

THE STATE OF SOUTH CAROLINA  
In The Court of Appeal

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APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

Dale E. Van Slambrook Master of Equity

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Case No. 2010-CP 08-3514

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Appellate Case No. 2016-000292

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**RECEIVED**

MAY 04 2017

SC Court of Appeals

Branch Banking and Trust Company -----Respondent,

v.

Wilton H. Cain: Cassandra M. Cain-----Appellants

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**MOTION TO INCLUDE MATERIAL IN RECORD ON APPEAL**

**These letters , emails, property card are directly connected to this foreclosure case and was a direct concern and connection to case in lower court, as well as directed by the court to keep the Appellants aware of proceeding of case. The letter from defendants August 28, 2010 to plaintiff and their response September 28, 2010 involved the case directly, with important information concerning case, the validation of debt from Mr. Miller shows PMI payment by**

**defendants. The property card from Berkeley County shows Plaintiff sold house for and amount higher than 121,500.00 by 33,000.00 dollars then the sale price (154,000.00 ) before appraisal value was set, which would determine the legal value of their loss was determined. The emails must be included because they are from Court, Plaintiff and Defendants strictly on the case. And they all have an effect on the case so must be included. Please include in the record on Appeal.**

  
WILTON CAIN AND CASSANDRA CAIN

6476 NORTH HWY 17

AWENDAW, SOUTH CAROLINA

8439913198

APRIL 16, 2017

**The 25.00 dollars for the motion is attached**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeal

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**PROOF OF SERVICE**

**I hereby certify that I have served the Appellants Motion to include material in record on appeal, upon the respondent's by depositing a copy of it in the United State Mail postage paid, on April 16, 2017 addressed to attorney for Plaintiff Erica Lybrand at Rogers Townsend & Thomas, P.O.B. 100200 Columbia, SC 29202**

*Wilton H. Cain Cassandra Cain*  
**Wilton Cain and Cassandra Cain**

**6476 N. highway 17 Awendaw, SC 29429**

STATE OF SOUTH CAROLINA

COUNTY OF BERKELEY

Branch Banking and Trust Company,

Plaintiff,

v.

Wilton Cain; Cassandra Durrah Cain;

Defendant(s).

IN THE COURT OF COMMON PLEAS

DOCKET NO.

VALIDATION OF DEBT  
Deficiency Judgment Waived

(004335-02111)

Personally appeared, who being duly sworn, deposes and says:

That s/he is Rick Miller, AVP for BBT,

and is duly authorized to make this Validation of Debt and represents that s/he has knowledge of the matters contained herein;

That the copy of the note and mortgage attached are true and accurate copies of the original instruments;

That Plaintiff has the legal right to enforce the negotiable instrument secured by the Mortgage and is the real party in interest as defined by Rule 17(a) of the South Carolina Rules of Civil Procedure;

That I have examined the loan account for and that said account is under my supervision. According to my examination, there is presently due the following principal, interest and escrow/corporate advances which are secured by the mortgage being foreclosed and the following represents the balance outstanding on this account;

That all other allegations in the Complaint and the exhibits attached thereto are true and correct based on her/his knowledge, information and belief.

1. Principal ..... \$ 170,733.63
2. Interest thereon from October 1, 2009 at the rate of 6.25 % per annum as of August 19, 2010 ..... \$ 9,418.63
3. Advances (itemized as follows) ..... \$ \_\_\_\_\_
  - a. Escrow advance ..... \$ 1,119.58
  - b. PMI ..... \$ 97.70
  - c. Other Fees ..... \$ 165.00
  - d. Property Maintenance ..... \$ 724.00
  - e. \_\_\_\_\_

4. Late charges .....\$ 269.35

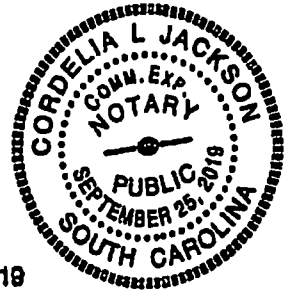
TOTAL PRINCIPAL, INTEREST AND EXPENSES .....\$ 182,527.89

*R. Miller*  
Name Rick Miller

(Title)  
Greenville, SC  
(City and State)  
September 18, 2010

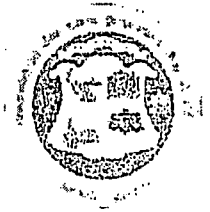
Sworn to before me this 18 day of September, 2010.

