

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Ellis B. Drew, Jr., Master in Equity

Court of Appeals Opinion No. 2012-210846

Appellate Case No. 2013-002714

Green Tree Servicing, LLC, formerly known as Green Tree Financial Servicing Corporation, a Limited Liability Company under the laws of the State of Delaware,

Respondent

vs.

Corrie Ann Martin, the South Carolina Department of Revenue, the United States of America by and through its agency the Internal Revenue Service and Anderson Area Medical Center, Inc., n/k/a AnMed Health,

Appellant.

APPENDIX

Clifford F. Gaddy, Jr.
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Greenville, South Carolina 29601
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Attorney for Petitioner

Other Counsel of Record:

B. Lindsay Crawford, III, Esquire
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SC Court of Appeals

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THE STATE OF SOUTH CAROLINA
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APPEAL FROM ANDERSON COUNTY
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Ellis B. Drew, Jr., Master in Equity

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Green Tree Servicing, LLC, formerly known as Green Tree Financial Servicing Corporation, a Limited Liability Company under the laws of the State of Delaware,

Respondent

vs.

Corrie Ann Martin, the South Carolina Department of Revenue, the United States of America by and through its agency the Internal Revenue Service and Anderson Area Medical Center, Inc., n/k/a AnMed Health,

Appellant.

RECORD ON APPEAL

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408 N. Church St., Ste. B
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Attorney for Petitioner

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STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

Corrie Ann Martin,)

Plaintiff,)

vs.)

IN THE COURT OF COMMON PLEAS

C/A NO.: 2012-CP-04-01576

ORDER

Green Tree Servicing, LLC, as
Successor in Interest to Green Tree
Financial Servicing Corporation, and
John Skipper, as Sheriff of Anderson
County,

Defendants.)

FILED-CLERK'S OFFICE
ANDERSON SC
2013 JUN - 7 A 11: 31
COMMON PLEAS AND
GENERAL SESSIONS

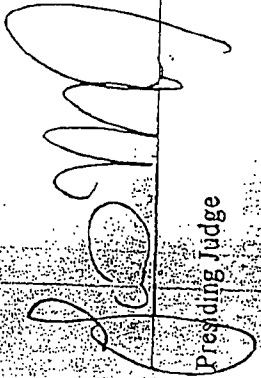
This matter came before the Court on Thursday, May 9, 2013 pursuant to Defendant's Motion for Summary Judgment. Present were Theodore von Keller, Esquire, attorney for the Defendant, and Clifford F. Gaddy, Jr., Esquire, attorney for the Plaintiff.

After consideration of the motions filed by both parties and argument of counsel, the Court orders that the within matter shall be stayed until a decision is made on Plaintiff's Application to the South Carolina Court of Appeals for leave to pursue this action while Civil Action No. 2010-CP-04-03458 is under appeal to the South Carolina Court of Appeals or until the Appellate Court rules on the appeal in Civil Action No. 2010-CP-04-03458. Plaintiff shall apply to the South Carolina Court of Appeals for leave to pursue this action within thirty (30) days of the date of this Order.

AND IT IS SO ORDERED.

Anderson, South Carolina

6-6, 2013.


Presiding Judge

FILED-CLERK'S OFFICE
ANDERSON SC

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COMMON PLEAS AND
GENERAL SESSIONS

The South Carolina Court of Appeals

Green Tree Servicing LLC, formerly known as Green Tree Financial Servicing Corporation, a Limited Liability Company under the laws of the State of Delaware, Respondent,

v.

Corrie Ann Martin, the South Carolina Department of Revenue, the United States of America by and through its agency the Internal Revenue Service and Anderson Area Medical Center, Inc., n/k/a Anmed Health, Plaintiffs,

Of Whom Corrie Ann Martin is Appellant.

Appellate Case No. 2012-210846

ORDER

Appellant has filed a motion pursuant to Rule 60(b), SCRPC, asking this court to grant her leave to pursue an action pending in the circuit court. Respondent filed a return. After careful consideration, the motion is denied.

Jasper M. Cressler AS
FOR THE COURT

Columbia, South Carolina

cc: Corrie Ann Martin
Theodore Von Keller
B. Lindsay Crawford, III

9/16/13 FILED

) Sara Christine Hutchins
Clifford F. Gaddy, Jr.
Douglas Andrew Gaines

21
RCB

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Green Tree Servicing, LLC, formerly)
known as Green Tree Financial)
Servicing Corporation, a Limited)
Liability Company under the laws of)
the State of Delaware,)
)
Plaintiff,)

C/A NO.: 2010-CP-04-03548

vs.)

SUPPLEMENTAL ORDER

Corrie A. Martin, the South Carolina)
Department of Revenue, the United)
States of America by and through its)
agency the Internal Revenue Service)
and Anderson Area Medical Center, Inc.)
n/k/a Anmed Health,)
)
Defendant.)

A TRUE COPY
MAR 29 2012
Richard A. Harty
CLERK OF COURT

COMMON PLEAS AND
GENERAL SESSIONS

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ANDERSON SC

This matter came before me on January 23, 2012, pursuant to Defendant Corrie A. Martin's Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC. Present were Theodore von Keller, Esquire, representing the Plaintiff, Shannon Tucker, the Regional Manager of the Plaintiff, D. Andrew Gaines, representing the Defendant Corrie A. Martin and the Defendant Corrie A. Martin.

This an action to foreclose a mortgage given to the Plaintiff by Corrie A. Martin. The Summons and Complaint for foreclosure was filed on October 4, 2010, and the Defendants were personally served thereafter. No answer or notice of appearance was filed by the Defendant Corrie A. Martin. On December 2, 2010, an Order of Reference and Affidavit of Default were filed with the Court. Subsequently, a hearing was scheduled and the Plaintiff forwarded a Notice of Hearing to the Defendants on December 17, 2010. The Notice of Hearing and Certificate of Service were filed with the Court. On January 24, 2011, the foreclosure hearing was held, the Defendant Corrie A. Martin was provided with notice same and this Court granted a judgment to the Plaintiff, ordered foreclosure and

WA

scheduled the foreclosure sale for March 1, 2011. Plaintiff demanded a deficiency with the final sale on March 31, 2011. The Plaintiff was the successful bidder at the sale and a Master in Equity's Deed by Foreclosure was recorded in the Office of the Anderson County Register of Deeds on April 20, 2011, in Book 10000 at Page 107. Subsequently, due to the subject property still being occupied, a Writ of Assistance was issued by this Court on June 2, 2011. The Anderson County Sheriff's Office served the Writ of Assistance on June 13, 2011. On or about June 27, 2011, the Plaintiff's attorney received a letter from Robert P. Lusk, Esquire, that there were outstanding issues that needed to be addressed and the Plaintiff cancelled the lock-out that had been scheduled with the Anderson County Sheriff's Office.

On or about January 6, 2012, the Defendant, by and through her present counsel, Andrew Gaines, filed a Motion for Relief from Judgment. After review of the file and arguments of counsel, Defendant's Motion is denied and the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court finds that, after foreclosure hearing and sale, title to the subject property was conveyed to the Plaintiff on April 20, 2011, thus terminating Defendant's interest in the subject property. Further, Rule 60(b), SCRPC, requires a movant to not only establish numerous elements to obtain relief from a judgment, but also to move within a reasonable time. This Court finds as a matter of fact that the Defendant has failed to make this motion within a reasonable time as the hearing in this matter, of which the Defendant was provided notice, was on January 24, 2011. The Defendant waited almost a year to file this motion. Defendant offered no explanation for this delay.

Accordingly,


LCB

IT IS ORDERED that based on the above Findings of Fact and Conclusions of Law, the Defendant Corrie A. Martin's Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC, is denied.

IT IS FURTHER ORDERED that the Defendant Corrie A. Martin has thirty (30) days from the date of this Order to vacate the property, after which time the Movant is entitled to possession of the subject property. If the subject property has not been vacated in the time allowed by this Order, this Court will issue the Plaintiff a Writ of Assistance without the necessity of another hearing.

IT IS FURTHER ORDERED that this Order shall supplement the Master in Equity's Order and Judgment of Foreclosure and Sale filed January 24, 2011.

AND IT IS SO ORDERED.

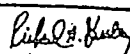


Ellis B. Drew, Jr.
Anderson County Master in Equity

Anderson, South Carolina

3-8-, 2012.



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CLERK OF COURT

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STATE OF SOUTH CAROLINA

In The Court of Appeals

MOTION FOR LEAVE TO PROCEED UNDER SCRPC RULE 60 (b)

Case No.: 2012-CP-04-01526

Court of Common Pleas

Anderson County

CORRIE MARTIN PLAINTIFF-PETITIONER

vs

GREEN TREE SERVICING, LLC, etc..... DEFENDANT-RESPONDENT

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864-250-2511
Attorney for Plaintiff-Petitioner
The Moving Party

Theodore von Keller
B. Lindsay Crawford, III
Sara C. Hutchins
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803-790-2626
Attorneys for Defendant-Respondent

MOTION

PLAINTIFF-PETITIONER CORRIE A. MARTIN HEREBY MOVES FOR LEAVE TO PROCEED WITH THE INSTANT CASE PURSUANT TO SCRPC RULE 60(b).

BACKGROUND

Green Tree Servicing, LLC ("Green Tree") filed a complaint on October 4, 2010 in the Court of Common Pleas, Anderson County, styled Green Tree Servicing, LLC, etc vs Corrie A. Martin, et al, (C.A: 2010-CP-04-03548), seeking the foreclosure of a note and mortgage given by Martin to Green Tree. The case was referred to Ellis B. Drew, Jr., Master in Equity for Anderson County. These foreclosure proceedings resulted in the property of Martin being sold at public auction on January 24, 2011 to Green Tree.

Martin denies being served with a Summons and a copy of the Complaint and having any knowledge of the foreclosure until served with a Writ of Ejectment by the Sheriff of Anderson County during June 2011. She retained an attorney who filed a Motion for Relief from Judgment Pursuant to SCRPC Rule 60 (b). The motion came on for hearing before Master in Equity Ellis B. Drew, Jr. who issued his Order, dated March 8, 2012 denying relief on the ground that Martin failed to file the motion within a reasonable time.

Martin, acting pro se, appealed the Order of Master in Equity Ellis B. Drew, Jr, dated March 8, 2012. Her appeal is now pending in the Court of Appeals.

On April 23, 2012 Martin commenced the instant case in the Court of Common Pleas, Anderson County, with a Complaint styled Corrie Martin vs Green Tree Servicing, LLC, etc (C.A. # 2012-CP-04-015). The Complaint alleges in its first cause of action that the mortgage foreclosure in the first case Green Tree Servicing, etc. vs Corrie Martin, C. A., # 2010-CP-04-03548 is void and a nullity on the ground that Martin was never served with a copy of a Summons and Complaint and did not know of the foreclosure until after her house was sold

A second cause of action of the Complaint alleges that the Defendant

committed a fraud upon the Court in the first case in that (a) Green Tree represented to the Court that the Defendant was in arrears in her mortgage payments when she was not in arrears and (b) that the Defendant's attorney misrepresented the contents of a Court order to the Master in Equity during the foreclosure case and again in the Rule 60(b) hearing in the foreclosure case.

Plaintiff Green Tree filed a Motion for Summary Judgment in the second case.

After a consideration of the motion and hearing arguments of counsel, Circuit Judge R. Lawton McIntosh issued his Order, dated June 6, 2013 which stated that the "Plaintiff shall apply to the South Carolina Court of Appeals for leave to pursue this action within thirty (30) days of the date of this Order."

ARGUMENT

The Court of Appeals should grant Martin's Motion for Leave to Proceed with the instant case because SCRPC Rule 60 (b) does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court. (Emphasis added)

The Order of Circuit Judge M. Lawrence McIntosh, dated June 6, 2013 is succinct and gives no rationale explaining the applicability of SCRPC Rule 60 (b). The Order says what it says. Martin now comes to the Court of Appeals for leave to pursue her action (Corrie Ann Martin, vs Green Tree Servicing, LLC, etc (C. A. # 2012-CP-04-01576) now pending on the Calendar of the Clerk of Court for Anderson County.

The operative words of SCRPC Rule 60(b) are:

****This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding, or to set aside a judgment for fraud upon the court.

Why should the Court of Appeals allow the instant case (Corie Ann Martin vs Green Tree Servicing, LLC, etc (C.A. # 2012-04-01576) to go forward?

The case should go forward in order that the judicial system will afford justice and fairness to people who are the victims of a mortgage company's greed. Here is what Corrie Martin has alleged and will prove in her case now pending in Anderson County.

First, that the Affidavit of Personal Service of the Complaint in the first case is false. She was never served with a copy of the Summons and Complaint.

Second, that she was current in her mortgage payments and not in arrears when Green Tree commenced its foreclosure action (the first case).

Third, that the attorneys for Green Tree mailed to Corrie Martin numerous notices of hearings and the sale of her house by the Court, but she never received a single notice because attorneys for Green Tree mailed the papers to the wrong address.

Fourth, during the twelve months that the foreclosure case was in progress through the legal system, Martin made her mortgage payments to Green Tree--who gave her no credit for them.

Fifth, Corrie Martin knew nothing about the foreclosure from October 2010, when the Complaint was filed, until June 2011 when the Sheriff of Anderson County tacked a Writ of Ejectment on her front screen door. She continued to make her mortgage payments each month to Green Tree - who gave her no credit for them--until the hearing on her Motion for Relief in January, 2012.

Green Tree may contend that the instant case is barred by the case on appeal which involves a motion for relief from judgment under Rule 60(b). But the Order of Master in Equity Ellis B. Drew, Jr., declined to set aside the judgment because he found the motion was not timely filed. The Order did not address the grounds presented by Martin for setting aside the judgment. An appeal of Judge Drew's Order is pending in the Court of Appeals. Therefore, the order cannot be used as res judicata because (a) no final judgment or decision exists and (b) order makes no findings concerning the grounds for setting the judgment aside.

