

RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
1220 Senate St Columbia, SC 29201

RECEIVED

APR 04 2016

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Diane S. Goodstein, Circuit Court Judge

SC Court of Appeals

Case No. 2014-CP-18-1007(Court of Common Pleas)
Case No. 2015-001543 (SC Court of Appeals)

Bank of New York Mellon
Trust Co. N.A..not in its
individual capacity but Solely
as Trustee on behalf of the
FDIC 2013-N1 Asset Trust,

Respondent,

v.

CORNELL RILEY,

Appellant.

RECORD ON APPEAL

Cornell Riley
100 Madison Ave
LADSON, South Carolina 29456
(843) 771-2383
Attorney for Appellant Pro SE

Magalie Arcure Creech, Esquire
FINKEL LAW FIRM LLC
P.O. BOX 41489
Charleston, South Carolina 29423
(843) 577-5460
Attorney for Respondent

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A., not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS
C/A NO: 2014-CP-18-1007

LIS PENDENS

(NON-JURY MORTGAGE FORECLOSURE)

CERTIFIED COPY
MAY 27 AM 9:34
CLERK OF COUNTY
DORCHESTER COUNTY

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in this court upon Complaint of the above-named Plaintiff against the above-named Defendant(s) for foreclosure of a certain mortgage of real estate given by Cornell Riley by his Attorney-in-Fact Twilla D. Cobb to Mortgage Electronic Registration Systems, Inc., as nominee for Taylor, Bean & Whitaker Mortgage Corp. in the amount of \$170,590.00, dated July 31, 2009, and recorded in the Office of the Register of Deeds for Dorchester County in Book 7185 at Page 49 on August 6, 2009 at 9:25 a.m.

The premises covered and affected by the said mortgage as by the foreclosure thereof, were at the time of the making thereof, and at the time of the filing of this Notice, described as follows:

ALL that lot, piece or parcel of land, situate, lying and being in Dorchester County, State of South Carolina, and known and designated as Lot 3, Block R, North Tranquil Acres, as shown on a plat by Edward W. Hill, Registered Surveyor, entitled "Map of Blocks Q,R,S,T,U,X and Lots 13-19, Block W, North Tranquil Acres, Section A, Dorchester County, South Carolina" dated August 30, 1965 and recorded in the Office of the Clerk of Court for Dorchester County, State aforesaid, in Plat Book 15, Page 125. The said lot has such size, shape, dimensions, buttings and boundings as will more fully appear by reference to the aforesaid plat. Saving and excepting all that certain parcel of land containing 150 square feet of land, more or less, and any improvements thereon owned by Homer A. Clark and Johnnie Clark, shown as the "Area of Acquisition" on Exhibit A as shown in Deed Book 2160, Page 42.

TMS#: 162-01-10-001 and

Property Address: 100 Madison Ave, Ladson, SC

FINKEL LAW FIRM LLC

Post Office Box 71727

North Charleston, South Carolina 29415

(843) 577-5460

By:

- [Signature]*
- ☐ Thomas A. Shook, SC Bar # 68340
 - ☒ Susan S. White, SC Bar # 5453
 - ☐ Andrew M. Wilson, SC Bar # 72553
 - ☐ Elizabeth S. Moore, SC Bar # 69236
 - ☐ Teresa D. Van Vlakte, SC Bar # 11118
- Attorneys for Plaintiff

May 16, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset
Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT(S).

Submitted By: ☒ Thomas A. Shook SC Bar #: 68340
☐ Susan S. White SC Bar #: 5453
☐ Andrew M. Wilson SC Bar #: 72553
☐ Elizabeth S. Moore SC Bar #: 69236
☐ Teresa D. Van Vlake SC Bar #: 11118

Address: PO Box 71727
N. Charleston, SC 29415

Telephone #: (843) 577-5460
Fax #: (843) 725-0015
Other:
Email: Ashook@finkellaw.com

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2014-CP-18-1007

CERTIFIED COPY
2014 MAY 27 AM 9:34
Clerk of Court
DORCHESTER COUNTY

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☐ JURY TRIAL demanded in complaint. ☒ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|--|
| Contracts
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199) _____ | Torts - Professional Malpractice
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20 ____-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299) _____ | Torts - Personal Injury
☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399) _____ | ☐ Claim & Delivery (400)
☐ Condemnation (410)
☒ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499) _____ |
| Inmate Petitions
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599) _____ | Administrative Law/Relief
☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order
☐ Other (899) _____ | Judgments/Settlements
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement
Payment Rights Application (760)
☐ Confession of Judgment (770)
☐ Petition for Workers Compensation
Settlement Approval (780)
☐ Other (799) _____ | Appeals
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)
☐ Employment Security Comm (991)
☐ Other (999) _____ Employment Secu |
| Special/Complex /Other
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699) _____ | ☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in/an
Out-of-County Action (660)
☐ Sexual Predator (510) | | |

Submitting Party Signature:

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq. SCCA / 234 (6/2013)

Date: 05/16/2014

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FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Case are exempt from the ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals;
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference had been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

VS.

Cornell Riley,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS
CIVIL ACTION NO: 2014-CP-18-1007

**CERTIFICATE OF
EXEMPTION/WITHDRAWAL FROM
ARBITRATION AND MEDIATION**

CERTIFIED COPY
2014 MAY 27 AM 9:34
Clerk of Court
DORCHESTER COUNTY

I CERTIFY THAT THIS ACTION IS EXEMPT FROM ARBITRATION BECAUSE:

- ☐ Monetary relief requested in this case exceeds \$25,000;
- ☐ This is a class action;
- ☐ There is a substantial claim for injunction or declaratory relief requested in this case;
- ☒ This case involves (check one or more of the following):
 - ☐ Title to real estate;
 - ☐ Wills, trusts and decedents' estates;
 - ☒ Mortgage foreclosure;
 - ☐ Partition;
- ☐ This is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
- ☐ Monetary relief requested in this case is unspecified but exceeds \$25,000;
- ☐ This case is a companion or related to similar actions pending in other courts with which the action might be consolidated but for lack of jurisdiction or venue;
- ☐ This action is appellate in nature;
- ☐ This is a post-conviction relief matter;
- ☐ This is a forfeiture proceeding brought by the State; or
- ☐ This is a contempt of Court proceeding.

FINKEL LAW FIRM LLC
P.O. Box 71727
North Charleston, SC 29415
(843) 577-5460

By:

- [Signature]*
- ☐ Thomas A. Shook, SC Bar # 68340
 - ☒ Susan S. White, SC Bar # 5453
 - ☐ Andrew M. Wilson, SC Bar # 72553
 - ☐ Elizabeth S. Moore, SC Bar # 69236
 - ☐ Teresa D. Van Vlake, SC Bar# 11118

Attorneys for Plaintiff

May 16, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust
Company, N.A, not in its individual capacity
but solely as trustee on behalf of the FDIC
2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT(S).

TO THE ABOVE NAMED DEFENDANT(S):

IN THE COURT OF COMMON PLEAS
C/A NO: 2014-CP-18-1007

SUMMONS AND NOTICES**(NON-JURY MORTGAGE FORECLOSURE)**

CERTIFIED COPY
2014 MAY 27 AM 9:34
Clerk of Court
DORCHESTER COUNTY

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, or to otherwise appear and defend, and to serve a copy of your Answer to said Complaint upon the plaintiff's attorneys at their office, 4000 Faber Place, Suite 450 (29405), P.O. Box 71727, North Charleston, South Carolina, 29415, or to otherwise appear and defend the action pursuant to applicable court rules, within thirty (30) days after service hereof, exclusive of the day of such service; except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of such service; and if you fail to answer the Complaint or otherwise appear and defend within the time aforesaid, the Plaintiff in this action will apply to the Court for relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDE(S), AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:

YOU ARE FURTHER SUMMONED AND NOTIFIED to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff.

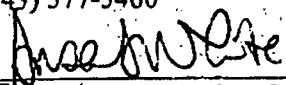
YOU WILL ALSO TAKE NOTICE that pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, as amended effective September 1, 2002, the Plaintiff will move for a general Order of Reference to the Master in Equity for Dorchester County, which Order shall, pursuant to Rule 53(b) of the

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SCRCP, specifically provide that the said Master in Equity is authorized and empowered to enter a final judgment in this action.

FINKEL LAW FIRM LLC
P.O. Box 71727
North Charleston, S.C. 29415
(843) 577-5460

By:


☐ Thomas A. Shook, SC Bar # 68340
☒ Susan S. White, SC Bar # 5453
☐ Andrew M. Wilson, SC Bar # 72553
☐ Elizabeth S. Moore, SC Bar # 69236
☐ Teresa D. Van Vlakte, SC Bar # 11118
Attorneys for Plaintiff

May 16, 2014

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset
Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS
C/A NO: 2014-CP-18-1007

COMPLAINT

(NON-JURY MORTGAGE FORECLOSURE)

CERTIFIED COPY
2014 MAY 27 AM 9:34
Clerk of Court
DORCHESTER COUNTY

The Plaintiff alleges as follows:

1. The Plaintiff, a corporation or other legal entity, brings this foreclosure action to collect a debt and/or enforce a mortgage, security interest, or other rights in property securing the debt.
2. The Plaintiff is the servicer and/or mortgagee of the note and mortgage covering real property located in Dorchester County, which is the subject of the within captioned action, and is entitled to enforce same.
3. The defendant(s) named herein may have an interest in the property that is the subject of this action.
4. Any defendant(s) described herein as Judgment Creditor(s) have by filing judgment(s) designated the attorney(s) entering the judgment(s) as their agent for service of process pursuant to the provisions of §15-35-840 of the South Carolina Code of Laws (1976 as amended).
5. Upon information and belief, the defendant(s) Cornell Riley is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act (2003).
6. On or about July 31, 2009, for value received, Cornell Riley by his Attorney-in-Fact Twilla D. Cobb executed and delivered to Taylor, Bean & Whitaker Mortgage Corp. a certain promissory note in the sum of \$170,590.00, together with interest thereon pursuant to the terms of the note.
7. To secure the payment of the said note and debt, secured thereby, and in accordance with the terms and conditions thereof, on July 31, 2009, Cornell Riley by his Attorney-in-Fact Twilla D. Cobb executed and delivered to Mortgage Electronic Registration Systems, Inc., as nominee for Taylor, Bean & Whitaker Mortgage Corp., its successors and assigns, a mortgage covering the following described property:



ALL that lot, piece or parcel of land, situate, lying and being in Dorchester County, State of South Carolina, and known and designated as Lot 3, Block R, North Tranquil Acres, as shown on a plat by Edward W. Hill, Registered Surveyor, entitled "Map of Blocks Q,R,S,T,U,X and Lots 13-19, Block W, North Tranquil Acres, Section A, Dorchester County, South Carolina" dated August 30, 1965 and recorded in the Office of the Clerk of Court for Dorchester County, State aforesaid, in Plat Book 15, Page 125. The said lot has such size, shape, dimensions, buttings and boundings as will more fully appear by reference to the aforesaid plat. Saving and excepting all that certain parcel of land containing 150 square feet of land, more or less, and any improvements thereon owned by Homer A. Clark and Johnnie Clark, shown as the "Area of Acquisition" on Exhibit A, attached hereto and made a part hereof as shown in Deed Book 2160, Page 42.

TMS #: 162-01-10-001

Property Address: 100 Madison Ave, Ladson, SC

8. Thereafter the mortgage was recorded in the Office of the Register of Deeds for Dorchester County in book 7185 at page 49 on August 6, 2009.

9. The above-referenced instrument constitutes a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

10. Thereafter, the subject mortgage was assigned or otherwise transferred as follows:

- a. By assignment dated August 19, 2011, and recorded September 26, 2011, in book 8022 at page 75, Mortgage Electronic Registration Systems, Inc., as nominee for Taylor, Bean & Whitaker Mortgage Corp. assigned the subject mortgage to FDIC as receiver for Colonial Bank;
- b. By assignment dated October 25, 2013, and recorded December 6, 2013, in book 9109 at page 134, The Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely in its capacity as Trustee on Behalf of the FDIC 2011-N1 Asset Trust assigned the subject mortgage to The Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely as Trustee on Behalf of the FDIC 2013-N1 Asset Trust. However, this assignment is invalid and of no force and effect as The Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely in its capacity as Trustee on Behalf of the FDIC 2011-N1 Asset Trust was not the mortgagee of record at the time the purported assignment was made.
- c. Subsequently, the subject mortgage was assigned or otherwise transferred to The Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust, the Plaintiff herein.

11. By subsequent agreement the parties modified the terms of the original loan which, *inter alia*, increased the principal balance due and lowered the interest rate.

12. Pursuant to the Administrative Order of the Chief Justice, 2009-05-22-01, the loan that is subject of this action is held by a participant in the Home Affordable Modification Program (HMP), however the loan is not subject to modification under the HMP because the loan is insured by Veterans Affairs (VA).

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13. Pursuant to the terms of the mortgage, any sums paid by the plaintiff for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the mortgage.

14. The monthly payments due on said note and mortgage are in default since June 1, 2013, although demand for payment thereof has been made and the plaintiff, as the holder of the said note and mortgage, after providing all required notices, elects to, and does declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of June 1, 2013, the sum of \$ 184,806.98, together with interest at the rate of 4.25% per annum, from May 1, 2013, and also for the costs and disbursements of this action, including attorney's fees.

15. Pursuant to Sections 37-5-110 and 37-5-111, South Carolina Code of Laws (1976 as amended), any notice of right to cure has been given as required.

16. The Plaintiff does not demand a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the plaintiff, including costs and attorney's fees.

WHEREFORE, having fully set forth its Complaint, the Plaintiff prays that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the said note and mortgage held by Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.

2. The said Plaintiff's Mortgage be declared a first mortgage lien and that the said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.

3. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

First, to the costs and expenses of the within action and sale.

Second, to the payment and discharge of the amount due on Plaintiff's note and mortgage, together with the attorney's fees as aforesaid, and

Third, the surplus, if any be distributed according to law.

4. An Order be entered directing and empowering the Sheriff of Dorchester County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

5. An Order be entered for the ejectment of the defendants in possession herein and all persons claiming thereunder and the removal therefrom of all furnishings, fixtures and items not subject

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to the lien of the plaintiff's mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the plaintiff or its agents from the subject property by placing said property on the public street or highway or by any other means.

6. An Order be entered granting the appointment of a Receiver to secure and supervise the rental of the property sought to be foreclosed with authority to take possession thereof and collect rents, issues and profits thereon during the pendency of this action and to hold the same as further security for Plaintiff's debt.

7. An Order be entered for reimbursement of all costs for inspecting and securing the property incurred by the plaintiff as a result of the delinquency.

8. An Order be entered for such other and further relief as may be just and proper.

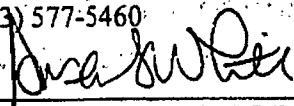
FINKEL LAW FIRM LLC

P.O. Box 71727

N. Charleston, SC 29415

(843) 577-5460

By:

- 
☐ Thomas A. Shook, SC Bar # 68340
☒ Susan S. White, SC Bar # 5453
☐ Andrew M. Wilson, SC Bar # 72553
☐ Elizabeth S. Moore, SC Bar # 69236
☐ Teresa D. Van Vlake, SC Bar # 11118
Attorneys for Plaintiff

May 16, 2014

//

**NOTICE REQUIRED BY THE FAIR DEBT
COLLECTION PRACTICES ACT, (THE 'ACT')
15 U.S.C. SECTION 1601, AS AMENDED**

1. As of June 15, 2014, you owe \$198,491.38. Because of interest, late charges, and other charges that may vary from day to day, the amount due on the day you pay may be greater. Hence, if you pay the amount shown above, an adjustment may be necessary after we receive your check, in which event we will inform you before depositing the check for collection. For further information, write or call as directed in Paragraph 6 of this Notice.
2. The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust is the Creditor to whom the debt is owed.
3. The debt described in this Notice will be assumed to be valid by the Creditor's law firm unless you, the Debtor, within thirty (30) days after receipt of this notice, dispute the validity of the debt or some portion thereof.
4. If you, the Debtor, notify the Creditor's law firm in writing, within thirty (30) days from receipt of this notice that the debt or any portion thereof is disputed, the Creditor's law firm will cease all collection activities until it obtains and provides to you a verification of the debt, and a copy of the verification will be mailed to you, the debtor, by the Creditor's law firm.
5. If the Creditor named in the attached letter is not the original Creditor, and if you make a written request to the Creditor's law firm within thirty (30) days, the name and address of the original Creditor will be mailed to you by the Creditor's law firm.
6. Written requests should be addressed to Finkel Law Firm LLC, Post Office Box 71727, N. Charleston, SC 29415, or call (843) 577-5460.
7. Please be advised that the time period in which you have to dispute the amount of your debt and request additional information does not alter or affect the time period set forth in the South Carolina Rules of Civil Procedure for the filing of an answer or other responsive pleading to the Complaint.
8. If the Debtor has received a discharge of the debt described in paragraph one pursuant to the United States Bankruptcy Code, then neither Creditor nor its law firm is seeking to collect any portion of the debt and all information contained herein is supplied for informational purposes only. Any pending or ensuing legal action by Creditor's law firm will undertake to foreclose a valid security interest only and neither is intended nor will operate as any effort to collect upon any debt that has been so discharged.

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

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset
Trust,

PLAINTIFF,

VS.

Cornell Riley,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2014-CP-18-1007

NOTICE OF FORECLOSURE INTERVENTION

CERTIFIED COPY
2014 MAY 27 AM 9:34
Clerk of Court
DORCHESTER COUNTY

TO CORNELL RILEY:

PLEASE TAKE NOTICE THAT pursuant to the Supreme Court of South Carolina Administrative Order 2011-05-02-01, you may be eligible for foreclosure intervention programs for the purpose of resolving the above-referenced foreclosure action. If you wish to be considered for a foreclosure intervention program, you may contact Finkel Law Firm LLC, 4000 Faber Place Drive, Suite 450 (29405), P.O. Box 71727 (29415), North Charleston, SC 29405, or call (843) 577-5460 within **thirty (30) days** from the date of this notice. Finkel Law Firm LLC represents the Plaintiff in this action. Our law firm does not represent you and is not authorized to provide you any legal advice.

IF YOU FAIL, REFUSE, OR VOLUNTARILY ELECT NOT TO PARTICIPATE IN THIS FORECLOSURE INTERVENTION PROCESS, THE FORECLOSURE MAY PROCEED.

FINKEL LAW FIRM LLC

P.O. Box 71727

North Charleston, S.C. 29415

(843) 577-5460

By:

- Susan S. White*
- ☐ Thomas A. Shook, SC Bar # 68340
 - ☒ Susan S. White, SC Bar # 5453
 - ☐ Andrew M. Wilson, SC Bar #72553
 - ☐ Elizabeth S. Moore, SC Bar #69236
 - ☐ Teresa D. Van Vlake, SC Bar #11118

Attorneys for Plaintiff

May 16, 2014

NOTICE PURSUANT TO THE FAIR DEBT COLLECTION PRACTICES ACT (15 U.S.C. § 1692 et seq.): This is an attempt to collect a debt and any information you provide will be used for that purpose. However, if you have previously received a discharge from bankruptcy, this message is not and should be construed as an attempt to collect a debt, but only as a requirement pursuant to the administrative order.

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Foreclosure Intervention Response Form

This information is requested for the express purpose of foreclosure intervention pursuant to S.C. Supreme Court Administrative Order 2011-05-02-01.

Please check one of the two choices below regarding (100 Madison Ave, Ladson, SC 29456):

☐ I am the owner of and occupy the property as my principal residence.

☐ I am the owner but do not occupy the property.

If you own and occupy (100 Madison Ave, Ladson, SC 29456) as your principal residence and are interested in the following type(s) of loss mitigation, please indicate your interest(s) below (check all that interest you):

☐ Reinstatement

☐ Deed in Lieu

☐ Payoff

☐ Short Sale

☐ Payment Plan

☐ I am already working with my mortgage company.

☐ Forbearance Agreement

☐ Other: _____

☐ Loan Modification

PLEASE NOTE THAT YOU MAY NOT QUALIFY FOR ALL THE OPTIONS LISTED ABOVE. NO REPRESENTATION OF ANY KIND IS BEING MADE REGARDING THE AVAILABILITY OF ANY LOSS MITIGATION OPTION OR YOUR QUALIFICATION FOR ANY OPTION.

☐ I do not wish to participate in any Foreclosure Intervention Program.

So that we may offer you the fullest possible assistance, please provide the information requested below.

Contact Information

May we leave a phone message?

At home? ☐ Yes ☐ No

Home #: _____

On your cell? ☐ Yes ☐ No

Cell #: _____

At work? ☐ Yes ☐ No

Work #: _____

May we send you an e-mail message? ☐ Yes ☐ No

Email: _____

(Signature)

(Signature)

(Signature)

(Signature)

100 Madison Ave, Ladson, SC 29456
Cornell Riley

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CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
 N.A, not in its individual capacity but solely as)
 Trustee on behalf of the FDIC 2013-N1 Asset)
 Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

ANSWER)

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

On 6/8/14 I was served with a Complaint requiring me to answer within thirty days from the date of service.
 My Answer, which is hereby filed with the Dorchester County Court of Common Pleas, is as follows:

CHECK ONE:

A. ☐ I contest the jurisdiction of the court based on the following: (use additional pages if necessary) _____

B. ☐ I admit everything in the complaint and do not want a trial.

C. ☐ I admit that I am responsible, but not for the total amount claimed by the Plaintiff(s) because:
Due to Plaintiff violation of the Mortgage contract, and violation of SC COMMERCIAL CODE the Mortgage was paid up to JUNE 1, 2014. Also Defendant is currently awaiting a response from plaintiff's Servicing Company Seneca Mortgage Servicing LLC/ which name just changed from AMS Servicing, LLC defendant is in possession of a letter from SMS LLC stating that they have 30 days to answer my request for a copy of the original Mortgage contract with me or my agent's signature as well as their response to Seneca Mortgage Servicing LLC/ The Bank of New York Mellon Trust Company violating SC Commercial code, and our contract as it is stated on the copy that defendant does have.

CERTIFIED COPY
 2014 JUN 24 AM 11:38
 Clerk of Court
 DORCHESTER COUNTY

If plaintiff did not violate code and would have honored our contract this matter would not be before the court, therefore I am further requesting that the court through the jury's decision grant me the defendant a sum of \$4,760.76 of which the plaintiff must credit to my current mortgage account and order the plaintiff to restore my account to its active status as it should have been if the plaintiff would not have violated SC Code.

I am also requesting this award from the jury because of plaintiff's disregard for our contract and unnecessary waste of my time in this answer as well as all due stress regarding this matter.

I have started a process with SC HELP an organization that assist with Mortgages chartered by the State Of South Carolina with federal funding, in order to help with this situation because the plaintiff did not honor their part of the contract, and disregarded SC Code.

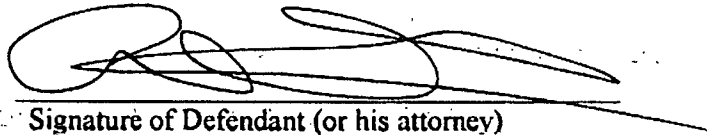
D. ☐ I deny that I am responsible at all because: (use additional pages if necessary) _____

Defendant do hereby request a jury trial if this matter is brought into any court in the jurisdiction granted by law over said property within the complaint brought on by plaintiff.

THE DEFENDANT STATES THAT THE INFORMATION CONTAINED IN THIS ANSWER IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE.