*Cordelia L. Jackson* (L.S.)  
Notary Public for Greenville, SC  
My Commission Expires: \_\_\_\_\_



**My Commission Expires September 25, 2018**

# Unofficial Berkeley County Property Card



## Summary Information:

|                              |                      |   |
|------------------------------|----------------------|---|
| TMS: 2440304016              | Council District: C3 | Neighborhood: S049 - MULBERRY PARK (LIBERTY HALL TRAC |
| Parent TMS: 235-00-00-047    | Fire District: F18   | Appraiser ID: DR                                      |
| Owner Information:           | Tax District: T18    | Lot: 704 Block: Section: 10A                          |
| BAKER JOSEPH & NANETTE MARIE | TIS Zone: 9          | Zoning: Goose Creek - PD                              |
| 259 Clayburne Dr             | Jurisdiction: 1P     | Homestead Exempt: No                                  |
| Goose Creek, SC 29445-3484   | Acres: 0.00          | Notes:  |
|                              | Lots: 1.0            | ADD NEW RES PER SALE 9/07                             |
|                              |                      | SALE NO CHANGE 10/07                                  |
|                              |                      | 1-2-08  |

|                                  |
|----------------------------------|
| Site addresses:                  |
| 259 CLAYBURNE DR                 |
| GOOSE CREEK, SC 29445, Unit/Lot: |

## Previous Owner History:

|  |                       |                          |                             |                  |
|--|-----------------------|--------------------------|-----------------------------|------------------|
| Owner: FEDERAL HOME LOAN MORTGAGE CORPORATION                          | Sale Date: 10/03/2012 | Sale Price: \$154,000.00 | Deed Book-Page: 9782 - 342  | Plat:            |
| Owner: CAIN WILTON H & CASSANDRA M DURRAH<br>SURVIVORSHIP(MASTER DEED) | Sale Date: 09/02/2011 | Sale Price: \$121,500.00 | Deed Book-Page: 9111 - 192  | Plat:            |
| Owner: CENTEX HOMES  | Sale Date: 09/19/2007 | Sale Price: \$184,468.00 | Deed Book-Page: 6868 - 0155 | Plat: CAB R-243A |

## Sales Information:

|                            |                   |                    |
|----------------------------|-------------------|--------------------|
| Last Sale Date: 10/03/2012 | Plat Information: | Sales Validity: OA |
| Recording Date: 11/08/2012 | Deed Book: 9782   | Validity Other:    |
| Sale Price: \$154000       | Deed Page: 342    |                    |

## Valuation Information:

|                          |                                    |                               |
|--------------------------|------------------------------------|-------------------------------|
| Building Market: 110,000 | Building Taxable (4% Res): 110,000 | Land Taxable (4% Res): 43,000 |
| Land Market: 43,000      | Building Taxable (6% Other): 0     | Land Taxable (6% Other): 0    |
|                          | Building Taxable (4% Ag): 0        | Land Taxable (4% Ag): 0       |
|                          | Building Taxable (6% Ag): 0        | Land Taxable (6% Ag): 0       |
|                          | Total Taxable Value: 153,000       | Total Assessment: 6,120       |

## Fee Summary:

|                             |     |
|-----------------------------|-----|
| Goose Creek, Sanitation Fee | 135 |
| Land Fill Fee               | 75  |

EXB 4

August 28, 2010

Rogers Townsend & Thomas, PC  
220 Executive Center Drive, Suite 109  
Columbia, South Carolina 29210

