

STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
COUNTY OF DORCHESTER) C/A No. 13-CP-18-00519

Wells Fargo Bank, NA,

Plaintiff,

v.

Richard B. Cunningham; Latisa L.
Cunningham; SC Housing Corp.; and
Drakesborough Homeowners
Association, Inc.,

Defendants.

ORIGINAL

HEARING

Monday, May 4, 2015
10:15 a.m. - 12:20 p.m.

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SC Court of Appeals

The hearing before the Honorable James E. Chellis, Master In Equity for Dorchester County, was held at 5200 Jim Bilton Boulevard, Courtroom C, St. George, South Carolina on the 4th day of May 2015, before Alexandra A. Patrick, Court Reporter and Notary Public in and for the State of South Carolina.



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APPEARANCES

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Attorney for Plaintiff

Latisa Cunningham
1227 Wild Goose Trail
Summerville, South Carolina 29483
Pro Se Defendant

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Certificate 77

EXHIBITS

(No Exhibits were marked during this hearing.)



1 **THE COURT:** All right. I suppose that you might
2 want to take up these motions first, Mr.
3 Branham, is that the -- generally that's what
4 we do.

5 **MR. BRANHAM:** Yes.

6 **THE COURT:** Ms. Cunningham, are you prepared?

7 **MS. CUNNINGHAM:** Yes, sir.

8 **THE COURT:** All right. And you've -- she's -- okay.
9 Let me do one little thing here before we get
10 too far ahead. I want to pull the screen up
11 that's got the filings on it; it takes just a
12 minute. Ms. Cunningham, in the meantime, let
13 me go ahead and do one thing. If you would
14 stand for me, would you raise your right hand?

15 **LATISA CUNNINGHAM,** being duly sworn, testifies as
16 follows:

17 **THE COURT:** All right. You may be seated. You're
18 under oath. To boot up, would you mind giving
19 me a procedural history and how we got to
20 today?

21 **MR. BRANHAM:** Yes, Your Honor. Very generally
22 speaking, the Summons and Complaint with the
23 Lis Pendens were filed March 26, 2013. Service
24 was perfected upon the named individuals.
25 There have been several filings by the



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1 Defendant, Ms. Latisa Cunningham, in the case
2 including a declaration of status, a document
3 entitled Declaration of Status which was
4 treated as a Motion to Dismiss. A hearing was
5 held on that Motion and the Motion was denied.

6 **THE COURT:** When was that hearing? Was it before I
7 took the bench?

8 **MR. BRANHAM:** I think it was September 30th,
9 September 30, 2014, is when the Order was
10 entered.

11 **THE COURT:** Okay. That would be me.

12 **MR. BRANHAM:** Yes, Your Honor. And there were also
13 Request to Admit and Request to Produce
14 propounded by the Defendant in the case. There
15 have been additional affidavits served,
16 including, again, an Affidavit Against
17 Introduction of Facts. An Affidavit for Face-
18 To-Face Rule was just handed to me this morning
19 by Ms. Cunningham. And we have made the Motion
20 to strike the pleadings as being not recognized
21 under the laws and the rules of procedure under
22 the civil courts of this state. And I've also
23 moved for summary judgment. That Motion was
24 made and filed February 13th of this year. And
25 I could provide you just some of the basics, as



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1 far as the recording of the pertinent
2 documents, if you like, Your Honor. But we've
3 also served a Memo in Support of the
4 Plaintiff's motion this morning. And this
5 motion is made under Rule 56, such that the
6 standard for review would be, that there is no
7 genuine issue of material fact in the case.
8 And I have brought with me today copies of,
9 well, the original note. I have the mortgage,
10 assignments of mortgage, an Affidavit of
11 Indebtedness signed by a representative of the
12 Plaintiff to support our motion.

13 **THE COURT:** Thank you. Ms. Cunningham?

14 **A:** Yes, sir.

15 **Q:** Can you give me your procedural history and
16 your perspective?

17 **A:** Yes, sir.

18 **Q:** First, let me ask generally speaking. Did Mr.
19 Branham describe the procedural history
20 accurately?

21 **A:** Pretty much, yes.

22 **Q:** Is there anything else you would like to add?

23 **A:** Well, based on the summary judgment for
24 documents and also for the request for
25 production of facts. When I put in the motion



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1 for request for production, and that request
2 for production I was simply asking for
3 documents that would have been related to my
4 mortgage loan and should have not been pretty
5 much difficult to obtain and readily available.
6 But the Plaintiff responded more than 30 days
7 thereafter and objected to everything that I've
8 requested for, saying that it was irrelevant to
9 my case.

10 Q: Okay.

11 A: And the fact is, as I stand here today, I
12 declare that before you, Honorable judge, that
13 I am the original issuer of the credits that
14 were provided on my behalf on the Truth of
15 Lending statements. And because I stand here
16 today with my full faith and credit,
17 authenticated birth certificate, which I have
18 here with me today, this here. And which I am
19 registered on the birth certificate, it's the
20 surety and the bondsman that I own and I am the
21 true creditor. And also in objection to the
22 summary judgment, in that the Plaintiff Motion
23 for Summary Judgment, millions of homeowners
24 have been damaged and harmed because of banks
25 ...



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1 Q: Well, hold on a second, Ms. Cunningham.

2 A: Yes.

3 Q: Let's go back to the -- I'm just really looking
4 for the procedural status. I'm not looking for
5 an explanation behind the procedure. The
6 procedure is different than the substantive
7 issues. So I just want to know -- you
8 mentioned that you filed a notice of the
9 Plaintiff - a request for production, is that
10 what you did?

11 A: Yes.

12 Q: Then you got instead, an objection from the --
13 wait a second, the -- you got -- can you show
14 me what you received in response to those
15 requests?

16 A: Yes.

17 Q: So what I have received from you is the
18 Plaintiff's responses to your Request for
19 Production of the Rule 34, South Carolina Rules
20 of Civil Procedure, that were signed by Mr.
21 Burgess of the firm of Brock & Scott. And
22 also, I received from you a copy of the
23 Plaintiff's - actually I guess it's the
24 original of the Plaintiff's response to the
25 Request for Admissions via Ms. Cunningham. So



1 it looks like you filed some discovery requests
2 and then you filed some -- you filed a Request
3 for Admissions. Is that a proper
4 characterization?

5 A: Yes.

6 Q: All right. Now, after you got the -- let's go
7 back to the Request for Production. After you
8 received the request -- the Answers to the
9 Request for Production, what did you do then?

10 A: Well, then I find myself here, because I
11 received a summons on the summary judgment.

12 Q: So you got a notice to come to court today?

13 A: Yes.

14 Q: All right. Well, the only way I can address
15 the failure -- if you claim it to be a failure
16 of, a failure to answer the request that you
17 made, you would have had to have filed a Motion
18 to require further answers. And in that Motion
19 you would have to do a basis upon which you
20 think you're entitled to documentation. So you
21 don't have that issue before me. The responses
22 to the Request for Admission are their
23 responses to your request. And most of them
24 are -- I don't think there's but one or two
25 that they admit, that one or two admission



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1 wasn't partial admission from what I read in
2 the moments that I had to read it. So anything
3 else procedurally that you want to tell me
4 about -- that you've taken? The next thing
5 was, as you said, you got the notice to appear
6 today?

7 A: I did. But, however, and I apologize. Prior
8 to the Motion for Production, I did present a
9 Motion to Strike, which was to request a full
10 accounting of the amount of both sides of the
11 ledger and giving them 15 days to respond. And
12 as of now, they have not responded to that.

13 Q: The Motion to Strike was filed January, it was
14 filed in court January 1, 2015?

15 A: Yes.

16 Q: All right. I got that wrong. That's their
17 Answer. Ms. Cunningham, you may have a seat.
18 On June 19, 2014, you filed a Motion to
19 Dismiss. That Motion was filed before the case
20 was referred to this court. And a notice of
21 hearing was sent with a Memorandum in
22 Opposition was filed in August. And then there
23 was an Order -- okay, so the Motion to Dismiss
24 is to be scheduled before me. Is that correct,
25 Mr. Branham?



1 **MR. BRANHAM:** There was an Order issued denying the
2 Defendant's Motion to Dismiss and that was
3 filed September 30, 2014.

4 **THE COURT:** Okay. Let me get to that point.

5 **MR. BRANHAM:** Okay.

6 **THE COURT:** Let me review that. That Motion was
7 denied on September 30th. Then Ms. Cunningham,
8 you filed an Answer to the Summons and
9 Complaint on October 14th.

10 **A:** Yes, sir.

11 **THE COURT:** Mr. Branham, did you serve Ms.
12 Cunningham with the Affidavit of Default when
13 you served the notice referring case to this
14 court? You wouldn't have served her with the
15 proposed Order of Reference -- okay. Affidavit
16 of Non-Military Service or the Affidavit of
17 Default and Certificate of Service because she
18 hadn't answered when that was presided back in
19 August of 2014.

20 **MR. BRANHAM:** That's what I've been reviewing now,
21 Your Honor, those dates.