Dated: _____

6/24/14



Signature of Defendant (or his attorney)

Date _____

Notary Public name print _____

Notary Public signature _____

My Commission expires on _____

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset
Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

**PLAINTIFF'S REPLY TO DEFENDANT'S
ANSWER AND COUNTERCLAIM**

Plaintiff, by undersigned counsel, hereby submits its Reply to the Answer and Counterclaim ("Answer") filed by Cornell Riley ("Defendant"). In support of its Reply, Plaintiff states as follows:

1. Unless expressly admitted herein, Plaintiff denies each and every allegation in the Answer.
2. Each allegation of the Complaint in this matter is hereby incorporated by reference. Plaintiff denies any factual allegation in the Answer inconsistent therewith and demands strict proof.
3. Plaintiff craves reference to the public records of Dorchester County, South Carolina, for the subject documents of Plaintiff's action, and denies anything inconsistent therewith.
4. Plaintiff denies the Answer to the extent that it alleges that Plaintiff, its agents or servicers violated any agreement with the Defendant.

FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION
(Violation of the S.C. Consumer Protection Code)

5. Plaintiff reasserts the foregoing statements as if set forth at length herein.
6. Plaintiff notes that certain allegations contained in the Answer are denoted as a defense, however, it appears that the allegations attempt to state a counterclaim for violation of the South Carolina Consumer Protection Code. To the extent that the Answer states such a counterclaim, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of federal or state law.

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FOR A SECOND DEFENSE TO THE FIRST CAUSE OF ACTION
(Violation of the S.C. Consumer Protection Code)

7. Plaintiff reasserts the foregoing statements as if set forth at length herein.
8. The subject Mortgage lien of this action is a purchase money first lien on real property, and thus is not a consumer loan (S.C. Code § 37-3-105(1)), consumer credit sale (S.C. Code § 37-2-104(2)(b)), consumer lease (S.C. Code § 37-2-106), or consumer rental-purchase agreement (S.C. Code § 37-2-701(6)).
9. As such, the unconscionability factors listed in S.C. Code § 37-5-108(4)(a)(ii) do not apply, because that subsection specifies the four types of consumer credit transactions mentioned above.
10. Therefore, Defendant has failed to state facts sufficient to constitute a cause of action pursuant to Rule 12(b)(6), SCRPC, and Defendant's Counterclaim should be dismissed with prejudice.

FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION
(Violation of S.C. Commercial Code)

11. Plaintiff reasserts the foregoing statements as if set forth at length herein.
12. Plaintiff notes that certain allegations contained in the Answer are denoted as a defense, however, it appears that the allegations attempt to state a counterclaim for violation of the South Carolina Commercial Code. To the extent that the Answer states such a counterclaim, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of federal or state law.

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION
(Breach of Contract)

13. Plaintiff reasserts the foregoing statements as if set forth at length herein.
14. Plaintiff notes that certain allegations contained in the Answer are denoted as a defense, however, it appears that the allegations attempt to state a counterclaim for breach of contract. To the extent that the Answer states such a counterclaim, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of federal or state law.

FOR A FURTHER DEFENSE TO DEFENDANT'S COUNTERCLAIM

15. Plaintiff reasserts the foregoing statements as if set forth at length herein.

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16. Defendant has a debt due and owing to Plaintiff.

17. In order to secure the payment of the subject loan, Defendant did make, execute, and deliver to Plaintiff, its successors and assigns, a certain real estate Mortgage covering real property located in the County and State aforesaid and specifically described in said Mortgage.

18. Plaintiff and Defendant intended the subject real property to serve as security for the payment of the debt.

19. As a result, Plaintiff has an equitable lien on the property.

20. Because Defendant defaulted on the loan, Plaintiff is entitled to the relief prayed for in its Complaint.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

21. Plaintiff avers that Defendant's claims are barred by the doctrine of laches and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

22. Plaintiff avers that Defendant's claims are barred by the doctrine of estoppel and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

23. Plaintiff avers that Defendant's claims are barred by the doctrine of waiver and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

24. Plaintiff avers that Defendant's claims are barred by the applicable statute(s) of limitations and statute(s) of repose, and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

25. Plaintiff avers that Defendant's claims are barred by the doctrine of release, and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

26. Defendant has failed to state facts sufficient to constitute a cause of action against Plaintiff pursuant to Rule 12(b)(6), SCRCP, and Defendant's claims should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

27. Defendant's damages, if any, are the result of his own actions and/or omissions or the actions, omissions of individuals over whom Plaintiff exercised no control, or both.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

28. Defendant's claims are barred by his failure to perform certain conditions precedent under his loan agreement with Plaintiff.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

29. The relief requested by Defendant is barred by S.C. Code § 15-36-10.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

30. Plaintiff reserves the right to assert additional claims and defenses as they may become known.

WHEREFORE, Plaintiff requests that the Court dismiss the Defendant's Counterclaims with prejudice, award Plaintiff its costs and attorneys' fees, and grant such other and further relief as is just and necessary.

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, South Carolina 29423
Tel: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Plaintiff

Dated: July 21, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

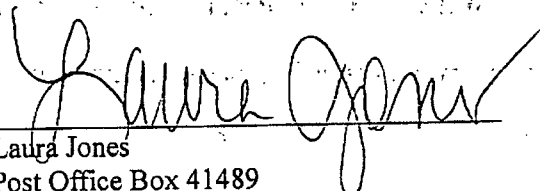
CERTIFICATION OF SERVICE

The undersigned states that on **July 21, 2014**, she caused a true and correct copy of *Plaintiff's Reply to Defendant's Answer and Counterclaim* to be served upon the party identified below by United States mail, proper postage affixed and addressed as follows:

Via Regular and Certified Mail R.R.R.

Cornell Riley
100 Madison Ave.
Ladson, South Carolina 29456
Defendant Pro Se

FINKEL LAW FIRM LLC


Laura Jones
Post Office Box 41489
Charleston, South Carolina 29423
Tel: (843) 577-5460
Facsimile: (843) 577-5135
Litigation Paralegal

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

PLAINTIFF'S FIRST INTERROGATORIES

TO: CORNELL RILEY, DEFENDANT PRO-SE:

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the undersigned attorneys for Plaintiff hereby request Cornell Riley ("Defendant") to answer the following interrogatories within thirty (30) days. Interrogatories shall be deemed continuing. You should supplement your initial responses should you subsequently discover additional or different responsive information between service of your responses to the interrogatories and the trial in this action.

DEFINITIONS

1. "Documents" shall mean writings of every kind, source or authorship, both originals and non-identical copies thereof, in your possession, custody or control, or known by you to exist, or in the possession, custody or control, or known by your predecessors, successors, subsidiaries, agents, servants, employees, consultants, or other representatives to exist, regardless of storage media, including but not limited to writings contained on paper, recordable tape, celluloid, disks, hard drives, laptop computers, handheld devices, "Blackberrys," file servers, document management systems, databases, internet servers, web-based storage, extranet servers, optical media, corporate voicemail, telephone voicemail, text messages, instant messaging systems, electronic mail servers or any other digitally stored media.

For purposes of illustration only and not by way of limitation, the term "document" shall include: correspondence, emails, memoranda, contracts, agreements, procedures, manuals, brochures, data reports, studies, diagrams, charts, sketches, schematics, maps, tape recordings, information stored for computer

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retrieval, films, photographs, reports, interviews, affidavits, printed matter (including procedures, manuals, brochures, articles, speeches, newspaper clippings), notes, minutes of meetings, schedules, summaries, statements, analyses, working papers, diaries, calendars, logs, ledgers, journals, invoices, receipts, telephone messages, bills, and any other documents or tangible evidence which relates to, discusses, considers or otherwise refers to the subject matter of the particular discovery requested.

Any document not exactly identical to another document because of marginal notations, deletions, or information reflecting distribution, should be considered a separate document.

2. "Person" shall mean and includes, without limiting the generality of its meaning, any natural person; corporate or business entity; firm; partnership; association; group; governmental body; agency or subdivision; committee; commission; or other organization or entity.

3. "Communication" includes any written or oral communication.

4. As used herein, the singular form of a noun or pronoun shall be considered to include the plural form of the noun or pronoun, and vice versa. The use of any tense of any verb shall be considered to include all other tenses of the verb.

5. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

6. "Each," "any," and "all" are both singular and plural.

7. "Plaintiff" refers to The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust, its predecessors, successors and each of its officers, employees, agents, representatives, attorneys, principals, agents, and/or any other individual or entity presently, formerly, or purportedly acting at its request or on its behalf.

8. "You," "Your," and "Defendant(s)" refers to Cornell Riley, individually and/or his agents, investigators, attorneys and/or any other individual or entity presently, formerly, or purportedly acting at his request or on his behalf.

9. "Property" means the real property and the improvements found thereon located at 100 Madison Ave, Ladson, South Carolina.

10. "Complaint" means the pleading filed by the Plaintiff with the Dorchester County Clerk of Court that commenced the above-captioned foreclosure action.

11. "Note" means the promissory note dated on or about July 31, 2009, executed and delivered by Defendant, by his attorney in fact Twilla D. Cobb, in the original principal amount of \$170,590.00.

12. "Mortgage" means the mortgage dated July 31, 2009, executed and delivered by Defendant, by his attorney in fact Twilla D. Cobb, encumbering the Property.

13. "Answer" means the pleading filed by Defendant with the Dorchester County Clerk of Court in response to the Complaint, including any counterclaims and amendments.

INSTRUCTIONS

These interrogatories seek all information and documents known to or reasonably available to You. When an interrogatory does not specifically request a particular fact, but such fact is necessary in order to make the answer to the interrogatory comprehensible, complete, or not misleading, the interrogatory shall be deemed specifically to request such fact.

When, after a reasonable investigation using due diligence, You are unable to answer any interrogatory or any part thereof because of lack of information available to You, specify in detail the type of information which You claim is not available, the reason the information is unavailable, and what You have done to locate such information. In addition, specify what knowledge or belief You have concerning the unanswered portion of the interrogatory, set forth the facts upon which such knowledge or belief is based, and identify the person who has or is likely to have the information which You claim is unavailable.

When an interrogatory asks for specific information (e.g., a date), identify the information precisely if known. If You do not know the specified information, give Your best approximation, indicating in your response that the information being provided is an approximation and is incomplete in certain specific respects. Also, identify any person who may be able to provide the exact or complete information requested.

Describe the basis for any refusal to provide a complete response to an interrogatory, including any claim of privilege or work product and identifying each fact for which a privilege is claimed, in detail sufficient to permit the court to adjudicate the validity of Your refusal.

INTERROGATORIES

1. Give the names and addresses of persons known by You to be witnesses concerning the facts of the case, whether or not written or recorded statements have been taken from the witnesses, and who has possession of such statements. Set forth a summary sufficient to inform Plaintiff of the important facts known or observed by each witness, or provide a copy of any written or recorded statements taken from each witness.
2. Set forth a list of all documents in Your possession and/or under Your control relating to any claim or defense in this case.
3. Set forth an itemized statement of all damages You claim to have sustained.
4. Identify all actions You took to mitigate any alleged damages You claim.
5. List the names and addresses of any expert witnesses You propose to use at the trial of this case.

For each expert witness listed, please give the following information:

- a. His or her area of expertise; include educational background and experience qualifying him or her as an expert in that area;
 - b. Describe in detail his or her opinions and conclusions, and give the factual basis upon which each opinion and conclusion is based;
 - c. The dates, captions, jurisdictions, nature and present status of all cases, actions, accidents, claims, and incidents in which each expert witness has been employed, retained and/or testified in court or in a deposition as an expert; and
 - d. Whether or not the witness has submitted a written report or opinion concerning the subject matter of this case, the date of any such report, and the identity of the person to whom any such report was submitted.
6. Identify each and every piece of information, document, and/or other tangible evidence relevant to any claim, defense, or issue in this case that has been altered, lost, destroyed, or cannot be found (including, but not limited to, information or documents disposed or destroyed pursuant to a document retention or destruction policy). For each such document state:

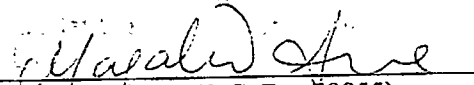
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- a. Whether any copy of the document exists and, if so, the location of the copy and name, address and telephone number of the person in possession of the copy;
 - b. The circumstances under which the document was altered, lost, or destroyed;
 - c. If the document was destroyed, state why it was destroyed, whether it was destroyed pursuant to a written or unwritten document retention or destruction policy; the date it was destroyed, and the name, address and telephone number of the person(s) who authorized its destruction and who actually destroyed it; and
 - d. Describe all efforts made by you to locate the document or a copy thereof, and provide a name, address, and telephone number of all persons who attempted to locate the document or a copy.
7. State with particularity all facts, circumstances and information supporting Your allegation that Plaintiff violated provisions of the South Carolina Commercial Code.
8. If you contend that Plaintiff breached the terms of the Note and Mortgage, state with particularity all facts, circumstances and information supporting Your
9. Identify by date and method all communications between You and Plaintiff regarding any loss mitigation attempts. Give a summary of each communication, sufficient to inform Plaintiff of the important facts of each.
10. Identify by date, amount, and method all payments that You, or any other person or entity, made to Plaintiff on the Note and Mortgage.
11. If You have been convicted of any crime other than a misdemeanor traffic offense, please state the crime charged, circumstances, date, and location of such conviction.
12. Besides this lawsuit, please identify any other litigation in which You have been involved in any capacity including the name of the case, the date, the jurisdiction, and the disposition of the matter.
13. Other than Your attorney and/or his staff, identify all individuals with whom You have communicated regarding the Note, Mortgage and/or allegations contained in the Complaint. State the dates and describe the substance of such conversations.

(SIGNATURE ON NEXT PAGE)

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FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, South Carolina 29423
Tel: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Plaintiff

Dated: July 31, 2014

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company, N.A.,
not in its individual capacity but solely as trustee on
behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

**PLAINTIFF'S FIRST REQUESTS FOR
PRODUCTION**

TO: **CORNELL RILEY, DEFENDANT *PRO SE***:

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, you are instructed to produce all requested documents for inspection, copying and/or photographing of the documents either as they are kept in the ordinary course of business or segregated according to each request. The documents must be produced to Plaintiff within thirty (30) days of service of this request, through its attorney of record, Magalie A. Arcure, at the Finkel Law Firm LLC, Post Office Box 41489, Charleston, South Carolina 29423. These requests shall be deemed continuing and supplemental productions shall be required of you directly or indirectly to obtain further documents if the nature of the documents sought herein are altered or supplemented between the time these documents are produced and the time of trial of this action.

DEFINITIONS

1. "Documents" shall mean writings of every kind, source or authorship, both originals and non-identical copies thereof, in your possession, custody or control, or known by you to exist, or in the possession, custody or control, or known by your predecessors, successors, subsidiaries, agents, servants, employees, consultants, or other representatives to exist, regardless of storage media, including but not limited to writings contained on paper, recordable tape, celluloid, disks, hard drives, laptop computers, handheld devices, "Blackberrys," file servers, document management systems, databases, internet servers, web-based storage, extranet servers, optical media, corporate voicemail, telephone voicemail, text messages, instant messaging systems, electronic mail servers or any other digitally stored media.

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For purposes of illustration only and not by way of limitation, the term "document" shall include: correspondence, emails, memoranda, contracts, agreements, procedures, manuals, brochures, data reports, studies, diagrams, charts, sketches, schematics, maps, tape recordings, information stored for computer retrieval, films, photographs, reports, interviews, affidavits, printed matter (including procedures, manuals, brochures, articles, speeches, newspaper clippings), notes, minutes of meetings, schedules, summaries, statements, analyses, working papers, diaries, calendars, logs, ledgers, journals, invoices, receipts, telephone messages, bills, and any other documents or tangible evidence which relates to, discusses, considers or otherwise refers to the subject matter of the particular discovery requested.

Any document not exactly identical to another document, for example, because of marginal notations or deletions, or information reflecting distribution, should be considered a separate document.

2. "Person" shall mean and includes, without limiting the generality of its meaning, any natural person; corporate or business entity; firm; partnership; association; group; governmental body; agency or subdivision; committee; commission; or other organization or entity.

3. "Communication" includes any written or oral communication.

4. As used herein, the singular form of a noun or pronoun shall be considered to include the plural form of the noun or pronoun, and vice versa. The use of any tense of any verb shall be considered to include all other tenses of the verb.

5. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.

6. "Each," "any," and "all" are both singular and plural.

7. "Plaintiff" refers to The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust, its predecessors, successors and each of its officers, employees, agents, representatives, attorneys, principals, agents, and/or any other individual or entity presently, formerly, or purportedly acting at its request or on its behalf.

8. "You," "Your," and "Defendant(s)" refers to Cornell Riley, individually and/or his agents, investigators, attorneys and/or any other individual or entity presently, formerly, or purportedly acting at his request or on his behalf.
9. "Property" means the real property and the improvements found thereon located at 100 Madison Ave, Ladson, South Carolina.
10. "Complaint" means the pleading filed by the Plaintiff with the Dorchester County Clerk of Court that commenced the above-captioned foreclosure action.
11. "Note" means the promissory note dated on or about July 31, 2009, executed and delivered by Defendant, by his attorney in fact Twilla D. Cobb, in the original principal amount of \$170,590.00.
12. "Mortgage" means the mortgage dated July 31, 2009, executed and delivered by Defendant, by his attorney in fact Twilla D. Cobb, encumbering the Property.
13. "Answer" means the pleading filed by Defendant with the Dorchester County Clerk of Court in response to the Complaint, including any counterclaims and amendments.

INSTRUCTIONS

1. Answer each request for production separately by listing the documents and by describing them as defined below. If documents are numbered for production, in each response provide both the information that identifies the document and the document number.
2. This request to produce seeks all documents known to or reasonably available to You. If a privilege of any kind is claimed as a basis for withholding or redacting any document responsive to this request, the information as to which privilege is being asserted should be clearly identified and the entire factual and legal basis for the claim of the privilege stated. Each document withheld should be identified by setting forth the following: (i) the name(s) of the documents' author(s) or sender(s); (ii) the name(s) of the document's addressee(s) and recipient(s); (iii) the date of the document; (iv) the nature of the document (e.g. letter, memorandum, report, etc.); (v) the location of the document and its custodian; and (vi) a description of the contents of the document.

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3. If any document described in this request was, but no longer is, in Your possession, custody, or control, or no longer exists, please state: i) whether it is missing or lost; ii) whether it has been destroyed; iii) whether it has been transferred, voluntarily or involuntarily, to others; iv) who may have a copy; v) identify each person having knowledge about the disposition or loss of the document; vi) identify any other document evidencing the lost document's existence or any facts about the lost document.

REQUESTS FOR PRODUCTION

1. All documents identified in, referred to, or relied upon in Your responses to Plaintiff's First Set of Interrogatories and/or Requests for Admissions served simultaneously herewith.
2. All non-privileged documents relating in any way to any claim made by Plaintiff or any allegation, defense, and/or claim in Your Answer regarding the above-captioned action.
3. All exhibits and/or other documents You intend to introduce as evidence or may use as evidence at trial, deposition or any hearing in this action.
4. All correspondence, communication, or other documentation between You and Plaintiff regarding the Property, Note and/or Mortgage.
5. All documents relating to any communication between You and any other person (other than Your attorney and his employees) regarding the Property, Note and/or Mortgage.
6. All documents relating to payments made in connection with the Mortgage, including but not limited to copies of receipts, mortgage statements, bank statements, cancelled personal checks (both sides) and/or electronic images of cancelled personal checks (both sides), certified check receipts, money orders, online payment transactions, and/or bank or financial statements of any account from which money was used to make payments.
7. All statements of possible witnesses, whether written, oral, summarized, or otherwise reproduced in any manner, relating to the above-captioned action.

(SIGNATURE ON NEXT PAGE)

2014-CP-18-1007
PLAINTIFF'S FIRST REQUESTS
FOR PRODUCTION
Page 5 of 5

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, South Carolina 29423
Tel: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Plaintiff

Dated: July 31, 2014.

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company, N.A.,
not in its individual capacity but solely as trustee on
behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

**PLAINTIFF'S FIRST REQUESTS FOR
ADMISSION**

TO: CORNELL RILEY, DEFENDANT *PRO SE*:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, Plaintiff submits the following Requests for Admission to Cornell Riley ("Defendant"). The matters are admitted unless they are denied or other proper response is given within thirty (30) days after service. Reason(s) for any objection(s) made shall be stated. A denial shall fairly meet the substance of the requested admission; when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny.

DEFINITIONS

1. "Documents" shall mean writings of every kind, source or authorship, both originals and non-identical copies thereof, in your possession, custody or control, or known by you to exist, or in the possession, custody or control, or known by your predecessors, successors, subsidiaries, agents, servants, employees, consultants, or other representatives to exist, regardless of storage media, including but not limited to writings contained on paper, recordable tape, celluloid, disks, hard drives, laptop computers, handheld devices, "Blackberrys," file servers, document management systems, databases, internet servers,

web-based storage, extranet servers, optical media, corporate voicemail, telephone voicemail, text messages, instant messaging systems, electronic mail servers or any other digitally stored media.

For purposes of illustration only and not by way of limitation, the term "document" shall include: correspondence, emails, memoranda, contracts, agreements, procedures, manuals, brochures, data reports, studies, diagrams, charts, sketches, schematics, maps, tape recordings, information stored for computer retrieval, films, photographs, reports, interviews, affidavits, printed matter (including procedures, manuals, brochures, articles, speeches, newspaper clippings), notes, minutes of meetings, schedules, summaries, statements, analyses, working papers, diaries, calendars, logs, ledgers, journals, invoices, receipts, telephone messages, bills, and any other documents or tangible evidence which relates to, discusses, considers or otherwise refers to the subject matter of the particular discovery requested.

Any document not exactly identical to another document, for example, because of marginal notations or deletions, or information reflecting distribution, should be considered a separate document.

2. "Person" shall mean and includes, without limiting the generality of its meaning, any natural person; corporate or business entity; firm; partnership; association; group; governmental body; agency or subdivision; committee; commission; or other organization or entity.
3. "Communication" includes any written or oral communication.
4. As used herein, the singular form of a noun or pronoun shall be considered to include the plural form of the noun or pronoun, and vice versa. The use of any tense of any verb shall be considered to include all other tenses of the verb.
5. "And" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.
6. "Each," "any," and "all" are both singular and plural.
7. "Plaintiff" refers to "The Bank of New York Mellon Trust Company, N.A.," not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust, its predecessors, successors and each of its officers, employees, agents, representatives, attorneys, principals, agents, and/or any other individual or entity presently, formerly, or purportedly acting at its request or on its behalf.

8. "You," "Your," and "Defendant(s)" refers to Cornell Riley, individually and/or his agents, investigators, attorneys and/or any other individual or entity presently, formerly, or purportedly acting at his request or on his behalf.

9. "Property" means the real property and the improvements found thereon located at 100 Madison Ave, Ladson, South Carolina.

10. "Complaint" means the pleading filed by the Plaintiff with the Dorchester County Clerk of Court that commenced the above-captioned foreclosure action.

11. "Note" means the promissory note dated on or about July 31, 2009, executed and delivered by Defendant, by his attorney in fact Twilla D. Cobb, in the original principal amount of \$170,590.00.

12. "Mortgage" means the mortgage dated July 31, 2009, executed and delivered by Defendant, by his attorney in fact Twilla D. Cobb, encumbering the Property.

13. "Answer" means the pleading filed by Defendant with the Dorchester County Clerk of Court in response to the Complaint, including any counterclaims and amendments.

