

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

**RECEIVED**

SEP 29 2016

SC Court of Appeals

-----  
APPEAL FROM YORK COUNTY

Master In Equity

S. Jackson Kimball, III

Case No. 2014-CP-46-2394

-----  
APPELLANT CASE NO. 2015-002253  
-----

Nationstar Mortgage

Respondent,

V.

Norman D. Lowery

Appellant.

(INITIAL) BRIEF OF APPELLANT

Norman D. Lowery

309 Scoggins St.

Rock Hill, South Carolina 29730

TABLE OF AUTHORITIES

Cases:

N/A

Federal Statutes:

|  |              |
|--|--------------|
| 5th Amendment to the Constitution of the United States-----  | 16,24        |
| 14th Amendment to the Constitution of the United States----- | 16,24        |
| 12 CFR 1024.33 (c)-----                                      | 13,14        |
| 12 CFR 1024.35 -----   | 10, 11       |
| 12 CFR 1024.35(a)-----                                       | 14           |
| 12 CFR 1024.35 (b)-----                                      | 7, 10, 11    |
| 12 CFR 1024.35 (d) (e)-----                                  | 10           |
| 1026.36(c)(1)-----   | 10, 11       |
| 12 CFR 1024.38(a)-----                                       | 13           |
| 12 CFR 1024.38(b) -----                                      | 9            |
| 12 CFR 1024.38(b), (1)-----                                  | 13           |
| 12 CFR 1024.38 (b), (5)(a)-----                              | 13           |
| 12 CFR 1024.38 (c), (2)-----                                 | 8, 9, 10, 13 |
| 12 CFR 1024.39(a)-----                                       | 11, 12       |
| 12 CFR 1024.39(b)-----                                       | 12, 13       |
| 12 CFR 1024.40(a)-----                                       | 12, 13       |
| 12 CFR 1024.40 (a), (1)-----                                 | 11           |
| 12 CFR 1024.51-----  | 11           |
| 12 CFR 1026.36(c)-----                                       | 8            |
| 12 CFR 1026.36 (c), (1)-----                                 | 8, 12, 14    |
| 12 CFR 1026.41-----  | 9            |

State Statutes:

|                             |    |
|-----------------------------|----|
| Rules of Procedure 25c----- | 14 |
|-----------------------------|----|

**Statement of Issues on Appeal**

1. At the absolute most, start to finish, a Contested Foreclosure action in South Carolina "Due Process" may last nine (9) months opposed to the approximately twenty-nine (29) months from May 30 2013 to September 2015 for a single Master in Equity Hearing which lasted maybe 20 minutes' announcement to judgement.
2. Why did PPH Mortgage Corp/Rogers Townsend & Thomas PC, unjustifiably "Delay" the case from going forward for a total of fourteen (14) months beginning July 17 2014 to September 23 2015 when it was ready for a Master in Equity Hearing in less than 30 days from Defendants Notice of Dispute Response to the Court.
3. When combined with a previously dismissed case by the Master in Equity, due to failure to move forward with the 2013 case (Dismissed by Court Order) combined with current active Foreclosure proceedings 2014 in a state of "Delay" for and estimated twenty-nine (29) months (est. 870 days) with:
  - a. No less than three full & partial (3) foreclosure filings/re-filing's, two of which occurred during the Delay of Court Case 2014CP4602394.
  - b. At least five (5) Plaintiff/Respondent lawyers.
  - c. At least four (4) transfer of mortgage servicers, three (3) of which occurred during the 2014-2015 Delay of Court Docket 2014CP4602394.
  - d. Two (2) changes to the "Note" holder (2014-2015).
  - e. Two (2) Master in Equity Hearings:
    - (1) The first one (August 25, 2015) hearing only the Appellant was present for; Missing was Master in Equity and Respondent/Substitute Respondent.
    - (2) Re-scheduled Master in Equity Hearing: Defendant and Master in Equity Present, Original Respondent not present. Substitute Respondent was present.
4. Why was the Appellant notified several days after the scheduled August 25, 2015 on/about August 28 2015) Master in Equity Hearing, the hearing was to be re-scheduled?
5. Why is there no notation in the Court Case File (Court Docket No. 2014CP462394 Plaintiff PPH Mortgage vs. Appellant N. D. Lowery) as to why the Master in Equity Hearing scheduled on August 25, 2015 was not held?
6. During the re-scheduled (September 23, 2015) Master in Equity Hearing:
  - a. Why did Master In Equity announce the Case as Court Docket No. 2014CP462394 PPH Mortgage Corp. vs Norman D. Lowery as Nationstar Mortgage Plaintiff vs. Defendant N. D. Lowery:

(1) All Court Documents possessed by the Appellant and Court Case No. 2014CP462394 possessed by the York County Clerk of Court have only PHH Mortgage Corp. /Attorney of Record Laura Baer for the Plaintiff.

(2) Defendant Norman D. Lowery was only prepared to defend himself from Plaintiff PHH Mortgage Corp. and had no fore-warning the Original Plaintiff was being substituted.

b. For Court Case Number 2014CP4602394 why there is absolutely no record or document with Substitute Respondent prior to the Master in Equity Hearing?

7. How can Nationstar Mortgage LLC be a substitute for Plaintiff PHH Mortgage in a foreclosure case in which:

a. The validity of the Affidavit of Debt (incorporated the body of the Summons/Complaint) and is contested via "Notice of Dispute" with:

b. Seventy-three (73) pages of evidence filed by Appellant August 21 2014.

c. Required action by the Master in Equity (requested by the Defendant)

d. Validation of Debt actions on hold by PPH Mortgage

8. Defendant after the Master in Equity Hearing on/about 28 September 2015, York County Clerk of Court posted The Plaintiffs Record of Hearing Affidavit of Verified Statement of Account, Deficiency Judgement Waived, Dated August 18, 2015, Plaintiff Nationstar Mortgage LLC vs Norman D. Lowery Case No. 2014CP4602394, why was this sworn document:

a. Not shared with the Appellant and?

b. Was it used as justification to foreclose in the Master in Equity hearing and /or?

c. Sent to The Veterans Administration as part of establishing justification for sale of the property?

d. Used as authority to schedule property appraisal or?

e. Used as source document used to schedule the Master in Equity Hearing or?

f. Used to initiate sale of the property prior to any hearing?

9. Was the outcome of the Master in Equity Hearing pre-determined prior to being held?

10. Aug 24 2015 Appellant received notification from Department of Veteran Affairs who stated in writing "Your mortgage company has notified our office there is a Foreclosure sale scheduled for your VA Guaranteed Loan by Nationstar Mortgage LLC", How can this happen prior to the initial hearing scheduled on August 25 2015?

11. On June 17, 2015, why did PHH Mortgage Corp.'s Legal Representative re-file Foreclosure Documents (Sworn Affidavit Justifying the Action is missing) as Order of Reference, while it has had submitted to the Court Summon/Complaint on July 25 2014 to initiate foreclosure action?

12. June 23, 2015 PHH Mortgage Corp. filed Motion to Order to refer PHH Mortgage Corp. (Plaintiff) vs. Norman D. Lowery (Appellant) Docket No. 14-CP-46-2394 to Master in Equity to:

a. Take Testimony and Direct Final Judgement, how can this be done without a valid – uncontestable Affidavit to accompany said Order.

b. Aside from the fact PHH Mortgage Corp has already submitted Foreclosure action on July 17 2014 to which Appellant responded and contested the Affidavit.

13. Master in Equity accepted Plaintiffs (PHH Mortgage/Nationstar) submissions and/or actions to Master in Equity's Court, why wouldn't Master in Equity act or even acknowledge any document or evidence submitted by the Appellant Norman D. Lowery opposed to closing the case file of submitted evidence and Directing "This is what I'm going to do, who has the note?":

14. During the Delayed foreclosure process, February 18 2015, Appellant/Norman D. Lowery requested Court action to dismiss with Prejudice, York County Court Case No. 2014CP4602394/2014LP4600567 Plaintiff (PHH Corp/Rogers Townsend and Thomas) and Court Action.

15. Why wasn't the refiled Foreclosure documents by PHH Mortgage Corp, on June 17 2015, as a minimum, Annotated with a Court Case Number different than the Court Case No. 2014CP4602394 by the York County South Carolina Clerk of Court?

16. Why do re-filed Foreclosure documents with PHH Mortgage Corp. as the Plaintiff have Rogers Townsend & Thomas, PC, Inter-office case number for Nationstar "135225-03514" starting on/about, June 17, 2015 when all documents previous to that date list the inner office file number for PHH Mortgage Corp. "011227-01447"?

