

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Cynthia Graham Howe, Master-in-Equity Judge

Appellate Case No.: 2016-001550

Branch Banking and Trust CompanyRespondent

v.

Cindy B. Hunt; Willow Greens

Homeowners Association, Inc.;

CJ Developers, LLC.....Defendant(s),

Of Whom Cindy B. Hunt isAppellant

MOTION / PETITION FOR REHEARING

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SC Court of Appeals

Paragraph 1 states: "The master did not abuse her discretion in denying Hunt's motion to alter, amend, or vacate the order that dismissed her amended counterclaims for lack of jurisdiction."

Hunt argues that the 10/14/2014 hearing resulted in two Orders where the first Order was filed on 10/28/2014. See pp. 85-90. And the second Order was filed on 1/13/2015 which was during removal to the USDC. See the 11/10/2014 NOR at pp. 1110-1118; see the **1/13/2015 Order at pages 98-112**; see the 5/11/2015 Order of Remand at pp. 122-135. See pp. 1230-1231.

The master in the 6/15/2016 Order re the 1/13/2015 Order at pp. 141 (bottom of page) – 143 (top of page) states that the master denied Hunt's motion to alter or amend for the following reason "2. The Notice of Removal did not deprive the Court of jurisdiction to enter the Order of January 13, 2015."

Also, at the 11/10/2015 hearing on the 8/11/2015 motion to alter, amend or vacate the 1/13/2015 Order - Hunt clearly argued that the Order filed on 1/13/2015 should be vacated based on lack of subject matter jurisdiction pursuant to 28 USC 1446(d) and Hunt cited to several South Carolina cases that prohibits state court actions after the notice of removal to the USDC and prior to remand. See pp. 98-112, pp. 1095-1100 and see pp. 1239-1244.

And the master's 6/15/2016 Order on pp. 142 refers to the 1/13/2015 Order; and 28 USC 1446(d); and the 11/10/2014 Notice of Removal to the USDC; and Pebble Creek Homes, LLC v. Upstream Images, LLC, 547 F.Supp.2d 1214 (D. Utah 2007) which dealt with the subject matter of copyright pursuant to 28 USC 1441(a). See the last line on p. 141, all of p. 142 and the five lines at the top of p. 143.

Hunt argues that this Court pursuant to Paragraph 1 is under a misapprehension where the Order of this Court on December 18, 2019 in Paragraph 1 speaks to – lack of personal jurisdiction involving Rule 4, SCRCP.¹

Rule 58(b), SCRCP states: "**Judgments of Appellate Court.**

When a judgment rendered by an appellate court is remitted to the trial court the clerk shall adjust the costs and disbursements in the appellate court to which any party may be entitled upon due notice, as provided in the case of adjustment of costs in the trial court; and he shall record such judgment and enter an abstract thereof in like manner as provided in the case of judgments rendered by the trial court. Cross references shall be made to both the judgment of the trial court appealed from and

¹ See the Court's cite in Paragraph 1 of the December 18, 2019 opinion to: BB&T v. Taylor, 369 S.C. 548, 633 S.E.2d 501 (2006) which is about personal jurisdiction involving service of process on a homeowner. Taylor, 369 S.C. at 550 (Petitioner alleged the default judgment should be set aside because the court lacked personal jurisdiction due to insufficient service of process.).

the judgment of the appellate court at the place of their entries upon the calendar and upon the abstracts of judgment.”

Hunt argues that this Court’s December 18, 2019 opinion pursuant to Paragraph 1 is under a misapprehension where the Order of this Court in Paragraph 1 of the December 18, 2019 opinion speaks to both the 10/28/2014 Order and the 1/13/2015 Order.

As such, Hunt argues that this Court’s Order dated December 18, 2019 appears to² but does not in fact address the issue that was put to this Court on appeal by the trial court of – “2. The Notice of Removal did not deprive the Court of jurisdiction to enter the Order of January 13, 2015.”

Where Hunt argues that 1/13/2015 Order was filed during removal to the USDC and thus the trial court was deprived of jurisdiction. See the 11/10/2014 NOR at pp. 1110-1118; see the **1/13/2015 Order at pages 98-112**; see the 5/11/2015 Order of Remand at pp. 122-135; and see the 8/11/2015 motion to alter, amend or vacate at pp. 1095-1100; and see Hunt’s brief from the 11/10/2015 hearing at pp. 1225-1270³ and see the 11/10/2015 Tr. at pp. 959-1072; and see the 6/15/2016

² See where this Court cites to: Limehouse v. Hulse, 404 S.C. 93, 105, 744 S.E.2d 566, 573 (2013); and 28 U.S.C. §1446(d) (2018). Cf. pages 1239-1244.

³ See in particular pages 1239-1244.

Order re the 11/10/2015 hearing on three motions at pp. 139-146.

Paragraph 1 also states: "After issuing an oral order on October 14, 2014, stating she would dismiss Hunt's counterclaims, the master issued a Form 4 order that denied Hunt's motion for default judgment and confirmed the dismissal of her amended counterclaims on October 28, 2014. Hunt did not file the notice of removal until November 10, 2014."

The above quote from Paragraph 1 of the December 18, 2019 opinion of: "After issuing an oral order on October 14, 2014, stating she would dismiss Hunt's counterclaims, the master issued a Form 4 order that denied Hunt's motion for default judgment and confirmed the dismissal of her amended counterclaims on October 28, 2014" is a summary of the events involving the Form 4 Order entered on October 28, 2014. See the **10/28/2014** Order at pp. 85-90; and pp. 1230-1231.

The above quote from Paragraph 1 of: "Hunt did not file the notice of removal until November 10, 2014" is an event involving the 1/13/2015 Order that was filed during removal to the USDC. See pp. 1230-1231; 11/10/2014 NOR at pp. 1110-1118, **1/13/2015** Order at pp. 98-112, 5/11/2015 Order of Remand at pp. 130-135.

Based on the above arguments, Hunt continues to argue that the master lacked all jurisdiction (subject matter and personal jurisdiction)⁴ when she filed the 1/13/2015 Order during removal to the USDC and prior to remand to the circuit court. See p. 1239-1244, 11/10/2014 NOR: pp. 1110-1118; 1/13/2015 Order: pp. 98-112; and 5/11/2015 Order of Remand: pp. 122-135.⁵

Furthermore, Hunt argues that this ruling denies her of due process in this matter involving her home. See p. 1119-1120. The foreclosure complaint is still outstanding where Hunt alleges that BBT is stalking and harassing Hunt. See the enclosed letter to SLED. As such, Hunt argues that through this Order that she is being improperly stripped of all of her defenses where the foreclosure complaint remains outstanding in the lower court.

⁴ "Since the adoption of § 1446, it has been uniformly held that the state court loses **all jurisdiction** to proceed immediately upon the filing of the petition in the federal court and a copy in the state court. Under these holdings any proceedings in the state court after the filing of the petition and prior to a federal remand order are absolutely void, despite subsequent determination that the removal petition was ineffective." *The State of South Carolina v. James Edward Moore*, 447 F.2d 1067, 1073 (4th Cir. 1971).

⁵"Lack of subject matter jurisdiction may not be waived, even by consent of the parties." *Peterson v. Peterson*, 333 S.C. 538, 542, 510 S.E.2d 426 (S.C. App. 1998).

