

APPENDIX

Record on Appeal

Decision of Court of Appeals

Petition for Rehearing to Court of Appeals

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S.C. SUPREME COURT

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

SunTrust Mortgage, Inc., Respondent,

v.

Mark Ostendorff, Appellant

Appellate Case No. 2015-000198

Appeal From York County
S. Jackson Kimball, III, Master-in-Equity

Unpublished Opinion No. 2017-UP-234
Submitted March 1, 2017 – Filed May 31, 2017

APPEAL DISMISSED

Mark Ostendorff, of Central, pro se.

Brian Steed Tatum, of Tatum Law firm, PLLC, of
Charlotte, North Carolina, for Respondent.

PER CURIAM: We dismiss this appeal pursuant to Rule 220(b), SCACR, and *Shields v. Martin Marietta Corp.*, 303 S.C. 469, 470, 402 S.E.2d 482, 483 (1991) (holding an order restoring a case to the active docket is not directly appealable).

AFFIRMED.¹

LOCKEMY, C.J., and HUFF and THOMAS, JJ., concur.

¹ We decide this case without oral argument pursuant to Rule 215, SCACR.

The South Carolina Court of Appeals

SunTrust Mortgage, Inc., Respondent,


v.

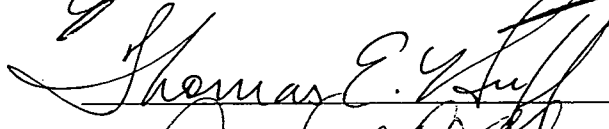
Mark Ostendorff, Appellant


Appellate Case No. 2015-000198

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.


C.J.


J.


J.

Columbia, South Carolina

cc:
Mark Ostendorff
Brian Steed Tatum, Esquire
The Honorable S. Jackson Kimball, III

FILED

August 18, 2017

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

In The Court of Common Pleas

S. Jackson Kimball III, Master-In- Equity

Appellate Case No. 2015- 000198

Lower Court Case No. 2007-CP- 46-04305

SunTrust Mortgage , Inc.,.....Respondent,

v.

Mark Ostendorff,.....Appellant.

PETITION FOR REHEARING

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S.C. SUPREME COURT

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Appellant Ostendorff requests this Court for a Rehearing on its decision to Dismiss Appeal Pursuant to Rule 220(b) , SCACR, and *Shields v. Martin Marietta Corp.*, 303 S.C. 469, 470, 402 S. E. 2d 482, 483 (1991)., regarding the Lower Court's Order of Sale. Appellant's request is based upon in addition to those issues raised in his Final Brief, those issues raised in the earlier appeal of Appellant's Compulsory Counter Claim and also Appellant's appeal of Order of Foreclosure:

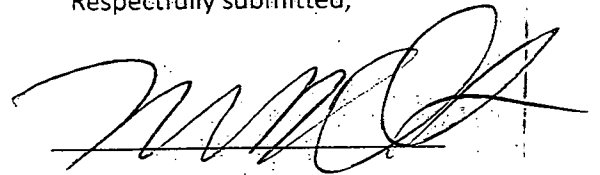
In another court case , Ostendorff v. School District of Pickens County , et al, another York County Courts judge , Alford Lee, on loan to Pickens County Courts, ruled that part of Ostendorff's claim for damages was dismissed because Ostendorff did not specifically notify Defendant of issues of contract. SunTrust never raised the issue of past due interest payments made by Ostendorff were posted by SunTrust after the first day of the month, which was the due date. Yet Judge Kimball in the Compulsory Counter Claim decided that Ostendorff missed the due date, which was the first day of each month. No where in SunTrust's Complaint that Ostendorff was ever late on his interest payments until long past SunTrust's breach of contract of not providing construction draws to Ostendorff, which materially interfered with Ostendorff completing the house and allowing securing permanent financing through SunTrust or numerous other offerings from other lenders.

Nothing was of merit, law or fact, in Judge Kimball's Dismissing Ostendorff's Compulsory Counter Claim. Had the Compulsory Counter Claim had gone to the jury, as demanded, Ostendorff would have prevailed based on facts and thus no foreclosure and subsequent sale.

Appellant Ostendorff requests this Court to Rehear its decision to Dismiss. Appellant requests that this case be remanded back to a lower court to hear the original compulsory counter claim with a jury as the finders-in-fact.

June 13, 2017

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M. Ostendorff', written over a horizontal line.

Mark Ostendorff