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IN THE COURT OF COMMON PLEAS
STATE OF SOUTH CAROLINA, COUNTY OF SPARTANBURG

S.C. SUPREME COURT

FIFTH THIRD MORTGAGE COMPANY,

Plaintiff,

v.

CASE NO.: 2016-CP-42-02422

TRACY L. LIGGETT; SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES,

Defendants.

**DEFENDANT'S MOTION TO STAY/MOTION TO CANCEL AND/OR POSTPONE
THE SALE DATE OF THE PROPERTY SET FOR JANUARY 3, 2017**

COMES NOW, the Defendant, TRACY L. LIGGETT, *Pro se* and hereby files this Motion to Stay/Motion to Cancel and/or Postpone the Sale of the Property Set for January 3, 2017, based on the pending appeal of the foreclosure judgment in this case and states as follows:

FACTS

1. On or about June 30, 2016, Plaintiff commenced a Mortgage Foreclosure action as to the subject property belonging to the Defendant.
2. On November 16, 2016, a hearing was set for December 1, 2016 on a Non-Jury Mortgage Foreclosure.
3. On November 28, 2016, Defendant filed a Notice of Unavailability/Motion for Continuance of the December 1, 2016 hearing due to Defendant's inability to attend the hearing set for December 1, 2016.

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DEC 30 2016

SC Court of Appeals

Answer Page 1 of 3

4. On or about December 1, 2016, without Defendant being present to assert her defenses, the Court issued a Final Judgment of Foreclosure in favor of Plaintiff, FIFTH THIRD MORTGAGE, in this action and set a sale date for the property of January 3, 2017.

5. On December 28, 2016, Defendant filed her Complaint in *Liggett v. Fifth Third Mortgage*, Case # 7-16-CV-004011-001 (herein "Rescission Case").

6. On December 29, 2016, Defendant filed her Notice of Appeal of the foreclosure judgment in the Court of Appeals.

7. Defendant now brings this Motion to Stay/Motion to Cancel and/or Postpone the Sale of the Property set for January 3, 2017, pending the decision of the Appeals Court in Defendant's pending appeal of the foreclosure judgment and the outcome of the Rescission Case.


8. Defendant asserts that SC Rule 241 of the South Carolina Appellate Court Rules provides for the stay of the sale in this action

9. Furthermore, Defendant was unable to attend the December 1, 2016 hearing and has been denied due process of law prior to the taking of her property.

10. Defendant requests that no bond be required for the granting of the stay because Defendant does not have the financial ability to obtain a bond, and the requirement of a bond will prevent Defendant from pursuing her rights to due process through the appellate process.

WHEREFORE, Defendant now asks and moves this Honorable Court to immediately grant her Motion to Stay/Motion to Cancel and/or Postpone the Sale Set for January 3, 2017 pending the Appeals Court's decision in the pending appeal and a decision in the Rescission Case.

Respectfully submitted,


TRACY LYNN LIGGETT, *Pro se*
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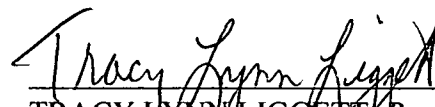
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CERTIFICATE OF SERVICE

S.C. SUPREME COURT

I do certify that a true and correct copy of the following was served by U.S. Mail and/or e-mail upon the following party: Alan M. Stewart, Esq., Hutchens Law Firm, P.O. Box 8237, Columbia, SC 29202, Alan.Stewart@hutchenslawfirm.com, South Carolina Department of Motor Vehicles, C/O Frank L. Valenta, Jr., General Counsel, P.O. Box 1498, Blythewood, SC 29016 on this 29th day of December, 2016.


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