REQUESTS FOR ADMISSION

1. Admit that You own the Property.

2. Admit that attached hereto as Exhibit A is a true and correct copy of the Note.

3. Admit that attached hereto as Exhibit B is a true and correct copy of the Mortgage.

4. Admit that You signed the Note and Mortgage, by Your attorney in fact Twilla D. Cobb.

5. Admit that You have not made all the required payments due and owing under the Note and Mortgage.

6. Admit that the terms of the Note were modified by agreement which increased the principal balance due and lowered the interest rate.

7. Admit that the balance due and owing under the Note and Mortgage has not been paid in full.

8. Admit that Plaintiff provided You a notice of Your default.

9. Admit that Your default arising under the Note and Mortgage have not been cured.

10. Admit that You have not suffered any damages.

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11. Admit that You have no valid claims against Plaintiff.
12. Admit that You have no valid defenses to the foreclosure of the Mortgage.
13. Admit that You are indebted to Plaintiff (as of June 1, 2013) in the principal amount of \$184,806.98.
14. Admit that under the terms of the Note and Mortgage, interest at the rate of 4.25% *per annum* continues to accrue on the unpaid balance from May 1, 2013.
15. Admit that under the terms of the Note and Mortgage, Plaintiff is entitled to the reimbursement of its costs and expenses, including reasonable attorneys' fees.
16. Admit that You are not entitled to reimbursement of attorneys' fees and costs.

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, South Carolina 29423
Tel: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Plaintiff

Dated: July 31, 2014

Exhibit A

NOTE

**THIS LOAN IS NOT ASSUMABLE
WITHOUT THE APPROVAL OF THE
DEPARTMENT OF VETERANS AFFAIRS
OR ITS AUTHORIZED AGENT.**

July 31, 2009
[Date]

LADSON
[City]
100 MADISON AVENUE
LADSON, SC 29456

South Carolina
[State]

[Property Address]

1. BORROWER'S PROMISE TO PAY

In return for a loan that I have received, I promise to pay U.S. \$170,590.00 (this amount is called "Principal"), plus interest, to the order of the Lender. The Lender is Taylor, Bean & Whitaker Mortgage Corp.

I will make all payments under this Note in the form of cash, check or money order.

I understand that the Lender may transfer this Note. The Lender or anyone who takes this Note by transfer and who is entitled to receive payments under this Note is called the "Note Holder."

2. INTEREST

Interest will be charged on unpaid principal until the full amount of Principal has been paid. I will pay interest at a yearly rate of 5.2500%.

The interest rate required by this Section 2 is the rate I will pay both before and after any default described in Section 6(B) of this Note.

3. PAYMENTS

(A) Time and Place of Payments

I will pay principal and interest by making a payment every month.

I will make my monthly payment on the 1st day of each month beginning on September 01, 2009. I will make these payments every month until I have paid all of the principal and interest and any other charges described below that I may owe under this Note. Each monthly payment will be applied as of its scheduled due date and will be applied to interest before Principal. If, on August 01, 2039, I still owe amounts under this Note, I will pay those amounts in full on that date, which is called the "Maturity Date."

I will make my monthly payments at Taylor, Bean & Whitaker Mortgage Corp., 1417 North Magnolia Ave, Ocala, FL 34475

or at a different place if required by the Note Holder.

(B) Amount of Monthly Payments

My monthly payment will be in the amount of U.S. \$942.00

MULTISTATE FIXED RATE NOTE—Single Family—UNIFORM INSTRUMENT

MULTISTATE
ITEM 3418L1 (012709)

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(Page 1 of 4)



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4. BORROWER'S RIGHT TO PREPAY

I have the right to prepay at any time, without premium or fee, the entire debt evidenced by this Note, or any part thereof not less than the amount of one installment, or \$100.00, whichever is less. Any prepayment in full of the debt shall be credited on the date received, and no interest may be charged after that date. Any partial prepayment made on any day other than an installment due date need not be credited until the next following installment due date or 30 days after the date of the partial prepayment, whichever is earlier.

5. LOAN CHARGES

If a law, which applies to this loan and which sets maximum loan charges, is finally interpreted so that the interest or other loan charges collected or to be collected in connection with this loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from me which exceeded permitted limits will be refunded to me. The Note Holder may choose to make this refund by reducing the Principal I owe under this Note or by making a direct payment to me. If a refund reduces Principal, the reduction will be treated as a partial prepayment.

6. BORROWER'S FAILURE TO PAY AS REQUIRED

(A) Late Charge for Overdue Payments

If the Note Holder has not received the full amount of any monthly payment by the end of **15** calendar days after the date it is due, I will pay a late charge to the Note Holder. The amount of the charge will be **4.0000%** of my overdue payment. I will pay this late charge promptly but only once on each late payment.

(B) Default

If I do not pay the full amount of each monthly payment on the date it is due, I will be in default.

(C) Notice of Default

If I am in default, the Note Holder may send me a written notice telling me that if I do not pay the overdue amount by a certain date, the Note Holder may require me to pay immediately the full amount of Principal which has not been paid and all the interest that I owe on that amount. That date must be at least 30 days after the date on which the notice is mailed to me or delivered by other means.

(D) No Waiver By Note Holder

Even if, at a time when I am in default, the Note Holder does not require me to pay immediately in full as described above, the Note Holder will still have the right to do so if I am in default at a later time.

(E) Payment of Note Holder's Costs and Expenses

If the Note Holder has required me to pay immediately in full as described above, the Note Holder will have the right to be paid back by me for all of its costs and expenses in enforcing this Note to the extent not prohibited by applicable law. Those expenses include, for example, reasonable attorneys' fees.

7. GIVING OF NOTICES

Unless applicable law requires a different method, any notice that must be given to me under this Note will be given by delivering it or by mailing it by first class mail to me at the Property Address above or at a different address if I give the Note Holder a notice of my different address.

Any notice that must be given to the Note Holder under this Note will be given by delivering it or by mailing it by first class mail to the Note Holder at the address stated in Section 3(A) above or at a different address if I am given a notice of that different address.

8. OBLIGATIONS OF PERSONS UNDER THIS NOTE

If more than one person signs this Note, each person is fully and personally obligated to keep all of the promises made in this Note, including the promise to pay the full amount owed. Any person who is a guarantor, surety or endorser of this Note is also obligated to do these things. Any person who takes over these obligations, including the obligations of a guarantor, surety or endorser of this Note, is also obligated to keep all of the promises made in this Note. The Note Holder may enforce its rights under this Note against each person individually or against all of us together. This means that any one of us may be required to pay all of the amounts owed under this Note.

9. WAIVERS

I and any other person who has obligations under this Note waive the rights of Presentment and Notice of Dishonor. "Presentment" means the right to require the Note Holder to demand payment of amounts due. "Notice of Dishonor" means the right to require the Note Holder to give notice to other persons that amounts due have not been paid.

10. ALLONGE, RIDER, ADDENDUM, ATTACHMENT OR OTHER MODIFICATION (HEREINAFTER REFERRED TO AS ALLONGE) TO THIS NOTE

If an allonge providing for payment adjustments, or for any other supplemental information, is executed by me together with this Note, the covenants of the allonge shall be incorporated into and shall amend and supplement the covenants of this Note as if the allonge were a part of this Note. [Check applicable box(es).]

☐ Graduated Payment Allonge ☐ Other(s) [specify]:

11. UNIFORM SECURED NOTE

This Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under this Note, a Mortgage, Deed of Trust, or Security Deed (the "Security Instrument"), dated the same date as this Note, protects the Note Holder from possible losses which might result if I do not keep the promises which I make in this Note. That Security Instrument describes how and under what conditions I may be required to make immediate payment in full of all amounts I owe under this Note. Some of those conditions are described as follows:

Transfer of the Property. This loan may be declared immediately due and payable upon transfer of the Property securing such loan to any transferee, unless the acceptability of the assumption of the loan is established pursuant to Section 3714 of Chapter 37, Title 38, United States Code.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 14 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

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Borrower has executed and acknowledges receipt of pages 1 through 4 of this Note.

WITNESS THE HAND(S) AND SEAL(S) OF THE UNDERSIGNED.

by Cornell Riley his/her attorney in fact (Seal)
Cornell Riley -Borrower
by Twilla D. Cobb, AIF -Borrower

Without reserve, pay to the order of

By: Taylor, Bean & Whitaker
Mortgage Corp.

Erla Carter-Shaw, E.V.P.

[Sign Original Only]

MULTISTATE FIXED RATE NOTE—Single Family—UNIFORM INSTRUMENT

MULTISTATE
ITEM 3418L4 (012709)

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(Page 4 of 4)

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Exhibit B

After Recording Return To:
WYCKOFF & DEMOTT, PC

1520 TROLLEY ROAD, STE. A

SUMMERVILLE, SC 29485

[Space Above This Line For Recording Data]

MORTGAGE

MIN: 100029500033995105

THIS LOAN IS NOT ASSUMABLE WITHOUT THE APPROVAL OF THE DEPARTMENT OF VETERANS AFFAIRS OR ITS AUTHORIZED AGENT.

DEFINITIONS

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 10, 12, 19 and 20. Certain rules regarding the usage of words used in this document are also provided in Section 15.

(A) "Security Instrument" means this document, which is dated July 31, 2009, together with all Riders to this document.

(B) "Borrower" is Cornell Riley

Borrower is the mortgagor under this Security Instrument.

(C) "MERS" is Mortgage Electronic Registration Systems, Inc. MERS is a separate corporation that is acting solely as a nominee for Lender and Lender's successors and assigns. MERS is the mortgagee under this Security Instrument. MERS is organized and existing under the laws of Delaware, and has an address and telephone number of P.O. Box 2026, Flint, MI 48501-2026, tel. (888) 679-MERS.

(D) "Lender" is Taylor, Bean & Whitaker Mortgage Corp.
Lender is a Corporation
the laws of FL

1417 North Magnolia Ave, Ocala, FL 34475

1417 North Magnolia Ave, Ocala, FL 34475

organized and existing under
Lender's address is

SOUTH CAROLINA—Single Family—UNIFORM INSTRUMENT

ITEM T2633L1 (0301)—MERS

(Page 1 of 11 pages)

To Order Call 1-800-530-0393 GREATLAND
Fax 616-791-1131



0244233399510

43 (signature)

(E) "Note" means the promissory note signed by Borrower and dated July 31, 2009. The Note states that Borrower owes Lender ~~One Hundred Seventy Thousand Five Hundred Ninety and no/100~~ Dollars (U.S. \$ 170,590.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than August 01, 2039.

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower (check box as applicable):

- ☐ Condominium Rider ☐ Graduated Payment Rider
☐ Planned Unit Development Rider ☐ Other(s) [specify]

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions. If the indebtedness secured hereby is guaranteed or insured under Title 38, United States Code, such Title and Regulations issued thereunder and in effect on the date hereof shall govern the rights, duties and liabilities of the parties hereto, and any provisions of this or other instruments executed in connection with said indebtedness which are inconsistent with said Title or Regulations are hereby amended to conform thereto.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(O) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (24 C.F.R. Part 3500), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(P) "Successor In Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS the following described property located in the

County
[Type of Recording Jurisdiction]

of

Dorchester
[Name of Recording Jurisdiction]

See Attached Exhibit A.

which currently has the address of:

LADSON
[City]

South Carolina

100 MADISON AVENUE
[Street]

29456
[Zip Code]

("Property Address")

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges:** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms; as selected by Lender: (a) cash; (b) money order; (c) certified check; bank check, treasurer's check or cashier's check; provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

SOUTH CAROLINA—Single Family—UNIFORM INSTRUMENT

ITEM 7263JL3 (0301)—MERS

(Page 3 of 11 pages)

GREATLAND ■
To Order Call: 1-800-530-8393 □ Fax: 616-781-1131

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Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 14. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

2. **Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted, and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

3. **Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; and (c) premiums for any and all insurance required by Lender under Section 5. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver, as to any or all Escrow Items at any time by a notice given in accordance with Section 14 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest

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or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

4. **Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

5. **Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration

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period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 24 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

6. **Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

7. **Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

8. **Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

9. **Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

10. Assignment of Miscellaneous Proceeds; Forfeiture. All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 18, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

11. Borrower Not Released; Forbearance By Lender Not a Waiver. Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or

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Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

12. Joint and Several Liability; Co-signers; Successors and Assigns Bound. Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 17, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 19) and benefit the successors and assigns of Lender.

13. Loan Charges. Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

14. Notices. All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first-class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

15. Governing Law; Severability; Rules of Construction. This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

16. Borrower's Copy. Borrower shall be given one copy of the Note and of this Security Instrument.

17. Transfer of the Property. This loan may be declared immediately due and payable upon transfer of the Property securing such loan to any transferee, unless the acceptability of the assumption of the loan is established pursuant to Section 3714 of Chapter 37, Title 38, United States Code.

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If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 14 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 24 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 17.

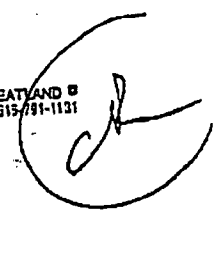
19. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 14) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 24 and the notice of acceleration given to Borrower pursuant to Section 17 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 19.

20. Hazardous Substances. As used in this Section 20: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

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Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

21. **Funding Fee.** A fee equal to one-half of one percent of the balance of this loan as of the date of transfer of the Property shall be payable at the time of transfer to the loan holder or its authorized agent, as trustee for the Department of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the payee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 3729(c). (Note: The funding fee for loans assumed between 12/13/02 and 9/30/03 will be 1 percent.)

22. **Processing Charge.** Upon application for approval to allow assumption of this loan, a processing fee may be charged by the loan holder or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which Section 3714 of Chapter 37, Title 38, United States Code applies.

23. **Indemnity Liability.** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan. The assumer further agrees to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

24. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 17 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 24, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

25. **Release.** Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

26. **Homestead Waiver.** Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

27. **Waiver of Appraisal Rights.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in §12-37-250 of the South Carolina Code of Laws.

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

21. **Funding Fee.** A fee equal to one-half of one percent of the balance of this loan as of the date of transfer of the Property shall be payable at the time of transfer to the loan holder or its authorized agent, as trustee for the Department of Veterans Affairs. If the assumer fails to pay this fee at the time of transfer, the fee shall constitute an additional debt to that already secured by this instrument, shall bear interest at the rate herein provided, and, at the option of the payee of the indebtedness hereby secured or any transferee thereof, shall be immediately due and payable. This fee is automatically waived if the assumer is exempt under the provisions of 38 U.S.C. 3729(c). (Note: The funding fee for loans assumed between 12/13/02 and 9/30/03 will be 1 percent.)

22. **Processing Charge.** Upon application for approval to allow assumption of this loan, a processing fee may be charged by the loan holder or its authorized agent for determining the creditworthiness of the assumer and subsequently revising the holder's ownership records when an approved transfer is completed. The amount of this charge shall not exceed the maximum established by the Department of Veterans Affairs for a loan to which Section 3714 of Chapter 37, Title 38, United States Code applies.

23. **Indemnity Liability.** If this obligation is assumed, then the assumer hereby agrees to assume all of the obligations of the veteran under the terms of the instruments creating and securing the loan. The assumer further agrees to indemnify the Department of Veterans Affairs to the extent of any claim payment arising from the guaranty or insurance of the indebtedness created by this instrument.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

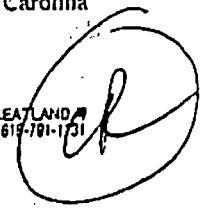
24. **Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 17 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument, foreclosure by judicial proceeding and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to assert in the foreclosure proceeding the non-existence of a default or any other defense of Borrower to acceleration and foreclosure. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may foreclose this Security Instrument by judicial proceeding. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 24, including, but not limited to, reasonable attorneys' fees and costs of title evidence, all of which shall be additional sums secured by this Security Instrument.

25. **Release.** Upon payment of all sums secured by this Security Instrument, this Security Instrument shall become null and void. Lender shall release this Security Instrument. Borrower shall pay any recordation costs. Lender may charge Borrower a fee for releasing this Security Instrument, but only if the fee is paid to a third party for services rendered and the charging of the fee is permitted under Applicable Law.

26. **Homestead Waiver.** Borrower waives all rights of homestead exemption in the Property to the extent allowed by Applicable Law.

27. **Waiver of Appraisal Rights.** The laws of South Carolina provide that in any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked may within 30 days after the sale of the mortgaged property apply to the court for an order of appraisal. The statutory appraisal value as approved by the court would be substituted for the high bid and may decrease the amount of any deficiency owing in connection with the transaction. TO THE EXTENT PERMITTED BY LAW, THE UNDERSIGNED HEREBY WAIVES AND RELINQUISHES THE STATUTORY APPRAISAL RIGHTS, WHICH MEANS THE HIGH BID AT THE JUDICIAL FORECLOSURE SALE WILL BE APPLIED TO THE DEBT REGARDLESS OF ANY APPRAISED VALUE OF THE MORTGAGED PROPERTY. This waiver shall not apply so long as the Property is used as a dwelling place as defined in §12-37-250 of the South Carolina Code of Laws.

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Agent's File Number: 091-590

Schedule A

ALL that lot, piece or parcel of land, situate, lying and being in Dorchester County, State of South Carolina, and known and designated as Lot 3, Block R, North Tranquil Acres, as shown on a plat by Edward W. Hill, Registered Surveyor, entitled "MAP OF BLOCKS Q,R,S,T,U,X and Lots 13-19, Block W, North Tranquil Acres, Section A, Dorchester County, South Carolina" dated August 30, 1965 and recorded in the Office of the Clerk of Court for Dorchester County, State aforesaid, in Plat Book 15, Page 125. The said lot has such size, shape, dimensions, buttings and boundings as will more fully appear by reference to the aforesaid plat. Saving and excepting all that certain parcel of land containing 150 square feet of land, more or less, and any improvements thereon owned by Homer A. Clark and Johnnie Clark, shown as the "Area of Acquisition" on Exhibit A, attached hereto and made a part hereof as shown in Deed Book 2160, Page 42.

BEING the same property conveyed to the Cornell Riley herein by deed of Johnnie Clark a/k/a Johnnie F. Clark, dated July 31, 2009, and to be recorded in the RMC Office for Dorchester County simultaneously herewith.



54

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company, N.A.,
not in its individual capacity but solely as trustee on
behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

CERTIFICATION OF SERVICE

The undersigned states that on **July 31, 2014**, she caused a true and correct copy of *Plaintiff's First Set of Interrogatories, Plaintiff's First Requests for Production, and Plaintiff's First Requests for Admission* to be served upon the party identified below by United States mail, proper postage affixed and addressed as follows:

Via Regular and Certified Mail R.R.R.

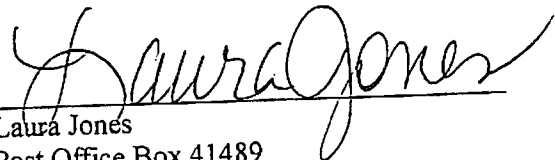
Cornell Riley

100 Madison Ave.

Ladson, South Carolina 29456

Defendant Pro Se

FINKEL LAW FIRM LLC



Laura Jones

Post Office Box 41489

Charleston, South Carolina 29423

Tel: (843) 577-5460

Facsimile: (843) 577-5135

Litigation Paralegal

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as)
Trustee on behalf of the FDIC 2013-N1 Asset)
Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

IN THE COURT OF COMMONN PLEAS

2014-CP-18-1007
CIVIL ACTION NUMBER

2014 AUG 12 PM 2:38
CLERK OF COURT
DORCHESTER COUNTY

**DEFENDANT'S ANSWER TO PLAINTIFF'S
FIRST INTERROGATORIES**

TO: The Bank of New York Mellon Trust Company N.A.

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the undersigned Defendant hereby Answers Plaintiff's First Interrogatories. Upon additional or different responsive information defense will submit further responses to the interrogatories and the trial in this action.

Answer to INTERROGATORIES

1. Defense will provide names and statements with forthcoming evidence in one submission within time allotted pursuant to S.C. Rule of evidence.
2. Defense will set forth a list of all documents in its possession and/or under its control relating to any claim or defense with answer 1 above.
3. Defense will set forth an itemized statement of all damages claimed and sustained with answer 1 above.
4. Defense will identify all actions taken to mitigate any alleged damages claimed with answer 1 above.
5. Defense will list the name and address of any expert witnesses proposed to use at the trial of this case with answer 1 above.
6. Defense will submit answer to Plaintiff's Interrogatories #6 with answer 1 above.
7. As defense Exhibit "CC" reflect that defendant supplied plaintiff with due payment in the form of a check in the amount listed on defense exhibit "CC" and the same also shows plaintiff refusal of defendant's payment, requesting so called "certified funds" instead. The check as admitted by plaintiff was received. The plaintiff did not forward the payment to the financial institution to which the check was drawn; rather they sent the original back to defendant with no processing markings on it except an addition of the USPS certified mailing number written across the top of it. In accordance with S.C. Code plaintiff created discharge in the amount of the tender submitted in its rejection of tender. This tender would have brought the account current with no need for the actions being now filled with the court.

8. Plaintiff by rejecting legal tender payment due them in the Mortgage contract, and requesting so called "certified funds" did so against the UNIFORM CONVENANTS, of which clearly states in point 3. That "Payments due under the Note and this Security Instrument shall be made in U.S. currency. *However, if any check or other instrument received by Lender as payment under the Note or its Security Instrument is returned to Lender unpaid, Lender may require that any and or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check*" because there was no payment returned to Lender unpaid, Plaintiff has no position to request any other form of payment.

9. Defense will provide information request in interrogatories #9 with answer 1 above.

10. Plaintiff will submit with answer 1 above.

11. Defense fails to see the relevance and therefore will submit no answer to #11.

12. Defense fails to see the relevance and therefore will submit no answer to #12.

13. Defense spoke with the Veteran's administration loan representative of whom whose name and date of the conversation I do not have or recall at this time but retain the right to submit latter if possible. Defendant also spoke to his spouse regarding this complaint and that conversation is privileged and will not be described unless otherwise ordered under oath. Defense to the best of his memory has communicated with anyone else regarding this complaint.

Respectfully Submitted,

Cornell Riley, Pro. Se

SCCA/703 (Ainended 08/2009)

NOTARY PUBLIC

DATE: 8/12/14

Date

8/12/14

58

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as)
Trustee on behalf of the FDIC 2013-N1 Asset)
Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE, ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

DEFENDANT'S ANSWER TO PLAINTIFF'S
FIRST REQUESTS FOR ADMISSION

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE, ZIP)

(843)-771-2383)

TELEPHONE)

TO: THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A. PAINTIFF:

Pursuant to Rule 36 of the South Carolina Rules of Civil Procedure, the undersigned
Defendant hereby Answers *THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A.*

(Plaintiff) First Request for Admission.

Answer to REQUESTS FOR ADMISSION

1. Defense admits to request 1. But states that in the defendant's mind true ownership is out right and without lien of which is not true of ownership of the property in question.
2. Defense denies request 2. Due to lack of third party authenticity verification (such as a Notary) that exhibit A was reproduced from its original.
3. Defense denies request 3. Due to lack of third party authenticity verification that exhibit B was reproduced from its original.
4. Defense admit to request 4 that Twilla D Cobb was authorized to sign Note and Mortgage by power of attorney granted by defendant and that Twilla D Cobb did in-fact sign a Note and Mortgage in July 2009 at defendant's behest.
5. Defense admits to request 5 that all payments required due and owing under the Note and Mortgage have not been paid to include the payments owed after Plaintiff rejected full payment up to June 2014.
6. Defense admits to request 6.
7. Defense admits to request 7.
8. Defense admits to request 8 that Plaintiff did in-fact provided a notice of default after the date at which Plaintiff had already filed a Non-Jury Foreclosure with the court.
9. Defense cannot admit to request 9 and rather state that the default arising under the Note and Mortgage may have been cured, but however does admit that the Plaintiff is claiming that the default arising under the Note and Mortgage have not been cured, and further that the defense have received no confirmation of any official capacity that the default arising under the Note and Mortgage has been cured.
10. Defense denies request 10 and submits that defendant has suffered undue stress, anguish loss of sleep as well as expenses associated with this action of which is not limited to fuel,

court filing, auto wear and tear travel related, lost time from work, attorney's fees and other cost associated with this action.

