

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

U.S. Bank National Association,)
)
Respondent,)
)
v.) Appellate Case No. 2026-000295
)
Barbara Rogers and Antonio Rogers,)
)
Appellants.)

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SC Court of Appeals

SUPPLEMENTAL BRIEF OF APPELLANTS
WITH SUPPORTING AUTHORITY

COME NOW the Appellants, Barbara Rogers and Antonio Rogers, and respectfully submit this Supplemental Brief in support of their appeal.

I. STANDARD OF REVIEW

In foreclosure actions, the appellate court may review both the facts and the law. However, the Respondent must still prove its case by competent evidence.

II. ISSUE ONE: RESPONDENT LACKED STANDING AT COMMENCEMENT

Standing is a fundamental requirement that must exist at the time the action is filed.

In **Bank of America, N.A. v. Draper**, 405 S.C. 214, 746 S.E.2d 478 (Ct. App. 2013), the Court held that a foreclosure plaintiff must establish standing at the time of filing and cannot cure defects later.

Similarly, in **Wells Fargo Bank, N.A. v. Fallon**, 410 S.C. 68, 763 S.E.2d 264 (2014), the South Carolina Supreme Court emphasized that standing requires proof of possession of the note or valid assignment at the time the complaint is filed.

In the present case:

- The Respondent failed to establish possession of the original note at filing
- Any assignment appears to have occurred after commencement

- No competent evidence establishes holder status

Accordingly, the foreclosure action should have been dismissed.

III. ISSUE TWO: FAILURE TO PRODUCE ORIGINAL NOTE

The burden rests on the foreclosing party to prove its right to enforce the note.

In **Ballou v. Young**, 42 S.C. 170, 20 S.E. 84 (1894), the Court required strict proof of the right to enforce a debt instrument.

Modern foreclosure cases continue to require proof of possession or proper endorsement of the original note.

Here, the Respondent relied on:

- Copies rather than the original note
- Affidavits lacking foundation

Such evidence is insufficient to support foreclosure.

IV. ISSUE THREE: DEFECTIVE ASSIGNMENTS AND BREAK IN CHAIN OF TITLE

Assignments must be valid, authenticated, and completed prior to filing.

In **Draper**, the Court rejected attempts to rely on assignments executed after filing.

Defects in the chain of title raise serious questions regarding the Respondent's authority.

The record reflects:

- Possible gaps in assignment history
- Questionable execution of documents
- Lack of verification of signatory authority

These defects undermine standing and enforcement rights.

V. ISSUE FOUR: IMPROPER RELIANCE ON HEARSAY AFFIDAVITS

The trial court improperly relied on affidavits that fail to meet evidentiary standards.

Under Rule 56(e), SCRPC, affidavits must:

- Be based on personal knowledge
- Set forth admissible facts
- Show competency of the affiant

In **Regions Bank v. Schmauch**, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003), the Court held that unsupported or conclusory affidavits are insufficient.

The Respondent's affidavits:

- Lack proper foundation
- Fail to authenticate records
- Contain hearsay statements

Thus, they cannot support summary judgment or foreclosure.

VI. ISSUE FIVE: DENIAL OF DUE PROCESS

Due process requires a meaningful opportunity to be heard and strict adherence to evidentiary standards.

In foreclosure proceedings, courts must ensure that:

- Evidence is properly admitted
- Defendants have opportunity to challenge documents
- The burden of proof is strictly enforced

The Appellants were prejudiced by:

- Admission of unreliable evidence
- Failure to require strict proof
- Limited ability to challenge the Respondent's claims

VII. ISSUE SIX: PREJUDICE AND HARDSHIP

The foreclosure has caused substantial harm, including:

- Public notice publication
- Emotional distress

- Financial hardship

While foreclosure is an equitable proceeding, equity requires fairness and proper proof.

VIII. CONCLUSION

For the foregoing reasons, Appellants respectfully request that this Court:

1. Reverse the Order of Foreclosure and Sale;
2. Dismiss the action for lack of standing; or
3. Remand for further proceedings consistent with South Carolina law and due process.

Respectfully submitted this 3rd day of April, 2026.

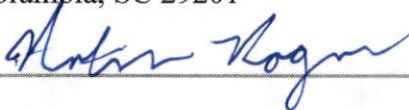
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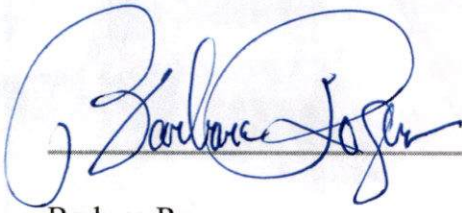
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Supplemental Brief of Appellants has been served upon the following counsel of record by United States Mail, postage prepaid, on this 3rd day of April, 2026:

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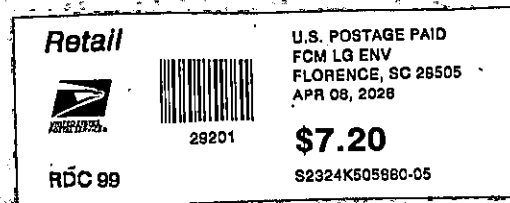
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