

The South Carolina Court of Appeals

Deutsche Bank National Trust Company, as Trustee for
New Century Home Equity Loan Trust, Series 2003-2
Asset Backed Pass-Through Certificates, Appellant,

v.

Tommy Rush, Asia T. Rush Family Trust, and Australia
B. Rush 29016 as Trustee, Respondents.

Appellate Case No. 2025-001756

ORDER

Appellant filed a notice of appeal from several orders, and in its notice explained that it sought only to appeal the decision of the circuit court denying its motion to strike Respondents' jury trial demand. Respondents filed a motion to dismiss arguing the circuit court orders were not immediately appealable "[b]ecause the orders merely regulate the mode of trial and do not affect a substantial right." On February 19, 2026, Appellant filed a return, arguing the circuit court denying its motion to strike Respondents' jury trial demand is immediately appealable. After careful consideration, we deny Respondents' motion to dismiss. *See Foggie v. CSX Transp., Inc.*, 315 S.C. 17, 23, 431 S.E.2d 587, 590 (1993) ("Issues regarding mode of trial must be raised in the trial court at the first opportunity, and the order . . . is immediately appealable. The failure to timely appeal the interlocutory order of the trial court effects a waiver of appeal rights." (citation omitted)); *see also Frampton v. S.C. Dep't of Transp.*, 406 S.C. 377, 385, 752 S.E.2d 269, 274 (Ct. App. 2013) ("Orders affecting the mode of trial affect a substantial right as defined in section 14-3-330(2) of the South Carolina Code (1976), 'and must, therefore, be appealed immediately.'" (quoting *Lester v. Dawson*, 327 S.C. 263, 266, 491 S.E.2d 240, 241 (1997))); *id.* at 386, 752 S.E.2d at 274 (holding the appellant did not preserve its argument that the trial court erred by denying its request for a nonjury trial for appellate review because it "did not immediately appeal the trial court's order affecting the mode of trial, which is a substantial right").



J.

FOR THE COURT

Columbia, South Carolina

cc:

M. McMullen Taylor, Esquire
Heidi B. Carey, Esquire
Jamie Anna Weller, Esquire
Patrick McFadden Killen, Esquire
Jacob Henry Dippold, Esquire
Nicholas Ashton Young, Esquire

FILED
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