17. Attorneys assigned as the Plaintiffs (PHH Mortgage Corp.) Legal Representative both by signature and/or Legal note: Laura Baer, H. Guyton Murrell, Nikole Haltiwagner and Andrew W. Montgomery, all of whom are part of Rogers Townsend and Thomas PC. Where the Respondent (Substitute) Nationstar has only one Legal Representative Andrew W. Montgomery, Rogers Townsend & Thomas PC. Why can Andrew W. Montgomery represent both Plaintiff and Substitute Attorney on documents filed with the Court?

18. Master in Equity failed to stop all foreclosure actions shortly after the first Document (dated 20-08-2014/filed 21-08-2014) until disputed Affidavit (Robosigned- produced/signed/verified supporting documents) is reasonably resolved and Plaintiff ordered to present documents directly related to the Court Case?

19. Was the outcome of the scheduled Master in Equity Hearing determined before the Hearing?

20. It appear Rogers Townsend and Thomas and the Plaintiff(s) were allowed to influence the judgement by actively maneuver and steering actions?

21. Why didn't the Plaintiff PHH Mortgage Corp. submit an Sworn Affidavit of Debt Validation showing basis for foreclosure action (Disputed).

22. Why wasn't Appellant provide an un-redacted copy of all mortgage transfers, coordination with third (3<sup>rd</sup>) parties is there redactions of key identifiers such as loan information and lack identification of requester on Home appraisal and mortgage sale/transfer of "Note" Documents?

23. September 28 2015 filing of Record of Hearing Judgement of Foreclosure and Sale List of facts (Nationstar Mortgage LLC vs Norman D. Lowery are not totally correct.

#### Statement of the Case

August 25 2015 Master in Equity Hearing for Foreclosure 420 Common Pleas Case #2014CP4602394, PHH Mortgage Corporation (011227-01447) vs Norman D. Lowery was scheduled. Upon arrival for the hearing Appellant (Norman D. Lowery) was present for the Master in Equity Hearing, not present for the scheduled hearing: Master in Equity nor Plaintiff PHH Mortgage, Proof Defendant was present for the scheduled Master in Equity Hearing staff attached a dated (8-25-15) post-it note to a document of evidence Defendant was going to submit to the Court during the Master in Equity Hearing (Exhibit 1 ). Several days later Appellant received written notification ( Exhibit 2 ) from Rogers Townsend and Thomas PC, the hearing was cancelled and would be re-scheduled. Defendant received notification of re-scheduled Master in Equity Hearing from Rogers Townsend and Thomas (Plaintiff/PHH Mortgage Corp.), to be held on September 23, 2015 (Exhibit 3 ).

September 23 2015, re-scheduled Master in Equity from August 25 2015, Nationstar Mortgage LLC Legal Representative A. W. Montgomery, Esquire (Rogers Townsend & Thomas) and Assigned Disposition Judge K. S. Kimball III, not present to the Hearing was Plaintiff PHH Mortgage Corporation. Hearing initiated by Judge K. S. Kimball III announcing the Case No. 2014CP4602394 Nationstar vs. Norman D. Lowery. When recognized to address the Court Appellant stated that all my Court Documents have no reference to Nationstar Mortgage LLC, all Court related documents Appellant received from Rogers Townsend and Thomas only document PHH Mortgage Corp. as the Plaintiff. (Exhibit 4, 5 and 6 )

Appellant was prepared for the Master in Equity Hearing for Plaintiff PHH Mortgage vs Norman D. Lowery not Nationstar Mortgage LLC. Additionally, Appellant raised the question of two (2) different mortgage companies/mortgage servicers vying for foreclosure under the same Court Case/Docket number #2014CP462394 is at a minimum "Double Jeopardy". The Master in Equity spoke with Nationstar's Legal Representative, Appellant could only hear fragments of (hearing issues). Once the Master in Equity and Nationstar Mortgage LLC finished their conversation, Master in Equity Judge closed the Court Case File, without considering any documents/evidence of Proof Appellant pre-submitted to the Court proving PHH Mortgage Corp. had no "STANDING" to justify foreclosure action, Master in Equity Immediately issued the Order "DIRECTED": "This is what I'm going to do. Who has the Note" which Nationstar Legal Representative stated his client held the Note. In complying with the Master in Equities issued Order during the hearing Plaintiff was hindered to raise any further issues or objections such as holding Plaintiff PHH Mortgage in Default for failing to appear to the Hearings. Subsequently Nationstar Mortgage LLC/Andrew Montgomery Attorney of Record was substituted without any documents until September 28, 2015.

Master in Equity Judge subsequently substituting the Plaintiff PHH Mortgage Corp./Attorney of Record not present at the hearing, with Nationstar Mortgage and awarding Foreclosure Right/Action to Nationstar Mortgage LLC. Shortly thereafter Appellant received Documents Filed with the York County Clerk of Court, Case No. 14-CP-46-2394 Concerning ORDER SUBSTITUTING RESPONDENT - PHH Mortgage

[6]

Corp. to Nationstar Mortgage LLC. York County Court, Case No. 14-CP-46-2394 JUDGEMENT IN A CIVIL CASE, RESPONDENT Nationstar Mortgage LLC, DEFENDANT Norman. D. Lowery of the Court, ORDER OR ADJUGED, Form 4, 14-CP-2394, FILE DATED September 15, 2015, awarding Judgment of Foreclose to Nationstar Mortgage LLC. without "STANDING".

A 2013/2014 PHH Mortgage Corp. Statement of Debt STANDING/LIVE CONTACT/ERROR RESOLUTION  
NOTICE OF ERROR-DISPUTE

1. Foreclosure action initiated on June 30, 2014 by PHH Mortgage Corp./Laura R. Baer, Rogers Townsend and Thomas Summons/Complaint (Court Docket 2014CP4602394) with simply a Statement of Debt (PHH Mortgage Corp.) incorporated in the body of the filing lacks "standing".

a. The 2014 statement is not based or derived from a Sworn Affidavit by an official representative for PHH Mortgage Corp. supported by fact.

b. Lacking the very basic sworn affidavit with validated proof from PHH Mortgage Corp. the complaint lacks "standing".

2. If the June 30, 2014 Summons/Complaint is simply Rogers Townsend and Thomas creating and unvalidated Statement of Debt, by assimilating information from the "2013 Dismissed for not moving the case forward", FORECLOSURE ACTION, 2013CP4601503 (011227-01181) RESPONDENT, PHH MORTGAGE CORPORATION V. NORMAN D. LOWERY initiated May 15, 2013:

a. That case was contested/disputed by Defendant Norman D. Lowery (Exhibit 7) with documented evidence the Sworn Affidavit of Debt overwhelmingly lacked "Standing".

b. The 2013CP4601503 was "Dismissed" by the York County Master in Equity for failure to move forward with the case. and was in a state of "Delay" for an estimated fourteen (14) months (Exhibit 8).

c. The 12 June 2013, notification (Exhibit 9) from Rogers Townsend they were placing a hold on further foreclosure actions until PHH validated the debt IAW TILA 1024.35(b) still in place.

3. June 30, 2014 PHH Mortgage Corp./Laura R. Baer, Rogers Townsend and Thomas created their own Statement of Debt body of 2014 Summons/Complaint (Court Docket 2014CP4602394) submitted to the Court by PHH Mortgage Corporation/Attorney of Record Laura R. Baer - Rogers Townsend and Thomas, was subsequently "Disputed" by the Appellant in less than a month's time. (Exhibit 7)

a. Payment history; Appellant made all required payments (except January 2013 due to mitigating circumstances) from the point of initiating the house mortgage up to May 2013. All payments were made via telephone contact with PHH and paid with a Debit Card with exception of January to May 2013 where Appellant's spouse took over paying monthly debts while Appellant recovered from a heart-attack. January 2013 payment was missed due to emergency treatment of a heart attack in January assuming Appellant had already paid it.

b. While paying the December 2013 payment Appellant advised PHH (recorded by PHH) the January 2013 may be a bit late due to New Year's Holiday schedule observed by the Department of Defense Accounting and Finance Agency's work day. Appellant is a Retired USAF, MSgt and 100%.

