

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Roger M. Young, Sr., Circuit Court Judge  
Mikell R. Scarborough, Master In Equity, Charleston County

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APR 04 2017

**SC Court of Appeals**

Appellate Case No. 2017-000613

U.S. Bank Trust, N.A., as  
Trustee for LSF9 Master  
Participation Trust

Respondent,

v.

Robert E. Hammond,

Appellant.

BRIEF OF APPELLANT ON APPEALABILITY ISSUE

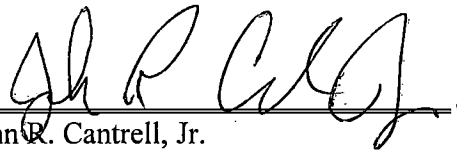
Appellant files this brief pursuant to request of the court by letter dated March 24, 2017 for briefing on the issue of appealability. This appeal concerns two orders, the first being an order substituting the plaintiff in this foreclosure action, and the second being an order denying Appellant's Rule 59(e) motion regarding the first order.

An order substituting a party is an immediately appealable interlocutory order. Neeltec Enterp., Inc. v. Long, 397 S.C. 563, 566-7, 725 S.E.2d 926, 928-9 (2012). The failure of a defendant to appeal an order substituting a plaintiff immediately after that order is entered prevents the defendant from attempting to challenge that substitution order after final judgment is issued in the case. Watts v. Copeland, 170 S.C. 449, 456-7, 170 S.E. 780, 783 (1933).

If the order substituting the plaintiff is improper, then it follows that the trial court's denial of the Rule 59(e) order attempting to alter or amend that substitution order was also improper, thereby making consideration of both trial court orders necessary on appeal for a full adjudication of the matter, and to preserve the right of the Appellant to only have to defend this case against the real party in interest.

WHEREFORE, Appellant respectfully requests that the court find that the orders appealed from are appealable interlocutory orders and allow this appeal to proceed.

Dated this April 3, 2017.



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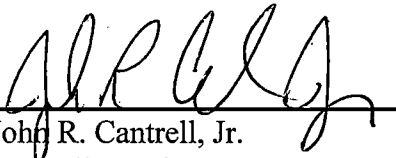
v.

Robert E. Hammond,

Appellant.

PROOF OF SERVICE

I certify that I have served the Brief of Appellant on Appealability Issue on U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust by depositing a copy of it in the United States mail, postage prepaid, on April 3, 2017, addressed to its attorney of record, William P. Stork, at his address indicated below.



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April 3, 2017

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211

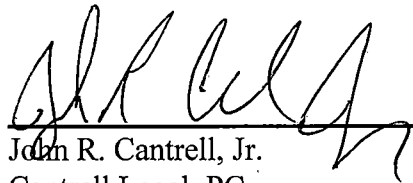
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RE: U.S. Bank Trust, N.A. As Trustee v. Robert E. Hammond, Appellant  
Appellate Case No. 2017-000613

Dear Miss Kitchings:

Enclosed are the following:

The original Appellant brief on the appealability issue.



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Attorney for Appellant

cc : William P. Stork (with attachments)

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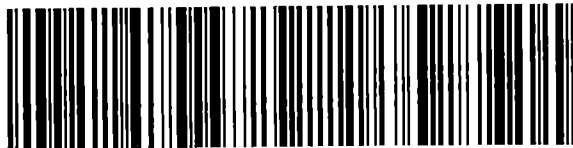
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