Series
2005-R4CGM under Pooling and Servicing
Agreement dated as of May 1, 2005, without
recourse

October 15, 2013

Respondent Deutsche Bank National Trust Company, as Trustee of Ameriquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under Pooling and Servicing Agreement dated as of May 1, 2005, without recourse (“Deutsche Bank”) hereby moves to correct the Record on Appeal submitted by Appellant Vandora M. Huggins-Edwards a/k/a Vandora H. Edwards (“Vandora Huggins”) on the grounds that the proposed Record on Appeal omits documents designated for inclusion by Respondent, includes matters not presented to the lower court, and fails in other material aspects to comply with the South Carolina Appellate Court Rules. In the alternative, Deutsche Bank moves to dismiss the appeal of Vandora Huggins for failure to timely serve a copy of the Record on Appeal on Deutsche Bank without an extension from the Court.

FACTS

On August 19, 2013, Deutsche Bank served Vandora Huggins with the Initial Brief of the Respondent along with its Designation of Matter to be Included in the Record on Appeal. Vandora Huggins did not file a Reply Brief. On September 24, 2013, Vandora Huggins filed and served the Record on Appeal. Deutsche Bank now seeks an order of the Court requiring Vandora Huggins to fix several serious deficiencies in the Record on Appeal.

ARGUMENT

Vandora Huggins must correct the following deficiencies in the Record on Appeal filed on September 24, 2013:

- 1. Vandora Huggins improperly omitted several documents from the Record on Appeal that were designated for inclusion by Deutsche Bank in its Designation of Matter.**

“The Record on Appeal shall include all matter designated to be included by any party under Rule 209 ...” Rule 210(c), SCACR. Vandora Huggins failed to include the following documents in the Record on Appeal that Deutsche Bank requested through its Designation of Matter:

- Complaint filed on July 24, 2006;
- Order of Reference filed on September 7, 2006;
- First Amended Lis Pendens, Summons, & Complaint filed on September 10, 2008;
- Second Amended Lis Pendens, Summons, & Complaint filed on December 9, 2010—Vandora Huggins only included the copy of this document that was attached as an exhibit to Deutsche Bank’s Second Motion to Amend Complaint. Deutsche Bank requests that the separately filed copy of the Second Amended Lis Pendens, Summons, & Complaint be included in the Record on Appeal;
- Answer of Individual Defendant Vandora M. Huggins-Edwards filed on December 31, 2010;
- Answer & Counterclaims (Or Cross-Claims) of Defendant John C. Bigler filed on February 3, 2011;
- Plaintiff’s Reply to the Answer and Counterclaim of Defendant John C. Bigler filed on March 9, 2011;
- Plaintiff’s Notice of Motion and Motion for Partial Summary Judgment with Affidavit of David J. Merrill filed on January 5, 2012—Vandora Huggins only

included an unfiled copy of these documents. Deutsche Bank requests that filed copies of the motion and affidavit be included in the Record on Appeal;

- Order Granting Partial Summary Judgment filed on February 15, 2012;
- Trial Transcript from the trial held on February 28, 2012—the copy of the transcript contained in the proposed Record on Appeal contains handwritten comments, notes, and markings made by Vandora Huggins that are prejudicial to Respondent and impermissible under the South Carolina Appellate Court Rules. (Vol. I-II, marked with a handwritten “13” on the bottom.) This must be substituted with a “clean” version of the transcript.
- Copies of all exhibits admitted into evidence at trial—the copies of these exhibits included in the Record on Appeal are missing top and bottom portions of the pages due to poor photocopying by Vandora Huggins. Deutsche Bank requests that complete and better copies of the exhibits be included in the Record on Appeal.
- Final Order filed on April 5, 2012—the copy of the Final Order contained in the proposed Record on Appeal contains handwritten comments, notes, and markings made by Vandora Huggins that are prejudicial to Respondent and impermissible under the South Carolina Appellate Court Rules. (Vol. I, marked with a handwritten “10” on the bottom.) This must be substituted with a “clean” version of the filed Final Order.
- Supplemental Order filed July 16, 2012.