Based on all of the above assertions Hunt argues that the statements in this Court's Order of December 18, 2019 at Paragraph 1 is not supported by the evidence in the record on appeal. See the 11/10/2014 NOR at pp. 1110-1118; see the filing date on the Order at pp. 98-112 of 1/13/2015; see the 5/11/2015 Order of Remand at pp. 130-135; see the motion to alter, amend or vacate at pp. 1095-1100; **see the 11/10/2015 Brief at pp. 1239 (at paragraph 5) – 1244 (top of the page);** see the 6/15/2016 Order at p. 140 "2. Order entered on January 13, 2015 ..."; see pp. 141 (last line on p. 141), all of p. 142 and the five lines at the top of p. 143; and see the Final Brief of the Appellant at p. 34-35 and pp. 12-13.

As such, Hunt continues to request that this Court grant to Hunt and or direct the lower court to grant to Hunt the relief requested at pp. 46-49 in the Final Brief of the Appellant plus attorney fees and costs for lawsuit # 4 and this appeal.

Paragraph 2 in the December 18, 2019 opinion states:

"The master did not err in denying Hunt's motion for default judgment on her amended counterclaims. See Holden v. Cribb, 349 S.C. 132, 137, 561 S.E.2d 634, 637 (Ct. App. 2002)("A threshold inquiry for any court is a determination of justiciability, i.e., whether the litigation presents an active case or controversy." (quoting Lennon v. S.C. Coastal Council, 330 S.C.

414, 415, 498 S.E.2d 906, 906 (Ct. App. 1998)); id.("The concept of justiciability encompasses the doctrines of ripeness, mootness, and standing."); id.at137-38, 561 S.E.2d at637 ("A case becomes moot when judgment, if rendered, will have no practical effect upon [an] existing controversy." (quoting *Seabrook v. City of Folly Beach*,337 S.C. 304, 306, 523 S.E.2d 462, 463 (1999)))."

In *Holden v. Cribb*, 349 S.C. 132, 137, 561 S.E.2d 634 (S.C. App. 2002) the Court states: "Holden contends the trial court erred in finding the case was moot and did not present a justiciable controversy because her bid and request for execution had been withdrawn. She asserts the issues are still reviewable because if the sale were to be reinstated, she would make the same bid and the sheriff would again reject her non-cash bid. We agree."

Hunt argues that Holden withdrew her bid and request for execution. Id at 137.

In this matter the lower court's 10/28/2014 order states:

"Defendant Cindy B. Hunt's Motion for Entry of Default Judgment against BB&T is hereby denied as moot. All counterclaims asserted by the Defendant in this action were previously dismissed by this Court following an October 14, 2014 hearing regarding Plaintiff's Motion to Dismiss the First Amended

Counterclaims of Defendant Cindy B. Hunt. As such, there are no remaining counterclaims to which the Plaintiff could be considered in default." See the 10/28/2014 Order at pages 85-90.

As such, Hunt argues that the mootness referred to in the 10/28/2014 Order⁶ in this matter comes about through error based on the ruling of the master in at least three ways.

First, Hunt argues that *"All counterclaims asserted by the Defendant in this action were previously dismissed by this Court following an October 14, 2014 hearing regarding Plaintiff's Motion to Dismiss the First Amended Counterclaims of Defendant Cindy B. Hunt..."* resulted in the 1/13/2015 Order that was signed and filed during removal to the USDC and should be voided as argued above in Paragraph 1. See the 11/10/2014 NOR at pp. 1110-1118; see the filing date on the Order at pp. 98-112 of 1/13/2015; see the 5/11/2015 Order of Remand at pp. 130-135; see the motion to alter, amend or vacate at pp. 1095-1100; see the 11/10/2015 Brief at pp. 1239

⁶ Hunt argues that Rule 58(a), SCRCP applies to the 10/28/2014 Order of the master.

(at paragraph 5) – 1244 (top of the page); see the 6/15/2016 Order at p. 140 “2. Order entered on January 13, 2015 ...”; see pp. 141 (last line on p. 141), all of p. 142 and the five lines at the top of p. 143; and see the Final Brief of the Appellant at p. 34-35 and pp. 12-13.

And Hunt argues that the **second** way in which the master erred involving the 1/13/2015 Order which granted BBT’s 6/25/2014 motion to dismiss is shown as follows:

1)the Complaint in lawsuit #1 was filed in the USDC by Hunt at pp. 147-164 and BBT made a motion to dismiss at pp. 339-380; thereafter supplemental jurisdiction was declined by USDC in lawsuit #1 in the Order at pp. 1-28; and

2)the complaint in lawsuit #2 was filed by Hunt in the USDC on 5/10/2011 at pp. 165-232 and BBT made a motion under Rule 12(b)(2) and 12(b)(5), FRCP at pp. 381-390.⁷

⁷ Note that BBT does not object to the complaint at pp. 165-232 pursuant to Rule 12(b)(6), SCRCF.

Hunt wrote to BBT at exhibit #37 on 6/4/2012 at pp. 1519-1526 where she put BBT on notice that she was stopping payment on the 2007 mortgage based on the evidence in the record at pp. 165-232; and in lawsuit # 2 the Order of dismissal was filed on 3/13/2013 at pp. 29-44;⁸ and

3) the complaint in lawsuit #3 was filed by Hunt in state court involving only BBT and Hunt on 7/9/2012 at pp. 233-260; BBT filed a notice of removal (NOR) to USDC in lawsuit #3 on 8/6/2012 at pp. 1107-1109 and 1679-1682; and BBT made a MTD on 8/9/2012 at pp. 391-422⁹, 1933-1938; and Hunt responded with several exhibits including pp. 165-232¹⁰ on 9/17/2012 and BBT made a reply on

⁸ BBT in the foreclosure complaint at pp. 261-272 states that the mortgage loan went into default on July 1, 2012. BBT did not assert foreclosure during lawsuit #2.

⁹ At p. 392 BBT asserted that the complaint should be dismissed based on the applicable statute of limitations. And at pp. 393-4 at fn. 7 BBT asserted that the complaint fails to set forth a claim for relief for violation of the Probate Code ...

¹⁰ Involving several defendants. And see Rule 5(b)(1) and 5(c)(C), FRCP. And see pp. 1673-4, 1680.

9/26/2012 for only BBT at p. 1682; and the Order of dismissal was filed on 3/13/2013 at pp. 45-58.¹¹

Hunt argues that the **third** way in which the master erred involving the 1/13/2015 Order which granted BBT's 6/25/2014 motion to dismiss is shown as follows:

BBT's repeated threats of a Rule 11 violation (see pp. 1260-1261) resulted in Hunt not being able to sit for the patent bar exam. See pp. 1583-1585. However, in order to waive into the Patent Bar Hunt did an externship at the USPTO during the summer (May - July) of 2013. See 1821-1824.

¹¹ BBT in the foreclosure complaint at pp. 261-272 states that the mortgage loan went into default on July 1, 2012. BBT did not assert foreclosure during lawsuit #s 2-3.

