

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

James E. Chellis, Master-in-Equity

Appellate Case No. 2016-000704  
Case No. 2013-CP-18-00519

**RECEIVED**  
JUN 09 2017  
SC Court of Appeals

Wells Fargo Bank N.A.,

Respondent,

v.

Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.,; and Drakesborough  
Homeowner Association, Inc.,

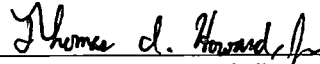
Defendants,

Of Whom Latisa L. Cunningham is the Appellant.

MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF BY PETITIONER  
AMERICAN HOMES 4 RENT PROPERTIES TEN, LLC

Now comes Petitioner/Movant, American Homes 4 Rent Properties Ten, LLC (hereinafter  
“Petitioner”), by and through its counsel, Thomas I. Howard, Jr., and respectfully requests this  
Honorable Court to allow leave for Petitioner to file an Amicus Curiae Brief. In support of its  
motion, Petitioner has included a Memo in Support of Motion for Leave to File an Amicus Curiae  
Brief by Petitioner American Homes 4 Rent Properties Ten, LLC.

Respectfully submitted this 8<sup>th</sup> day of June, 2017.



Thomas I. Howard, Jr.

SC Bar No. 101252

Brownlee Whitlow Praet & File, PLLC

3255 Landmark Drive, Ste. 301

N. Charleston, South Carolina 29418

Telephone & E-Fax (843) 628-0847

Email: [Thoward@bwpf-law.com](mailto:Thoward@bwpf-law.com)

Attorney for Petitioner American Homes 4

Rent Properties Ten, LLC

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

James E. Chellis, Master-in-Equity

---

Appellate Case No. 2016-000704  
Case No: 2013-CP-18-00519

**RECEIVED**

JUN 09 2017

**SC Court of Appeals**

Wells Fargo Bank N.A.,

Respondent,

v.

Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.; and Drakesborough  
Homeowner Association, Inc.,

Defendants,

Of Whom Latisa L. Cunningham is the Appellant.

---

MEMO IN SUPPORT OF MOTION FOR LEAVE TO FILE AN AMICUS CURIAE BRIEF  
BY PETITIONER  
AMERICAN HOMES 4 RENT PROPERTIES TEN, LLC

---

Petitioner/Movant, American Homes 4 Rent Properties Ten, LLC (hereinafter  
“Petitioner”), by and through its counsel, Thomas I. Howard, Jr., in support of its motion for leave  
to file an amicus curiae brief, would show unto this Honorable Court:

1. This Motion is similar to that of intervention under Rule 24 of the South Carolina Rules  
of Civil Procedure in that “(2) when the applicant claims an interest relating to the property or  
transaction which is the subject of the action and he is so situated that the disposition of the action

may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.” The South Carolina Court of Appeals in In re Horry County State Bank, 361 S.C. 503, 604 S.E.2d 723 (2004) citing Ex Parte Reichlyn, 310 S.C. 495, 427 S.E.2d 661 (1993) provides that “a party seeking intervention under Rule 24(a)(2) must: (1) establish timely application; (2) assert an interest relating to the property or transaction which is the subject of the action; (3) demonstrate that it is in a position such that without intervention, disposition of the action may impair or impede its ability to protect that interest; and (4) demonstrate that its interest is inadequately represented by other parties.”

2. Petitioner is the third party good faith purchaser for value of the property at issue herein at the foreclosure sale as evidenced by the Master’s Deed dated April 11, 2016 and recorded on April 15, 2016 in the ROD Office for Dorchester County at Book 10180 at Page 354, a copy is attached hereto and incorporate herein as Petitioner’s **Exhibit “A”**.

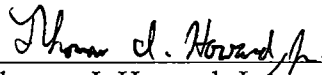
3. Petitioner purchased said property located at 1227 Wild Goose Trail, Summerville, SC 29483 with TMS# 121-03-02-014.000C for One Hundred Seventy Thousand One Hundred and 00/100 Dollars (\$170,100.00).