Because Vandora Huggins never objected to the inclusion of the above documents in the Record on Appeal, Deutsche Bank respectfully requests an order requiring her to correct the Record on Appeal by including these documents.

2. Vandora Huggins’s proposed Record on Appeal improperly includes matter not presented to the lower court.

“The Record shall not, however, include matter which was not presented to the lower court or tribunal.” Rule 210(c), SCACR. The following documents included by Vandora Huggins in the Record on Appeal were never presented to the lower court and must be stricken from the record:

- The beginning of Volume I of the Record on Appeal includes what appears to be some kind of preamble or additional appellate brief by Vandora Huggins not previously served or filed in this appeal. (Vol. I, pages marked with a handwritten “1” on the bottom.) No such further brief is permitted under the South Carolina Appellate Court Rules. Further, it is improper to include appellate briefs in the Record on Appeal.
- Volume I of the Record on Appeal includes a third version of the Initial Brief of the Appellant which has never been served or filed by the Appellant. (Vol. I, pages marked with a handwritten “2” on the bottom.) Respondent has never seen this version of the Initial Brief of the Appellant before now. Further, it is improper to include appellate briefs in the Record on Appeal.
- Letter from AMC Mortgage Services, Inc. to Vandora Huggins dated August 24, 2006, along with a scan of the certified mail envelope. (Vol. I, pages marked with a handwritten “4” on the bottom). This document was never filed or admitted into evidence at trial or any other hearing.

- An order concerning a motion for partial summary judgment in civil action # 2007-CP-10-2596. (Vol. I, pages marked with a handwritten “6” on the bottom.) This order is from a different case and is inappropriate for inclusion in the record for this appeal.
- A transcript from a motion hearing in civil action # 2007-CP-10-2596—a different case that is not on appeal. (Vol. I, pages also marked with a handwritten “6” on the bottom.) This transcript is from a different case and is inappropriate for inclusion in the record for this appeal.
- Letter from Sean Foerster to Tamara McDonald dated January 23, 2012. (Vol. I, pages marked with a handwritten “9” on the bottom.) This document was never filed or admitted into evidence at trial or any other hearing.
- Letter from Sean Foerster to Paul B. Ferrara, III, Esquire, dated January 23, 2012. (Vol. I, pages also marked with a handwritten “9” on the bottom.) This document was never filed or admitted into evidence at trial or any other hearing.
- Letter from John J. Hearn to the Honorable Mikell R. Scarborough dated February 16, 2009. (Vol. I, pages also marked with a handwritten “11” on the bottom.) This document was never filed or admitted into evidence at trial or any other hearing.
- Incomplete and unfiled version of the Affidavit of Attorney’s Fees submitted by Deutsche Bank’s counsel at trial. (Vol. I, pages also marked with a handwritten “12” on the bottom.) If Vandora Huggins wants this affidavit

included in the record, it needs to be substituted with a filed and complete copy.

Deutsche Bank respectfully requests an order striking these documents from the Record on Appeal.

3. The proposed Record on Appeal Fails to Comply with the South Carolina Appellate Court Rules in Other Material Aspects.

Vandora Huggins's proposed Record on Appeal further fails to comply with the South Carolina Appellate Court Rules as follows:

- Vandora Huggins failed to certify that the proposed Record on Appeal contains all material proposed to be included by any of the parties and not any other material. Rule 210(g), SCACR ("Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.").
- The pages of the proposed Record on Appeal are not consecutively numbered, which will make it difficult for Respondent to cite to the Record on Appeal in its Final Brief. Rule 210(c), SCACR ("Each page of the Record on Appeal shall be numbered consecutively beginning with the index.").
- The documents included in the proposed Record on Appeal are not arranged as required under the rules. Rule 210(c), SCACR ("Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by appellant.").

Deutsche Bank respectfully requests an order requiring Vandora Huggins to correct the Record on Appeal to satisfy these requirements.

