

STATE OF SOUTH CAROLINA)

COUNTY OF PICKENS)

Callista, LLC,)

Plaintiff,)

vs.)

Sonny M. Ninan, Sonny M Ninan as
 Trustee for the SM Ninan Family Trust,
 Moss Mortgage Company, LLC, County
 of Pickens, TD Auto Finance, LLC, and
 The State of South Carolina by and
 through its agency The Department of
 Revenue,

Defendants.)

IN THE COURT OF COMMON PLEAS

C.A. No.: 2025-CP-39-01064

**ORDER GRANTING PLAINTIFF'S
 MOTION FOR
 SUMMARY JUDGMENT**

RECEIVED

AUG 26 2026

SC Court of Appeals

This matter came before the Court for a hearing on March 30, 2026. Plaintiff Callista, LLC ("Plaintiff") filed a motion for summary judgment for the purpose of seeking an order (a) granting judgment as to its two causes of action for foreclosure and (b) dismissing of all affirmative defenses of the Defendants. Having considered the evidence presented in a light most favorable to the Defendants, the applicable legal authorities, and arguments of the respective parties, the Court finds as follows:

FACTS

For purposes of ruling on Plaintiff Motion for Summary Judgment, the following facts are either undisputed or presented for purposes of a summary judgment hearing in a light most favorable to Plaintiff:

1. On October 20, 2016, Plaintiff obtained a judgment against Sonny M. Ninan ("Debtor") in Greenville County, South Carolina in Case No. 2014-CP-23-04741, in the amount of \$28,942.08 (the "Greenville Judgment"), which continues to accrue interest at the judgment rate thereafter.

2. The Greenville Judgment was transcribed into Pickens County on January 9, 2018, under Case No. 2018-CP-39-00035 (the “Judgment”).
3. SM Ninan Family Trust (the “Trust”) is a revocable trust organized and existing under the laws of the State of South Carolina.
4. Debtor is the settlor of the Trust.
5. The Trust is the owner of the Properties, as further defined in the Complaint, identified as TMS Nos. 5131-02-69-1761 & 5131-02-69-1833.
6. Moss Mortgage Company, LLC (“Moss”) is a defendant by virtue of its Mortgage dated April 15, 2025 and filed April 15, 2025 in Mortgage Book 6640 at Page 284 in the Office of the Register of Deeds for Pickens County.

STANDARD OF REVIEW

Summary judgment is appropriate when “the pleadings, depositions, answers to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRPC. Although the moving party bears the initial burden of demonstrating the absence of a genuine issue of material fact, “this initial responsibility may be discharged by ‘showing’—that is, pointing out to the trial court—that there is an absence of evidence to support the nonmoving party’s case.” *Baughman v. Am. Tel. and Tel. Co.*, 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). Once the moving party makes this demonstration, the opposing party “must, under Rule 56(e), do more than simply show some metaphysical doubt as to the material facts but must come forward with specific facts showing that there is a *genuine issue for trial*.” *Id.* (emphasis in original); *Midland Mutual Life Ins. co. v. Darrell*, 331 S.C. 394, 397, 503 S.E.2d 189, 190 (Ct. App. 1998). The nonmoving party must specifically set forth such facts showing that a true issue for fact finder determination exists. *See* Rule 56(e), SCRPC. “[I]t is not sufficient for a

party to create an inference that is not reasonable or an issue of fact that is not genuine.” *Town of Hollywood v. Floyd*, 403 S.C. 466, 477, 744 S.E.2d 161, 166 (2013).

CONCLUSIONS OF LAW

1. Pursuant to S.C. CODE ANN. § 15-35-810, Plaintiff’s judgment constitutes a lien upon the real property of Debtor in Pickens County, as a matter of law.

2. Pursuant S.C. CODE ANN. § 62-7-505(a)(1), “During the lifetime of the settlor, the property of a revocable trust is subject to claims of the settlor’s creditors.” Therefore, the lien of the Judgment applies to each of the Properties.

3. Debtor asserts that a notice is required under the boundary clarification statute found at S.C. CODE ANN. § 29-3-800. However, the definitions referenced in the statute, found in S.C. CODE ANN. § 30-5-270, make it clear, as a matter of law, that these code sections do not apply to the Properties. No notice as required under these statutory provisions is required in the case at bar. This defense fails as a matter of law.

4. Debtor and the Trust assert that there was a failure to complete proper service. The deeds for the Properties indicate that Debtor is the Trustee. Debtor has been served, as set forth in the affidavit of service of record in the case, individually and as the record trustee of the Trust. This defense fails as a matter of law.

5. Debtor and the Trust assert that the Trust is not a judgment debtor, and therefore no claim can be made against it. As set forth above, pursuant to S.C. CODE ANN. § 62-7-505(a)(1), the Judgment is a lien on the Properties owned by the Trust because Debtor was the settlor of the Trust. This defense fails as a matter of law.

6. Debtor asserts that the Judgment should not accrue interest at the judgment rate. No law or facts were presented to support this defense. This defense fails as a matter of law.