[7]

disabled permanent unemployable disability rating through the Veterans Administration (since September of 2010). Retiree's/Disabled Veterans were normally paid the first normal business day following a scheduled holiday.

c. "Live Communication" Appellant advised the PHH Rep that Appellant was having telephone issues with Appellant cell phone due to dropping it in a puddle of water during a storm, subsequently receiving any signal was greatly affected but can be reached at the alternative number or by email noted in the PHH system, this conversation was recorded by PHH Mortgage Corp. and should be a matter of record in the mortgage file as required IAW TILA 1024.38(c)(2) .

d. Mortgage PAYMENTS; Shortly after the New Year Appellant suffered a Heart Attack; Appellant's spouse took over paying all monthly bills, including mortgage payments Appellant spouse, made mortgage payments:

(1) February 2013 with check # 1310 for the scheduled amount of \$817.41 (Exhibit 9 ) processed by Mortgage Services (ref NC State Employee's Credit Union Statement (Exhibit 10) , . In Accordance With (IAW) TILA PAYMENT PROCESSING 1026-36(c)(1) "If a servicer has provided written requirements for accepting payments in writing but then accepts payments that do not conform to the written requirements, the servicer must credit the payment as of five days after receipt." Appellant's spouse assumed the January 2013 payment had been made and:

(2) Subsequent Mortgage payments made via personal check for the scheduled amount. IAW TILA 1026.36(c) were required to be credited to the mortgage account by PHH Mortgage Corp. since it accepted and processed (Exhibit 9 ) which PHH Mortgage Corp. failed to do.

(A) March 2013 check #1312 \$777.15

(B) April 2013 check#1316 \$777.15

(C) May 2013 check #1317 \$777.15

e. Not crediting Appellants mortgage account IAW TLIF 1026.36(c) for March, April and May of 2013 is beyond the scope and authority of the Appellant, only Original Plaintiff. is responsible for its "Errors" associated with the control of its processes. PHH Mortgage Corp. is also responsible for safeguarding and accountability of these instruments of payment to date.

f. Because Original Respondent's failure to account/safeguard payments sent to them IAW TLIF 1026.36(c) clear up to the Master in Equity Hearing; Appellant was forced to stop payment on the personal checks thru NC State Employees Credit Union ((Exhibit 9 )

4. Appellant received no form of communication from Original Respondent of any payment issues or errors (IAW TILA Periodic Statements for Residential Mortgage Loans - Section 1026.41) up until Original Respondent's initiated Summons/Complaint documents hand delivered to Defendant/Norman D. Lowery in May of 2013.

a. Appellant checked into payments made by Appellant's Spouse noting January 2013 payment was missed.

b. Mortgage payments to Original Respondent Feb through May of 2013 for the scheduled amount were sent.

(1) February 2013 personal check #1310 (scheduled amount) was processed by Original Respondent TILA 1026-36(c)(1) ".....Accepts payments that do not conform to the written requirements, the servicer must credit the payment as of five days after receipt."

(2) March, April and May had not been processed, these payments should have been processed as was the February payment as directed in TILA 1026-36(c)(1) or as a minimum held in a suspense or unapplied funds account IAW TILA Periodic Statements for Residential Mortgage Loans - Section 1026.41.

5. May 15 Appellant contacted Original Respondent's (recorded conversation) Call Center but said they could not help or access the file, Appellant would have to contact their Foreclosure Section. Prior to any foreclosure action Original Respondent should have assigned a specific case manager to resolve any delinquent/foreseeable delinquency associated with the mortgage loan, no one was assigned to this capacity by Original Respondent as required by 12 CFR 1024.38(b) 3a.

a. Initially the Original Respondent's stated (recorded) that Appellant's February payment (personal check) was not processed and was sent back with a "Notice of Short Payment" and further stated their computer showed no payments being processed for March thru May of 2013 (Exhibit 11 ).

b. Upon Appellant further questioning and advising them, Original Respondent processed the Feb 2013 payment and stated that the check was processed and they cut a check #2013199158, sent it to Appellant with a letter of short payment requesting an additional \$91.72 (Exhibit 11 ).

(1) Appellant advised Original Respondent no such letter or check was received by us and subsequently asked them to check the address to which they sent the documents and to check to see if Original Respondent's check #2013199158 was processed. If it was processed it was cashed by someone other than Appellant.

(2) Appellant Disputed Foreclosure actions via "Letter of Dispute" (Exhibit 12 )and verbal demanding a copy of all letters, documents, courier's receipts, and the current location of the checks Appellant's spouse wrote for the mortgage payments and

(3) All documents associated with the loan from January 2013 till May 2013 and records of contact etc. are maintained in the mortgage file IAW TILA 1024.38(c)(2). Original Respondent failed its mandated responsibility to disclose mortgage loan information as required or to specifically assign personnel to manage the case IAW 12 CFR 1024.38(b) 3a.

(4) What copies of Documents Appellant received from Original Respondent are all Robosigned/un-validated by human hand, lacking any shape of form of actual verification by the specific process manager/owner.

6. Appellant offered a reasonable written/verbal "work out" (several times), as well as the initial letter of "Dispute/Error" (IAW TILA 1024.35 and 1024.36) to Original Respondent, Appellant asserted a plan to reasonably and quickly resolve the issue by sending double payments (\$1800.00) each month to resolve the issue and allow the opportunity to correct its "ERRORS" in its processes, however Original Respondent refused. (Exhibit 13 )

7. 5 June 2013 Appellant sent a request for a status update from Rogers Townsend as to status of information and documentation Appellant requested on 23 May 2013 (Exhibit 14 ) IAW TILA 1024.35 and 1024.36

a. Appellant contacted the Original Respondent's legal representative (Exhibit 14 ) both by phone and via email indicating the same information and requesting documents/information (Proof) alleged by Original Respondent, as well as location of the checks that were written to Original Respondent (Exhibit 10 ).

b. 12 June 2013, Received notification (Exhibit 15 ) from Rogers Townsend they were placing a hold on further foreclosure actions until Original Respondent validated the debt IAW TILA 1024.35(b) and Appellant requested date which Appellant can reasonably expect a response .

c. 18 JUNE 2013 Original Respondent's Attorney responded via email to Appellant 5 June 2013 email stated they would provide me with the requested documents when Original Respondent's provided them (Exhibit 16 ). TILA 1024.35(d) to (e) requires response in thirty days.

d. PHH Mortgage Corp. thru Rogers Townsend and Thomas PC never produced all documents supporting PHH Mortgage Corps. Statement of Debt thus failing its thirty (30) day requirement IAW TILA 1024:35(b)

e, September 30, 2014 email letter (Exhibit 17 ) RE: PPH Mortgage Corporation vs Norman D, Lowery Case Number 14-CP-46-2394; York County, Our File No. 01127-01447 stated "This letter is in response to your inquiry regarding certain payments with respect with your mortgage loan #7116927869.....".

(1) The Letter is not a statement from the Original Respondent and is absent of proof or firsthand knowledge. Original Respondent is expected to produce documented "Proof" of his statements. As a minimum where is the Sworn Statement of PHH Mortgage in regarding the demands for "Proof" in both 2013 and 2014 (requirement IAW TILA 1024.35(b) and 1024.36) Notice of Error/Dispute. These "Disputed" documents are a part of the mortgage file which PHH Mortgage Corp is mandated to maintain IAW TILA 1024.38(c)(2).

(2) Original Respondent's Attorney cannot simply respond as knowledgeable of Original Respondent's process, the Original Respondent is required by law IAW TILA 1024.35(b) and 1024.36) to respond to this simple issue within 30 days: it has been un-answered for fifteen (15) months to date.

(3) Until Original Respondent complies with mandated Error Resolution/Notice of Dispute (TILA 1024.35 and 1024.36) the "Hold on Further Actions until Original Respondent "Validates the Debt" is still in effect up to the point of the Master in Equity Hearing Officially held on September 23, 2014)

8. May of 2013 up to the point of "Dismissal of the Court case 2013CP4601503 for failure to move the case forward via Form 4, Appellant contacted a number of PHH Mortgage Corp. associates opposed to PHH Mortgage Corp's responsibility having assigned a case manager as required by TILA 1024.40(a)(1) and/or IAW TILA Administrative Actions and Specific Defenses Section 108.

a. Instead Appellant initiated contact with PHH Mortgage Corp., only to simply being referred from one person to another ending up with the Call Center staff who have no authority to resolve the Errors/Dispute.

b. Appellant sent several emails to and left Original Respondent several voice messages, yet received nothing in return except an email (nothing written in the body) with a "Home Loan Modification Package"

9. On three (3) Occasions after May of 2013, a courier, who refused to state what company he was employed/associated with or who he was, delivered requests for Defendant to contact Original Respondent.

a. Each time Appellant contacted Original Respondent, Appellant was referred to someone else in Original Respondent's call center even each associates lacking authority/responsibility to arrange any work-out plan.

b. The last Original Respondent's representative, simply sent an email (not even a note) for a Mortgage modification package.

c. These contacts do not fulfill the requirements for "Live Contact" as required under the circumstances IAW TILA 1024.39(a) requiring an assigned case manager.

