

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Honorable Marvin H. Dukes, III, Master in Equity

Case No. 2009-CP-07-05088
App. Case No. 2012-210910

CitiMortgage, Inc.,

Respondent,

v.

Daniel Junk a/k/a Daniel L. Junk and Christine H. Junk and Oldfield Community Association,

Defendants,

Of Whom Daniel L. Junk and Christine H. Junk are,

Appellants,

-and-

Daniel L. Junk and Christine H. Junk,

Counterclaim Appellants,

v.

CitiMortgage, Inc.

Counterclaim Respondent.

-and-

Daniel L. Junk and Christine H. Junk,

Third-party Appellants,

v.

Riley Pope & Laney, LLC , Heidi Carey, Esq.,
Roy Laney, Esq., T. Lowndes Pope, Esq.,
Bayview Loan Servicing, LLC, MERSCORP, Inc.,
Mortgage Electronic Registration Systems, Inc.,
Citi Master Servicing, Citigroup Global Markets
Realty Corp., Citigroup Mortgage Loan Trust, Inc.,
John Does 1-5,000, Jennifer Oakes, Robert G.
Hall, Security Connections, Inc., Krystal Hall,
Danielle Sterling, ABC Appraisal Group, Inc.,
Mark A. Ruplinger, Linda Heller, Harry Jones,

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Colonial Coast Title Agency, Inc., Lawyers Title
Insurance Corporation, Corelogic, Inc. and American
Home Mortgage Holdings, Inc.

Third-party Respondents.

APPELLANTS', COUNTERCLAIM APPELLANTS' AND THIRD-PARTY
APPELLANTS' MOTION TO CERTIFY CASE FOR
REVIEW BY SUPREME COURT

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Daniel L. Junk*

MOTION

Pursuant to Rules 204(b) and 240, SCACR, Appellants, Counterclaim Appellants and Third-party Appellants Daniel L. Junk and Christine H. Junk, respectfully move to certify this case for review by the Supreme Court. The grounds for this motion are based on 1) the fact that this appeal involves legal principles of major public importance with no prior precedent, including, among other things, whether the Court of Appeals can order an appeal to proceed despite newly discovered evidence and Respondent's admission that its pleadings before the court, continuing to this day in its Initial Brief, have been false for the entire five years of the litigation subject to and including the appeal;¹ 2) the judicial economy in reassigning this matter to the Supreme Court. There is no precedent or prior decisions by our Supreme Court on the specific issues in this appeal.

As noted by well-respected and honorable commentators, "[t]he Court of Appeals is an error-correction court, whereas the Supreme Court is a law-giving court." Jean Hoefler Toal,

¹ See Exhibit 1 (Page 9, ¶ 2, of the *Initial Brief of Respondent/Counterclaim Respondent CitiMortgage, Inc., and Third Party Respondents Bayview Loan Servicing, LLC, MERSCORP Holdings, Inc. f/k/a Merscorp, Inc., Mortgage Electronic Registration Systems, Inc., Citi Master Servicing, Citigroup Global Markets Realty Corp., Citigroup Mortgage Loan Trust, Inc., Jennifer Oakes, Robert G. Hall, Riley Pope & Laney, LLC, Heidi Carey, Esq., Roy Laney, Esq., T. Lowndes Pope, Esq., Security Connections, Inc., Krystal Hall, ABC Appraisal Group, Inc., Mark A. Ruplinger, Linda Heller, Harry Jones, Colonial Coast Title Agency, Inc., Fidelity National Title Insurance Company, successor by merger to Lawyers Title Insurance Corp., and Corelogic, Inc.*, dated February 21, 2013, that is currently before the court in the pending appeal claiming CMI is the "owner" of the note and mortgage).

See also, Exhibit 2 (August 28, 2014 admission from CMI and its counsel that, despite its sworn-to pleadings stating otherwise under oath and the penalty of perjury, CMI has never been the owner of the note and mortgage at any time relevant to its pleadings herein including its brief currently pending before the appellate court) and;

see also, Exhibit 3 (Order of the South Carolina Court of Appeals dated October 9, 2014, ordering the appeal be perfected despite CMI and counsel's admission its pleadings before the circuit court court are knowingly false).

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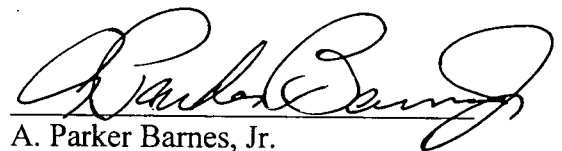
Appellate Practice in South Carolina, 12 (SC Bar ed., 2d ed. 2002). *Cf. Cauldwell v. Wiquist*, 402 S.C. 565, 741 S.E.2d 583, Op No. 2012-207208, p. 2 (Ct. App. March 27, 2013) (Court of Appeals has “no authority to overrule Supreme Court precedent”) citing *Blyth v. Marcus*, 322 S.C. 150, 155 n.1, 470 S.E.2d 389, 392 n.1 (Ct. App. 1996). Like the trial court, the Court of Appeals is without the authority to create new law, including new law requiring an appeal to be perfected when the Respondent admits its appeal is a fraud on the court. Notwithstanding any ruling by the Court of Appeals in this matter, it is clear that a Petition for Certiorari will be filed by the party or parties who do not prevail on their position.