7. Debtor asserts that there was an agreement by Plaintiff to not pursue collection of the Judgment. No law or facts were presented to support this defense. This defense fails as a matter of law.

8. Debtor asserts that under S.C. CODE ANN. § 62-7-505, trust property is not subject to claims against personal obligations of the trustee, and separately asserts that Debtor is not a beneficiary. However, the property subject to the foreclosure was property of Debtor as the settlor, not Debtor as the trustee or as a beneficiary. These defenses fail as a matter of law.

9. Debtor asserts a statute of limitations defense, claiming that the Properties were deeded to the Trust more than three years prior to the subject lawsuit. No such limitations period is applicable. Creditors have ten years from the date of their judgment to execute upon their judgments. This defense fails as a matter of law.

10. Moss asserts that the filed transcript in Pickens County did not comply with statutory requirements. The Court finds that the Judgment does comply with the statutory requirements and is a judgment of record in Pickens County. This defense fails as a matter of law.

11. Moss asserts that the writ of execution did not comply with statutory requirements. The Court finds that the writ of execution does comply with the statutory requirements. This defense fails as a matter of law.

12. Moss asserts that its mortgage is a purchase money mortgage. However, the mortgage is recorded in 2025, and the purchase or transfer of the Properties occurred at a much earlier date. The 2025 mortgage was not filed as a modification of the previous mortgage, and the previous mortgage was satisfied. Therefore, no purchase money defense applies, and this affirmative defense fails as a matter of law.

13. Any other affirmative defenses raised by the Defendants and not addressed herein fail as a matter of law.

14. The lien of Plaintiff's Judgment has first priority as a lien on each of the Properties.
15. Plaintiff is entitled to an order of foreclosure of its Judgment lien on the Properties.
16. The Court will hold a final hearing via video conference on a date to be determined in which Plaintiff will present a record of hearing and calculation of the amount owed under the Judgment, so that a foreclosure on the Properties may proceed to a sale.

CONCLUSION

For the reasons stated above, Plaintiff's motion for summary judgment is hereby granted. The Claims for foreclosure of the Properties are granted. The affirmative defenses of the Defendants are hereby dismissed with prejudice, as a matter of law.

IT IS SO ORDERED.

JUDGE'S SIGNATURE PAGE TO FOLLOW

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025-CP-39-01064

Callista. LLC

Sonny M. Ninan, Sonny M Ninan as Trustee for
the SM Ninan Family Trust, Moss Mortgage
Company, LLC, County of Pickens, TD Auto
Finance, LLC, and The State of South Carolina by
and through its agency the Department of
Revenue

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

SEE PAGE 2

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AUG 26 2026

SC Court of Appeals

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk :

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$

		\$
If applicable, describe the property, including tax map information and address, referenced in the order:		

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Master-in-Equity	3089	April 14, 2026
	Judge Code	Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter: Barbara McCurley

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This matter came before the Court via Zoom on March 30th, 2026 on Plaintiff's Motion for Summary Judgment. Lawrence Hershon appeared on behalf of the Plaintiff, James P. O'Connell appeared on behalf of Defendant Sonny M. Ninan, Sonny M Ninan as Trustee for the SM Ninan Family Trust, and Paul A. McKee, III appeared on behalf of Defendant Moss Mortgage.

Pursuant to SCRPC 56, a Motion for Summary Judgment will be granted where, when viewed in the light most favorable to the non-moving party, the Court finds there is no genuine issue of material fact.

Upon such a finding, the moving party is entitled to a judgment as a matter of law. As such, the Plaintiff's Motion for Summary Judgment is **GRANTED**. The prevailing party shall provide a more formal order within 10 days in accordance with Rule 5(b)(3).



Pickens Common Pleas

Case Caption: Callista Llc VS Sonny M Ninan , defendant, et al
Case Number: 2025CP3901064
Type: Master/Order/Form 4

And It Is So Ordered!

s/ Judge Adam B. Lambert, Master in Equity, No.
3089

STATE OF SOUTH CAROLINA
COUNTY OF PICKENS
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2025-CP-39-01064

Callista, LLC

Sonny M. Ninan, Sonny M Ninan as Trustee for
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Company, LLC, County of Pickens, TD Auto
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and through its agency the Department of
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Submitted by:

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- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

This matter is before the court pursuant to Defendant's Motion to Remand filed April 20, 2026. The Court has reviewed the record, including the order filed April 21, 2026. The Court denies the motion for the reasons set forth in the order filed April 21, 2026.

And It Is So Ordered.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.
Additional Information for the Clerk :

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SC Court of Appeals

INFORMATION FOR THE JUDGMENT INDEX

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E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Judge's Electronic Signature Page to Follow

3089

May 7, 2026

Master-in-Equity

Judge Code

Date

For Clerk of Court Office Use Only

This judgment was entered on the _____ day of _____, 20____ and a copy mailed first class or placed in the appropriate attorney's box on this _____ day of _____, 20____ to attorneys of record or to parties (when appearing pro se) as follows:

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

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