10. Appellant made every reasonable effort to resolve the "Errors" made by PHH Mortgage Corp. once Appellant was made aware of payment issues (Served Summons/Complaint initially on May 15, 2013 and again on July 24 2014.

a. Appellant presented documents that show exactly the serious administrative/process/accounting "Error's" made by Original Respondent IAW 12 CFR 1024.51.

b. Appellant admits January 2013 payment was missed due to mitigating circumstances, yet Appellant's Spouse continued sending checks for the scheduled payments promptly and for the appropriate amount.

(1) These instruments of payment are in the possession of PHH Mortgage; it is not possible for three out of four checks not being processed as required.

(2) One personal check #1310 (Exhibit 10 ) was reportedly (recorded phone contact with PHH Mortgage, 15 May 2013) returned By PHH Mortgage with a letter (incorrectly addressed) of "Short Payment", the document forwarded to Appellant in August 2013, then being told the personal check was processed (IAW CFR 1026.36(c)(1)) and a PHH Mortgage check (#2013199158 ) was sent with the letter (incorrectly addressed) of "Short Payment Notice in March of 2013.

(3) Appellant never received any letters or check 2013199158 from Original Respondent who (IAW 12 CFR 1024.40(a)) must have policies and procedures that are reasonably designed to assign personnel (one or more persons) to a delinquent borrower at the time the servicer provides the borrower with the written notice required under 12 CFR 1024.39(b),

a. Appellant received a check five to six months later from PHH Mortgage late August 2013 (Exhibit 18 ) check #2013911073, dated 20 August 2013 in a hand-addressed envelope paper clipped to a blank sheet of paper, no explanation of any shape form or manner.

b. This demonstrates just one of the many accounting/processing Errors made by PHH Mortgage Corp.

c. Three (3) other personal checks (Exhibit 10 ) apparently cannot be accounted for by PHH Mortgage. Appellant requested in May of 2013 for an image/return of the personal checks or at least who was in possession of them. Subsequently Appellant had to have the bank stop payment on the checks PHH Mortgage Corp. didn't process as required or as a minimum return them to the correct home address.

d. PHH Mortgage Corp. Failed "Good Faith Efforts" to account for these instruments of payment and should have submitted a Sworn Affidavit stating why they cannot produce the personal checks.

e. Live Contact, Original Respondent was advised of phone difficulties in December of 2012, why did they not try contacting me by the alternative means. General Continuity of Contact Policies and Procedures—12 CFR 1024.40(a) and 12 CFR 1024.39a; ... good faith efforts to establish live contact consist of "reason-able steps under the circumstances," and these efforts "may include telephoning the borrower on more than one occasion or sending written or electronic communication encouraging the borrower to establish live contact with the servicer.

(1) Original Respondent has Appellant's alternate phone number, email address, or they could have sent a notice by certified delivery service.

(2) Original Respondent after May of 2013 sent a courier to Appellant house three (3) different times simply to drop off an envelope with a note for me to call the PHH Mortgage Call Center, this shows PHH Mortgage could have notified Defendant prior to any foreclosure action.

(3) Original Respondent could have simply sent an email which went to a hard wired computer "electronic communication" IAW 12 CFR 1024.38(b), 5(a).

11. Receipt of documentation requests (Error Resolution/Dispute) from Original Respondent was drawn out, protracted and in a state of "Delay" up to the point York County Court "Dismissed" the 2013 foreclosure case and again in 2014. 12 CFR 1024.39(b), 12 CFR 1024.40(a)

a. During the "Delay" it took three (3) months to get a copy of two (2) simple letters.

b. Original Respondent can't or refused to produce the documents Appellant Disputes the validity/standing which Original Respondent professes.

c. What source documents Original Respondent used for justification for "Standing" initiating foreclosure lack validity.

12. All documents received by the Appellant from Original Respondent are Robosigned, lack any notation of human review for correctness of content and correctly addressed by the originator of the associated document(s) as mandated IAW 12 CFR 1024.38(a) and (b)(1)). Combined with lack of communication 12 CFR 1024.40(a) , actual hands-on validation of its claims (Proof) with the Appellant and "Refusal" to accept mortgage payments or process as required IAW Servicing File—12 CFR 1024.38(c)(2), There is no "Standing" to justify foreclosure action. The only item that actually shows it was generated by a human was a hand addressed (with correct address) envelope nothing else.

a. Spreadsheets (Customer Account Activity Statement) is Robosigned is inaccurate and nearly unreadable without some fashion of magnification (Exhibit 19 )

(1) Such as two (2) electronic debit(s) of mortgage payment from the NC State Employees Credit Union on January 4, 2011 for \$1359.38 and February 3, 2011 for \$1338.11 the amounts of (Exhibit 19 ) are not noted on the statement

(2) The PHH Mortgage Corp. check #2013911073, dated 20 August 2013 sent to Appellant late in August 2013 (Exhibit 19 )

b. Several Notice of Intention to Foreclose provided after Notice of Error was sent, have incorrect mailing address for the Defendant. (Exhibit 19 )

c. Accepting mortgage payment then later returning mortgage payments and/or not processing payment is active "Refusal" of Appellants mortgage payment failing to return un-processed payments violates 12 CFR 1024.33(c)

13. May 29 2015 Appellant received a letter (Robosigned) from Substitute Respondent (Customer Service Department) "We have recently received payment on your behalf and are returning these funds as they are insufficient to bring your account current", attached was a check from Nationstar Mortgage LLC dated 05/29/15 for the amount of \$565.90. 12 CFR 1024.33(c) (Exhibit 18 )

a. All the accounting errors made by Original Respondent prove the mortgage was not in Default as noted in February 18, 2013 Notice of Intention to Foreclose demanding \$1747.81, not received by Appellant. 12 CFR 1024.35(a) (Exhibit 19 )

b. The amount of \$1747.81 is incorrect simply due to Original Respondent processed the February 2013 mortgage payment, combined with the accounting error which Substitute Respondent returned to the Appellant check dated 05/29/2015 for \$565.90 funds.

14. Compile all the accounting/processing errors Appellant notified Original Respondent of in writing (Notification of Error/Dispute in both 2013 and 2014, "Refusal" to process mortgage payments, early intervention of "Default", assigning a case manager, failure to implement mandated alternative means of communication along with PHH Mortgage sending documents which possess an incorrect home address for the Appellant, the Appellant cannot be held accountable for these failures. The Appellant has no control over original Respondent process or those of the U.S. Mail.

#### B. 2014-2015 FACTS AND LACK OF STANDING (BURDEN OF PROOF)

1. This case at a glance appears pretty clean and straight forward, fact of the matter is its extremely complicated, loaded with unwarranted "DELAY" by as a minimum PHH Mortgage Corp./Laura R. Baer, Rogers Townsend and Thomas PC. Plaintiff's/PHH Mortgage Corporation initiation of the Foreclosure in 2013 (Dismissed) and again in 2014 Disputed Court Docket # 2014CP4602394 has no "STANDING" to justify foreclosure action.....where's the proof (Demanded by Appellant in writing) to support PHH Mortgage's Summons/Complaint to the Court.

a. Had Original Respondent possessed justification to foreclosure action in 2013 it would have gone forward with a Master in Equity Hearing opposed to "Delaying" the case to the point the Master in Equity Court dismissed the case. As for the Disputed Court Case 2014CP4602394 was in a state of "Delay" for fourteen months when it was ready for a Master in Equity Hearing in less than a month after the Appellant's Response to the Court Disputing the foreclosure with over seventy (70) pages of supporting evidence (Exhibit 7 ).

b. Master in Equity at the September 23, 2015 Master in Equity Hearing ignored Appellants four (4) page Letter of Dispute and seventy (70) pages of evidence (EXHIBIT 7 ), matter of record, proving Plaintiff PHH Mortgage Corp., has no "Standing" to justify Foreclosure.

c. Any and all subsequent Statements of Debt created by any and all subsequent Note holders and Mortgage Servicers to establish "Standing" justifying foreclosure actions is based on the original "Disputed" 2013 Statement of Debt Validation containing false statements/assertions and are, as minimum, only backed-up with un-validated inaccurate, false/misleading information Robosigned documents, and severe accounting errors and "Refusal" to process mortgage payments. (Exhibit 19)

d. Nationstar Mortgage LLC (Substituted as Plaintiff at Master in Equity Hearing September 23, 2015) has no "STANDING to Foreclosure Action.

