THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM AIKEN COUNTY

SECOND JUDICIAL CIRCUIT

COURT OF COMMON PLEAS

RECEIVED
OCT 13 2015
SC Court of Appeals

REFEREE JAMES MARTIN HARVEY, JR

Trial court Case NO. 2012-CP-02-00699

APPELLATE CASE NO. 2015-001119

BANK OF AMERICA, N.A.	)	**APPELLANT 'S ANSWER**
BAC HOME LOANS SERVICING , LP		**TO RESPONDENT'S**
fka COUNTRYWIDE HOME LOANS		**INITIAL BRIEF**
SERVICING, LP		
RESPONDENT		

V.

CAROLYN S. DEANER

APPELLANT

APPELLANT'S ANSWER TO RESPONDENT'S INITIAL BRIEF AND DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD OF APPEAL

The Appellant, Pro Se, pursuant to RULE 208,SCACR, hereby MOVES FOR THE ANSWER TO THE RESPONDENT'S INITIAL BRIEF AND DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD OF APPEAL.

THE FULL FAITH AND CREDIT CLAUSE OF THE UNITED STATES CONSTITUTION PROVIDES THAT "FULL FAITH AND CREDIT SHALL BE GIVEN IN EACH STATE TO THE JUDICIAL PROCEEDINGS OF EVERY OTHER STATE." U.S. CONSTITUTION ART. IV, 1.

APPELLANT comes now to Answer Respondent's Initial Brief as follows:

It is Appellant's understanding after consultation with previous Appellant's trial court attorney that this Appeal does cover the full trial documents and the Special Referee's rulings on those trial documents. The Appellant confirms her Appeal includes the entirety of the trial including the Appellant's Trial Attorney Sloan's Affirmative Defenses and Counter Claims, his Trial Summary Letter, the trial transcript and any subsequent Motions and Reconsideration Motions following the trial involving the Appellant's /Defendant case 2012-CP-000699 and trial. Also, it is the Appellant's understanding all areas can be brought before the Appeals Court having to do with the trial which was ruled on by the Special Referee pertaining to and submitted to the Trial Court, as well as, the subsequent hearings and rulings pertaining to the trial as Appellant is required by law to do all things possible to reveal the full truth to convince the trial court of Appellant's case when appealing to the Appeals Court. Appellant's previous attorney's filings were timely and Appellant Brief in compliance with Rule 208.

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I. ANSWER, The Special Referee ERRED in the decision "the Notice of Acceleration to Deaner was in conformity with the terms of the Mortgage and was properly supported by the evidence produced at trial." The Respondent WAS NOT the Lender of Record in 2010 and violated the contract according to #22 of the Mortgage Agreement which is a BREACH OF CONTRACT and is a matter of law, the basic principles of CONTRACT LAW, and a tort.

II. This Appeals Court HAS jurisdiction to consider Deaner's issues regarding standing, securitization, and Deaner's legal "tender of payment", and Appellant Deaner has constitutional rights to due process of law.

III. To the extent Deaner's claims concerning standing, securitization, and tender of payment are preserved for review, Appellant MOVES on this HONORABLE APPEALS COURT to DISMISS WITH PREJUDICE in favor of the Appellant as Appellant Deaner has set forth legal matter of law rulings and facts of merit to justify her case with U.S. SUPREME COURT RULINGS as well as SOUTH CAROLINA SUPREME COURT RULING AND APPELLANT COURT RULINGS. Rule 208 SCRCP states Appellant has 30 days after receipt of Trial Transcript to file Appellant's Trial Court Initial Brief which was honored.

A. South Carolina Law adopted Carpenter v. Longan UNITED STATES SUPREME COURT RULING (1872) in Young v. People's Bank , SOUTH CAROLINA SUPREME COURT, (1931), which is clear in ruling the Respondent/Plaintiff must OWN the Note and Mortgage at the time of filing which South Carolina Judge Nicolson concurred in his ruling of the Deutsche Bank v. Heinrich case (2013).

B. Deaner IS NOT judicially estopped from challenging the validity of the mortgage loan due to her bankruptcy, because the Respondent intentionally mislead and misrepresented vital facts to the Appellant by never revealing to the Appellant who the alleged debt was owed in the Acceleration Letter of 2010 prior to her bankruptcy. The Respondent purposely withheld information of the true OWNER of her alleged debt, otherwise the Respondent would have put the Multiple Classes Fannie Mae REMIC 2007-91 Trust on her bankruptcy documents, NOT Bank of America, which was an honest mistake caused by the Respondent's misrepresentations, and the Respondent's violations of the Fair Debt Collection Practices Act as well as extrinsic and intrinsic fraud.

C. Appellant Deaner's contentions that securitization of the Note and Mortgage rendered the debt unsecured and that MERS lacked authority to assign the Note and Mortgage to Bank of America is TRUE and well established across the nation in many Supreme Court rulings as well as South Carolina Law that a note cannot be changed, altered or made different in violation of conversion laws and UCC Codes. Appellant did not in any way authorize the securitization of her note in her Mortgage.

D. Appellant Deaner's claim regarding her "tender of payment" is a legal bona fide payment of MONEY and supported by the UNITED STATES SUPREME COURT RULING, FDIC v. PHILADELPHIA GEAR CORP, (1986), HJR 192 of June 5, 1933, Chapter 48, 48th Statue 112-113, public law 73-10, and U.S.Titles.

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FACTUAL AND PROCEDURAL SUMMARY

The bankruptcy was not ruled on at the trial court by the Special Referee:

Prior to the Respondent filing of this foreclosure action, appellant Deaner filed a voluntary Chapter 7 bankruptcy petition in the Southern District of Georgia on March 4, 2011, and Deaner was discharged from the bankruptcy in December 2011, and the action closed on January 17, 2012. Any listing would be a mistake due to the misrepresentation of Respondent, Bank of America, misleading the Appellant to believe they were the owner of the Note and Mortgage or holder. The Acceleration Letter submitted by Respondent in Trial mailed out to the Appellant did not name the true owner of the Note holder, the true Lender or who the alleged debt was owed, if any, in the Letter. By NOT revealing the true owner of the Note and Mortgage and who the alleged debt was owed to, the Respondent/Plaintiff, Bank of America, intentionally mislead and mispresented themselves to the Borrower. By not naming the MULTIPLE CLASSES OF THE FANNIE MAE REMIC 2007-91 TRUST as the Lender, the Appellant was fraudulently lead to believe Bank of America was owed the alleged debt. This misrepresentation by Bank of American created an honest mistake made by the Appellant during the bankruptcy listings. In addition, there was no litigation between the Respondent and Appellant at the bankruptcy hearing as Bank of America did not come to the hearing to state a claim or litigate a claim. The listing was not REAFFIRMED BY THE DEBTOR/APPELLANT, and therefore, the Appellant DID NOT AT ANY TIME STATE THE MORTGAGE WAS A VALID LIEN, NOR WAS LITIGATED AS A VALID LIEN. Judicial estoppel is void if it was an honest mistake with no intentions made to deceive the Bankruptcy Court. Simply put, the Appellant was mislead and vital information was willfully withheld from the Appellant by the Respondent, Bank of America, in violation of the Fair Debt Collection Practices Act. Why did Bank of America not contact the Appellant in writing with the name of the FANNIE MAE REMIC 2007-91 TRUST in compliance with Servicing requirements ? Bank of America knew they WERE NOT the OWNER OF THE ALLEGED DEBT and mortgage in 2010 or before.

On page 46 of the Bankruptcy document, under Creditor's names, THE TRUE CREDITOR NAME WAS WITHHELD FROM DEBTOR AND UNDER PROPERTY SECURING DEBT, THE APPELLANT IS DISPUTING A DEBT AND DISPUTING THE Respondent, Bank of America, has a debt owed to them by the Appellant, any entitlement rights, legal rights or beneficiary rights to the Appellant's real property.

In addition, at bottom of page 3 of the Appellant Mortgage, at BORROWER COVENANTS, it states, "Borrower warrants and will defend generally the TITLE to the property against all claims and demands, subject to any encumbrances of record. This is a matter of contract law and Appellant's legal rights.

THE BANKRUPTCY WAS NOT A PART OF THE TRIAL, NOR RULED ON AT THE TRIAL BY THE Special Referee, and Appellant's Attorney Sloan submitted the Counterclaims and Affirmative Defenses to the Trial Court and Special Referee as well as his CLOSING SUMMARY DOCUMENT.

STATEMENT OF FACTS

The prevailing facts of merit and matters of law in the Appellant's case PREVAIL:

A. RESPONDENT NOT OWNER OF NOTE AND MORTGAGE: LACK OF STANDING

UNITED STATES SUPREME COURT CASE, Carpenter V. Longan, 83 U.S. 271, 16 Wall.271, 21 L.Ed. 313 (1872) ADOPTED BY SOUTH CAROLINA SUPREME COURT in Young V. People's Bank (1931) PREVAIL over any lower court rulings and cases. In addition, these two cases were honored by Judge Nicholson in his ruling in the Deutsche Bank Nat'l Trust v Heinrich case, South Carolina, 9th Jud. Circuit 2013, which the Court found "clearly supports the notion that the Plaintiff must own the Note and Mortgage to foreclose on the property. The court stated, "it is clear that to have standing in this foreclosure case, Plaintiff must not only be the holder and OWNER of the original Note, but also the mortgage as well. Plaintiff's Complaint in this case fails to meet this criteria.

Plaintiff lacks standing to initiate and prosecute the foreclosure, and dismissal pursuant to Rule 17 (a) and Rule 12 (b) SCRCP is appropriate."

This ruling is based on foreclosure law from the UNITED STATES SUPREME COURT which trumps and prevails over any contrary state law which does not require the foreclosing Plaintiff to own both the NOTE and MORTGAGE at the time the foreclosure was filed. This ruling demonstrates the initial fallacy in the UCC, "I have the note and the mortgage follows the note theory."

More precisely, how can the Respondent state they have the original Note as the original NOTE would have to, not only, be held in the FANNIE MAE REMIC 2007-91 TRUST along with the MORTGAGE, but also, endorsed, negotiated, assigned, transferred and delivered to the trust within the 90 day time period required by the PSA GUIDELINES as required by New York Trust Law where the trust is located. The Note held by the Respondent is not endorsed or dated to the FANNIE MAE REMIC 2007-91 TRUST. THE APPELLANT'S NOTE IS SECURITIZED AND IS A NON-NEGOTIABLE NOTE. (Affirmative Defense X, #43)

Appellant claims all of Defendant/Attorney Sloan's Affirmative Defenses and Counter Claims which were ruled upon and not objected to as follows:

I. ANSWERS TO ALLEGATIONS in Respondent/Plaintiff's AMENDED COMPLAINT:

#5. Defendant Denies validity of MERS, Inc. to assign the mortgage or anything else to anybody and while denying that MERS, Inc. is the nominee for Quicken Loans, or for anyone else allegedly in the CHAIN OF TITLE of the ownership of her note and Mortgage in this matter

#7 Defendant denies that the assignment is valid to give the Plaintiff standing to bring this action.

