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SC Court of Appeals

IN THE COURT OF APPEALS OF SOUTH CAROLINA

Nationstar Mortgage, LLC d/b/a Mr. Cooper,

Respondent,

v.

Carolyn Brantley,

Petitioner, Appellant.

Appellate Case No. 2025-002464

The Honorable Carmen T. Mullen

Jasper County Trial Court Case No. 2022CP2700306

James A. Grimsley III, Special Referee

APPELLANT'S INITIAL BRIEF

Prepared for Carolyn Brantley, Appellant, Sui Juris

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South Carolina Code § 36-3-301 (person entitled to enforce an instrument).

LaSalle Bank Nat'l Ass'n v. Davidson, 386 S.C. 276, 688 S.E.2d 121 (2009).

Bank of America, N.A. v. Draper, 405 S.C. 214, 746 S.E.2d 478 (Ct. App. 2013).

STATEMENT OF ISSUES ON APPEAL

1. Did the lower court err, or otherwise abuse its discretion, by entering or maintaining relief affecting Appellant's property interests without a record demonstrating that Appellant received the notice and meaningful opportunity to be heard required by due process?
2. Did the lower court err by entering or maintaining foreclosure relief without adequately resolving the issues concerning the respondent's standing, authority to enforce the debt and mortgage, and the chain of title that Appellant preserved for review?

3. Did the lower court err by proceeding despite material procedural irregularities that, according to Appellant's preserved objections, affected the integrity and reliability of the proceeding and the resulting judgment?

4. To the extent the lower court relied upon documents, assignments, records, testimony, or other proof concerning ownership, enforcement rights, notice, or authority, did it err by failing to require sufficient proof to permit a reliable determination of those matters?

5. What relief is appropriate where the appellate record demonstrates reversible error, denial of meaningful procedural safeguards, or an insufficient basis for the judgment under review?

STATEMENT OF THE CASE

Nature of the matter. This is an appeal arising from a mortgage-foreclosure proceeding identified in the supplied appellate materials as Jasper County Trial Court Case No. 2022CP2700306, before James A. Grimsley III, Special Referee. The appellate caption identifies Nationstar Mortgage, LLC d/b/a Mr. Cooper as Respondent and Carolyn Brantley as Petitioner, Appellant.

Appellate posture. The South Carolina Court of Appeals assigned Appellate Case No. 2025-002464. On September 24, 2026, the Clerk advised Appellant that the initial brief and designation of matter were overdue and directed that they be served and filed pursuant to Rules 208 and 209 within ten days or the appeal would be dismissed.

Procedural history reflected in the supplied materials. Before the September 24 letter, Appellant had submitted a document titled 'ENTRY BY SPECIAL APPEARANCE, APPELLANT'S BRIEF IN SUPPORT OF LEAVE TO FILE OUT OF TIME, NOTICE OF FRAUD UPON THE COURT, AFFIDAVIT IN SUPPORT AND DEMAND FOR CONSTITUTIONAL REVIEW,' as well as a separately titled 'AFFIDAVIT CLAIM OF SERVICE (Electronic Service and Notice of Knowledge).' Appellant's September 2026 response expressly acknowledged that the former contained a request for leave to file out of time while maintaining that the latter was a separate sworn instrument concerning service and notice.

Appellant's preserved concerns. The supplied response identifies concerns regarding constitutional due process, adequacy and timing of notice, meaningful opportunity to be heard, property and estate interests, standing, authority, chain of title, preservation of evidence and records, procedural irregularities, equitable review, and allegations concerning fraud upon the court. These are stated here as Appellant's preserved positions, not as findings already established by the appellate record.

Record limitation. The two documents supplied for preparation of this filing do not contain the appealed order, the transcript, the pleadings, the note and mortgage, assignments, or the lower-court exhibits. Accordingly, this brief does not invent dates, quotations, testimony, findings, monetary

amounts, or record-page citations. Before filing, the bracketed record-specific references should be completed from the actual Record on Appeal or lower-court file.