Any judgment awarded by a court where the defendant was not served is void because the court will lack jurisdiction.

The instant case is an independent action having a complaint alleging that the judgment in the first case is void because the court lacked personal jurisdiction over the defendant. Universal Benefits, Inc. v McKinney, 349 S.C. 179, 183, 561 S.E. 2d 659, 661 (Ct. Appeals 2002) Referring to Rule 60 (b)(4) the Court of Appeals stated: " The definition of "void" under the rule only encompasses judgments from courts which failed to provide proper due process, or judgments from courts which lacked subject matter jurisdiction or **personal jurisdiction**.(emphasis added) McKinney, supra.

"Rule 60 (b) allows relief from judgment if the judgment is void." The Smith Companies of Greenville, Inc. v Hayes, 311 S.C. 358, 428 S. E. 2d 900, 902 (Ct. Appeals 1993).

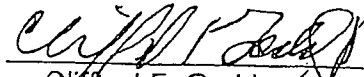
It is well established that a court obtains personal jurisdiction by the service of a summons. BB &T v Taylor, 369 S.C. 548, 554-55, 663 S.E. 2d 501, 504-05 (2006) The failure of Green Tree to serve the summons and a copy of the complaint causes the judgment of the court to be void.

Therefore, the instant case is not limited by SCRCP Rule 60 (b) from proceeding.

Martin should be given the opportunity to have her foreclosure determined on its merits. She should be given the opportunity to present her evidence that she faithfully made her mortgage payments on time and was not in arrears. She should be given the opportunity to prove that she was never served with the Summons and Complaint and knew nothing about the foreclosure of her mortgage.

For the reasons expressed above Martin should be given leave to proceed with her suit now pending in the Court of Common Pleas in Anderson County.

July 5, 2013



Clifford F. Gaddy, Jr.

408 North Church Street, Suite B
Greenville, South Carolina 29601
864-250-2511

Attorney for the Plaintiff-Petitioner
The Moving Party

EXHIBITS



STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Corrie Ann Martin,)

Plaintiff,)

C/A NO.: 2012-CP-04-01576

vs.)

ORDER

Green Tree Servicing, LLC, as
Successor in Interest to Green Tree
Financial Servicing Corporation, and
John Skipper, as Sheriff of Anderson
County,)

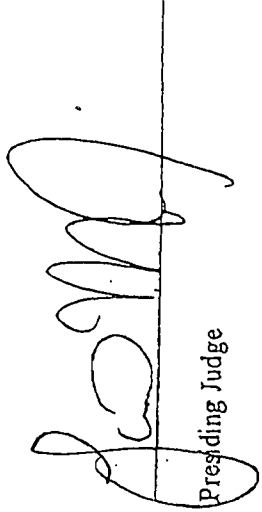
Defendants.)

FILED - CLERK'S OFFICE
ANDERSON SC
2013 JUN - 7 A 11: 31
COMMON PLEAS AND
GENERAL SESSIONS

This matter came before the Court on Thursday, May 9, 2013 pursuant to Defendant's Motion for Summary Judgment. Present were Theodore von Keller, Esquire, attorney for the Defendant, and Clifford F. Gaddy, Jr., Esquire, attorney for the Plaintiff.

After consideration of the motions filed by both parties and argument of counsel, the Court orders that the within matter shall be stayed until a decision is made on Plaintiff's Application to the South Carolina Court of Appeals for leave to pursue this action while Civil Action No. 2010-CP-04-03458 is under appeal to the South Carolina Court of Appeals or until the Appellate Court rules on the appeal in Civil Action No. 2010-CP-04-03458. Plaintiff shall apply to the South Carolina Court of Appeals for leave to pursue this action within thirty (30) days of the date of this Order.

AND IT IS SO ORDERED.



Presiding Judge

Anderson, South Carolina

6-6, 2013.

FILED-CLERK'S OFFICE
ANDERSON SC

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COMMON PLEAS AND
GENERAL SESSIONS

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Green Tree Servicing, LLC, formerly)
known as Green Tree Financial)
Servicing Corporation, a Limited)
Liability Company under the laws of)
the State of Delaware,)

C/A NO.: 2010-CP-04-03548

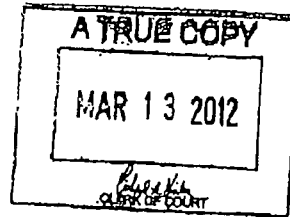
Plaintiff,)

SUPPLEMENTAL ORDER

vs.)

Corrie A. Martin, the South Carolina)
Department of Revenue, the United)
States of America by and through its)
agency the Internal Revenue Service)
and Anderson Area Medical Center, Inc.)
n/k/a Anmed Health,)

Defendant.)



This matter came before me on January 23, 2012, pursuant to Defendant Corrie A. Martin's Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC. Present were Theodore von Keller, Esquire, representing the Plaintiff, Shannon Tucker, the Regional Manager of the Plaintiff, D. Andrew Gaines, representing the Defendant Corrie A. Martin and the Defendant Corrie A. Martin.

This an action to foreclose a mortgage given to the Plaintiff by Corrie A. Martin. The Summons and Complaint for foreclosure was filed on October 4, 2010, and the Defendants were personally served thereafter. No answer or notice of appearance was filed by the Defendant Corrie A. Martin. On December 2, 2010, an Order of Reference and Affidavit of Default were filed with the Court. Subsequently, a hearing was scheduled and the Plaintiff forwarded a Notice of Hearing to the Defendants on December 17, 2010. The Notice of Hearing and Certificate of Service were filed with the Court. On January 24, 2011, the foreclosure hearing was held, the Defendant Corrie A. Martin was provided with notice same and this Court granted a judgment to the Plaintiff, ordered foreclosure and

EW

scheduled the foreclosure sale for March 1, 2011. Plaintiff demanded a deficiency with the final sale on March 31, 2011. The Plaintiff was the successful bidder at the sale and a Master in Equity's Deed by Foreclosure was recorded in the Office of the Anderson County Register of Deeds on April 20, 2011, in Book 10000 at Page 107. Subsequently, due to the subject property still being occupied, a Writ of Assistance was issued by this Court on June 2, 2011. The Anderson County Sheriff's Office served the Writ of Assistance on June 13, 2011. On or about June 27, 2011, the Plaintiff's attorney received a letter from Robert P. Lusk, Esquire, that there were outstanding issues that needed to be addressed and the Plaintiff cancelled the lock-out that had been scheduled with the Anderson County Sheriff's Office.

On or about January 6, 2012, the Defendant, by and through her present counsel, Andrew Gaines, filed a Motion for Relief from Judgment. After review of the file and arguments of counsel, Defendant's Motion is denied and the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court finds that, after foreclosure hearing and sale, title to the subject property was conveyed to the Plaintiff on April 20, 2011, thus terminating Defendant's interest in the subject property. Further, Rule 60(b), SCRCF, requires a movant to not only establish numerous elements to obtain relief from a judgment, but also to move within a reasonable time. This Court finds as a matter of fact that the Defendant has failed to make this motion within a reasonable time as the hearing in this matter, of which the Defendant was provided notice, was on January 24, 2011. The Defendant waited almost a year to file this motion. Defendant offered no explanation for this delay.


Accordingly,

IT IS ORDERED that based on the above Findings of Fact and Conclusions of Law, the Defendant Corrie A. Martin's Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC, is denied.

IT IS FURTHER ORDERED that the Defendant Corrie A. Martin has thirty (30) days from the date of this Order to vacate the property, after which time the Movant is entitled to possession of the subject property. If the subject property has not been vacated in the time allowed by this Order, this Court will issue the Plaintiff a Writ of Assistance without the necessity of another hearing.

IT IS FURTHER ORDERED that this Order shall supplement the Master in Equity's Order and Judgment of Foreclosure and Sale filed January 24, 2011.

AND IT IS SO ORDERED.



Ellis B. Drew, Jr.
Anderson County Master in Equity

Anderson, South Carolina

3-8-, 2012.

Handwritten initials

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

CORRIE ANN MARTIN,)

Plaintiff)

vs.)

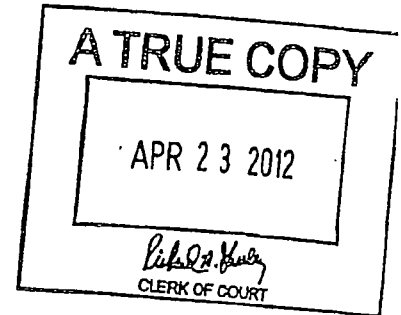
GREEN TREE SERVICING, LLC, as)
Successor in Interest to Green Tree)
Financial Servicing Corporation, and)
JOHN SKIPPER, as Sheriff of)
Anderson County)

Defendants.)

COURT OF COMMON PLEAS
10TH JUDICIAL CIRCUIT

C.A.#: 2012-CP-04-01576

COMPLAINT



Plaintiff Corrie Ann Martin ("Martin") by way of this Complaint against the Defendant Green Tree Servicing, LLC, as Successor in Interest to Green Tree Financial Servicing Corporation ("Green Tree"), and John Skipper, as Sheriff of Anderson County would respectfully show to the Court:

FIRST CAUSE OF ACTION-

Lack of Jurisdiction

1. Martin is a resident of Anderson County, State of South Carolina.
2. Green Tree is a limited liability corporation organized and existing under the laws of one of the States of the United States of America. Plaintiff is informed by Green Tree Servicing, LLC that it is Successor in Interest to Green Tree Financial Servicing Corporation.

3. John Skipper, as Sheriff of Anderson County, is named a party in his official capacity and role as Sheriff of Anderson County.

4. On or about March 18, 1997 Martin signed and delivered to Green Tree a note in the principal sum of \$58,678.52("note").

5. By way of securing such note Martin signed and delivered on March 18, 1997 to Green Tree a certain mortgage lien ("mortgage") covering certain real property described as

Lot #35, containing 0.75 acres more or less, shown on a plat prepared by Nu-South Surveying, Inc., Earl B. O'Brian, S. C. RLS dated September 16, 1995, recorded in the office of the Clerk of Court for Anderson County, State of South Carolina, in Plat Slide 746 at Page 5 and having such course and distances as well appear by reference to such plat.

Being the same property conveyed to Corrie A. Martin by Deed of Nu-Land, Inc., dated March 16, 1997, recorded in March 18, 1997 in Book 2574 at Page 187 in The Office of the Clerk of Court for Anderson County together with that 1997 Omni (56x24) Manufactured Home, VIN # 056276A&B.

6. Green Tree commenced a foreclosure of this note and mortgage by way of a Complaint resulting in a sale at public auction of the property on March 1, 2011.

7. Green Tree acquired the subject property at this public auction.

8. Subsequent to acquiring the subject property, Green Tree took action to require the Sheriff of Anderson County to serve a Writ of Assistance upon Corrie A. Martin; this Writ of Assistance was placed upon the screen door of Martin's residence during June 2011.

9. The Writ of Assistance delivered to the residence of Martin was the first notice that Martin had of the foreclosure action; the Writ of Assistance contained information

stating that Green Tree owned the Martin property, etc. The Writ of Assistance directed Martin to vacate her property within 30 days.

10. The file of this case in the Office of the Clerk of Court contains various Affidavits of Service pertaining to the Summons and Complaint and Notices and Hearing, etc. However, the process servers employed by Green Tree and/or its attorney did not serve the Summons and Complaint upon Martin even though Affidavits of Service: were filed by process server; such Affidavits of Service concerning Service of the Summons and Complaint are false.

11. The attorney for Green Tree or employees of the attorney stated in certificates and/or affidavits that Notice of Hearing, etc. were mailed to

Corrie A. Martin
112 Canter Lane
Anderson, SC 29624.

This is the correct street with the correct house numbers of Corrie A. Martin. However, the Post Office has not delivered mail pertaining to this case to Martin at this address. The zip code is incorrect. The zip code should be 29626.

Corrie A. Martin
P.O. Box 14042
Anderson, SC 29624;

12. The attorneys for Green Tree or employees of the attorneys stated in certificates and/or affidavits that various Notices of Hearing, etc. were mailed to

Corrie A. Martin
112 Canter Lane
Anderson, SC 29626.

However, the Post Office did not deliver any mail addressed to Corrie Martin at this address during 2010 and 2011.

13. South Carolina Rules of Civil Procedure (SCRCP) Rule 4. **Process** (d)

Summons: Personal Service

(1) **Individuals**

Upon an individual other than a minor under the age of 14 years or an incompetent person, by delivering a copy of the Summons and Complaint to him personally or by leaving copies thereof at his dwelling place or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein XXX

14. Green Tree did not comply with SCRCP Rule 4. Compliance with SCRCP Rule 4 by serving a copy of Summons and Complaint upon Martin was required before the Court acquired jurisdiction over Martin.

15. By not having acquired jurisdiction over Corrie A. Martin, the foreclosure of the property of Corrie A. Martin, Civil Action C.A. # 2010-CP-04-03548 must be set aside; the entire proceeding should be declared void.

FOR A SECOND CAUSE OF ACTION-

Fraud Upon The Court

16. The allegations of the First Cause of Action are incorporated by reference

17. The Complaint in Civil Action C.A. # 2010-CP-04-03548 alleged in summary that Martin was in arrears in her mortgage in that she failed to make payments pursuant to the provisions of her note and mortgage.