22 **THE COURT:** So there was a Affidavit of Default, so
23 the default would have been entered by the
24 clerk. The next proceeding then was the Motion
25 to Dismiss by Ms. Cunningham, which resulted in



1 a dismiss date, an Order denying that Motion.
2 And then, Ms. Cunningham you filed an Answer to
3 this lawsuit. We'll get to that in a minute.
4 And then, what that prompted was a Motion to
5 Strike that Answer by the Plaintiff. And so
6 that's the first motion that we have, the
7 hearing today. Can I get both of your
8 agreements to that?

9 **MS. CUNNINGHAM:** Yes.

10 **MR. BRANHAM:** Yes, Your Honor.

11 **THE COURT:** Okay. Let's hear that Motion. And then
12 we'll go to the next step, which is Ms.
13 Cunningham filed objection to that Motion,
14 that's in the record as well. Let me just
15 review that before I begin the hearing, okay?

16 **MR. BRANHAM:** All right.

17 **THE COURT:** All right. Mr. Branham, go ahead with
18 your Motion, please. And then I'll let Ms.
19 Cunningham respond.

20 **MR. BRANHAM:** All right. Thank you, Your Honor.
21 Yes, this Motion is made on the grounds that
22 the Answer received is wholly made-up and
23 redundant, immaterial, impertinent and/or
24 scandalous matters and all such filings should
25 be stricken from the record. And there should



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1 also be an Order issued to enjoin the Defendant
2 from making future frivolous filings. The
3 Answer is a part of the Court's record and it
4 speaks for itself as to the fact that there are
5 no valid defenses raised, which are recognized
6 under the laws of the State of South Carolina.
7 No references to any South Carolina Code
8 sections, rules, no factual matters raised that
9 would serve as valid defenses to the claims
10 asserted by the Plaintiff in the Complaint.
11 And that is the basis for our motion.

12 **THE COURT:** And what is your position regarding her
13 in default?

14 **MR. BRANHAM:** Regarding her in default status?

15 **THE COURT:** Yes. You filed an Affidavit of Default
16 when you filed the request to have the matter
17 referred to me.

18 **MR. BRANHAM:** Yes. And made the Motion to Strike
19 just because we weren't certain as to how the
20 clerk would have entered the default ---

21 **THE COURT:** I got you.

22 **MR. BRANHAM:** --- in the record. But it is our
23 position that it's untimely.

24 **THE COURT:** Okay. Ms. Cunningham, tell me what you
25 can tell me about this and help me understand



1 your position.

2 A: Well, in the Answer and my objection to the
3 Motion to Strike, I was requesting a full
4 accounting of both sides of the ledger and gave
5 15 days of the response and wasn't given any
6 type of response thereafter to that.

7 Q: Well, help me understand why you have that
8 right.

9 A: Why I have that right?

10 Q: Yes, ma'am.

11 A: Because I am the actual creditor.

12 Q: So you're admitting that you are -- you're
13 saying you are a creditor?

14 A: Well, what I'm saying is that I'm the true
15 creditor of my own account, because ---

16 Q: What does it mean to be a true creditor?

17 A: Well, that means because I have my own birth
18 certificate, the authentic birth certificate,
19 so I'm the surety and bondsman of my soleage,
20 means that I have a right to see both sides of
21 the ledger, the history of my payments as well
22 as on their side.

23 Q: All right. Help me understand why -- let me
24 look at this birth certificate you're
25 referring to.



1 A: And if I can't, may I present this as well.
2 I've had this filed this morning.

3 Q: Have you showed Mr. Branham what you want to
4 show me?

5 A: Yes.

6 **THE COURT:** You have any objection, Mr. Branham?

7 **MR. BRANHAM:** To it being shown to you?

8 **THE COURT:** I don't what it is, what it is, so I
9 can't tell you what it is that she's ---

10 **THE WITNESS:** It's a Affidavit to Face-to-Face; I
11 gave it to you this morning.

12 **MR. BRANHAM:** I have no objections.

13 **THE COURT:** Okay. All right. For the record, I'm
14 reviewing a document titled United States of
15 America, Department of State. I'm going to
16 publish this. I certify that the documents
17 shared here unto the next is under the seal of
18 the Secretary of State of Maryland and the
19 subseal is, or entitled to full faith and
20 credit.

21 **MR. BRANHAM:** Your Honor, I'm sorry.

22 **THE COURT:** What is this?

23 **MR. BRANHAM:** I don't have the same thing that you
24 have there.

25 A: He wanted to see my birth certificate.



1 **MR. BRANHAM:** Oh, birth certificate. I haven't seen
2 that, Your Honor.

3 **THE COURT:** Here.

4 **MR. BRANHAM:** I would object to this document being
5 made part of the record on the grounds of
6 irrelevance.

7 **THE COURT:** Okay. You have an objection to me
8 reviewing it to make that determination?

9 **MR. BRANHAM:** No, Your Honor.

10 **THE COURT:** Okay.

11 Q: Help me understand the relevance of that. Mr.
12 Branham has objected on the grounds of
13 relevance. What makes this relevant?

14 A: It makes it relevant, because that is ...

15 Q: Generally speaking, in the term of relevancy
16 meaning -- do you understand what the legal
17 term relevant means?

18 A: Of course, I do.

19 Q: All right. I want you to explain why this is
20 relevant then?

21 A: Why the birth certificate is relevant?

22 Q: Yes.

23 A: Because that is my birth certificate and full
24 authentication. It means that I'm the
25 registered owner, so which means that would



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1 allow for my debt to be paid.

2 Q: You're the registered owner of what?

3 A: I'm sorry?

4 Q: You say you're the registered owner. I what to
5 know what you claim you're the registered owner
6 of what?

7 A: Okay. I want to go back to the Complaint and
8 the response to the Summons and Compliant. I
9 was objecting because I understand that the
10 Court cannot see me as a natural person, where
11 Wells Fargo is a corporation. In order to
12 bring a suit against me that they have to be
13 suing me as a corporation. So this would have
14 meant that the Plaintiff and the Court was not
15 giving me full disclosure, that I was not being
16 personally, but as a corporation. So I
17 understand that all-cap name in the title of
18 this case is a representation of the
19 corporation making a fictitious entity. Which
20 my proper name according to English grammar is
21 spelled with upper and lower cases. An all-cap
22 name is a name or entity which I am the
23 executor and beneficiary of, which is the birth
24 certificate that I am registered on, which I
25 present before you today.



1 Q: Well, all the birth certificate does is tell us
2 you're a natural person. You're an individual
3 that was born in the state of Maryland, is that
4 your position?

5 A: I understand that.

6 Q: Well, how do you become a corporation?

7 A: What I'm saying is that they were -- they are
8 trying to sue me as a corporation, which I am
9 not a corporation.

10 Q: Where are you getting that impression?

11 A: When they present the case that they have
12 before you.

13 Q: What is the basis of that assertion by you,
14 that you are being sued as a corporation?

15 A: Well, what I'm -- as far as the FHA mortgage
16 loan that we have, that I have here, I should
17 have been able to sit before someone face-to-
18 face.

19 Q: Sit before someone face-to-face?

20 A: Yes, according to the laws of FHA on Title 24,
21 which I have given you a copy of that, a CFR.

22 Q: Okay. So you're asserting that they didn't
23 give you that face-to-face meeting?

24 A: Right.

25 Q: And what else?



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1 A: And also they -- when you said that the
2 Affidavit on Default -- I don't recall that
3 ever being -- I don't recall ever receiving
4 that. And when I was in court before you in
5 September of 2014, you had given me at least a
6 year, which the year would have been September
7 of 2015.

8 Q: I gave you ---

9 A: To get this resolved.

10 Q: A year to resolve the case?

11 A: Yes.

12 Q: So did you take advantage of my offer to give
13 you a face-to-face?

14 A: I was trying to, but I was never given that.
15 And it's not even September 2015.

16 Q: Do you have an Order to that effect, that I
17 ordered you a year's time to resolve it?

18 A: That was last year, my last time before you in
19 court.

20 Q: My recollection is that I denied your Motion to
21 Dismiss the case. And I don't have any Order
22 directing -- I would have certainly said, Ms.
23 Cunningham, you should try and work this out
24 with the bank. That's almost a -- I would say
25 that. I can't tell you of a single case that



1 I've tried in the last year and a half or so
2 that I've been the Master of Equity -- if I've
3 denied a Motion such as yours. And I have not
4 had a case heard on the merits. I would
5 certainly have told you to do everything you
6 can to try to work it out. I probably gave you
7 some information about who you can, you know,
8 some resources that you could go to.

9 A: Yes, you did.

10 Q: And I probably recommended that you get a
11 lawyer. I probably said try to work something
12 out. And I'm sure I would given a directive to
13 Mr. Branham's firm to make sure they stayed in
14 touch with you concerning any mitigation
15 efforts that could be -- when I say mitigation,
16 loss mitigation efforts that could be worked on
17 to help you try to save your home, if that's
18 what you wanted to do.

19 A: Yes.

20 Q: So, because, I mean, it makes no sense for --
21 it's not that it makes no sense. The object of
22 this court, in a large part, is to make sure
23 that fairness is achieved between parties.
24 This is a court of equity and the remedy that
25 the Plaintiff is seeking is a remedy what we



1 call a remedy in equity. I'm having a little
2 difficulty understanding your concept of having
3 been sued as a corporation. Can you not -- I
4 just can't understand that. Can you tell me
5 how that's occurring, because I just don't --
6 help me try to embrace what you're trying to
7 say, okay?