4. Said brief is desirable in that Petitioner is being adversely affected as no rent or bond has been paid since the recording of the deed, Appellant has not surrendered possession of the Premises, upon information and belief no payments are being made on the mortgage which was the basis of the foreclosure action. Furthermore, Petitioner will be further adversely impacted as Petitioner has lost the ability to rent the Premises with said rental rate being \$1,695.00 per month. The estimated total losses to date are in excess of \$25,000.00. As such, Petitioner would request a bond of same be required of the Appellant, if applicable. Petitioner could be further adversely

effected by potentially being dispossessed of the property to which they were the lawful buyer at the foreclosure sale.

Therefore, American Homes 4 Rent Properties Ten, LLC respectfully requests this Honorable Court grant its Motion for Leave to File an Amicus Curiae Brief and either establish a bond to be required of the Appellant or that this action not be stayed so as to allow Petitioner the right to take possession of the Property at issue herein.

Respectfully submitted this 8<sup>th</sup> day of June, 2017.



Thomas I. Howard, Jr.  
SC Bar No. 101252  
Brownlee Whitlow Praet & File, PLLC  
3255 Landmark Drive, Ste. 301  
N. Charleston, South Carolina 29418  
Telephone & E-Fax (843) 628-0847  
Email: [Thoward@bwpf-law.com](mailto:Thoward@bwpf-law.com)  
Attorney for Petitioner American Homes 4  
Rent Properties Ten, LLC

MARGARET L BAILEY  
DORCHESTER COUNTY  
REGISTER OF DEEDS

201 Johnston Street ~ Saint George, SC 29477 (843) 563-0181

\*\*\* THIS PAGE IS PART OF THE INSTRUMENT - DO NOT REMOVE \*\*\*



Instrument #:	2016908623		
Receipt Number:	3931	Return To:	WEEKS LAW FIRM
Recorded As:	DEED		
Recorded On:	April 15, 2016		
Recorded At:	02:52:07 PM	Received From:	WEEKS LAW FIRM
Recorded By:	NW	Parties:	
Book/Page:	RB 10180: 354 - 358		Direct- CUNNINGHAM, LATISA L
Total Pages:	5		Indirect- AMERICAN HOMES 4 RENT PROPERTIES

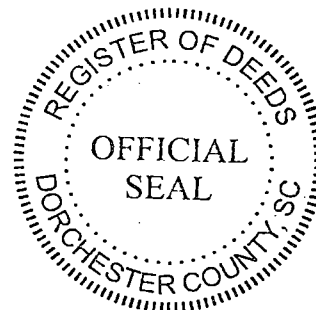
\*\*\* EXAMINED AND CHARGED AS FOLLOWS \*\*\*

Recording Fee:	\$10.00	
Consideration:	\$170,100.00	
County Tax:	\$187.55	RECEIVED
State Tax:	\$443.30	2016 MAY -05 PM 07:30
Tax Charge:	\$630.85	DORCHESTER CO ASSESSORS OFFICE
		RECEIVED 05th Day
		of MAY 2016
		JAMES MESSERVY, JR
		Auditor Dorchester County SC

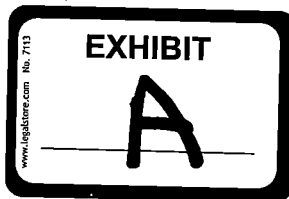


*Margaret Bailey*

Margaret Bailey - Register of Deeds



A TRUE COPY  
*Margaret Bailey*  
MARGARET L. BAILEY  
REGISTER OF DEEDS  
DORCHESTER COUNTY SC  
DATE 6-7-17 SML



STATE OF SOUTH CAROLINA )  
COUNTY OF DORCHESTER )

MASTER'S DEED  
CASE NO.: 2013-CP-18-00519

After Recording Return to  
Weeks & Irvine, LLC  
8086 - B Rivers Avenue  
North Charleston, SC 29406

FILED/RECORDED  
APRIL 15, 2016  
DORCHESTER COUNTY  
REGISTER OF DEEDS

TO ALL TO WHOM THESE PRESENTS SHALL COME OR BE MADE KNOWN OR WHOM THE SAME MAY IN ANYWISE CONCERN, I, James E. Chellis, as Master-In-Equity for the County of Dorchester, State of South Carolina, Send Greetings:

WHEREAS, Wells Fargo Bank, N.A., on or about the 26th day of March, 2013, did exhibit its Complaint in the Court of Common Pleas in the County of Dorchester, State of South Carolina, against Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.; Drakesborough Homeowners Association, Inc.,

WHEREAS the Cause, being at issue before the Honorable Court aforesaid, came on to be heard May 4, 2015, when the said Court, after a full hearing thereon, made mature deliberation in the Premises, Did Order, Adjudge and Decree that the premises hereinafter mentioned and described, should be sold at public auction on the terms and for the purposes mentioned in said Decretal Order as by reference thereto, on file in the said Court, will appear;

WHEREAS, James E. Chellis, as Master-In-Equity for Dorchester County, after having duly advertised the said premises for sale by Public outcry, on the 1st day of March, 2016 did then, openly and publicly, and according to the custom of auction, sell and dispose of the said premises below described, unto American Homes 4 Rent Properties Ten, LLC, for the sum of One Hundred Seventy Thousand One Hundred and No/100ths Dollars (\$170,100.00), being, at that price, the highest bidder for the same.

WHEREAS, American Homes 4 Rent Properties Ten, LLC, has now complied with its bid; NOW, THEREFORE,

KNOW ALL MEN AND WOMEN, That I, James E. Chellis, as Master-In-Equity for Dorchester County, for and in consideration of the recitals, and also in consideration of the sum of One Hundred Seventy Thousand One Hundred and No/100ths (\$170,100.00) Dollars paid to me by American Homes 4 Rent Properties Ten, LLC, the receipt whereof is hereby acknowledged, have granted, bargained, sold and released, and by these Presents, do grant, bargain, sell and release unto:

**American Homes 4 Rent Properties Ten, LLC, Its Successors and Assigns Forever**

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND, TOGETHER WITH ALL IMPROVEMENTS THEREON, SITUATE, LYING AND BEING IN THE COUNTY OF DORCHESTER, STATE OF SOUTH CAROLINA, KNOWN AND DESIGNATED AS LOT 272, OF DRAKESBOROUGH SUBDIVISION, IN

Master in Equity's Deed  
Case Number: 13-CP-18-00519  
Grantee: American Homes 4 Rent Properties Ten, LLC

16-1842 TO AMH 4R 3/16  
North Charleston SC 29406  
3rd Floor



THE JEDBURG COMMUNITY, AS SHOWN ON THAT CERTAIN PLAT ENTITLED: "FINAL PLAT SHOWING THE SUBDIVISION OF LOTS 99-115, LOTS 272-284, A PORTION OF HOA 1 AND HOA 4 OF PHASE 1, DRAKESBOROUGH SUBDIVISION FROM TRACT WITH TMS# 121-00-00-330, LOCATED IN THE JEDBURG COMMUNITY, DORCHESTER COUNTY, SOUTH CAROLINA", PREPARED BY MARK ELLIS LAMB, PLS, 23200, OF AEGIS LAND SURVEYING, INC. DATED AUGUST 17, 2007, REVISED OCTOBER 8, 2007, AND RECORDED NOVEMBER 7, 2007, IN PLAT CABINET L, AT PAGE 83, IN THE OFFICE OF THE REGISTER OF DEEDS FOR DORCHESTER COUNTY, SOUTH CAROLINA. FOR A MORE COMPLETE DESCRIPTION OF SAID LOT, REFERENCE MAY BE HAD TO THE AFOREMENTIONED PLAT OF RECORD.

BEING THE SAME PROPERTY CONVEYED TO RICHARD B. CUNNINGHAM AND LATISA L. CUNNINGHAM HEREIN BY DEED OF BEAZER HOMES CORP., A TENNESSEE CORPORATION, DATED NOVEMBER 24, 2008 AND RECORDED NOVEMBER 26, 2008 IN DEED BOOK 6871 AT PAGE 58. THEREAFTER, THE SAME PROPERTY WAS CONVEYED TO LATISA L. CUNNINGHAM BY DEED OF RICHARD B. CUNNINGHAM DATED MARCH 14, 2013 AND RECORDED MARCH 15, 2013 IN DEED BOOK 8728 AT PAGE 153 IN THE OFFICE OF THE REGISTER OF DEEDS FOR DORCHESTER COUNTY, SOUTH CAROLINA.