18. Such allegations were false and incorrect.

19. In an action having the case style of Green Tree Servicing, LLC, as successor in interest to Green Tree Financing Servicing Corporation (the same Plaintiff

as the Plaintiff in the instant case) vs Corrie A. Martin, etc. assigned C/A 2008-CP-04-04162. The Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, which vacated a judgment of foreclosure and Order for sale entered in this matter on March 31, 2009 is vacated.

20. Martin faithfully made payments required by her note and mortgage to Green Tree until January 2012. Green Tree accepted the payments Martin made upon her note and mortgage.

21. During the foreclosure proceedings assigned C.A. 2010-CP-04-03548 Green Tree did not disclose to the Court that Martin faithfully made her monthly payments from May 2009 through January 2012.

22. The behavior of Green Tree and the erroneous information given to the Court by Green Tree during the foreclosure, assigned C.A. 2010-CP-04-03548 constitutes a fraud upon the court.

23. Such fraud upon the court entitles Martin to actual and punitive damages in such amount as may be determined by the Court.

FOR A THIRD CAUSE OF ACTION

Request that Writ of Assistance be withdrawn

24. John Skipper, as Sheriff of Anderson County, acting by and through a lawful Deputy has served a Writ of Assistance upon Martin during March 2012; Such Writ of Assistance direct Martin to vacate her property in thirty (30) days.

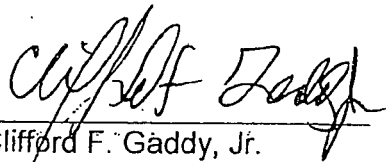
25. Martin requests that all action concerning the Writ to Assistance be held in abeyance and that she be allowed to remain in possession of her property until the issues presented by this Complaint are resolved.

WHEREFORE, Plaintiff Corrie A. Martin prays

(1) that the mortgage foreclosure be set aside and the judgment of the court be vacated; and

(2) for actual and punitive damages in such amount as may be determined by the Court; and

(3) that the Writ of Assistance be vacated and that she be allowed to remain in possession of her property until the further order of the court.



Clifford F. Gaddy, Jr.
Attorney for the Plaintiff
408 N. Church Street, Suite B
Greenville, SC 29601
Telephone # 864-250-5155
Fax # 864-233-3750

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

VERIFICATION

PERSONALLY APPEARED before me the undersigned, CORRIE A. MARTIN, who after being sworn, says that she is the Plaintiff in the above styled action; that she has read the Complaint and finds that the allegations are true and correct to the best of her knowledge, information, and belief.

Corrie A. Martin
Corrie A. Martin

SWORN to before me on
20th day of April, 2012

[Signature]

Notary Public for the State of
South Carolina

My commission expires 03/16/2019

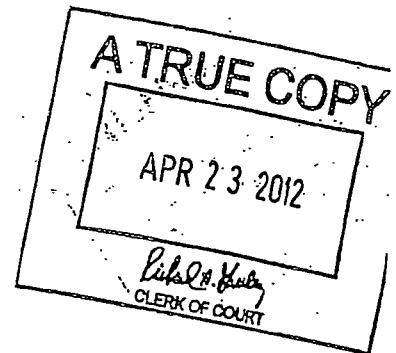


TABLE OF AUTHORITIES

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<u>BB & T vs Taylor</u> , 369 S. C. 548, 663 S. E. 2d 501..... (SC SupCt 2006)	4
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STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Corrie Ann Martin,)

C/A NO.: 2012-CP-04-01576

Plaintiff,)

vs.)

NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT

Green Tree Servicing, LLC, as)

Successor in Interest to Green Tree)

Financial Servicing Corporation, and)

John Skipper, as Sheriff of Anderson)

County,)

Defendants.)

TO: CLIFFORD F. GADDY, JR., ESQUIRE, AS ATTORNEY FOR PLAINTIFF NAMED ABOVE:

YOU WILL PLEASE TAKE NOTICE that the Defendant, through its undersigned attorney, Theodore von Keller, Esquire, will, ten (10) days after service hereof, or as soon thereafter as counsel may be heard, move before the Presiding Judge of the Court of Common Pleas, Anderson County, South Carolina, for Summary Judgment pursuant to Rule 56, *South Carolina Rules of Civil Procedure*, on the following grounds:

1. Plaintiff's Complaint asserts two causes of action arising out of a previous foreclosure in Civil Action No. 2010-CP-04-03548: (1) lack of personal jurisdiction for failure to obtain personal service of process, and (2) fraud upon the Court.

2. Plaintiff foreclosed upon Defendant in Civil Action No. 2010-CP-04-03458 which was ended by a Final Order of Foreclosure on January 24, 2011 (see Exhibit A hereto).

3. Plaintiff filed a Motion for Relief from Judgment seeking relief from the judgment of foreclosure which was denied by the Order of the Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, in Civil Action No. 2010-CP-04-03458 on March 8, 2012 (see Exhibit B hereto).

4. Plaintiff has appealed the Order of the Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, in Civil Action No. 2010-CP-04-03458 denying Plaintiff's Motion for Relief from Defendant (see Exhibit C hereto).

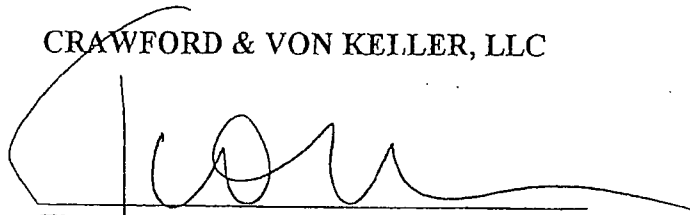
5. Pursuant to Rule 60(b), *South Carolina Rules of Civil Procedure*, Plaintiff may not maintain an independent attack on a Final Order that is on appeal without leave of the Appellate Court. Plaintiff has failed to obtain such leave and this matter should be dismissed.

6. Alternatively, Defendant moves to dismiss under Rule 12(b)8, *South Carolina Rules of Civil Procedure*, as another action is pending (the appeal between the same parties of the same claim).

7. Alternatively, Defendant moves for summary judgment as the issues raised by Plaintiff in this action were compulsory counterclaims or defenses in Civil Action No. 2010-CP-04-03458 and as such are barred by the doctrines of new judgment and collateral estoppel.

Defendant moves for an Order granting Summary Judgment as a matter of law.

CRAWFORD & VON KELLER, LLC



Theodore von Keller
Lindsay B. Crawford
Sara C. Hutchins
Adam H. Schanz
Post Office Box 4216

Columbia, South Carolina 29240
Telephone: (803) 790-2626
Attorneys for Plaintiff

Columbia, South Carolina

April 2, 2013.

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Corrie Ann Martin,)
)
Plaintiff,)

C/A NO.: 2012-CP-04-01576

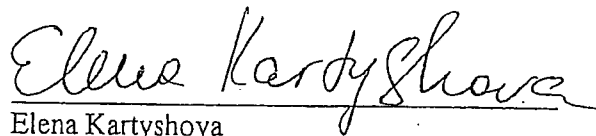
vs.)

CERTIFICATE OF SERVICE BY MAIL

Green Tree Servicing, LLC, as)
Successor in Interest to Green Tree)
Financial Servicing Corporation, and)
John Skipper, as Sheriff of Anderson)
County,)
)
Defendants.)

I, Elena Kartyshova, an employee of Crawford & von Keller, LLC, do hereby certify that on this date, I served a copy of the **NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT** on counsel listed below, by causing the same to be placed in a sealed envelope, first-class postage pre-paid, and deposited in the United States Mail on the said date, addressed as follows:

Clifford F. Gaddy, Jr., Esquire
408 N. Church Street, Suite B
Greenville, SC 29601
Attorney for Plaintiff


Elena Kartyshova

Columbia, South Carolina

April 2, 2013.

EXHIBIT "A"

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)
Green Tree Servicing LLC,)
formerly known as Green Tree)
Financial Servicing Corporation, a)
Limited Liability Company under)
the laws of the State of Delaware,)

Plaintiff,)

v.)

Corrie A. Martin, the South)
Carolina Department of Revenue,)
the United States of America by)
and through its agency the Internal)
Revenue Service and Anderson)
Area Medical Center, Inc., n/k/a)
Anmed Health,)

Defendant(s).)

IN THE COURT OF COMMON PLEAS
Case No. 2010-CP-04-03548

MASTER IN EQUITY'S ORDER AND
JUDGMENT OF FORECLOSURE
AND SALE

Deficiency Demanded
(against Corrie A. Martin)

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CLERK OF COURT

Pursuant to Rule 53 SCRCP, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the matter; with any appeal from this Order to the South Carolina Supreme Court or to the Court of Appeals under Rule 203 (d)(1), SCACR.

Pursuant to the Order of Reference, a hearing was held in the Office of the Master in Equity for Anderson County and was attended by the attorneys of record. Testimony was taken at said hearing and is reported herewith, and from the testimony and evidence I find, conclude and order as follows:

FINDINGS OF FACT

1. The Lis Pendens was filed September 23, 2010; the Amended Lis Pendens was filed October 4, 2010.
2. The Summons and Complaint were filed October 4, 2010.

A TRUE COPY
FEB - 9 2012

3. That the loan subject to this action is not owned, securitized or guaranteed by Fannie Mae or Freddie Mac, however, Plaintiff is a servicer who has signed an agreement to participate in the Home Affordable Modification Program ("HMP"). Pursuant to Supplemental Directive 09-01, it has been determined that modification under HMP is not available as the property is a mobile home and is not considered real property.
4. Service was made upon all Defendants as shown by the Affidavit(s) of Service filed of record.
5. Corrie A. Martin ("Ms. Martin") is in default as shown by the Affidavit(s) of Default filed of record. The South Carolina Department of Revenue, the United States of America by and through its agency the Internal Revenue Service and Anderson Area Medical Center, Inc., n/k/a Anmed Health timely filed responsive answers and have not held in default.
6. According to the Affidavit(s) filed of record, no Defendant is in the Military Service of the United States of America, as contemplated under 50 U.S.C.A. App. §520, Servicemembers Civil Relief Act, as amended December 19, 2003.
7. All Defendants were notified of the time, date, and place of the hearing in this matter.
8. For value received, Ms. Martin made, executed and delivered a Note and Security Agreement dated the 18th day of March, 1997, promising thereby to pay to the order of Green Tree Financial Servicing Corporation ("Green Tree") the sum of Fifty-Eight Thousand Five Hundred Eighty-Seven and 52/100 (\$58,587.52) Dollars, with interest at 8.99% per annum ("Note"). Green Tree Financial is now known as Green Tree Servicing LLC, formerly known as Green Tree Financial Servicing Corporation, a Limited Liability Company under the laws of the State of Delaware ("Plaintiff").
9. To better secure the payment of the Note described above, Ms. Martin made, executed and delivered to Green Tree a Mortgage in writing dated March 18, 1997, covering real property ("Mortgaged Property") in Anderson County, which is the same as that described in the Complaint ("Mortgage"). The Mortgage was filed on March 18, 1997, in Book 2574, at Page 189, in the Office of the Register of Deeds for Anderson County, South Carolina.
10. To further secure the debt, a South Carolina Certificate of Title ("Title") was issued on a

certain 1997 Omni Mobile Home, Serial #056276A&B (the "Collateral") to Ms. Martin, as Owner, with Green Tree, listed as the First Lienholder.

11. The Mortgage constitutes a purchase money mortgage on the Mortgaged Property and the Plaintiff's lien recorded on the face of the Title constitutes a first lien on the Collateral.
12. The Plaintiff in this action is the owner and holder of the Note and Mortgage it is seeking to foreclose.
13. The titleholder(s) of record in and to the Mortgaged Property and Collateral as of the filing of the Lis Pendens in this action was Ms. Martin.
14. Payment due on the Note and Mortgage has not been made as provided for therein, and the Plaintiff, as the holder thereof, has elected to accelerate payment of the entire indebtedness and has placed the Note and Mortgage in the hands of the attorney herein for collection.
15. The amount due and owing on the note, with interest at the rate provided therein, and other costs and expenses of collection, including an attorney's fee, is as follows:

(a) Principal due	\$ 52,700.61
(b) Interest from 07/20/2010 to 01/24/2011 at interest rate 8.99 % per annum	\$ 738.42
(c) Escrow adjustments (debits or credits)	\$ 0.00
(d) Advancements properly chargeable	
1. Deferred Amount	\$ 1,631.31
(e) Credit for credit life rebate or other such required credit	\$ 0.00
(f) Late Charges before being sent to Attorney for collection	\$ 14.23
(g) Costs of collection (service, filing, etc.)	\$ 928.83
(h) Attorney's Fees	\$ 2,500.00

TOTAL DEBT secured by security agreement
and mortgage, including interest to date shown \$ 58,513.40

Interest for the period from 01/24/2011, as shown above at the stated rate of 8.99% per annum, shall be added to the Principal Balance shown through the date this Judgment is filed. After the date of judgment, interest at the rate of 8.99% per annum on the total judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's

debt secured by the Mortgage.

16. The Plaintiff is seeking the usual foreclosure of the Note and Mortgage and has in its Complaint expressly demanded the right to a personal or deficiency judgment against Ms. Martin pursuant to Rule 71(b) of the South Carolina Rules of Civil Procedure. However, Plaintiff reserves the right to waive the deficiency at the time of the sale.
17. Upon information and said belief, said information being obtained from the records of Anderson County, South Carolina, the Defendants below-named may claim to have some interest in or lien upon the Mortgaged Property, but such interest or lien is junior and subordinate to Plaintiffs mortgage to wit:
 - a. The United States of America by and through its agency the Internal Revenue Service by virtue of that Federal Tax Lien against Corrie A. Martin in the original amount of \$6,164.21, recorded on March 28, 2007, with Serial Number 352481607.
 - b. The South Carolina Department of Revenue by virtue of that state tax lien against Corrie Martin in the original amount of \$402.99, recorded on September 13, 2007, with Tax Lien Number 3-50846668-4.
 - c. Anderson Area Medical Center (n/k/a Anmed Health) by virtue of that Judgment against Corrie Ann Martin in the original amount of \$984.62, recorded on February 16, 2007, with Case 2007-CP-04-0534.