2. September 28, 2015 Filing of Judgment of Foreclosure and Sale Plaintiff/Nationstar Mortgage LCC vs Appellant/Norman D. Lowery (013225-03514) page 1 para 6, Stating "No Appellant raised any issues to Plaintiffs "STANDING" to prosecute this action" ( EXHIBIT 6 ).

a. This is a misleading statement, the Appellant was not able to raise any issues.

b. Once the Master in Equity (without any discussion) closed the Court Docket containing Appellants ( Exhibit 6 ) evidence proving foreclosure action had no "Standing", then "Directed/Ordered", This is what I'm (Master in Equity) going to do, Who has the Note?", awarding foreclosure action to Nationstar Mortgage LLC, the Master in Equity's directive/Order prevented any further discussion or argument.

3. Since May 2013 this case has been in the York County Master in Equity foreclosure process for an estimated twenty-nine (29) months or eight hundred – seventy (870) days, before a single Master in Equity Hearing. There absolutely no justification for the length of time (Delay) for what was a "simple foreclosure" – Appellants Right to Due Process and right to have Appellants evidence to be considered has absolutely been ignored. IAW Rules of Procedure, Rule 25c

4. This case required Master in Equity action August-September 2014 once Appellant filed a response "Disputing" justification and standing to the Summons/Complaint (EXHIBIT 6 ).

a. There is no documentation/motions or Orders warranting months of Court inactivity or Original Respondent effort to move the case along.

b. The only activity associated with this case is the multiple changes to mortgage servicers, note holders.

5. No documentation of the Aug 25 2015 Master in Equity Hearing what's so ever, or as to why or by who the Court Hearing was cancelled is contained in Court Docket # 2014CP4602394. Only the Appellant was present for the Court ordered hearing.

a. With only the Appellant/Norman D. Lowery present for the scheduled August 25, hearing the Respondents) are in "Default".

b. Had the Appellant not been present to the court ordered hearing the Appellant would be held in "Default" and subject to penalty, Respondent should be held to the same standard.

c. The only reference of the August 25 2015 Hearing is a post-it note (Exhibit 1 ) written by Master in Equity staff and attached it to a letter to the Master in Equity.

d. On or about five (5) days after the 23 August 2015 Master in Equity Hearing. on/about August 28, 2015 Appellant receiver a Letter from Respondent's Lawyer stating the hearing would be re-scheduled was written on August 25 2015 (EXHIBIT 2 ).

6. September 23, 2015, Appellant's "Right to Due Process and a Fair Impartial Hearing" was violated during the re-scheduled Master in Equity Hearing from August 25, 2015, the Master in Equity announced the Case before the Court as Nationstar Mortgage LLC vs. Norman D. Lowery 2014-CP-4602394.

a. Only one (1) document in the Court Docket contains Substitute Respondent as a Plaintiff (EXHIBIT 20 ) filed directly to the Master in Equity (lacks Clerk of Court Filing Stamp) and not sent to the Appellant as required by Rules of Procedures, Rule 55: AFFIDAVIT OF VERIFIED STATEMENT OF ACCOUNT Plaintiff Nationstar vs Defendant Norman D. Lowery under Docket No. 14-CP-46-2394 (013225-03514) dated August 18, 2015.

b. AFFIDAVIT OF VERIFIED STATEMENT OF ACCOUNT Plaintiff Nationstar vs Defendant Norman D. Lowery was submitted prior to Nationstar Mortgage LLC being substituted as the Plaintiff on September 23, 2015 was not provided to the Defendant. Defendant was not provided any documentation of the projected substitution of Plaintiffs.

c. Plaintiff/PHH Mortgage Corp. initiating the Foreclosure Action and Request for Master in Equity Hearing was not present for the hearing and is in "DEFAULT" and should have been held to the same standard as if the Appellant failed to show. Additionally, without PHH Mortgage Corp. the originator of the foreclosure action present, substitution of Plaintiffs cannot occur without explanation or being available for questions arising out of the procedure.

d. Nationstar Mortgage LLC was inserted as Plaintiff prior to any judicial action substituting the Plaintiff(s) prior to the Master in Equity Hearing (REF 20 ). Proof is in announcing the Court Docket 2014CP4602394 as Nationstar as the Plaintiff. Substitution of Plaintiffs was not done in a reasonable time frame IAW Rules of Procedure, Rule 25. Substitution of Plaintiff doesn't happen overnight and by not providing the Defendant any documentation (Motions/Orders) opportunity dispute the validity of the substitution or as a minimum prepare an adequate defense.

e. The Master in Equity hearing schedule is controlled and safeguarded by the Clerk of Court or the Clerk for the Master in Equity; so it would have (Motions/Orders) to use some document to change the schedule in which the Master in Equity Hearing announced the case Nationstar Mortgage LLC as the Plaintiff opposed to originator of the Summons/Complaint and request for Hearing PHH Mortgage Corp.

f. The U.S. Department of Veteran Affairs was contacted by Nationstar Mortgage Corp having some sort of discussion/coordination to schedule foreclosure sale of the property in the foreclosure process, prior to any Master in Equity Hearing (Exhibit 21 ). Documents

#### C. PRE DETERMINING OUTCOME OF THE FORECLOSURE ACTION BEFORE A HEARING

1. The outcome of the Court Case 2014CP4602394 was predetermined before even the first Master in Equity Hearing commenced denying Defendant's "Right to Due Process and a Fair Impartial Hearing". Proof of the pre-determined Court Case 2014CP4602394 outcome:

a. Department of Veteran Affairs report Nationstar Mortgage LLC has scheduled the house and property for public sale/auction (Ref Exhibit #: 21 ).

b. Master in Equity Announcing the Court Case as Nationstar vs. Norman D. Lowery 2014CP4602394 at the September 23, 2015 Master in Equity Hearing before Master in Equity Ordered the substitution

c. Plaintiff PHH Mortgage Corp. /Attorney of record wasn't present for Court Ordered Hearing held on September 23, 2015.

d. Defendant was not provided any documentation of Plaintiffs Substitution prior to the Master in Equity Hearing(s) on August 25, 2013 (no one was present for except the Defendant) of the re-scheduled Master in Equity Hearing on 23 September 2015.

2. Submission of August 18, 2015 SWORN AFFIDAVIT OF VERIFIED STATEMENT OF ACCOUNT as Plaintiff Nationstar Mortgage LLC vs. Norman D. Lowery (13225-03514), Court Docket No. 14-CP-46-2394, "Document Execution" ( Exhibit #: 20 ) to the Master in Equity case file lacks York County Clerk of Court filing stamp.

a. Lacking the Clerk of Court Stamp indicates the document was accepted by the Master in Equity office staff.

b. In Paragraph (2) of this Document states "Nationstar services and maintains records for the loan that is secured by the mortgage being foreclosed in this action in its capacity as PHH Mortgage Corporation's Servicer.....". At the Master in Equity Hearing Nationstar Mortgage LLC/Attorney of Record, A. Montgomery, Rogers Townsend and Thomas stated his client hold the mortgage "Note". Question is which omission to the Court is "True"?

c. Nationstar Mortgage LLC cannot submit orders of reference or any court action under court docket No. 2014-CP-460-2394 (13225-03514) as a Plaintiff without official substitution as Plaintiff by the Master in Equity or higher Court authority.

d. Master in Equity didn't substitute Plaintiff PHH Mortgage Corp. for Nationstar Mortgage LLC until September 23 2015 (Exhibit 22 ).

e. Nationstar Mortgage LLC did not provide a copy of this document to Appellant/Norman D. Lowery. (Exhibit 20 )

f. As a Substitute Plaintiff Nationstar Mortgage LLC lacks Standing to bring a foreclosure action because it acquired the Note twelve (12) to thirteen (13) months after the Summons/Complaint was initiated by PHH Mortgage Corp. who in itself lacked Standing for foreclosure.

g. At least two (2) Affidavits of Debt are filed under Court Docket 2014CP4602394, one is incorporated in body of PHH Mortgage Corp's. Summons/Complaint July 25, 2014 (Exhibit 7 ) and the second was submitted directly to the Master in Equity dated August 15, 2015 (Exhibit 20 ). Both are simply created without a sworn Affidavit from the process owner stating their facts that are not Robosigned. Being the Summons/Complaint has been contested/disputed (Exhibit 7 ) as well as the source documents and process "Errors" (Written notice of Error in both 2013 and 2014)