STANDARD OF REVIEW

Questions of law are reviewed de novo. To the extent the appeal concerns the interpretation or application of procedural rules or the legal sufficiency of the proof supporting foreclosure, the appellate court reviews the applicable legal questions under the governing standard and examines the record for error.

An appellate court's review is confined to the Record on Appeal. Rule 210(c) provides that the Record shall include matter designated under Rule 209 and shall not include matter not presented below; Rule 210(h) further states that, subject to specified exceptions, the appellate court will not consider facts that do not appear in the Record on Appeal.

Where the issue is procedural due process, the appellate inquiry concerns whether the procedure employed afforded the constitutionally required notice and opportunity to be heard under the circumstances presented. In *LaSalle Bank National Association v. Davidson*, 386 S.C. 276, 688 S.E.2d 121 (2009), the South Carolina Supreme Court held that an attempted foreclosure hearing without a judge present violated procedural due process and was a nullity. The case underscores that procedural safeguards are substantive protections when property rights are at stake.

ARGUMENT

I. THE APPEAL SHOULD BE DECIDED ON A COMPLETE AND ACCURATELY DESIGNATED RECORD.

Rule 209(a) requires the appellant, at the same time the initial brief is served, to serve a Designation of Matter to be Included in the Record on Appeal and to file one copy with proof of service. Rule 209(b) requires specificity and permits designation only of material properly includable and relevant to the appeal. Rule 209(c) makes the signature a certification that the designation contains no irrelevant matter.

Appellant therefore designates the materials identified in the accompanying Designation, including the operative pleadings, orders, motions, transcript materials, and exhibits bearing directly on the issues she has preserved. The purpose is not to burden the record with unrelated material. It is to ensure that the Court can review the precise questions presented—notice, opportunity to be heard, authority, standing, chain of title, procedural regularity, and the evidentiary basis for the judgment—without having to reconstruct the proceeding from an incomplete record.

The Court's September 24, 2026 correspondence makes this requirement immediate. The Clerk advised that the initial brief and designation were overdue and directed compliance within ten days under Rules 208 and 209. Appellant now submits both documents together in direct response to that directive.

II. THE LOWER COURT PROCEEDINGS MUST BE REVIEWED FOR COMPLIANCE WITH DUE PROCESS AND MEANINGFUL NOTICE.

Foreclosure is a judicial proceeding affecting a substantial property interest. Appellant's preserved position is that the adequacy and timing of notice and the meaningful opportunity to be heard were disputed. Those questions are not peripheral: they go to whether the proceeding afforded the procedural protections necessary before a judgment affecting property could be entered.

The South Carolina Supreme Court's decision in *LaSalle Bank* is instructive. There, the Court held that an attempted foreclosure hearing conducted without a judge violated procedural due process and that the resulting order was a nullity. 386 S.C. at 280–81, 688 S.E.2d at 123. The principle relevant here is not that the present case is factually identical, but that the appellate court must examine the actual procedure used below rather than assume that the existence of a judgment establishes the adequacy of the process that produced it.

Accordingly, the transcript, notices, hearing orders, proof of service, and any rulings addressing Appellant's objections should be included in the record. If the record establishes that Appellant lacked constitutionally adequate notice, a meaningful opportunity to present objections, or a lawful adjudicative procedure, the appropriate relief should follow under controlling law.

III. THE RECORD MUST PERMIT MEANINGFUL REVIEW OF STANDING, AUTHORITY, AND CHAIN-OF-TITLE ISSUES IDENTIFIED BY APPELLANT.

Appellant has expressly preserved issues concerning standing, authority, and chain of title. Those issues must be evaluated from the documents and proof actually presented to the lower court. The appellate court should therefore have before it the operative note, mortgage, assignments or other instruments of transfer, pleadings asserting the respondent's right to enforce, and the evidence relied upon below to establish that right, to the extent those materials were presented below.