8 A: Yes. Okay. I have to when I -- I have to go
9 back to the portion to where I was stating
10 about the request to see both sides of the
11 ledger.

12 Q: Okay.

13 A: And with that being said, is to see as far as
14 the history of my payments as well as their
15 side, because of the note. The original note
16 that I had requested would show that they were,
17 Wells Fargo was already paid the note that --
18 from when I started out in November of 2008.

19 Q: So you're trying, you're trying to establish
20 that the obligation that you incurred with
21 Wells Fargo has been paid off?

22 A: Yes.

23 Q: And because it's been paid off, you don't have
24 -- they can't make a claim for you to be
25 obligated to pay them, is that what your



1 position is?

2 A: Yes.

3 Q: All right. Well, that gets to a different part
4 of the case, which is generally a case reserved
5 to the hearing on the damages and then their
6 request for the remedy of foreclosure. It
7 doesn't help me though, Ms. Cunningham,
8 understand your assertion that you are being
9 sued as a corporation. I just can't get -- I
10 can't get my arms around that.

11 A: Well, maybe those were the wrong terms. I
12 apologize.

13 Q: What are you trying to tell me though? Use a
14 term that doesn't use the word corporation in
15 it.

16 A: Myself, as an entity.

17 Q: Yourself as a -- well, do you recognize
18 yourself as a person?

19 A: Of course, yes.

20 Q: Okay. And did you go to the real estate
21 closing where you signed the note?

22 A: Yes, I did.

23 Q: Okay. Was that in the presence of a couple of
24 people?

25 A: It was. It was just one person.



1 Q: Okay. You signed a note?

2 A: Right.

3 Q: You weren't any different that day than you are
4 today except maybe a few more days on your
5 life, correct?

6 A: Sure.

7 Q: So the person who signed the note is the person
8 who's been sued by the bank?

9 A: Uh-huh (affirmative response).

10 Q: Would you agree with me then that you're one
11 and the same person?

12 A: Yes, I agree.

13 Q: Okay. All right. So they've brought a suit
14 against you and they are claiming that you owe
15 them some money?

16 A: Yes.

17 Q: Because you signed a note and received some
18 funds. What were the funds that you received
19 by virtue of signing the note, what were they
20 used for?

21 A: Well, virtually, the funds were -- I didn't
22 receive funds. They actually -- everything was
23 transpired behind the scenes.

24 Q: Well, we call that escrow.

25 A: Yes.



1 Q: It's called an escrow arrangement. So when you
2 went to the loan closing you sat down. And
3 what was the purpose of the loan, do you
4 remember?

5 A: Sure. It was for my home.

6 Q: For your home for what, to buy your home?

7 A: Yes.

8 Q: All right. And when you signed the note and
9 you signed the mortgage and you signed a set of
10 documents, probably about an inch thick, right?

11 A: Uh-huh (affirmative response).

12 Q: You remember going through all those documents
13 and signing them?

14 A: Yes.

15 Q: And the person that was at the loan closing,
16 saying this and this and this? It probably went
17 through pretty rapidly, right, about took an
18 hour or maybe hour and a half?

19 A: Yes, about that.

20 Q: And you were the person that signed all the
21 papers that were presented to you, right?

22 A: Yes.

23 Q: All right. Now, as a person who signed all
24 those documents at that closing you would have
25 been delivered a deed, you remember that? It



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1 was in the paperwork.

2 A: Yes.

3 Q: At the time of the closing you were sitting on
4 one side of the table -- was the seller there,
5 the person that sold you the home or was it ---

6 A: No, the ---

7 Q: --- they had already signed the deed?

8 A: --- there was a representative and an attorney.

9 Q: Okay. So sounds like maybe -- and this is
10 fairly common. You would have had the seller,
11 who may have come in earlier and signed all the
12 documents that they needed to sign and
13 delivered it to the lawyer who held those
14 documents in escrow. And that just simply
15 means the lawyer was holding those -- he was
16 holding the documents but not delivering them
17 because there was another part in the
18 transaction that had to be completed. And that
19 was the part that you had to do, you remember
20 that part, right?

21 A: Yes.

22 Q: So you sat down to sign all these documents,
23 including the note, you remember that. You
24 signed the mortgage and then the closing
25 attorney said to you, I'm going to record these



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1 documents, or words to that effect, some of
2 these documents, record the deed and the
3 mortgage?

4 A: Yes.

5 Q: So at some point in time, after the closing,
6 did you get your deed to the property? Was it
7 delivered to you?

8 A: Oh, yes.

9 Q: All right. So you used the funds at the
10 closing. I mean it all happened. It wasn't
11 like they gave you a sack of bills that high,
12 which you turned over to the seller and the
13 seller in turn gave you a deed, right? It was
14 all done through either a check was given to
15 the closing attorney or it could have been an
16 electronic transfer funds under his escrow
17 account. And then he transferred those funds
18 to the seller. That's called escrow. That's
19 an escrow arrangement. And the reason that
20 happens is because everybody has got to do
21 everything almost simultaneously. You can't --
22 you're not entitled to delivery of the deed
23 until you've paid for the property that the
24 deed is transferring to you. So everything has
25 got to come together at the same time. All



1 right. And that same time is called the
2 closing, or the escrow arrangement where the
3 lawyer gathers all the information from all
4 parties and when he's got it straight that
5 everything is in order, then he can start
6 delivering the documents. So he delivers the
7 note and the mortgage to the lender who lent
8 you the money to buy the house and he delivers
9 the deed to you. What has happened though --
10 what happens though is that delivery, first of
11 all, and he did this on your behalf, you had
12 the duty to record your document once it's
13 given to you. And as part of the closing
14 process that lawyer takes the responsibility of
15 making sure your deed is recorded and the
16 mortgage is recorded. And he delivers the note
17 to the -- the note which is essentially an IOU
18 to the bank. And when that occurs that's when
19 the delivery has happened. So they get the
20 mortgage and you get the note -- you get the
21 deed. And then a week or so later, maybe three
22 weeks later, maybe two months in some cases, it
23 just depends on how busy the law firm is, but
24 at some point in time you got the actual deed
25 to your property. But I bet this happened, as



1 soon as you finished that closing you were able
2 to go into that house and began to occupy it,
3 weren't you?

4 A: I was. And then the note must have been sent
5 then to Wells Fargo.

6 Q: And that's a pretty common, not pretty common,
7 it's almost always done that way. Because what
8 has happened is when you signed all those
9 documents at closing and you did things like
10 verifying your financial statement, do you
11 remember doing that? It's called a Uniform
12 Residential Loan Application, do you remember
13 signing that?

14 A: Yes.

15 Q: And you signed some documents that probably
16 said I'm going to give you the right to receive
17 my tax transcripts for the last three years.
18 I don't know if you remember that.

19 A: Yes.

20 Q: You would have signed a number of instruments
21 which would have probably allowed the bank to
22 correct clerical errors that -- it's called a
23 Power of Attorney to Correct Clerical Errors,
24 if in fact a clerical error occurred in the
25 course of the many number of people who touch



1 those documents. If there was a clerical error
2 then they could correct that. But what never
3 changed was what they told you that you were
4 going to have pay in order to continue to own
5 the property, in order to continue to reside in
6 the property, that never changed, did it?

7 A: No.

8 Q: So when this bank got the closing documents
9 that you signed and the seller signed his
10 portion, when they got that thick -- all those
11 documents sent back to the bank, the lender,
12 the first lender, the person that loaned the
13 money to you. And let's assume, just for the
14 sake of description, that this cup represents
15 the packages that they sent, the loan documents
16 back to the bank. And this bottle of water
17 that I've got in my hand is what they sent,
18 which represents the loan documents. And so
19 they put the loan documents in a package and
20 sent it back to the bank and they delivered
21 those loan documents back to the bank and it
22 looks like this, just for the sake of
23 simplicity and making sure we all understand
24 what happens, that bottle of water can be taken
25 out of the package, okay. It sits there. Now



1 you have a piece of property. Do you
2 understand that you can transfer that property,
3 if you pay off the loan? Did you realize you
4 could do that?

5 A: No.

6 Q: Well, you own it, right? You can fix it up.
7 You can change the way the house interior is.
8 I mean, you own it. You can do all the things
9 a person -- you can live there. You can have
10 your children there, your family there, your
11 friends there. You have the free use of that
12 property.