CONCLUSIONS OF LAW

I, therefore, conclude as follows:

1. The Plaintiff should have judgment of foreclosure of the Mortgage in amount of the Total Debt due under the Note secured by the Mortgage and the Collateral.
2. The Mortgaged Property and Collateral shall be ordered sold at public auction after due

advertisement and the proceeds of sale applied to the debt due under the Note, and a deficiency judgment pursuant to Rule 71(b) of the South Carolina Rules of Civil Procedure.

The Plaintiff reserves the right to waive the deficiency at the time of the sale.

3. The Plaintiff's lien is a purchase money mortgage lien on the Mortgaged Property and the Plaintiff's lien recorded on the face of the Title is a first lien on the Collateral.
4. The Plaintiff should have possession of the mobile home described herein, and if necessary, the Sheriff of the county in which the Mortgaged Property and Collateral are located shall place the Plaintiff in possession of said mobile home upon service of this Master's Order and Judgment of Foreclosure and Sale, without further notice or hearing.
5. I also conclude that the amount of attorney fees requested by the Plaintiff is reasonable.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. There is due to the Plaintiff on the obligation and Mortgage set forth in the complaint the sum of fifty-eight thousand five hundred thirteen and 40/100 (\$58,513.40) Dollars representing the "Total Debt" due Plaintiff as set out in paragraph hereinabove, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof. The amount due in the preceding paragraph (the "Total Debt" as set forth in paragraph hereinabove, and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the rate of 8.99% per annum.
2. That Plaintiff be allowed permanent possession of the 1997 Omni mobile home, Serial No. 056276A&B with the right to dispose of the Collateral in accordance with §36-9-610, *South Carolina Code of Laws*, 1976 (as amended). If necessary, the Sheriff of the county in which said mobile home is located shall place the Plaintiff in possession of said mobile

home upon service of this Master's Order and Judgment of Foreclosure and Sale, without further notice or hearing.

3. That the Defendant(s) liable for the aforesaid mortgage debt shall on or before the date of sale of the Mortgaged Property and Collateral hereinafter described, pay to the Plaintiff, or Plaintiff's attorney, the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.
4. That on default of payment, at or before the time herein indicated, the Mortgaged Property and Collateral described in the Complaint, as hereinafter set forth, be sold by the Master in Equity at public auction, at the Anderson County Courthouse, in the City of Anderson, County and State aforesaid, on some convenient sales day hereinafter (and should the regular day of judicial sales fall on a legal holiday), on the following terms, that is to say:
 - (a) FOR CASH: the Master in Equity will require a deposit of five (5%) percent of the amount of the bid (in cash or equivalent), by 5:00 p.m. on the day of the sale and bid or immediately if directed by the Judge, same to be applied on the purchase money only upon compliance with the bid, but in case of non-compliance within twenty (20) days same to be forfeited and applied to the costs of Plaintiff's debt.
 - (b) Interest on the bid shall be paid to the day of compliance at the rate of 8.99% per annum.
 - (c) The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record, and any other senior encumbrances.
 - (d) Purchaser to pay for deed stamps and cost of recording deed.
5. If Plaintiff be the successful bidder at the said sale, for a sum, not exceeding the amount of costs, disbursements, expenses and indebtedness of Plaintiff in full, Plaintiff may pay to the

Master in Equity only the amount of costs, disbursements and expenses crediting the balance of the bid on Plaintiff's indebtedness.

6. If the Plaintiff does not waive a personal or a deficiency judgment at or prior to sale, the sale will remain open for thirty (30) days pursuant to S.C. Code Ann. Section 15-39-720 (1976).
7. That the Master in Equity will by advertisement according to law, give notice of the time, and place of such sale, and the terms thereof, and will execute to the purchaser, or purchasers, a deed to the Mortgaged Property and Collateral sold. The Plaintiff or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the purchaser, or purchasers, should fail to comply with the terms thereof within twenty (20) days after date of sale, then the Master in Equity may advertise the Mortgaged Property and Collateral for sale on the next, or some other subsequent sales day, at the risk of the former highest bidder, and so from time to time thereafter until full compliance shall be secured.
8. That the Master in Equity will apply the proceeds of sale as follows:

FIRST: To the payment of the amount of the costs, disbursements, and expenses of this action.

NEXT: To the payment of the Plaintiff or the Plaintiff's attorney, of the amount of Plaintiff's debt and interest, including attorney fees, or so much thereof as the purchase money will pay on the same; if the proceeds of the sale be insufficient to pay the amounts herein before authorized to be paid out of said proceeds, the parties hereto entitled to such deficiency have monetary judgment against Ms. Martin pursuant to S.C. Code Ann. Sec. 29-3-660 (1976) and such judgment will be entered without further notice of hearing.

NEXT: That any surplus be held pending further Order of the Court.

IT IS FURTHER ORDERED that in the event the successful bidder is other than the Defendant(s) in possession herein, the Sheriff of Anderson County is ordered and directed to eject and remove the Defendant(s) from the Mortgaged Property and Collateral sold, together with all personal property located thereon, and put the successful bidder or his assigns in such peaceable possession.

IT IS FURTHER ORDERED that each Defendant, including those subordinate lien holders, if any name in Paragraph, hereinabove, and all persons whosoever claiming under him, them or it, be forever barred and foreclosed of all right, title, interest, and equity of redemption, with the exception of the United States of America by and through its agency the Internal Revenue Service, which has exercised its right to a 120 day right of redemption, in the said Mortgaged Property and Collateral so sold, or any part thereof.

IT IS FURTHER ORDERED that, pursuant to South Carolina Code Ann. Section 30-9-31 (Supp. 1987), the deed of conveyance made pursuant to this sale shall be indexed in the grantor index by the Register of Mesne Conveyance in the name of the owner of record of Mortgaged Property immediately prior to execution of the deed, as well as in the name of the Master in Equity, who executes such deed as grantor.

1. The undersigned Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Supplemental Order to evidence additional debt incurred if the sale of the Mortgaged Property and Collateral is delayed by the filing of a bankruptcy petition, transfer of service of the Note and Mortgage by the Plaintiff or an attempt of the parties to reach a settlement, the issuance of a Supplemental Order to correct a harmless error in the action that does not substantially affect the rights of the parties, the issuance of a Writ of Assistance and disposing of any

surplus funds pursuant to Rule 71(c), South Carolina Rules of Civil Procedure.

2. The following is a description of the Mortgaged Property and Collateral herein ordered to be sold:

ALL that certain piece, parcel or lot of land situate, lying and being in the County of Anderson, State of South Carolina, and being shown and designated as Lot #35, containing 0.75 acres, more or less, on that certain plat prepared by Nu-South Surveying, Inc. Earl B. O'Brien, S.C. R.L.S. #10755, under date of September 16, 1995, said plat being duly of record in the Office of the Clerk of Court for Anderson County, South Carolina, in Plat Slide 746 at Page 5. As shown on said plat, Lot #35, herein described, is bounded on the North by lands of Nu-Land, Inc. (Plat Slide 462 at Page 3); on the East/Southeast by Lot #36; and on the South/Southwest by the right of way for Canter Lane, whereon the subject property fronts. The metes, bounds, courses, and distances as are shown on said plat are incorporated herein by reference and made a part of this description hereof.

TOGETHER WITH A SECURITY INTEREST in that certain 1997, 56 x 24 OMNI mobile home, serial number 056276A&B.

This being the identical property conveyed to Corrie A. Martin by deed from Nu-Land, Inc., dated March 17, 1997 recorded March 18, 1997 in the Office of the Anderson County Register in Book 2574 Page 187.

TMS#: 072-04-01-001 (land) and 400-00-28-148 (mobile home)

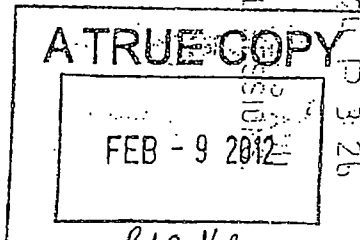
IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-referenced Mortgaged Property and Collateral, then the sale of the Mortgaged Property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sale day.

Ellis B. Drew, Jr.

Ellis B. Drew, Jr.
Anderson County Master in Equity

Anderson, South Carolina

1-74, 2011



RECORDS SECTION

EXHIBIT "B"

LCB

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Green Tree Servicing, LLC, formerly)
known as Green Tree Financial)
Servicing Corporation, a Limited)
Liability Company under the laws of)
the State of Delaware,)

C/A NO.: 2010-CP-04-03548

Plaintiff,)

SUPPLEMENTAL ORDER

vs.)

Corrie A. Martin, the South Carolina)
Department of Revenue, the United)
States of America by and through its)
agency the Internal Revenue Service)
and Anderson Area Medical Center, Inc.)
n/k/a Anmed Health,)

Defendant.)

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MAR 29 2012
Clerk of Court

This matter came before me on January 23, 2012, pursuant to Defendant Corrie A. Martin's Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC. Present were Theodore von Keller, Esquire, representing the Plaintiff, Shannon Tucker, the Regional Manager of the Plaintiff, D. Andrew Gaines, representing the Defendant Corrie A. Martin and the Defendant Corrie A. Martin.

This an action to foreclose a mortgage given to the Plaintiff by Corrie A. Martin. The Summons and Complaint for foreclosure was filed on October 4, 2010, and the Defendants were personally served thereafter. No answer or notice of appearance was filed by the Defendant Corrie A. Martin. On December 2, 2010, an Order of Reference and Affidavit of Default were filed with the Court. Subsequently, a hearing was scheduled and the Plaintiff forwarded a Notice of Hearing to the Defendants on December 17, 2010. The Notice of Hearing and Certificate of Service were filed with the Court. On January 24, 2011, the foreclosure hearing was held, the Defendant Corrie A. Martin was provided with notice same and this Court granted a judgment to the Plaintiff, ordered foreclosure and

Handwritten signature

scheduled the foreclosure sale for March 1, 2011. Plaintiff demanded a deficiency with the final sale on March 31, 2011. The Plaintiff was the successful bidder at the sale and a Master in Equity's Deed by Foreclosure was recorded in the Office of the Anderson County Register of Deeds on April 20, 2011, in Book 10000 at Page 107. Subsequently, due to the subject property still being occupied, a Writ of Assistance was issued by this Court on June 2, 2011. The Anderson County Sheriff's Office served the Writ of Assistance on June 13, 2011. On or about June 27, 2011, the Plaintiff's attorney received a letter from Robert P. Lusk, Esquire, that there were outstanding issues that needed to be addressed and the Plaintiff cancelled the lock-out that had been scheduled with the Anderson County Sheriff's Office.

On or about January 6, 2012, the Defendant, by and through her present counsel, Andrew Gaines, filed a Motion for Relief from Judgment. After review of the file and arguments of counsel, Defendant's Motion is denied and the Court makes the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court finds that, after foreclosure hearing and sale, title to the subject property was conveyed to the Plaintiff on April 20, 2011, thus terminating Defendant's interest in the subject property. Further, Rule 60(b), SCRCF, requires a movant to not only establish numerous elements to obtain relief from a judgment, but also to move within a reasonable time. This Court finds as a matter of fact that the Defendant has failed to make this motion within a reasonable time as the hearing in this matter, of which the Defendant was provided notice, was on January 24, 2011. The Defendant waited almost a year to file this motion. Defendant offered no explanation for this delay.

Accordingly,

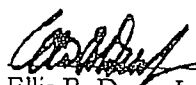
LCB

IT IS ORDERED that based on the above Findings of Fact and Conclusions of Law, the Defendant Corrie A. Martin's Motion for Relief from Judgment Pursuant to Rule 60(b), SCRPC, is denied.

IT IS FURTHER ORDERED that the Defendant Corrie A. Martin has thirty (30) days from the date of this Order to vacate the property, after which time the Movant is entitled to possession of the subject property. If the subject property has not been vacated in the time allowed by this Order, this Court will issue the Plaintiff a Writ of Assistance without the necessity of another hearing.

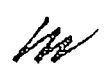
IT IS FURTHER ORDERED that this Order shall supplement the Master in Equity's Order and Judgment of Foreclosure and Sale filed January 24, 2011.

AND IT IS SO ORDERED.


Ellis B. Drew, Jr.
Anderson County Master in Equity

Anderson, South Carolina

3-8-, 2012.



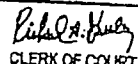
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MAR 29 2012

CLERK OF COURT

EXHIBIT "C"

Prepared By:
Corrie Ann Martin
112 Canter Lane Rd., Anderson, SC 29626
(864)716-9926

STATE OF SOUTH CAROLINA)
COUNTY OF ANDERSON)

In The Court of Common Pleas
C/A NO. 2010-CP-04-03548

Corrie Ann Martin, the South)
Carolina Department of Revenue,)
The United States of America by)
And through its agency the Internal)
Revenue Service and Anderson)
Area Medical Center, Inc., n/k/a)
Anmed Health,)

Notice of Appeal

Plaintiff,)

v.)

Green Tree Servicing LLC,)
Formerly known as Green Tree)
Financial Servicing Corporation, a)
Limited Liability Company under)
The laws of the State of Delaware,)

Defendants.)

File No. 1323.5874

Notice is given that Corrie Ann Martin hereby appeals from judgment
Entered herein March 8, 2012 by the Honorable Ellis B. Drew, Jr., in the above-
captioned action Reason Right to Notification, a secured party to send reasonable
authenticated notification. Green Tree failed to prove default and ineffective council.