3. By submitting the August 18, 2015 sworn AFFIDAVIT OF VERIFIED STATEMENT OF ACCOUNT Plaintiff Nationstar Mortgage LLC (Exhibit 20 ) interjected itself in the Court Docket 2014CP4602394 Foreclosure Action(s) before it was recognized by the court. This creates a Court Docket controlled/affected by both PHH Mortgage and Nationstar Mortgage LLC.

a. The submitted August 18, 2015 Affidavit of Verified Statement of Account generated by Nationstar Mortgage LLC conceivably can be used as authority to the Department of Veterans Affairs to schedule property appraisal, scheduling Master in Equity Hearing and initiating actions for public sale/auction of the property or some other legal authority/action.

b. Proof is in the written notification from the Department of Veterans Affairs on August 24, 2015 (Exhibit 21 ), the VA wouldn't have sent the Appellant an email notification stating Nationstar Mortgage LLC as initiating home foreclosure/public sale was established before the Hearing. Nationstar

initiated foreclosure actions a month or more before the Master in Equity Ordered the substitution of Plaintiff. (Exhibit 22 ). Defendant was not notified or provided any documents from neither PHH Mortgage Corp, Nationstar or Plaintiff(s) or Attorneys of Record.

c. the August 18, 2015 sworn AFFIDAVIT OF VERIFIED STATEMENT OF ACCOUNT Plaintiff Nationstar Mortgage LLC (EXHIBIT 20 ) was not provided to the Defendant Norman D. Lowery.

4. Master in Equity during the 23 September 2015, Closed the Case file containing documents of evidence proving Plaintiff PHH Mortgage Corp. is Deficient of "STANDING" for its foreclosure action.

a. Regardless of transfers of the Note or mortgage servicers all foreclosure actions are based on the May 2013 Foreclosure action which was "Dismissed" by the York County Court, for failure to move forward with the 2013 court case.

b. Master in Equity erred in not considering the four (4) page Letter of Dispute by the Appellant/Norman. Lowery containing over seventy (70) pages of direct evidence (Exhibit 7 ) disputing PHH Mortgage Corp. "STANDING" since 2013 and again "disputed" in August 2014, opposed to simply closing the case file and directed "This is what I'm going to do. Who has the Note? This action directly violates the Appellants right to "Due Process".

(1) Nationstar Mortgage didn't acquire the "Note" until May of 2015

(2) Nationstar wasn't the Mortgage Servicer until February 2015.

(3) Nationstar Mortgage cannot answer for PHH Mortgage's failure to resolve "Error Resolution" issues created by PHH Mortgage Corp. Only PHH Mortgage can account for its process errors, Nationstar Mortgage cannot correct or attest to status of mandated "Error Resolution".

5. Clerk of Court, York County South Carolina filed on June 2 2015 an "Order" (EXHIBIT 23 ) to hold a hearing and final judgement Court Case No. 2014-CP-4602394 PHH Mortgage Corporation vs. Norman D. Lowery.

a. June 23, 2015 PHH Mortgage Corp./Nikole Haltiwanger Rogers Townsend and Thomas filed a Form Motion, No Hearing Requested/Proposed Order/Consent Order, Section III: Form Motion – hereby move for relief or action by the court as set forth in the attached proposed order" which is dated June 9, 2015 yet not filed until June 23, 2015. (Exhibit 24 ) The attached Order or Reference, Plaintiff/PHH Mortgage Corp. vs. Appellant/Norman D. Lowery (013225-03514) states "....is an action for foreclosure action and may be referred to Master in Equity...; this action creates three (3) possible conditions to the Court case 2014CP4602394 the filings can cause:

b. First is "DELAY", on 23 June 2015 the Form Motion, No Hearing Requested box is checked stopping the June 2, 2015 referral of Court Case 2014CP4602394 by the Clerk of Court.

c. Second is the initiation of the attached Order of Reference, although the Order designates the court case 2014CP4602394 Plaintiff as PHH Mortgage Corp. vs. Appellant Norman D. Lowery, the Rogers Townsend and Thomas inter-office file No. 013225-03514 (Nationstar Mortgage LLC) is annotated on the Order opposed to inter office file No. 011227-01447 (PHH Mortgage Corp.).

d. This Order along with other documents annotated in the same manner with the inter-office file number allows Rogers Townsend and Thomas PC the discretion of two inter-office files or documents without the inter-office file number, from which it can specifically select/reference its source files/actions or Rogers Townsend and Thomas can simply use the basic PHH Mortgage Corp. vs Norman D. Lowery Docket No. 2014CP4602394 without annotating the inter-office Client/Case file.

**D. ATTEMPT AT CREATING "STANDING" FOR FORECLOSURE JUSTIFICATION/ACTION – INTENTIONAL "DELAY" FOR A MASTER IN EQUITY HEARING-**

1. Within twenty-five (25) days of the Courts Dismissal of Court Docket No. 2013CP4601503 (via form 4), Plaintiff PHH Mortgage Corp. (Laura R. Baer, Attorney Rogers Townsend and Thomas PC) initiated Summons/Complaint for Foreclosure Action, without reference to the 2013 Statement of Debt Affidavit, again without "STANDING" on July 25, 2014.

2. The over seventy pages (70) documents of evidentiary value contained in (Exhibit ) proves PHH Mortgage Corp. had no "Standing" for foreclosure action in 2013 and again in 2014.

a. "Creating multiple layers" thru generation of subsequent statements of debt, mortgage servicers and Note holders and other submission/actions etc. attempt to create "Standing". These attempts lack "Standing" for foreclosure because they are based on the initial actions/claims of "standing" PHH Mortgage Corp. made in the dismissed 2013 Court Case.

b. If PHH Mortgage had "Standing" to follow-through with its foreclosure action there should have been a Master In Equity Hearing requested early on in this 2014 case and there would not have been the multitude of turn-over of Note holders/mortgage servicers.

c. Due to not having standing again in 2014, when proof of standing was again demanded by the Appellant: Creation of multiple levels of turn-over for mortgage servicers and Note holders within months of each other commenced, re-creating new Statements of Debt during intentional "Delay". Recreating new Statements of Debt are not "fact" based on evidence for "standing".

d. October 1, 2014 (Exhibit 25 ) C. Howell/ Rogers Townsend and Thomas response for status update on the delay, four (4) months, of "Error Resolution" and receipt of actual "validated" proof of its (PHH Mortgage Corp.) "Standing" for foreclosure action, was an attached simple letter which is basically a baseless response that wasn't even from PHH Mortgage Corp, again no "Proof" of standing or resolution of "process errors" or actual validation of any document requested.

3. Clerk of Court subsequently assigned Court Docket No. 2014CP4602394 (011227-01447) Plaintiff PHH Mortgage Corp vs. Appellant Norman D. Lowery.

a. The Summons/Complaint submitted by PHH Mortgage Corp. didn't attach a Validated Statement of Debt the foreclosure action is "disputed" and has no "Standing":

b. The action begins to bury the initial documents/statements and affidavit introduced in Court Docket No. 2013CP4601503 that had no "Standing" and plagued with false statements, manufactured/Robosigned documents, intentional "Delay" etc..... with the multiple transfers of Note/Mortgage servicers.

c. Had the Court Case No. 2013CP4601503 possessed "STANDING" it wouldn't have been in a state of intentional "Delay" leading to its Dismissal by the Court.

4. Appellant contested the foreclosure action Court Docket No. 2014CP4602394, with documented "Proof" directly showing the Plaintiff, PHH Mortgage Corp. again lacks "Standing" for justification of foreclosure action:

a. August 8 2014 Initial response to Laura Baer/Rogers Townsend and Thomas Foreclosure Action, 2014CP4602394/2014CP4600567 Plaintiff PHH Mortgage Corp. vs. Norman Lowery, Office File No. 011227-01447.

b. August 21 2014 Appellant sent Letter/Notice of Dispute to Plaintiff's Attorney of Record Laura R. Baer (Rogers Townsend and Thomas PC). In the 2014 Letter of Dispute Appellant/Norman D. Lowery, as in 2013 demanded a number of documents

5. August 21, 2014 Appellant submitted Appellants Response to the Summons/Complaint 2014CP4602394 to the Master In Equity Court "Disputing" the "STANDING" of PHH Mortgages Foreclosure action with documented evidence, over seventy pages, supporting Appellant's counter claims/response to the July 25, 2014 Summons Complaint (Plaintiff PHH Mortgage Corp./Laura R. Baer, Rogers Townsend and Thomas PC vs. Appellant Norman D. Lowery [011227-01447]). Appellant's submission of documents required Master in Equity action. Master in Equity has never taken any action and Court Case 2014CP4602394 was in a state of "Delay" to the September 23, 2015 Master in Equity Hearing.

a. October 1, 2014 Follow-up with PHH Mortgage Corp./Rogers Townsend & Thomas as to status of requested documents (Exhibit # 25 ). Plaintiff/Legal Representative failed/refused to produce Appellants demand for documents of evidentiary value possessed by the Plaintiff and "Delay" continued.

b. Thirteen (13) months later Master in Equity, during the September 23 2015 Hearing, simply closed the case file containing the evidence without comment on the evidence or ruling on its content.