13 A: Right.

14 Q: And, you still do, 'til this day have the use
15 of that property. Well, look here, this
16 particular documentation becomes an instrument
17 -- a commercial instrument or commercial asset.
18 And because it has been properly documented,
19 the note and the mortgage have been properly
20 documented, these documents have value. It's
21 the value which is your agreement to pay the
22 loan payments back over time. That stream of
23 payments is a stream of income. And by way of
24 the interest portion of the payments and the
25 principal is the payback, the portion paid to



1 this principal is paying back what you
2 borrowed. But to borrow the money, you had to
3 pay a price and that price is called interest.
4 The part of the money that goes to pay down
5 what you borrowed is called principal. But
6 this stream of income has value. And that
7 value, banks have the right -- that asset now
8 was a asset that the bank holds has the ability
9 to be sold. Just like you have the ability to
10 sell the dirt and the bricks and mortar that
11 your home is made of, same thing. It's just
12 that yours looks different than this one. And
13 this thing gets sold. And it might get sold
14 again. That's a course of commercial business.
15 And that's what happened to your mortgage
16 probably. Until it ultimately came into the
17 hands of Wells Fargo, who's the Plaintiff in
18 this action. Now, that Wells Fargo holds this
19 loan, the obligation is to Wells Fargo. You
20 might have started off with one lender, but it
21 ended up with Wells Fargo. And in order to
22 complete the obligation that you agreed to
23 complete, you have to continue to make the
24 payments. And I guess at some point in time,
25 you failed to do that, is that right?



1 A: Sure, yes.

2 Q: So you remember what part of the assets that
3 were part of this bottle of water were, was
4 the mortgage, remember that part?

5 A: Yes.

6 Q: And the mortgage has provisions in it that say
7 that if you fail to pay a payment and you
8 continually fail to pay the payments, the
9 lender, the person that owns the note at the
10 time, they become the lender because they own
11 the interest, the asset, that is, has the right
12 to declare the full amount of the obligation
13 due. And that's what the bank has done.
14 They've said, Ms. Cunningham, you haven't been
15 able to pay the payments, we need to -- we need
16 to take care of the obligation -- we have got
17 to do something so that we can recover the
18 money that we lent or that we paid to acquire,
19 if this is a downstream purchaser of the note
20 and the mortgage, they're entitled to receive
21 that stream of income which is an asset. And
22 if it hasn't been paid they're entitled to
23 demand that it be paid. And that's what this
24 proceeding is all about. Now, I don't know if
25 that helps clarify for you how this works, but



1 that's what's happened. And the objection that
2 you filed, you say in here that I have come
3 into the awareness of the games and the rules
4 of court that the average citizen is unaware
5 of. What games are you talking about? Ms.
6 Cunningham, would you feel more comfortable if
7 you sat down and talked to me?

8 A: Probably so.

9 Q: You would?

10 A: Yes.

11 Q: You can sit down.

12 A: I had some assistance, so I may not have full
13 knowledge of everything. So ...

14 Q: Well, somebody gave you this word, games. And
15 I'm real interested in knowing how you picked
16 that word up out of the dictionary.

17 A: I'm sure.

18 Q: Because I will promise you I don't construe or
19 consider anything in this courtroom or anything
20 that has to do with my job as a game.

21 A: I understand.

22 Q: Okay. And frankly, that word is a little
23 offensive to me. But I want to hear what you
24 mean by it, because sometimes you would have to
25 use a word that's comfortable to you for me to



1 understand. So please try to help me
2 understand what that word means.

3 A: Yes. Bear with me just a moment, please.

4 Q: Okay.

5 A: I don't have a particular document here.
6 However, I wouldn't have -- I, myself, wouldn't
7 have used that term, games, because I do
8 respect your position in the court. I gather
9 what I was having to say is that, as far as
10 having different knowledge on some things as
11 far as when it comes to the foreclosure
12 procedures.

13 Q: All right. Well, you mention the rules of
14 court here. You said the average citizen would
15 be unaware of. Are you aware that the rules of
16 court can be accessed anywhere by the internet
17 or even if you go to most public libraries you
18 can find a copy of the rules of court.

19 A: Yes, you had mentioned that.

20 Q: I did. Did you try to do that?

21 A: Somewhat, yes, through resources. Through
22 other resources.

23 Q: All right. Now, who -- did you type this thing
24 or did somebody else type this Answer for you?

25 A: Someone typed it.



1 Q: Who was that?

2 A: Mr. Wright.

3 Q: Mr. Wright back there in -- the fellow -- the
4 gentleman with the blue shirt on?

5 A: Yes.

6 Q: All right. Let me ask you then, did you
7 utilize the resources and access to the rules
8 so you could understand what the rules were?
9 Did you do that? I mean you're representing
10 yourself.

11 A: I understand, just partially in reference to
12 what I presented before you today.

13 Q: All right. Now, let's go over this next piece
14 of language here. You would like the case to
15 be handled on the private side versus the
16 public. What does that mean?

17 A: Can I ask for some assistance here?

18 Q: Well, you were given that opportunity back in
19 September, right?

20 A: Yes.

21 Q: All right. And again, did that not work out
22 for you? What happened when you tried to work
23 it out? What efforts did you take to try to
24 work it out?

25 A: The resources.



1 Q: What resources?

2 A: Persons that have gone through these types of
3 things before.

4 Q: So friends that you knew about that had been in
5 foreclosure?

6 A: Yes.

7 Q: Were they close friends or not-so-close
8 friends?

9 A: No.

10 Q: All right. Did you try to go through any of
11 the state facilities, like the South Carolina
12 Help Program?

13 A: I had already gone through them. And I tried
14 calling before because I was -- initially they
15 said that I could receive assistance up to
16 \$37,000 for six months, but because I had
17 started back working, they stopped it at three
18 months. And it was for, I think, around
19 somewhere around \$18,000, give or take
20 approximately. And they said you can only come
21 once.

22 Q: So you already used that resource?

23 A: Yes.

24 Q: All right. Well, and then it goes on to say
25 you wanted the Clerk of Court to seal this case



1 from the public. How would they do -- why
2 would you have the right to do that?

3 A: I'm not sure, honestly.

4 Q: All right. Because, you know, really we live
5 in what we call an open society here in
6 America. It's an open society, and suits that
7 have to be addressed with the court system are
8 open. Very, very, very seldom -- it's very
9 difficult to get a case sealed by a court.
10 There has to be some extremely sensitive
11 information in the case where it would be
12 sealed. I don't see anything in this case that
13 is unusual or extraordinary, or has any
14 sensitivity to it that would require it to be
15 sealed. So I can still think about it, but I
16 won't order that in this case. You're asking
17 the Plaintiff for a full accounting of the
18 account from both sides of the ledger and you
19 then put in parenthesis, public and private,
20 within the next 15 days of receiving the
21 document. Now, when you say a full account of
22 the ledger, tell me what you mean by ledger?

23 A: The ledger showing that they have received full
24 payment for the loan in question.

25 Q: I think what I'm reading into the, or maybe I'm



1 wrong. Let me ask you because I want to get to
2 the point, okay? When you purchased your home,
3 did you have to buy private mortgage insurance?

4 A: No, I did not.

5 Q: It was a FHA loan, so you didn't have to pay
6 PMI at that time? No mortgage insurance
7 premium?

8 A: No. Well, it was FHA loan but you paid the
9 insurance, it was incorporated in the payment.

10 Q: What kind of insurance was that called?

11 A: It was just through the insurance company.

12 Q: Did you know the name of the insurance company?

13 A: Omni, yes.

14 Q: Omni?

15 A: Yes. I have papers from Omni Insurance.

16 Q: Do you have them with you?

17 A: I don't.

18 Q: What does Omni do for you? What did they --
19 you pay a premium to them or was it part of
20 your monthly payment?

21 A: It was part of my monthly payment.

22 Q: Okay. They collected the premium over time.
23 Well, what do you think that premium -- the
24 premium means you're paying for insurance.

25 A: The insurance -- it insured the home.



1 Q: The home or the ---

2 A: Home.

3 Q: The home.

4 A: Uh-huh (affirmative response).

5 Q: So that was property and casualty insurance.
6 That was to insure your home against hazards
7 such as fire, wind storm?

8 A: Yes.

9 Q: Okay. Anything else on that?

10 A: No.

11 Q: Okay. How much money did you put down when
12 your purchased your property?

13 A: Six thousand.

14 Q: How much was your property, the house that you
15 bought? What was the purchase price?

16 A: One eighty-three.

17 Q: So you only put down a little more than four
18 percent was your down payment?

19 A: Yes.

20 Q: Do you have your closing statement with you?

21 A: No, I don't.

22 Q: Okay. Do you think when you were paying --
23 that you don't know whether -- or do you know
24 whether or not you paid a mortgage insurance
25 premium? An insurance premium that was designed



1 to pay the loan off if you defaulted, because
2 I saw somewhere in one of your Answers, or one
3 of the comments that you made in the -- one of
4 the comments that you made that there was some
5 mortgage insurance was to pay. Do you remember
6 anything about that?

7 A: I would have to look back through the
8 paperwork.

9 Q: Okay.

10 A: But that was in reference to, I believe, the
11 letter from -- that I received. I believe I
12 have that in your -- in the paperwork that I
13 presented for you today. It was on, I think,
14 page two.