11. Defense denies request 11, and refers to answer in request 10, in explanation.

12. Defense denies request 12, and refers to Defendants Answer and Counterclaim.

13. Defense denies request 13, as defense is at this time without proof that the balance was as of June 1, 2013, \$184,806.98, and further states that Plaintiff rejected payment in April 2014 which would have avoided any further court filing of this matter, to include the Plaintiff's NON-JURY MORTGAGE FORECLOSURE brought before the court in May, 2014.

14. Defense admits request 14.

15. Defense denies request 15, due to Plaintiff's willful, and blatant violation of the Mortgage Contract UNIFORM CONVENTS clause and violation of S.C. Code 36-3-603(a)-(c) and hereby affirms that Plaintiff is only entitled to amounts owed on the Note and Mortgage after a jury of Defendant's peers award defense for all necessary and fair awards due to this action being the fault of the Plaintiff.

16. Defense denies request 16, and submits that defense is duly entitled to reimbursement of attorneys' fees and cost arrived from its PRO SE defense.

Respectfully Submitted,

Cornell Riley, Pro. Se

Date

8/12/14

NOTARY PUBLIC

SCCA/703 (Amended 08/2009)

DATE: 08/12/14

COMM EXP: 07/02/2023

61

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as)
Trustee on behalf of the FDIC 2013-N1 Asset)
Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

IN THE COURT OF COMMONN PLEAS

2014-CP-18-1007
CIVIL ACTION NUMBER

CLERK OF COURT
DORCHESTER COUNTY

2014 AUG 12 PM 2:38

RECEIVED

DEFENDANT'S ANSWER TO PLAINTIFF'S
FIRST REQUESTS FOR PRODUCTION

TO: The Bank of New York Mellon Trust Company N.A (PLAINTIFF)

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the undersigned Defendant hereby Answers Plaintiff's First Request for Production. Upon additional or different responsive information defense will submit further responses to the interrogatories and the trial in this action.

Answer to REQUESTS FOR PRODUCTION

1. Defense will provide All documents request in a separate filing within the time allotted to reply.
2. Defense will provide All Non-privileged documents request in a separate filing within the time allotted to reply.
3. Defense will provide all exhibits and or other documents requested in a separate filing within the time allotted to reply.
4. Defense will provide all correspondence, and communication between itself and Plaintiff regarding Property, Note and/or Mortgage that it still has in its possession, in a separate filing with in the time allotted to reply.
5. Defense will submit with answer 1 above.
6. Defense will submit all documents request in #6 as they are available to defendant and further as they are discovered in a separate filing within the time allotted to reply.
7. Defense will submit all statements as requested in #7 with answer 1 above.

Respectfully Submitted,

Cornell Riley, Pro. Se

Date

8/12/14

NOTARY PUBLIC:

DATE: 08/12/14

Comm EXP: 07/02/2023

2014-CP-18-1007

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank Of New York Mellon Trust Company
N.A, not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust

PLAINTIFF

C/O FINKEL LAW FIRM LLC

P.O. Box 71727

STREET ADDRESS

North, Charleston, SC 29415

CITY, STATE ZIP

(843) 577-5460

TELEPHONE

VS.

Cornell Riley

DEFENDANT(S)

100 Madison Ave

STREET ADDRESS

Ladson, SC 29456

CITY, STATE ZIP

(843)-771-2383

TELEPHONE

IN THE COURT OF COMMONN PLEAS

CERTIFIED COPY
CLERK OF COURT
DORCHESTER COUNTY

2014 AUG 12 PM 2:38

CERTIFICATION OF SERVICE

The undersigned states that on **August 12, 2014**, he did caused a true and correct copy of
DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST REQUESTS FOR ADMISSION to be
served upon the party identified below by United States mail, proper postage affixed and
addressed as follows:

Via Certified Mail R.R.R

FINKEL LAW FIRM LLC

P.O. Office Box 41489

Charleston, South Carolina 29423

Cornell Riley, Pro Se

Date

8/12/14

NOTARY PUBLIC

SCCA/703 (Amended 08/2009)

DATE: 08/12/14

COMM EXP: 07/02/2023

2014-CP-18-1007

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company
N.A, not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust)

C/O FINKEL LAW FIRM LLC)
PLAINTIFF)

P.O. Box 71727)

North, Charleston, SC 29415)
STREET ADDRESS)

(843) 577-5460)
CITY, STATE ZIP)

Cornell Riley)
TELEPHONE)

VS.)
DEFENDANT(S))

100 Madison Ave)
STREET ADDRESS)

Ladson, SC 29456)
CITY, STATE ZIP)

(843)-771-2383)
TELEPHONE)

IN THE COURT OF COMMONN PLEAS

CERTIFIED COPY
2014 AUG 12 PM 2:38
CLERK OF COURT
DORCHESTER COUNTY

CERTIFICATION OF SERVICE

The undersigned states that on **August 12, 2014**, he did caused a true and correct copy of
DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION to be
served upon the party identified below by United States mail, proper postage affixed and
addressed as follows:

Via Certified Mail R.R.R

FINKEL LAW FIRM LLC

P.O. Office Box 41489

Charleston, South Carolina 29423

Cornell Riley, Pro Se

Date

8/12/14

SCCA/703 (Amended 08/2009).

NOTARY PUBLIC:

DATE: 08/12/14

COMM EXP: 07/02/2023

65

2014-CP-18-1007
CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank Of New York Mellon Trust Company
N.A, not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust

PLAINTIFF

C/O FINKEL LAW FIRM LLC

P.O. Box 71727

STREET ADDRESS

North, Charleston, SC 29415

CITY, STATE ZIP

(843) 577-5460

TELEPHONE

VS.

Cornell Riley

DEFENDANT(S)

100 Madison Ave

STREET ADDRESS

Ladson, SC 29456

CITY, STATE ZIP

(843)-771-2383

TELEPHONE

IN THE COURT OF COMMONN PLEAS

CERTIFIED COPY
2014 AUG 12 PM 2:38
CLERK OF COURT
DORCHESTER COUNTY

CERTIFICATION OF SERVICE

The undersigned states that on August 12, 2014, he did caused a true and correct copy of
DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST INTERROGATORIES to be served upon
the party identified below by United States mail, proper postage affixed and addressed as

follows:

Via and Certified Mail R.R.R

FINKEL LAW FIRM LLC

P.O. Office Box 41489

Charleston, South Carolina 29423

Cornell Riley, Pro Se

Date

8/12/14

SCCA/703 (Amended 08/2009)

NOTARY PUBLIC

DATE: 08/12/14

66

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank Of New York Mellon Trust Company,
N.A., not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust

PLAINTIFF

C/O FINKEL LAW FIRM LLC

P.O. Box 71727

STREET ADDRESS

North, Charleston, SC 29415

CITY, STATE ZIP

(843) 577-5460

TELEPHONE

VS.

Cornell Riley

DEFENDANT(S)

100 Madison Ave

STREET ADDRESS

Ladson, SC 29456

CITY, STATE ZIP

(843)-771-2383

TELEPHONE

IN THE COURT OF COMMON PLEAS

2014-CP-18-1007

CIVIL ACTION NUMBER

CLERK OF COURT
DORCHESTER COUNTY

2014 AUG 29 AM 9:16

CERTIFIED COPY

DEFENDANT'S SECOND ANSWER TO
PLAINTIFF'S FIRST REQUESTS FOR
PRODUCTION

TO: The Bank of New York Mellon Trust Company N.A (PLAINTIFF)

Pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the undersigned Defendant hereby Answers Plaintiff's First Request for Production. Upon additional or different responsive information defense will submit further responses to the interrogatories and the trial in this action.

SECOND Answer to REQUESTS FOR PRODUCTION

1. Defense submits defense Exhibit II page 1-12 and Exhibit JJ page 1-23 Exhibit II is the defendant's attempt to make payment on account using a method thought to be valid at the time and was expecting the plaintiff to respond whether accepted or not of which the plaintiff never responded to. This lead defendant to submit payment that plaintiff referred to in defense exhibit CC which was rejected by plaintiff. Exhibit JJ being proof that defendant did in fact submit paperwork required in order to explore foreclosure prevention in contradiction to what the plaintiff states, which is also proven by defense Exhibit AA.
2. Defense submits all exhibits AA thru LL which all but Exhibit HH page 1-4 is self-explanatory, and with that Exhibit HH is USPS certified proof of mailings of correspondence to AMS/SMS and to Plaintiff Attorney-in-Fact.
3. Defense submits the same as response 2 above but retain the right to submit further documents if discovered after this submission.
4. Defense submits the same as response 2 above but retain the right to submit further documents if discovered after this submission.
5. Defense has no such other documents, but retain the right to submit further documents if discovered after this submission.
6. Defense submits Exhibit LL and Exhibit GG pages 8-9 all other documents defense would submit with respect to the rejected payment by Plaintiff was lost in a totally damaged auto accident on July 23, 2014 of which Exhibit KK page 1-12 proves as fact of loss.
7. Defense has no statements of possible witnesses written, oral, summarized, or otherwise reproduced in any manner other than what defense has already submitted in prior submissions to the court and plaintiff.

Respectfully Submitted,

Cornell Riley, Pro. Se

Date

8/29/14

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as)
Trustee on behalf of the FDIC 2013-N1 Asset)
Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

IN THE COURT OF COMMONN PLEAS

2014-CP-18-1007
CIVIL ACTION NUMBER

CERTIFIED COPY
2014 AUG 29 AM 9:16
Clerk of Court
DORCHESTER COUNTY

DEFENDANT'S SECOND ANSWER TO
PLAINTIFF'S FIRST INTERROGATORIES

TO: The Bank of New York Mellon Trust Company N.A.

Pursuant to Rule 33 of the South Carolina Rules of Civil Procedure, the undersigned Defendant hereby Answers Plaintiff's First Interrogatories. Upon additional or different responsive information defense will submit further responses to the interrogatories and the trial in this action.

Second Answer to first INTERROGATORIES

1. Defense has no persons known at this time as witnesses to this matter but retain the right to so call if they arise after this submission.
2. Defenses submit all documents with response to first production and retain the right to submit further documents as they are received or found after this submission.
3. Defense list of documents are submitted with the second response to first production.
4. Defense has sustained undue stress, loss of sleep due to worry of foreclosure mainly after plaintiff rejected payment. Defense suffered loss of all cost related to filings in this matter. Defense loss production time toward earning extra pay doing odd jobs due to time put into preparing this Pro Se defense. Defense's Spouse has also suffered the same stress and loss of sleep due to unnecessary worry over this issue.
5. Defense at this time have no expert witnesses but retain the right to call on expert witnesses if arranged after this submission.
6. Defense refers plaintiff to statement 6 in defense second reply to request for production, further defense feels that the exhibits as listed AA thru LL is self-explanatory and does not require piece by piece identification, but will do so if Plaintiff cannot comprehend exhibits as submitted with production request, upon Plaintiff request after this submission.
7. As defense Exhibit "CC" reflect that defendant supplied plaintiff with due payment in the form of a check in the amount listed on defense exhibit "CC" and the same also shows plaintiff refusal of defendant's payment, requesting so called "certified funds" instead. The check as admitted by plaintiff was received. The plaintiff did not forward the payment to the financial institution to which the check was drawn; rather they sent the original back to defendant with no processing markings on it except an addition of the USPS certified

mailing number written across the top of it. In according with S.C. Code plaintiff created discharge in the amount of the tender submitted in its rejection of tender. This tender would have brought the account current with no need for the actions being now filled with the court.

8. Plaintiff by rejecting legal tender payment due them in the Mortgage contract, and requesting so called "certified funds" did so against the UNIFORM CONVENANTS, of which clearly states in point 3. That "Payments due under the Note and this Security Instrument shall be made in U.S. currency. *However, if any check or other instrument received by Lender as payment under the Note or its Security Instrument is returned to Lender unpaid, Lender may require that any and or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check*" because there was no payment returned to Lender unpaid, Plaintiff has no position to request any other form of payment.

9. Defense submit exhibit GG, JJ, AND II all which are correspondence from defendant to plaintiff regarding paying for or trying to get plaintiff to respond to attempts to settle account up until plaintiff rejected legal tender payment.

10. Defense submits Exhibit LL with production request. And exhibit KK for support of other payment information defense is unable to produce.

11. Defense fails to see the relevance and therefore will submit no answer to #11.

12. Defense fails to see the relevance and therefore will submit no answer to #12.

13. Defense spoke with the Veteran's administration loan representative of whom whose name and date of the conversation I do not have or recall at this time but retain the right to submit latter if possible. Defendant also spoke to his spouse regarding this complaint and

that conversation is privileged and will not be described unless otherwise ordered under oath. Defense to the best of his memory has not communicated with anyone else regarding this complaint.

14. SEE ATTACHED LIST OF EXHIBITS

Respectfully Submitted,

Cornell Riley, Pro. Se.

Date 8/29/14

Second Answer to first INTERROGATORIES

CLERK OF COURT
DORCHESTER COUNTY

Cheryl Jackson

2014 AUG 29 AM 9:16

CERTIFIED COPY

List of Exhibits and Description: sub-answer 6 of interrogatories

1. Exhibit "AA" Correspondence from Plaintiff denying a Loan Modification citing reason as VA Guidelines will not allow it.
2. Exhibit "BB" Correspondence from Plaintiff confirming receipt of defense Exhibit "GG" Page 6 noting that they will respond to Exhibit "GG" within 30 business days.
3. Exhibit "CC" Correspondence from Plaintiff returning defendant's check for up-to-date payment of \$16,607.51 and citing that certified funds are required, which defense claims is a breach of the Mortgage Contract.
4. Exhibit "DD" An extract from the Mortgage contract highlighting the UNIFORM CONVENATS clause which states that plaintiff would only require certified funds if certain conditions were met, and defense claims those conditions were not met and request strict proof that it was to avoid a breach of contract by plaintiff, as well as discharge in that amount according to SC Code.
5. Exhibit "EE" Correspondence from Plaintiff stating that AMS Servicing, LLC will be changing its name to Seneca Mortgage Servicing LLC.
6. Exhibit "FF" Correspondence from Plaintiff claiming to respond in full to defense exhibit "GG" page 6, of which does not address the payment rejection and defendants claim of violation of SC Code.
7. Exhibit "GG" page 1-10 as follows:

- a. Page 1. Affidavit that defendant is sending a Notice of Non-Response regarding a presentment of Exhibit "II" page 1-12.
 - b. Page 2. Affidavit of Notary Presentment listing all documents sent to Plaintiff.
 - c. Page 3. The actual Affidavit of Non-Response to Exhibit "II".
 - d. Page 4. Notice of conditional Acceptance upon proof of claim regarding presentment dated for 4/8/2014 and a good faith offering of a Check instrument in the amount of \$16,607.51 to be used if no other prior correspondence was accepted as payment.
 - e. Page 5. Is Page two of page 4.
 - f. Page 6. Notice of Rejection of Payment and request for proof of claim, explaining that after plaintiff rejected payment plaintiff breached the mortgage contract, and violated SC Code, thereby defendant request a full proof of claim, and a response to why check #229 was rejected, after defendant proved that the contract did not allow rejection unless conditions were met that were not.
 - g. Page 7. Is Page 2 of page 6.
 - h. Page 8. First presentment accepted for value for payment where defendant awaited a reply from plaintiff on acceptance of original attempt to pay.
 - i. Page 9. Second presentment accepted for value for payment where defendant again waited for a reply from plaintiff on acceptance of second attempt to pay.
 - j. Page 10. Mortgage Statement dated April 16, 2014 of which payment in full was sent to plaintiff and then rejected by plaintiff without contractual cause.
8. Exhibit "HH" page 1-4 are Copies of certified Domestic Return Receipt via the USPS on all correspondence sent to plaintiff from Defendant.
 9. Exhibit "II" page 1-12 is the second attempt at payment via a Notice of Acceptance of Presentment referring to Exhibit "GG" page 9 clearly explaining defendant's

understanding, with instructions on page 7 highlighted regarding replying to this correspondence, of which Plaintiff never responded leading defendant to believe that this type of payment could have been excepted and processed according to Exhibit "II" page 1-12, but without defendant's knowledge, thereby continuing to send Exhibit "GG" page 10 for further payment which lead to defendant sending check 229 referred to in Exhibit "CC".

10. Exhibit "JJ" Page 1-23 is paperwork filed with plaintiff requesting a hardship loan modification, of which plaintiff claims was never submitted in this matter.

11. Exhibit "KK" Page 1-12 with pages 1-6 being a South Carolina Traffic collision Report confirming that defendant's auto mobile was in a total collision, and stands to reason why defendant lost remaining evidence with respect to the actual Check #229 that was rejected by plaintiff and sent back to defendant without processing through the institution on which it was drawn. Pages 7-12 are pictures of the damaged vehicle further justifying how said evidence was lost in the wreckage in the dark of night and was never recovered when defend did search for it.

12. Exhibit "LL" Pages 1-14 is a payment history provided by Plaintiff., as a part of the response to Exhibit "GG" page 7.

CIVIL ACTION NUMBER

IN THE COURT OF COMMON PLEAS

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as)
Trustee on behalf of the FDIC 2013-N1 Asset)
Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

CLERK OF COURT
DORCHESTER COUNTY*Charles H. Hester*

2014 AUG 29 AM 9:16

CERTIFIED COPY

CERTIFICATION OF SERVICE

The undersigned states that on **August 29, 2014**, he did caused a true and correct copy of
DEFENDANT'S SECOND ANSWER TO PLAINTIFF'S FIRST INTERROGATORIES,
DEFENDANT'S SECOND ANSWER TO PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION, and ALL DEFENSE EXHIBIT'S "AA THRU "LL" to be served upon the
 party identified below by United States mail, proper postage affixed and addressed as follows:

Via and Certified Mail R.R.R

FINKEL LAW FIRM LLC

P.O. Office Box 41489

Charleston, South Carolina 29423

Cornell Riley, Pro Se

Date

8/29/14

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

Cornell Riley)

PLAINTIFF)

100 Madison AVE)

STREET ADDRESS)

Ladson SC, 29456)

CITY, STATE ZIP)

(843) 771-2383)

TELEPHONE)

VS.)

IN THE COURT OF COMMONN PLEAS

COMPLAINT

(JURY REQUESTED BREACH OF MORTGAGE
CONTRACT AND VIOLATION OF SC
COMMERCIAL CODE)The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust.

C/O Seneca Mortgage Servicing LLC)

DEFENDANT(S))

STREET ADDRESS)

3374 WALDEN AVENUE SUITE 1120)

CITY, STATE ZIP)

DEPEW, NY 14043)

(866)919-5608 EXT 3659)

TELEPHONE)

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in this court upon Complaint of the above-named Plaintiff against the above-named Defendant(s) for Discharge in the amount of payment rejected by Defendant pursuant to SC COMMEERCIAL CODE SECTION 36-3-603 (a),(b),(c), and the full amount owed toward the MORTGAGE as monthly payments from June 2014 to September 2014 or the month this matter comes before the court whichever is greater, as award to the PLAINTIFF for the above violations, stress, cost in filling this action as well as all cost and stress related to CIVIL ACTION NUMBER 2014-CP-18-1007.

1. The Plaintiff, a private citizen of the United States living in the County of Dorchester, town of Ladson state of South Carolina this action is to ensure discharge and collect a monetary award due to the violations above and below stated.
2. The Defendant is a servicer and/Mortgagee of the note and mortgage covering real property located in Dorchester County. Which is the subject of the within Captioned action, and is entitled to enforce same.
3. The Defendant(s) named herein may have an interest in the property that is the subject of this action
4. The Defendant did file a LIS PENDENS action (NON-JURY MORTGAGE FORECLOSURE) on 2014, May 27th
5. Defendant claims that it delivered due notice Pursuant to Section 37-5-110 and 37-5-111, South Carolina Code of Laws (1976 as amended), and that a notice of right to cure was given to Plaintiff as required. Plaintiff demands strict proof that any such right to cure was given before the filing of statement 4.
6. Plaintiff have been in contact with Defendant through numerous written correspondence in attempts to settle the Mortgage debt to current from March 2014 until Defendant did file statement 4. Above.
7. Defendant only responded to two of Plaintiff's written correspondence and only one was a complete response.
8. Defendant did admit that they were engaging in a violation of the Mortgage Agreement, UNIFORM CONVNET clause section in correspondence sent to Plaintiff, and did follow through with that intent, long before filing statement 4. Above.
9. Defendant did make claims to the court within CIVIL ACTION 2014-CP-18-1007 that's proven to be false and misleading.
10. Plaintiff have found other means to settle the MORTGAGE FORECLOSURE dispute by applying with South Carolina Help and duly being approved for assistance, because of Defendant's violation of the Mortgage Contract and SC Commercial Code.
11. The Plaintiff is requesting a Jury to decide the contract violation, and violation of SC Code the full amount of the payment rejected by Defendant of (\$16,607.51) to be placed toward the Plaintiff's mortgage principle or paid back to the SC Help organization to help other struggling home owners, and an additional amount accumulative of the monthly payment

from June 2014 to September 2014 or the first of the month in which this matter is before the court whichever is greater.

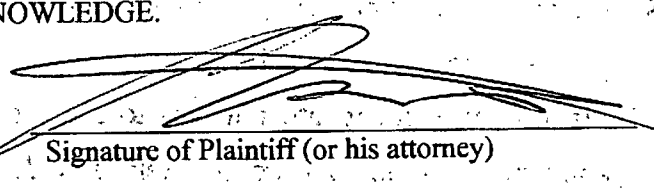
WHEREFORE, having fully set forth its Complaint, Plaintiff prays that this Honorable Court inquire into the matters set forth herein and that:

1. The amount as request above in note 11 above be ascertained and determined under direction of this Court, together with reasonable Pro Se attorney's fees and the cost of this action.
2. The Plaintiff's Mortgage contract be declared as the ruling factor of the allegation brought in this matter by Plaintiff.
3. The Defendant is ordered to comply with a jury's decision on this matter.
4. An order be entered to grant all of Plaintiff's demands if Defendant submits false, misleading, and intentional filings meant to allude this court of the truth in this matter.
5. An order be entered for reimbursement of all cost incurred by the plaintiff as a result of these violation, and breach of contract.
6. An order be entered for such other and further relief as may be just and proper.

Plaintiff do hereby request a jury trial if this matter is brought into any court in the jurisdiction granted by law over said property.

THE PLAINTIFF STATES THAT THE INFORMATION CONTAINED IN THIS COMPLAINT IS TRUE AND CORRECT TO THE BEST OF HIS KNOWLEDGE.