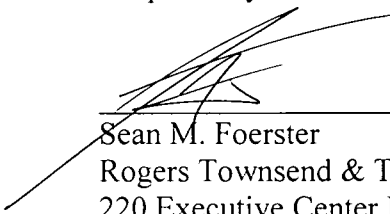
4. Vandora Huggins failed to Timely Serve the Record on Appeal.

“Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief.” Rule 210(a), SCACR. Because Vandora Huggins failed to file a Reply Brief, the service of the last brief in this appeal occurred on August 19, 2013, when Deutsche Bank served the Initial Brief of the Respondent. Under Rule 210(a), Vandora Huggins was required to serve a copy of the Record on Appeal on Deutsche Bank no later than September 18, 2013. Vandora Huggins did not serve the Record on Appeal until September 24, 2013, and did not receive an extension of time from the Court. This appeal must be dismissed due to Vandora Huggins’s failure to comply with the South Carolina Appellate Court Rules.

CONCLUSION

For these reasons, Deutsche Bank respectfully moves for an order requiring Vandora Huggins to correct the Record on Appeal. To the extent that Vandora Huggins fails to correct the Record on Appeal to conform to the requirements of Rule 210, SCACR, her appeal must be dismissed. In the alternative, Deutsche Bank moves to dismiss this appeal due to Vandora Huggins's failure to timely serve the Record on Appeal.

Respectfully submitted,



Sean M. Foerster
Rogers Townsend & Thomas, PC
220 Executive Center Drive (29210)
Post Office Box 100200
Columbia, South Carolina 29202-3200
(803)771-7900
sean.foerster@rtt-law.com

Attorneys for Respondent Deutsche Bank
National Trust Company, as Trustee of
Ameriquest Mortgage Securities, Inc., Asset
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Deceased, their heirs, Personal Representatives, Administrators,
Successors and Assigns, and all other persons entitled to claim
through them; any other Heirs-at-Law or Devisees of
Michelle Huggins, Deceased, their heirs, Personal Representatives,
Administrators, Successors and Assigns, and all other persons entitled
to claim through them; any other Heirs-at-Law or Devisees
of Buster Huggins, Sr., Deceased, their heirs, Personal
Representatives, Administrators, Successors and

Assigns, and all other persons entitled to claim through them;
all unknown persons with any right, title or interest
in the real estate described herein; also any persons
who may be in the military service of the United States
of America, being a class designated as John Doe;
and any unknown minors or persons under a disability
being a class designated as Richard Roe; South Carolina
Department of Revenue; Safeway Finance; Ford Motor
Credit Company; General Motors Acceptance Corporation;
White Directory Holdings Carolina, Inc. d/b/a The Talking
Phone Book; Monogram Credit Card Bank of Georgia;
Michael Twitty; Deborah Twitty; the United States of America,
by and through its agency, the Internal Revenue Service;
and John C. Bigler..... Defendants,

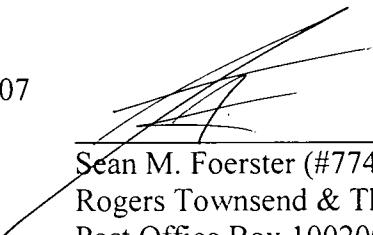
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Of whom Vandora M. Huggins-Edwards a/k/a Vandora
H. Edwards is the Appellant.

PROOF OF SERVICE

I HEREBY CERTIFY that I have served the Respondent's Motion to Correct the Record on Appeal, or, in the alternative, to Dismiss the Appeal on October 15, 2013, by depositing a copy of each in the United States Mail, postage prepaid, addressed to the following party of record:

Vandora M. Huggins
1218 Gunn Avenue
Charleston, South Carolina 29407



Sean M. Foerster (#77466)
Rogers Townsend & Thomas, PC
Post Office Box 100200(29202)
220 Executive Center Drive
Columbia, SC 29210
803-771-7900
sean.foerster@rtt-law.com

Attorneys for Respondent Deutsche Bank National Trust Company, as Trustee of Amerquest Mortgage Securities, Inc., Asset Backed Pass Through Certificates, Series 2005-R4CGM under Pooling and Servicing Agreement dated as of May 1, 2005, without recourse