#11. Defendant demands strict proof thereof of #11 in Plaintiff's Amended Complaint which states, "Plaintiff is current holder of said note, is in possession of the original version of said note along with all aforementioned

endorsements, and is the proper party in party to enforce said Note." NO PROOF WAS GIVEN AT TRIAL WHEN THE RESPONDENT, BANK OF AMERICA WITNESS, WAS ASKED WHERE IS THE ENDORSEMENT TO FANNIE MAE ON THE NOTE. IN ADDITION, THERE ARE NO DATES WHATSOEVER ON ANY ENDORSEMENT ON THE NOTE. (TRIAL TRANSCRIPT, PAGE 31 @ 4-13)

#12. Defendant denies that Plaintiff has standing to bring this action merely by pleading the corporate merger mentioned therein. It is necessary for the Plaintiff to prove that it still OWNED the Note and Mortgage in this action when the merger took place.

#14. Defendant denies a default or debt is owed to Plaintiff.

#15. Defendant denies the Plaintiff is the valid mortgagee as defined in the mortgage.

#18. Defendant denies there has been a default.

#22. Defendant denies receiving the right to cure letter.

II. AFFIRMATIVE DEFENSE ONE-----STANDING

#24 Defendant asserts that the Plaintiff lacks the standing needed to maintain this foreclosure action.

III. AFFIRMATIVE DEFENSE TWO-----ORIGINAL NOTE

#26. Def. challenges the authenticity of the document in the Plaintiff's file that purports to be the original Note. The original Note is required for the Plaintiff to maintain this action and the Plaintiff is not a Person Entitled to Enforce as required by 36-3-301, SC CODE OF LAWS to bring this foreclosure action. In addition, Defendant states the note held by the Plaintiff as been altered with a different large bar code attached and not removable on Page 1 covering and

destroying the number sequence of the Original Note bar codes rendering it impossible to verify as the Original Note. (Respondent/Plaintiff claims to have a "version of the original note" in the Amended Complaint).

IV. AFFIRMATIVE DEFENSE THREE-----INVALID ASSIGNMENT

#28. Defendant challenges the validity of the Mortgage Assignment in this case since it came from Mortgage Electronic Registration Systems, Inc., non-party and not listed on the Note.

V. AFFIRMATIVE DEFENSE FOUR-----UNSECURED DEBT

#30. The ownership of the Note and Mortgage have been separated in this action based on Mortgage being the name of MERS, Inc. who is never mentioned on the Note. The debt in this case is at best an unsecured debt, and therefore, the Defendant should be able to assert HOMESTEAD RIGHTS and/or owe the Plaintiff nothing since she has received a discharge of the debt itself in Chapter 7 bankruptcy. (in December 2011).

VI. AFFIRMATIVE DEFENSE FIVE-----LACK OF PROOF OF AGENCY RELATIONSHIP

#31. Plaintiff has failed to plead the agency relationship between MERS and QUICKEN LOANS, the original creditor as to the Mortgage Assignment.

VII. AFFIRMATIVE DEFENSE SIX-----LACK OF PROOF OF AGENCY RELATIONSHIP

#33. Plaintiff has failed to plead or show proof of agency relationship between the owner of the note and the Plaintiff who is nothing but the Servicer.

VIII. AFFIRMATIVE DEFENSE SEVEN-----LACK OF DAMAGES

#34. Plaintiff, as merely the servicer, has suffered no damages as the results of any alleged failure of the Defendant to pay. (No damages owed to Plaintiff were proved by the witness at the trial, only some out of pocket alleged expenses) (Trial Transcript, pages29 @20-25 and Page 30 @1-18)

IX. AFFIRMATIVE DEFENSE EIGHT.....LACK OF CAPACITY TO SUE

#37. Plaintiff has failed to plead its capacity to sue. Plaintiff has not mentioned what state it is incorporated in, nor have they stated whether they have the authority to maintain this proceeding in South Carolina.

X. AFFIRMATIVE DEFENSE NINE-----PLAINTIFF FAILED TO SHOW ITSELF AS OWNER OF THE NOTE OR PLEAD SO AT THE TIME THE ACTION WAS FILED, MOTION TO DISMISS, RULE 12-b-6 AND RULE 12-b-1.

#39. Plaintiff has failed to plead that it was the owner or the holder of the Note in this case at the time that the case was filed.

#40. The Court can DISMISS THE CASE under Rule 12-b-6, SCRCP, for failure to state facts sufficient where relief can be granted or under Rule 12-b-1, SCRCP as the Court would then lack subject matter jurisdiction.

XI. AFFIRMATIVE DEFENSE TEN-----NOTE IS NOT NEGOTIABLE INSTRUMENT

#42. The note in this case is not a negotiable instrument under the South Carolina UCC SC Code of Laws 36-3-301. Therefore, the NOTE MUST HAVE VALID ASSIGNMENTS TO BE TRANSFERRED. As this is NOT the case, the Plaintiff lacks standing to bring this action.

#43. The Note in this case is a "Fannie Mae" note, a note that is owned and securitized by Federal National Mortgage Association. In the undersigned first Answer, he included a letter from Fannie Mae, stating that their Notes are tied in with the Mortgages which makes the Note non-negotiable. Fannie Mae is not the mortgagor as required by the applicable case law.

XII. AFFIRMATIVE DEFENSE THIRTEEN-----ARTICLE 3 OF UCC DOES NOT APPLY SINCE THE LOAN HAS BEEN SECURITIZED

#45. Upon information and belief, the loan that is the subject of this matter has been securitized into a Fannie Mae securitized mortgage Trust.

(See. Designation #11, Securitization Report & Affidavit Jurat/December 3, 2012 and Designation #21, the Mortgage Compliance Investigators, "CHAIN OF TITLE ANALYSIS AND MORTGAGE FRAUD INVESTIGATION REPORT"/May 4, 2015)

#46. Assuming that No. 45 is true, the Note that is subject of this case is not a negotiable instrument under Article 3 of the UCC, but rather a security under Article 8 and there would need to be specific assignment of the Note.

XIII. AFFRIMATIVE DEFENSE FOURTEEN-----LACHES

#48. Defendant asserts the equitable defense of laches to bar the Plaintiff from recovery in this action.

XIV. AFFIRMATIVE DEFENSE FIFTEEN-----UNCLEAN HANDS

#50. Defendant asserts the equitable defense of UNCLEAN HANDS of the Plaintiff.

XV. AFFIRMATIVE DEFENSE SIXTEEN-----COUNTERCLAIM ONE---VIOLATION OF FDCPA OFFSET

#52. Defendant asserts that the Plaintiff has violated the Fair Debt Collection Practices Act, 15 USC 1692 et seq., "FDCPA", by misrepresenting the nature of the debt in communications with the Defendant when they are only the Servicer and not the true OWNER of her Note.

#53. THE FAIR DEBT COLLECTION PRACTICES ACT calls for $1,000 for each violation plus attorney fees when the debt collector, in this case, Plaintiff, misrepresents the nature of the debt, specifically who the debt is owed to.

XVI. RESERVATION OF DEFENSES

#55. Defendant reserves all defenses and/or counterclaims that may come to light at a later date not known now.

Appellant challenges the Invalid and VOID assignment by MERS, disputes the debt and any failed required payments under the Note as the Note is VOID as of September 2007 by not being delivered to the FANNIE MAE REMIC 2007-91 timely within the 90 days as required by the PSA GUIDELINES for securitized notes and the NEW YORK TRUST LAWS. And, no dates on Note's endorsements.

See, Glaski v. Bank of America, N.A. (CAL. 5th APP Dist. F064556, OP) Borrower may challenge the securitized Trust's Chain of ownership by alleging the attempts to transfer the deed of trust to the securitized trust (which was formed under New York Law) occurred after the Trust's closing date, (even though not a party or 3rd party), and TRANSFERS THAT VIOLATE THE TERMS OF THE TRUST INSTRUMENT ARE "VOID" UNDER NEW YORK TRUST LAWS. "Our interpretation, which allows, borrowers to pursue questions regarding the chain of ownership, is compatible with Herrera v. Deutsche Bank National Trust Co., supra, 196 CAL. APP. 4TH 1366. In that case, the Court concluded triable issues of material fact existed regarding alleged breaks in the CHAIN OF OWNERSHIP OF THE DEED OF TRUST in question. (Id at 0. 1378). THE APPELLANT ALLEGES BREAKS IN THE CHAIN OF OWNERSHIP OF HER MORTGAGE IN THIS CASE AND CLAIMS DAMAGES. Glaski v. Bank of America, Opn p.21 further, states, "Under New York Trust, every sale, conveyance or other act of the trustee in contravention of the trust is VOID. EPTL 7-24. THEREFORE, the acceptance of the note and mortgage by the trustee after the date the trust closed, would be 'VOID". See, Wells Fargo Bank, N.A. v. Erobobo (Apr 29, 2013) 39 Misc. 3d 1220 (A), 2013 WL 1831799, slip opn p. 8, see Levitin & Twomey, Mortgage Servicing, supra, 28 Yale J. on reg. at p. 14 fn. 35 (under New York Law, any transfer to the trust in contravention of the trust documents is VOID.). Relying on Erobobo case, a bankruptcy court recently concluded, "that under New York Law, assignment of the Saldivars' Note after the start up day is VOID ab initio. In Glaski, opn. P. 20, "Because the WaMu Securitized Trust was created by the Pooling and Servicing Agreement and that agreement establishes a closing date after which the trust may no longer accept loans, the STATUTORY provision provides a legal basis for concluding that the trustee's attempt to accept a loan

after the closing date would be VOID as an act in contravention of the trust document. The statutory purpose is "to protect trust beneficiaries from unauthorized actions by the trustee." (Turano, Practice Commentaries, McKinney's Consolidated Laws of New York, Book 17B, EPTL 7-24).

Since the FANNIE MAE REMIC 2007-91 TRUST did not obtain Deaner's loan, then the Respondent IS PRECLUDED FROM PROCEEDING WITH THE FORECLOSURE.

At trial, Deloney testified Fannie Mae is the investor for the loan, however, the Multiple Classes FANNIE MAE REMIC 2007-91 TRUST is the investor. Also, Deloney testified she had personal knowledge of the records kept, however, no WITNESS WAS AT THE TRIAL FROM COUNTRYWIDE where the records originated, therefore, the computerized sheets at the trial are hearsay sheets. (T.p.5-6). She also testified the Note was endorsed in blank and that Bank of America was in physical possession of the original Note, however, the note was questioned at the trial, as to "why was Fannie Mae not endorsed on the note?" (Trial T. p.7). The question being, "How can Bank of America be holding an original Note when the original Note and Mortgage and Assignments must be put in the FANNIE MAE REMIC 2007-91 TRUST as required by the PSA GUIDELINES AND NEW YORK TRUST LAWS? The Note, mortgage and assignment are all INVALID/VOID and fraud upon the Court. NO DATES were on the note.