Dated: Aug 25, 2014


Signature of Plaintiff (or his attorney)

Date _____

Notary Public name print _____

Notary Public signature _____

My Commission expires on _____

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP1801007

Bank Of New York Mellon

CERTIFIED COPY

2014 OCT 29 PM 4:15

Cornell Riley

Cheryl Graham

PLAINTIFF(S) **CLERK OF COURT**
DORCHESTER COUNTY

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC: ☐ Rule 41(a), SCRPC (Vol. Nonsuit):
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j) SCRPC: ☐ Bankruptcy: ☐ Other: _____
☐ Binding arbitration, subject to right to restore, to confirm, vacate or modify arbitration award;
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order: (formal order to follow) ☐ Statement of Judgment by the Court:
ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: ****COUNTERCLAIM REMAINS OPEN**

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Diane S. Goodstein
Circuit Court Judge

2112
Judge Code

10/29/2014
Date

80

For Clerk of Court Office Use Only

This judgment was entered on 10/29/2014, and a copy mailed first class or placed in the appropriate attorney's box on 10/29/2014, to attorneys of record or to parties (when appearing pro se) as follows:

Susan S. White PO Box 71727 N. Charleston, SC 29415

Cornell Riley 100 Madison Ave Ladson, SC 29456

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF DORCHESTER

CERTIFIED COPY CASE NO.: 2014-CP-18-1007

The Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

2014 OCT 29 PM 4:15
Cheryl Graham
CLERK OF COURT
DORCHESTER COUNTY

ORDER OF DISMISSAL

ADTO complaint
ONLY and NOT
with regards to
the counterclaim
DSJ

THIS MATTER comes before the Court on the Plaintiff's motion for an Order dismissing the above-entitled foreclosure action, pursuant to Rule 41(a)(2) of the South Carolina Rules of Civil Procedure;

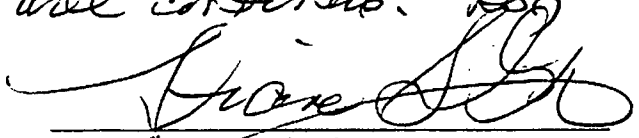
IT APPEARS Plaintiff began this action with the filing of its Lis Pendens, Summons, and Complaint on May 27, 2014.

IT FURTHER APPEARS the Defendant Cornell Riley, appearing *pro se*, filed an Answer on June 26, 2014 to which Plaintiff filed responsive pleadings on July 23, 2014.

IT FURTHER APPEARS the mortgage loan that is the subject of this action has been reinstated by Defendant.

THEREFORE, good and sufficient cause having been shown, the Clerk of Court of Common Pleas Dorchester County, South Carolina, is hereby directed to enter this Order of Dismissal pursuant to Rule 41(a)(2) SCRPC on the records of the Court and to cancel the Lis Pendens filed in this matter on May 27, 2014. *The defendant's counterclaim is NOT dismissed and will continue. DSJ*

IT IS SO ORDERED.


Judge, 1st Judicial Circuit

St. George, South Carolina

10-27, 2014

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

ORDER OF DISMISSAL

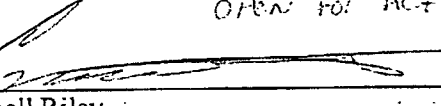
WE SO MOVE:

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, SC 29423
Main: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Plaintiff

WE SO CONSENT:

*Only if Plaintiff consents to keeping Defendants' Counterclaim
Open for Action Before the Court.*


Cornell Riley
100 Madison Ave.
Ladson, South Carolina 29456
Defendant Pro Se

9/26/14

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A., not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

ORDER OF DISMISSAL

WE SO MOVE:

FINKEL LAW FIRM LLC


Magalie A. Arcure (S.C. Bar 78855)
Post Office Box 41489
Charleston, SC 29423
Main: (843) 577-5460
Facsimile: (843) 577-5135
Attorneys for the Plaintiff

WE SO CONSENT:

Cornell Riley
100 Madison Ave.
Ladson, South Carolina 29456
Defendant Pro Se

84

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company
N.A, not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

IN THE COURT OF COMMONN PLEAS

2014 NOV 24 AM 11:49
CLERK OF COURT
DORCHESTER COUNTY

MOTION FOR LEAVE TO AMEND COUNTERCLAIM

Defendant motions the Court for Leave to Amend Counterclaim.

Breach of the mortgage contract, which duly is a private cause for action in the state of South Carolina, supported by *Doe v. Marion*, 373 S.C. 390, 645 S.E.2d 245 (2007), *Wise v. Broadway*, 315 S.C. 273, 433 S.E.2d 857 (1993), and *Nguyen v. Uniflex Corp.*, 312 S.C. 417, 440 S.E.2d 887 (Ct. App. 1994).

Defendant submits such a motion adding additional damages not known of at the time of the original counterclaim filing. Defendant also has withdrawn the charge of Violation of South Carolina Commercial Code as was previously in the original counterclaim. Defendant in his

amended counterclaim (*Attached*) makes all parties aware of his intent to also seek punitive damages if a jury so decide that it is pursuant to South Carolina statutes and case law.

Respectfully Submitted

Cornell Riley, Pro Se

Date

11/24/14

2014-CP-18-1007

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
N.A, not in its individual capacity but solely as)
Trustee on behalf of the FDIC 2013-N1 Asset)
Trust)

C/O Finkel Law Firm LLC)

PLAINTIFF)

P.O. Box 71727)

STREET ADDRESS)

North Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

CORNELL RILEY)

DEFENDANT(S))

100 MADISON AVE)

STREET ADDRESS)

LADSON SC 29456)

CITY, STATE ZIP)

843-771-2383)

TELEPHONE)

IN THE COURT OF COMMON PLEAS

AMENDED COUNTERCLAIM

(JURY REQUESTED BREACH OF MORTGAGE
CONTRACT)

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in this court upon Complaint of the above-named Defendant against the above-named Plaintiff(s) for Award in the amount of payment rejected by Plaintiff, and the full amount owed toward the MORTGAGE as monthly payments from June 2014 to the month this matter comes before a jury whichever is greater, as award to the Defendant for the above breach, stress, cost in defending this action to include (**Pro Se-attorney's fees which will be explained in detail via affidavit**). Defendant will also request of the jury that if a breach is determined to have been made by Plaintiff, to also consider if such a breach was done in a way that punitive damages could be awarded pursuant to South Carolina law and description of a breach so committed, to also award such punitive damages to the Defendant.

87

1. The Defendant, a private citizen of the United States living in the County of Dorchester, town of Ladson state of South Carolina this action and seeks an award in the amount rejected by Plaintiff to be paid to defendant with the express purpose of returning the funds back to the South Carolina Help Program to help further assist other struggling home owners.
2. The Plaintiff is holder of the note and mortgage covering real property located in Dorchester County. Which is the subject of the within Captioned action, and is entitled to enforce the same.
3. The Defendant(s) named herein may have an interest in the property that is the subject of this action.
4. The Plaintiff did file a LIS PENDENS action (NON-JURY MORTGAGE FORECLOSURE) on 2014, May 27th
5. Plaintiff claims that it delivered due notice Pursuant to Section 37-5-110 and 37-5-111, South Carolina Code of Laws (1976 as amended), and that a notice of right to cure was given to Defendant as required. Defendant demands strict proof that any such right to cure or notice of default was received by Defendant before statement 4 or in January of 2014.
6. Defendant have been in contact with Plaintiff through numerous written correspondence in attempts to settle the Mortgage debt to current from March 2014 until Defendant did file statement 4. Above.
7. Plaintiff only responded to two of Defendant's written correspondence and only one was a complete response.
8. Plaintiff did admit that they were engaging in a violation of the Mortgage Agreement, UNIFORM CONVNET clause section in correspondence sent to Defendant, by not offering proof to defendant as to why rejection of payment was committed, and did follow through with that intent, long before filing statement 4. Above.
9. Plaintiff did make claims to the court within CIVIL ACTION 2014-CP-18-1007 that will be proven to be false and misleading.
10. Defendant have found other means to settle the MORTGAGE FORECLOSURE dispute by applying with South Carolina Help and duly being approved for assistance, because of Plaintiff's violation of the Mortgage Contract.

11. As a result of 10. Above Defendant has suffered the burden of additional cost of up to \$36,000 and or major restrictions regarding his property in signing a second mortgage with the South Carolina Help organization.
12. The Defendant is requesting a Jury to decide the contract violation, and weather the violation was willful and reckless. Defendant will respectfully request the amount rejected by Plaintiff of (\$16,607.51) to be given to Defendant for the purpose of returning these funds to the SC Help organization to help other struggling home owners, and an additional amount accumulative of the monthly payment from June 2014 to the first of the month in which this matter is before a jury whichever is greater.

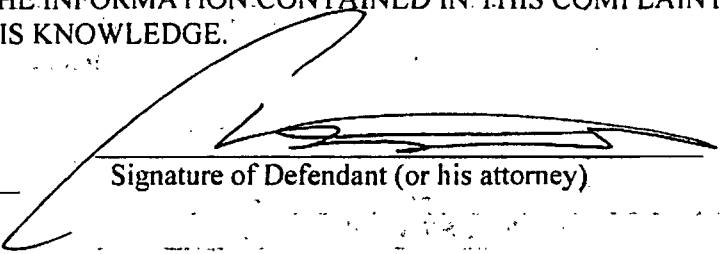
WHEREFORE, having fully set forth its Complaint, Defendant prays that this Honorable Court inquire into the matters set forth herein and that:

1. The amount as request above in note 11 above be ascertained and determined under direction of this Court, together with reasonable Pro Se attorney's fees and the cost of this action.
2. The Defendant's Mortgage contract is declared as the ruling factor of the allegation brought in this matter by Plaintiff.
3. The Plaintiff is ordered to comply with a jury's decision on this matter.
4. An order is entered to grant all of Defendant's demands if Plaintiff submits false, misleading, and intentional filings meant to elude this court of the truth in this matter.
5. An order be entered for reimbursement of all cost incurred by the Defendant as a result of this breach of contract.
6. An order is entered for such other and further relief as may be just and proper.

Plaintiff do hereby request a jury trial if this matter is brought into any court in the jurisdiction granted by law over said property.

THE DEFENDANT STATES THAT THE INFORMATION CONTAINED IN THIS COMPLAINT IS TRUE
AND CORRECT TO THE BEST OF HIS KNOWLEDGE.

Dated: 11/24/14


Signature of Defendant (or his attorney)

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP1801634

Cornell Riley

2015 FEB -4 PM 3:29

Bank Of New York
Mellon Trust Company

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☒ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☒ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other:

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

Plaintiff voluntarily dismissed this action in order to pursue his counterclaim in Case No: 2014CP1801007

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: _____

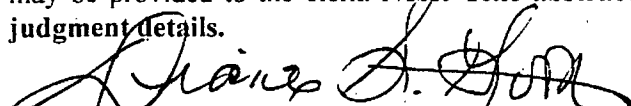
INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.


Diane S. Goodstein, Circuit Court Judge

2112
Judge Code

1/30/2015
Date

91

For Clerk of Court Office Use Only

This judgment was entered on 2/4/2015, and a copy mailed first class or placed in the appropriate attorney's box on 2/4/2015, to attorneys of record or to parties (when appearing pro se) as follows:

Cornell Riley 100 Madison Ave Ladson, SC 29456

Magalie Amelia Arcure PO Box 41489 Charleston, SC 29423

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP1801007

Bank Of New York Mellon

2015 FEB -4 PM

Cornell Riley

[Signature]

PLAINTIFF(S)

DORCHESTER COUNTY

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j) SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order; (formal order to follow) ☒ Statement of Judgment by the Court:

Defendant's Motion to Amend Counterclaim is hereby Granted.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details. -

[Signature]
Diane S. Goodstein, Circuit Court Judge

2112
Judge Code

1/30/2015
Date

93

For Clerk of Court Office Use Only

This judgment was entered on 11/4/2015, and a copy mailed first class or placed in the appropriate attorney's box on 11/4/2015, to attorneys of record or to parties (when appearing pro se) as follows:

Magalie Amelia Arcure PO Box 41489 Charleston, SC
29423

Cornell Riley 100 Madison Ave Ladson, SC 29456

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

1. What is the purpose of the experiment?
 The purpose of the experiment is to determine the effect of temperature on the rate of reaction between hydrogen peroxide and potassium iodide.

[illegible]

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset
Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

**PLAINTIFF'S REPLY TO DEFENDANT'S
AMENDED ANSWER AND
COUNTERCLAIM**

Plaintiff, by undersigned counsel, hereby submits its Reply to the Amended Answer and Counterclaim ("Answer") filed by Cornell Riley ("Defendant"). In support of its Reply, Plaintiff states as follows:

1. Unless expressly admitted herein, Plaintiff denies each and every allegation in the Answer.
2. Each allegation of the Complaint in this matter is hereby incorporated by reference. Plaintiff denies any factual allegation in the Answer inconsistent therewith and demands strict proof. Plaintiff further avers that its action for foreclosure against Defendant has been dismissed by Order entered on October 29, 2014, upon Defendant's reinstatement of the loan that was the subject of Plaintiff's Complaint for foreclosure.
3. Plaintiff craves reference to the public records of Dorchester County, South Carolina, for the subject documents of Plaintiff's action, and denies anything inconsistent therewith.
4. Plaintiff denies the Answer to the extent that it alleges that Plaintiff, its agents or servicers violated any agreement with the Defendant.
5. Paragraph 1 of the Answer appears to state legal conclusions to which no response is required; to the extent a response is required, Plaintiff craves reference to applicable South Carolina law and denies anything inconsistent therewith. Plaintiff further denies any violation of South Carolina law.
6. Paragraphs 2 and 3 of the Answer are admitted.

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7. Plaintiff admits so much of paragraph 4 of the Answer which may be construed to allege that Plaintiff filed its Lis Pendens, Summons and Complaint, and Notice of Foreclosure Intervention herein on May 27, 2014.

8. Plaintiff admits so much of paragraph 5 of the Answer which may be construed to allege that any notice of right to cure pursuant to Sections 37-5-110 and 37-5-111, South Carolina Code of Laws, was provided in connection with Defendant's previous default under the terms of the subject note and mortgage as of June 1, 2013. The remaining allegations in Paragraph 5 appear to state legal conclusions to which no response is required; to the extent a response is required, Plaintiff craves reference to applicable South Carolina law and denies anything inconsistent therewith.

9. Plaintiff admits so much of paragraph 6 of the Answer which may be construed to allege that Plaintiff and Defendant engaged loss mitigation communications.

10. Plaintiff admits so much of paragraph 7 of the Answer which may be construed to allege that Plaintiff and Defendant engaged loss mitigation communications. Plaintiff denies the remaining allegations of paragraph 7 and demands strict proof.

11. Plaintiff denies paragraphs 8 and 9 of the Answer and demands strict proof. Plaintiff further denies any violation of South Carolina law.

12. Plaintiff denies paragraph 10 of the Answer to the extent it may be construed to allege that Plaintiff violated any agreement with Defendant. Plaintiff has insufficient information to admit or deny the remaining allegations in paragraph 10; therefore, denies same and demands strict proof.

13. Plaintiff denies paragraphs 11 and 12 of the Answer and demands strict proof. Plaintiff further denies any violation of South Carolina law.

FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION

(Breach of Contract)

14. Plaintiff reasserts the foregoing statements as if set forth at length herein.

15. Defendant has failed to state facts sufficient to constitute a cause of action against Plaintiff pursuant to Rule 12(b)(6), SCRCP, and Defendant's claims should be dismissed with prejudice.

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FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

16. Plaintiff avers that Defendant's claims are barred by the doctrine of laches and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

17. Plaintiff avers that Defendant's claims are barred by the doctrine of estoppel and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

18. Plaintiff avers that Defendant's claims are barred by the doctrine of waiver and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

19. Plaintiff avers that Defendant's claims are barred by the applicable statute(s) of limitations and statute(s) of repose, and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

20. Plaintiff avers that Defendant's claims are barred by the doctrine of release, and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

21. Plaintiff avers that Defendant's claims are barred by statute of frauds, and should be dismissed with prejudice.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

22. Defendant's damages, if any, are the result of his own actions and/or omissions or the actions, omissions of individuals over whom Plaintiff exercised no control, or both.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

23. Defendant's claims are barred by his failure to perform certain conditions precedent under his loan agreement with Plaintiff.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

24. The relief requested by Defendant is barred by S.C. Code § 15-36-10.

FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE

25. Plaintiff reserves the right to assert additional claims and defenses as they may become known.

WHEREFORE, Plaintiff requests that the Court dismiss the Defendant's Counterclaims with prejudice, award Plaintiff its costs and attorneys' fees, and grant such other and further relief as is just and necessary.

FINKEL LAW FIRM LLC



Magalie A. Arcure (S.C. Bar 78855)

Post Office Box 41489

Charleston, South Carolina 29423

Tel: (843) 577-5460

Facsimile: (843) 577-5135

Attorneys for the Plaintiff

Dated: January 30, 2015

98

CERTIFIED COPY

2014-CP-18-1007

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA

2015 FEB 20 PM 6

IN THE COURT OF COMMON PLEAS

COUNTY OF DORCHESTER

The Bank Of New York Mellon Trust Company
N.A, not in its individual capacity but solely as
Trustee on behalf of the FDIC 2013-N1 Asset
Trust

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

**SECOND MOTION FOR LEAVE TO AMEND
COUNTERCLAIM**

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

Defendant motions the Court for Leave to Amend Counterclaim.

Defendant submits a motion adding an additional charge of failure to comply with the Federal Real Estate Settlement and Procedures Act (RESPA) Section 6 (12 U.S.C. Section 2605). Section 6 of RESPA contains an express private cause of action. 12 U.S.C. § 2605(f). Defendant submits the following Exhibits to support the motion to amend counterclaim to add the violation of the RESPA. Exhibit "OO" is a letter from Plaintiff's agent Seneca Mortgage Servicing llc, at the time of the letter called AMS Servicing, llc. The letter welcomes the defendant to AMS servicing with a new account number of 7000661. The letter notifies the defendant under consumer rights regarding the federal real estate settlement procedures act.

Exhibit "GG" is defendant's qualified written request (QWR) dated May 12, 2014. Exhibit "BB" is a letter from plaintiff's agent acknowledging receipt of QWR dated 5/12/2014 stating that they received it on 5/27/2014. Exhibit "GG" clearly request an explanation of why defendants payment was rejected, it also challenged the plaintiff's agent reason for rejecting payment in attached exhibit "CC". Defendant submitted with his QWR an extract of the mortgage contract attached exhibit "DD" in challenge of the plaintiff's reason for rejection of payment. The plaintiff sent to the defendant attached exhibit "FF" which is the plaintiff's agent letter sent with their response to the QWR, this letter makes no mention of the rejected payment, and they never attempted to resolve that portion of the QWR which places them in direct violation of the RESPA, the QWR also clearly states that if the plaintiff's agent requested a resubmission of the rejected check payment the defendant would resubmit it of which they never replied, instead they filed a foreclosure action on May, 27 2014.

Federal Question

This amendment does in fact raise a federal question, and the plaintiff may be inclined for a move of venue to the federal court. Defendant submits the below in the event that plaintiff wish to consider this option.

Shamrock Oil and Gas Corporation v. Sheets, 313 U.S. 100, 108-09 (1941). And CONSOL ENERGY, INC., Plaintiff, v. James R. CORLEY, Defendant. Civil Action No. 5:08CV82. Defendant is defined narrowly. A state-court plaintiff may not remove a counterclaim, which, had it been an independent action, would have been subject to original federal jurisdiction. Shamrock Oil and Gas Corporation v. Sheets, 313 U.S. 100, 108-09 (1941).

Further That: Section 6 of RESPA contains an express private cause of action. 12 U.S.C. § 2605(f). Individual plaintiffs who prevail are entitled to actual damages plus statutory damages of up to \$1,000. This amended counterclaim is (Attached) and makes all parties aware of its change.

Respectfully Submitted

Cornell Riley, Pro Se

Date

2/20/15

Attachment 2

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A, not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

PLAINTIFF'S MOTION FOR SUMMARY
JUDGMENT

CERTIFIED COPY
2015 MAR 23 AM 10:40
Clerk of Court
DORCHESTER COUNTY

The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust ("Plaintiff") by and through its undersigned counsel, hereby moves pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for summary judgment against Cornell Riley ("Defendant"). In support of its motion, Plaintiff states that there are no material facts in dispute concerning Plaintiff's claims that: i). it holds a valid and enforceable note and mortgage; ii). Defendant defaulted under the terms and conditions contained therein; iii). Plaintiff provided Defendant notice of the default; iv). Plaintiff properly exercised its right to accelerate the balance of the debt under the terms of the note and mortgage; and v). Plaintiff properly exercised its right to require Defendant to reinstate the loan in certified funds pursuant to the terms of the note and mortgage.

Plaintiff reserves the right to submit supporting affidavits and/or a memorandum pursuant to applicable law at or prior to the hearing on this motion.

Respectfully submitted,

FINKEL LAW FIRM LLC



Magalie A. Arcure (S.C. Bar 78855)

Post Office Box 41489

Charleston, South Carolina 29423

Telephone: (843) 577-5460

Facsimile: (843) 577-5135

Attorneys for Plaintiff

March 18, 2015

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STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Company,
N.A., not in its individual capacity but solely as
trustee on behalf of the FDIC 2013-N1 Asset Trust,

PLAINTIFF,

vs.

Cornell Riley,

DEFENDANT.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-18-1007

**AFFIDAVIT IN SUPPORT OF MOTION
FOR SUMMARY JUDGMENT**

John R. Maluber, being duly sworn, deposes and says:

1. I am of the age of majority and am competent to testify with respect to the following matters.
2. I am employed by Seneca Mortgage Servicing, LLC, authorized servicer for The Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust ("Plaintiff"), and am authorized to make this affidavit on its behalf.
3. I submit this Affidavit in Support of Plaintiff's Motion for Summary Judgment against the Defendant.
4. I am familiar with the loan transaction at issue in this matter, and make my declaration based on my review and understanding of records that Seneca Mortgage Servicing, LLC maintains in the ordinary course of business. These records are kept in the course of Seneca Mortgage Servicing, LLC's regularly conducted loan administration, and it is the regular practice of Seneca Mortgage Servicing, LLC to keep these records. It is Seneca Mortgage Servicing, LLC's regular practice to make these records at or near the time of the occurrence of the events reflected in the records. I have personally reviewed the documents, records, and other data relied on to make the statements in this Affidavit.
5. On July 31, 2009, Cornell Riley ("Defendant"), by his Attorney-in-Fact Twilla Cobb, executed a promissory note ("Note") in favor of Taylor, Bean & Whitaker Mortgage Corp., in the original principal amount of \$170,590.00.

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6. Defendant was obligated to repay the principal amount borrowed, plus interest at the rate of 5.25% *per annum*, by making monthly payments. A true and correct copy of the Note is annexed hereto as Exhibit A.

7. The Note was secured by a mortgage ("Mortgage") given by the Defendant, through his Attorney-in-Fact Twilla Cobb, simultaneously with the execution of the Note. The property encumbered by the Mortgage is located in Ladson, Dorchester County, South Carolina and as is more particularly described in the Mortgage and the Lis Pendens filed by Plaintiff. It has the TMS#: 162-01-10-001 and property address of: 100 Madison Ave, Ladson, SC.

8. The Mortgage was recorded in the Office of the Register of Deeds for Dorchester County in Book 7185 at Page 49 on August 6, 2009. A true and correct copy of the Mortgage is annexed hereto as Exhibit B.

9. By virtue of an Assignment of Mortgage recorded in the Office of the Register of Deeds for Dorchester County in Book 8022 at Page 75 on September 27, 2011, Mortgage Electronic Registration Systems, Inc., as nominee for Taylor, Bean & Whitaker Mortgage Corp. assigned the mortgage to FDIC as receiver from Colonial Bank.

10. Thereafter, FDIC as Receiver from Colonial Bank assigned the Mortgage to The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust ("Plaintiff") by virtue of an Assignment of Mortgage recorded in the Office of the Register of Deeds for Dorchester County in Book 9324 at Page 138 on June 20, 2014. True and correct copies of the Assignments of Mortgage are annexed hereto as Exhibit C.