RE: 6991389936  
RTT File No: 004335-02111

**RESPONSE**

Concerning your notice dated Aug 23, 2010:

1. Branch Banking and Trust Company is the servicing agent not the creditor the creditor is Freddie Mac case # 476596726
2. How much is owed on house and how much is interest and attorney fees?
3. This loan has mortgage insurance on it from Republic Mortgage Insurance Co (RMIC).
4. How much of this loan is covered all or what portion by RMIC I paid for it to cover loan?
5. Has RMIC been notified of default?
6. What is owed creditor after RMIC pay insurance?
- 7 I dispute I owe 182,527.89 how much does RMIC owe ?

Expedite foreclosure sale we have moved which BB&T is well aware of. We could not accept mod that added 120 months onto the loan house would have cost nearly 500,00.00 dollars. And it now appraises for about 140,000.00

thank you  
Wilton Cain



**ROGERS TOWNSEND & THOMAS, PC**

ATTORNEYS AND COUNSELORS AT LAW

---

**DEFAULT SERVICES DEPARTMENT ATTORNEYS**

SAMUEL C. WATERS      CHERYL H. FISHER      REGINALD P. CORLEY      JENNIFER W. RUBIN      ELLIS C. FLOYD      MICHAEL P. MORRIS  
MARY R. POWERS      ROBERT P. DAVIS      WILLIAM S. KOEHLER  
EVE MORDOCK STACEY      KEISEY K. BROCKBANK      JOHN P. FETNER      KEVIN T. HARDY      BENJAMIN J. POWELL

September 28, 2010

Wilton Cain  
259 Clayburne Drive  
Goose Creek, SC 29445

RE: 6991389936  
RTT File No: 004335-02111

Dear Mr. Cain:

In response to your Qualified Written Request, my client responds as follows:

Your Requests:

1. Branch Banking and Trust Company is the servicing agent not the creditor the creditor is Freddie Mac case #476596726.
2. How much is owed on the house and how much is interest and attorney fees?
3. This loan has mortgage insurance on it from Republic Mortgage Insurance Co. (RMIC).
4. How much of this loan is covered all or what portion by RMIC I paid for it to cover loan?
5. Has RMIC been notified of default?
6. What is owed creditor after RMIC pay insurance?
7. I dispute I owe \$182,527.89 how much does RMIC owe?

**Plaintiff's Response:**

1. **Branch Banking and Trust Company is the holder of the Note.**
2. **The amount owed on the subject loan as of August 19, 2010 is \$182,527.89.**
3. **The loan does indeed have private mortgage insurance coverage as required.**
4. **Private mortgage insurance only covers the creditor for a loss under specific circumstances. It does not reimburse you in any way.**
5. **Private mortgage insurance carrier has been notified that the loan is delinquent and in default.**
6. **Private mortgage insurance only pays a creditor when a loss is suffered. Your obligations are set forth pursuant to the Note and Mortgage you signed (see attached).**
7. **Private mortgage insurance only pays a creditor when a loss is suffered. Please see the Validation of Debt in respect to your dispute. Assuming you resolve this delinquency, the mortgage insurer would owe nothing under the policy.**

**In Response to all Requests: Please find enclosed a copy of the Note, Mortgage, Validation of Debt and Payment History.**

Sincerely,

  
Jennifer W. Rubin

JWR/tsm  
Enclosures

**THIS IS AN ATTEMPT TO COLLECT A DEBT AND ANY INFORMATION  
OBTAINED WILL BE USED FOR THAT PURPOSE.**

EXB 2

Reply Reply All Forward Delete More

Visit our Website at: [www.berkeleycountvsc.gov](http://www.berkeleycountvsc.gov)

From: Ashley Wheeling-Goodson [mailto:[AshleyWheeling-Goodson@rtt-law.com](mailto:AshleyWheeling-Goodson@rtt-law.com)]