She further testified that the MORTGAGE had been assigned by the original Lender to BAC Home Loan Servicing, LP formerly known as Countrywide Home Loans Servicing, LP (Trial T.p.9) However, the original Lender Quicken Loans, Inc. IS NOT named in the assignment as giving authority, and no proof was given at the trial of authority given by Quicken Loans, Inc. for anyone else to assign anything, therefore the assignment of the mortgage is INVALID. Also, see Reinagel v. Deutsche Bank National Trust Co. (US 5th Cir. 2013 F. 3d (2013) WL 3480207 at p.3., stating, "a borrower can challenge an assignment of his or her note and deed of trust if the defect asserted would VOID the assignment. And, p.3, following majority rule that an obligor may raise any ground that renders the assignment VOID, rather than merely voidable.

Therefore, Appellant Deaner IS NOT seeking to enforce the PSA, but rather, Appellant, "points to defects in the securitization process as EVIDENCE that neither TITLE, nor possession of the Note passed to the (party), the Respondent, Bank of America, who seeks to foreclose on Deaner's mortgage and real property. Thus the Appellant seeks only to use the breaches as EVIDENCE that the party seeking to foreclose IS NOT the OWNER of Appellant's Note, and Carpenter v. Longan, US SUPREME COURT ruling adopted by SC SUPREME COURT, Young vs. People's Bank would prevail. And now double collection by Seterus, Inc. is apparent with evidence of collection materials to Deaner.

The Appellant claims the MERS ASSIGNMENT IS VOID and states a CLAIM for relief. In Glaski, Opn, page 19, "Courts should proceed to the question whether the assignment was VOID."

THEN Deloney testified Deaner failed to make loan payments and the loan went into default under terms of the loan documents. (Trial T. p.9-10) However, no loan payments were owed as the original Lender and loan had been paid off by third party entities, and it is a matter of law, when a Fannie Mae loan goes into default the FANNIE MAE REMIC 20087-91 TRUST "insurance" pays off the loan in full. NO DEFAULT FROM THE FANNIE MAE REMIC 2007-91 TRUST HAS BEEN PROVEN BY RESPONDENT, BANK OF AMERICA, AND IS ONLY THE SERVICER, WHO HAS NO PROVEN DAMAGES IN THIS CASE BY ANY ALLEGED DEFAULT or REAL EVIDENCE OF A DEFAULT from the Trust at all.

The Appellant disputes Deloney testimony that the alleged loan was due and owing for the July 2010 payment and all payments due and owing thereafter. (Trial T. p.12). The loan payment is hearsay as no witness from Countrywide was at the Trial, nor THE MULTIPLE CLASSES from the FANNIE MAE REMIC 2007-91 TRUST were at the trial. In addition, the NOTE, MORTGAGE AND ASSIGNMENT ARE "VOID" due to violations of the PSA Guidelines and New York Trust Law requirements.

Deloney then testified that an acceleration letter dated August 16, 2010, (the "Acceleration Letter") was sent to Deaner by first class mail according the Bank of America's business records, (TrialT.p. 13-14, 20,24), however,

ACCELERATION LETTER: CONDITIONS PRECEDENT:

The Acceleration Letter was not originated or mailed by the LENDER OF RECORD as required in the Appellant's Mortgage #22. Bank of America, as Servicer only, NOT THE LENDER, originated and falsely and in blatant breach of the Mortgage contract mailed the Acceleration Letter on or after August 16, 2010 as testified by Mrs. Deloney at the trial. (Trial T.p.19) However, the INVALID and VOID assignment by MERS was recorded on 4/29/2011 SLANDERING Appellant's title as MERS never held the Note, and in addition, no dates or endorsements are on the Note to the FANNIE MAE REMIC 2007-91 TRUST. No proof was produced at the trial the Acceleration Letter was mailed, when it was mailed, where it was mailed from or who mailed the Acceleration as there was no signature on the letter. (TR.T.p18-24). Also, the Appellant was not given the full 30 days for cure as required in the mortgage agreement, nor did the Respondent/Plaintiff identify the true investor in the Acceleration Letter AS REQUIRED BY Servicing guidelines. The Trial Court erred by legislating from the bench and allowing the Plaintiff to breach the contract in multiple areas...this is fraud upon the Court.

***#22 OF Mortgage contract reads, "ACCELERATION REMEDIES. LENDER shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument. This is a clear violation of the Fair Debt Collections Practices Act, (FDCPA) 15 U.S.C. 1692. (SEE, Hart v. FCI Lender Services, Inc. (U.S. Court of Appeals, 2nd Cir., Aug. 12, 2015, P,11-23.) The RESPONDENT, BANK OF AMERICA, is only a servicer, and NOT THE LENDER, and was not the Lender of Record in 2010. The VOID assignment was not recorded until 2012, and was not authorized by the Lender, Quicken Loans, Inc.

The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the Notice is given to the

Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this security Instrument, foreclosure by judicial proceedings and sale of property. (Only "LENDER" is stated in #22). The Respondent/Plaintiff is not and WAS NOT the LENDER AT THE TIME OF THE ACCELERATION LETTER OR AT THE TIME OF THE ORIGINAL COMPLAINT. The Appellant no longer has a Lender as the note was fraudulently securitized without authorization from the alleged borrower. The Acceleration Letter was not mailed to the property address as required in theMORTGAGEand is in violation of #15 of the Mortgage, "any notice to Lender shall be given by delivering it or mailing it by first class mail to Lender's address stated herein, unless lender has designated another address by notice to borrower. "

There is no such notification to the borrower by Lender of notices to be mailed to another address or the borrower to the Lender of notices to be mailed to any address other than the property address in the mortgage concerning Notices.

Further the APPELLANT'S TRIAL ATTORNEY, Mr. Sloan's arguments are thoroughly covered in his CLOSING SUMMARY MAILED to the Special Referee as requested and as follows,

UNDER "III", DEFICIENCIES WITH THE RIGHT TO CURE LETTER (SAME AS "Notice of Intent to Accelerate" Letter) with the Right to Cure Letter as follows,

A. WAS THE RIGHT TO CURE LETTER SENT? 1. The witness claims that there is a bar code on the letter that was sent out, but the Plaintiff did not introduce this bar code into evidence to further their case, 2. The witness had no idea in her business records who sent the letter out or even where it was sent from, or when the letter was sent out from Bank of America. (Trial T. p18-24). Plaintiff has failed to prove that the letter should be deemed as sent per No.15 of the Mortgage simply on the testimony of the witness without proof as to where the letter was sent from, or who mailed the letter, or the bar code which Plaintiff neglected to bring to court or when it was actually mailed. However with a date of August 16, 2010 and a stated September 15, 2010 to cure was not a 30 day time element as required.

B. EVEN IF THE RIGHT TOI CURE LETTER WAS SENT, IT DID NOT COMPLY WITH REQUIREMENTS OF NO.22 FO THE MORTGAGE IN THAT IT DID NOT GIVE MS. DEANER 30 DAYS TO CURE THE ALLEGED DEFAULT. 1. The Plaintiff should be held in this EQUITY COURT to the "exact words of No.22 which provides the Borrower not less than 30 days to cure any default prior to acceleration of the note and Mortgage. Plaintiff has failed to show that the Defendant was given 30 days to cure the alleged default. As the Plaintiff testified that the letter was mailed first class mail, it would have taken at least one day (and probably much longer) for the letter to arrive to Ms. Deaner. No.22 (c) of the Mortgage states that, "a date, not less than 30 days from the date the Notice is given to Borrower. Therefore, the right to cure letter does not comply with No. 22 of the mortgage and, therefore, is invalid and therefore, there has been no valid acceleration of any alleged balance due.

D. PLAINTIFF IS NOT THE LENDER PER NO.22 OF MORTGAGE 1. No.22 of the Mortgage states that the Notice of the Right To Cure must come from the Lender. Plaintiff claims to be the successor in interest to the original Lender, Quicken Loans, Inc., and its nominee, MERS, Inc.. Quicken Loans , Inc. remained the Mortgagee of Record, the LENDER, for the mortgage via Aiken County Register of Deeds until April 29, 2011, after the right to Cure Letter was sent out by bank of America in 2010. Therefore, the Notice of Right to Cure Letter was not sent by the Lender of Record. In 2010 , the Right to Cure Letter needed to be sent by Quicken Loans, Inc., (or MERS, Inc., its nominee), not by Bank of America. It is just as INVALID for Bank of America to send the Right to Cure Letter as if they had executed the Assignment of Mortgage to itself. The Mortgage DOES NOT state that a Right to cure Letter can be sent by a servicer for the Lender. IT MUST BE SENT BY THE LENDER.

UNDER "IV" OF APPELLANT SLOANS CLOSING SUMMARY. PLAINTIFF HAS FAILED TO SHOW STANDING TO BRING THIS LAWSUTI AT THE TIME THAT THE SUIT WAS FILED 1. Plaintiff has failed to prove by preponderance of the evidence at trial that they had standing to bring this action at the time that the

suit was filed. Plaintiff had to establish standing at the time the suit was filed. There is no evidence the Plaintiff had possession of the original note at the time that the suit was filed. The original Lender was Quicken Loans, Inc.. There is an endorsement on the note from Quicken to Countrywide Bank, FSB. Subsequently, there is an "endorsement in blank" from Countrywide which Plaintiff relies on to maintain standing in this case. However, the endorsement HAS NO DATE. Plaintiff, in relying on one witness who reviewed its business records, could not state when the endorsements aforementioned were made. If the Plaintiff did not have an endorsement at the time that they filed the suit, whether or not they are the Servicer or not, they were not a PETE, a person entitled to enforce, per SC Code Ann. 36-3-301. SC Code Ann. 36-3-412 states that a maker, Ms. Deaner here, has a duty only to pay a PETE.

STANDING IS TO BE DETERMINED AT THE COMMENCEMENT OF THE SUIT. Lujan vs. Defenders of Wildlife 504 US 555, 570-1 n. 5 (1992) accord Young vs. People's Bank 163 SOUTH CAROLINA 57, 161 SE 2nd 324, 329 (1931). "Plaintiff's right to recovery depended on it's right at the inception of the lawsuit, and non-existence of a cause of action when the suit was started is a FATAL DEFECT, which cannot be cured by the accrual of a cause of action pending suit." In Young, our SOUTH CAROLINA SUPREME COURT adopted the holding of Carpenter vs. Longan 83 US 271, 16 Wall. 271, 21 L. Ed. 313 (1872 which held that the Plaintiff must OWN THE NOTE AND MORTGAGE AT THE TIME OF FILING TO FORECLOSE. Judge Nicholson adopted this as law of the case in Deutsche Bank National Trust Co. vs. Heinrich, 2011-CP-10-1060 (July 31, 2013) Plaintiff failed to show that it was a PETE at the time of the filing of this lawsuit with regards to enforcing the Note.

In South Carolina, the assignment of a mortgage alone does not carry with it an assignment of the Note. Hahn v. Smith, 157 S.C. 157, 164, 154 S.E. 112, 115 (1930), cited in Bank of America ET AL. V, Draper, No 2012-208806, Opinion No. 5140 (Ct. App. (June 5, 2013) and citing SC Code sec. 36-3-203 (b). So the

Plaintiff has failed to show standing at the time this lawsuit was filed. Recently, the Appellate Court of Florida in Joseph vs. BAC Home Servicing , LP (4th Dist. Court of Appeals, FLA, January 7, 2015 ruled directly on this issue that the Plaintiff needed to show standing as a PETE at the time the lawsuit was filed. Also, Plaintiff's witness testified that they are acting as the servicer for Federal National Mortgage Association, Fannie Mae. While Draper allows the servicer to bring a foreclosure, Plaintiff failed to establish an agency relationship with Fannie Mae, who is the real PETE in this matter as OWNER. In RE Veal, 450 BR at 920. The Appellant claims and states the real PETE is the multiple classes of the FANNIE MAE REMIC 2007-91 TRUST.