And see BBT's motion to dismiss at p. 391-422, 1933-1938 and see p. 49 at footnote 1. Such that any objections that were or were not made to Hunt's response are waived and abandoned where no motion to alter or amend under Rule 59(e), FRCP was made by any defendant to preserve any issues not ruled on by the USDC. See pp. 1679-1682; and see pp. 45-58. Hunt argues that all 9/17/2012 exhibits in lawsuit #3 including the complaint at pp. 165-232 had no objections by BBT; and no objections were preserved. BBT should not be allowed to make its admission a ground on appeal. *Mendelsohn v. Whitfield*, 430 S.E.2d 524, 530, 312 S.C. 17 (S.C. App. 1993).

In the Fall of 2013 Hunt was denied employment at the USPTO where BBT had reported Hunt as the delinquent on the disputed mortgage. See 1584-1586.

Hunt argues that BBT went forum shopping and engaged in vexatious litigation when BBT filed the foreclosure complaint in lawsuit #4 in state court on 4/16/2013 at pp. 261-272 against Hunt, Willow Greens Homeowner's Association, Inc¹² and CJ Developers, LLC¹³ where the mortgage was delinquent as of 7/1/2012 at p. 265 which date of 7/1/2012 occurred prior to the dismissal of both lawsuit #2-3 being dismissed on 3/13/2013 at pp. 29-58.

Hunt returned from her externship at the USPTO in late July 2013 to learn that BBT went forum shopping and engaged in vexatious litigation when BBT filed a foreclosure complaint on 4/16/2013 in state court.

Hunt responded to the 4/16/2013 foreclosure complaint with the 8/2/2013 answer and counterclaims. See pp.

¹² See pp. 1799-1816, 1829-1834 (withdrawal of WGHOA); and see pp. 1850-1853 where Hunt argued that BBT was trying to ward off res judicata.

¹³ See pp. 1825-1828 where CJ Developers was dissolved on 3/6/2006.

273-298. And a motion for summary judgment and several other documents that are not included in the record on appeal. Hearings were held on 4/2014 and 5/20/2014. See the 10/22/2014 Order at pp. 71-84; and see the 10/30/2014 motion to alter or amend at pp. 1073-1083.

On 6/6/2014 Hunt filed the amended counterclaims with a claim involving **loss of wages / earning capacity** resulting from where Hunt was denied employment at the USPTO where BBT had reported Hunt as delinquent on the disputed mortgage. See pp. 331-334; pp. 1175-1176 & 1216-1218;¹⁴ and see pp. 1579-1586.¹⁵

Also, see other claims at pp. 308-313 and pp. 331-336; and the breach of contract claim involving the disputed mortgage/foreclosure at pp. 1519-1526 and pp. 1217-1218¹⁶ and pp. 1690-1704; see the defamation claim at

¹⁴ The briefs at pp. 1119-1224 were admitted into the record without objection on 10/14/2014 by BBT where BBT refused to return so that Hunt could finish her oral arguments. See pp. 1901-1902.

¹⁵At no time did BBT object to Hunt's claims of loss wages; nor several other claims. See pp. 423-432, pp. 829-1072.

¹⁶ BBT filed a lis pendens that was submitted to the lower court.

pp. 207-8; pp. 1161-1165; and see the enclosed letter to SLED of recent stalking and harassment by BBT.

BBT responded to Hunt's 6/6/2014 admitted amended counterclaims at pp. 299-338¹⁷ with a limited motion to dismiss at pp. 423-432, 829-958;¹⁸ and see affidavits of default, etc. at pp. 433-546; and see p. 1126 (forum non conveniens).

Based on the above, Hunt argues that the amended counterclaims have been admitted; and the SOL and the SC Probate objection¹⁹ as asserted by BBT in the 6/25/2014 motion to dismiss at pp. 429-432, the 10/14/2014 Tr. at pp. 829-958 and the 1/13/2015 Order

¹⁷ Where all the allegations in the amended counterclaims came from the lawsuit #s 2-3 Complaint at pp. 165-232 where these pages had been admitted into evidence without objection by BBT. See the Complaint at pp. 165-232, 1679-1682 and 45-58. Hunt argues that the forum shopping and vexatious litigation was sparked by the admitted allegations in the amended counterclaims at pp. 299-338 and the exhibit #s 1-70 that were referred to therein and had already been given to BBT and the lower court.

¹⁸ Hunt argues that the claims at pp. 281-286, 287-290, 293-296 are included at pp. 165-232, 299-339, and 1119-1178 and not objected to at pp. 429-432, 829-958; see the 1/13/2015 Order; and see the motions to alter or amend at pp. 1073-1086, 1095-1106.

¹⁹ **Hunt argues that neither statute of limitations nor the Probate Code objection applies to Hunt's claim of loss wages of \$7, 866,670 where Hunt has never been able to practice Patent Law.** See p. 1581.

at pp. 98-112 are not preserved; and are thus waived / abandoned. See *Cole Vision Corp. v. Hobbs*, 394 S.C. 144, 714 S.E.2d 537, 539-540 (S.C. 2011); see p.1085; see pp. 29-58.

Paragraph 2 in the December 18, 2019 opinion also refers to default judgment as opposed to entry of default and default judgment where it states:

“The master did not err in denying Hunt's motion for **default judgment** on her amended counterclaims.

Hunt argues that on and before 6/6/2014 that BBT had admitted to all of the amended counterclaims at pp. 299-338²⁰ that BBT would later object to these admissions through the 6/25/2014 motion to dismiss at pp. 429-432.

Thereafter, Hunt responded to the 6/25/2014 motion to dismiss by reasserting the 8/2/2013 answer at pp. 273-276;²¹ and on 7/15/2014 Hunt filed affidavits of default,²²

²⁰ The counterclaims at pp. 299-338 are included in the complaint at pp. 165-232.

²¹ See fn. 17 at p. 1925.

and a response; on 9/30/2014 Hunt filed entries of default and a motion for default judgment under **Rule 55(a) and (b)**, etc.;²³ and a Notice of hearing for 10/14/2014.²⁴

The 10/14/2014 hearing resulted in two Orders dated: 10/28/2014; and 1/13/2015 (filed during removal to the USDC) at pp. 98-112. See 10/14/2014 Tr. at pp. 829-958; and see briefs that were submitted to the lower court on 10/14/2014 at pp. 1119-1224 without objection by BBT and filed by the lower court on 10/16/2014. See Tr. at pp. 829-958; and see in particular the 10/16/2014 briefs at pp. 1218-1223.

The lower court's 10/28/2014 order states:

"Defendant Cindy B. Hunt's Motion for **Entry of Default** Judgment against BB&T is hereby denied as moot. All counterclaims asserted by the Defendant in this action were previously dismissed by this Court following an

²² See pp. 433-492; and note that the 7/15/2014 affidavits of default state at paragraph 11 at pp. 433-474 that Hunt contacted the attorney for BBT three times and he did not return her two calls and email.

²³ See pp. 493-538.

²⁴ See pp. 545-546 where the motion for default judgment is pursuant to **Rule 55 (a) and (b), SCRCF, etc.**

October 14, 2014 hearing regarding Plaintiff's Motion to Dismiss the First Amended Counterclaims of Defendant Cindy B. Hunt. As such, there are no remaining counterclaims to which the Plaintiff could be considered in default." See the 10/28/2014 Order at pages 85-90.