Sent: Thursday, September 03, 2015 3:25 PM

To: Darcenia Montgomery <[darcenia.montgomery@berkeleycountvsc.gov](mailto:darcenia.montgomery@berkeleycountvsc.gov)>; Suzanne Albert <[suzanne.albert@berkeleycountvsc.gov](mailto:suzanne.albert@berkeleycountvsc.gov)>

Cc: [wjca6@aol.com](mailto:wjca6@aol.com); Regina Dunlap <[Regina.Dunlap@rtt-law.com](mailto:Regina.Dunlap@rtt-law.com)>

Subject: BB&T v. Cain et. al

Darcenia,

My name is Ashley Wheeling-Goodson, and I am the attorney for BB&T. Yesterday, I appeared for a circuit court motion before Judge Harrington & she requested that I coordinate the conclusion of the appraisal process with Judge Van Slambrook. This case has been pending for a long time and well before Judge Van Slambrook took the bench. I wanted to briefly give you the procedural posture of the case, in the event Judge Van Slambrook has any questions. I'd like to schedule a phone conference to discuss the next steps in this matter, if the Judge is amenable to participating in one. Otherwise, just let us know what he'd like to do. I have copied the borrowers on this email correspondence.

This is a 2010 foreclosure case and judgment was entered in 2011. The borrowers timely asserted their right to an appraisal pursuant to Title 29 of the code, in order to have the deficiency judgment against them reduced or extinguished. The final sale was held on September 2, 2011 & the borrowers filed a verified petition seeking an order of appraisal on September 6, 2011. Judge Harrington initially signed an order permitting the appraisal, but then she subsequently rescinded the order via a Form 4 order. The borrowers filed a motion to reconsider, which was denied. The borrowers appealed & the case was pending in the Court of Appeals until an order was issued on September 24, 2014. I have attached a copy of the filed order to the body of this email. Remittur from the Court of Appeals was filed on 10/20/14. Subsequently, a hearing was held before Judge Harrington on 5/28/15, and she reinstated her original order permitting the appraisal of the property. I have attached a copy of the resulting Form order to the body of this email for the court's review.

The Cains appeared at the 9/2/15 motions hearing & they complied with Judge Harrington's order by having an appraisal of the property completed. The Plaintiff does not contest the borrowers' right to invoke the appraisal statute. Since there is an order of reference empowering the master-in-equity to retain jurisdiction for all matters arising out of the foreclosure, Judge Harrington indicated that she wanted Judge Van Slambrook to oversee the rest of the appraisal process. Given that the borrowers have already had an appraisal conducted, I wanted to determine whether Judge Van Slambrook would like to appoint an appraiser on behalf of the court, or whether he would like to conduct the process with two appraisers (one selected by the borrowers and one selected by BB&T). The process for appraisal usually varies by Master. And, I also wanted to establish the deadline for the other appraisal(s) to be completed. If the Judge would like to schedule a conference call or handle this some other way, please let us know.

Thanks,

Ashley Wheeling-Goodson

SEARCH

More

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**Fwd: BB&T v. Cain et. al 2010-3574**

[Wilton Cain to adurrahb](#)
[show details](#)
[show image slideshow](#)

7 Dec 2015

2010CP0803514\_ORDER\_206821.pdf (33 KB)

64

—Original Message—

1 From: Suzanne Albert <[suzanne.albert@berkeleycountysc.gov](mailto:suzanne.albert@berkeleycountysc.gov)>  
 To: Erica Lybrand <[Erica.Lybrand@rtt-law.com](mailto:Erica.Lybrand@rtt-law.com)>  
 Cc: [wilca6@aol.com](mailto:wilca6@aol.com); Karissa Richardson <[Karissa.Richardson@rtt-law.com](mailto:Karissa.Richardson@rtt-law.com)>; Charlie Gwynne <[CHARLIE.GWYNNE@rtt-law.com](mailto:CHARLIE.GWYNNE@rtt-law.com)>; Olivia  
 Wicker <[Olivia.Wicker@rtt-law.com](mailto:Olivia.Wicker@rtt-law.com)>  
 Sent: Wed, Dec 2, 2015 10:58 am  
 36 Subject: RE: BB&T v. Cain et. al 2010-3574

Attached is the filed Order that your office submitted yesterday. Judge Van Slambrook is in the process of drafting another Order.