LASTLY IN Appellant's attorney Sloan's CLOSING SUMMARY DOCUMENT I DAMAGES TO PLAINTIFF, "exactly what damages has the Plaintiff, Bank of America, suffered since they are not the owner of the Note and Mortgage? Are the Plaintiff damaged by Ms. Deaner's alleged failure to pay principle and interest? The witness at trial, Ms. Deloney, testified that she did not know who is entitled to the payments, but did testify that Fannie Mae is the investor and not Plaintiff, Bank of America. Plaintiff witness said nothing about Bank of America being allowed to retain, "pocket", any of the principal and interest payments. Plaintiff has failed to show that is entitled to the damages of unpaid principal and interest since they have failed to show they have been damaged. Therefore, if the Court were to order judgment, it should order judgment just on the costs advanced by the Plaintiff (that they have not been reimbursed for) and not for any unpaid principal and interest.

THE APPELLANT HAS DENIED A DEFAULT AND CONTINUES TO DENY A DEFAULT as the Note has been paid by third party entities and by Trust insurance not applied to the "hearsay computer sheets" submitted at trial. See, Glarum v. LaSalle Bank National, 4th Dist. Ct. App. FL, (2011), NO.4D10-1472, per Curiam.

The computerized sheets submitted at trial were not originated by the Respondent's witness at trial and no evidence was given at trial of firsthand

knowledge by the witness as to the amounts being correct or had names or firsthand knowledge of who entered the data into BANA computer system. The computerized sheets were originated by Countrywide, and no witness from Countrywide was at the trial to verify the authenticity of the REDACTED computerized sheets. Where is the payoff entries from Fannie Mae and the Fannie Mae REMIC 2007-91 Trust insurance on the computerized sheets? The Respondent's witness for Bank of America, Ms. Deloney's testimony, constitutes inadmissible hearsay concerning any alleged indebtedness of Appellant Deaner. Further, Ms. Deloney DID NOT present any competent evidence at the trial to show damages in the amount of the quoted $141, 223.49. (Trial T. P15, #20), nor any competent evidence of property inspections made and other bogus entries added for the convenience of the Servicer. In addition, there was no testimony or evidence given to identify who, how or when the data entries were made into BANA computer system. Further, the entries on the REDACTED COMPUTER SHEETS began on 9/7/2007 when the alleged loan was with Countrywide, and there was no witness from Countrywide at the Trial or who how or when those entries were made. The Respondent's witness is relying on data supplied by Countrywide with whose procedures are not witnessed by the BANA witness, Ms. Deloney, at trial. Ms. Deloney's testimony could only relay that the data was accurate only insofar as it replicated the numbers derived from the company's computer system. Despite the possibility that Ms. Deloney's had intimate knowledge of how her company's computer system works, she had no knowledge of how that data was produced, and was not competent to authenticate the data, especially from Countrywide. Therefore, the REDACTED computerized alleged loan data sheets are inadmissible.

In addition, the witness later testified Bank of America HAD NOT SUSTAINED DAMAGES except for out of pocket expenses of taxes and insurance and inspection fees on the property. (Trial Transcript page 12, 1-14, and damages, pages 29, 30, 31,1-12). Therefore, this foreclosure should never have been filed, so all the other fees and litigation management charges are purposefully added to UNJUSTLY ENRICH the Servicer.

These expenses and/or damages would be incurred by contributory negligence of the RESPONDENT since the foreclosure is a wrongful and fraudulent foreclosure.

I. UNDER RESPONDENT'S "FACTUAL AND PROCEDURAL SUMMARY", on page 1 of Respondent's Initial Brief, it is stated "upon filing of the original Complaint", however, Respondent DOES NOT state the Respondent is the OWNER OF THE ORIGINAL NOTE AND MORTGAGE in the filed original Complaint, and does not prove in any way the Respondent actually held the note and mortgage at the time of the Original Complaint as there was no indication or affidavit proving the Respondent, Bank of America, had in its possession the original note and mortgage at the time of the filing of the Original Complaint. This proves a lack of standing at the filing of the original complaint and is a fatal defect.

See, Carpenter v. Longan, U.S. SUPREME COURT, 271, 16 Wall. 271 L. Ed. 313 (1872), stating plainly Plaintiff must OWN the NOTE and MORTGAGE; and adopted by Young v. People's Bank, SOUTH CAROLINA SUPREME COURT, (1931). In addition, Deutsche Bank Nat'l Trust Co. v. Heinrich, SOUTH CAROLINA 9TH Judicial Circuit , 2013, upheld Carpenter v. Longan and further stated MERS was not named on the note. Therefore, the MERS ASSIGNMENT is invalid and void as MERS never held the Note, and MERS is not a beneficiary nor has any legal authority to assign the note and mortgage. (Sumter County South Carolina, Court of Common Pleas, MERS, Inc. v. Girdavainis, Case No. 2005-CP-43-0278, 2006). However, because MERS assigned the Note which it never held or owned, it split the note from the mortgage (bifurcation) causing the note to become VOID and the MORTGAGE WORTHLESS, and in addition, the note and mortgage were split when the note was changed into a stock certificate in the Fannie Mae REMIC 2007-91 Trust. The Appellant DID NOT give authority to the original Lender Quicken Loans, Inc. to securitize her note into a stock certificate and a mortgage backed asset REMIC as it is a violation of the SOUTH CAROLINA CONVERSION LAWS which states, the note cannot be changed, altered or made

different. In Appellant's Mortgage Agreement, bottom of page 3, states, Borrower warrants and will defend generally the TITLE to the property against all claims and demands....."

Because SECURITIZATION was done without authorization, the note and mortgage are VOID as this action is a breach of contract and CONTRACT LAW, and the Respondent comes to court with "UNCLEAN HANDS". The DOCTRINE OF UNCLEAN HANDS, "precludes a plaintiff from recovering in equity if he acted unfairly in a matter that is subject of the litigation to the prejudice of the defendant." (Ingram v. Kasey's Assocs., 340 SOUTH CAROLINA 98, 107 n.2, 531 S.E. 2d, 287, 292 n.2, (2000). For the Respondent, Bank of America, and its counsel to continue to misrepresent to the Appellant that they are the OWNER OF THE NOTE AND MORTGAGE, and then selling to another Servicer a VOID NOTE is acting more than unfairly to the PREJUDICE of the Appellant in this case and constitutes damages and tort damages.

BELLISTRI V. OCWEN LOAN SERVICING, LLC, MO CT. OF APP. No. ED 91369 Opn. (3/3/2009), held that a note and MERS mortgage had been separated and the ASSIGNEE HAD NO STANDING TO FORECLOSE. Once the note and mortgage are split, the note becomes unsecured. The Respondent, Bank of America, LACKS A LEGALLY COGNIZABLE INTEREST in the Appellant's real property, and therefore lacks standing to seek relief. Unsecured debt discharged in December 2011.

It is clear, the Respondent must OWN the note and MORTGAGE at the time of the filing to foreclose. The IMPORTANT POINT is that the Respondent/Plaintiff has not alleged any right to enforce Appellant's Note either through the provisions of Article 3, in original complaint, or otherwise.

See, PFEIFER V. COUNTRYWIDE4 HOME LOANS, NO. A133071, FIRST DIST. Div Two, Dec.12, 2012 CAL App. 4th), servicing requirements are conditions precedent to the acceleration of the alleged debt or foreclosure.

Because the claim filed by Respondent (Plaintiff/Servicer), cannot be enforced under applicable State Law, the claim must be disallowed under U.S.C. 502 (1) (b).

(See, Kemp v. Bank of America, Sjolander deposition, Page 71, Recontrust robo stamped endorsements) (or anyone could have stamped names).
Mrs. Deloney did, however, testify that the original lender, Quicken Loans, Inc. was not mentioned in the assignment, but DID NOT give any evidence MERS acted on behalf of Quicken Loans, Inc. with authority to assign the Note and Mortgage. (pages 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, and 28).

BAC HOME LOAN SERVICING V. MAPP (2013-OHIO-2968, CT APP 12TH DISTRICT opn (7/8/2013), "we therefore reverse the trial court's finding that "BAC alleged lack of standing does not constitute a meritorious defense" and remand the case to the trial court for a hearing determining BAC's standing to sue, and correspondingly whether, the Trial Court had jurisdiction over the foreclosing proceedings. On remand the trial court must determine whether MERS had authority to assign the mortgage and/or the note as the nominee for Countrywide in light of the claim that Countrywide was no longer in existence when the mortgage was assigned to BAC…"a Common Pleas Court cannot substitute a real party of interest for another party if no party with standing has invoked its jurisdiction in the first instance. (No proof at trial MERS had authority from Quicken Loans, Inc. to assign/ MERS never held note to assign).
See, BAC Funding Consortium, Inc. V. JEAN-JACQUES, FLA DIST. APP, (2010), 28 So 3d 936 No.2D08-3553, "Plaintiff failed to offer, "evidence of a valid assignment, proof of purchase of the debt, or evidence of an effective transfer." At the trial, the Respondent DID NOT show evidence of a valid assignment, proof of purchase of a debt, or evidence of an effective transfer to the Fannie Mae REMIC 2007-91 Trust . The Note did not contain dates on endorsements, or the negotiation, assignment and transfer to the Fannie Mae REMIC 2007-91 Trust, or recordings of such in the Aiken County MESNE Conveyance recording office. Bank of America FAILED to ESTABLISH STATUS as LEGAL OWNER and holder of note and mortgage.

Trial Court confirmed the note submitted at trial was a copy, Page 7 @ 21,22. Appellant's counsel asked the Bank of America trial witness, "why was the note not endorsed to Fannie Mae?" No concrete answer was given, but a SPECULATION as to Bank of America being holder of the note, and as the WITNESS STATED SHE DOES NOT REVIEW INVESTOR HISTORY on the alleged loan . (Trial Transcript, pages, 31 @ 4-22). Selling of the servicing rights of an UNAUTHENTICATED AND VOID NOTE with no endorsements or dates of endorsements on the note or to the FANNIE MAE REMIC 2007-91 TRUST AND RUBBER STAMPED SIGNATURES is perpetrating fraud upon the Appellant in this case, the Trial and Appeals Court, and Appellant claims RICO, 18 U.S.C. 1961-1968 in this case.

The Court may dismiss a claim where the Respondent failed to state facts sufficient to constitute a cause of action, See, HAMRICK v. GMAC MORT.CORP, 370 S.C. 118; 634 S.E.2D 5 (CT.APP. 2006). Also, Ashcroft v. Igbal, U.S. SUPREME COURT, 2009, "must state a plausible claim for relief", and in Twombly, 550 at U.S. 555 (2007), the Plaintiff did not allege facts that "raise a right to relief above the speculative level."