Hunt's 10/30/2014 motion to alter, amend or vacate states "Hunt objects to the 10/28/2014 Order denying Hunt's motion for entry of default re BBT's second motion to dismiss that was heard on 10/14/2014." See p. 1083-1086.

Thereafter, the **11/10/2015** hearing was on three motions to alter, amend or vacate. As to the 10/30/2014 motion to alter or amend the 10/28/2014 Order - Hunt argued that that the ORDER filed on 10/28/2014 should be reversed and Hunt should be granted entry of default and default judgment under SCRCP 55(a) and (b). See 11/10/2015 brief at pp. 1225-1270 and in particular see pp. 1244 -1264; and see 11/10/2015 Tr. at pp. 959-1072; and see the 10/16/2014 briefs at pp. 1218-1223.

In a **2/26/2016** email to the master and BBT, Hunt wrote at pp. 1929-1931 that she objected to all orders written by BBT "... where past orders written by BBT have not included and does not preserve the numerous arguments made by Hunt for appeal ..."

The **6/15/2016** Order from the 11/10/2015 hearing on the three motions to alter, amend or vacate is at pp. 139-146. The 6/15/2016 Order was written by the attorney for BBT.

In the **6/17/2016** email at pp. 1906-1928 Hunt objects to the 6/15/2016 Order. Where Hunt argued issue preservation stating that "**the clerk of court as required to make an entry of default against BBT upon receipt of the fourteen affidavits of default.**"

See pp. 1911-1918.

Hunt states in the 8/14/2017 statement of issues on appeal in her Final Brief of the Appellant:

"Did the lower court err in denying Hunt's 9/30/2014 Motion for Default Judgment under Rule 55 (a) and (b),

SCRCP, etc. against BBT?" See Final Brief of the Appellant at p. v. and see pp. 15-33.

Based on all of the above assertions Hunt argues that the statement in Paragraph 2 of the December 18, 2019 opinion of: "The master did not err in denying Hunt's motion for **default judgment** on her amended counterclaims" is not supported by the evidence in the record on appeal as argued above. And see pp. 433-546; and see the 5/20/2014 Brief and the 10/14/2014 Briefs at 1119-1224 that were admitted without objection on 10/14/2014 and filed on 10/16/2014; see the 10/28/2014 Order at pp. 85-90;²⁵ note that the 10/28/2014 Order refers to the 1/13/2015 Order at pp. 98-112;²⁶ see the 10/30/2014 motion to alter or amend at pp. 1083-1086; see the 11/10/2015 Brief at pp. 1244-1264 and pp. 1239-1244; see the 6/15/2016 Order²⁷ at pp. 141 (which based on the argument that BBT was

²⁵ This 10/28/2014 Order was written by the master.

²⁶ See p. 87 "previously dismissed by this court following an October 14, 2014 hearing". The Order referred to in the 10/28/2014 Order was filed on 1/13/2015. Where the 11/10/2014 NOR is at 1110-1118; the 1/13/2015 Order is at pp. 98-112 and the 5/11/2015 Order of Remand is at pp. 130-135.

²⁷ This 6/15/2016 Order was written by BBT.

making should more correctly say “rendered her motion for a[n entry of default and] default judgment”); see 6/17/2016 email at pp. 1906-1928; and see the Final Brief of the Appellant at pp. 15-33.

As such, Hunt continues to request that this Court grant to Hunt and or direct the lower court to grant to Hunt the relief requested at pp. 46-49 in the Final Brief of the Appellant plus attorney fees and costs for lawsuit #s 1-4 and this appeal.

Paragraph 3: Forum Shopping²⁸ and Vexatious Litigation:

This Court at Paragraph 3 of the December 18, 2019 opinion states: “The master did not err in declining to

²⁸ “Such occurs when a party attempts to have his action tried in a particular court or jurisdiction where he feels he will receive the most favorable judgment or verdict.” Black’s Law Dictionary, 5th Edition 1979.

find BB&T engaged in forum shopping and vexatious litigation.”

And BBT states that “Hunt failed to preserve for review by the Court her argument that BBT engaged in forum shopping and vexatious litigation.” See Final Brief of the Respondent at pp. 12-13.

Hunt argues that the record on appeal does not include an Order that uses the words: **Forum Shopping and Vexatious Litigation.**

However, Hunt argues that this Court has overlooked or misapprehended as to Paragraph 3 of the December 18, 2019 opinion where Hunt argues that the master did err in denying the forum shopping and vexatious litigation that was included in the amended counter claims; the two motions on the two Orders that resulted from the 10/14/2014 hearing that are dated: 10/28/2014 and 1/13/2015 (filed during removal to the USDC); and the 5/27/2015 motion. See pp. 299-338; pp. 85-90, pp. 98-112 and pp. 136-138.

In the Statement of Issues on Appeal - Hunt asked: Did BBT engage in Forum Shopping and Vexatious Litigation? See Final Brief of the Appellant at page v and at pp. 35-39.

BBT states: Hunt failed to preserve for review by the Court the argument in her Appellant's Brief that BBT engaged in forum shopping and vexatious litigation. See *Pye v. Estate of Fox*, 369 S.C. 555, 564, 633 S.E.2d 505, 510 (2006)("It is well settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved."); and see p. 12 of the Final Brief of the Respondent.

Hunt argues that she raised the question of Forum Shopping and Vexatious Litigation in the lower court; and as the losing party in the lower court that she was required to file a motion to alter or amend the judgment in order to preserve the issue for appellate review. See

I'On, L.L.C. v. Town of Mt. Pleasant, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000).

As such, Hunt argues that she satisfied the requirements of I'On, L.L.C. at 422 where the record on appeals shows that she raised the question of **Forum Shopping and Vexatious Litigation** as follows –

- 4) the Complaint in lawsuit #1 was filed in the USDC by Hunt at pp. 147-164 and BBT made a motion to dismiss at pp. 339-380; thereafter supplemental jurisdiction was declined by USDC in lawsuit #1 in the Order at pp. 1-28; and
- 5) the complaint in lawsuit #2 was filed by Hunt in the USDC on 5/10/2011 at pp. 165-232 and BBT made a motion under Rule 12(b)(2) and 12(b)(5), FRCP at pp. 381-390;²⁹ and the Order of dismissal was filed on 3/13/2013 at pp. 29-44;³⁰ and
- 6) the complaint in lawsuit #3 was filed by Hunt in state court involving only BBT and Hunt on 7/9/2012

²⁹ Note that BBT does not object to the complaint at pp. 165-232 pursuant to Rule 12(b)(6), SCRPC.

³⁰ BBT in the foreclosure complaint at pp. 261-272 states that the mortgage loan went into default on July 1, 2012. BBT did not assert foreclosure during lawsuit #2.

at pp. 233-260; BBT filed a notice of removal (NOR) to USDC in lawsuit #3 on 8/6/2012 at pp. 1107-1109 and 1679-1682; and BBT made a MTD on 8/9/2012 at pp. 391-422³¹, 1933-1938; and Hunt responded with several exhibits including pp. 165-232³² on 9/17/2012 and BBT made a reply on 9/26/2012 for only BBT at p. 1682; and the Order of dismissal was filed on 3/13/2013 at pp. 45-58;³³ and

³¹ At p. 392 BBT asserted that the complaint should be dismissed based on the applicable statute of limitations. And at pp. 393-4 at fn. 7 BBT asserted that the complaint fails to set forth a claim for relief for violation of the Probate Code ...