15 Q: Your Affidavit for a Face-to-Face Rule?

16 A: No, or maybe it was the second of that page
17 where it said about the insurance, about
18 transferring the title.

19 Q: Oh, yeah, you say: Instead Wells Fargo has
20 already filed for the insurance and has gotten
21 paid by FHA. See attached Exhibit G. Exhibit
22 G purports to be a letter, or is a letter
23 addressed to Latisa Cunningham from the law
24 firm of Brock & Scott. Okay, well, I think
25 what Mr. Branham's law firm was trying to



1 explain to you is the procedure for what
2 happens after the foreclosure occurs. If they
3 assign this property -- if they, the bank,
4 assigns the property to FHA, the assignment
5 would mean that you would have to -- before
6 they can do that, before they can get the
7 mortgage insurance premium paid, they would
8 have to have you vacate the property or be in
9 the process of vacating the property. I'll let
10 Mr. Branham speak to that. I don't read
11 anything in that letter that's saying that the
12 insurance, any insurance has been used to pay
13 off the loan. But even if that were to occur,
14 the obligation is still yours. You have an
15 obligation and part of that -- the reason that
16 premium is relatively small is that they will
17 have within that insurance policy a right of
18 subrogation, meaning that whoever pays off the
19 bank, the lender, who owns the note, that
20 person whether it's FHA or if it's a private
21 mortgage insurance company will have a right of
22 subrogation to recover what's lost, what
23 they've paid against you because it's your
24 obligation. And we just discussed that.

25 A: Right.



1 Q: You, who was there that signed the note and
2 you, who got the benefit of the house in
3 exchange for the note that you gave to the
4 bank. So there is no free lunch here. So
5 there's no free, because you paid a premium
6 doesn't give you -- it's not saying that your
7 mortgage has been paid off without you still
8 having the liability. That's just to
9 facilitate the mortgage insurance trust fund so
10 they can continue to, as the letter says,
11 replenish the funds so they can continue to
12 lend money out and guarantee loans for other
13 folks who are going to buy houses under the
14 same programs that you bought your house. So
15 I'm going to -- is there anything else you
16 would like to tell me, Ms. Cunningham, about
17 the Plaintiff's Motion to Strike your answer
18 for a number of reasons. Primarily among the
19 reasons that -- I would say it's primarily
20 because you did not answer the lawsuit in a
21 timely manner. But the other reasons they
22 state are that it's irrelevant. That the
23 allegations are irrelevant and the -- Mr.
24 Branham, would you read me that line that you
25 -- I don't have the Motion right before me. I



1 can read it, hold on a second. Mr. Branham's
2 firm asserts that they move to strike the
3 answer because it's made of redundant,
4 immaterial and made up of scandalous matters
5 and that they should be stricken from the
6 record. I'm not so sure it's impertinent and
7 scandalous. But I do think that it's too late.
8 And so, Mr. Branham, if you will please prepare
9 a proposed Order for me that strikes the Answer
10 on the basis of its -- first of all, it's late.
11 And secondly, it appears to be irrelevant to
12 the proceedings that are what we're here for.
13 But -- I just don't think it is -- and moreover
14 even if it weren't late, it's not responsive to
15 the Complaint. It's just simply not
16 responsive.

17 **MR. BRANHAM:** Yes, I will prepare that Order, Your
18 Honor.

19 **THE COURT:** Thank you.

20 **Q:** Anything else from Ms. Cunningham, do you have
21 anything else you'd like -- any other response
22 to my ruling or Motion to Strike that you would
23 like to put on the record.

24 **A:** No.

25 **THE COURT:** Okay. Mr. Branham, you have anything



1 else?

2 **MR. BRANHAM:** Not on that Motion, Your Honor. I
3 guess just for a point of clarification
4 regarding some of the dialogue that's gone on.
5 We did mail a copy of the payment history on
6 this account to 1227 Wild Goose Trail in
7 Summerville on March 11th. I provided some
8 payment information regarding the account
9 history.

10 **THE COURT:** All right. Thank you, Mr. Branham.
11 We'll let the record reflect that was provided.
12 Ms. Cunningham, you're saying you never got
13 that?

14 **A:** Well, what I had asked for was for both sides
15 of the ledger, not just a payment history.

16 **Q:** Well, let me ask you this. Let me -- I want to
17 clarify this, because when you leave this room
18 I want you to be able to go out of the room
19 saying Judge Chellis gave me a fair opportunity
20 to be heard today. I do not want -- I don't
21 want you to -- when you leave here I want you
22 to be able to say the parties that sat in front
23 of me have equal positions, equal rights in
24 this court. And so I wanted to let you respond
25 to that. But I also want to tell you this.



1 Don't you feel like you would have known --
2 wouldn't you have been able to determine from
3 your own records the amount of payments that
4 you made?

5 A: Yes, I would known approximately, yes.

6 Q: Why would it be approximate?

7 A: Because I had also, like I said, received
8 assistance through Family Services.

9 Q: But they would have been making the payments on
10 your behalf, right?

11 A: Right. But they, I believe that they --
12 although they did it in increments. But they
13 gave me a paper saying that it was one amount,
14 but if it was that amount then it should have
15 shown forth that bottom line amount. And so I
16 didn't -- the payments didn't reflect that.

17 Q: Did you -- all right. Well, this may be
18 getting to the Motion on Summary Judgment. One
19 thing that I -- from time-to-time, I have a
20 person who comes to court and says, I want
21 proof of what my payments were, what I made.
22 And it's sort of difficult for me to
23 understand. I mean, you're the person who
24 would have been making the payments.

25 A: Right.



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1 Q: And so it would stand to reason, for me at
2 least, that the person who's saying I made
3 these payments would come to court with a list
4 of the payments that were made, the dates they
5 were paid and either a copy of the cancelled
6 checks showing that it was deposited to the
7 account of the lender or the bank or whoever
8 owns the loan, and -- or a money order that
9 would show that -- if it's sent to that party.
10 And then if you -- the other side of the
11 ledger, so to speak, if you're talking about
12 ledgers in the way of accounting, which is not
13 -- the way I take that term, if you're talking
14 about the ledger -- what you show as having
15 been paid should reflect -- and what you
16 calculated the principal now being and the
17 principal due by the lender. They ought to be
18 identical or very, very close. But in most
19 cases the persons who do that kind of diligence
20 with the payments they make, are able to come
21 up with the exact amount of money that is owed
22 to the bank. And take into account the
23 interest portion of the payment. So I guess,
24 in some sense, Ms. Cunningham, it feels like
25 -- you don't have such a paper with you today,



1 do you?

2 A: I don't.

3 Q: So if they sent you a copy of the account, the
4 receipts and disbursements on the loan and you
5 haven't contested that account in response to
6 this Motion, by virtue of the response to their
7 Motion to Strike then it sounds to me like
8 you've agreed basically, with the amount of
9 payments they are showing on their account,
10 because there's nothing to disprove it here
11 before me.

12 A: Yes, I understand.

13 Q: Okay. All right. Anything else from either
14 party on this particular motion?

15 **MR. BRANHAM:** On which motion, Your Honor?

16 **THE COURT:** To strike.

17 **MR. BRANHAM:** No, Your Honor.

18 **THE COURT:** Anything else, Ms. Cunningham?

19 A: No, sir.

20 **THE COURT:** All right. That concludes that matter.
21 And Mr. Branham will be preparing a proposed
22 Order for me to consider.

23 **THE COURT:** The next case, the next matter on the
24 motion calendar is a Motion for Summary
25 Judgment of Civil Action 2013-CP-18-00519; it's



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1 Wells Fargo Bank v. Richard B. Cunningham and
2 Latisa Cunningham, Defendants. Mr. Branham,
3 I'll be glad to hear from you at this point.

4 **MR. BRANHAM:** Thank you, Your Honor. Again, this is
5 a Motion for Summary Judgment as to both
6 liability and to damages on this action for
7 mortgage foreclosure. Next on the dialogue
8 that has already occurred under oath here
9 today, it seems to be very clear to me that
10 there has been an establishment of the
11 existence of the contract, the note, the
12 mortgage. Furthermore, there's been an
13 establishment of the fact that consideration
14 was in place through this contractual
15 obligation and that a breach, in fact, did
16 occur. And I would like to offer to the Court
17 as Plaintiff's Exhibit 1 for inspection, the
18 original note, which has been referenced in the
19 pleadings today. And I'm going to provide Ms.
20 Cunningham a copy of each of these exhibits
21 that I intend to offer into evidence today. I
22 would be asked that I be allowed to retain the
23 original note from our client's records. But
24 I have provided a copy of this note.

25 **THE COURT:** Let me look at the original -- or show



1 her the original, if you don't mind. Ask if
2 she can admit that's her signature on the
3 bottom there. Did you see this, is this your
4 signature?

5 A: The original note, yes.

6 Q: Original note? Who is Richard Cunningham?

7 A: That's my ex-husband.

8 Q: Okay. When did you and he -- when you say ex-
9 husband, that means you're divorced or
10 separated?

11 A: Divorced.

12 Q: Divorced, when did that happen?

13 A: The final was May 2014.

14 Q: That was sometime last year. All right. Was
15 there anything in that file that created, that
16 directed him to pay any portion of this
17 mortgage?