Monday, April 2, 2012

Corrie Ann Martin

Corrie Ann Martin
112 Canter Lane Rd., Anderson, SC 29626
(864)716-9926

SWORN BEFORE ME THIS 2 DAY OF APRIL 2012

Willie E. Bell
ALL COMMISSION EXPENSES
10 JAN 2012

Corrie Ann Martin
P.O. Box 14042
Anderson S.C. 29624

Monday, April 2, 2012

B. Lindsay Crawford, Iii, Bar No. 1160
P.O. Box 4216
Columbia, SC 296240

Notice of Appeal

Dear parties concern:

I Corrie Ann Martin, is serving each party with this notice of appeal. This order and judgment was placed on March 8th of 2012.

Sincerely,

Corrie Ann Martin

Corrie Ann Martin

*Notary Harold C. Holladay sealed This 2ND Day of
April 2012*

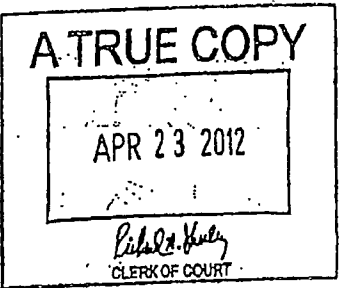
My Commission Expires Aug. 25, 2018

STATE OF SOUTH CAROLINA)
)
 COUNTY OF ANDERSON)
)
 CORRIE A. MARTIN)
)
) Plaintiff,)
)
 vs.)
)
)
)
 GREEN TREE SERVICING, LLC, as)
 Successor in Interest to Green Tree)
 Financial Serving Corporation, and)
 JOHN SKIPPER, as Sheriff of)
 Anderson County)
)
) Defendant.)
)

COURT OF COMMON PLEAS
 THIRTEENTH JUDICIAL CIRCUIT

C.A. # 2012-CP-04-01576

Summons



TO: Green Tree Servicing, LLC and John Skipper, as Sheriff of Anderson County

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is attached hereto and herewith served upon you, and to serve a copy of your answer to this Complaint upon the subscriber at 408 N. Church Street, Suite B, Greenville, South Carolina, 29601, within thirty (30) days after service hereof, exclusive of the day of such service. If you fail to answer, appear, or defend, the Plaintiff will apply to the Court for the relief demanded in the Complaint and judgment will be taken against you by default.

Clifford F. Gaddy, Jr.

 Clifford F. Gaddy, Jr.
 Attorney for the Plaintiff
 SC Bar# 2275
 408 N. Church St. Ste. B
 864-250-5155

April 20, 2012

STATE OF SOUTH CAROLINA)

COUNTY OF ANDERSON)

CORRIE ANN MARTIN,)

Plaintiff)

vs.)

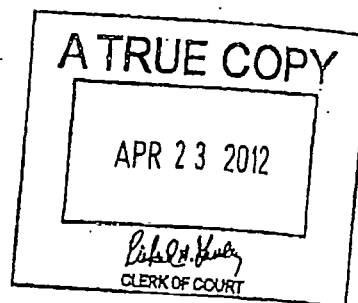
GREEN TREE SERVICING, LLC, as)
Successor in Interest to Green Tree)
Financial Serving Corporation, and)
JOHN SKIPPER, as Sheriff of)
Anderson County)

Defendants.)

COURT OF COMMON PLEAS
10TH JUDICIAL CIRCUIT

C.A.#: 2012-CP-04-01576

COMPLAINT



Plaintiff Corrie Ann Martin ("Martin") by way of this Complaint against the Defendant Green Tree Servicing, LLC, as Successor in Interest to Green Tree Financial Servicing Corporation ("Green Tree"), and John Skipper, as Sheriff of Anderson County would respectfully show to the Court:

FIRST CAUSE OF ACTION-

Lack of Jurisdiction

1. Martin is a resident of Anderson County, State of South Carolina.
2. Green Tree is a limited liability corporation organized and existing under the laws of one of the States of the United States of America. Plaintiff is informed by Green Tree Servicing, LLC that it is Successor in Interest to Green Tree Financial Servicing Corporation.

3. John Skipper, as Sheriff of Anderson County, is named a party in his official capacity and role as Sheriff of Anderson County.

4. On or about March 18, 1997 Martin signed and delivered to Green Tree a note in the principal sum of \$58,678.52("note").

5. By way of securing such note Martin signed and delivered on March 18, 1997 to Green Tree a certain mortgage lien ("mortgage") covering certain real property described as

Lot #35, containing 0.75 acres more or less, shown on a plat prepared by Nu-South Surveying, Inc., Earl B. O'Brian, S. C. RLS dated September 16, 1995, recorded in the office of the Clerk of Court for Anderson County, State of South Carolina, in Plat Slide 746 at Page 5 and having such course and distances as well appear by reference to such plat.

Being the same property conveyed to Corrie A. Martin by Deed of Nu-Land, Inc., dated March 16, 1997, recorded in March 18, 1997 in Book 2574 at Page 187 in The Office of the Clerk of Court for Anderson County together with that 1997 Omni (56x24) Manufactured Home, VIN # 056276A&B.

6. Green Tree commenced a foreclosure of this note and mortgage by way of a Complaint resulting in a sale at public auction of the property on March 1, 2011.

7. Green Tree acquired the subject property at this public auction.

8. Subsequent to acquiring the subject property, Green Tree took action to require the Sheriff of Anderson County to serve a Writ of Assistance upon Corrie A. Martin; this Writ of Assistance was placed upon the screen door of Martin's residence during June 2011.

9. The Writ of Assistance delivered to the residence of Martin was the first notice that Martin had of the foreclosure action; the Writ of Assistance contained information

stating that Green Tree owned the Martin property, etc. The Writ of Assistance directed Martin to vacate her property within 30 days.

10. The file of this case in the Office of the Clerk of Court contains various Affidavits of Service pertaining to the Summons and Complaint and Notices and Hearing, etc. However, the process servers employed by Green Tree and/or its attorney did not serve the Summons and Complaint upon Martin even though Affidavits of Service: were filed by process server; such Affidavits of Service concerning Service of the Summons and Complaint are false.

11. The attorney for Green Tree or employees of the attorney stated in certificates and/or affidavits that Notice of Hearing, etc. were mailed to

Corrie A. Martin
112 Canter Lane
Anderson, SC 29624.

This is the correct street with the correct house numbers of Corrie A. Martin. However, the Post Office has not delivered mail pertaining to this case to Martin at this address. The zip code is incorrect. The zip code should be 29626.

Corrie A. Martin
P.O. Box 14042
Anderson, SC 29624;

12. The attorneys for Green Tree or employees of the attorneys stated in certificates and/or affidavits that various Notices of Hearing, etc. were mailed to

Corrie A. Martin
112 Canter Lane
Anderson, SC 29626.

However, the Post Office did not deliver any mail addressed to Corrie Martin at this address during 2010 and 2011.

13. South Carolina Rules of Civil Procedure (SCRCP) Rule 4. Process (d)

Summons: Personal Service

(1) Individuals

Upon an individual other than a minor under the age of 14 years or an incompetent person, by delivering a copy of the Summons and Complaint to him personally or by leaving copies thereof at his dwelling place or by leaving copies thereof at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein XXX

14. Green Tree did not comply with SCRCP Rule 4. Compliance with SCRCP Rule 4 by serving a copy of Summons and Complaint upon Martin was required before the Court acquired jurisdiction over Martin.

15. By not having acquired jurisdiction over Corrie A. Martin, the foreclosure of the property of Corrie A. Martin, Civil Action C.A. # 2010-CP-04-03548 must be set aside; the entire proceeding should be declared void.

FOR A SECOND CAUSE OF ACTION-

Fraud Upon The Court

16. The allegations of the First Cause of Action are incorporated by reference

17. The Complaint in Civil Action C.A. # 2010-CP-04-03548 alleged in summary that Martin was in arrears in her mortgage in that she failed to make payments pursuant to the provisions of her note and mortgage.

18. Such allegations were false and incorrect.

19. In an action having the case style of Green Tree Servicing, LLC, as successor in interest to Green Tree Financing Servicing Corporation (the same Plaintiff

as the Plaintiff in the instant case) vs Corrie A. Martin, etc. assigned C/A 2008-CP-04-04162. The Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, which vacated a judgment of foreclosure and Order for sale entered in this matter on March 31, 2009 is vacated.

20. Martin faithfully made payments required by her note and mortgage to Green Tree until January 2012. Green Tree accepted the payments Martin made upon her note and mortgage.

21. During the foreclosure proceedings assigned C.A. 2010-CP-04-03548 Green Tree did not disclose to the Court that Martin faithfully made her monthly payments from May 2009 through January 2012.

22. The behavior of Green Tree and the erroneous information given to the Court by Green Tree during the foreclosure, assigned C.A. 2010-CP-04-03548 constitutes a fraud upon the court.

23. Such fraud upon the court entitles Martin to actual and punitive damages in such amount as may be determined by the Court.

FOR A THIRD CAUSE OF ACTION

Request that Writ of Assistance be withdrawn

24. John Skipper, as Sheriff of Anderson County, acting by and through a lawful Deputy has served a Writ of Assistance upon Martin during March 2012; Such Writ of Assistance direct Martin to vacate her property in thirty (30) days.

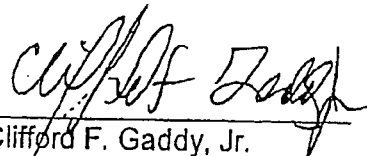
25. Martin requests that all action concerning the Writ to Assistance be held in abeyance and that she be allowed to remain in possession of her property until the issues presented by this Complaint are resolved.

WHEREFORE, Plaintiff Corrie A. Martin prays

(1) that the mortgage foreclosure be set aside and the judgment of the court be vacated; and

(2) for actual and punitive damages in such amount as may be determined by the Court; and

(3) that the Writ of Assistance be vacated and that she be allowed to remain in possession of her property until the further order of the court.



Clifford F. Gaddy, Jr.
Attorney for the Plaintiff
408 N. Church Street, Suite B
Greenville, SC 29601
Telephone # 864-250-5155
Fax # 864-233-3750

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Corrie Ann Martin,)
)
Plaintiff,)

C/A NO.: 2012-CP-04-01576

vs.)

ANSWER OF DEFENDANT
GREEN TREE SERVICING, LLC

Green Tree Servicing, LLC, as)
Successor in Interest to Green Tree)
Financial Servicing Corporation, and)
John Skipper, as Sheriff of Anderson)
County,)
)
Defendants.)

The Defendant, Green Tree Servicing, LLC (hereinafter "Defendant Green Tree"), answers the Complaint as follows:

1. Defendant Green Tree admits, upon information and belief, the allegations contained in paragraph 1 of Plaintiff's Complaint.
2. Defendant Green Tree admits the allegations contained in paragraphs 2, 3, 4, 5, 6, 7 and 8 of Plaintiff's Complaint.
3. Defendant Green Tree denies the allegations of paragraphs 9 and 10 of Plaintiff's Complaint.
4. Defendant Green Tree admits so much of paragraph 11 as alleges that the Notice of Hearing, etc. were mailed to Corrie A. Martin, but denies the remaining allegations of paragraph 11.
5. Defendant Green Tree admits so much of paragraph 12 as alleges that various Notices of Hearing were mailed to Corrie A. Martin, but denies the remaining allegations of paragraph 12.

AS A SECOND DEFENSE

17. The within action is stayed as the same issues have been asserted by Plaintiff in an appeal captioned Green Tree Servicing, LLC v. Corrie Martin, et al., case number 2010-CP-04-03548.

AS A THIRD DEFENSE

18. That the issues asserted by Plaintiff were mandatory grounds to be asserted in Plaintiff's Motion for Relief from default, which Plaintiff failed to assert in case number 2010-CP-04-03548.

AS A THIRD DEFENSE

19. That the issues asserted by Plaintiff were mandatory counterclaims to be asserted in Plaintiff's defense in action number 2010-CP-04-03548 which Plaintiff failed to assert and Plaintiff is barred under the doctrines of collateral estoppel and res judicata.

WHEREFORE, Defendant Green Tree, having fully answered the Complaint, prays that its claim and interests be protected, that the Complaint against it be dismissed and for such other and further relief as this Court deems just, fit and proper.

CRAWFORD & VON KELLER, LLC

BY: 

Theodore von Keller
B. Lindsay Crawford, III
Sara C. Hutchins
Adam H. Schanz
Post Office Box 4216
Columbia, South Carolina 29240
(803) 790-2626
Attorneys for Defendant
Green Tree Mortgage and Finance, Inc.

Columbia, South Carolina
November 1, 2012

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)

IN THE COURT OF COMMON PLEAS

Corrie Ann Martin,)
)
Plaintiff,)

C/A NO.: 2012-CP-04-01576

vs.)

CERTIFICATE OF SERVICE
BY MAIL

Green Tree Servicing, LLC, as)
Successor in Interest to Green Tree)
Financial Servicing Corporation, and)
John Skipper, as Sheriff of Anderson)
County,)
)
Defendants.)

I, April Cardwell, an employee of Crawford & von Keller, LLC, do hereby certify that on this date, I served a copy of the Answer of Defendant Green Tree Servicing, LLC, on counsel listed below, by causing the same to be placed in a sealed envelope, first-class postage pre-paid, and deposited in the United States Mail on the said date, addressed as follows:

Clifford F. Gaddy, Jr., Esquire
408 N. Church Street, Suite B
Greenville, SC 29601
Attorney for Plaintiff



April Cardwell

November 1, 2012

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of Common Pleas

Ellis B. Drew, Jr., Master in Equity

Case No.: 2010-CP-04-03548

Green Tree Servicing, LLC, etc Respondent,

Corrie A. Martin..... Appellant.