³² Involving several defendants. And see Rule 5(b)(1) and 5(c)(C), FRCP. And see pp. 1673-4, 1680.

³³ BBT in the foreclosure complaint at pp. 261-272 states that the mortgage loan went into default on July 1, 2012. BBT did not assert foreclosure during lawsuit #s 2-3.

And see BBT's motion to dismiss at p. 391-422, 1933-1938 and see p. 49 at footnote 1. Such that any objections that were or were not made to Hunt's response are waived and abandoned where no motion to alter or amend under Rule 59(e), FRCP was made by any defendant to preserve any issues not ruled on by the USDC. See pp. 1679-1682; and see pp. 45-58. Hunt argues that all 9/17/2012 exhibits in lawsuit #3 including the complaint at pp. 165-232 had no objections by BBT; and no objects were preserved. BBT should not be allowed to make its admission a ground on appeal. *Mendelsohn v. Whitfield*, 430 S.E.2d 524, 530, 312 S.C. 17 (S.C. App. 1993).

Thereafter BBT went forum shopping and engaged in vexatious litigation when BBT filed the foreclosure complaint in lawsuit #4 in state court on 4/16/2013 at pp. 261-272 against Hunt, Willow Greens Homeowner's Association, Inc³⁴ and CJ Developers, LLC³⁵ where the mortgage was delinquent as of 7/1/2012 at p. 265 which date of 7/1/2012 occurred prior to the dismissal of both lawsuit #2-3 being dismissed on 3/13/2013 at pp. 29-58; and thereafter this many years of litigation has ensued where BBT responded to Hunt's 6/6/2014 admitted amended counterclaims at pp. 299-338³⁶ with a motion to dismiss at pp. 423-432, and see affidavits of default, etc. at pp. 433-546; and see p. 1126 (forum non conveniens); see the favorable Orders at pp. 59-90; see 11/10/2014 NOR at pp. 1110-1118, see the 12/22/2014 arguments in the USDC at pp. 1853-1862; see exhibit # 83 at pp. 1871-1880 where BBT did not object to forum

³⁴ See pp. 1799-1816, 1829-1834 (withdrawal of WGHOA); and see pp. 1850-1853 where Hunt argued that BBT was trying to ward off res judicata.

³⁵ See pp. 1825-1828 where CJ Developers was dissolved on 3/6/2006.

³⁶ Where all the allegations in the amended counterclaims came from the lawsuit #s 2-3 Complaint at pp. 165-232 where these pages had been admitted into evidence without object by BBT. See the Complaint at pp. 165-232, 1679-1682 and 45-58. Hunt argues that the forum shopping and vexatious litigation was sparked by the admitted allegations in the amended counterclaims at pp. 299-338 and the exhibit #s 1-70 that were referred to therein and had already been given to BBT and the lower court.

shopping and vexatious litigation; and see the 4/15/2015 RR at pp. 113-121 in particular see fn. 4 at p. 117; and see the 5/27/2015 motion at 1087-1094; and see the two 8/11/2015 motions to alter, amend or vacate the judgment at pp. 1095-1106; and see p. 1227; and see the favorable Orders at pp. 98-112 and 136-146.

Hunt argues that above - in steps 4-6 that she has argued that the record on appeal shows forum shopping and vexatious litigation.

And Hunt argues that she filed three motions to alter or amend the judgment in order to preserve the issue of forum shopping and vexatious litigation for appellate review at pp. 1073-1086 (filed on 10/30/2014), pp. 1095-1100 (filed on 8/11/2015) and pp. 1101-1106 (filed on 8/11/2015) where each of the three motions to alter, amend or vacate includes the allegations in the above steps 1-4; where the lower court orally denied each of the above referenced motions to alter, amend or vacate the judgment at the 11/10/2015 hearing and the

subsequently Order was filed on 6/15/2016 from the 11/10/2015 hearing.

As such, based on the above assertions Hunt argues that this Court is under a misapprehension re the forum shopping and vexatious litigation that is shown in the record on appeal, posed by Hunt in the Final Brief of the Appellant at pp. 35-39 and objected to by BBT on appeal in the Final Brief of the Respondent at pp. 12-13 where at Paragraph 3 of the December 18, 2019 opinion this Court states: The master did not err in declining to find BB&T engaged in forum shopping and vexatious litigation.

Hunt also argues that respondent BBT for the first time on Appeal is asserting objections to forum shopping and vexatious litigation.³⁷ Hunt argues that the 2000 Court in I'ON, LLC v. Town of Mt. Pleasant, 338 S.C. 406, 526 S.E.2d 716 (S.C. 2000) states: "While the current rules do not require the respondent to present an issue to the lower court in order to raise it as an additional sustaining

³⁷ See cf. pp. 261-272, 423-432 and 829-1072.

ground, an appellate court is less likely to rely on such a ground when the respondent has failed to present it to the lower court. In such cases, the appellate court likely would perceive it as being unfair or unwise to resolve a case on a ground never mentioned by the respondent prior to appeal. Stated another way, the respondent may raise an additional sustaining ground that was not even presented to the lower court, but the appellate court is likely to ignore it;" **and** Hunt argues that the 2006 Court in *Pye v. Estate of Fox*, 369 S.C. 555, 564, 633 S.E.2d 505, 510 (2006): states "It is well settled that an issue cannot be raised for the first time on appeal, but must have been raised to and ruled upon by the trial court to be preserved."

Hunt argues that BBT did not object to forum shopping and vexatious litigation as shown in the record on appeal. See foreclosure complaint at pp. 261-272; motion to dismiss at pp. 423-432; and 10/14/2014 and 11/10/2015 Tr. at pp. 829-1072.³⁸

³⁸ Hunt argues that allegations of forum shopping and vexatious litigation were included in the amended counterclaims; and that these allegations of forum shopping and vexatious litigation were admitted by BBT where they

Based on all of the above assertions Hunt argues that the statement in Paragraph 3 of "The master did not err in declining to find BB&T engaged in forum shopping and vexatious litigation" is false and not supported by the evidence in the record on appeal as argued above.

As such, Hunt continues to request that this Court grant to Hunt and or direct the lower court to grant to Hunt the relief requested at page 1862 "Sanctions against BBT and its attorneys;" and at pp. 46-49 in the Final Brief of the Appellant plus attorney fees and costs for lawsuit #s 1- 4 and this appeal.

Paragraph 4: Attorney fees and costs

Hunt argues that this Court has overlooked or misapprehended as to Paragraph 4 where Paragraph 4 states: "The master did not abuse her discretion in denying Hunt's motion to alter, amend, or vacate the order that denied Hunt's motion for attorney's fees and costs."

were not objected to by BBT in the 6/25/2014 MTD. See page 1189 and footnote 26 at page 1189 and pp. 429-432 and pp. 829-958.

