

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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OCT 29 2026

SC Court of Appeals

APPEAL FROM PICKENS COUNTY
COURT OF MASTER IN EQUITY

HONORABLE ADAM B LAMBERT

CASE NUMBER 2026-001895

CALLISTA, LLC,

Respondent,

-V-

SONNY M. NINAN and SONNY NINAN
as TRUSTEE for SM NINAN FAMILY TRUST, Appellant.

INITIAL BRIEF OF APPELLANTS

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TABLE OF AUTHORITIES

Cases: Hancock v. Mid-South Management Co. 381 S.C. 326, 673 S. E. 2d 801 (2009) for summary judgments

Wilder Corp v. Wilke 330 S.C. 71, 497 S. E. 2d 731 (1998) for issue preservation:

Long v. Metropolitan Life Insurance Co. 228 S. C. 498, 90 S. E. 2d 915 (1956) presumptions cited in Rule 301 note:

Statutes: all S. C. Code of Law Sections: 39-3-800; 30-5-270; 33-44-803; 62-7-505; 62-7-507;62-7-602:

South Carolina Rules of Evidence 301; South Carolina Rules of Civil Procedure 4, 56, 59, 71, South Carolina Rules Appellate Procedure: 201, 203, 205, 208-211 and 21.

STATEMENT OF ISSUES ON APPEAL

Master in Equity's Order and Judgment Regarding Foreclosure of Judgment Lien and Sale, efiled July 9, 2026;

Defendants' Notice of and Motion to Reconsider the Order of Foreclosure efiled July 17, 2026;

Order of Denying the Motion to Reconsider, July 29th 2026 Form 4 Order;

No Formal Order;

Failure to abide by South Carolina Code of Law Section, 29-3-800, implementing a "Stay" in the Foreclosure proceedings until a boundary clarification was filed by the "Attorney" for the Mortgagee as there indicated.

No personal service on the Trust; as to proper service, upon the Trustee of the Defendant Trust;

Does the Trustee or the Trust, owe the Judgment;

The status of the Judgment, was the Judgment previously written off by Plaintiff;

Were the requirements of South Carolina Code 29-3-800 followed by the Respondent to foreclosure on real estate of this action.

STATEMENT OF THE CASE

Respondent filed it's Foreclosure based on a Judgment originally entered of record as transcript of Judgment in Pickens County January 9, 2018 (from a Greenville County Order of Judgment); then Respondent withdrew that filing.

Respondent refiled the transcript in early 2025 and attempted service on the Appellant Trust, based on the Appellant Trust having two parcels of real estate in Pickens County

On August 12, 2025, Respondent filed the Foreclosure action, seeking to enforce the Judgment against Appellants.

The Complaint was promptly Answered, and a Motion for Summary Judgment was filed, to which a Return was filed requesting the Respondent to abide by the SC Code Section 29-3-800.

No responsive pleading was received from Respondent.

The Summary Judgment hearing was held March 30, 2026 where Appellants argued that Respondent did not follow the law and the action was to have been "stayed" the Master in Equity entered an Order filed April 22, 2026 granting the Foreclosure; Appellants filed a Motion to Reconsider arguing the issues previously noted, the Master in Equity, denied the request;

The Master In Equity then held the damages hearing, June 22, 2026; Appellants, again argued, by filing a Motion in Limine, and a Motion as to Evidence, as to the requirements of the South Carolina Code, "staying" the foreclosure proceeding, and other issues previously waived.

Appellants filed a Motion to Reconsider, July 17, 2026 as to the Order of the Master in Equity's rulings formalized from the damage hearing of June 22, 2026, formal Order issued July 9, 2026. The Motion for Reconsideration was denied by Form 4 Order July 29, 2026.

STANDARD OF REVIEW

Appellants request the Court to review, the Order as to Summary Judgment as was adhered to and incorporated by reference in and to the Order of Foreclosure from the damages hearing of June 22, 2025; which was issued July , 2026 by the Master in Equity; denying all relief requested by Appellants. *Hancock v. Mid-South Management Co.* 381 S.C. 326, 673 S.E.2d 801 (2009).