South Carolina law recognizes that a 'person entitled to enforce' a negotiable instrument may include a holder, a nonholder in possession with the rights of a holder, or a person entitled to enforce under specified statutory provisions. S.C. Code § 36-3-301. In *Bank of America, N.A. v. Draper*, 405 S.C. 214, 223, 746 S.E.2d 478, 482 (Ct. App. 2013), the Court of Appeals explained the significance of holder status in a foreclosure dispute. The issue here is therefore not resolved merely by a party's name in the caption; the appellate record must permit review of the legal and evidentiary basis on which enforcement authority was established.

Appellant does not ask this Court to decide an abstract chain-of-title question untethered to the trial record. She asks that the Court review the actual documents and rulings presented below and determine whether the respondent established the legal predicate for the relief awarded. If the record shows a material gap in proof, an unresolved factual issue, an assignment problem, or an erroneous legal standard, the judgment should be reversed, vacated, or remanded as the governing law requires.

IV. MATERIAL PROCEDURAL IRREGULARITIES AND THE PRESERVED ALLEGATIONS CONCERNING THE INTEGRITY OF THE PROCEEDING REQUIRE APPELLATE REVIEW.

Appellant's supplied filings identify alleged procedural irregularities and allegations concerning fraud upon the court. Those allegations are not presented here as established facts. They are preserved appellate issues requiring examination of the record. The appropriate inquiry is whether the lower court followed governing procedure, whether material evidence was properly considered, whether Appellant was afforded a meaningful opportunity to challenge disputed matters, and whether the judgment rests on a reliable evidentiary and procedural foundation.

Where an alleged irregularity concerns a matter capable of resolution from the record—such as the filing and service of an order, the admission or exclusion of evidence, the court's ruling on an objection, the identity or authority of a party, or the contents of an assignment—the relevant record material should be included and cited. This is why the accompanying designation identifies the categories of materials necessary to review each preserved issue.

The appellate court should distinguish between allegations that are supported by the record and allegations that are not. Appellant respectfully requests review of the preserved issues according to that record, without treating the mere assertion of an allegation as proof of the allegation.

V. THE APPELLATE COURT SHOULD PRESERVE THE ISSUES AND PROVIDE THE RELIEF AUTHORIZED BY LAW.

Appellant has now responded to the Court's September 24 directive by submitting an initial brief and a Rule 209 designation. Rule 208 requires the initial brief to contain a concise statement of issues, statement of the case, standard of review, argument, and conclusion; Rule 209 requires a specific designation served and filed with the brief. This filing is structured accordingly.

Appellant respectfully requests that the Court decide the preserved issues on the complete record. If the Court determines that the existing record is insufficient to resolve a material issue because required portions were omitted or because the lower court did not make necessary findings, the appropriate remedy is remand for further proceedings consistent with the Court's opinion, rather than resolution of disputed matters by speculation.

Nothing in this brief should be construed as abandoning any issue previously preserved. Appellant's earlier submissions expressly reserved constitutional, jurisdictional, equitable, procedural, statutory, and substantive rights and identified due-process, notice, property, estate, standing, authority, chain-of-title, evidence-preservation, procedural-integrity, and fraud-related concerns.

CONCLUSION

For the foregoing reasons, Appellant Carolyn Brantley respectfully requests that this Court: (1) accept the accompanying Initial Brief and Designation of Matter as compliance with the September 24, 2026 correspondence; (2) review the preserved issues on the complete record; (3) hold that any material denial of due process, legally insufficient proof of enforcement authority, or reversible procedural error requires appropriate appellate relief; (4) reverse, vacate, or remand the judgment or order under review to the extent warranted by the record and governing law; and (5) grant such other relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I certify that on the 1st day of October 2026, a true and correct copy of the foregoing Appellant's Initial Brief was served upon all parties and counsel of record by a method authorized by the South Carolina Appellate Court Rules, including electronic service where authorized.

Service was directed to:

Thomas A. Shook, Esquire — ashook@cobbhammett.com, ashook@finkellaw.com

Judge Carmen T. Mullen, Jasper County

cmullensc@sccourts.org

James A. Grimsley III, Special Referee

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Carolyn Brantley 10/01/2026

I declare under penalty of the applicable rules that the foregoing is true to the best of my knowledge and that service was completed as stated.

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