Hunt argues that the master did abuse her discretion as shown through the following cases:³⁹

See *BB&T v. Taylor*, 369 S.C. 548, 551, 633 S.E.2d 501, 502-03 (2006)(stating the decision to grant or deny a motion under Rule 60(b), SCRPC, lies within the sound discretion of the trial court);^[40] *Pollard*, 314 S.C. at 402, 444 S.E.2d at 536 (stating the decision to grant or deny a motion under Rule 59(e), SCRPC, lies within the sound discretion of the trial court);^[41] *Taylor*, 369 S.C.at 551,

³⁹ Hunt's arguments are in the [footnotes].

⁴⁰ *Taylor*, 369 S.C.at 551, 633 S.E.2d at 503 also states: ("An abuse of discretion arises where the judge issuing the order was controlled by an error of law or where the order is based on factual conclusions that are without evidentiary support.")

⁴¹ *Pollard v. County of Florence*, 314 S.C. 397,401-2, 444 S.E.2d 534 (S.C. App. 1994) also states: "Finally, we find no merit in Pollard's assertion that the circuit court committed reversible error in denying her motion to alter or amend the judgment under Rule 59(e) SCRPC, without first conducting a hearing or allowing her "to fully brief" the issues raised in her motion. Under Rule 59(f), SCRPC, a Rule 59(e) motion "may in the discretion of the court be determined on the briefs filed by **the parties** without oral argument."

633 S.E.2d at 503 ("An abuse of discretion arises where the judge issuing the order was controlled by an error of law or where the order is based on factual conclusions that are without evidentiary support.");^[42] Heath v. Cty. of Aiken, 302 S.C. 178, 182, 394 S.E.2d 709, 711 (1990) (stating attorney's fees are generally only awarded to a prevailing party);^[43] Heath, 302 S.C. at 182-83, 394

Hunt argues that she was not arguing that she wanted a hearing on the motion under Rule 41, SCRPC. Rather, Hunt's objection is that BBT did not object (orally or in writing) to her motion under Rule 41, SCRPC. See pp. 1087-1094; pp. 136-138 and pp. 1101-1106.

⁴² Hunt argues that the master's Order at pp. 136-138 was caused by both an error of law (as argued herein) and is based on factual conclusions that are without evidentiary support. See the attached affidavit.

⁴³ Heath v. County of Aiken, 302 S.C. 178, 182, 394 S.E.2d 709 (S.C. 1990) states: "This Court has not previously determined the appropriate standard of review in an attorney's fee case under Section 15-77-300."

Heath id. at 182 states the Sheriff was the prevailing party and that a prevailing party did not have to prevail on all the issues.

S.E.2d at 711 (defining a prevailing party as "[t]he one who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not to the extent of the original contention [and] is the one in whose favor the decision or verdict is rendered and judgment entered" (quoting *Buza v. Columbia Lumber Co.*, 395 P.2d 511, 514 (Alaska 1964)));^[44] Rule 41(d), SCRCP ("If a plaintiff who has

Heath id at. 182-3 states "A prevailing party has been defined as: [t]he one who successfully prosecutes the action or successfully defends against it, prevailing on the main issue, even though not to the extent of the original contention [302 S.C. 183] [and] is the one in whose favor the decision or verdict is rendered and judgment entered."

Hunt argues that this matter is not over yet where the foreclosure complaint and one motion remain unresolved in the lower court.

⁴⁴ The foreclosure complaint at pp. 261-272 in this matter was filed by BBT. Hunt argues that the master in the Order at pp. 136-138 does not make a finding that Hunt was not a prevailing party. And the master does not make a finding in the Order at pp. 136-138 that Hunt is pro se. And to date the foreclosure complaint remains outstanding. Such that Hunt could become the prevailing party by successfully defending against the foreclosure complaint or prevailing on some of her counterclaims.

once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.");^[45] Shuler v. Crook, 290 S.C. 538, 541, 351 S.E.2d 862, 863 (1986)("The general rule, however, is that attorney fees are not included in the term 'costs' in the absence of some statutory provision, rule of court, or

And see at p. 32 at fn. 1 where the USDC makes a finding that Hunt is an attorney. At p. 1673-1678 BBT does not appeal this decision of the USDC in lawsuit #2.

Also, see the above footnote.

⁴⁵ Hunt argues that Rule 41(d) is applicable to this matter if she prevails on the foreclosure issue. Where Hunt argues that the foreclosure complaint at pp. 261-272 in this matter was filed by Plaintiff BBT. Hunt argues that the three Orders at pp. 1-58 were dismissed by Plaintiff BBT as stated in the Orders; that the foreclosure complaint is the same claim as stated in BBT's notice of removal at pp. 1107-1109 at paragraph 7.

contract of the parties.");^[46] Calhoun v. Calhoun, 339 S.C. 96, 100, 529 S.E.2d 14, 17 (2000) (finding pro se litigants, whether an attorney or lay person, may not recover attorney's fees)."^[47]

⁴⁶ Hunt argues that the rule of the court pursuant to the voluntary dismissal by BBT at pp. 45-58 in this matter is Rule 41(a)(1), SCRPC. See p. 49. See (Shuler v. Crook, 351 S.E.2d 862, 863 290 S.C. 538 (S.C. 1986) (While there is a court rule allowing the imposition of attorney fees on the granting of a voluntary nonsuit, Cir. Ct. R. 45 (1976). The substance of this rule is now contained in Rule 41(a), SCRPC)).

See the then Defendant (now Plaintiff) BBT's motion to dismiss at pp. 391-422 & 1933-1938 stipulating to the dismissal; and see pp. 45-58 where the USDC states at p. 55 "... Defendant's motion to dismiss is granted and this case is dismissed without prejudice." As such, Hunt argues that the mortgage foreclosure complaint was filed by BBT based on or including the same claim as the foreclosure complaint and the notice of dismissal operates as an adjudication on the merits by Plaintiff BBT.

⁴⁷ **The full quote from Calhoun v. Calhoun, 339 S.C. 96, 99-100, 529 S.E.2d 14 (S.C. 2000) is:** "On appeal, the Court of Appeals acknowledged that whether a pro se litigant who is an attorney should be allowed to recover attorney fees is a novel issue in this state and that there is a split of authority on the issue in jurisdictions where it has been addressed. A majority of

those states have allowed pro se attorney litigants to recover attorney fees,² while the minority rule denies such relief.³

The Court of Appeals aligned itself with those states which deny attorney fees to pro se attorney litigants. In doing so, the Court of Appeals held that the cardinal criterion for an award of attorney fees under § 20-3-130(H) is that the party claiming a right to a fee has paid or owes another person money for legal services rendered and that an attorney who appears on his or her behalf does not incur such an obligation. Petitioner maintains this holding is erroneous.

We agree with the Court of Appeals' adoption of the minority rule. The term "incur" is commonly defined as "to become liable or subject to." THE AMERICAN HERITAGE DICTIONARY 653 (2d Ed.1982); WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 1146 (1976). A pro se litigant, whether an attorney or layperson, does not become liable for or subject to fees charged by an attorney. Accordingly, we hold that pro se litigants are not entitled to attorney fees under § 20-3-130(H)."