TMS# 121-03-02-014.000C

Property Address: 1227 Wild Goose Trail, Summerville, SC 29483-8023

Grantee's Address: 30601 Agoura Road, Ste. 200, Agoura Hills, CA 91301

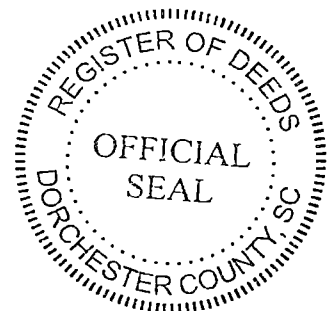
TOGETHER with all and singular rights, members, hereditaments and appurtenances whatsoever, to the said premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues and profits thereof; and also all the estate, right, title, dower, possessions, property, benefit, claim and demand whatsoever, both at law and in equity, of the said Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.; Drakesborough Homeowners Association, Inc., and of all the parties to the said suit and of all other persons rightfully claiming or to claim the same, or any part thereof, by from or under all the parties to the suit, or any of them.

Subject to assessments, taxes, easements, conditions and restrictions of record and otherwise affecting the property.

TO HAVE AND TO HOLD, the said premises with its hereditaments, privileges and appurtenances unto the said American Homes 4 Rent Properties Ten, LLC, Its Successors and Assigns forever.

Master in Equity's Deed  
Case Number: 13-CP-18-00519  
Grantee: American Homes 4 Rent Properties Ten, LLC

*Jed* Page 2



IN WITNESS WHEREOF, I, the said James E. Chellis, as Master-In-Equity for  
Dorchester County, under and by virtue of the said Decree, have hereunto set my Hand and Seal  
at St. George, South Carolina April 11 2016

FILED/RECORDED  
APRIL 12, 2016  
DORCHESTER COUNTY  
REGISTER OF DEEDS

Sealed and Delivered in  
The Presence of:

Sheryl B. Young  
Meagan J. Kizer

James E. Chellis  
James E. Chellis  
Master-In-Equity for Dorchester County

STATE OF SOUTH CAROLINA

ACKNOWLEDGMENT

COUNTY OF DORCHESTER

I, o Meagan J. Kizer/ o Sheryle B. Young, do hereby certify that The Honorable James E.  
Chellis, Master in Equity for Dorchester County, personally appeared before me this day  
and acknowledged the due execution of the Master's Deed.

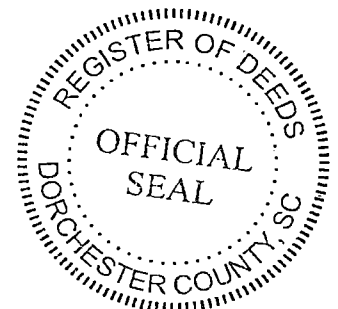
Witness my hand and official seal this the 11<sup>th</sup> day of April 2016.

Meagan J. Kizer  
Meagan J. Kizer/Sheryle B. Young  
Notary Public for South Carolina  
Meagan J. Kizer's Commission Expires: October 7, 2023  
Sheryle B. Young's Commission Expires: October 2, 2023

16-1842TD Meagan J. Kizer

Master in Equity's Deed  
Case Number: 13-CP-18-00519  
Grantee: American Homes 4 Rent Properties Ten, LLC

Jay Page 3



STATE OF SOUTH CAROLINA )  
 ) AFFIDAVIT  
COUNTY OF DORCHESTER )

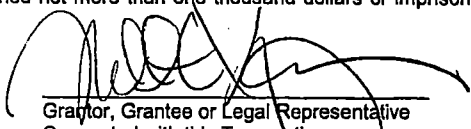
Date of Transfer of Title  
March 17, 2016

PERSONALLY appeared before me the undersigned, who being duly sworn, deposes and says:

1. I have read the information on this Affidavit and I understand such information.
2. The property is being transferred by Master in Equity for Dorchester County TO American Homes 4 Rent Properties Ten, LLC on April 11, 2016.
3. Check one of the following: The deed is:  
subject to the deed recording fee as a transfer for consideration paid or to be paid in money or money's worth.
  - a. X worth.
  - b. \_\_\_ subject to the deed recording fee as a transfer between a corporation, a partnership or other entity and a stockholder, partner, or owner of the entity, or is a transfer to a trust or as a distribution to a trust beneficiary.
  - c. \_\_\_ EXEMPT from the deed recording fee because \_\_\_\_\_. (Explanation, if required: n/a if exempt, please skip items 4-6 and go to Item No. 7 of this affidavit.
4. Check one of the following if either item 3(a) or item 3(b) above has been checked.
  - a. X The fee is computed on the consideration paid or to be paid in money or money's worth in the amount of \$170,100.00.
  - b. \_\_\_ The fee is computed on the fair market value of the realty, which is \$\_\_\_\_\_.
  - c. \_\_\_ The fee is computed on the fair market value of the realty as established for property tax purposes which is \$\_\_\_\_\_.
5. Check YES  or NO  to the following: A lien or encumbrance existed on the land, tenement or realty before the transfer and remained on the land, tenement or realty after the transfer. If "YES", the amount of the outstanding balance of this lien or encumbrance is \$\_\_\_\_\_.
6. The DEED Recording Fee is computed as follows:
  - a. \$170,100.00 the amount listed in Item No. 4 above
  - b. \$0.00 the amount listed on Item No. 5 above (no amount, please zero)
  - c. \$170,100.00 subtract Line 6(b) from Line 6(a) and place the result here.
7. As required by Code Section 12-24-70, I state that I am a responsible person who was connected with the transaction as Legal Representative.
8. I understand that a person required to furnish this affidavit who willfully furnishes a false or fraudulent affidavit is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand dollars or imprisoned not more than one year or both.

SWORN to before me this the 13 day of April, 2016.

Notary Public  
My Commission Expires: \_\_\_\_\_

  
Grantor, Grantee or Legal Representative  
Connected with this Transaction  
Michael Eric Hempton  
Print or Type Name Here

(SEAL)



Affidavit (Deed)

Weeks & Irvine, LLC  
8386 Rivers Avenue  
2nd Floor  
North Charleston SC 29406

16-1842TD



THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

James E. Chellis, Master-in-Equity

Appellate Case No. 2016-000704  
Case No: 2013-CP-18-00519

**RECEIVED**

JUN 09 2017

Wells Fargo Bank N.A.,

Respondent,

**SC Court of Appeals**

v.

Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.; and Drakesborough  
Homeowner Association, Inc.,

Defendants,

Of Whom Latisa L. Cunningham is the Appellant.

PROOF OF SERVICE

I certify that I have served the **Motion For Leave to File an Amicus Curiae Brief by Petitioner American Homes 4 Rent Properties Ten, LLC** and the **Memo in Support of Motion for Leave to File an Amicus Curiae Brief by Petitioner American Homes 4 Rent Properties Ten, LLC** on the below parties by depositing a copy of it in the United States Mail, Postage Prepaid, on June 8, 2017, addressed to them at:

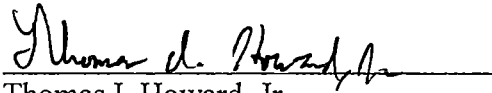
Latisa L. Cunningham  
1227 Wild Goose Trail  
Summerville, SC 29483

Chad W. Burgess, Esquire  
Brock & Scott, PLLC  
3800 Fernandina Road, Suite 110  
Columbia, SC 29210

S. Sterling Laney, III, Esquire  
Womble Carlyle Sandridge & Rice, LLP  
550 South Main Street, Suite 400  
Greenville, SC 29601

M. Todd Carroll, Esquire  
Womble Carlyle Sandridge & Rice, LLP  
1727 Hampton Street  
Columbia, SC 29201

J. Martin Page, Esquire  
Bell Carrington  
508 Hampton Street, Suite 301  
Columbia, SC 29201



Thomas I. Howard, Jr.  
SC Bar No. 101252  
Brownlee Whitlow Praet & File, PLLC  
3255 Landmark Drive, Ste. 301  
N. Charleston, South Carolina 29418  
Telephone & E-Fax (843) 628-0847  
Email: [Thoward@bwpf-law.com](mailto:Thoward@bwpf-law.com)  
Attorney for Petitioner American Homes 4  
Rent Properties Ten, LLC