Please be advised that a hard copy of this filed Order will not follow this email.

Suzanne Albert  
 Foreclosure Specialist  
 Master-In-Equity's Office  
 5 Dale E. Van Slambrook, Judge  
 843-719-4437- Direct  
 843-719-4397- Fax  
[suzanne.albert@berkeleycountysc.gov](mailto:suzanne.albert@berkeleycountysc.gov)

Visit our Website at: [www.berkeleycountysc.gov](http://www.berkeleycountysc.gov)

From: Erica Lybrand [<mailto:Erica.Lybrand@rtt-law.com>]  
 Sent: Tuesday, December 01, 2015 10:13 AM  
 To: Suzanne Albert <[suzanne.albert@berkeleycountysc.gov](mailto:suzanne.albert@berkeleycountysc.gov)>  
 Cc: [wilca6@aol.com](mailto:wilca6@aol.com); Karissa Richardson <[Karissa.Richardson@rtt-law.com](mailto:Karissa.Richardson@rtt-law.com)>; Charlie Gwynne <[CHARLIE.GWYNNE@rtt-law.com](mailto:CHARLIE.GWYNNE@rtt-law.com)>; Olivia Wicker  
 <[Olivia.Wicker@rtt-law.com](mailto:Olivia.Wicker@rtt-law.com)>  
 Subject: RE: BB&T v. Cain et. al 2010-3574

Good morning,

My apologies. I thought I had previously forwarded the attached proposed order.



SEARCH

Reply Reply All Forward Delete More

Re: BB&T v. Cain et. al 2010-3574

Wilton Cain to dale.vanslambrook show details

15 Jan 2018

For Judge Dale Van Slambrook eyes only, please do not forward as per Judge instruction not to discuss! Your Honor I have no objection to the amount after Appraisal, my objection is to there being any residue owed BB&T FOR they collected from PMI per Teresa Roberts agent at RMIIC the insurance company (gan # 0726007538) after being notified of Default by BB&T. Any order for BB&T will allow double payment to BB&T. It is not defendant fault PMI Insurer has not attempted to collect, and this Court Should not write or issue any order that has any possibility of extending notification time or any thing which aids Insurer ability to SUE nor allow BB&T to back door same, I am willing to face Insurer if need be, I see no Court case where first party has right to sue for third party nor has BB&T or their attorney notified this court or defendant they represent PMI Insurer in FIVE years I believe time has expired. It has been over five years Insurer could have SUED. Equity DEMANDS COURT protect my RIGHTS, As your Honor Stated no order has been signed.Thank You

-----Original Message-----

From: Dale Van Slambrook <dale.vanslambrook@berkeleycountysc.gov>  
To: Erica Lybrand <Erica.Lybrand@tt-law.com>  
Cc: wilca6 <wilca6@aol.com>  
Sent: Thu, Jan 14, 2018 12:23 pm  
Subject: RE: BB&T v. Cain et. al 2010-3574

Ms. Lybrand, Please prepare a proposed Order in reference to the above matter heard today denying the requested relief. Outline the procedural history as set forth in your brief and that this Order is issued in response to Defendant's Motion to Dismiss but was considered a Motion to Amend, Alter Judgment or to Reconsider the Order dated December 4,2015. Please make the appropriate findings and conclusions in conformity with your arguments set forth in your brief and the Motion Hearing. Thank you.