#### **E. CREATING RESPONDENT "STANDING" – INTENTIONAL "DELAY" – FAILURE TO PRODUCE DOCUMENTS OF EVIDENTIARY VALUE – MASTER IN EQUITY ERR IN NOT ACTING**

1. Plaintiff PHH Mortgage/Laura R. Baer-Rogers Townsend and Thomas begin actions to layer the original Affidavit Statement of Debt filed May 2013 and true facts of the case, by submitting the 2014 Foreclosure Action without supporting documents and affidavit(s) from PHH Mortgage Cooperation 2013 or 2014 to justify "Standing" for foreclosure action. True facts supported with documents:

a. During the state of "Delay" November/December time frame Coldwell Banker Mortgage took over as mortgage servicer and creating a new statement of debt.

b. During the continued state of "Delay" February 2015 Mortgage servicing transferred for Coldwell Banker Mortgage to Nationstar Mortgage LLC, creating more distance from the original 2013 Statement of Debt

2. February 18, 2015 Appellant Filed a Letter (Exhibit # 26 ) with the Master in Equity Court to Dismiss the "Delayed" Foreclosure Action 2014CP4602394/2014LP4600567 PHH Mortgage vs Norman D. Lowery for:

a. Making false statements/representations to the court, initiating unwarranted/illegal foreclosure action,

b. Failure to move forward with foreclosure actions for a hearing

c. Failure to produce documents of evidentiary value at the seven (7) month point (notice of Error/Dispute).

d. Master in Equity has never responded or acted

3. June 4, 2015 Mortgage Note was transferred from PHH Mortgage Corp. to Nationstar Mortgage LLC, again during the intentional Delay of the Foreclosure Action and in action of the Master in Equity, creating another layer from the original foreclosure action.

4. March 11, 2015 Plaintiff PHH Mortgage/M. Guyton Murrell Rogers Townsend and Thomas re-filed "ATTORNEY CERTIFICATION/Deficiency Judgement Waived (Mortgagor Denied)" PHH Mortgage vs Norman D. Lowery (013225-03514), \and CERTIFICATE OF MAILING.

a. There is no reason to re-file documents that have already been served and responded to. July 25, 2014 Plaintiff PHH Mortgage Corp./Laura R. Baer vs. Appellant Norman D. Lowery (11227-01447) NOTICE OF FORECLOSURE INTERVENTION was filed and Appellant responded to the filing's legitimacy.

b. August 8 2014 Appellant responded to Initiation of Foreclosure action (PHH Mortgage Corp. /Laura R. Baer vs. Norman D. Lowery Court Docket No. 2014CP4602394, Disputed the Foreclosure and in a letter of demand and again demanded specific documents of evidentiary value to which Plaintiff has never produced since May 2013 or 12 August 2014.

c. August 21, 2014 Appellant Responded submitting to the Court with over seventy (70) pages of direct evidence countering PHH Mortgage claims/Affidavit of Debt (Exhibit 7 ).

d. As of August 21, 2014 PHH Mortgage Corp. left Court Case 2014CP4602394 foreclosure action/process in a "State of Delay"

5. Court Docket No. 2014CP4602394 (011227-01447) Plaintiff PHH Mortgage Corp. vs. Appellant Norman D. Lowery was in a state of "Delay" for fourteen (14) months to end up with a single Master in Equity Hearing and judgment ending September 23 2015 with Court Docket No. 2014CP4602394 (13225-03514) Nationstar Mortgage LLC/Attorney Andrew Montgomery, Rogers Townsend and Thomas PC as a substitute Plaintiff for PHH Mortgage Corp. PHH Mortgage Corp./Legal Representative during the Hearing wasn't even present to answer or account for its actions.

6. "Delay" in the case from moving forward in a timely basis was intentional, in addition the Master in Equity did nothing to ensure "Due Process" requirement was adhered to foreclosure process.

7. During the intentional "Delaying" to the South Carolina Foreclosure process in the Court(s), a number of actions during the "Delay" were initiated by Coldwell Banker Mortgage, PHH Mortgage Corp and Nationstar LLC threw Rogers Townsend and Thomas PC changing:

a. Scope and justification (STANDING) of the court action initiated by PHH Mortgage Corp. in 2013/2014.

b. Transferring mortgage servicer's and "NOTE" holder to bury the initial PHH Mortgage Corporation's false statements/misrepresentations of facts in 2013.

8. Attempting to recreate Standing/Justification for foreclosure action by multiple transfers of the Mortgage Note and Servicer, each transfer covering up the facts of the initial 2013 foreclosure action by incorporating a Statement of Debt in transfer action.

9. Master in Equity Failed to act at all which in-itself is an action. Master in Equity as a minimum failed to:

a. Initiate a hearing to move the case Docket No. 2014CP4602394 (011227-01447) along in a reasonable manner/time frame and ensuring Due Process as early as August 2014.

b. Rule on Plaintiff/PHH Mortgage's standing/justification of its Complaint/Summons against Defendants "Proof" in the dispute of Plaintiff's Statement of Debt and Errors.

c. Accept newly discovered documents of evidentiary value

d. Hold PHH Mortgage Corp. in "Default" in not being present for the August 25, 2015 or September 23, 2015 Master in Equity Hearing it submitted a Motion for.

10. Master in Equity simply closed the court docket containing Appellants submissions to the court in the form of documents, direct evidence, countering the justification of foreclosure action or the actions of the Plaintiff during the "Delayed" foreclosure process.

a. As a minimum hold PHH Mortgage in "Default" for not attending the scheduled Master in Equity Hearing(s) PHH Mortgage Corp/Legal Representative is summons to appear for court action it initiated.

b. Rule all transfers of Mortgage Servicers and Note holders invalid. The Court Case No. 2014CP4602394 was in a state of "Delay" directly after its filing with the Court on August 21, 2014.

c. JUDGEMENT OF FORECLOSURE AND SALE, Nationstar v. Norman D. Lowery Court Docket 2014-CP-4602394 filed 28 September 2015 admits it has no "Standing" to prosecute foreclosure action as documented in this filing by Nationstar Mortgage LLC under "Findings of Facts":

1. Para: 1. The Lis Pendens was filed on July 25, 2014, On this date Nationstar Mortgage LLC was not the Plaintiff, didn't possess the Note or was even the mortgage servicer on this date.

2. March 11, 2015 Plaintiff "PHH Mortgage Corp./H. Guyton Murrell- Rogers Townsend and Thomas filed Attorney Certification/Deficiency Judgement waived (Mortgagor Denied

2014CP4602394 PHH Mortgage Corp vs Norman D. Lowery (013225-03514) stating a Notice of Intervention within sub-paragraphs of the filing.

3. The Attorney Certification makes sense but the "Notice of Intervention" in the body of the document doesn't, nor does the filing state why PHH Mortgage was refiling the notice of intervention. With the Plaintiff noted as PHH Mortgage Corp. bears the inter-office file No. 13225-03514 annotated on the document.

4. Para: 2. Summons and Complaint were filed on July 25, 2014, On this date Nationstar Mortgage LLC was not the Plaintiff, didn't possess the Note or was even the mortgage servicer on this date.

5. Para 6. No Defendant raised any issues related to Plaintiff's standing to prosecute this action. Left out was Master in Equity halted any other discussion/argument "Directing this is what I'm going to do, who has the Note?" as the Master in Equity closed Defendant's submissions of proof Plaintiff had no standing for foreclosure action. Once the Master in Equity issued his intended action/order Defendant could not raise any other issues or arguments.