BRIEF OF APPELLANT

Corrie A. Martin
Post Office Box 14042
Anderson, SC 29624
Telephone # 864-716-9926
Appellant

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STATEMENT OF ISSUES ON APPEAL

A MISTAKE OCCURS WHEN THE COURT RELIES UPON AN ORDER WHICH IS VACATED BY A SUBSEQUENT ORDER IN THE SAME CASE.
(Issue 1)

HAS A PARTY MAKING A MOTION PURSUANT TO RULE 60 (b) FILED THE MOTION WITHIN A REASONABLE TIME IF THE EXPLANATION FOR THE DELAY IS THAT THE PARTY WAS UNAWARE OF THE LAWSUIT GIVING RISE TO THE JUDGMENT? (Issue 2)

STATEMENT OF THE CASE

The Complaint sought the foreclosure of a mortgage covering the doublewide mobile home of Defendant Corrie A. Martin. An Affidavit of Service recites that a copy of the Summons and Complaint were personally served upon the Defendant on October 7, 2010; however, Defendant Martin denies that the Summons and Complaint were served upon her.

The case was referred to the Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, who held a reference on January 24, 2011. The Court issued its order finding that Green Tree Servicing, LLC was entitled to foreclose its mortgage and directed that the property be sold by the Court. The order recited that Corrie Martin had ~~notice of the reference and attended the hearing. (In fact she did not receive any notice~~ of the reference and was not present at the hearing.)

Defendant's property was sold on March 1, 2010 pursuant to the order of Ellis B. Drew, Jr., Master in Equity. Green Tree Servicing, LLC was the high bidder and obtained a deficiency judgment against Corrie Martin. Subsequently, Green Tree caused the Sheriff of Anderson County to serve a Writ of Assistance upon Defendant Corrie A. Martin on June 13, 2011. The Writ directed Martin to vacate the mortgaged premises within thirty days.

Defendant Martin consulted Attorney Robert P. Lusk during June, 2011 for the purpose of taking action to set aside the mortgage foreclosure. Attorney Lusk did not inform Ms. Martin of any action taken by him to set aside the mortgage foreclosure. About September 1st, 2012, Defendant Martin retained Attorney Andrew Gaines.

About January 6, 2012 Attorney Andrew Gaines in behalf of Ms. Martin served a Motion for Relief from Judgment under the authority of SCRCP 60 (b).

The Motion came on for hearing before The Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, who issued his Order denying the Motion for Relief from Judgment on the ground that the Defendant waited too long before filing the Motion. Subsequently, the verbal order was confirmed by the written order of Master in Equity by Ellis B. Drew, Jr., dated March 8, 2012.

~~Defendant Corrie A. Martin filed an appeal from the verbal order of the Court~~
delivered at the hearing on January 24, 2012 and also the written order issued by Master in Equity, Ellis B. Drew, Jr., dated March 8, 2012.

FACTS

Corrie A. Martin ("Martin") signed a note and mortgage in the amount of \$58,687.52 in favor of Green Tree Servicing Corporation ("Green Tree") on March 18, 1997. The note and mortgage were duly recorded in Anderson County in Mortgage Book 2574 at beginning at Page 189. The proceeds of the note and mortgage financed the purchase of a double wide mobile home together with a lot described as 112 Canter Lane, Anderson, South Carolina.

In 2008 Martin developed health problems and lost her job. Her mortgage payments went into arrears. Green Tree filed a foreclosure action in the Court of Common Pleas, Anderson County, assigned C/A # 2008-CP-04-04162. After the Court issued a Judgment of Foreclosure and Order for Sale entered on March 31, 2009 in which the Court awarded costs and attorney fees of \$3500.00 to Green Tree, Martin used funds from a Social Security claim to bring the mortgage current. The settlement included all amounts owed to Green Tree. Ellis B. Drew, Jr., Master in Equity for Anderson County issued an Order of Dismissal and vacated the prior order entered on March 31, 2009.

Martin then paid each month her monthly installment of \$440.15 from March 2009 through January 2012.

On June 13, 2011 Ms. Martin found a Writ of Assistance taped to her screen door. She learned that the Writ was placed on her door by a Deputy Sheriff. The facts describing the activities of Martin prior to retaining Attorney Andrew Gaines were not presented at the hearing on January 23, 2011 upon the Motion. Therefore, Martin's

efforts to develop information concerning the foreclosure and to set aside the foreclosure are not described here.

On September 1, 2011 Ms. Martin retained Attorney Andrew Gaines. She called Attorney Gaines several times to find out what action was being taken. He advised her that she needed to attend a hearing on January 23, 2012. Ms. Martin attended this hearing. At the hearing she heard Mr. Gaines talk about a Motion for Relief from Judgment. She heard Judge Drew say that the Motion was denied. She wanted to appeal the decision of Judge Drew denying the motion for Relief. During February 2012 Ms. Martin obtained her files from Mr. Gaines. She filed her own appeal.

The first notice that Ms. Martin had of the mortgage foreclosure commenced by Green Tree and that her house was sold at public auction was the Writ of Assistance delivered to her residence of the Sheriff of Anderson County on June 13, 2011.

The Motion for Relief from Judgment pursuant to SCRPC Rule 60(b) was filed on January 6, 2012 about seven months after Martin became aware of the foreclosure suit on June 13, 2011. The Order and Decree of Ellis B. Drew, Jr., Master in Equity, entered on January 24, 2011 directed that the Martin property be sold at public auction on March 1, 2011.

The order entered on January 24, 2011 recites that Martin received notice of the hearing and was present in the courtroom. Martin says she received no notice of a hearing and was not in the courtroom. Martin would also say that she did not receive a copy of the Summons and Complaint prior to the foreclosure. During the hearing held

on January 23, 2012 there was no evidence presented from Martin concerning the lack of service or the lack of notice of any of the proceedings. The facts concerning notice and lack of notice are not in the record and were not considered by the Master in Equity when ruling upon the Motion for Relief from Judgment pursuant to SCRCP Rule 60(b). Lack of service of the summons and complaint together with facts surrounding notice of proceedings are issues being presented in a separate action now pending in the Court of Common Pleas in Anderson County.

Following the verbal dismissal of Martin's Motion for Relief from Judgment at the hearing on January 23, 2012 Master in Equity Ellis B. Drew, Jr., issued his Supplemental Order under date of March 8, 2012. The Supplemental Order

~~"finds as a matter of fact that the Defendant has failed to make this motion within a reasonable time as the hearing in this matter, of which the Defendant was provided notice, was on January 24, 2011. The Defendant waited almost a year to file this motion. Defendant offered no explanation for this delay."~~

Since details concerning notice of the hearing and activities of Martin prior to the Motion for Relief from Judgment are not in the record Appellant can refer only to the mention in the Supplemental Order of Attorney Robert Lusk acting in behalf of the Appellant contacted Plaintiff's attorney by letter dated June 27, 2011. The letter advised "that there were outstanding issues that needed to be addressed****" Whatever the letter said (and it is not in the record) the information prompted Plaintiff's attorney to cancel a lock-out that had been scheduled with the Anderson County Sheriff's Office.

ARGUMENTS

DID THE MASTER IN EQUITY MAKE A MISTAKE WHEN THE MASTER OVERLOOKED AN ORDER THAT VACATED A PRIOR ORDER AWARDING ATTORNEY FEES ? (Issue 1)

The Honorable Ellis B. Drew, Jr., Master in Equity for Anderson County, entered on August 10, 2009 an Order for Dismissal, Cancellation of Lis Pendens and Order to Vacate Judgment in which he directed that the Judgment of Foreclosure and Order for Sale entered on March 31, 2009 be vacated. (Appendix)

According to Plaintiff's counsel—stated by him at the January 23, 2012 hearing on the Motion for Relief-- the foreclosure commencing in 2010 (the instant case) was based upon Martin's failure to pay attorney fees of \$3500.00 from the foreclosure commencing in 2008 (C/A 2008-CP-04-04162). (R.p. 7, line 4) Plaintiff's counsel presented the March 31, 2009 Order awarding attorney fees to the Master in Equity. He said nothing to the Court about the March 31, 2009 order being vacated. This failure to call the attention of the Court to this later order induced the Court to make the mistake of not considering the subsequent order.

A circuit court may relieve a party from final judgment pursuant to Rule 60 (b) of the SCRCP where a party shows the "judgment or order was induced by mistake, inadvertence, surprise, or excusable neglect." Deidun v Deidun, 362 S.C. 47, 606 S.E. 2d 489 (Ct. App.2004); Raby Construction, LLP vs Orr, 358 S.C. 10, 17-18, 594 S.E.2d 478, 482 (2004)

Did the Master in Equity abuse his discretion in denying the Motion for Relief from Judgment pursuant to Rule 60(b). Yes, he abused his discretion by being induced to

make a mistake by Plaintiff's counsel who invited the Master's attention to one order awarding attorney fees, but not to the order which vacated the prior order.

**WAS THE MOTION FOR RELIEF FROM JUDGMENT PURSUANT TO
RULE 60 (B) MADE WITHIN A REASONABLE TIME?**

The Motion was filed on January 6, 2012 which was less than a year after the Judgment was issued on January 24, 2011. The record is silent concerning the activities of Martin to set aside the judgment prior to the motion being filed. Martin was not standing by doing nothing since we know from the statements of Plaintiff's counsel during the January 23rd hearing that he received a letter from Attorney Robert Lusk which contained sufficient information to induce Plaintiff's counsel to call of a lock out of Martin's house by the Sheriff. Under the circumstances the time transpiring before the Motion for Relief from Judgment was filed should be considered a reasonable time within which to file the motion.

CONCLUSION

For the reasons stated, the dismissal of the Appellant's Motion for Relief from Judgment under Rule 60 (b) of the SCRCP should be reversed and the judgment of Green Tree should be set aside.

Respectfully Submitted,

December ____, 2012

Corrie A. Martin
Post Office Box 14042
Anderson, SC 29624
Telephone # 864-716-9926
Appellant

STATE OF SOUTH CAROLINA)
)
COUNTY OF ANDERSON)
)
CORRIE A. MARTIN)
)
)
Plaintiff,)
)
vs.)
)
)
GREEN TREE SERVICING, LLC, as)
Successor in Interest to Green Tree)
Financial-Serving Corporation,)
)
)
Defendant.)
)
_____)

IN THE COURT OF COMMON PLEAS
THIRTEENTH JUDICIAL CIRCUIT

C.A. # 2010-CP-04-03548

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), of the
South Carolina Court Rules, SCA.

December 19, 2012

s/Corrie A Martin
Corrie A. Martin
Post Office Box 14042
Anderson, SC 29624
Telephone # 864-716-9926
Appellant

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Ellis B. Drew, Jr., Master in Equity

Case No. 2010-CP-04-03548

Green Tree Servicing, LLC, et al.

Respondent

Corrie A. Martin

Appellant

FINAL BRIEF OF RESPONDENT

THEODORE VON KELLER
SARA C. HUTCHINS
CRAWFORD & VON KELLER, LLC
POST OFFICE BOX 4216
COLUMBIA, SOUTH CAROLINA 29240
(803) 790-2626
ATTORNEY FOR RESPONDENT

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II. THE COURT DID NOT ABUSE ITS DISCRETION IN DENYING APPELLANT’S MOTION TO SET ASIDE DEFAULT

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Roberson v. Southern Finance of South Carolina, Inc., 365 S.C. 6, 615 S.E.2d 112(2005)
Hill v. Dotts, 345 S.C. 304, 547 S.E. 2d 894 (Ct. App. 2001)
McInerny v. Toler, 260 S.C. 382, 196 S.E2d 122 (1973)
Perry v. Heirs at Law of Gadsen, 357 S.C. 42, 590 S.E.2d 502 (Ct. App. 2003)
Tri-County Ice and Fuel Co. v. Palmetto Ice Co., 303 S.C. 237, 399 S.E.2d 779,782 (1990).

Other Authorities

Rule 60, South Carolina Rules of Civil Procedure
Rule 210, South Carolina Rules of Appellate Procedure

STATEMENT OF ISSUES ON APPEAL

- I. APPELLANT'S ISSUES ON APPEAL WERE NOT RAISED AND RULED UPON BY THE CIRCUIT COURT
- II. THE COURT DID NOT ABUSE ITS DISCRETION IN DENYING APPELLANT'S MOTION TO SET ASIDE DEFAULT

STATEMENT OF THE CASE

This appeal presents two (2) questions: (1) Whether a Motion for Relief from Judgment filed almost one year to the day after the entry of an Order of Foreclosure and Sale was timely filed and (2) whether Defendant/Appellant may now argue on appeal those issues that were never presented below.

