

IN THE SOUTH CAROLINA COURT OF APPEALS

STATE OF SOUTH CAROLINA

The Bank of New York Mellon, f/k/a The Bank of New York as successor in interest to
JPMorgan Chase Bank, N.A. as Trustee for NovaStar Mortgage Funding Trust, Series 2004-1,
NovaStar Home Equity Loan Asset-Backed Certificates, Series 2004-1,
Respondent,

v.

Timothy Allen Nunally, as Personal Representative for the Estate of Carl Alvin Nunally, Sr.,
deceased; Timothy Allen Nunally, as Trustee for the CAN Irrevocable Trust; Carl Alvin Nunally,
Jr.; Mark Anthony Nunally; and Timothy Allen Nunally,
Defendants,

of which Timothy Allen Nunally and Mark Anthony Nunally are the Appellants.

Appellate Case No. 2026-001103

Trial Court Case No. 2024-CP-32-01094

APPELLANTS' DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON
APPEAL

Appellants Timothy Allen Nunally and Mark Anthony Nunnally, pursuant to Rule 209, SCACR, designate the following matter to be included in the Record on Appeal. Appellants designate only matter relevant to the issues raised in the Initial Brief and properly includable under Rule 210, SCACR.

1. Appellate filings

- a. Notice of Appeal filed May 5, 2026.
- b. Certificate of Service / proof of service for the Notice of Appeal.

2. Orders, judgments, and rulings

- a. Order and Judgment of Foreclosure and Sale and Reformation of Mortgage, Deficiency Waived.
- b. September 30, 2025 Order denying Defendants' motions to dismiss and to set aside default.
- c. Any order of reference, trial scheduling order, or filed order relevant to the referral to the Master-in-Equity, trial posture, default posture, trial issues, or post-trial order process.

3. Pleadings and commencement materials

- a. Lis Pendens filed March 8, 2024.
- b. Summons filed March 8, 2024.
- c. Complaint filed March 8, 2024.
- d. Attachments and exhibits to the Complaint, including documents relied upon by Respondent to allege standing, entitlement to enforce, mortgage validity, default, or declaratory/equitable relief.

4. Pretrial preservation materials

- a. Defendants' Consolidated Rule 16(c), SCRCP Notice of Disputed Trial Frame, Objection to Evidentiary Sequencing, and Motion Requiring Election of Standing Theory.

b. Any filed response, objection, motion, memorandum, or exhibit presented to the lower court in Case No. 2024-CP-32-01094 that concerns standing, real-party status, entitlement to enforce, mortgage competency, assignment chain, record notice, race-notice, title, default, debt, or evidentiary sequence, to the extent relied upon by either party or considered by the lower court.

5. February 10, 2026 trial transcript

The full transcript of the February 10, 2026 bench trial, including but not limited to the following portions:

- a. Opening discussion and identification of disputed issues;
- b. Testimony of Brian L. Boger;
- c. Cross-examination of Brian L. Boger;
- d. Testimony of Louise Plasse;
- e. Cross-examination of Louise Plasse;
- f. Admission, discussion, and use of Plaintiff's trial exhibits;
- g. Discussion and review of Appellants' PowerPoint presentation;
- h. Appellants' testimony, evidentiary presentation, and legal argument concerning standing, assignments, mortgage competency, record notice, race-notice, title, and proof deficiencies;
- i. The Master's comments and rulings concerning blank indorsement, possession, PowerPoint evidence, proposed orders, standing, and race-notice;
- j. Closing argument, post-trial discussion, and proposed-order instructions.

6. Plaintiff's trial exhibits and related admitted materials

Plaintiff's trial exhibits admitted, proffered, discussed, or relied upon at the February 10, 2026 trial, including:

- a. Limited Power of Attorney / servicing authority documents;
- b. Onity/PHH name-change or authority documents;
- c. Note and allonges;
- d. Mortgage;
- e. Settlement statement / closing-related documents;
- f. Deed or title-related documents;
- g. Loan Modification;
- h. Original assignment and corrective assignment;
- i. Payment history;
- j. Account history;
- k. Total due / debt figures;
- l. Corporate advance records;
- m. Notice of default;
- n. Any other Plaintiff trial exhibits admitted, proffered, discussed, or relied upon at trial.

7. Appellants' trial materials

- a. Appellants' PowerPoint presentation and related demonstrative/evidentiary materials presented, proffered, reviewed, or considered during the February 10, 2026 trial.
- b. Any exhibits, charts, summaries, calendars, chain documents, or supporting materials presented, proffered, reviewed, or considered by the Master during Appellants' trial presentation.

8. Post-trial order process and proposed findings

- a. February 10, 2026 Post-Trial Order Process.
- b. Court-issued proposed-order instructions/template transmitted by the Master's office, including the maximum ten-page order instruction and disputed-fact framework.

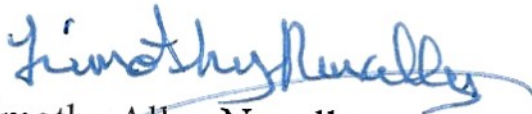
- c. Defendants' proposed order submitted after trial.
- d. Defendants' revised proposed order or revised proposed findings submitted after trial.
- e. Plaintiff's proposed order submitted after trial.
- f. Plaintiff's revised proposed order submitted after trial.
- g. Defendants' April 14, 2026 filed packet, including the short-form proposed order, long-form supporting proposed order, summary sheet, certificate of service, and any attachments included in that filing.
- h. Any filed or record materials showing the April 2026 proposed-order submission process, to the extent presented to the lower court in Case No. 2024-CP-32-01094.

9. Respondent-designated matter

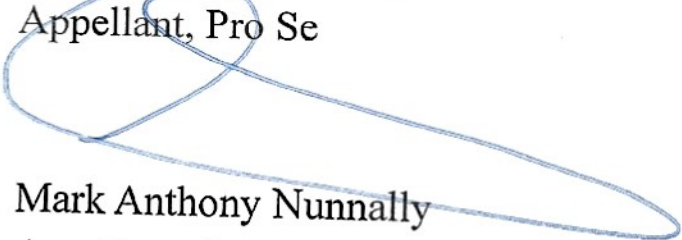
Any matter properly designated by Respondent under Rule 209, SCACR, and properly includable under Rule 210, SCACR.

Appellants certify that this Designation contains only matter relevant to the issues on appeal.

Respectfully submitted,



Timothy Allen Nunally
Appellant, Pro Se



Mark Anthony Nunnally
Appellant, Pro Se

Date: July 5th, 2026