

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

James Spence, Master in Equity

Appellate Case No. 2026-001103

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SC Court of Appeals

The Bank of New York Mellon, f/k/a The Bank of New York as successor in interest to JP Morgan 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 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,

Defendants,

Of which, Timothy Nunally and Mark Nunally are the Appellants.

**RESPONDENT'S DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD
ON APPEAL**

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(803) 454-3540
Attorney for Respondent

Other parties:

Timothy Allen Nunally, pro se Appellant
Mark Anthony Nunally, pro se Appellant
5681 Grande River Rd.
College Park GA 30349

Respondent proposes the following be included in the Record on Appeal:

1. March 8, 2024, Complaint
2. April 29, 2024, Affidavit of Service
3. May 23, 2024, Order of Reference
4. July 2, 2024, Motion for Service by Publication, affidavit in support of publication and exhibits.
5. July 3, 2024, Order of Publication
6. July 17, 2024, Defendants' Motion to Dismiss
7. August 9, 2024, Affidavit of Publication
8. November 25, 2024, Plaintiff's Memorandum in Opposition to Defendant's Motion to dismiss
9. December 5, 2024, Defendants' Motion for Judicial Notice of Will and Common Law Resident Trust
10. January 3, 2025, Notice of hearing and service
11. January 10, 2025, Amended notice of motion hearing and service
12. January 12, 2025, transcript of motion hearing
13. January 23, 2025, Affidavit in Support of Defendants' Motion for Judicial Notice
14. February 12, 2025, Order Denying Defendants' Motions
15. February 12, 2025, Trial Scheduling Order
16. February 19, 2025, Certificate of Service by Mail
17. March 6, 2025, Affidavit of Non-Military Service
18. March 24, 2025, Affidavit of Default and Certificate of Service by Mail
19. April 18, 2025, Affidavit of Amount Due
20. May 23, 2025, Plaintiff's Motion for Summary Judgment, Memorandum in Support, and exhibits
21. May 23, 2025, Notice of Hearing and Service
22. June 5, 2025, Defendants' Motion to Take Judicial Notice and exhibits
23. June 11, 2025, Notice of Status Conference
24. June 16, 2025, Notice of Bench Trial
25. June 19, 2025, Defendants' Motion in Limine
26. June 30, 2025, Supplemental Affidavit of Attorney's Fees and Costs
27. July 3, 2025, Defendants' Motion to accept late-filed answer and proposed answer
28. July 8, 2025, Defendants' Motion to Dismiss
29. July 9, 2025, Plaintiff's Memorandum in Opposition to Defendants' Motion to Set Aside Default and Certificate of Service
30. July 9, 2025, Plaintiff's Memorandum in Opposition to Defendants' Motion to Dismiss and Certificate of Service
31. July 9, 2025, Defendants' Supplement to Motion for Relief
32. July 10, 2025, Defendants' filings including second Motion in Limine and Motion to Set Aside Default
33. July 24, 2025, Form 4 Order denying Defendants' Motion in Limine
34. August 6, 2025, Notice of Motion Hearing and service

35. August 25, 2025, Plaintiff's Supplemental Memorandum in Opposition to Defendants' motions and service
36. August 27, 2025, transcript of hearing
37. September 30, 2025, Master in Equity's Order Denying Defendants' Motions
38. October 8, 2026, Certificate of Service by Mail
39. January 26, 2026, Notice of Bench Trial and service
40. February 10, 2026, Transcript of bench trial including all admitted exhibits
41. February 10, 2026, Master in Equity's Order – Post Trial Order Process
42. April 24, 2026, Master in Equity's Order and Judgment of Foreclosure and Sale and Reformation of Mortgage
43. April 24, 2026, Certificate of Service by Mail

I certify that this designation contains no matter which is irrelevant to this appeal.

s/Chad W. Burgess
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Date: September 4, 2026