11. By subsequent agreement, the parties modified the terms of the original loan which, inter alia, increased the principal balance due and lowered the interest rate to 4.75% *per annum*. A true and correct copy of the Loan Modification Agreement is attached hereto as Exhibit D.

12. Defendant defaulted on his obligations due and owing under the Note and Mortgage and was considered in default as of June 1, 2013. A true and correct copy of the payment history for the subject loan is annexed hereto as Exhibit E.

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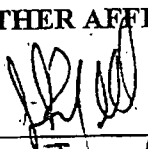
13. Plaintiff sent Defendant all required notices of default. A true and correct copy of the default letters are annexed hereto as Exhibit F.

14. Plaintiff exercised its right to accelerate the balance due and owing under the terms of the Note and Mortgage by the filing of its Lis Pendens, Summons, Complaint, and Notice of Foreclosure Intervention in this matter on May 27, 2014.

15. Defendant attempted to reinstate the loan in May of 2014, however, the funds were returned to Defendant due to his failure to remit certified funds as required by the terms of the loan agreement. See Exh. B at ¶18.

16. Defendant dismissed its foreclosure action after Defendant subsequently tendered the appropriate amount of funds required to reinstate the loan in certified funds.

FURTHER AFFIANT SAYETH NOT.


Name: JOHN R. MALLABRE A.V.P.
Seneca Mortgage Servicing, LLC, authorized servicer for
The Bank of New York Mellon Trust Company, N.A, not
in its individual capacity but solely as trustee on behalf of
the FDIC 2013-N1 Asset Trust

Sworn to before me this
24th day of March, 2015


Notary for the State of New York
My Commission Expires: 3-7-18

CARMEN ARUVALI
Notary Public, State of New York
Qualified in Erie County
My Commission Expires March 7, 2018

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
 N.A, not in its individual capacity but solely as)
 Trustee on behalf of the FDIC 2013-N1 Asset)
 Trust)

PLAINTIFF)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

STREET ADDRESS)

North, Charleston, SC 29415)

CITY, STATE ZIP)

(843) 577-5460)

TELEPHONE)

VS.)

**AFFIDAVIT IN SUPPORT OF JURY TRIAL AS
 ORDERED BY THE COURT**

Cornell Riley)

DEFENDANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383)

TELEPHONE)

Twilla Cobb Riley being duly sworn deposes and says:

1. I am of the age of majority and am competent to testify with respect to the following matters.
2. I am the Attorney-in-Fact that executed a promissory note on July 31, 2009 for the defendant regarding the above matter.
3. I am familiar with the loan transaction at issue in this matter, and make my declaration based on my first hand and daily knowledge of this matter.

4. I state that the defendant in this matter was never in receipt of any notice of default, or notice of acceleration from the plaintiff prior to MAY 27, 2014 and therefore be not in violation of the mortgage note loan agreement section 18 which requires certified funds after acceleration of the mortgage.
5. I state that the defendant did send a full and up-to-date payment including all charges and fees to the plaintiff, as admitted in court documents by the plaintiff, and that the plaintiff refused the payment by check.
6. I further state that the alleged notice of default sent to the defendant in March, 2015 dated as 31, January 2014 and another dated March 25, 2014 was never delivered to myself or the defendant by any means to include United States postal Mail during no time prior to March, 2015.

FUTHER AFFIANT SAYETH NOT

Twilla Cobb-Riley
Twilla Cobb-Riley Date 4/10/15

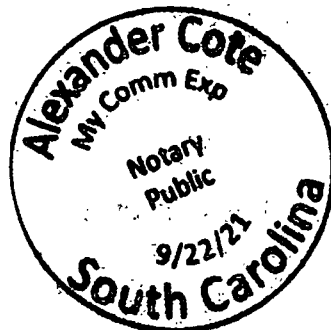
Twilla Cobb Riley Attorney-in-Fact of Mortgage

Sworn to before me this

10 day of April 2015
[Signature]

Notary for the State of SC

My Commission Expires 9/22/21



STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

IN THE COURT OF COMMONN PLEAS

The Bank Of New York Mellon Trust Company
 N.A, not in its individual capacity but solely as
 Trustee on behalf of the FDIC 2013-N1 Asset
 Trust

PLAINTIFF)
 C/O FINKEL LAW FIRM LLC)

P.O. Box 71727

STREET ADDRESS)
 North, Charleston, SC 29415)

CITY, STATE ZIP)
 (843) 577-5460)

TELEPHONE)
 VS.)

STATEMENT OF CONSIDERATION

Cornell Riley)
 DEFENDANT(S))

100 Madison Ave)
 STREET ADDRESS)

Ladson, SC 29456)
 CITY, STATE ZIP)

(843)-771-2383)
 TELEPHONE)

Defendant submits the following facts for the Honorable Judge Goodstein consideration while motion decisions are pending in this matter.

1. The primary reason your honor ordered this case to a Jury in November, 2014 was because the plaintiff could not provide notice of acceleration when asked to present it by the court.
2. Such acceleration notices as filed with plaintiff's motion for summary judgement if existed in January 2014, or March 2014, could have been delivered to the plaintiff's

attorney during discovery request, and during plaintiff motion to dismiss, but could not because as defense contents they did not exist prior to the time plaintiff drafting them and sending them to their attorney in March of 2015.

3. Defendant has made no statement that directly or indirectly implies that he was aware of nor received any notice of acceleration of the mortgage contract as is required.
4. The law provides that a Mortgage company must notify a customer of default, but the law does not state that the notice must be proven as to have been mailed or delivered, without such a proof requirement it is very easy for a company to state under oath that such notice was mailed even if it was not.
5. Plaintiff in this case has passed SCRCF deadlines a few times regarding defendant's filings for action on their part for one reason or another.
6. The matter at hand now is whether the plaintiff did in fact send notice as they were required by law, and because of the case in this matter I believe that the question can be best resolved by giving a jury a chance to review all evidence and decide on this matter as your honor has already ordered.

THEREFORE: Defendant prays that the court will continue this matter of a jury trial.

Respectfully Submitted

Cornell Riley, Pro Se

Date

Apr/16/2015

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-18-01007

The Bank of New York Mellon Trust Company, N.A.

Cornell Riley

2015 MAY 13 AM 11:55

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Cheryl Beahm
CLERK OF COURT
DORCHESTER COUNTY

Attorney for: ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Defendant's second motion to amend counterclaim is denied. Defendant's amendment if granted would fail to state a cause of action for which relief may be granted.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Debra D. Gorse
Circuit Court Judge

2112

Judge Code

Date

5-4-2015

110

For Clerk of Court Office Use Only

This judgment was entered on 5/13/2015, and a copy mailed first class or placed in the appropriate attorney's box on 5/13/2015, to attorneys of record or to parties (when appearing pro se) as follows:

Magalie Amelia Arcure PO Box 41489 Charleston, SC
29423

Cornell Riley 100 Madison Ave Ladson, SC 29456

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

Cheryl Graham

Court Reporter: Ruth Mott

Cheryl Graham - Clerk of Court

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

111

CIVIL ACTION NUMBER

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

The Bank Of New York Mellon Trust Company)
 N/A, not in its individual capacity but solely as)
 Trustee on behalf of the FDIC 2013-N1 Asset)
 Trust)

C/O FINKEL LAW FIRM LLC)

P.O. Box 71727)

North, Charleston, SC 29415)

(843) 577-5460)

VS.)

Cornell Riley)

100 Madison Ave)

Ladson, SC 29456)

(843)-771-2383)

TELEPHONE)

IN THE COURT OF COMMON PLEAS

2015 MAY 18 AM 11:16
 CLERK OF COURT
 DORCHESTER COUNTY

MOTION FOR RECONSIDERATION

Defendant motions the Court for Reconsideration of Plaintiff's Granting of Motion for Summary Judgement.

Defendant submits a motion asking the court for reconsideration of the plaintiff's granting of motion for summary judgement.

As the Statement of Judgment states that "There is no material fact regarding defendant's breach of contract causes of action". Defendant maintains that a material fact exist in the form of

1. A rejection of payment letter from the plaintiff and the contract between Plaintiff and Defendant stating the only way a payment by personal check can be rejected.

2. In the form of RESPA qualified written request that evidence was submitted to the court showing that RESPA was not complied with, and that **Section 6 (12 U.S.C. Section 2605). Section 6 of RESPA contains an express private cause of action.**

3. That Plaintiff has had ample time to provide any letter of default or acceleration to the court and defendant before its filing for foreclosure in May 2014, and defendant was never sent any such notification until March 2015 as a part of Plaintiff's Motion for Summary Judgement.

4. Defendant was granted a jury trial because Plaintiff fails to produce such acceleration notification as defendant asserts that such acceleration did not exist and claims that the Plaintiff added such notice to the defendant's Mortgage records sometime after March 01, 2015.

5. Defendant begs the court to allow this matter to go before a jury on the facts and evidence filed within this case for the jury to determine whether or not the plaintiff actually sent a letter of acceleration to the defendant as prescribe by law. The Plaintiff's entire defense depends on if the court or a jury would believe that the Plaintiff did in fact notify the defendant of default of mortgage of which the defense believes that he has ample fact to show that the plaintiff did not.

Respectfully Submitted

Cornell Riley, Pro Se

Date

5/18/15

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2014 CP-18-01007

The Bank of New York Mellon Trust Company, N.A.

Cornell Riley

2015 MAY 13 AM 11:55

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Christy DeLeon
CLERK OF COURT
DORCHESTER COUNTY

Attorney for : ☐ Plaintiff ☐ Defendant
or
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☐ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court: Plaintiff's Motion for Summary Judgment is granted. There is no material fact regarding defendant's breach of contract causes of action.

ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
		\$
		\$
		\$

If applicable, describe the property, including tax map information and address, referenced in the order:

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Heare D. Gid
Circuit Court Judge

2112

Judge Code

Date

STATE OF SOUTH CAROLINA

COUNTY OF DORCHESTER

The Bank of New York Mellon Trust Co.
N.A., not in its individual capacity but
Solely as Trustee on behalf of the FDIC
2013-N1 Asset Trust,

Plaintiff,

vs.

Cornell Riley,

Defendant.

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

CASE No. 2014-CP-18-01007

**ORDER DENYING MOTION TO
RECONSIDER**

CLERK OF COURT
DORCHESTER COUNTY

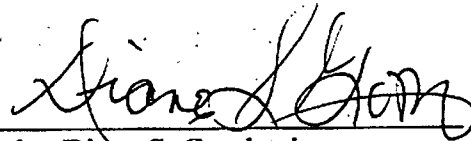
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This matter came before this Court by way of Defendant's Motion to reconsider concerning this Court's order granting Plaintiff's motion for summary judgment. The Defendant's motion does not raise any novel issues for the Court's consideration

Therefore, the Defendant's Motion for Reconsideration is **Denied**.

AND IT IS SO ORDERED!



Judge Diane S. Goodstein
Circuit Court Judge

June 11, 2015
Dorchester, South Carolina

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1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF DORCHESTER

2014-CP-18-01634

3
4 CORNELL RILEY)

TRANSCRIPT OF RECORD

5 VS.)

6
7 BANK OF NEW YORK MELLON)
TRUST COMPANY)

NOVEMBER 19, 2014
ST. GEORGE, SC

8
9 B E F O R E:

10 HONORABLE DIANE S. GOODSTEIN

11 A P P E A R A N C E S:

12 CORNELL RILEY
13 Pro Se Plaintiff

14 MAGALIE AMELIA ARCURE, ESQUIRE
15 Attorneys for the Defendant

16 Ruth L. Mott, RPR, CRR
17 Official Court Reporter
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23
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I N D E X

CERTIFICATE OF REPORTER 28

E X H I B I T S

NO.	DESCRIPTION	ID	EVD
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(NONE MARKED)

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1 MS. ARCURE: If I may just give a little background, Mr.
2 Riley and I had an opportunity to speak, and I think we may
3 have resolved a few issues. My name is Magalie Arcure. I
4 represent the Bank of New York Mellon Trust Company, NA, not
5 in its individual capacity but solely as trustee on behalf of
6 the FDIC 2013-N1 asset trust. I'll just call them the Bank
7 of New York.

8 THE COURT: Thank you.

9 MS. ARCURE: We had previously instituted a foreclosure
10 action against Mr. Riley which has since been dismissed. Mr.
11 Riley was able to reinstate the loan. In response to our
12 complaint Mr. Riley served an answer and counterclaim.

13 THE COURT: Yes.

14 MS. ARCURE: And in that counterclaim my -- I don't want
15 to misconstrue what he's alleged, but he had attempted to
16 reinstate the loan previously, and that reinstatement was
17 rejected because it was not made in certified funds, and that
18 forms the basis of the counterclaim. And, meanwhile, in a
19 separate matter commenced by Mr. Riley he has raised the same
20 allegations against the Bank of New York Mellon. We have
21 moved to dismiss the counterclaim and separately moved to
22 dismiss the separate complaint on the grounds that service
23 has not been perfected. There may have been some
24 miscommunication from my office. We do represent this
25 entity, but we do not -- we're not authorized to accept

1 service on their behalf and do not represent them in this
2 matter currently except for purposes of proceeding with the
3 motion to dismiss based on the insufficiency of service. And
4 with respect to the counterclaim, we've moved to dismiss
5 under Rule 12(b)(6) for failure to state a cause of action
6 because the terms of the mortgage, specifically paragraph
7 19 -- 18, excuse me, states that upon default and
8 acceleration a reinstatement may be made under certain
9 conditions, and one of those conditions is that a preferred
10 method of payment may be asked -- certified funds, money
11 order and the like -- and so that based on that there is no
12 cause of action as stated in the counterclaim with respect to
13 the foreclosure action.

14 THE COURT: Tell me what's been resolved.

15 MS. ARCURE: Well, Mr. Riley has I think potentially
16 cured the service, the improper service, by serving the
17 registered agent for the Bank of New York Mellon. He told me
18 that outside. Should that be the case and our office is then
19 designated to represent them in this matter, I will certainly
20 let him know, and we would then simply ask for enough time to
21 answer. He had a motion for default judgment that was before
22 the Court with respect to the separate action.

23 THE COURT: I understand. Okay. So that's the first
24 thing. What's the second thing?

25 MS. ARCURE: And the second was that if the service

1 issue had been resolved, he would be withdrawing the motion
2 for default judgment.

3 THE COURT: Gotcha. That's the second thing.

4 MS. ARCURE: Yes.

5 THE COURT: They're kind of one thing joined but two
6 separate things.

7 Is that right, Mr. Riley?

8 MR. RILEY: Almost with perfection, just a few things.

9 THE COURT: Let me see if I can help drain the swamp.
10 Who did you serve?

11 MR. RILEY: I served the Finkel Law Firm.

12 THE COURT: They're not the registered agent.

13 Are you the registered agent for Bank of New York?

14 MS. ARCURE: No, Your Honor.

15 THE COURT: They're not the registered agent for Bank of
16 New York, so who did you serve?

17 MR. RILEY: Right, I served Finkel Law Firm, and I
18 served their servicing agent, but that was back then. As of
19 now the Bank of New York Mellon has been served as of the
20 27th of --

21 THE COURT: October? September?

22 MR. RILEY: September, 27th of September.

23 THE COURT: Who did you serve?

24 MR. RILEY: The Bank of New York Mellon Legal
25 Department.

1 THE COURT: Okay.

2 MR. RILEY: One Wall Street, Manhattan.

3 THE COURT: Hold on a minute. A corporation, to do
4 business in South Carolina, has to register to do business in
5 South Carolina and designate someone who is their agent for
6 service or process so that if someone, an individual, wants
7 to sue a corporation, they have a place to go, which is the
8 website of the Secretary of State, and they have a name there
9 and an address where they can serve that individual, and have
10 you been able to effect that?

11 MR. RILEY: Right, that was going to be my next point.
12 Now, according to the Secretary of State, South Carolina, New
13 York Mellon Bank is not registered in the State of South
14 Carolina.

15 THE COURT: Okay.

16 MR. RILEY: According to the South Carolina Board of
17 Financial Institutions, they are not registered with them
18 either, so I can find no one that's registered, so when I
19 talked to the United States Treasury Department, OCC
20 Division, they say that because they are a national bank,
21 service upon them needs to be given by sending it to any one
22 of their branches, to any officer of the branch, according to
23 the OCC, and so that's what I did. I sent it to their
24 corporate headquarters in New York, certified receipt, and
25 I've also served them now.

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1 THE COURT: Certified receipt restricted delivery?

2 MR. RILEY: Return receipt.

3 THE COURT: Not restrictive delivery?

4 MR. RILEY: No, ma'am, I don't think it was restrictive
5 delivery.

6 THE COURT: What carrier did you send it through?

7 MR. RILEY: US Post Office.

8 THE COURT: All right.

9 MR. RILEY: Now they're in the process of getting
10 service through the Secretary of State. I got a green card
11 back from Columbia, and I spoke with them on the phone. They
12 have it. They're getting ready to service them as well. As
13 far as the improper service goes, as of the time 27th of
14 September they've been properly served. So if they're going
15 to select Finkel Law Firm to be the one to handle it for
16 them, then they'll answer -- I'm assuming they'll give me an
17 answer -- whoever the attorney they select, they'll give me
18 an answer on that if it was improperly served when they got
19 it on September 4th, and Finkel Law Firm got it on September
20 4th. So they've been served properly now through the
21 Secretary of State and also sending it directly to the Bank
22 of New York Mellon.

23 So with that, with that being said, when I filed the
24 motion for default judgment, the reason why I did that is
25 because I had a phone conversation on the 8th of September,

1 which I spoke to attorney Arcure specifically and asked would
2 Finkel Law Firm be representing the defendant in my case
3 1634; so by phone she said yes, so I asked did you get the
4 filing, they said, yes.

5 THE COURT: Who did you talk to?

6 MR. RILEY: Attorney Arcure.

7 Magalie Arcure?

8 MS. ARCURE: Yes.

9 MR. RILEY: And so but from that, when we spoke outside,
10 there might have been some miscommunication in that, even
11 though she told me over the phone -- I had somebody listening
12 to the phone with me. I had a witness, who's not here at the
13 time, but he was listening to the phone conversation, so he
14 heard her identify that; and that's why I said, well, okay,
15 obviously they've been served. She said yes, they got the
16 filing. And so what I did was I left messages and said,
17 could you send me this in writing that you guys actually are
18 their client for this case. I never did get that back, so I
19 never got any answer. So I actually sent a letter to the
20 Court and filed that with the Court, saying that I have been
21 requesting this in writing because the phone conversation
22 says that, yes, they indeed are representing them on this
23 case and not that they were waiting to get representation for
24 this case. But apparently there was some little mixup. I'm
25 willing to live with that. We talked about that. So I'm

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1 going to withdraw the motion for default judgment based on
2 that, based on that we might have had a mixup in the two.

3 THE COURT: Okay. Well, hold on a second.

4 MR. RILEY: And there's one other thing she mentioned
5 I'd like to go over.

6 THE COURT: Okay. What?

7 MR. RILEY: When she mentioned about I tried earlier to
8 reinstate the loan, and she mentioned that a section in the
9 loan -- in the mortgage contract that does state that they
10 have a right or they can request certified funds after
11 acceleration, acceleration has already happened, well, when I
12 submitted my check to catch up on my payments, this was long
13 before acceleration, so that doesn't apply to that portion of
14 the mortgage agreement. It's saying after acceleration,
15 which means they already filed default or they already filed
16 the case, foreclosure, which that was not the case at that
17 time. So I sent them a check. They returned that original
18 check back to me long before they even filed for foreclosure,
19 and so that was before that. And according to our covenant,
20 the uniform covenant, they can only ask for certified funds
21 if at any time during the period of the loan, prior, they got
22 a rejected payment from any bank from me, which they never
23 did. So they should have accepted that check because
24 according to the uniform covenant agreement they never got
25 any rejections from me from the time we had the filing in

1 2009. And, therefore, the discovery that I sent which is
2 also being served as well with the Secretary of State and has
3 already been sent to New York, is asking for that, if they
4 can prove that they have any rejection from any bank from me
5 as to why they did not accept that check because they have no
6 rejections, so they can't ask for certified funds.

7 THE COURT: Okay. Well, hold on a second. Let me ask
8 you this question: Do you know who the agent for service or
9 process is?

10 MS. ARCURE: My understanding is that, because it is a
11 national bank, that the appropriate entity would be through
12 the Secretary of State's office.

13 THE COURT: Okay.

14 MS. ARCURE: Because they are not required to register
15 with the State to do business because they are -- well, with
16 respect to the foreclosure, they were collecting a debt.

17 THE COURT: Right. Why is this so difficult? All
18 right. So you concur with Mr. Riley that he, in order to
19 effect service, he must only serve the Secretary of State;
20 yes? No? Because he's not foreclosing. He's not collecting
21 a debt. He's apparently suing you for something else.

22 MR. RILEY: Breach of contract, breach of mortgage
23 contract, yes.

24 MS. ARCURE: That is my understanding. That's something
25 I would need to further research.

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1 THE COURT: So you would tell me that you have in fact
2 sent and served the Secretary of State; yes?

3 MR. RILEY: Yes, ma'am.

4 THE COURT: That's what you did on September 27th?

5 MR. RILEY: No, ma'am, I just got the green card back
6 from them this morning. They have all the filings now, and
7 they're in the process of sending it to them, but they
8 haven't sent it -- Secretary of State haven't sent it to the
9 Bank of New York Mellon yet.

10 THE COURT: So you're in the process of serving the bank
11 through the Secretary of State; yes?

12 MR. RILEY: Yes, ma'am.

13 THE COURT: Okay. And on that basis you're going to
14 withdraw your request for default.

15 MR. RILEY: I'm withdrawing the request for default
16 because maybe there was a miscommunication when she told me
17 that, yes, they were their attorney. That's what she said,
18 so I took her at her word.

19 THE COURT: Doesn't matter. That's actually two
20 different things.

21 MR. RILEY: Right.

22 THE COURT: They may represent them continually and have
23 an ongoing relationship, but that doesn't mean you can serve
24 their lawyer. The lawyer is not the agent for service or
25 process.

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1 MR. RILEY: Right.

2 THE COURT: You still have to serve the agent for
3 service or process, irrespective of whether they have an
4 ongoing relationship or not.

5 MR. RILEY: Right.

6 THE COURT: And that's hyper-technical, but that's just
7 reality. So I gather that you've now served -- you've given
8 the paperwork to the Secretary of State, and what is your
9 position with regards --

10 MR. RILEY: And I followed what the US Treasury
11 Department told me to do. They do not have a servicing agent
12 anywhere in this country. They're a national bank. You
13 service them by give it to any officer of the branch, whether
14 it's a branch manager, whether it's a representing attorney
15 at that branch. Any branch officer, you give that to them by
16 certified mail and they are served.

17 THE COURT: So what did you do to serve?

18 MR. RILEY: I sent the notice and complaint, the
19 complaint itself, the notice and summons, by certified mail,
20 US Post Office, to the legal department at One Wall Street in
21 Manhattan, New York.

22 THE COURT: Did you put anybody's name on it?

23 MR. RILEY: Yes. I put the person's name who is listed
24 on their website.

25 THE COURT: As the general counsel?

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1 MR. RILEY: Well, that person, I also put his successor
2 down there or anybody in his responsibility that can take
3 this document. So when they open it, they'll see all that
4 down there as far as what it is, and they received that on
5 the 27th of September.