In addition, the Respondent is NOT THE OWNER OF THE ORIGINAL NOTE AND MORTGAGE and is not the true party of interest in the case, and have now sold the VOID NOTE to a company named Seterus, Inc. in July 2015.

Seterus is now claiming to be the mortgagee to the Appellant's HOME INSURANCE COMPANY which is fraudulent as they are not the mortgagee in the Appellant's mortgage, nor is the Respondent, Bank of America, the mortgagee in the Appellant's mortgage, nor MERS as they cannot assign a note they never held and are merely a tracking entity, nor is MERS named in the Note.

SEE, MERS V. GIRVANIS, South Carolina (2006) adopting MERS V. Nebraska Dept. of Banking and Finance, NEBRASKA SUPREME COURT, 270 Neb 529; 704 N.W. 2d 784 (2005). In that case, MERS argued that "it does not own the promissory notes secured by the mortgages and has no rights to payments made on those notes."

Since MERS argued and prevailed on that position, it would be estopped to deny that it has ownership of Appellant/Defendant's Note now and could transfer that ownership to the Respondent, Bank of America. Because MERS admits that it has no ownership interest in promissory notes, it is impossible for MERS to have assigned Respondent/Plaintiff any interest in Defendant's Note by virtue of the Assignment of Mortgage and proves they ARE NOT a beneficiary.

Also, See, KANSAS SUPREME COURT, National Bank v. Kesler, 9/19/2009, Kan.Lexis 834, MERS as straw man lacks standing to foreclose, but so does original lender, although it was signatory to the deal.

The Lender lacks standing because ENTITLEMENT had to pass to the secured parties for the arrangement to legally qualify as a "security". The LENDER has been paid in full and has no further legal interest in the claim. Only the securities holders have skin in the game; but they have no standing to foreclose, because they were not signatories to the original agreement. THEY CANNOT SATISFY THE BASIC REQUIREMENT OF "CONTRACT LAW" that a Plaintiff suing on a written contract must produce a signed contract proving he is entitled to relief. In addition, NO CONSIDERATION WAS PAID BY THE RESPONDENT.

THE APPELLANT DENIES A DEFAULT DUE TO THIRD PARTY PAY-OFFS PRIOR TO FILING OF THE ORIGINAL COMPLAINT AND TENDER OF PAYMENT ON MARCH 31, 2015, JUSTIFYING a "discharge" in accordance with UCC 3-603 (B).

II. UNDER RESPONDENT'S, "STATEMENT OF FACTS", on page 3, Respondent states, Deloney (Bank of America witness at trial), testified BANA is the loan servicer and Fannie Mae is the investor for the alleged loan, which proves the respondent, Bank of America IS NOT THE OWNER OF THE NOTE AND MORTGAGE as required by Carpenter v. Longan, U.S. Supreme Court (1872) and adopted by Young v. Peoples National Bank, South Carolina Supreme Court (1931), and upheld by Judge Nicholson in Deutsche Bank Nat'l Trust v. Heinrich, South Carolina, 9th Circuit (2013).

Also, on page 4, there was no evidence given in the Trial Court of any loan due except computerized sheets which did not show third party payoffs. These computerized sheets are hearsay at most and provide no authentic proof and are INVALID as no witness from Countrywide was at the trial to verify.

On page 5, Respondent fails to state the Acceleration Letter was mailed after August 16, 2010 by Bank of America, the servicer, and not the LENDER AS REQUIRED in the Mortgage, and the assignment which is invalid was not even recorded until 4/29/2011. The Appellant's mortgage #22 requires the Acceleration Letter to be mailed by the LENDER. The Lender of Record filed at the Aiken County records at the time the Acceleration Letter was stated to be mailed, the original Lender was Quicken Loans, Inc. on record.

THE BURDEN OF PROOF IN THE TRIAL COURT WAS UPON THE PLAINTIFF, AND the Respondent/Plaintiff FAILED to prove STANDING TO FORECLOSE, OWNERS OF THE NOTE AND MORTGAGE, A PETE, DAMAGES OR A DEFAULT at trial. The MERS ASSIGNMENT IS INVALID AND VOID.

As a MATTER OF LAW, the APPELLANT CAN BRING UP STANDING AT ANY TIME DURING THE CASE.

On page 6, Respondent states "actual ownership of the note and mortgage is not required, however, the SOUTH CAROLINA SUPREME COURT IN YOUNG V. PEOPLE'S NATIONAL BANK upheld and honored the UNITED STATES SUPREME COURT RULING OF CARPENTER V. LONGAN, so it is only honorable for this Appeal court to do likewise in the Appellant's EQUITY case. The Respondent keeps saying South Carolina allows the servicer to prosecute a foreclosure action, however, for all the reasons set forth in the Appellant's Initial Brief and this Answer, the Respondent lacks standing to foreclose or has any entitlement to do so, or of a power of sale on the Appellant's real property.

Also, on page 6, the Respondent states the Appellant is judicially estopped from challenging the validity of the mortgage loan, however, judicial estoppel was not ruled on at the trial nor brought up by the Respondent, and the Trial Court

Judge ruled on the Appellant Counsel's Affirmative Defenses and Counterclaims, therefore , the Appellant has the right to bring before this Court the errors of the Trial Judge's decision and present to this court prevailing matters of law and supporting cases. To confirm the error of the judicial estoppel, the judicial estoppel cannot be effective if there was a mistake, and during the bankruptcy, the Appellant did not know Bank of America was only a Servicer and not her Lender. The Respondent FAILED to identify the true owner, Fannie Mae REMIC 2007-91 Trust, in the 2010 Acceleration Letter or prior to the Appellant.

The Servicer misrepresented themselves by never telling the Appellant they were not the Lender, and her alleged loan was changed into a REMIC , and her note was changed into a stock certificate, thus forever ending the Lender/Borrower relationship, a breach of the mortgage agreement and contract law.

In addition, in XV Affirmative Defense Sixteen-----Counter Claim One---VIOLATION OF FDCPA, the Respondent/Plaintiff violated the FAIR DEBT COLLECTION PRACTICES ACT 15 USC 1692 et seq., "FDCPA', by MISREPRESENTING the nature of the debt in communications with the Appellant/Defendant when they are only the servicer. The Respondent is not the true owner of the Note, and this was not communicated to the Appellant.

The Respondent misrepresented the nature of the debt, specifically who the debt is owed to. Had this been communicated prior to the Appellant's bankruptcy, then the true owner of the debt would have been named, not Bank of America, the servicer only. Therefore, any mistake made was due to the misrepresentations of the Respondent as who the alleged debt was owed. In addition, since there was NO LITIGATION in the Appellant's bankruptcy hearing pertaining to Bank of America, judicial estoppel does not apply. The elements of judicial estoppel in South Carolina require 5 areas to be followed and #4, the inconsistency must be part of an intentional effort to mislead the Court, which

would be absolutely untrue. The Appellant DID NOT mislead the bankruptcy Court. Bank of America's servicer misrepresented themselves to the Appellant as being who the debt is owed by not supplying vital information to the Appellant which could have been done prior to her bankruptcy filings and is in violation of the Fair Debt Collection Practices Act. Bank of America knew beforehand, the Appellant was filing bankruptcy and did not attend the hearing.

Also, again, the Respondent did not identify the true OWNER OF THE NOTE AND MORTGAGE in the ACCELERATION LETTER. In addition, again, no authority was ever given to the original Lender, Quicken Loans, Inc. either in the Note or in the Mortgage by the alleged borrower to SECURITIZE her loan changing the Note to a stock certificate in violation of South Carolina conversion laws. This is a MATTER OF LAW in this case.

The authorization to sell or transfer a note is not in any way the same as securitizing the note. To sell or transfer means to transfer the original note from one LENDER to another LENDER, not to change the Note to a STOCK CERTIFICATE, and CREATE A HIGH FINANCE REMIC VEHICLE TO MAKE TONS OF MONEY WITHOUT REVEALING THE TRUTH TO THE BORROWER. THIS IS THE SHAM IN THIS CASE...the misrepresentations, the cover ups, the refusal to supply the PSA documents to the borrower to prove the Note was never transferred to the Trust within the required 90 days, thus violating the New York Trust Laws where the FANNIE MAE REMIC 2007-91 TRUST is located,

VIOLATIONS OF THE SOUTH CAROLINA CONVERSION LAWS, UCC 3-420, a,b,c , AND ALL THE OTHER MATTER OF LAW STATEMENTS BY THE APPELLANT IN HER INITIAL BRIEF AND THIS ANSWER TO THE RESPONDENT' INITIAL BRIEF.

ADDITIONAL FACTS AND CLAIMS

THE Respondent's Note at trial was not even endorsed to Fannie Mae and was questioned by Appellant's Attorney Sloan, and further, the statement by the Respondent, page 7,Under Argument, that BANA sent a notice of acceleration to

Deaner in conformity with the terms of the mortgage is properly supported by the evidence produced at trial is FALSE AND FRAUD UPON THE COURT. BANK OF AMERICA, NA was not the LENDER of record as required in #22 of the Appellant's mortgage when the Acceleration Letter was stated by Deloney as being mailed in 2010. The Respondent makes a blatant false statement concerning this matter which is extrinsic and intrinsic fraud upon this court.

II.UNDER RESPONDENT'S ARGUMENT, I. "the Special Referee's finding of fact that BANA sent a notice of acceleration to Deaner in conformity with the terms of the Mortgage is properly supported by the evidence produced at trial", on page 7 is FALSE, without merit and the Trial Court erred by legislating from the bench and allowing a breach of contract by Respondent.

The Appellant's mortgage specially requires in #22, the Lender to mail the Acceleration Letter and BANA was not the Lender of Record in 2010 in the Aiken County Records and only Quicken Loans, Inc. was the Lender of Record, therefore, the Acceleration Letter of 2010 is in violation of the Appellant's mortgage requirements and is deemed null, void and worthless.

The Respondent's statement that the only order from which the Appellant is appealing is incorrect as the Motion to Reconsider Judgment is about the trial in its fullness. The Appellant is appealing the Trial Court Order and the Motions following the Trial as they are all in connection to case 2012-CP-02-00699.

As stated by Attorney Sloan, "I timely filed a Motion To Reconsider which stops the time to appeal. You have 30 days to appeal from when the Order was served on me. The appeal was timely." A Motion to Reconsider is the same as a Motion for a continuance of the initial Trial. In addition, the Appellant had 30 days from the receipt of the trail transcript in Rule 208 which was honored.

The Special Referee ERRED in finding that the evidence presented at the trial was sufficient to meet BANA's burden of proof that the acceleration was properly given to Deaner pursuant to the terms of the Mortgage.

Regardless, The Respondent, Bank of America as Servicer, DID NOT HAVE AUTHORITY to mail the ACCELERATION Letter to the Appellant as THEY WERE NOT THE LENDER OF RECORD IN AUGUST 2010 OR TO THIS VERY DAY. In the Appellant's Mortgage No. 22, the LENDER had to mail the Acceleration Letter. Anyone else would be in violation of the Appellant's Mortgage and Mortgage requirement.