18 A: There were -- yes. There were statements all
19 the time and he was summonsed as well.

20 Q: Let me back up. In the Divorce Decree and the
21 Decree of Divorce was granted to you by the
22 Family Court?

23 A: Oh.

24 Q: Who got the house?

25 A: I did.



1 Q: Okay. Has he conveyed his interest in the
2 house to you?

3 A: He signed a ---

4 Q: Quit Claim Deed?

5 A: Yes.

6 Q: And you have been delivered that document?

7 A: Yes.

8 Q: Did you record it?

9 A: Yes.

10 Q: Okay. And so he's given up any interest that
11 he has in the property to you?

12 A: Yes.

13 Q: All right. Did you agree to assume the
14 payments under the note in that Decree?

15 A: Yes.

16 Q: Okay. All right. Now, you realize that Decree
17 -- well, I'll let that stand for itself. But
18 generally speaking and I don't know what Mr.
19 -- Mr. Branham, what's your position on that
20 decree as far as Mr. Cunningham's obligation?

21 **MR. BRANHAM:** There may be some opportunity to
22 pursue a claim by Ms. Cunningham against Mr.
23 Cunningham. But it has no bearing on the
24 claims brought by my client in this action.

25 **THE COURT:** Okay. All right. I think I agree with



1 that proposition of the law. Okay, so we've
2 established the note, do you have a copy of the
3 mortgage?

4 **MR. BRANHAM:** I have the original mortgage, Your
5 Honor, present for inspection.

6 **THE COURT:** Let her look at it and bring it up to
7 me.

8 **MR. BRANHAM:** And I've provided her with a copy of
9 the mortgage, if you would like to look at
10 this. And I've provided the Court with a copy
11 of this mortgage and would ask that be entered
12 into evidence as Plaintiff's Exhibit 2.

13 **THE COURT:** All right. Let me go back and get this
14 record clear. The note has been admitted into
15 evidence, that's Exhibit 1. I also have a copy
16 of the mortgage between Latisa L. Cunningham
17 and Richard B. Cunningham, wife and husband.
18 The lender was WR Starkey Mortgage, LLP, and
19 the amount of the debt was \$182,119. And this
20 document appears to be signed by both Latisa
21 and Richard B. -- Latisa L. and Richard B.
22 Cunningham. I do make note of the fact that
23 the mortgage was handled by the law firm of J.
24 Stanley Claypool. It includes a planned unit
25 development rider and has been recorded, has



1 been recorded in the Dorchester County. Do you
2 have the actual original mortgage?

3 **MR. BRANHAM:** Yes, Your Honor. I'll hand it up now.

4 **THE COURT:** All right. Do you have the recording
5 information, Mr. Branham?

6 **MR. BRANHAM:** The recording information?

7 **THE COURT:** Yes.

8 **MR. BRANHAM:** Yes, Your Honor. It was ---

9 **THE COURT:** Here it is. I got it. It was recorded
10 on November 26, 2008. What's the book and page
11 of this mortgage?

12 **MR. BRANHAM:** Book 6871, page 69.

13 **THE COURT:** Okay. The copy of the mortgage. Do you
14 have any objection to the mortgage coming in,
15 Ms. Cunningham?

16 A: No, sir.

17 **THE COURT:** All right. That's going to come in
18 under -- this is a Motion for Summary Judgment
19 and this is generally just submitted by way of
20 affidavit and attachments. The next document
21 I have is an assignment by MERS, who held the
22 property as nominee for WR Starkey. The
23 assignment was to Wells Fargo Bank, that is the
24 Plaintiff in this case. Y'all have that? The
25 last part of the exhibits here. And then the



1 next exhibit -- well, I'm not sure, maybe that
2 was Exhibit 2 and he didn't number that Exhibit
3 3. The assignment is Exhibit 3. Exhibit
4 Number 4 is an Affidavit of Verified Statement
5 of Account that has been entered by Wells
6 Fargo, or signed by a vice president for loan
7 documentation at Wells Fargo Bank. Mr.
8 Branham, you want to walk through those
9 numbers?

10 **MR. BRANHAM:** Yes, Your Honor. The total debt
11 including insurance as of January 26, 2015,
12 which is the good-through date of the Affidavit
13 of Indebtedness, includes principal of
14 \$173,443.06 with interest from January 1, 2013,
15 as of January 26, 2015, \$21,526.06; escrow
16 advancement is \$5,486.66; corporate advances
17 \$30; a credit being reflected of \$172.65;
18 mortgage insurance premium is \$1,921.56; costs
19 of collection prior to this hearing, \$1,303.38;
20 and attorney's fees \$5,350.00, bringing the
21 total debt to \$208,654.83 and deficiency rights
22 are waived.

23 **THE COURT:** You have supported your request for
24 attorney's fees with an Affidavit of Costs and
25 Fees totaling \$5,350? Have you given a copy of



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1 that to Ms. Cunningham?

2 **MR. BRANHAM:** Yes, Your Honor.

3 A: It doesn't state the same amounts that you
4 have.

5 **MR. BRANHAM:** And I'll provide Ms. Cunningham with a
6 copy of the proposed Order, which has the
7 itemization that I just read through beginning
8 at the bottom of page two of the proposed
9 Order.

10 **THE COURT:** Mr. Branham, I hope you understand you
11 have attorney's fee of \$5,350, but your cost
12 -- I'm not getting but \$1,300. Ms. Cunningham,
13 your question was the cost itemization?

14 A: Yes.

15 **THE COURT:** All right. I just had Ms. Kyzer
16 calculate those first six items in the
17 Affidavit of Attorney's Fees and Costs and they
18 do total \$1,303.38.

19 A: Sure, it's just that the cost that he was
20 breaking down as I was going through and
21 looking at this. I'm not showing wherein it
22 shows \$208,000. I have 202 and I'm not seeing
23 ---

24 **THE COURT:** Okay. Ms. Kyzer, would you come over
25 here and calculate with -- starting with one.



1 That's number two and add that column of
2 figures for me. What I'm doing is I'm having
3 her calculate from the \$173,000, the principal
4 \$173,443.06, do you dispute that's about you
5 owned the principal?

6 A: I see that.

7 Q: All right. Then you see the interest charges
8 from January 1, 2013, through January 26, 2015?

9 A: Yes.

10 Q: Calculated at six percent?

11 A: Yes.

12 Q: It's \$21,526.06.

13 A: I see that.

14 Q: How much? Let's go through these items,
15 itemizations are now billed alone that you
16 submitted. You agree with the principal is
17 correct?

18 A: Yes.

19 Q: And the interest calculation through January
20 26, 2015, at six percent. Do you have any
21 dispute with that, \$21,526.06?

22 A: No, sir, no.

23 Q: Ma'am?

24 A: No, sir.

25 Q: Okay. How about the hazard insurance



1 disbursements? Did the bank pay your hazard
2 insurance for you?

3 A: Yes.

4 Q: Okay. And that's \$2,485.77?

5 A: Yes.

6 Q: Okay. And they paid your taxes on your house?

7 A: Uh-huh (affirmative response).

8 Q: \$3,089.00?

9 A: Right.

10 Q: Is that correct?

11 A: Yes.

12 Q: All right. Then inspections and preservations
13 are the costs to make sure the house is in good
14 order. It's a street view. They don't come
15 into your house. They just ride by and make
16 sure everything appears to be in order, that's
17 normal and appropriate. The PMI insurance
18 \$1,920.56. We've had a bit of discussion about
19 that this morning. Do you disagree that they
20 paid that premium while you weren't making the
21 payments?

22 A: Right, I agree.

23 Q: Okay. And then you had a credit of \$172.65,
24 probably at the end of 2012, when you last made
25 your payment. In your escrow account -- you



1 probably had a \$172.65 in your escrow account.

2 A: Yes.

3 Q: And they've applied that against the loan,
4 which they often do, and that's how they come
5 up with the loan amount due of \$202,234.69.

6 A: Sure, I see that.

7 Q: And then my decision is to -- I have to be
8 honest now. It says the attorney's fees and
9 costs -- I don't find anything objectionable in
10 the costs have been incurred. The attorney's
11 fee is reasonable, in my opinion. I've handled
12 foreclosure actions in my own firm, when I was
13 practicing law. I don't think I ever had one
14 that was less than \$6,000. I think the last
15 one I did was about \$7,500, when I was a
16 practicing attorney. So this firm has been
17 able to be a little more efficient than I was,
18 at least it appears to be to charge less, maybe
19 they had a lesser hourly rates. But those fees
20 don't appear to be unreasonable. Do you have
21 any basis upon which you might assert that they
22 are unreasonable?

23 A: No, sir.

24 Q: Okay. \$208,654.83.

25 **MR. BRANHAM:** I think there is an error in the



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1 addition of the itemized numbers, but it's only
2 a couple hundred dollars. It looks like the
3 actual amount is \$208,888.07.

4 **THE COURT:** That's what we got.

5 **MR. BRANHAM:** I'll leave it to the Court's
6 discretion, to establish the debt.

7 **THE COURT:** Well, I'm going to let your proposed
8 Order stand in the terms of amount of debt.
9 All right. Anything else along on your Motion
10 for Summary Judgment?

11 **MR. BRANHAM:** No, Your Honor. I do believe the
12 liability and the damages have been established
13 today.

14 **THE COURT:** Ms. Cunningham, talk to me about the
15 Motion for Summary Judgment. Is there any
16 facts that might be in dispute between you and
17 the bank as to the amount of money that you owe
18 the bank?