CONCLUSION

WHEREFORE, Appellants, Counterclaim Appellants and Third-party Appellants Daniel L. Junk and Christine H. Junk, respectfully request this Court or the South Carolina Supreme Court to issue an Order reassigning this case to the South Carolina Supreme Court.

Respectfully submitted,

A. PARKER BARNES, JR., P.A.

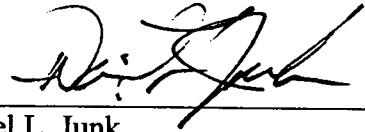


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Beaufort, South Carolina
October 15, 2014

Columbus, Ohio
October 16, 2014

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Exhibit 1

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Master-In-Equity

The Honorable Marvin H. Dukes, III

Court of Appeals Tracking No. 2012-210910

CitiMortgage, Inc.,..... Respondent,

v.

Daniel Junk a/k/a Daniel L. Junk and Christine H. Junk
and Oldfield Community Association,..... Defendants,

Of Whom Daniel L. Junk and Christine H. Junk are..... Appellants,

Daniel L. Junk and Christine H. Junk,..... Counterclaim
Appellants,

v.

CitiMortgage, Inc..... Counterclaim
Respondent.

Daniel L. Junk and Christine H. Junk,..... Third-party
Appellants,

v.

Riley Pope & Laney, LLC, Heidi Carey, Esq., Roy
Laney, Esq., T. Lowndes Pope, Esq., Bayview Loan
Servicing, LLC, MERSCORP, Inc., Mortgage Electronic
Registration Systems, Inc., Citi Master Servicing,
Citigroup Global Markets Realty Corp., Citigroup
Mortgage Loan Trust, Inc., John Does 1-5,000, Jennifer
Oakes, Robert G. Hall, Security Connections, Inc.,
Krystal Hall, Danielle Sterling, ABC Appraisal Group,
Inc., Mark A. Ruplinger, Linda Heller, Harry Jones,
Colonial Coast Title Agency, Inc., Lawyers Title
Insurance Corporation, Corelogic, Inc. and American
Home Mortgage Holdings, Inc.

Third-Party
Respondents.

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**Initial Brief of Respondent/Counterclaim Respondent CitiMortgage, Inc., and
Third-Party Respondents Bayview Loan Servicing, LLC, MERSCORP Holdings,
Inc. f/k/a Merscorp, Inc., Mortgage Electronic Registration Systems, Inc.,
CitiMaster Servicing, Citigroup Global Markets Realty Corp., Citigroup Mortgage
Loan Trust, Inc., Jennifer Oakes, Robert G. Hall, Riley Pope & Laney, LLC, Heidi
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Krystal Hall, ABC Appraisal Group, Inc., Mark A. Ruplinger, Linda Heller, Harry
Jones, Colonial Coast Title Agency, Inc., Fidelity National Title Insurance
Company, successor by merger to Lawyers Title Insurance Corp., and Corelogic,
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sign a satisfaction of the obligation.¹⁶ {Junks' brief in opposition to MERS' motion to dismiss the Quiet Title Action at p. 5; R. ____}.

On April 20, 2009, Daniel Junk executed and recorded a document purporting to be a "Satisfaction of Mortgage" of the Loan's mortgage. {Junks' brief in opposition to MERS' motion to dismiss the Quiet Title Action at p. 7; R. ____}. This bears repeating: Mr. Junk filed a document with the Beaufort County Clerk of Court purporting to satisfy the mortgage from the Loan. {Satisfaction of Mortgage filed on 4/20/2009; R. ____}. Mr. Junk, stating falsely that he was acting as "agent for American Home Mortgage," swore that he was the "bona fide owner and holder of the [mortgage from the Loan]" and that "the debt which was secured [by the Loan] has been paid in full and the lien of the mortgage is satisfied and cancelled." {Id.}. None of these sworn statements was true.

CitiMortgage, the owner of the note and the servicer of the loan since early 2007, corresponded with the Junks regarding their loan default status. The Junks acknowledge receiving default notices from CitiMortgage on April 1, 2009, May 4, 2009, and May 19, 2009. {Junks' brief in opposition to MERS' motion to dismiss the Quiet Title Action at p. 7; R. ____}.

In June 2009, CitiMortgage transferred the servicing rights for the Loan to Bayview.¹⁷ Bayview then sent the Junks correspondence and notices regarding their default status on July 6, 2009, July 9, 2009, and July 17, 2009. {Junks' brief in opposition to MERS' motion to dismiss the Quiet Title Action at p. 8; R. ____}. On July 21, 2009,

¹⁶ The Junks also declared in this letter that this power they were granting themselves was also not subject to Bankruptcy preemption. {Junks' brief in opposition to MERS' motion to dismiss the Quiet Title Action at p. 5; R. ____}.