IV. UNDER RESPONDENT'S II., " This court lacks jurisdiction to consider Deaner's issues regarding standing, securitization and her alleged "tender of payment" is without evidence or merit as Appellant has stated claims for relief.

The Appellant did bring a Motion to Special Referee Harvey to alter or amend the Judgment or Order pursuant to SCRCP 59 (e) concerning the Closing Summary Document, Counter Claims and Affirmative Defenses, and Motions for Reconsiderations and requested a ruling according to SCRCP 59 (E) on each individual items for the Appeals court.

THE MORTGAGE COMPLIANCE INVESTIGATORS CHAIN OF TITLE & MORTGAGE FRAUD INVESTIGATION (MCI Report) FACTS OF MERIT TO SUPPORT APPELLANT DEANER'S TRIAL COURT CASE

#28, With Quicken Loans, Inc. selling only the Deaner Intangible Obligation to Countrywide Home Loans Inc., the Deaner Tangible Promissory Note is no longer eligible for negotiation per Code 1976 36-3-203 (d), as it is now less than full value. In order to claim the full value of the Deaner Tangible Promissory note, a party would need to both be named as payee to the Deaner Tangible Promissory Note and have sole claim to the Deaner Intangible Obligation. With NO NEGOTIATION, TRANSFER, AND DELIVERY of the Deaner Tangible Promissory note evidenced through proper endorsement with Countrywide Home Loans, Inc. being named to the Deaner Tangible Promissory Note, a true "Assignment of Mortgage" could not take place....Code 1976 36-3-203. "Transfer of instrument; rights acquired by transfer (d) if a transferor purports to transfer less than the entire instrument, negotiation of the instrument does not occur. The Transferee obtains no rights under this chapter and has only the rights of a partial assignee."

#36, Under the Consumer Credit Protection Act title 15 USC chapter 41 1641 (f) any treatment of the SERVICER of the Deaner Intangible Obligation as an OWNER of the Deaner Intangible Obligation would be in violation of Federal Statute. The assignment is either a fraudulent claim or BAC Home Loans Servicing, LP fka Countrywide Home loans Servicing, LP's actions under the claim of ownership are in violation of Federal Law.

In #37-47, MERS, other misrepresentations and violations, as in #43, any electronic transfer of the Deaner Mortgage that may have been executed without recording within the Official Records of the Aiken County Register of Mesne Conveyance are VOID under the Uniform Electronic Transactions Act ((UETA), USC 15-96-1-7003 and 44, the assignment of the Deaner Mortgage is a conveyance if an instrument concerning real property which must be recorded to be acted upon. UNITED STATES CODE considers that anyone certifying that a real estate instrument has been assigned when in fact it has not is guilty of a felonious criminal act, Title 18, USC, Chapter 47 1021.

In #48-58, NO ONE CAN CLAIM THE RIGHT TO ENFORCE THE DEANER NOTE. Only contractual rights of the Deaner Note would have been transferred, without acquiring rights of enforcement as defined in Code 1976 36-3-203 (a), as there is a lack of agency relationship between the Deaner Note and Deaner Mortgage filed of Record, since a party cannot establish an agency relationship with as as-of-yet unnamed payee. In #51, the Deaner Mortgage filed of Record is UNPERFECTED, as one CAN NOT perfect an instrument to an as-of-yet-unnamed payee. The secured Mortgage requires the identity of the subsequent payee(s) to be on the face of the Deaner Note and the assignment of the Mortgage rights needs to be timely filed of Record in the Aiken Official Records.

In #52, the Deaner Note with an as-of-yet-unnamed payee is an incomplete instrument pursuant to Code 1976 36-3-115. In #54, in agreement with Code 1976 36 3-203 (c), even Mortgage Electronics Registration systems, Inc. (MERS) admits that "the debt can only be transferred by properly endorsing the promissory note to the transferee...source, MERS Procedural Manual.

In #55-56, Countrywide did not deliver the Note to an as-of-yet-unnamed payee and Countrywide no longer has the entire rights to the Deaner Note. Countrywide Home Loans, Inc. must have an entire interest in the Deaner Note for a negotiation to occur. In #57, Countrywide can no longer claim the entire rights to the Deaner Note...code 1976 36-7-501 and 36-3-203. In #58, whoever becomes the TRANSFEREE of the Deaner Note, through being named payee, WILL NOT ACQUIRE THE RIGHT TO ENFORCE THE DEANER NOTE.

In #59-64, THE TERMS OF THE DEANER MORTGAGE HAVE BEEN VIOLATED AND THE DEANER MORTGAGE IS UNENFORCEABLE. In #60, the Deaner Mortgage is governed by South Carolina Law. South Carolina Law and Federal Law recognize and REQUIRE PROPER RECORDATION OF ASSIGNMENT(s) TO TRANSFER OWNERSHIP OF THE DEANER MORTAGE.

In #61, it was previously explained in 25-47 how it is not possible for ownership of the DEANER MORTGAGE TO HAVE BEEN ASSIGNED to BAC Home Loans Servicing, LP fka Countrywide Home Loans Servicing, LP. In #63, interest in the DEANER MORTGAGE IS NO LONGER WITH QUICKEN LOANS, INC., yet NO ONE ELSE HAS ANY AUTHORITY TO ENFORCE ITS TERMS, while the Deaner Note is waiting for someone to acquire rights. The Deaner Mortgage is an UNENFORCEABLE CONTRACT, no longer tied to an obligation to enforce its contractual terms over. In #64, even if ownership of the Deaner Note and the Deaner Mortgage could be rejoined, the Deaner Mortgage is now an UNENFORCEABLE CONTRACT, NO LONGER TIED TO THE OBLIGATION TO ENFORCE ITS CONTRATUAL TERMS OVER and CAN NOT BE RETURNED TO BEING AN ENFORCEABLE CONTRACT WITHOUT CAROLYN S. DEANER'S CONSENT.

In #65-70, interest in the DEANER INTANGIBLE OBLIGATION CAN NOT BE REJOINED TO THE INTEREST IN THE DEANER NOTE OR THE DEANER MORTGAGE. In #65, MULTIPLE CLASSES of the FANNIE MAE REMIC 2007-91 TRUST (hereafter, FNMA-2007-91 Trust) have rights to the Deaner Intangible Obligation. MULTIPLE CLASSES OF THE FNMA 2007-91 Trust WERE NOT EACH AND ALL NAMED AS PAYEE on the DEANER NOTE and DO NOT NOW HAVE RIGHTS TO THE DEANER NOTE.

In #66, there is no possible way for the Deaner Note to be transferred to each and all multiple classes of the FNMA-2007-91 Trust for the partial rights to the Deaner Intangible Obligation that each owns. Interest in the Deaner Intangible Obligation and rights to the Deaner Note will remain separate.

In #67, because the RIGHTS TO THE DEANER MORTGAGE WERE SEPARATED FROM THE RIGHTS TO THE DEANER INTANGIBLE OBLIGATION, AND WILL REMAIN SEPARATE, THE DEANER MORTGAGE IS LEFT WITH NO WAY TO ENFORCE ITS CONDITIONS OVER THE OBLIGATION WHICH SHOULD BE EVIDENCED BY THE DEANER NOTE, MAKING THE DEANER MORTGAGE AN UNENFORCEABLE CONTRACT.

In #68-70, WITH INTEREST IN THE DEANER INTANGIBLE OBLIGATION STRIPPED AWAY AND NO WAY TO ENFORCE THE CONDITIONS UNDER THE DEANER MORTGAGE, THE DEANER MORTGAGE CONTRACT IS A NULLITY. There is no Intangible Obligation to enforce conditions over. And, Quicken Loans, Inc. retained no beneficial interest in the Deaner Intangible Obligation after selling the Deaner Intangible Obligation to Countrywide Home Loans, Inc. on or before the trust Closing Date of September 28, 2007. NO ACCEPTABLE ASSIGNMENTS TO THE DEANER MORTGAGE TO EACH AND ALL MULTIPLE CLASSES OF THE FNMA-2007-91 TRUST HAVE BEEN RECORDED INTO THE OFFICIAL RECORDS OF THE AIKEN COUNTY REGISTER OF MESNE CONVEYANCE. There is NO EVIDENCE OF NEGOTIATIONS OF THE DEANER NOTE TO EACH AND ALL MULTIPLE CLASSES OF THE FANNIE MAE REMIC 2007-91 TRUST. With NO PROPERLY RECORDED OWNER of the DEANER MORTGAGE, there is NO ONE TO ENFORCE THE CONDITIONS OVER TE DEANER INTANGIBLE OBLIGATIONS which is no longer evidenced by the DEANER NOTE. The DEANER INTANGIBLE OBLIGATION IS NO LONGER SECURED BY THE DEANER PROPERTY.

SEE AGAIN, Glaski v. Bank of America, N.A., CAL CT APP 5th Appellate Dist. Opn F064556, "hence, the securities issued by the trust are "mortgage backed". For purposes of this opinion, we will refer to such a trust as a

securitized trust". We conclude that a borrower may challenge the securitized trust's CHAIN OF OWNERSHIP by alleging the attempts to transfer the deed of trust to the securitized trust (which was formed under New York Law) occurred after the Trust's closing date.

Transfers that violate the terms of the Trust instrument are VOID under New York Trust Law, and borrowers have standing to challenge VOID ASSIGNMENTS of their loans even though they are not a party to, or third party beneficiary of, the assignment agreement. We therefore reverse the judgment. The validity of attempts to transfer Glaski's Note and Deed of Trust to a securitized trust is a fundamental issue in the appeal. One controversy presented by this appeal is whether this court should consider the December 9, 2008 assignment of the deed of trust, which is not an exhibit to SAC. Because the trial court took Judicial Notice of the existence and recordation of the assignment earlier in litigation, we too will consider the assignment, but will not presume JP Morgan actually held any interest that it could assign to LaSalle Bank. (See, Herrera v. Deutsche Bank National Trust Co. (2011) 196 CAL. Appeal 4th 1366, 1375 (taking judicial notice of a recorded assignment does not establish assignee's ownership of a deed of trust). (Also, on page 16, in order to maintain REMIC tax status in a Trust, the transfers must be made to the trust within the 90 days, Deconstructing Securitized trusts, supra, 41 Stetson L. Rev. at pp. 757-758)."

In addition, SEE, Wells Fargo v. Erobobo, New York Supreme 4/2013, a bankruptcy court recently concluded, that under New York Law, assignment of the Salvidar's Note after the start up day is VOID ab initio. In Article II, section 2.01 Conveyance of Mortgage Loans, the PSA requires that the Depositor deliver and deposit with the Trustee the Original Note, the original Mortgage and an original assignment. All this had to be done in 2007, however, the Assignment of Mortgage was done in April 2011. The Respondent, Bank of America, was not the Lender or OWNER or HOLDER of a VALID Note and Mortgage the date original complaint was filed, nor is today.

SEE, Bank of America, N.A. v. O'Donnell, NEW YORK SUPREME COURT, 62225-13 (2015), "Mortgage on date action commenced vested in Freddie Mac NOT Bank of America." Appellant Deaner Note and Mortgage on date of March 2012 when the original Complaint was filed by Respondent/Plaintiff, the Mortgage and Note were vested in the Fannie Mae REMIC 2007-91 Trust, not Bank of America.