# BROWNLEE WHITLOW PRAET & FILE, PLLC

ATTORNEYS AT LAW

GILBERT W. FILE †  
THOMAS I. HOWARD, JR. °  
PATRICK A. JOHNSON †  
NORMAN D. PRAET †  
BRIAN J. REGISTER †  
DANIEL W. SMITH †  
F. TODD WHITLOW \*

\* Licensed in NC and SC  
† Licensed in NC  
° Licensed in SC

CHARLESTON OFFICE

3255 LANDMARK DRIVE, SUITE 301  
N. CHARLESTON, SOUTH CAROLINA 29418  
TELEPHONE: (843) 628-7120  
FAX: (843) 628-0847

THOMAS I. HOWARD, JR.  
ATTORNEY AT LAW  
EMAIL: thoward@bwpf-law.com

June 8, 2017

RETIRED

WILLIAM K. BROWNLEE

***Via Federal Express***

Ms. Jenny Abbott Kitchings  
The SC Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: **Latisa L. Cunningham v. Wells Fargo Bank, NA**  
**Appellate Case No: 2016-000704**  
**Our File No.: 30044-138**

**RECEIVED**

JUN 09 2017

SC Court of Appeals

Dear Ms. Kitchings:

Enclosed are the original and seven (7) copies of our Motion For Leave to File an Amicus Curiae Brief by Petitioner American Homes 4 Rent Properties Ten, LLC and Memo in Support of Motion for Leave to File an Amicus Curiae Brief by Petitioner American Homes 4 Rent Properties Ten, LLC. Please file the same and return a clocked-in copy to me in the enclosed envelope.

By copy of this letter, I am serving a copy of the same upon all parties to this action.

Thank you for your assistance in this matter. Should you have any questions or need anything further, please do not hesitate to contact me.

Sincerely,

**BROWNLEE WHITLOW PRAET & FILE, PLLC**

*Thomas I. Howard, Jr.*  
Thomas I. Howard, Jr.

TIH,JR./jlw

cc: Latisa L. Cunningham  
Chad W. Burgess, Esquire  
S. Sterling Laney, III, Esquire  
M. Todd Carroll, Esquire  
J. Martin Page, Esquire  
American Homes 4 Rent Properties Ten, LLC

ORIGIN ID: RBWA (843) 501-2458  
JENNIFER WILLIAMS

3255 LANDMARK DRIVE  
SUITE 301  
NORTH CHARLESTON, SC 29418  
UNITED STATES US

SHIP DATE: 08 JUN 17  
ACTWGT: 1.00 LB  
CAD: 108681757/NET3850

BILL SENDER

TO JENNY ABBOTT KITCHINGS  
SC COURT OF APPEALS  
1220 SENATE STREET

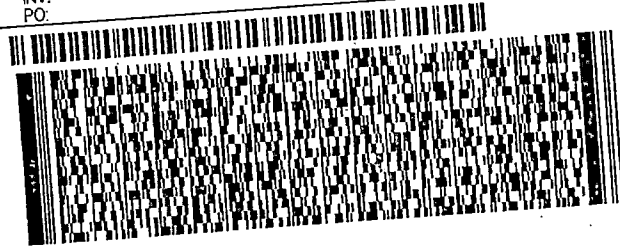
COLUMBIA SC 29201

(803) 734-1890

REF: 30044-138

INV:  
PO:

DEPT:



FedEx  
Express



JIT111021401us

FedEx Ship Manager - Print Your Label(s)

FRI - 09 JUN 3:00P  
STANDARD OVERNIGHT

TRK# 7793 3743 4020  
0201

28 USCA

29201  
SC-US CAE



RECEIVED

K  
S<sup>®</sup>

546J1/A50265C1

FZ

RT 104

6 15:00

06:09 4020

E