In deciding both of those questions, the issues before this Court are whether an Order denying the Motion for Relief from Judgment as untimely should be affirmed where the following facts were undisputed:

1. Defendant/Appellant was personally served with the Summons and Complaint seeking foreclosure on October 7, 2010, and defaulted under the same by failing to Answer or otherwise plead. (R.p. 11-13)
2. Defendant/Appellant was provided notice of hearing for January 24, 2011. (R.p. 16-17).
3. Defendant/Appellant was served with the Order of Foreclosure and Sale on February 15, 2011. (R.p. 35)
4. Defendant/Appellant was served with the Notice of Sale on February 15, 2011. (R.p. 35)
5. The sale was held on March 1, 2011 and a deed issued to the successful bidder on April 20, 2011. (R.p. 41-44)
6. The Defendant/Appellant was personally served with a Writ of Assistance evicting her on June 13, 2012. (R.p. 45-49)
7. On January 6, 2012, one year after the sale, Defendant/Appellant filed the Motion for Relief from Judgment. (R.p. 50-51)

STATEMENT OF FACTS

On March 18, 1997, Appellant, executed and delivered to Green Tree Financial Servicing Corporation a Note ("Note") in the principal sum of Fifty-Eight Thousand Five Hundred Eighty-Seven and 52/100 (\$58,587.52) Dollars, with interest at the rate of 8.99 % per annum (R.p. 20). Appellant promised to repay Respondent the amounts advanced under the Note. Simultaneously with the execution of the Note, and to secure the repayment of the Note and the debt, Appellant executed and delivered to Green Tree, a Mortgage dated March 18, 1997 ("Mortgage") (R.p. 20). The Mortgage was recorded on March 18, 1997 in Mortgage Book 2574 at Page 189 in the Office of the Anderson County Register of Deeds. (R.p. 20)

To further secure the repayment of the amounts due under the Note, Appellant granted Green Tree a security interest in a 1997 Omni Mobile Home, Serial #056276A&B (the "Collateral"), and pursuant to the Note, Green Tree recorded its lien on the face of the Certificate of Title of the Collateral described in the Note. (R.p. 20-21)

On October 4, 2012, after Appellant's default under the terms of the Note and Mortgage, Respondent filed an Amended Lis Pendens, Summons and Complaint seeking repossession of the subject mobile home and foreclosure of the real estate mortgage. (R.p. 1-10) On October 7, 2010, the Amended Lis Pendens and Summons and Complaint were personally served upon Appellant (R.p. 11). Having received no answer, or request for extension of time to answer, Respondent filed its affidavit of default and Motion for Order of Reference on December 2, 2010 (R.p. 12-15). On December 2, 2010, Martha D. Newton, Clerk of Court for Anderson County executed and recorded an Order of Reference under which the subject case was referred to Ellis B. Drew, Jr., Master in Equity for

Anderson Count (R.p. 15). Subsequently, a hearing was scheduled and the Respondent forwarded a Notice of Hearing to the Defendants on December 17, 2010 (R.p. 16-17). The Notice of Hearing and Certificate of Service were filed with the Court. The final hearing in the subject action was held on January 24, 2011 at 11:00am and on January 24, 2011 a Master in Equity's Order and Judgment of Foreclosure and Sale and a Notice of Master In Equity Sale were entered in the Office of the Clerk of Court for Anderson County (R.p. 18-33).

A foreclosure sale was held on March 1, 2011 at 11:00a.m. and the deficiency sale was held on March 31, 2011. (R.p. 28). On April 7, 2011, the Honorable Ellis B. Drew, Jr. executed a Master in Equity's Deed by foreclosure conveying the subject real property to Green Tree Servicing, LLC, the high bidder at the foreclosure sale. The deed was recorded in the Office of the Anderson County Register of Deeds on April 20, 2011, in Book 10000 at Page 107 (R.p. 41-44). Furthermore, on April 7, 2011, the Honorable Ellis B. Drew, Jr. executed an Order of Deficiency Judgment against Appellant in the amount of \$21,620.62. Said Order was recorded in the Office of the Clerk of Court for Anderson County on April 12, 2011 (R.p. 36).

Subsequently, due to the subject property still being occupied, a Writ of Assistance was issued by the Honorable Ellis B. Drew, Jr. on June 2, 2011 (R.p. 45-48). The Anderson County Sheriff's Office served the Writ of Assistance on June 13, 2011 (R.p. 49). On or about June 27, 2011, the Respondent's attorney received a letter from Robert P. Lusk, Esquire, that there were outstanding issues that needed to be addressed and the Respondent cancelled the lock-out that had been scheduled with the Anderson County Sheriff's Office (R.p. 67).

On or about January 6, 2012, the Defendant, by and through counsel, Andrew Gaines, filed a Motion for Relief from Judgment pursuant to Rule 60(b), SCRCP (R.p. 50-51). On January 23, 2012, a hearing on Appellant's Motion for Relief from Judgment was heard by the Honorable Ellis B. Drew, Jr (R.p. 52-65). Judge Drew, after review of the pleadings and arguments of counsel, denied Appellant's Motion, finding that Appellant had failed to make the motion for relief within a reasonable time. The Supplemental Order denied Appellant's motion for relief and further ordered Appellant to vacate the subject property within thirty (30) days from the date of said Order, which was filed on March 13, 2012 (R.p. 66-68). This appeal followed.

ARGUMENT

I. APPELLANT'S ISSUES ON APPEAL WERE NOT RAISED AND RULED UPON BY THE CIRCUIT COURT

To preserve an issue for appeal, a matter must not be raised for the first time on appeal, but must have been both raised to and ruled upon by the trial court. *Hill v. South Carolina Dept. of Health and Environmental Control*, 389 S.C. 1, 698 S.E. 2d 612. (2010). Defendant/Appellant now asserts, for the first time, that the Court in the present action, relied on an Order which was vacated in an earlier, separate action. As evidenced by the Record on Appeal, however, Appellant did not raise this issue in any pleadings, at the foreclosure hearing, in the Motion for Relief, or in oral arguments at the Motion for Relief hearing. Equally, as it was not presented, the Court did not consider or rule on this issue. Additionally, the Orders referenced regarding Civil Action number 2008-CP-04-04162 have not been appealed and the time for appeal has long expired. Since this issue has not been preserved for appeal, the same should be dismissed.

ii. **THE COURT DID NOT ABUSE ITS DISCRETION IN DENYING APPELLANT'S MOTION TO SET ASIDE DEFAULT**

A. **The proper test before this Court is whether the Master In Equity abused his discretion**

It is well established in South Carolina that the decision of "whether to grant or deny a motion under Rule 60(b), SCRPC is within the sound discretion of the judge." Colman v. Dunlap, 306 S.C. 491 at 494, 413 S.E.2d 15, at 16 (1991). It is also well established that the decision of the judge should be upheld on appeal absent an abuse of that discretion. Id. "An abuse of discretion arises where the trial judge was controlled by an error of law or where his order is based on factual conclusions that are without evidentiary support." Tri-County Ice and Fuel Co. v. Palmetto Ice Co., 303 S.C. 237, 399 S.E.2d 779,782 (1990). The question before this Court, therefore, is whether Judge Drew abused his discretion in denying Appellant relief from default.

B. **The lower court properly applied South Carolina Rule of Civil Procedure Rule 60 at the hearing on the Motion to Set Aside Default**

At the January 23, 2012, hearing on the Appellant's Motion to Set Aside Default, Appellant sought relief from default of the January 24, 2011, Master in Equity's Order and Judgment of Foreclosure and Sale (R.p. 50-51). Said Master in Equity's Order was a final judgment and Rule 60, SCRPC was the appropriate standard to apply to said motion. Rule 60, SCRPC; Roberson v. Southern Finance of South Carolina, Inc. 615 S.E.2d 112; 365 S.C.6 (2005). Rule 60(b) provides that a party may be relieved from a final judgment or order for mistake, inadvertence, surprise or excusable neglect. In determining whether a party is entitled to an order setting aside a judgment the Court should consider the following: (1) the promptness with which relief is sought; (2) the existence of a meritorious defense; and (3) the prejudice to the nonmoving party. Hill v. Dotts, 345 S.C. 304, 547 S.E. 2d 894 (Ct. App. 2001). "The party seeking to set aside a judgment pursuant to Rule 60(b) has the

burden of presenting evidence entitling him to the requested relief." Perry v. Heirs at Law of Gadsen, 357 S.C. 42, 590 S.E.2d 502 (Ct. App. 2003).

Appellant failed to allege and/or offer any evidence of excusable neglect in her written motion for relief from default judgment and no argument regarding excusable neglect was offered at the hearing on said motion (R.p. 50-51). Therefore, the trial court's refusal to vacate the default judgment is proper.

C. **The lower court properly considered the factors of the promptness with which relief was sought and Appellants reasons for the failure to act promptly**

While the South Carolina Supreme Court in McInerny v. Toler has made it clear that once the movant has failed to meet its burden of showing excusable neglect, the existence of a meritorious defense is immaterial. 260 S.C. 382, 386, 196 S.E.2d 122, 124 (1973), the lower court nonetheless considered the other factors in the present case.

In regards to the promptness in which relief was sought, the record of appeal makes it clear that the Appellant was personally served with a copy of the Lis Pendens, Summons and Complaint on October 7, 2010 (R.p. 1-10), was provided with Notice of Hearing for the foreclosure hearing on December 17, 2010 (R.p. 16-17), was provided with a filed copy of the Master's Order and Judgment of Foreclosure and Sale on February 14, 2011 (R.p. 35), and Writ of Assistance on June 13, 2011 (R.p. 45-49). At no point prior to January, 2012 did Appellant move for relief from default.

On June 27, 2011, Robert P. Lusk, counsel for Appellant, contacted counsel for the Respondent regarding the eviction, yet nothing was filed with the Court. Three months later, despite actual knowledge of the foreclosure proceedings, in September 2011, Appellant retained D. Andrew Gaines, as counsel. The Motion for Relief from Default, however, was not filed until January 6, 2012, some additional four months later. At the hearing, no excuse or explanation was given by Defendant/Appellant as to why she delayed in seeking relief

from default for approximately one year (R.p. 52-68). This, the Court found, failed to carry her burden of acting within a reasonable time. Based on the above, Appellant failed to convince the lower court that it had acted promptly in seeking relief and the decision to deny relief was appropriate and within the sound discretion of the Court..

CONCLUSION

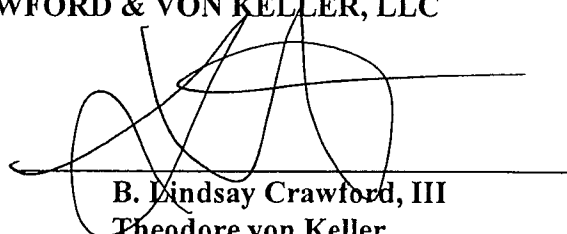
For the reasons stated, this Court should affirm the judgment.

Respectfully submitted,

December 18, 2012

CRAWFORD & VON KELLER, LLC

BY:

A handwritten signature in black ink, appearing to read "B. Lindsay Crawford, III", is written over a horizontal line. The signature is stylized and somewhat illegible due to its cursive nature.

**B. Lindsay Crawford, III
Theodore von Keller
Sara C. Hutchins
Adam Schanz
Post Office Box 4216
Columbia, South Carolina 29240
Telephone: (803) 790-2626
Attorney for Respondent**

THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Green Tree Servicing, LLC, f/k/a Green Tree Financial
Servicing Corporation, a Limited Liability Company
under the laws of the State of Delaware, Respondent,

v.

Corrie Ann Martin, the South Carolina Department of
Revenue, the United States of America by and through its
agency the Internal Revenue Service, and Anderson Area
Medical Center, Inc., n/k/a Anmed Health, Plaintiffs,

Of whom Corrie Ann Martin is the Appellant.

Appellate Case No. 2012-210846

Appeal From Anderson County
Ellis B. Drew, Jr., Master-In-Equity

Unpublished Opinion No. 2013-UP-425
Submitted October 1, 2013 – Filed November 20, 2013

AFFIRMED

Clifford F. Gaddy, Jr., of Cliff Gaddy Law, of Greenville,
for Appellant.

Theodore von Keller, B. Lindsay Crawford, III, and Sara Christine Hutchins, all of Crawford & von Keller, LLC, of Columbia, for Respondent.

PER CURIAM: Corrie Ann Martin appeals the master-in-equity's denial of her Rule 60(b), SCRCF, motion, arguing the master erred in (1) relying upon an order that was later vacated, and (2) finding her motion was not filed within a reasonable time. We affirm pursuant to Rule 220(b), SCACR, and the following authorities:

1. As to whether the master erred in relying upon an order that was later vacated: *Pye v. Estate of Fox*, 369 S.C. 555, 564, 633 S.E.2d 505, 510 (2006) ("It is well settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the [master] to be preserved.").

2. As to whether the master erred in finding Martin's Rule 60(b) motion was not filed within a reasonable time: Rule 60(b)(1), SCRCF ("On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for . . . mistake, inadvertence, surprise, or excusable neglect . . ."); Rule 60(b), SCRCF ("[A Rule 60(b)(1)] motion shall be made within a *reasonable time* . . . not more than one year after the judgment, order or proceeding was entered or taken." (emphasis added)); *Se. Hous. Found. v. Smith*, 380 S.C. 621, 639, 670 S.E.2d 680, 690 (Ct. App. 2008) ("[T]he reasonable time limit is discretionary and should be determined under the facts and circumstance of each case." (internal quotation marks omitted)); *Perry v. Heirs at Law of Gadsden*, 357 S.C. 42, 46, 590 S.E.2d 502, 504 (Ct. App. 2003) ("A party seeking to set aside a judgment pursuant to Rule 60(b) has the burden of presenting evidence entitling him to the requested relief.").

AFFIRMED.¹

SHORT, WILLIAMS, and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of Common Pleas

Ellis B. Drew, Jr., Master in Equity

Case No.: 2012-CP-04-01526

Green Tree Servicing, LLC, etcRespondent,

Corrie A. Martin.....Appellant.

PETITION FOR REHEARING

Clifford F. Gaddy, Jr.
408 N. Church St., Ste. B
Greenville, South Carolina 29601
(864) 250-5155
Attorney for Petitioner

B. Lindsay Crawford, III
Theodore von Keller
Sara C. Hutchins
Post Office Box 4216
Columbia, South Carolina 29240
(803) 790-2626
Attorneys for the Respondent

Appellant Corrie Martin hereby Petitions for a Rehearing of the subject case on the following grounds:

FIRST GROUND FOR REHEARING:

1. Appellant Corrie Martin filed a Motion pursuant to Rule 60(b) SCRPC to set aside a mortgage foreclosure (Green Tree Servicing, LLC etc. v Corrie Martin, et al; 2010-CP-04-03548) in which the home of Corrie Martin was sold at public auction. The Motion came on for hearing before Ellis B. Drew, Jr., Master-In-Equity for Anderson County.