In addition in the Bellistri v. Ocwen, MO, E. Dist. Ct App (2009), the mortgage was declared unenforceable and note declared unsecured, "When MERS assigned the Note to Ocwen, the Note became unsecured and the Deed of Trust became worthless.

Bifurcation, therefore, AS A MATTER OF LAW, the right to foreclose goes away when the Promissory Note is split from the Deed of Trust/Mortgage that it is supposed to secure. Appellant bankrupted all unsecured debt in 2011 and was discharged in December 2011.

The Appellant's Attorney Sloan stated the alleged loan was securitized in his Affirmative Defenses and Counter Claim and a Securitization Report with an Affidavit was e-mailed to Referee Harvey prior to the Trial. Referee Harvey ruled on the Affirmative Defenses and Counter Claim in his Order following the Trial.

VI. UNDER RESPONDENT'S III, "To the extent Deaner's argument concerning standing, securitization, and tender are preserved for review, they suffer from multiple fatal defects and are easily dismissed " is baseless and without evidentiary merit and contrary to the Appellant's evidence and proof in this case and well established law in both South Carolina and around the country. Appellant has ESTABLISHED proof and matter of law cases, revealing the TRUTH in her case and prevailing U. S. SUPREME COURT LAW IN FORECLOSURES. These claims and arguments have been already covered in this answer brief.

The Appellant's U.S. Supreme Court Case, Carpenter v. Longan (1872) adopted by South Carolina Supreme Court in the Young v. People's Bank PREVAILS over the Respondent's cases on pages 11, 12, 13, 14, 15 & 16 of Respondent Initial Brief. The Draper case is overcome, the SC Code Ann 36-3-301 does not apply to a non-negotiable note and nullified the answer on Page 13 concerning the testimony of "endorsed in blank" as the note is required to contain all endorsements, dates, negotiations, assignments, transfers and deliveries all the way from Quicken Loans, Inc. to the Fannie Mae REMIC 2007-91 Trust including the multiple classes in the Trust, and required by the PSA Guidelines and New York Trust Law as MATTER OF LAW in the Appellant's case.

The Respondent has not produced any evidence in the Respondent's case proving they are the OWNER of the Mortgage and Note as required by UNITED STATES SUPREME COURT ruling, Carpenter v. Longan, and SOUTH CAROLINA SUPREME COURT's adoption of the ruling in the Young v. People's Bank case, so what well established laws are above the UNITED STATES SUPREME COURT CASE ruling AND THE SOUTH CAROLINA SUPREME COURT CASE ruling?

Again, in Respondent's "B" on page 13, the judicial estoppel was not mentioned in the trial or thereafter, and judicial estoppel is not allowed if it was a genuine mistake. The Respondent, Bank of America misrepresented themselves to the Appellant as the Lender by not informing the Appellant prior to her bankruptcy that Fannie Mae was the investor and the MULTIPLE CLASSES FANNIE MAE REMICH 2007-91 TRUST WERE THE TRUE INVESTORS. Nor did the Respondent, Bank of America, inform the Appellant that her Lender/Borrower relationship had been destroyed by the securitization of the alleged loan.

The Appellant no longer has a Lender which is a breach of the Mortgage contract. In addition, again, the securitization of the Appellant's Note is a breach of contract as no authorization was given to Quicken Loans, Inc. or their successors in the Mortgage Agreement to SECURITIZE her note.

Again, when a Note is securitized it is changed into a stock certificate in violation of the South Carolina conversion laws as the Note cannot be changed, altered or made different, and UCC 3-420. The Respondent, Bank of America, has not supplied the Courts any authorization they are an agent for the Fannie Mae REMIC 2007-91 Trust and has any entitlement or beneficiary rights to foreclose on the Appellant's real property or authority for a power of sale.

In the Respondent's "C" on page 14, The Appellant has put before the Appeals Court, laws from South Carolina and around the country, to prove her case in Appellant's Initial Brief and now in this Answer. It seems all attorneys in South Carolina quote the Draper case as if it is the ruling case in SC, but the Draper's did not dispute the debt nor challenge the securitization and PSA Guideline violations or MERS invalid and VOID assignment. The NOTE in the APPELLANT'S CASE IS A NON-NEGOTIABLE NOTE and must follow the PSA Guidelines and New York Trust Law requirements as a MATTER OF LAW. The RULING CASE in SC is from the SOUTH CAROLINA SUPREME COURT, Young v. People's Bank (1931) which adopted the US SUPREME COURT case, Carpenter v. Longan.

Furthermore, the Draper case does not state the Servicer has legal entitlement rights or beneficiary rights to foreclose. The Glaski v. Bank of America, N.A. (Cal.5th App) ruled the Borrower does have the right to challenge the validity of the assignment, securitization and the note and mortgage as it involves the Appellant's CHAIN OF TITLE. The Respondent, Bank of America, has slandered the Appellant's title with the INVALID and VOID assignment by MERS and has separated the note from the mortgage by the assignment rendering the note VOID AND THE MORTGAGE WORTHLESS, and also, has split the note from the mortgage (bifurcation) in the securitization of the note. Any claimed LIEN IS UNPERFECTED. There is no authority given in Appellant's mortgage to change her note to a stock certificate in violation of conversions laws.

The burden of proof is on the Respondent/Plaintiff to prove legal entitlement rights and beneficiary rights to a power of sale on the Appellant's real property which has not been done. Rights to file a foreclosure does not warrant rights to

foreclose or give rights to a power of sale without legal rights, entitlement rights, mortgagee rights and beneficiary rights to do so. MERS is not named on the Appellant's Note, therefore cannot assign anything.

Unlike the Draper case, the Appellant is disputing the debt, claiming no evidence of a consideration paid, (MCI Report), Appellant's loan is securitized and SC Code 36-3-301 does not apply to the Appellant's non-negotiable note.

In addition, the Appellant challenges the authenticity of the original note as the note is no longer a Note, but a stock certificate, Rule 1003, SCRE, SC Code 36-1-201 does not apply as Appellant's note is non-negotiable, and the APPELLANT DISPUTES THE TRANSFERS AND MERGERS. Also, Appellant disputes any and all damages claimed by the Respondent and disputes this wrongful foreclosure action in full.

The UNITED STATES SUPREME COURT CASE, CARPENTER V. LONGAN PREVAILS OVER THE DRAPER CASE, AND THE SOUTH CAROLINA SUPREME COURT CASE, YOUNG V. PEOPLE'S BANK PREVAILS OVER THE DRAPER CASE and lower court cases. The Respondent, Bank of America, must OWN THE NOTE AND MORTGAGE IN ORDER TO FORECLOSE ON APELLANT'S REAL PROPERTY. The Respondent, Bank of America, must prove a debt is owed by producing the PSA Guidelines and the other documents in the Trust, as put in a Motion to the Special Referee, as the debt has been paid by third party entities and the Trust insurance when a loan goes into default, and by "tender of payment".

In addition, how can Respondent, Bank of America, testify at the trial they were holding the original note as stated by the Respondent on Page 13 of their Initial Brief (Trial; T. p.7) when the original note had to be endorsed to the Fannie Mae REMIC 2007-91 TRUST, negotiated, endorsed, dated, assigned, transferred and delivered to the Trust within 90 days in COMPLIANCE with the PSA Guidelines and the New York Trust Law, or the NOTE is VOID? The Respondent could not be holding the original note, and since they state they are, then the

note was never negotiated, endorsed, dated, assigned, transferred and delivered to the FANNIE MAE REMIC 2007-91 Trust in clear VIOLATION of the PSA GUIDELINE REQUIREMENTS rendering the note VOID/Mort. Wortless. (Glaski v. Bk of Am., N.A., CAL 5th Dist. App., 2013), "not voidable, but VOID."

In Respondent's "D" on page 16 of their Initial Brief, As far as "Tender of Payment", the Respondent needs to study the extensive legal documents presented to the Special Referee and are filed in her case concerning Tender of Payment. The Appellant has asked the Special Referee to present any legal laws proving the International Promissory Note (hereafter, IPN) is illegal and has asked the same from Bank of America. No one has yet to prove the IPN is illegal in any way. The presentment of the "tender of payment" was executed in compliance with South Carolina Law. (See, Aldrach v. South Carolina Light, Power & Railways Co., 101 S. C. 32, 85 S.E. 164 (1915), "to constitute a good tender, the law requires payment to be money, for the proper amount due, made to the proper person at the proper place." The appellant complied with this case when sending in the "Tender of Payment" to Bank of America.

IN ADDITION, and to overcome State cases, SEE, U.S. SUPREME COURT, FDIC V. PHILDELPHIA GEAR CORP, 476 U.S. 426, 442 (1986), "PROMISSORY NOTES typically are negotiable instruments, and therefore, readily convertible to CASH, unconditional and equivalent to MONEY." The appellant's alleged debt has been paid in "readily convertible cash" and declined by the Respondent, Bank of America, so the alleged debt is DISCHARGED according to UCC 3-603.

AS A MATTER OF LAW, the debt is discharged according to UCC 3-603 and the International Promissory Note is not a SHAM, but is called a SHAM without any legal proof whatsoever by attorneys who want to continue to charge their clients MONEY to continue their cases endlessly for MONEY.

The INTERNATIONAL PROMISSORY NOTE IS MONEY AND IS ACCEPTED BY THE UNITED STATES, A CORPORATION, AS MONEY. As a MATTER OF LAW, the debt must be discharged. Under UCC 3-311, 673, 3111, The IPN Instrument can be tendered in full satisfaction of the claim regarding the alleged mortgage debt payment.

The IPN presented for a special deposit is a STATUTORY LEGAL TENDER obligation of the UNITED STATES and is in accordance with the "Public Policy" ESTABLISHED in HJR-192 of June 5, 1933, Chapter 48, 48 Stat. 112-113, Public Law 73-10, US SUPREME COURT CASE, "GUARANTY TRUST COMPANY OF NEW YORK V. HENWOOD et al., (7/13/1938) 307 U.S. 247 (FN3), 31 U.S.C. 5118 (d)(2) an in accordance with 31 U.S.C. 5103 and 18 USC 8, such instruments are "National Bank Currency" and thereby "Coin Currency of the UNITED STATES" by STATUTORY DEFINITION. If a bank REFUSES a properly rendered instrument, IPN, the debt is discharged PURSUANT to UCC 3-603 (B), F.S., 673, 6031 and all other STATE'S debt discharge statues.

The Appellant also complied with Tolbert v. Fouche, 129 S.C. 338, 123 S.E. 859 (1924).

The International Promissory Note (IPN), for alleged MORTGAGE DEBT PAYMENTS, is also known as, "the Banker's Acceptance Note, and is the same method of payment as the FEDERAL RESERVE NOTE and has the SAME FORCE AS A FEDERAL RESERVE NOTE. It has the same effect as a BANK CHECK, CASHIER'S CHECK, MONEY ORDER OR MONEY. The IPN is not just a Promissory Note that banks may not accept. The IPN is drawn in particular to the United Nations (UNCITRAL) Convention on International Bills of Exchange and International Promissory Notes, article 2-10, 12, 13, 36, 39, 46, 47 and 55. The IPN constitute Makers, the Appellant/Defendant in this case, UNCONDITIONAL PROMISE TO PAY ON DEMAND/AT SIGHT. This instrument is redeemable in lawful currency of exchange in accordance with 12 U.S.C. 411. The IPN is accepted by the BANK CFO as the legal tender that it truly is since 1933.