Dale E. Van Slambrook  
Master-in-Equity Berkeley County  
PO Box 1163  
Moncks Corner, South Carolina 29461  
(843)719-4437

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More  
 Reply Reply All Forward Delete

From: Harrington, Kristi L. Secretary (Vivian Sox) [mailto:kharringtonsc@sccourts.org]  
 Sent: Thursday, July 23, 2015 1:17 PM  
 To: Valerie Butler <valerie.butler@berkeleycountysc.gov>  
 Cc: wilca6@aol.com; Harrington, Kristi L. Law Clerk (Katherine P. Clifton) <kharringtonlc@sccourts.org>  
 Subject: 2010-CP-08-3514

Ms. Valerie,

Judge Harrington would like to hear the matter below during her next Common Pleas term in Berkeley. Please schedule for Wednesday, September 2, at 9:00 AM.

Thank you,

**Vivian E. Sox**

Administrative Assistant & Law Clerk  
 The Honorable Kristi Lea Harrington  
 The Circuit Court of South Carolina  
 Ninth Judicial Circuit  
 300-B California Avenue  
 Moncks Corner, SC 29461  
 Phone: (843) 719-4480  
 Fax: (843) 719-4724  
 Email: KHarringtonSC@sccourts.org

From: Harrington, Kristi L. Law Clerk (Katherine P. Clifton)  
 Sent: Thursday, July 23, 2015 11:10 AM  
 To: Harrington, Kristi L. Secretary (Vivian Sox)  
 Subject: FW: Appraisal in hand

From: Wilton Cain [mailto:wilca6@aol.com]  
 Sent: Thursday, July 23, 2015 10:50 AM  
 To: Harrington, Kristi L. Law Clerk (Katherine P. Clifton); kharringtonsc@sccourt.org  
 Subject: Appraisal in hand

Please I am awaiting your scheduling of hearing on value of house after appraisal, that rescheduling in Equity Court may occur, please schedule Case

ROGERS TOWNSEND & THOMAS PC  
POST OFFICE BOX 100200 (29202)  
1221 MAIN STREET 14<sup>TH</sup> FLOOR  
COLUMBIA SOUTH CAROLINA 29201  
P 803 771 7900 F 803 343-7017  
W RTT-LAW.COM

Erica G. Lybrand  
Erica-Lybrand@RTT-LAW.COM  
P 803 744-5289  
LICENSED IN SOUTH CAROLINA



ROGERS TOWNSEND  
ATTORNEYS AT LAW

April 28, 2017

**RECEIVED**

MAY 04 2017

**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
The South Carolina Court of Appeals Clerk of Court  
1015 Sumter Street  
Columbia, SC 29201

RE: *Branch Banking and Trust Company v. Wilton H. Cain; Cassandra M. Durrain-Cain; Liberty Hall Residential Property Owners Association, Inc.*  
C/A # 2010-CP-08-03514  
RTT File # 504335-02111

Dear Ms. Kitchings:

Please be advised that service of Mr. and Mrs. Cain's documents in this matter continues to be an issue. We received the enclosed Proof of Service of Appellants Motion to Include Material in Record on Appeal on April 17, 2017, but did not actually receive a copy of the actual motion, and are therefore unable to respond. To the extent a response is required, please file this letter as an objection to the Motion.

With kind regards, I remain

Cordially yours,

A handwritten signature in black ink, appearing to read "Erica Lybrand".

Erica G. Lybrand

Enclosures

**RECEIVED**

MAY 04 2017

SC Court of Appeals

**ATTORNEY ERICA G. LYBRAND ;**

**JUST RECEIVED YOUR PACKAGE INDICATING YOU RECEIVE  
PACKAGE WITHOUT MOTION , I CAN NOT SEE THAT HOWEVER  
HERE IS A COPY OF PACKAGE WITH MOTION INCLUDED.**

**MAY 1, 2017**

*Wilton Cain Cassandra Cain*  
**WILTON CAIN AND CASSANDRA CAIN**

**6476 HIGHWAY 17 NORTH**

**SERVED ON THIS DAY THROUGH US MAIL TO ROGER TOWNSEND**

**AND THOMAS AT 1221 MAIN STREET COLUMBIA, SC 29201**

*Wilton Cain Cassandra Cain*