19 A: No.

20 Q: Is there any facts in dispute that you
21 obligated, you and your husband obligated
22 yourselves, your ex-husband obligated
23 yourselves to the bank the amount of the
24 principal that was borrowed from the bank plus
25 the interest rate?



1 A: No.

2 Q: Is there any fact in dispute that you haven't
3 paid the mortgage payment?

4 A: No.

5 Q: Can you give me any facts that I need to rule
6 on through a full evidentiary hearing on the
7 facts of your note and your mortgage?

8 A: No.

9 Q: Okay. All right. Do you have anything else
10 you would like to tell me about your
11 circumstances that I need to consider? Because
12 now, I think it's fairly clear that I can make
13 a ruling on, a factual ruling that the total
14 amount of debt is what has been stated,
15 \$208,888.07, but that the Plaintiff proposed in
16 its Order that the amount of debt is
17 \$208,654.83, that's the debt. Now, I have to
18 make a decision of what the remedy should be.
19 They're asking under the pleadings, and what
20 they've presented to me, they're asking this
21 court to rule on the remedy of foreclosure.
22 That remedy is, and I'll explain to you. It
23 means that they're asking that I sell this
24 property based on the mortgage loan that
25 secures the loan, and apply the proceeds of the



1 sale to the loan. They're also saying that
2 they are not going to pursue you for any
3 deficiency or any personal judgment. Remember
4 we talked about you being the person that
5 signed the note?

6 A: Yes.

7 Q: All right. Well, they're not going to
8 personally hold you responsible for anything
9 else after the sale of the property. You will
10 not have a debt due to this bank, nor will your
11 husband have a debt due to the bank, your ex-
12 husband. Do you understand that's the remedy
13 that they're seeking?

14 A: Yes.

15 Q: Tell me why I shouldn't grant that remedy.
16 Help me understand why I should not grant that
17 remedy of foreclosure. Here's the issue, what
18 is fair? And I need you to tell me what is
19 fair. What would be fair, given the fact that
20 the money is owed, you're occupying the
21 property. Tell me what it is that would tip
22 the scale back in your favor and the
23 foreclosure should not occur. Let's talk about
24 your income. Are you making any money?

25 A: I did just begin a job recently, probably about



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1 three months, three or four months.

2 Q: You've had a job for three months? What do you
3 do?

4 A: Leasing consultant.

5 Q: A leasing consultant of what sort of lease?

6 A: Apartments.

7 Q: When you say leasing consultant, does that mean
8 you are trying to help people -- what do you do
9 as a leasing ...

10 A: Rent an apartments.

11 Q: Rent apartments

12 A: Yes.

13 Q: Do you have a license?

14 A: No.

15 Q: Real estate license. Can you do that without
16 a license?

17 A: Yes.

18 Q: Okay. How much do you make?

19 A: It's 13 an hour.

20 Q: Thirteen dollars an hour? So you're paid by
21 the hour?

22 A: Yes.

23 Q: Okay. How many children do you have?

24 A: I have two at home.

25 Q: How old are they?



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1 A: Eighteen and 15.

2 Q: Where do they go to school?

3 A: Dorchester District II, Summerville in Fort
4 Dorchester.

5 Q: All right. Help me with that. They go to --
6 one goes to Dorchester?

7 A: Both of them are in Dorchester County II.

8 Q: District II. They both are District II
9 students?

10 A: Yes.

11 Q: And they both go to Fort Dorchester?

12 A: One goes to Fort Dorchester. She stayed there
13 because we were in the North Charleston area at
14 one time, so they allowed her to stay there to
15 graduate with her graduating class.

16 Q: Oh, great. She's going to graduate this fall?
17 I mean this spring?

18 A: May 30th.

19 Q: May 30th, that's great. She have any plans to
20 go on with her education?

21 A: Yes.

22 Q: What are those plans?

23 A: For fashion design, to the School of Arts
24 downtown.

25 Q: Okay. Has she been accepted?



1 A: Yes.

2 Q: All right. How much does that cost?

3 A: A lot. I don't have all the paperwork. We're
4 supposed to go and sit down for the rest of the
5 details for signing.

6 Q: All right. It's a really tough business,
7 fashion design. The other child, she's 15, is
8 that right?

9 A: Yes.

10 Q: Where does she go to school?

11 A: That's my son. He goes to Summerville High
12 School.

13 Q: Tell me about him?

14 A: Well, right now, he's having challenges in
15 school.

16 Q: What kind of challenges?

17 A: With math and science, so he's been having to
18 do like tutoring in the mornings and
19 afternoons.

20 Q: Who tutors him?

21 A: At school, one of the teachers that is there.

22 Q: What kind of math is it that he's struggling
23 with?

24 A: Chemistry.

25 Q: I don't blame him. Let me tell you my



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1 chemistry story. I graduated from a school
2 downtown in Charleston. And I received the
3 following grade in chemistry my junior year,
4 BTGF. You know what that stands for?

5 A: No.

6 Q: By the grace of Frampton. And Mr. Frampton was
7 my chemistry professor or teacher. So I got
8 through chemistry by the grace of Mr. Frampton,
9 not by my intellectual acuity. So I completely
10 understand that he can have trouble with
11 chemistry. I just never got it, so good for
12 him. I can applaud your son having difficulty
13 with that. But I'm glad he's trying to get it
14 straightened out. Does he play sports?

15 A: Football.

16 Q: Oh, boy. Tell me about that?

17 A: Well, he was a linebacker, but now they want
18 him to be the quarterback.

19 Q: What's his name?

20 A: Ryland Cunningham.

21 Q: Ryland Cunningham?

22 A: Yes.

23 Q: So if he keeps his grades up and gets through
24 this year -- so he's a sophomore this year?

25 A: No, he's actually in 10th grade.



1 Q: Okay, what's a sophomore year? Tenth grade,
2 he's a tenth grader?

3 A: Yes.

4 Q: And if he gets through his tenth grade -- why
5 are they making him take chemistry in the tenth
6 grade?

7 A: He had his other maths in ninth grade. They
8 said he exceeded far as on his math, I think
9 it's on the math test or something like that
10 for reading and math.

11 Q: But he's having trouble with his science and
12 math now?

13 A: Yes.

14 Q: They might have accelerated him too much. Some
15 young people's minds just aren't ready for the
16 thoughts that are required in certain of those
17 disciplines. So I completely understand that,
18 because I was a victim of all those kind of
19 minds. It took me a while to learn it now. I
20 had to actually stand back a year in high
21 school in order to catch up, let my mind catch
22 up with what I was supposed to be able to
23 understand. So, you know, don't let them
24 accelerate him too much, make sure he's getting
25 the basics and his mind is able to understand



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1 what he's being asked to do. You know, your
2 mind grows just like your arms and your legs
3 do. And sometimes you're not quite ready for
4 something, could be that's the situation.
5 Anyway, if he makes it through the tenth grade,
6 he's going to be playing football with
7 Summerville next year?

8 A: Yes.

9 Q: And I can expect to read his name in the
10 newspaper?

11 A: I'm sure.

12 Q: Okay. Did his father go to Summerville High
13 School?

14 A: No, we went to school in Maryland.

15 Q: In Maryland. Well, I'm glad he's in South
16 Carolina. All right. What are your plans if
17 I direct the foreclosure? What will happen to
18 you and your family?

19 A: We may have to relocate back to Maryland.

20 Q: Well, I mean, you understand you can rent
21 property, can't you?

22 A: I can. But it would be -- it's already kind of
23 difficult with two kids and not really have a
24 family here.

25 Q: In other words, your support family, your



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1 mother, father or ---

2 A: My grandmother and my family is there.

3 Q: All of your support family is in Maryland?

4 A: Yes.

5 Q: And you're down here because some man brought
6 you down here?

7 A: Kind of sort of, yes.

8 Q: Okay. All right. Well, you might want to
9 reconsider that location issue at least two
10 more years, so we can get your son to have the
11 opportunity to play for Summerville High
12 School, one of the most famed football programs
13 in the entire nation. So I hope he succeeds.
14 Based on the evidence that's been presented by
15 Mr. Branham and the acknowledgments that I've
16 heard from Ms. Cunningham, I don't think there
17 are any facts ensued. I don't think there are
18 any facts -- and if I gave all the influence in
19 your favor, every one of them in your favor,
20 which is my responsibility, given every
21 influence in your favor, I don't think there's
22 any evidence that suggest that there is a
23 question of fact to be determined in this
24 lawsuit. And therefore, I am going to grant
25 the Order for Summary Judgment by Mr. Branham's



1 client. Mr. Branham, what do you propose in
2 the way of a sales date? What do you think your
3 client's going to want to do in that respect?

4 **MR. BRANHAM:** We've requested the next available
5 sale date, which I believe is June 2nd. I'll
6 leave that to the Court's discretion to
7 schedule.

8 **THE COURT:** Ms. Cunningham, what is your situation
9 if we sold this in June, it's a good chance
10 you might have to leave your home by the first
11 of July.

12 A: Well, they couldn't give me anymore time than
13 that?

14 Q: Well, tell me why you would need more time?

15 A: Because, I mean, to have the funds to move and
16 get a truck, move my things out, find us a
17 place and still try and work so I could have
18 those funds. It would be difficult.