11. York County Court Docket No. 2014CP4602394, Rogers Townsend and Thomas PC submitted Summons/Complaints and other filings as either Court Docket No. 2014CP4602394 (011227-01447) and Court Docket No. 2014CP4602394 (13225-03514). The sub-numbers are references to two different mortgage companies submitted under one court docket/case No. 2014CP4602394. 011227-01447 is the inter-office client file for PHH Mortgage Corp., where any submitted court documents annotated with the number 13225-03514 refers to Nationstar Mortgage LLC.

a. Rogers Townsend and Thomas having two mortgage companies directly involved in the court case 2014CP4602394 can draw/reference or make denials of fact, by selecting from one inter-office client file or the other or even possibly a third file in which simply uses the Court Case No. 2014CP2394. In doing so it allows for Rogers Townsend and Thomas PC to select one or portions of both files to support the claims/denials that achieves their expected case outcome. Examples of this is Foreclosure Intervention and Affidavit of Debt:

b. The initial Notice of Intervention document was submitted by PHH Mortgage Corp. July 25, 2014, Plaintiff PHH Mortgage Corp./Laura R. Baer Rogers Townsend and Thomas PC, submitted the document to the court and has the inter-office client file No. 011227-01447.

c. March 11, 2015 Plaintiff "PHH Mortgage Corp./H. Guyton Murrell- Rogers Townsend and Thomas filed Attorney Certification/Deficiency Judgement waived (Mortgagor Denied 2014CP4602394 PHH Mortgage Corp vs Norman D. Lowery (013225-03514) stating a Notice of Intervention within sub-paragraphs of the filing.

d. The Attorney Certification makes sense but the "Notice of Intervention" in the body of the document doesn't, nor does the filing state why PHH Mortgage was refiling the notice of intervention. With the Plaintiff noted as PHH Mortgage Corp. bears the inter-office file No. 13225-03514 annotated on the document.

e. In a Hearing the Plaintiff/Attorney can choose which file works best for the Plaintiff at a hearing.

f. The Affidavit of Debt attempts to create "STANDING" for justification for Foreclosure action.

d. The initial Validation of Debt from the "Dismissed" 2013 case made by PHH Mortgage (Plaintiff) wasn't referenced by PHH Mortgage Corp./Laura R. Baer, Rogers Townsend and Thomas filing the July 25, 2014 Court Docket 2014CP4602394 PHH Mortgage Corp vs Norman D. Lowery (011227-01447). The Summons/Complaint initiated the Foreclosure Action, with Statement of Debt incorporated in the body of the Summons/Complaint.

(1). The Summons/Complaint 2014CP4602013 (011227-01447) filing is done without a Sworn Affidavit of Debt from PHH Mortgage Corp. opposed Statement of Debt submitted in 2013 and the Appellant disputed/contested.

(2). Original Plaintiff-PHH Mortgage Corporation/Laura R. Baer Rogers Townsend and Thomas PC simply incorporated a Statement of Debt in the body of the filing omitting any proof to substantiate "justification" or "standing" for foreclosure action from a sworn statement from a PHH Mortgage Corp. Representative with personal knowledge of the mortgage corporation's processes.

8. Plaintiff PHH Mortgage Corp./Laura R, Baer, Rogers Townsend and Thomas PC created a fourteen (14) month "Delay" in its foreclosure action, when it was ready to move forward at the two - three month point or sooner.

#### CONCLUSION

This case should never had been subject to foreclosure action; it could have simply been resolved in a month opposed to twenty-nine (29) months and two (2) foreclosure actions; both lacking any standing for foreclosure action/justification. I am a one-hundred percent (100%) severely Disabled Veteran, always contacted PHH Mortgage Corp. and paid the mortgage payment via Debit card, I missed one (1) payment due to having a Heart Attack and passing bill paying off to my spouse. She thought I had paid the Mortgage payment for January 2013 and she paid all subsequent mortgage payments for the scheduled amount. Had PHH Mortgage Corp. simply followed federal law, assigned a Case Manager, applied all payments to the mortgage account, actually verified its statements - annotated by the process owners and insured it sent written communications with the correct address, there would have never been even the thought of foreclosure. Documents produced were all Robosigned, accounting was inaccurate to the extent that over \$500:00 was sent to me in 2015. Actual Good Faith "Error Resolution" efforts on PHH Mortgage Corp's, part as I pointed out in writing (still un-resolved from 2013/2014) is a display of extreme gross negligence and abuse.

There was no excuse for twenty-nine month/870 day "Delay" to bring the case to a single hearing only after multiple transfer of Note Holder and Mortgage Servicers during the Spring/Summer of 2015. Appellant shows up for the scheduled August 25, 2015 Master in Equity Hearing to which Appellant was the only one present, at the rescheduled Master in Equity Hearing Plaintiff on all Court Documents note, PHH Mortgage as the Plaintiff for both Master in Equity Hearings. Defendant was fully prepared for both Hearings yet, at the rescheduled September 23, 2015 Master in Equity Hearing the Master in Equity announced the 2014CP4602394 Court Docket as Nationstar Mortgage LLC vs Norman D. Lowery, for lack of better terms "Bait and Switch" of Plaintiffs and PHH Mortgage was in "Default". When Master in Equity recognized the Defendant, Defendant immediately raised the issue that he was not

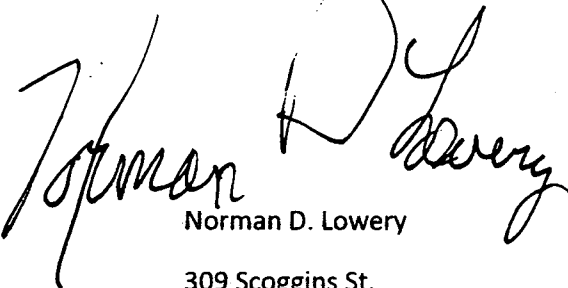
advised/provided any documents in any shape or form PHH Mortgage wasn't going to be present for the hearing nor Nationstar would attend and submit a Motion as a Substitute Plaintiff ( "Double Jeopardy"). Before Defendant could raise any other issues such as PHH Mortgage being in Default or any other issue, Master in Equity Closed the Case Docket containing Defendants "Proof" PHH Mortgage Corp. had no "Standing ", and issued a Bench Order "This is what I'm going to do, Who has the Note?", subsequently Ordering Nationstar as the Substitute Plaintiff and Ordering Right to Foreclosure action to Nationstar Mortgage LLC. Defendant's Right to "Due Process" and a "Fair/Impartial Hearing" were violated (5<sup>th</sup> & 14<sup>th</sup> Amendments to the Constitution of the United States).

I am not a lawyer but due to being 100% severely Disabled Veteran as a minimum I would ask the Court to Order Nationstar and /or PHH Mortgage to:

1. Surrender the Note and Mortgage/Deed/title for home and property, 727 Sweet Meadow Lane Clover SC 29710 to Appellant within 30 days, surrender any and all claim/right to bring any legal action of any shape/form or fashion against Appellant by any entity/person/agency having been associated with this case or Note/Title, Deed, servicer or agency. Proof of Compliance to the Court with signature of acceptance by Appellant,
2. Pay for any/all restoration fees for damage to the home, out-buildings and property, pest control and yard which has been sitting in derelict since 2015, as recommended by a 3<sup>rd</sup> party building inspector to be paid for by Plaintiff(s). Should the home be un-inhabitable replace the dwelling and associated fees for removal of un-inhabitable dwelling/foundation and set up fees/costs for the same square footage and fireplace. With proof of compliance to the Court with Appellants signature of acceptance.
3. Contract for/pay for all moving, dissemble/assembly fees to return Appellant to the property 727 Sweet Meadow Lane Clover SC 29710. From all rental property and storage units. With Proof of Compliance bearing acceptance by the Appellant
4. Reimburse Appellant for all costs incurred to date vacating 727 Sweet Meadow Lane Clover SC, dwelling costs/rents, storage fees, utilities, deposits, and rent up to such time Appellant and all personal property is returned and occupying 727 Sweet Meadow Lane, Clover SC 29710. Present to the Court proof of compliance with Appellants signature of acceptance within 30 days.
5. Restore/repair credit reporting, and any/all IRS and Department of Veterans Affairs issues, fees, requirements within 30 days and documented proof of compliance with Appellants signature of acceptance.
6. Appellant retains the right to bring future lawsuits and any other legal action in any shape form or fashion against Nationstar Mortgage LLC, PHH Mortgage Corp. mortgage/note holder or note/mortgage servicer and/or any other agency of any form/shape or fashion associated with this case.
7. Any other Court Order deemed appropriate by The South Carolina Court of Appeals

For the reasons and evidence presented, this Court should reverse the judgement of the Master in Equity's Court

Respectfully submitted

A handwritten signature in black ink, appearing to read "Norman D. Lowery". The signature is written in a cursive style with a large, stylized initial "N".

Norman D. Lowery

309 Scoggins St.

Rock Hill, SC, 29730

(828)782-7020

Appellant