Hunt argues that SC Code 20-3-130 does not apply to these unusual set of facts that involves Hunt's IOLTA and where BBT bullied Hunt's prior attorneys. See pp. 1260-1261; And Hunt argues that the attorney fees in lawsuit #4 came about where BBT filed the foreclosure complaint, with a lis pendens, that is barred as an adjudication on the merits as argued above. See Rule 41(a)(1), SCRCP. And these facts are in further support

On appeal Hunt asked: Is Hunt entitled to attorney fees and costs? Yes. See the above arguments; see the four volumes of the record on appeal; and the 8/14/2017 Final Brief of the Appellant at pp. 39-45 where this was the second final brief as Hunt was required to rewrite the first final Brief.

of forum shopping and vexatious litigation as argued herein.

And the Court in *Calhoun*, id. at 100, limited it's ruling to SC Code 20-3-130.

However, Hunt argues that *Calhoun*, id. at 100 at fn. 2, does apply to these facts involving Rule 41(a)(1)(quoting **Burrell v. Hanger, 650 P.2d 386 (Alaska 1982)** id. at 387 states, "Sherry v. Sherry, 622 P.2d 960, 966 (Alaska 1981), controls the result on the question of whether Burrell should receive attorney's fees. In Sherry, the superior court had dismissed an action without prejudice at the plaintiff's request. We held that the defendant who was an attorney appearing pro se could receive an award of attorney's fees under Alaska Civil Rule 41(a) which addresses voluntary dismissals.") See the Order at pp. 45-58; and the attached affidavit of attorney fees and costs.

As such, Hunt asks that this Court revisit Hunts arguments in the Final Brief of the Appellant at pp. 39-45 where Hunt asks for attorney fees and costs pursuant to the amended counterclaims, and Rule 55 (b)(1-3), SCRCF and Rule 41(d), SCRCF.

On appeal BBT states: [⁴⁸] “The master did not abuse her discretion in denying Hunt’s motion to alter, amend, or vacate the order denying Hunt’s motion for attorney fees and costs because Hunt was not a prevailing party, Hunt had no contract, statute, or court rule entitling her to attorney’s fees or costs, and Hunt was not represented by an attorney in this action.” Hunt argues that early on in this matter Hunt was represented by attorneys Valtorta and Ballard. See pp. 147-164 and 1253-1269 and p. 1467. And that Rule 41(d), SCRCF is applicable to this matter as argued herein.

See the Final Brief of the Respondent at pp. 8-10 where BBT does not object to attorney fees and costs to Hunt

⁴⁸ *BBT did not object* to the 5/27/2015 motion where BBT did not file a response. See p. 1105 at paragraph 7.

based on the amended counterclaims or pursuant to Rule 55 (b)(3), SCRCP or Rule 41, SCRCP.⁴⁹ See pp. 1105 at paragraph 7.⁵⁰

Instead, the attorney for BBT in its Brief on appeal objects only to attorney fees and costs through the 6/15/2016 Order from the 5/27/2015 motion under SCRCP 41 where BBT did not object to this motion where the master objected for BBT. See pp. 1087-1094; pp.136-138; and pp. 1101-1106.

Based on all of the above assertions Hunt argues that the above statement in Paragraph 4 in the December 18,

⁴⁹ As such, Hunt is submitting an affidavit of her attorney fees and costs in lawsuit #s 1-4 and this appeal.

⁵⁰ See *Mortgage Electronic Registration Systems, Inc. v. Parrott*, Opinion No. 2006-UP-00402 (S.C. App. 12/11/2006) (S.C. App. 2006) (As to the master raising sua sponte affirmative defenses on behalf of the Respondents: *Heins v. Heins*, 344 S.C. 146, 152, 543 S.E.2d 224, 227 (Ct. App. 2001) ("It is well settled that ordinarily a party may not receive relief not contemplated in his or her pleadings."); *Collins Entertainment, Inc. v. White*, 363 S.C. 546, 563, 611 S.E.2d 262, 270 (Ct. App. 2005) ("[T]he failure to plead an affirmative defense is deemed a waiver of the right to assert it.")).

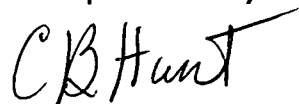
2019 opinion is not supported by the law or the evidence in the record on appeal.

As such, Hunt continues to request that this Court grant to Hunt and or direct the lower court to grant to Hunt the relief requested at page 1862 "Sanctions against BBT and its attorneys"; and at pp. 46-49 in the Final Brief of the Appellant plus attorney fees and costs for lawsuit #s 1-4 and this appeal.

Enclosures: 1) Letter from BBT re recent merger; 2) Letter to SLED; 3) Affidavit of Attorney fees and costs for lawsuit #s 1-4 and this appeal.

Respectfully Submitted,

Dated: December 31, 2019



Cindy B. Hunt, (SC Bar # 65408)

Pro Se

195 D Willow Green Drive

Conway, SC 29526
843 488-1131

**C. B. Hunt
195 D Willow Green Drive
Conway, South Carolina 29526**

May 8, 2019

843 488 - 1131

Sent via Certified Mail Return Receipt

To: Glen Wood (GWood@SLED.SC.GOV)
SLED
Suite #2-BTC 021
181 East Evans Street
Florence, SC 29502

Dear Mr. Wood,

For the past 16 years that I have lived in my home a NO Trespassing sign has been posted at the entrance of my condominium complex.

On Thursday, March 21, 2019 I received a third unwanted and scary visitor from BBT, a white male took pictures of my home and me and followed me to the mailbox. This visitor ignored the no trespassing sign and caused me to feel threatened. This continued behavior by BBT resulted in me asking why would BBT send people to my home where I had clearly reminded the prior visitors that they were trespassing?

After going back over the 2000+ pages of the record on appeal (ROA)¹ on Thursday night I called the HCPD on Friday morning, March 22, 2019.

I had just driven up in the parking lot of the HCPD when Sgt. Kathman returned my call on Monday, March 25, 2019. I requested that Sgt. Kathman come outside to help me carry in

¹ Please see a footnote below for how to view the ROA. Please call if I can be of any help.

the about 2,000 plus pages that I had submitted to the SC COURT of Appeals in this the fourth lawsuit between BBT and myself.

I went inside where I had a 41 minutes conversation with an Officer Phillips.

From our March 25, 2019 conversation Officer Phillips produced the very short report that is attached to this letter where Officer Phillips made it clear and so stated that he was not going to drive to Georgetown County to investigate the Black SUV incident of September 2017² and that since this matter involved a corporation that I was in a lawsuit with that he was not going to do anything where this was a civil matter.

Thereafter, I called Chief Joe Hill where in response to his questions I told the Chief that the attorney for BBT (Sean Foerster) would most likely know who and what the three visitors were about. Chief Hill called back on the afternoon of April 2 where he left the below message.

April 2, 2019 voice message to CB Hunt from Chief Joe Hill at 4:10 pm.

Hey Ms. Hunt. Good afternoon this is Chief Joe Hill of the Horry County Police Department.

Hey I was able to get in touch with Sean Foerster. And it appears that those two folks that came to visit you the last two weeks are what they call property preservation specialist.

Since the bank technically owns that property that you are residing in they are there to insure that no one has torn the place up or has done any damage to the place.

You are probably going to see them again. They are probably going to want to see the inside of the place.

Again that is a civil matter.

² This incident was so threatening to me that I visited my car's mechanic (Lamar Sawyer 843- 333-2383) so that he could check my car out for any tracking or bombing device.

You'll have to determine how best to handle that. But that's who those folks were.