Further as to the interpretation of statutes and court rules those issues present questions of law. The standards applicable to a Master-in-Equity Order of Foreclosure and any factual findings should be reviewed as to the nature of the referral and proceedings, the Master-in-Equity stated it had th

authority to enter a final decree under Rules 53 and 71 SCRPC. The Record on Appeal with provide copies of the listed documents.

STATEMENT OF FACTS

The Appellant Trust, as shown by the Trust instrument, does not identify Appellant Ninan as the Trustee; but does so indicated the Trustee as Shane Ninan.

The Deeds referenced by the Foreclosure action were filed of record in 2010, three years before the judgment; and fifteen years after the recording the Respondent file the Foreclosure action.

Those deeds show Appellant Ninan as the Trustee for the Trust receiving the conveyance. Which creates a dispute as to the designation of the Trustee, as the trust instrument clearly indicates the Trustee is not the Appellant Sonny Ninan.

Further, the Respondent did appear at the hearing of June 22, 2026 and could not or would not state the ownership of the judgment in this action. The Master in Equity did make a ruling that Respondent could pursue the Foreclosure even when the Limited Liability Company was dissolved. S. C. Code Ann. Sec. 33-44-803. The transcript to be filed of record will provide information as to the Respondent and the ruling.

ARGUMENTS

AS TO PROPER SERVICE

As to proper service, Defendant Sonny Ninan is not the Trustee of the Defendant Trust, the Trust instrument as filed and recorded with the Register of Deeds so indicates, that the Trustee is a Shane Ninan, per South Carolina Code Section 15-9-440 service is upon the Trustee. The Trust was not sued properly, South Carolina Rules Civil Procedure Rule 17(a).

The Court should determine the legally operative trustee and the proper receipt of the service.

AS TO THE "STAY" OF FORECLOSURE

Plaintiff failed to file the requisite documents required by the South Carolina Code. Defendants made this requirement an issue under the request for a STAY. South Carolina Code of Law Section 29-3-800, Foreclosure of Liens; boundary clarification as indicated by Sec. 29-3-800(B)(1); and set forth in Section 30-5-270(B)(2) and (3) and Section 30-5-270(B)(9). "all proceedings in the foreclosure action must be stayed until the attorney's certification is filed with the Court". SEE 29-3-800(B)(1); based on a title search to show the "Notice of State Boundary Clarification" which should be attached to the initial Foreclosure Complaint.

The Record on Appeal with the Transcript will provide Appellants filing of Return to Summary Judgment, Request to Reconsider Order of Summary Judgment, Motion in Limine for the Foreclosure Hearing, Motion for Reconsideration of the Foreclosure Order.

AS TO RULES OF EVIDENCE

Defendants, have shown, there are material facts and genuine issues for the Court to have a full evidentiary hearing. Plaintiff did not show any specific answers or responses to the Defendant issues. Per Article III Rule 301, South Carolina Rules Evidence, Presumption(s) in Civil Actions a presumption must be met by the adverse party must be rebutted or met.

In all civil actions and proceedings not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of non persuasion, which remains throughout the trial upon the party on whom it was originally cast.

Plaintiff has not rebutted the statutory claims and as to the issues and claims presented, has not rebutted that the Judgment is still in existence; based on the testimony of the shareholder or member of the Plaintiff.

The Record on Appeal will provide the pages and lines of the Transcript as to this issue. Note on Rule 301, cites Long v. Metropolitan Life Insurance Co 228 S.C. 498, 90 S.E. 2D 915(1956)

AS TO TRUSTEE OWING THE JUDGMENT

Defendants, for the purposes of this action; a "lien" is presumed; but only as to the Defendant Sonny Ninan, but not as to the Trust, as the original Judgment was not taken as to the Trust; but only as to Defendant Ninan and the Trust is not a proper party due to lack of personal service on the Trustee named by the Trust instrument.