The IPN IS CASH WHEN DEPOSITED DOLLAR FOR DOLLAR BY THE FEDERAL RESERVE. The IPN is a LEGAL CURRENCY in the UNITED STATES AND IS CASH MONEY, AND IF REFUSED THE DEBT IS TRULY DISCHARGED. The IPN was sent by Fed-X and received by Bank of America's CFO on March 31, 2015.

The DEBT IS DISCHARGED as an "unconditional and equivalent money" payment was tendered to the Respondent/Plaintiff, Bank of America on March 31, 2015.

All U.S. currency is only a promise to pay a debt, just like a Federal Reserve Note Dollar is only a promise to pay due to there not being any gold or silver to pay debts. Everything is a debt instrument and everything constitutes DISCHARGE, and when the Appellant/Defendant sent by Fed-X the IPN to the Bank of America, CFO, the Appellant presented payment, UCC 3-501 thru 505, & UCC 3-601-603, then the debt has been discharged.

Since U.S. SUPREME COURT Rulings prevail,(U.S. Supreme Court, FDIC V. PHILDELPHIA GEAR CORP., 1986, therefore, a cash "Tender of Payment" was made to the Respondent/Plaintiff in "Good Faith" and the DEBT IS DISCHARGED according to UCC 3-603 and as complied with the SOUTH CAROLINA COURT OF APPEALS, Anderson v. Citizens Bank (1987) case.

CONCLUSION

Based on "Having no specific properly-secured owner of the limited beneficial interest in the Deaner Note, there is no way to enforce the stripped away Deaner Intangible obligation through the Deaner Note. In this ANSWER, the CONCLUSION IS CLEAR, the Respondent, BANK OF AMERICA, IS NOT and has not established status of the beneficiary, the mortgagee, or established any agency relationship or entitlement authority to foreclose on the Deaner real property, and this constitutes a wrongful foreclosure action by the Respondent. THEREFORE the Appellant moves on this honorable Court to provide relief to the Appellant in this case.

See, cited in Campbell V. Carr & Glover, Crowder v. Crowder, 246 S.C. 299 301, 143 S.E.2d 580,581 (1965),"It is now well settled that this court has jurisdiction in appeals in EQUITY cases to find the facts in accord with our view of the preponderance or greater weight of the evidence, in the absence of a verdict by a jury; and may reverse a factual finding by the lower court in such cases when

the appellant satisfies this court that the finding is against the preponderance of the evidence." , AND,

INGRAM, 340 S.C. at 106, 531 S.E. 2d at 291, "in order to be a defense, the inadequacy must be accompanied by other inequitable incidents, or must be so gross as to show fraud." Id, "When the accompanying incidents are inequitable and show bad faith, such as concealment, misrepresentations, undue advantage, oppression on the part of the one who obtains the benefit, or ignorance, weakness of mind, sickness, old age, incapacity, pecuniary necessities, and the like, on the part of the other, may easily induce a court to grant relief, defensive or affirmative."

When the Appellant first signed the Mortgage Note and Mortgage, the fact the Promissory Note is a CASH item was concealed from her which made the transaction an exchange and swap of monies. There was NEVER A LOAN. Quicken Loans, Inc. never used its money, nor Countrywide. The creator of the Promissory Note was the alleged borrower, and the borrower was the first funds transferor, making the borrower the true creditor. In addition, the Note is registered in the UCC 1 Financing Statement with Appellant, Deaner, as the creditor, not the debtor. The Appellant has confirmed these findings with the case, FDIC v. Philadelphia Gear Corp., 476 U.S. SUPREME COURT, 426, 442 (1986), "Promissory Notes typically are negotiable instruments, and therefore, readily convertible to cash, unconditional and equivalent to MONEY." It is a matter of Operative Law for the banks to deposit promissory notes, however, this was concealed from the Appellant by the Lender, Quicken Loans, Inc., all during the loan process and thereafter, and Quicken Loans as well as Countrywide's intentions to securitize the Note into a REMIC high finance mortgage backed security without the knowledge of the borrower. These are acts of concealment and misrepresentation by the original Lender, Quicken Loans, Inc., and their successors. Appellant Deaner claims RICO, especially now that the Respondent, Bank of America, has sold the VOID NOTE and VOID ALLEGED LOAN TO SETERUS, Inc. who are now attempting to collect a debt from Appellant Deaner also.

I suppose Seterus can sell the VOID note to the next Lender and so on and so forth like a Ponzi scheme. These are oppressive acts by the Respondent. Quicken refused to supply borrower a copy of her deposit slip.

The Appellant's Mortgage, page 2, (D) "Lender" is Quicken Loans, Inc. so the MATTER OF LAW and the only beneficiary is the Lender, which is Quicken Loans, Inc. and no one else is named ON THE Note or otherwise. MERS is merely a nominee for the Lender with no beneficiary rights TO ASSIGN and has not lent money. In fact, Quicken Loans, Inc. has not lent any money, and BANK OF AMERICA has not lent any money pursuant to the Mortgage or paid any considerations, so how can there be a loan or default of a loan WHEN THE ALLEGED LOAN IS NON-EXISTANT? There is no proof of consideration paid by the Respondent, Bank of America, or proof of any monetary losses except as incurred by contributory negligence, or any damages whatsoever. The Respondent, Bank of America, has not then suffered any direct, ascertainable monetary loss and this is a wrongful foreclosure action perpetrated upon the appellant.

Finally, the Appellant alleges that the transfer of rights to the FANNIE MAE REMIC 2007-91 TRUST is IMPROPER (VOID), thus Respondent consequently lacks the legal right to either collect on the alleged debt or enforce the underlying security interest (Naranjo, supra 2012 WL 3030370, at p.3) S.D. CAL 7.21.2012)

Like Naranjo, Appellant Deaner has alleged that the entity claiming to be the noteholder, the Respondent, Bank of America, IS NOT THE TRUE OWNER OF THE NOTE. In Appellant's Initial Brief and this Answer, Appellant Deaner has alleged specific grounds for her theory that his foreclosure action is not conducted at the direction of the correct party. The Appellant claims and challenges this wrongful foreclosure action based on SPECIFIC allegations that an attempt to transfer the mortgage was VOID. In addition, material facts exist regarding alleged breaks in the CHAIN OF OWNERSHIP OF THE MORTGAGE in question. This issues and material facts exist because Bank of America FAILED to establish it was the beneficiary under the mortgage.

Also, the Respondent failed to establish it was beneficiary at the filing of the original Complaint, and at the trial, A FATAL DEFECT.

Although, Appellant presented "Tender of Payment", and was refused by Bank of America, causing the debt to be "DISCHARGED" as a MATTER OF LAW, under UCC 3-603, tender is not required where a foreclosure sale is VOID, rather than voidable such as when a plaintiff (Appellant in this case) proves that the entity lacked the authority to foreclose on the property. (See, Lester v. J. P. Morgan Chase Bank, supra T.Supp.29 2013 WL 633333, P.8); 4 Miller & Star, CAL. Real Estate (3 d. ed. 2003) Deeds of Trust, 10:212, p. 686, See generally, Annotation, Recognition of Action for Damages for Wrongful Foreclosure – Types of Action (2013) 82 A.L.R. 6th 43 (claims that a foreclosure is "wrongful" can be tort-based, statute based, and contract based). The Respondent's attempt to foreclose upon a mortgage in which it has no legal or equitable interest is WITHOUT FOUNDATION IN LAW OR FACT.(U.S.Bank,N.A. V. Emmanuel,NYSUPREME 2009)

Because Appellant Deaner has diligently stated a CLAIM FOR RELIEF in this Answer to the Respondent's wrongful foreclosure action, REVERSAL IS REQUIRED once a Court determines a CAUSE OF ACTION was stated under any legal authority.

WHEREFORE, Appellant Deaner requests this Honorable Court the following relief:

A. Dismissal of this case with prejudice; quiet title, and declaratory relief

B. Cancellation of the mortgage and instruments that is record in this case;

C. Judgment for Appellant/Defendant under the FDCPA for $1,000 for each violation of same plus attorney fees for trial court and this action;

D. Costs of this action, attorney fees, and unfair business practices;

E. Any other relief that this Court deems prudent, just and proper due to oppressive damages to Appellant's health, well being and property during this case and trial .

RESPECTFULLY, SUBMITTED, this 7th day of October 2015,

CAROLYN S. DEANER

PRO SE

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NORTH AUGUSTA (BELVEDERE), SC 29841

PRO SE/APPELLANT

(706) 399-5496

CERTIFICATE OF SERVICE

RECEIVED

OCT 13 2015

SC Court of Appeals

I hereby certify that the foregoing APPELLANT's MOTION TO EXTEND PAGES TO THE ANSWER TO THE RESPONDENT'S INITIAL BRIEF AND DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL has been served upon the parties in this action by mailing a copy thereof, postage prepaid to the following:

Janiere E. Taylor, Robert A. Muckenfuss, and Trent Grissom

MCGUIREWOODS LLP

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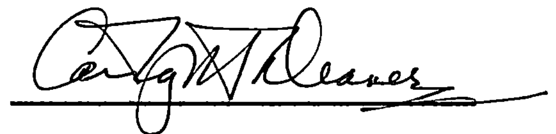
This the 7th day of October 2015



Carolyn S. Deaner, Pro Se

(706) 399-5496

OCTOBER 7, 2015

TO: The Honorable Jenny Abbott Kitchings

South Carolina Court to Appeals

1015 Sumter Street

Columbia, SC 29201

RECEIVED
OCT 13 2015
SC Court of Appeals

RE: Bank of America, N.A. v. Carolyn S. Deaner

Appellate Case No. 2015-001119

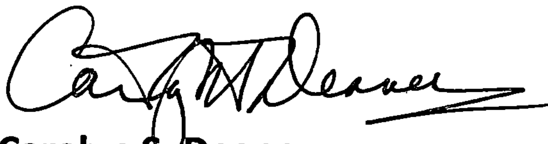
Dear Ms. Kitchings:

Please find enclosed an original copy of the Appellant's ANSWER To Respondent's Initial Brief to file.

In addition, I am serving the counsel for the Respondent a copy.

Thank you for your time and consideration in this matter. Please contact me should you have any questions or need more information.

Cordially,



Carolyn S. Deaner

Pro Se

cc: Janiere Taylor, Charlie Gwynne, Esq.

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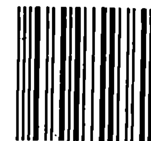

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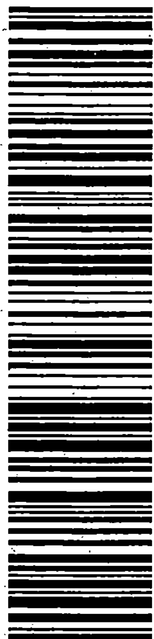

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COLUMBIA, SC 29201

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