6 THE COURT: So tell me why you also sent it to the
7 Secretary of State.

8 MR. RILEY: Covering my grounds, covering my grounds. I
9 called Secretary of State office because I couldn't find the
10 Bank of New York Mellon anywhere in the State of South
11 Carolina, so I was wondering to myself, why are they holding
12 my note, so being that they were just doing it under a trust
13 and just collecting a debt, I could understand, so I went
14 ahead and filed it with Secretary of Treasury.

15 THE COURT: Secretary of Treasury or Secretary of State?

16 MR. RILEY: Secretary of State.

17 THE COURT: Gotcha.

18 MR. RILEY: Secretary of Treasury is the one that told
19 me that they were properly served by sending it to an agent
20 at any one of their branches.

21 THE COURT: Okay.

22 MR. RILEY: May I say one more thing, Your Honor, that
23 might add another little wrinkle onto it?

24 THE COURT: No. Hold on a second. I want to process
25 that.

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1 (Brief pause.)

2 THE COURT: What do you want to do about it? You've
3 heard him. What is the position of the bank?

4 MS. ARCURE: Respectfully, I think that what would make
5 a lot of sense would be, since these claims were already
6 encompassed in his counterclaim, which is still pending, that
7 the separate lawsuit is sort of -- it's moot. I mean, under
8 12(b)(8) you can't have two actions pending between the same
9 parties for the same claims, which is exactly where we are
10 here. That wasn't addressed in our motion to dismiss the
11 separate complaint because we didn't want to address the
12 merits of it under the 12(b)(4) and (5) motion for the
13 sufficiency of process. But I think that, you know, to the
14 extent that he's trying to raise those claims, he did raise
15 them in the foreclosure, and they're still pending, although
16 we've moved to dismiss them. I think that it would certainly
17 make sense to only have that in one cohesive matter as
18 opposed to two.

19 THE COURT: Okay. So are you understanding what she's
20 saying?

21 MR. RILEY: Exactly.

22 THE COURT: What do you want to do?

23 MR. RILEY: I had a concern for the jurisdiction issue
24 as far as them maybe trying to pull it away from the State of
25 South Carolina if it was under just under 1634, but after

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1 I've spoken with her and I have learned some other things
2 prior to that, I figure it probably best that I do go ahead
3 and pull 1634, pull my claim against them and keep the
4 counterclaim open for breach of contract. They are on the
5 same merits.

6 THE COURT: Let me tell you what I did because I got the
7 motion to dismiss, or not the motion to dismiss, I got the
8 order of dismissal. I saw your response to the order of
9 dismissal where you agreed to allow and to join in the
10 consent to dismiss the foreclosure action so long as your
11 counterclaim was not dismissed, and I went back and handwrote
12 in every order that this did not encompass the counterclaim,
13 to be sure that your counterclaim wasn't dismissed, and that
14 is what remains in your action. So this is what I'm
15 comfortable doing at this point -- your counterclaim is alive
16 and well. It exists. Did you all file a motion to dismiss
17 the counterclaim?

18 MS. ARCURE: Yes, Your Honor.

19 THE COURT: Has that been heard?

20 MS. ARCURE: That one is also scheduled for today.

21 THE COURT: Okay. All right. Here's where we are: We
22 have a counterclaim that still exists that raises certain
23 issues, we have an action that has attempted to be filed that
24 has a close relationship to the counterclaim I gather from
25 what you all are telling me, we have a motion to dismiss the

1 counterclaim, and we have a motion to dismiss the new action.
2 The motion to dismiss the new action is based upon a failure
3 of service. The counterclaim -- I don't know why you have a
4 motion to dismiss the counterclaim. I guess I would hear
5 about that. But we also have a request for a default in the
6 new action. What I'm trying to determine is, here's what I
7 think is fair: I think that it's fair to hear the motion
8 that was scheduled, that is, the motion to dismiss the
9 counterclaim, the default, the request for a default and the
10 motion to dismiss the new action on the basis of a failure of
11 service. That's all I know to do. The reason is that if I
12 grant the motion to dismiss and I deny the request for a
13 default hearing, I would do those without prejudice. That
14 doesn't do anything to the new action, doesn't hurt your
15 new -- your current efforts regarding service because I would
16 dismiss without prejudice on the issue of service. What I
17 don't want to do is I don't want to get into -- and maybe
18 what we want to do is just continue that one, that's a
19 possibility, because what I don't want to do is I don't want
20 to end up having orders that look like they're flying back
21 and forth on the complaint that looks the same. That's what
22 I want to avoid. I want to avoid the potentiality of
23 confusion.

24 MS. ARCURE: If I may, Your Honor, in communications
25 with Mr. Riley, my understanding was that he had filed the

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1 separate action because he knew that the reinstatement had
2 been accepted and he didn't want to abrogate his claims that
3 he had raised in the counterclaim, sort of as a placeholder,
4 but since those are still standing and have not been
5 dismissed, I would submit that the separate matter and the
6 issues with service, we've already been properly served with
7 the answer and counterclaim.

8 THE COURT: I know.

9 MS. ARCURE: And so we could continue in that vain, and
10 then dismissal of the other action would enable him to
11 proceed with those claims because they're already properly
12 before the Court.

13 THE COURT: I gree with you except for the fact that Mr.
14 Riley has decided that it is in his best interest to do other
15 things to effect service, see what I'm saying, and I don't
16 think it's appropriate for me to interfere with that. I
17 don't. He needs to do what he needs to do, and I need to
18 deal with what I need to deal with, which is what's been
19 filed. That's what I think, so that's what we're going to
20 do.

21 So you have a motion to dismiss the counterclaim, I'm
22 listening to you.

23 MS. ARCURE: Okay. With respect to the counterclaim,
24 we've alleged that under 12(b)(6) the counterclaim fails to
25 state a cause of action, fails to allege sufficient facts to

1 state a cause of action. The terms of the mortgage expressly
2 state that upon acceleration the lender may require the
3 borrower to make a reinstatement either by cash, money order,
4 certified check, bank check, treasurer's check or cashier's
5 check, and a list of other methods of payment. The summons
6 and complaint in the foreclosure action allege that the
7 default date was June 1st of 2013. The loan was then
8 accelerated. I believe the default letter that we have is
9 from January of 2014. The attempted reinstatement would have
10 been made I think sometime in May, and the actual
11 reinstatement which was made via certified funds and was
12 accepted which resolved the foreclosure was in September of
13 this year. So based on the face of the complaint and the
14 face of the answer and counterclaim, the defendant has not
15 stated sufficient facts to allege a cause of action because,
16 again, the terms of the note and mortgage do require
17 certified funds post default.

18 THE COURT: All right. Okay. And tell me what
19 paragraph that's contained in in the answer -- I'm sorry, in
20 the mortgage.

21 MS. ARCURE: Paragraph 18 of the mortgage, and I do have
22 a copy of that --

23 THE COURT: I need it.

24 MS. ARCURE: -- highlighted. If I may approach, Your
25 Honor.

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1 THE COURT: Sure. Great, thanks.

2 All right. Yes, sir.

3 MR. RILEY: And the main basis of mine, Your Honor,
4 would come from Paragraph No. 1, uniform conveyance, borrower
5 and lenders convey and agree as follows. It talks about the
6 payment.

7 THE COURT: Let me read it real quick.

8 (Brief pause.)

9 THE COURT: All right. Now, tell me, the basis of your
10 cause of action is what? You said No. 1. All right. I've
11 got that.

12 MR. RILEY: Yes, the breach of contract for sending my
13 original check back to me instead of sending it to the bank,
14 saying that I am required to send certified funds. And in
15 No. 18, it's reinstatement after acceleration, there was no
16 acceleration when I sent the \$16,000 to bring the account
17 current; so that doesn't apply here because it was not
18 accelerated, so there was no default to come back from.
19 There was no acceleration to drive down from.

20 THE COURT: You were not deemed to be -- they didn't
21 send you a notice of default letter?

22 MR. RILEY: I didn't get any letter of default. The
23 first time I actually received a letter of default is when I
24 received the paperwork for the actual foreclosure in and of
25 itself. The foreclosure was filed in this Court on May the

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1 27th. I have a letter here dated May the 8th from the
2 plaintiff servicing company, saying that enclosed is your
3 Check 299 in the amount of -- enclosed is your Check No. 229
4 in the amount of \$16,607.51. These funds are being returned
5 to you for one or more of the following reasons. There's a
6 list of reasons. Only one is checked, and it says certified
7 funds are required. This was on their letter dated May the
8 8th, so I sent this before May the 8th, around toward the end
9 of April, I believe, and they're sending it back, saying
10 they're sending it back to me, and the foreclosure was filed
11 on May the 27th. That's when it's accelerated. I didn't
12 receive any default from them. In fact, I'm believing the
13 reason I didn't get any default is because they switched from
14 AMS Servicing to SMS Servicing. Right now they're Seneca
15 Mortgage Servicing Company. Before they were AMS Mortgage
16 Servicing Company. During the that time I filed the proper
17 paperwork to try to get a loan modification, and I told them
18 I had just been hurt on the job. I think back then we had,
19 the government foreclosure issue, and I was working as a
20 contractor.

21 THE COURT: Let me ask you this question: It's your
22 position that you were never told you were in default on your
23 loan, you were never given notice of default, and you were
24 never given any notice of acceleration; is that what you're
25 telling me?

1 MR. RILEY: No, I did not have a notice of acceleration.
2 Before the time where I sent them this check, there was no
3 acceleration as far as I was concerned. I was communicating
4 with them by all this paperwork that I was filing, trying to
5 get a loan mod because of the situation as the finances was
6 going on.

7 THE COURT: How did you know you needed to get a loan
8 mod?

9 MR. RILEY: Because I knew I was behind, and so when
10 I -- one of my contacts at AMS Servicing was a guy named
11 Brian. I don't know if he's still working for SMS Servicing
12 or not. I was constantly speaking to him. I had to file all
13 kinds of financial paperwork, the hardship paperwork, I had
14 to file the tax information, bank account information, trying
15 to get all that because I knew I was behind enough.

16 THE COURT: So you hadn't received any notice from your
17 mortgage company that your mortgage was in trouble before you
18 started all these efforts?

19 MR. RILEY: I hadn't received anything from them telling
20 me that because I had already filed that paperwork. They
21 already knew I was trying to get the hardship. I was trying
22 to get a re-mod.

23 THE COURT: Okay.

24 MR. RILEY: And so -- and this is the form -- this is
25 the last billing statement with \$16,607.51 on there. They

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1 all are just noted as -- as --

2 THE COURT: I got your position.

3 MR. RILEY: -- late payments.

4 THE COURT: Any response?

5 MS. ARCURE: Respectfully, I disagree with that
6 contention. Our records indicate the default letter was
7 sent, there was one sent at the latest in January of 2014,
8 stating that the loan had been in default and providing the
9 amount of funds necessary to reinstate the loan. It was
10 alleged in the complaint that the default date was June 1st
11 of 2013, so by the time that he was in these loss mitigation
12 efforts the loan had been in default for quite some time.

13 THE COURT: He says. He never got anything; says he
14 never got it.

15 MS. ARCURE: Well, they would have been -- they would
16 have gone to the property address. That's what our servicing
17 records indicate.

18 THE COURT: I've got you. I'm going to deny your motion
19 to dismiss. There's got to be proof on each and every
20 element because, you know, in a motion to dismiss I've got to
21 accept the allegations as being true. He has alleged that
22 that's a breach of the agreement. It was never a default
23 notice. He never received it. He never received any notice
24 of acceleration, there never was any acceleration, and that
25 based upon the terms of his note and mortgage, but for the

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1 fact that he knew he hadn't made the payments, nothing was
2 coming from the bank that indicated to him anything about
3 being in default, that he raised the issue with the bank, and
4 that by requiring him to file the certified funds, the bank
5 has breached the agreement because he hadn't been sent a
6 right to cure letter, nor had he been sent any indications
7 that the bank was accelerating the debt. There's going to
8 have to be some proof on those issues.

9 MS. ARCURE: We certainly can do that.

10 THE COURT: It would be more appropriate, if appropriate
11 at all, with regards to a summary judgment, so I would
12 respectfully deny the motion to dismiss.

13 Yes, sir.

14 MR. RILEY: This started off as a -- and I guess I'm
15 assuming it still is a jury requested counterclaim.

16 THE COURT: Yes.

17 MR. RILEY: It is; it still is?

18 THE COURT: You have raised a breach of contract.
19 That's a jury issue. If you want a jury trial, you get a
20 jury trial.

21 MR. RILEY: That's why I originally asked, I guess we're
22 here because they filed a motion, but I wanted to kind of
23 prove to the Court that I have enough documentation and
24 evidence --

25 THE COURT: That's not appropriate at this point. Let

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1 me tell you why: Because when there's a motion to dismiss
2 that's filed by an opposing side, the Court is charged with
3 the responsibility of accepting what is alleged as being
4 true. Because it comes so early, it comes before any
5 discovery, before people have done anything; and so in order
6 to preserve somebody's rights, the Court is charged with
7 accepting as true the allegations. I've done that. In doing
8 that, you have a breach of contract action. You are entitled
9 to have your matter heard by a jury. You will now go forward
10 with discovery, and then if it becomes appropriate, then you
11 will -- one or both of you may file motions for summary
12 judgment, so you won.

13 MR. RILEY: Thank you.

14 THE COURT: Yes.

15 MR. RILEY: Thank you.

16 THE COURT: Now, having said that, I urge you -- I don't
17 require, you hear, I do not require, I want you to hear
18 that -- if your counterclaim is identical to the new action,
19 then you'll need to think about whether or not you need the
20 new action. You don't have to do a thing right now. You
21 don't. I just urge you to think about it.

22 MR. RILEY: I appreciate that, and I thank you for that.

23 THE COURT: You just need to think about it. You need
24 to process it. You don't have to make a decision right now,
25 but you do need to think about it and process that. Because

1 here's where you are: There was an action, there was a
2 counterclaim, there was a motion to dismiss filed against
3 your counterclaim. Okay. That motion to dismiss, you have
4 been successful. The counterclaim goes forward into the
5 discovery period. Yes, you'll be now placed upon the jury
6 roster. Okay. You have filed an additional action, which
7 you need to look at if they're identical. If they are
8 identical, if they are identical, they're going to file a
9 motion to dismiss this action on the basis you already got
10 one, see what I'm saying; and you're going to be put in a
11 position to say no, they are not, if this is going to
12 survive. Okay. So I urge you just take a look at the two.
13 Think about where you are, think about where you want to be,
14 what is your goal, and think about the two of them. If, in
15 fact, they are identical you're further ahead here than here
16 (indicating), do you understand what I'm saying?

17 MR. RILEY: I understand what you're saying.

18 THE COURT: And you don't need to do a thing today.
19 Just think. I don't want to put you in the position of
20 saying anything. I don't want you bidding against yourself
21 right now. I just want you to now focus on where you are
22 because they're going to move that you've got an identical,
23 if they are in fact identical, and it's not appropriate to
24 have more than one. You don't want more than one. It's
25 expensive to do this. Why do you want two of them?

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1 MR. RILEY: I filed that because I was led to believe
2 that once they --

3 THE COURT: Mr. Riley, that was a smart thing to do for
4 lots of reasons. Let me just stop you. That was a smart
5 thing to do. A seasoned lawyer would have done exactly the
6 same thing, okay, and then figured out where you were today;
7 and that's all I'm urging you to do is just take a look now
8 at where you are.

9 All right. Becky's here, Becky, of course, is our civil
10 court coordinator. Mr. Riley now is on the jury roster,
11 counterclaim; survived motion to dismiss. He's on the jury
12 roster. And, you know, you've got this information about
13 where the case is so you can monitor it as is appropriate
14 from your law firm.

15 MS. ARCURE: And I just wanted to make sure I understand
16 correctly, for the separate matter, the separate action that
17 was commenced, that motion for default judgment has been --,
18 I'm not sure what the status of that is, if it's been
19 withdrawn or if that's just been adjudicated.

20 THE COURT: I'm going to continue that. That way nobody
21 has to do anything about that right now.

22 MS. ARCURE: And same for the service aspect, until that
23 makes its way down the channels and we know --

24 THE COURT: Exactly.

25 MS. ARCURE: Okay.

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1 THE COURT: I want to give Mr. Riley an opportunity to
2 sort of think about where he is with the two actions and his
3 position, your position, everybody's position with regards to
4 the new action is preserved, give him an opportunity to see
5 is there any merit, is there any need to proceed with an
6 additional action. If not, I know he'll file a motion to
7 dismiss; I know you'll consent to it, and that one will go by
8 the wayside. But I don't want him forced right now standing
9 here to make that decision. However, everybody's positions
10 are preserved. He's just a step ahead with the counterclaim
11 if they're identical causes of action. I can't know that.
12 He has to know that. But you're not prejudiced in any way
13 because everything is preserved.

14 MS. ARCURE: Thank you.

15 THE COURT: Yes. And I just think it's better to put it
16 all together at the same time to have a hearing, and if
17 you're in the middle of service, it doesn't make any sense to
18 do otherwise; yes?

19 MS. ARCURE: Okay.

20 MR. RILEY: Thank you, ma'am.

21 MS. ARCURE: Thank you.

22 THE COURT: Thank you.

23 --- END OF TRANSCRIPT OF RECORD ---

24

25

142

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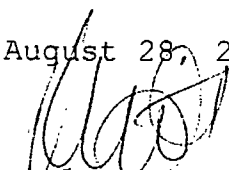
141

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF DORCHESTER
4

5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the matter of the above-captioned case, relative to appeal,
10 in the 1st Judicial Circuit Court for Dorchester County,
11 South Carolina, on the 19th of November, 2014.

12 I further certify that I am neither related to nor
13 counsel for any party to the cause pending or interested in
14 the events thereof.

15 August 28, 2015

16 
17 Ruth L. Mott

18 Official Court Reporter
19
20
21
22
23
24
25

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1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF DORCHESTER

2014-CP-18-01007

3
4 BANK OF NEW YORK MELLON)

TRANSCRIPT OF RECORD

5 VS.)

6 CORNELL RILEY)

APRIL 16, 2015
ST. GEORGE, SC

7
8 B E F O R E:

9 THE HONORABLE DIANE S. GOODSTEIN

10
11 A P P E A R A N C E S:

12 MAGALIE AMELIA ARCURE, ESQUIRE
Attorney for the Plaintiff

13 CORNELL RILEY
14 Defendant Appearing Pro Se

15 Ruth L. Mott, RPR, CRR
16 Certified Court Reporter

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23
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1 THE CLERK: Next is bank of New York Mellon versus
2 Cornell Riley. Judge, we have three motions here, Mr.
3 Riley's motion for sanctions, failure to comply with
4 discovery requests; Mr. Riley also has a second motion for
5 leave to amend the counterclaim; and the bank has a motion
6 for summary judgment.

7 THE COURT: Okay.

8 CLERK OF COURT: Judge, Mr. Riley's motion for leave to
9 amend the counterclaim was filed first.

10 THE COURT: All right. Yes, ma'am.

11 MS. ARCURE: May it please the Court, Your Honor,
12 Magalie Arcure for the plaintiff.

13 THE COURT: Got it, and I think what I'll do is just,
14 I'll hear the motions. The first one that appears that was
15 filed was the second motion for leave to amend the
16 counterclaim. Yes, sir.

17 MR. RILEY: Good morning, ma'am. I filed the second
18 motion to amend based on the federal real estate settlement
19 and relief act. Back in March I sent out a QWR based on that
20 act to the plaintiff, and according to that act they have 20
21 days to reply and 60 days to resolve; and I have no
22 resolution, and I didn't get a reply to a portion of it. So
23 that's why I added that to the counterclaim. It's portion
24 No. 8 on the counterclaim. It's in bold on the new
25 amendment.

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1 THE COURT: Okay. All right. Thank you. Yes, ma'am.

2 MS. ARCURE: Thank you, Your Honor. Just by way of
3 background, we've been before you a couple of times on this
4 matter but this case proceeded -- began as a foreclosure
5 action in which Mr. Riley filed a counterclaim based on the
6 bank's refusal of his personal check to reinstate the loan.
7 Subsequently, Mr. Riley reinstated with certified funds, as
8 required by the terms of the note and mortgage, and the
9 foreclosure was dismissed; however, the counterclaim remained
10 pending, and he amended it to state one for a cause of action
11 for breach of contract, again based on the rejection of the
12 personal funds to reinstate. And now Mr. Riley has moved to
13 further amend to add the violation of RESPA as a
14 counterclaim, or as just a cause of action; and based on the
15 documentation that's attached to the motion, it shows that
16 the plaintiff did in fact respond to his correspondence and
17 sent him the documentation, the payment history for the
18 subject loan. And based on the very documents he's attached
19 to that motion, it shows that the plaintiff did in fact
20 respond, which they're required to do, and that there isn't
21 any dispute as to that.

22 And I'll wait until we get into the summary judgment
23 motion -- excuse me, I'm a bit nauseous this morning, Your
24 Honor. I can get through it. But at any rate, it would be
25 prejudicial to the plaintiff in this matter if this

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1 counterclaim would proceed based on the fact that they
2 clearly responded, and what Mr. Riley contends is not an
3 adequate response is the subject matter of this litigation.

4 THE COURT: Okay. Great. Thank you. Yes, sir, do you
5 wish to respond?

6 MR. RILEY: With regards to the summary, or are we still
7 on the amendment?

8 THE COURT: The motion to amend.

9 MR. RILEY: Well, only response I have to that is I'm
10 treating that right now as separate. I have a response for
11 the summary as far as their evidence that they sent in; but
12 based on the act, that's why I'm adding that to it. When I
13 went back over my records, I noticed it and saw that they
14 never responded appropriately to it. I have their response
15 letter to that particular request that I sent out to them,
16 and it doesn't answer the entire request; so, therefore,
17 that's why I went ahead and --

18 THE COURT: Gotcha. All right. I'm going to have to
19 take a look at the response, so that one I'm going to have to
20 take a few minutes to look at, so I'll let you know my
21 decision about that one.

22 All right. And the next motion that was filed appears
23 to be the motion for summary judgment. Yes.

24 MS. ARCURE: Thank you, Your Honor. The plaintiff filed
25 this motion for summary judgment in addition to a supporting

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1 affidavit which attaches the subject note, the mortgage, the
2 assignments of mortgage which show the chain of title into
3 the current plaintiff, payment history, the default letters,
4 and it essentially states that the loan had been in default
5 since June 1st of 2013. At the time Mr. Riley attempted to
6 reinstate, which was some nine months later, he attempted to
7 reinstate with a personal check. That check was returned to
8 him and requested certified funds to reinstate, which he
9 subsequently did, and the default was cured. None of that
10 was in dispute. The notice of default was sent to the
11 property address. The terms of the note and mortgage state
12 that the notice is deemed to have been given when it's mailed
13 to the borrower. I think Mr. Riley contends he never
14 received it, but that is irrelevant to the governing
15 documents which state that once they've provided notice of
16 the default, it's deemed to have been received when it's been
17 sent to the last known address, which here was the property
18 address where Mr. Riley stills lives.

19 Furthermore, the notice requirements with respect to the
20 default require that the lender give notice to the borrower
21 prior to acceleration, and it must specify the default, the
22 action required to cure the default, not less than 30 days
23 from the notice by which the notice of default to cure is
24 given, and it must state that the failure to cure the default
25 may result in acceleration of the debt. The default letters

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1 attached to the affidavit contain all of that language and
2 further notify the borrower of the right to reinstate the
3 loan after acceleration and to assert any defense they may
4 have in a subsequent foreclosure action. Upon providing that
5 notice the lender may accelerate the debt upon 30 days'
6 expiration after the default without any further notice, and
7 that's exactly what happened here. The debt was accelerated,
8 and when Mr. Riley reinstated nearly eight -- excuse me, 13
9 months after the default date, the default was cured.