According to South Carolina Code of Laws Section 62-7-505, Creditors' claims against settlor are not applicable in this action, which states that "Trust property is not subject to personal obligations of the trustee even if the trustee becomes insolvent or bankrupt." Defendant Sonny Ninan is not the Trustee; nor was the Trust the Judgment debtor;. Defendants raised the issue of the "obligation" as per code section noted, and as defined per South Carolina Code of Laws Section 30-7-30 and 60, "obligation."

The Trust was established in 2010 and the real estate which was conveyed to the Trust, February 25, 2010 the deeds were from the Seller to the Trust. Defendant Ninan has made known the Settlor's intent not to be able to affect the trust or have an effect on the trust.

AS TO STATUS OF THE JUDGMENT

An issue arose at the Foreclosure hearing, that was not known prior to the testimony of the Plaintiff.

Plaintiff gave testimony that the status of the Judgment, appears to be unknown. Plaintiff LLC. Could not state if the Judgment was still an asset of the Plaintiff; as Defendants requested;, was the Judgment part of the assets sold by the Plaintiff?; Plaintiff stated the asset (real estate of the Plaintiff) was sold, but when questioned the Plaintiff could not state if the Judgment was part of the sale; Defendants further questioned the Plaintiff, and Plaintiff, did not state a clear answer, to whether or not the Judgment was still active or was taken as a "bad debt" and or a "credit" on the Plaintiff's tax returns. Those questions must be responded to and

answered, as there would be, a double collection as to the Judgment. The Record on Appeal with the Transcript will provide Plaintiff's testimony.

COURT ORDER INDICATES ALL ISSUES ARE "MOOT"

The Court ruled, the issues raised by Defendants were "moot" denying the Defendants the right to raise the issues. Defendants by way of Return to Motion for Summary Judgment, and by way of Motion to Reconsider the Court's Order as to Summary Judgment; requested the Court's ruling be specific as to the reasons for denying the issues. The Court did not respond specifically. Therefore as allowed by the Rules of Civil Procedure to preserve the issues for Appeal, or the Defendants would be barred for not raising the issues. Defendants raised the issues as allowed by the Rules of Civil Procedure. The Record on Appeal will provide the copies of the pleadings above stated.

CONCLUSION

Appellants respectfully request the Court to reverse the ruling of foreclosure and vacate the July 19, 2026 Order, and if error is established or alternatively remand for proceedings necessary to resolve preserved issues, concerning service, application of the statutory foreclosure requirements, and evidentiary support for the judgment and amounts awarded. Appellants also request any additional relief the Court deems just.

Respectfully submitted;

October 28, 2026

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MASTER IN EQUITY

HONORABLE ADAM B. LAMBERT MASTER IN EQUITY

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CALLISTA, LLC.,

Respondent,

v,

SONNY M. NINAN and SONNY NINAN
as Trustee for SM NINAN FAMILY TRUST,

Appellants,

PROOF OF SERVICE FOR AND BY APPELLANTS

I certify that I have served a copy of the following pleading:
electronically (Court of Appeals at ctappfilings@sccourts.org) or by
United States Postal Service, proper postage affixed to the attorneys
of record for the Respondents and additional parties of record, or
have electronically personally served the parties attorneys at those
address this date: OCTOBER 28, 2026.

Respectfully Submitted by:

Robert B., 2026

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SC Court of Appeals

OCTOBER 28, 2026

Clerk of South Carolina Court of Appeals
Attn: Clerk of Court Honorable Jenny Abbott Kitchings
1220 Senate Street, Columbia South Carolina (SC) 29201
Post Office Box 11629 Columbia South Carolina (SC) 29211

RE: Callista, LLC Respondent v. Sonny M. Ninan and Sonny Ninan
as Trustee for SM Ninan Family Trust Appellants 2026-001895

Dear Hon. Jenny Abbott Kitchings:

FIND here enclosed the original, Initial Brief of the Appellant;
and a copy for clocking in and recording.

We will be attempting to e-file, but sometimes that does not
work.

Advise promptly in writing, which includes, email, if needed.

Cordially Yours,



James P. O'Connell #4259

ATE Office Mgr.

Enclosures as stated if any

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AND COPY OF LETTER ONLY TO:
South Carolina Office of Court Administration
Attn: Jasmine D. Smith, Deputy Clerk
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