¹⁷ The Junks have acknowledged receiving written notice from CitiMortgage dated June 15, 2009, and written notice from Bayview dated July 1, 2009, informing them that the servicing of the Loan was transferred to Bayview. {Junks' brief in opposition to MERS' motion to dismiss the Quiet Title Action at p. 7; R. ____}.

Exhibit 2

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August 28, 2014

Via Federal Express and U.S. Mail

Daniel L. Junk
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Okatie, SC 29909

Daniel L. Junk
Christine Junk
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Upper Arlington, OH 43212

RE: Letter to CitiMortgage dated August 14, 2014

Mr. Junk,

We have been asked to respond on behalf of CitiMortgage, Inc. ("CMI") to your letter dated August 14, 2014, received by CMI on August 18, 2014.

To the extent your obligation has been discharged or is subject to an automatic stay of a bankruptcy order under Title 11 of the United States Code, this notice is for compliance and informational purposes only and does not constitute a demand for payment or an attempt to collect any such obligation.

CMI received your letter dated July 23, 2014, on July 28, 2014, and CMI acknowledged receipt on July 29, 2014. Moreover, CMI responded to your letter dated July 23, 2014, on August 8, 2014. After further review, CMI qualifies its response in its August 8, 2014 letter by stating that, while CMI purchased the Note from the original lender and was the owner of the Note, on or about April 2009, as part of an internal transaction involving CMI and its related entity Citibank, NA, ownership of the Note was internally transferred to Citibank, NA whose address is Citibank, N.A., (CBNA) Other Hold Portfolio, Corporate Accounting, 1000 Technology Drive, O'Fallon, MO 63368-2240. CMI remains the holder of the Note and the

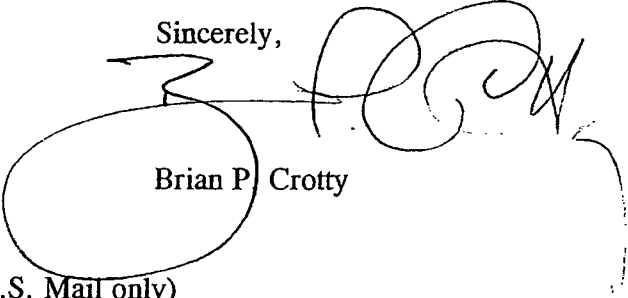
August 28, 2014
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servicer of this loan. CMI has determined that no further response to your August 14, 2014 letter is required. See 12 C.F.R. § 1024.36(f)(i).

As CMI is the servicer of the loan and because this loan is in litigation we request that any further communications relating to this loan be directed or copied to the undersigned counsel for CMI.

As to any other requests that may be contained in your letter, CMI has determined that any such requests do not qualify as a request related to the servicing of your mortgage loan. Therefore, no response is required.

Sincerely,


Brian P. Crotty

BPC:mja

cc: A. Parker Barnes (via U.S. Mail only)
Jennifer Brunner (via U.S. Mail only)
Rick L. Brunner (via U.S. Mail only)
Peter Contreras (via U.S. Mail only)
Kaitlin M. Madigan (via U.S. Mail only)
Patrick M. Quinn (via U.S. Mail only)
Susan L. Rhiel (via U.S. Mail only)
Kristin Radwanick (via U.S. Mail only)

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The South Carolina Court of Appeals

CitiMortgage, Inc., Respondent,

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Daniel L. Junk and Christine H. Junk, and Oldfield
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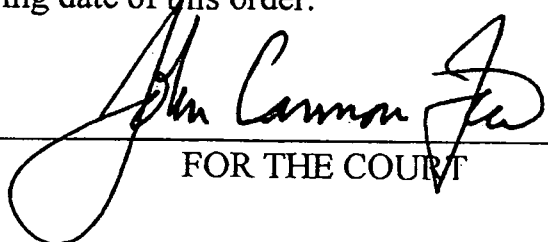
Appellate Case No. 2012-210910

ORDER

It has come to this Court's attention that the United States Bankruptcy Court issued an order on July 2, 2014, authorizing this Court to proceed with this appeal. Accordingly, the abeyance is lifted and this appeal shall proceed.

Appellant Daniel L. Junk has filed a motion to substitute parties and to substitute counsel. He has also filed a motion "for leave to file motion in the circuit court under Rule 60(b)(2),(3),(4)." After careful consideration, we deny Appellant's motions.

Appellants Daniel L. Junk and Christine H. Junk shall serve and file the record on appeal within thirty days of the filing date of this order.


FOR THE COURT

Columbia, South Carolina

cc:

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Susan Taylor Wall, Esquire
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FILED
10/9/14

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