10 And based on this set of facts, Your Honor, there's no
11 issue of material fact that the lender complied with the
12 terms of the note and mortgage, as did Mr. Riley when he
13 reinstated by certified funds; and based on the foregoing,
14 there is no issue of material fact, and the plaintiff
15 respectfully submits that it's entitled to summary judgment.

16 And I would further point to Mr. Riley's response to the
17 reinstatement proposal, which I believe was filed prior to
18 his reinstatement, in which he states that the defendant
19 brings to the Court's attention that defense is willing to
20 accept the restoration proposal of the plaintiff to reinstate
21 the mortgage, but defense strongly stands against a closing
22 of its counterclaim and asserts that this foreclosure matter
23 before the Court would not have been brought if plaintiff had
24 not violated the mortgage contract in March and April of 2014
25 by rejecting full legal tender payment that would have been

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1 brought -- that would have brought the mortgage current at
2 that time and before this foreclosure case was filed with the
3 Court. He admits that at that point the loan was in default
4 and that he had not cured that default, so based on the
5 express terms of the note and mortgage, we believe there is
6 no issue of material fact with respect to the parties'
7 requirements with respect to reinstating the loan.

8 THE COURT: Okay. Yes, sir.

9 MR. RILEY: Your Honor, I didn't -- I just heard the
10 letter that I wrote, and I did write it, but I didn't hear in
11 that any admission of in fact default. Furthermore, with
12 regards to reinstating with certified funds. Those were not
13 funds that I sent out to the bank. It's called South
14 Carolina HELP organization. Whether they sent certified
15 funds or not, I don't know; but whatever funds they sent to
16 them, that's what they accepted because they have a preset
17 agreement with a lot of lenders and mortgage servicers, so
18 that's how it was reinstated. It wasn't reinstated because I
19 took my personal check, went to the bank and turned it into a
20 certified check and sent it back to them, so it's kind of
21 misleading that way. So they took the payments from South
22 Carolina HELP, which is still going on right now, which put
23 me into a five-year contract with South Carolina HELP, second
24 mortgage essentially; and that's how we're getting to that
25 point.

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1 With regards to the letter of the law and the rules as
2 far as them mailing out the notice of acceleration or notice
3 of default, it does say they have to mail it, not just they
4 have to type it up and leave it in the file. I submitted an
5 affidavit from my attorney in fact that signed the mortgage
6 because I was out of the country in Iraq or Afghanistan at
7 the time when the mortgage was actually signed, so I had an
8 attorney in fact sign it for me. I was on the phone doing
9 it, as much as I could stay on the phone between the mortars
10 and driving; but, nevertheless, I have an affidavit from her
11 basically saying that this notice never was received, and
12 it's to my belief -- I believe it's a fabrication, something
13 that was entered into the mortgage record sometime after May
14 the 27th, whether it was recently or way back then.

15 There were numerous occasions that the plaintiff had a
16 chance to actually submit that to me although. The QWR was
17 one. They could have sent that saying this is the reason why
18 we sent your check back because all it said in the
19 explanation letter was certified funds are required, not that
20 you're in acceleration, certified funds are required; so
21 that's been submitted to the Court long time ago. So I sent
22 a reply back saying, according to this portion of the
23 contract, you can't reject my payment, and please explain to
24 me why are you rejecting the payment. They sent me back this
25 package in response, this FedEx package in response, with all

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1 the history of the payments in it, a letter, but that --
2 those letters that she's submitted for the summary was not a
3 part of it, was not in here, not in this original FedEx'ed
4 package. There was a letter in January and a letter in
5 March, and neither was in this package to respond to that
6 letter; so if it was there, I'd imagine they would have sent
7 it then.

8 Furthermore, and this is going to be a part of my motion
9 for sanctions, but if you will remember, case 1634 which I
10 dismissed to pursue this one, when you was asking me about
11 the note or the letter from Secretary of State office, which
12 I did have at that date and time, I just -- it was shuffled
13 in my files, but I had it there; but that was one incidence
14 where I asked for discovery which that letter should have
15 been a part of, that's with her summary for judgment, but I
16 never did get it. Then I asked for discovery again, which
17 they received the discovery requests, request for production,
18 February the 20th. March the 20th I didn't get anything,
19 March the 25th I didn't get anything, and then finally later
20 on March 27th I received a package with those notices in
21 there of which me and my attorney in fact never saw before.

22 So I know that you've already allowed this to go to a
23 jury trial sometime in the summer, whenever it goes; but I
24 think right now we're at the point where the breach of
25 contract and whether or not they actually mailed this out

1 should be a matter before the jury to decide who's
2 preponderance is greater because it never existed, and to my
3 point it never existed to this date until we saw it in March
4 in that package that we just got from the attorneys.

5 THE COURT: Okay. Any response?

6 MS. ARCURE: Just a couple things. With respect to Mr.
7 Riley's discovery, he did send us responses to requests for
8 admission in which he did admit that he had not made the
9 required payments due and owing under the note and mortgage,
10 and that was in his response No. 5; and that was, again,
11 prior -- I believe at that point it was prior to his
12 reinstatement. So, again, it's not in dispute that he was in
13 default, and he was aware of that default because he was
14 attempting to cure that default; and so based on this set of
15 facts, Your Honor, I simply do not see how they give rise to
16 any cause of action. And I feel compelled to state that I'm
17 very sympathetic to how frustrating the foreclosure process
18 is and was for Mr. Riley, but under this set of facts the
19 bank did exactly what they're supposed to do, and I really --
20 I would urge Mr. Riley, if he intends to continue with this
21 litigation, to speak with an attorney because the terms of
22 the note and mortgage do provide for reimbursement of the
23 plaintiff's reasonable attorney fees and costs when it takes
24 legal action to protect its interest in the property and its
25 rights under the note and mortgage. And clearly the note and

1 mortgage state that they have the right to certified funds
2 for reinstatement, and so based on that, Your Honor, I would
3 again submit that summary judgment is proper.

4 THE COURT: Let me ask you this question: Mr. Riley
5 talks about an affidavit by his lawyer that says that the
6 notice was never sent. Would you respond to that?

7 MS. ARCURE: Mr. Riley submitted an affidavit by Twilla
8 Cobb. She is the -- she executed the note and mortgage under
9 a power of attorney. It's not disputed that he's the obligor
10 and the mortgagor under those instruments.

11 THE COURT: Right.

12 MS. ARCURE: She submitted an affidavit stating that she
13 didn't get notice of default, and I would submit that under
14 Rule 12(f) she's not a party to this case and can't offer
15 testimony; but regardless, even if it were admitted, it
16 states they never received default, which again is not
17 relevant because the terms of the mortgage state that once
18 the default has been mailed, the notice has been given.

19 THE COURT: Okay. Got it. All right. Let me hear the
20 motion for sanctions.

21 MR. RILEY: The motion for sanctions, normally I
22 probably would have filed a motion to compel, but based on
23 the history of how the plaintiff has responded to my
24 requests, I felt the motion for sanctions would be more
25 appropriate. When I go back, I say that -- I mentioned 1634,

1 again, which I have that the State Department did actually
2 send them the documents which they ignored. I sent in a
3 request to the attorneys for the plaintiff, asking for their
4 consent to take the original discovery requests for 1634 and
5 if they would have them transferred to 1007 so I wouldn't
6 have to send out more requests for production, admissions and
7 interrogatories. I got no reply to that. Not that they are
8 legally obligated to reply, but it would have been courtesy,
9 nice to say, no, we're not going to do it or submit another
10 one; so then I in turn submitted another one, but I only
11 submitted a request for production. That was back in
12 February. And, again, according to the SC RCP they violated
13 that and didn't reply to me on that. So as it's been a
14 history of just not complying or maybe just, I don't know,
15 maybe toying with me because I'm pro se, I figured they
16 should know better, so there's no need for me to submit
17 motion to compel for people that obviously professional --

18 THE COURT: I gotcha. Thank you. Yes, ma'am.

19 MS. ARCURE: With respect to I believe the set of
20 discovery Mr. Riley's referring to, I did send -- I did serve
21 my responses yesterday. They are the documents which were
22 attached to the motion for summary judgment. It's all the
23 same documentation. And that was an oversight on my part
24 because, when he mailed them into our office, they were with
25 other documents which were styled as an offer for settlement,

1 and they were mislabeled. So when I looked at our file, I
2 saw that we had sent discovery and gotten discovery back, and
3 I thought discovery was complete; but I'm happy to hand over
4 a copy of what we sent yesterday. It's responses to the
5 requests for production, which is everything that was
6 attached to the affidavit in support of summary judgment.

7 THE COURT: And when was that sent?

8 MS. ARCURE: The summary judgment?

9 THE COURT: The summary judgment attachment documents.

10 MS. ARCURE: The affidavit was mailed in on March 26.

11 THE COURT: And mailed to Mr. Riley at the same time?

12 MS. ARCURE: Yes. Yes, we filed them with the Court and
13 mailed them to Mr. Riley concurrently.

14 THE COURT: Gotcha. Okay. Got it. I've got it. Let
15 me look at it, guys; and what I'll probably do is send
16 just -- I don't know that I'll do the orders myself, but I
17 will certainly advise both sides of my decision promptly.
18 Thank you so much. Appreciate it.

19 --- END OF TRANSCRIPT OF RECORD ---
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1 CERTIFICATE OF REPORTER

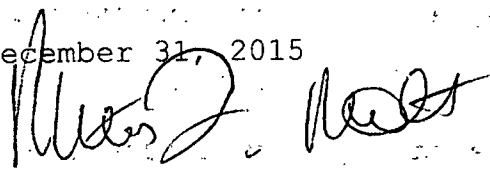
2 STATE OF SOUTH CAROLINA

3 COUNTY OF DORCHESTER

4
5 I, the undersigned Ruth L. Mott, Certified Court
6 Reporter for the State of South Carolina, do hereby certify
7 that the foregoing is a true, accurate and complete
8 transcript of record of all the proceedings had and evidence
9 introduced in the matter of the above-captioned case,
10 relative to appeal, in the 1st Judicial Circuit Court for
11 Dorchester County, South Carolina, on the 16th of
12 April, 2015.

13 I further certify that I am neither related to nor
14 counsel for any party to the cause pending or interested in
15 the events thereof.

16 December 31, 2015

17 
18 Ruth L. Mott

19 Certified Court Reporter
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FORM 3
AMENDED NOTICE OF APPEAL FROM COURT OF COMMON PLEAS

THE STATE OF SOUTH CAROLINA
In The Court of Appeals
1220 Senate St Columbia, SC 29201

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2014-CP-18-1007(Court of Common Pleas)
Case No. 2015-001543 (SC Court of Appeals)

Bank of New York Mellon
Trust Co. N.A..not in its
individual capacity but Solely
as Trustee on behalf of the
FDIC 2013-N1 Asset Trust,

Respondent,

v.

CORNELL RILEY,

Appellant.

NOTICE OF APPEAL

Cornell Riley appeals the order of the Honorable Diane S. Goodstein dated May, 13 2015, a ruling for the respondent's summary judgment, of which was upheld again on June, 15 2015 in response to Appellant's motion to reconsider. Appellant received written notice of the order on May, 15 2015. And received an order rejecting appellant's motion to reconsider on June, 16 2015.

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July 14 , 2015

s/ Cornell Riley

100 Madison Ave
LADSON, South Carolina 29456
(843) 771-2383
Attorney for Appellant Pro SE

Other Counsel of Record:

Magalie Arcure Creech, Esquire

FINKEL LAW FIRM LLC

P.O. BOX 41489

Charleston, South Carolina 29402

(843) 577-5460

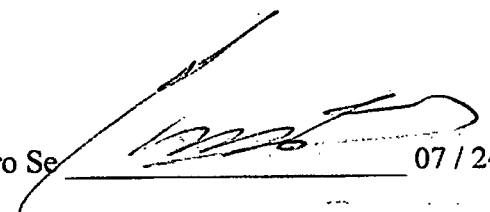
Judge Diane S. Goodstein

Court of Common Pleas

5200 E Jim Bilton Blvd

St George, SC 29477

Cornell Riley, Pro Se


07 / 24 / 2015

100 MADISON AVE
LADSON, SC 29456

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower does hereby mortgage, grant and convey to MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS the following described property located in the **Dorchester** County of [Name of Recording Jurisdiction] [Type of Recording Jurisdiction]

See Attached Exhibit A.

which currently has the address of

100 MADISON AVENUE
[Street]

LADSON
[City]

South Carolina

29456
[Zip Code]

("Property Address")

TO HAVE AND TO HOLD this property unto MERS (solely as nominee for Lender and Lender's successors and assigns) and to the successors and assigns of MERS, forever, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property." Borrower understands and agrees that MERS holds only legal title to the interests granted by Borrower in this Security Instrument, but, if necessary to comply with law or custom, MERS (as nominee for Lender and Lender's successors and assigns) has the right to exercise any or all of those interests, including, but not limited to, the right to foreclose and sell the Property; and to take any action required of Lender including, but not limited to, releasing and canceling this Security Instrument.

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

SOUTH CAROLINA—Single Family—UNIFORM INSTRUMENT

ITEM T2833L3 (0301)—MERS

(Page 3 of 11 pages)

GREATLAND ■
To Order Call 1-800-530-9393 Fax 616-791-1131

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If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 14 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

18. Borrower's Right to Reinstate After Acceleration. If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to Section 24 of this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 17.

19. Sale of Note; Change of Loan Servicer; Notice of Grievance. The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 14) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 24 and the notice of acceleration given to Borrower pursuant to Section 17 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 19.

20. Hazardous Substances. As used in this Section 20: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety, or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

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Exhibit CC

Brian
3641

Brian
5/10/82

Seneca Mortgage Servicing LLC
3374 Walden Avenue
Suite 120
Depew, NY 14043

Andy Charlier
ev 3659

05-08-14

Cornell Riley
100 Madison Ave
Ladson, SC 29456

Loan Number: 0007000661

Dear Mortgagor(s):

Enclosed is your check no. 229 in the amount of \$ 16,607.51.

These funds are being returned to you for one or more of the following reasons:

- ☐ Check is not enough to reinstate your loan to a current status.
- ☐ No prior arrangements have been set up to cure existing arrears.
- ☒ Certified funds are required.
- ☐ Check is not properly endorsed.
- ☐ Check is missing one or more required fields.
- ☐ Other

If we can be of further assistance please call us at (866) 919-5608, Monday through Thursday from 8:15 AM to 10:00 PM Eastern Standard Time and Friday from 8:15 AM to 5:00 PM Eastern Standard Time.

Sincerely,

Seneca Mortgage Servicing LLC
CS005-029-A1C

Seneca Mortgage Servicing LLC is required by the Fair Debt Collection Practices Act to inform you that if your loan is currently delinquent or in default, as your loan servicer, we will be attempting to collect on a debt, and any information obtained will be used for that purpose. However, if you have received a discharge as a result of a bankruptcy proceeding, and the loan was not reaffirmed in the bankruptcy case, we will only exercise our rights against the property and are not attempting to collect a debt.

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MAY 27 2014 For cash Filing

EXT GG
PS 6

NOTICE OF REJECTION OF PAYMENT AND REQUEST FOR FULL PROOF OF CLAIM

Cornell Riley

100 Madison Avenue

Ladson SC 29456

5/12/14

Seneca Mortgage Servicing LLC

3374 Walden Avenue

Suite 120

Depew, NY 14043

Loan Number 0007000661

Dear: Seneca Mortgage Servicing LLC

In accordance with your enclosed letter dated 5-8-14 of which you state that the check instrument number 229 in the amount of \$ 16,607.51 was rejected due to your claim that certified funds are required, I would be remiss if I did not advise you of two things.

1. According to the enclosed portion page of our contract para 1. UNIFORM CONVENANTS. Certified funds are or may only be required in the event that a "check or other instrument received by lender as payment under the Note or this security instrument is returned to lender unpaid, the lender may require that any or all subsequent payments due under the note and this security instrument be made in one or more of the following forms, as selected by lender "(see enclosed extraction from our contract). Since this condition has not been met as there was no payment returned to lender you have no ground to reject payment sent without sending to the institution of which it is drawn.
2. Pursuant to UCC § 3-603. TENDER OF PAYMENT. If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument, the effect of tender is governed by principles of law applicable to tender of payment under a simple contract.

(b) If tender of payment of an obligation to pay an instrument is made to a person entitled to enforce the instrument and the tender is refused, there is discharge, to the extent of the

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Ex 1 GG
Pg 7

amount of the tender, of the obligation of an endorser or accommodation party having a right of recourse with respect to the obligation to which the tender relates.

(c) If tender of payment of an amount due on an instrument is made to a person entitled to enforce the instrument, the obligation of the obligor to pay interest after the due date on the amount tendered is discharged. If presentment is required with respect to an instrument and the obligor is able and ready to pay on the due date at every place of payment stated in the instrument, the obligor is deemed to have made tender of payment on the due date to the person entitled to enforce the instrument.

Therefore in accordance with UCC and South Carolina rules regarding contracts and payment you are hereby in violation for none acceptance of tender.

As a good faith attempt upon Seneca Mortgage Servicing LLC, request I will resend instrument number 229 that you returned to me without processing so that SMS can have an opportunity to receive tender as required by contract IAW applicable law that the Note is governed under. As per the above discharge of the amount tendered is now enforced and I fully expect to have my account reflect just that. According to your non acceptance you have allowed said discharge, and it is clearly defensible/ grant worthy in any South Carolina Court of Law.

With the payment I sent to Seneca Mortgage Servicing LLC, was also sent a notice of conditional acceptance upon proof of claim, Seneca Mortgage Servicing LLC, sending back my tender instrument # 229 gives me the understanding that the proof of claim is not being processed by Seneca Mortgage Servicing LLC.

I AM HEARBY NOW REQUESTING PROOF OF CLAIM IN GENERAL I AM REQUESTING THE BELOW

- A. A statement of account on both the private and public side of my account.
- B. I Request a copy of all records of account from the start of the original Note in 2009 to present.
- C. I request proof of original documents with my signature or the signature of my authorized agent's seal upon it.
- D. I request proof that according to FDIC Seneca Mortgage Servicing LLC IS THE HOLDER IN DUE COURSE OF THE NOTE FOR MY ACCOUNT.

Please respond to this request for proof of claim within the time allotted by law.

Respectfully

Cornell Riley

Date

May 12/2014

Dated

Notary Public signature

Affidavit Signature

My Commission expires on

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Seneca Mortgage Servicing LLC
3374 Walden Avenue
Suite 120
Depew, NY 14043

May 27, 2014

Exhibit BB

Cornell Riley
100 Madison Ave
Ladson, SC 29456

2014 JUL 29 PM 4:56
CERTIFIED COPY
DORCHESTER COUNTY
Clerk of Court
Kathy Hickman

Loan Number: 0007000661
Property Address: 100 Madison Ave
Ladson SC 29456

Dear Mortgagor(s):

This letter is to confirm that we are in receipt of your recent correspondence sent to Seneca Mortgage Servicing LLC dated May 12, 2014, received on May 27, 2014. We will respond under separate cover the results of your request. Please allow up to thirty (30) business days in order for us to fully research this request.

Seneca Mortgage Servicing LLC strives to offer our customers the highest quality in customer service. If you have any questions, please contact our call center at (866) 919-5608. Our representatives are available Monday through Thursday from 8:15 AM to 10:00 PM and Friday 8:15 AM to 5:00 PM Eastern Standard Time.

Sincerely,

Customer Service
Seneca Mortgage Servicing LLC
CS200-035-S3M

-Important Message for Colorado Residents Only-

You also have the option of contacting an in-state representative working on behalf of Seneca Mortgage Servicing LLC:

Colorado Manager, Inc. 80 Garden Center, Suite 3, Broomfield, CO 80020
Phone number: 303-920-4763

-Important Message for Homeownership Counseling Only-

The U.S. Department of Housing and Urban Development (HUD) sponsors housing counseling agencies designed to help homeowners avoid losing their homes. To obtain a list of HUD-approved counseling agencies, please call (800) 569-4287 or visit www.hud.gov.

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Seneca Mortgage Servicing LLC
3374 Walden Avenue
Suite 120
Depew, NY 14043

June 30, 201

Response

Exhibit FF

Cornell Riley
100 Madison Ave
Ladson, SC 29456

Loan Number: 0007000661
Property Address: 100 Madison Ave
Ladson SC 29456

Dear Mortgagor(s):

Per your Qualified Written Request, attached please find all available documentation that you have requested.

Seneca Mortgage Servicing LLC ("Seneca") strives to offer our customers the highest quality in customer service. If you have any questions, please contact our call center at (866) 919-5608. Our representatives are available Monday through Thursday from 8:15 AM to 10:00 PM and Friday from 8:15 AM to 5:00 PM Eastern Standard Time.

Sincerely,
Seneca Mortgage Servicing LLC
CS201-017-L1W

Seneca Mortgage Servicing LLC is attempting to collect a debt and any information obtained will be used for that purpose. We may report information about your account to credit bureaus. Late payments, missed payments, or other defaults on your account may be reflected in your credit report. If you have received a discharge from the bankruptcy court, you are not personally liable for payment of the loan and this notice is for compliance and informational purposes only. However, Seneca Mortgage Servicing LLC still has the right under the mortgage to foreclose on the property.

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RECEIVED

Certificate of Counsel

APR 04 2016

SC Court of Appeals

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Cornell Riley
100 Madison Ave
LADSON, South Carolina 29456
(843) 771-2383
Attorney for Appellant Pro SE

3/20/2016

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2015-001543
CASE NUMBER

IN THE SOUTH CAROLINA COURT OF

RECEIVED

APR 04 2016

SC Court of Appeals

STATE OF SOUTH CAROLINA)

COUNTY OF DORCHESTER)

BANK OF NEW YORK MELLON Trust Co N.A.)
not in its individual capacity but Solely as Trustee)
on behalf of the FDIC 2013-N1 Asset Trust.)

RESPONDENT)

C/O FINKEL LAW FIRM)

STREET ADDRESS)

P.O. Box 41489)

CITY, STATE ZIP)

Charleston SC 29423 (843) 577-5460)

TELEPHONE)

CERTIFICATION OF SERVICE

VS.

CORNELL RILEY.)

APPELLANT(S))

100 Madison Ave)

STREET ADDRESS)

Ladson, SC 29456)

CITY, STATE ZIP)

(843)-771-2383.)

TELEPHONE)

The undersigned states that on April 1, 2016, he did cause a true and correct copy of

The Record on Appeal to be served on the parties below by United States mail, proper
postage affixed and addressed as follows:

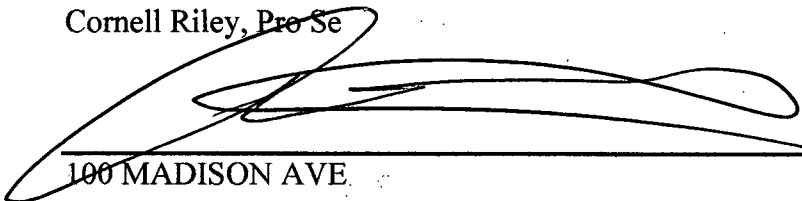
Via USPS Mail R.R.R

Honorable Judge Diane S. Goodstein
Court of Common Pleas
5200 E. Jim Bilton Blvd
St George, SC 29477

Via USPS Mail

**Magalie Arcure Creech, Esquire
FINKEL LAW FIRM LLC
P.O. BOX 41489
Charleston SC 294232**

Cornell Riley, Pro Se



4/1/16

100 MADISON AVE

LADSON, SC 29456