

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

Deutsche Bank National Trust Company, as
Trustee for GMACM Mortgage Loan Trust
2005-AF1.

PLAINTIFF,

vs.

Betti Abrecht; William M Abrecht,
DEFENDANT(S)

ORDER DENYING DEFENDANTS'
MOTION FOR RECONSIDERATION AND
ORDER AMENDING CAPTION AND
SUBSTITUTING PLAINTIFF

C/A NO: 2015-CP-38-00581

DEFICIENCY WAIVED

This matter came before me for hearing on October 10, 2025, on the Defendants' motion for reconsideration or to alter or amend the Court's Order issued in this case on August 28, 2025. The Plaintiff filed an objection to the motion on September 22, 2025, and William B. Jung, Esq., Counsel for the Defendants, filed an Affidavit in support of the Defendants' motion on September 29, 2025. The Plaintiff filed a supplemental objection to the Defendants' motion and affidavit on October 2, 2025. William B. Jung, Esq., attended the hearing on behalf of the Defendants and Jane H. Downey, Esq. and John Kay, Esq., attended the hearing on behalf of the Plaintiff.

The Defendants raised the issue of an assignment of mortgage that was filed on January 31, 2022, in the Office of the Register of Deeds for Orangeburg County in Book 2849 Page 0274. This assignment was from Deutsche Bank National Trust Company, as Trustee for GMACM Mortgage Loan Trust 2005-AF1 to U.S. Bank National Association, not in its individual capacity, but solely as Trustee for NRZ Pass-Through Trust XI. The Defendants' argument, based upon this recorded assignment, was that Deutsche Bank lacked standing to foreclose on the mortgage in question in this case and that the testimony of the Plaintiff's witness in the case, Anthony Younger, was false and erroneous. The Court disagrees with these assertions.

In South Carolina, "The holder of a bearer instrument, such as the Note in this matter, does not need to be the owner of the instrument in order to enforce it and be entitled to a right to payment. Further, under South Carolina law, the mortgage follows the note". *Nelums v. Specialized Loan Servicing, LLC* (In re Nelums), C/A/ No. 18-05885-jw, Adv. Pro. No. 19-

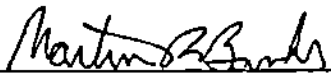
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80032-jw, slip op. (Bankr. D.S.C. Mar 17, 2020). “under South Carolina law, a party in possession of an original Note that is the bearer...has a right to payment under the Note”. *In re Nelums*. In the present case, the original note was likewise endorsed in blank and in the possession of the servicer, Fay Servicing. As the Court held in the *Nelums*, “it is well established that a servicer, which is a party that collects a debt on behalf of another party, has standing and is a real party in interest to commence a foreclosure action.”

The testimony of Mr. Younger at trial was based on his work and employment at the servicer, Fay Servicing, and he was not in the employ of the Plaintiff. Younger’s testimony was based upon the servicing records created by Fay Servicing and the previous servicers of the Abrecht mortgage. Therefore, the outcome would not have changed if the Plaintiff had been U.S. Bank and not Deutsche Bank. Fay Servicing continues to service this loan despite the change from Deutsche Bank to U. S. Bank.

Rules 19 and Rule 21 of the South Carolina Rules of Civil Procedure allow for the substitution of parties by order of the court on motion of any party or of its own initiative. As the mortgage has been assigned to the U.S. Bank Trust entity, I grant Plaintiff’s motion at hearing to amend the caption to reflect the assignment of the mortgage from Deutsche Bank to U.S. Bank and to substitute U.S. Bank National Association, not in its individual capacity, but solely as Trustee for NRZ Pass-Through Trust XI as the Plaintiff in this case.

The Court also denies the Defendants’ motion for reconsideration. Based upon my review of the transcript of the hearing, the exhibits introduced at trial, and the arguments of counsel, there is no basis to alter or amend the Master’s Order and Judgment of Foreclosure and Sale issued in this matter on August 1, 2025. At the end of the hearing, the Court asked if the Defendants or their counsel had any additional arguments to raise and they indicated that they did not.



Martin R. Banks
Special Referee for Orangeburg County

10/28, 2025