2. Master-In-Equity Ellis B. Drew, Jr. denied the Motion under Rule 60(b) SCRPC on the grounds that the Motion was not filed with a reasonable time. The Order did not recite facts supporting this conclusion.

3. Corrie Martin appealed the denial of the Rule 60(b) Motion. While the appeal was pending in the South Carolina Court of Appeals, Appellant Corrie Martin filed a Complaint against Green Tree Servicing, LLC, etc. assigned C.A. #: 2012-CP-04-01576. The Complaint alleged in its first cause of action that the Court lacked jurisdiction in the mortgage foreclosure action (C.A. #: 2010-CP-04-03548) because Corrie Martin was not served with a copy of the Summons and Complaint.

4. In the Corrie Martin vs. Green Tree Servicing, LLC, (C.A. # 2012-CP- 04-01576) Defendant Green Tree Servicing, LLC filed a Motion for Summary Judgment pursuant to Rule 60(b) SCRPC based upon the last paragraph which required Corrie Martin to obtain the leave of the Court of Appeals to file her suit.

5. Circuit Court Judge Lawrence McIntosh issued an Order directing Corrie Martin to file her application with the Court of Appeals asking for leave to proceed with her suit.

6. Corrie Martin filed an Application to the Court of Appeals to allow her suit challenging the jurisdiction of the Court in the prior mortgage foreclosure. The Court of Appeals denied the Application for Leave to allow the suit of Corrie Martin against Green Tree.

7. The Court of Appeals did not comment upon or assign any reason in its decision filed on September 16, 2013, for its refusal to grant leave to Corrie Martin to proceed with her suit alleging that the Court of Commons Pleas lacked jurisdiction in the mortgage foreclosure case.

8. In its opinion filed November 20, 2013, the Court of Appeals did not address or comment upon its denial of the Application of Corrie Martin to proceed with her suit alleging that the Court of Commons Pleas did not have jurisdiction in the mortgage foreclosure suit against Corrie Martin.

9. Service of a Summons and Complaint is a critical requirement of litigation. Service of a Summons upon a Defendant is required by Rule 4 SCRC. It is black letter elementary law and needs no citation of authority that a Summons and Complaint must be served upon a Defendant before a Court will have jurisdiction over the suit.

10. If a party to a lawsuit represents in a Complaint that the Court did not have jurisdiction to render a judgment because no Summons and Complaint were served,

that allegation deserves to be addressed by an Appellate Court, as opposed to treating the allegation with indifference and silence.

11. A party attacking a judgment on the grounds that the Court lacked jurisdiction in awarding the judgment deserves a hearing affording a review of the evidence supporting the allegations or disproving the allegations.

12. Corrie Martin is entitled to a judicial fact finding hearing regarding facts concerning whether she was served with a Summon and Compliant and what knowledge she had, if any, of the foreclosure proceedings, in which her home was sold at public auction.

SECOND GROUND FOR REHEARING:

13. The second ground upon which the Court of Appeals should grant a rehearing is whether the facts support a finding by the Master-In-Equity that Corrie Martin did not file a Motion pursuant to Rule 60(b) SCRPC in a reasonable time. The Master's opinion did not give facts to support his conclusion that Corrie Martin did not file the Motion under Rule 60(b) SCRPC in a reasonable time. The facts are that upon finding a Sheriff's eviction notice upon the door of her home in June 2011, Ms. Martin went immediately to the Sheriff's Office where she was directed to go to the Clerk of Court's office where a clerk helped her review the file. She learned for the first time that Green Tree Servicing, LLC had commenced a foreclosure proceeding. She retained an attorney promptly. He wrote a letter to attorneys for Green Tree Servicing, LLC. Upon no action occurring, beyond a letter being written, she asked for a release of her file and retained attorney Andrew Gaines, who after about three months of inactivity and in

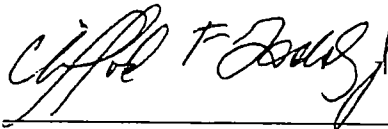
response to telephone calls to him from Corrie Martin, a Motion to Set Aside Judgment pursuant to Rule 60(b) SCRCP was filed.

14. Appellant Corrie Martin asserts that for a Trial Judge to conclude that under these circumstances Corrie Martin did not file a Motion to Set Aside Judgment within a reasonable time is an abuse of discretion.

15. If the Court of Appeals is going to conclude that a denial of a Motion to Set Aside a Judgment was not an abuse of discretion, Corrie Martin is entitled to know the facts used by the Court in reaching its conclusion.

For the reasons stated above, the Court of Appeals should grant the Petition for Rehearing.

Respectfully submitted,



Clifford F. Gaddy, Jr.
Cliff Gaddy Law Firm
408 N. Church Street, Ste. B
Greenville, South Carolina 29601
(864) 250-5155

December 4, 2013

The South Carolina Court of Appeals

Green Tree Servicing LLC, formerly known as Green Tree Financial Servicing Corporation, a Limited Liability Company under the laws of the State of Delaware,
Respondent,

v.

Corrie Ann Martin, the South Carolina Department of Revenue, the United States of America by and through its agency the Internal Revenue Service and Anderson Area Medical Center, Inc., n/k/a Anmed Health, Plaintiffs,

Of Whom Corrie Ann Martin is Appellant.

Appellate Case No. 2012-210846

The Honorable The Honorable Ellis B. Drew, Jr.
Anderson County
Trial Court Case No. 2010CP0403548

ORDER

Appellant's motion to allow late Petition for Rehearing is denied.

FOR THE COURT

BY


CLERK

Columbia, South Carolina

cc:

Theodore Von Keller, Esquire
B. Lindsay Crawford, III, Esquire
Sara Christine Hutchins, Esquire
Clifford F. Gaddy, Jr., Esquire
Douglas Andrew Gaines, Esquire

FILED

1/15/14 AT

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas
Ellis B. Drew, Jr., Master in Equity

Case No.: 2012-CP-04-01526

Appellate Case No 2012-210846

Green Tree Servicing, LLC, etcRespondent,

Corrie A. Martin.....Appellant.

MOTION TO ALLOW PETITION FOR REHEARING

Clifford F. Gaddy, Jr.
408 N. Church St., Suite B
Greenville, South Carolina 29601
(864) 250-5155
Attorney for Petitioner

B. Lindsay Crawford, III
Theodore von Keller
Sara C. Hutchins
Post Office Box 4216
Columbia, South Carolina 29240
(803) 790-2626
Attorneys for the Respondent

Appellant hereby moves that the South Carolina Court of Appeals allow Appellant's Petition for Rehearing to be filed and heard by the South Carolina Court of Appeals.

The grounds for this Motion are:

The Court of Appeals filed its Opinion on November 20, 2013, which affirmed the Supplemental Order of Anderson County Master-In-Equity, Ellis B. Drew, Jr., denying Appellant Corrie Martin's Motion to Set Aside Judgment pursuant to Rule 60(b) SCRPC.

The undersigned attorney for Appellant Corrie Martin served Theodore von Keller, Esquire, attorney for Respondent Green Tree Servicing, LLC, with a Petition for Rehearing on December 4, 2013 by placing the Petition for Rehearing in the United States Postal Service in an envelope addressed to Theodore von Keller, Esquire.

The undersigned deposited in the United States Postal Service, his letter dated December 4, 2013 , enclosing the Petition for Rehearing, addressed to:

The Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

The Court of Appeals received the Petition for Rehearing on December 9, 2013.

By letter dated December 11, 2013, the Court of Appeals returned the Petition for Rehearing as untimely filed explaining that the Petition for Rehearing was due to be filed on or before December 5, 2013, fifteen days after the date of filing of the Opinion of the Court of Appeals on November 20, 2013. The Court of Appeals received the Petition for Rehearing on December 9, 2013, which is nineteen days after the filing of the Court of Appeals Opinion on November 20, 2013.

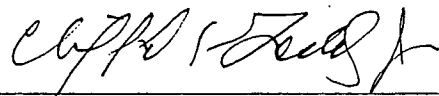
Even though the Petition for Rehearing in the United States Postal Service reached the South Carolina Court of Appeals on the 19th day following the filing of the Decision of the Court of Appeals, the Appellant accomplished service of its Petition for Rehearing upon Respondent's attorney Theodore von Keller on December 4, 2013 by depositing the Petition for Rehearing on December 4, 2013 with the United States Postal Service.

For the convenience of the Court a copy of the Opinion of the Court in this case is attached together with a copy of the Petition for Rehearing.

For the reasons stated above the undersigned requests the Court to grant Appellant's Motion to Allow her Petition for Rehearing to be filed and heard by the South Carolina Court of Appeals.

Respectfully submitted,

December 19, 2013



Clifford F. Gaddy, Jr.
S. C. Bar # 2275
408 North Church Street, Suite B
Greenville, South Carolina 29601
(864) 250-5155

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ANDERSON COUNTY

Court of Common Pleas

Ellis B. Drew, Jr., Master in Equity

Case No.: 2012-CP-04-01526

Appellate Case No. 2012-210846

Green Tree Servicing, LLC, etcRespondent,

Corrie A. Martin.....Appellant.

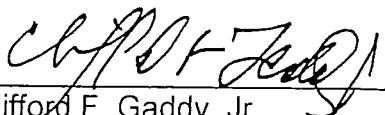
CERTIFICATE OF SERVICE

I hereby certify that I served the Respondent's Attorney Theodore Von Keller with a copy of the **Appellant's Motion to Allow Petition for Rehearing** by placing a copy thereof in an envelope deposited in the United States Mail on December 19, 2013 with proper postage attached thereto addressed to:

Theodore Von Keller, Esquire
Sara C. Hutchins, Esquire
Crawford & Von Keller, LLC
Post Office Box 4216
Columbia, SC 29240

Attorneys for the Respondent

December 19, 2013


Clifford F. Gaddy, Jr.
Cliff Gaddy Law Firm
408 N. Church St., Ste. B
Greenville, SC 29601
(864) 250-5155

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Ellis B. Drew, Jr., Master in Equity

Case No. 2010-CP-04-03548

Green Tree Servicing, LLC, et al Respondent,

v.

Corrie A. Martin Appellant.

RETURN TO APPELLANT'S MOTION TO ALLOW PETITION FOR REHEARING

THEODORE VON KELLER
SARA C. HUTCHINS
CRAWFORD & VON KELLER, LLC
POST OFFICE BOX 4216
COLUMBIA, SOUTH CAROLINA 29240
(803) 790-2626
ATTORNEY FOR RESPONDENT

On November 20, 2013, the South Carolina Court of Appeals filed an Order affirming lower court, and a copy was served on all parties, making the deadline to file a Petition for Rehearing due on or before December 5, 2013. On December 4, 2013, Appellant did mail a Petition for Rehearing to the South Carolina Court of Appeals for filing. Said Petition was not received in a timely manner and on December 6, 2013, a remittitur was issued. On December 11, 2013, the South Carolina Court of Appeals returned Appellants petition for rehearing as untimely. Appellant subsequently mailed Motion to Allow Petition for Rehearing in the above matter on December 19, 2013.

ARGUMENT

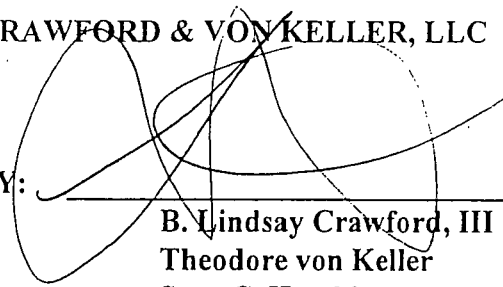
Pursuant to Rule 221(a), SCACR, “petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order judgment or decree of the court.” Rule 263 (a), SCACR provides that “no additional time shall be allowed after service by mail”. The Order Affirming the lower court was filed on November 20, 2013, making the date the Petition for Rehearing had to be filed by December 5, 2013, rather than mailed by December 5, 2013. The Rules do not allow additional time for mailing. Appellant did not timely file a Petition for Rehearing, and the initial untimely Petition was not accompanied by a Motion for Extension of Time.

CONCLUSION

For the reasons stated, Respondent respectfully requests that the Court deny the Appellant’s Motion to Allow Petition for Rehearing.

CRAWFORD & VON KELLER, LLC

BY: _____


B. Lindsay Crawford, III
Theodore von Keller
Sara C. Hutchins
Adam Schanz
Post Office Box 4216
Columbia, South Carolina 29240
Telephone: (803) 790-2626
Attorney for Respondent

December 30, 2013

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Court of Common Pleas

Case No. 2012-CP-01526

Corrie Martin..... Petitioner

v.

Green Tree Servicing, LLC..... Respondent.

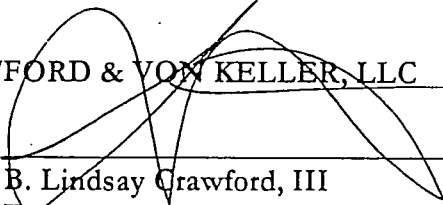
PROOF OF SERVICE

I certify that I have served the Respondent's Return to Motion to Allow Petition for Rehearing by depositing a copy of it in the United States Mail, postage prepaid, on December 31, 2013, addressed to its Appellant at the following address:

Clifford F. Gaddy, Jr
408 N. Church Street. Ste. B
Greenville, SC 29601

CRAWFORD & VON KELLER, LLC

BY:



B. Lindsay Crawford, III
Theodore von Keller
Sara C. Hutchins
Post Office Box 4216
Columbia, South Carolina 29240
(803) 790-2626
Attorneys for Respondent

Columbia, South Carolina
December 31, 2013