19 Q: How long do you need?

20 A: Maybe three months.

21 Q: So if I gave you until September, that means
22 your child is going to be back in school in
23 September. And you would have to be moving him
24 in the middle of football season.

25 A: Well, if I have to relocate, school starts in



1 Maryland in September.

2 Q: You think he might want to go spend the summer
3 with his aunts and uncles and grandma, great
4 grand -- it's going to be his great grandmother
5 in Maryland?

6 A: Not really, but that would be a choice.

7 Q: What have you been -- you only make \$13.00 an
8 hour and you've only been making that for the
9 last couple of months?

10 A: Yes.

11 Q: What about your daughter, does she work?

12 A: She works at H&M.

13 Q: At?

14 A: H&M, it's a clothing store.

15 Q: H&M. Does she share in responsibilities with
16 the household?

17 A: She does what she can. She only works part-
18 time.

19 Q: Okay. We're in the middle of, what's today's
20 date, the 4th of May. You have all of May,
21 all of June. We'll order the sale in July and
22 that'll give you three full months before you
23 have to probably depart. And that'll give you
24 time enough to collect some cash and get ready
25 to move. And I don't think we'll jeopardize



1 your son getting into school and having to
2 disrupt that school situation. All right. So
3 I'm going to direct the sale in July. That
4 date is, I think, July the 7th. All right.
5 Mr. Branham, I will agree to sell on July the
6 7th. However, you can -- I hope that maybe
7 your client and Ms. Cunningham could work
8 something out still, in the meantime, where
9 they can get something resolved. Ms.
10 Cunningham, I'm going to be real frank with
11 you, right now, okay, very frank. Your friend
12 who's here in the courtroom today, I want him
13 to listen to this as well. The efforts that
14 you've made to answer the complaint in the way
15 that you did and the manner in which you -- the
16 procedural issues that you brought before the
17 Court -- I hope to goodness you did not pay
18 any money for that help. But if you did, it
19 was the biggest waste of money that you could
20 have ever made in your life. Sadly, the energy
21 and effort that you put into to trying to
22 develop the case that you developed, if they
23 had been put into the energy to work out the
24 matter with Wells Fargo would have probably
25 returned -- the rest of that energy in itself

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1 would have probably returned a greater yield to
2 you than what efforts that you made
3 procedurally in this case. In other words, I
4 didn't find anything that you have -- frankly,
5 what was said was a little bit confusing for
6 me. And I am a person who believes that if you
7 go to the person -- you have to make the effort
8 to go to the person who you owe the money to
9 try to work something out. It has got to be
10 your grit and your grind to get to the person
11 who you owe the money to with your face up and
12 your shoulders back and say, I need some help.
13 And I think I can work it out if you'll just
14 give me that opportunity. Lenders generally
15 respond to that. And you still have an
16 opportunity to get it worked out. You still
17 have control of that house. You own the
18 property. If the property's located -- where
19 is your home, Ms. Cunningham?

20 A: Dorchester County.

21 Q: Well, I knew that.

22 A: I'm sorry. 1227 ---

23 Q: You've got to remember, I grew up in
24 Summerville. I was born here, so I have a
25 visual picture of somewhat in my head. Can you



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- 1 tell me about where you live? What
2 subdivision?
- 3 A: Yes, it's Drakesborough.
- 4 Q: Drakesborough?
- 5 A: Yes. It's off of 78 and Old Grove.
- 6 Q: That's a beautiful place. Yeah, right there on
7 the corner.
- 8 A: Yes.
- 9 Q: They still building houses in there?
- 10 A: Yes. Plenty.
- 11 Q: Plenty?
- 12 A: Yes, it's a lot more.
- 13 Q: What happened to your marriage, Ms. Cunningham?
- 14 A: Infidelity.
- 15 Q: Okay. And I'm sure it wasn't you. It was him?
- 16 A: Yes. Multiple times.
- 17 Q: Multiple. And he's not helping you make any
18 payments towards this house?
- 19 A: No.
- 20 Q: Is he taking care of the children?
- 21 A: Yes.
- 22 Q: Is he helping you with child support?
- 23 A: He does.
- 24 Q: How much is that?
- 25 A: \$540.



1 Q: That's going to drop when your baby girl gets
2 out of school, right?

3 A: Yes.

4 Q: And what about, one half of that?

5 A: Yes.

6 Q: What's the education you have?

7 A: I had tech school after high school, two years
8 of tech school after high school.

9 Q: What kind of tech?

10 A: Computer repair.

11 Q: Computer repair?

12 A: Yes.

13 Q: And you're selling apartments, leasing
14 apartments?

15 A: Yes. I wasn't able to get anything in that
16 field because everywhere wanted you to have at
17 least one or two year's experience.

18 Q: You never did any experience with tech?

19 A: No, sir.

20 Q: You took care of the babies, didn't you?

21 A: Yes. I was married for 20, a little over 20
22 years.

23 Q: What sort of social life do you have, you go to
24 church regularly or do you go...

25 A: Yes. Cathedral Of Praise, Summerville.



1 Q: You go to the Cathedral?

2 A: Yes, sir.

3 Q: They have a really wonderful singles program
4 there. Have you participated?

5 A: I tried going to other group sessions first to
6 try and heal from divorce.

7 Q: Well, it's a tough thing you've been through.
8 I understand that, but it's only been a year.

9 A: Yes.

10 Q: So you're a very attractive woman. I can't
11 imagine that you'll not find somebody who would
12 help you stay in the area, especially if you've
13 got an athlete playing at Summerville High
14 School. You realize -- do you realize how
15 important that opportunity is for your son, do
16 you have any idea?

17 A: I believe he's very good at what he does. I
18 would like him to have that opportunity, but I
19 don't ...

20 Q: You know, sometimes downsizing isn't such a bad
21 idea. You get yourself back on your feet with
22 not having to spend quite so much money. The
23 opportunity to play for the football program
24 that he's going to be playing in is -- it is a
25 mark of true ability to be able to play in that



1 football program. So I would encourage you to
2 try to stick it out and find something that you
3 can -- just reduce. I mean, you've got a big
4 old house out there in Drakesborough. That's
5 a lot of money that you got to pay out every
6 month to keep that thing going. So, you know,
7 it'll just be you and your son; apartments work
8 well. A lot of opportunity here, so I hope you
9 can find it. I'm going to give you until the
10 end of July and if we sell this property in
11 July, you'll have about the first of August
12 when you would -- it would be date that you
13 have to be out of the house. In the meantime,
14 do whatever you can to try to work it out.
15 Sell this property, continue to work with the
16 mortgagee to try to work out a payment
17 arrangement where you can keep the property,
18 anything. But you do have three months. So
19 good luck to you. Mr. Branham, I'm going to
20 take a look at this Order and give it some
21 thought. Let me look at that. Do you have
22 anything else you would like to tell me, Ms.
23 Cunningham?

24 A: No, sir.

25 Q: Thank you very much.



1 A: Thank you.

2 **MR. BRANHAM:** Judge, do you want to return her
3 documents?

4 **THE COURT:** Yes, we're going to give you your
5 documents back, Ms. Cunningham. You might want
6 to keep that Secretary of State of the United
7 States with Mr. Kerry's signature. How did you
8 get that?

9 A: Through resources.

10 **THE COURT:** All right. In the Conclusions of Law,
11 they're supported by the evidence that's been
12 presented. There are no issues of fact to be
13 determined and, therefore, I'm going to grant
14 the Motion for Summary Judgment to the
15 Plaintiff. And I'm going to sign the Order now
16 to that effect. Ms. Cunningham, I'm going to
17 return to you your copy of the Affidavit for
18 Face-to-Face Rule. That would be recorded in
19 the Clerk's office. Here, I'll need to keep
20 that and the responses to the Defendant's
21 Request for Production and the Defendant's --
22 did you get your request back, your answers?

23 A: Yes.

24 Q: Okay. They don't become part of the record
25 since that's a discovery matter. I'm going to



1 hand back to you what was handed up to me for
2 your records. Okay, that concludes the matter
3 of Wells Fargo versus Cunningham. Thank you,
4 Ms. Cunningham. Good luck to you.

5 A: Thank you.

6 (There being nothing further, the hearing was
7 adjourned at 12:20 p.m.)
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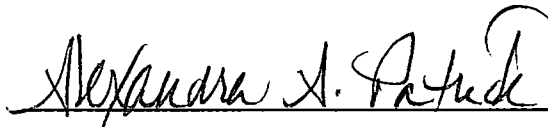
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CERTIFICATE

This is to certify that the within hearing consisting of seventy-six (76) pages, is a true and correct transcript of the testimony given by said witnesses after being duly sworn; said hearing was reported by the method of Stenomask with Backup.

I further certify that I am neither employed by nor related to any of the parties in this matter or their counsel; nor do I have any interest, financial or otherwise, in the outcome of same.

IN WITNESS WHEREOF I have hereunto set my hand and seal on July 24, 2015.



Alexandra A. Patrick
Court Reporter

Notary Public for South Carolina
My Commission Expires: February 13, 2019



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