Any other questions or concerns you have my number you can give me a call back. But at this time that is a civil matter that the Horry County Police Department will not venture into.

Okay. Thank you. Bye bye.

Within minutes I returned the call to Chief Hill where he repeated the above statements. I told the Chief that this was the first time that these unwanted visitors had referred to themselves as **"property preservation specialist."**

I asked the Chief if he would update the record with this information. He responded NO that he would not and that the HCPD was done with this matter.

Thereafter, I called SLED in Columbia. You returned my call on the same day. After you and I spoke on the phone a few times, on April 22, 2019 you called me where you stated that you had been on the SCCOURTS website for Horry County; and the site showed that BBT had filed a lawsuit against me and others on 4/16/2013 for FORECLOSURE³ and that BBT had filed a lis pendens⁴ as to the property that the foreclosure was being asserted against.⁵

³ BBT did not file an eviction notice. Foreclosure is a legal process in which a lender attempts to recover the balance of a loan from a borrower who has stopped making payments to the lender by forcing the sale of the asset used as the collateral for the loan. That legal process is still ongoing in lawsuit #4 as stated herein.

⁴ In South Carolina, lis pendens is a statutory doctrine designed to inform prospective purchasers or encumbrancers that a particular piece of property is subject to litigation. See S.C. Code Ann. § 15-11-10 (2005). Gecy v. Somerset Point at Lady's Island Homeowners Ass'n, Inc. (S.C. App., 2019).

⁵ And I have repeatedly, told you that there are four lawsuits between Hunt and BBT, etc. I have offered both you and the HCPD to view the documents that are in my possession where both of you have declined.

Lawsuit #1 was filed by Hunt in the USDC (4:09-cv-02151) in Florence on 8/13/2009.

Lawsuit #2 was filed by Hunt in the USDC (4:11-cv-00870) in Florence on 4/12/2011; Hunt filed an amended complaint on 5/10/2011 with 43 exhibits.

Lawsuit #3 was filed by Hunt in Horry County (2012-CP-26-5264) on 7/09/2012 with 42 exhibits; and was removed by BBT to the USDC (4:12-cv-02216) on 8/06/2012.

Lawsuit #4 was filed by BBT in Horry County (2013-CP-26-2528) on 4/16/2013, is still ongoing and is on appeal at the SC Court of Appeals (sccourts.org/sitemap; select: c-track public access; enter case #: 2016-001550 and press enter; select record on appeal – volume 1: pages 1-492, volume 2: pages 493-958, volume 3: pages 959-1452, volume 4: pages 1453-last).

You went on to state that you had spoken to Chief Hill and that you agreed with Chief Hill that there would be no arrest for what I thought was trespassing, stalking, harassment, and obstruction of justice (18 USC 1512/1513), etc. and no restraining order, etc. in this matter.⁶

You nor the HCPD has ever presented any document that BBT owns my home. Instead you keep repeating what I have already said: BBT and I are currently involved in civil litigation.

I have also told you that the civil litigation is ongoing where the case is currently on appeal at the SC Court of Appeals. See sccourts.org/sitemap; select: c-track public access; enter case #: 2016-001550. The current status of the case is "READY FOR CONSIDERATION".

I am writing to you to state that: **I disagree with you and the Chief - that this is solely a civil matter**; and that I continue to assert that this is both a civil matter, where I am in the middle of that civil litigation; and that this is also a criminal matter that I reported to the HCPD on March 25, 2019 involving the violation of criminal statutes where for the past 16 years that I have lived in my home a NO Trespassing sign has been posted at the entrance of my condominium complex.

I am an African American female, sixty-two years of age, that lives alone.

Chief Hill (in the recorded msg that he left for me) has stated that the attorney for BBT (Foerster) has stated that those folks will be coming back to my home and they will want to come inside my home.

⁶ You also on April 22, 2019 stated that you would not be documenting our conversations in this matter. I find it interesting that Chief Hill also said, that he would not update the record to include the conversations that he had with me in this matter. But Chief Hill did leave me a recorded phone message as stated above.

As such, I request that an arrest and restraining order and any other legal writ that is appropriate under the law should be issued and served pursuant to the criminal statutes of SC in this matter to protect me, where it is my position that both the HCPD and SLED are showing bias and fear of a potential corporation defendant (versus an individual) while ignoring the crimes that have already been committed against me involving BBT, a corporation that is also a bank.

The title, deed and mortgage to my home are in my name. And the legal process of foreclosure in lawsuit#4 is **ongoing** as stated herein; and BBT has not and cannot provide to you any legal writ showing that BBT is the owner or technical owner of the home that I live in.

I pay the insurance, taxes, water, power, homeowners association dues, etc. for my home. The only bill that I do not pay is the disputed mortgage (See the ROA at page 1781 FN #1 and pages 1519-1526) where I reported BBT to the FDIC in March 2008 and the first of four law suits was filed in this matter in August 2009 by me and the fourth law suit is ongoing where it is currently pending at the SC Court of Appeals.

In lawsuits #1, #2 and #3⁷ the USDC granted BBT, et al each of its motions to dismiss (MTD) in three law suits where the mortgage of the foreclosure complaint became delinquent on July 1, 2012 which is before lawsuits #2 and #3 were dismissed. (See the ROA at pages 29-58. These three lawsuits are Res Judicata.)

The below question and answer I hope will be helpful to understanding BBT's escalating behavior.

Question:

IF the mortgage became delinquent on July 1, 2012, lawsuit #3 was filed on July 9, 2012, BBT 'REMOVED' lawsuit # 3 to the

⁷ All Defendants in lawsuits #1-#3 were represented by attorney Steve Licata.

USDC on August 6, 2012⁸ and thereafter making no mention of the delinquent mortgage BBT on August 9, 2012 BBT requested dismissal of lawsuit #3 and the USDC on March 13, 2013 granted BBT its request to dismiss lawsuit #3 THEN why would BBT file a fourth lawsuit on April 16, 2013 involving the barred foreclosure of the mortgage. See the ROA at pages 265, 237, 1107-1109, 1679, 391-397, 45-58.

Answer:

The contents of the **complaint / exhibit** in the ROA at pages 165-232 and other pages were submitted in lawsuit # 2 as a complaint and in lawsuit #3 as an exhibit; where pages 165-232 were not objected to by BBT and is thus EVIDENCE that BBT and others have engaged in RICO violations (obstruction of justice involving the HCPD, etc), mortgage fraud and numerous other violations of the law.

As such, BBT and others vehemently dislikes this EVIDENCE and is trying to stop the EVIDENCE THAT IS STATED IN THE verified **complaint / exhibit** in the ROA at pages 165-232 from being used in an order against them.⁹

Such that, BBT did not want me to initiate and file a fourth lawsuit in the USDC and submit the evidence in the ROA at pages 165-232. Thus, BBT became proactive where it is my position that BBT went Forum Shopping away from the USDC to the State Court. BBT filed the fourth law suit in this matter in State Court where BBT in the foreclosure complaint did not mention the prior three lawsuits. See BBT complaint in the ROA at pages 261-272.

In lawsuit #4, filed by BBT on April 16, 2013 with a summons and complaint, BBT asserted the "then" barred mortgage foreclosure in an effort to negotiate the burial of the **evidence** in the ROA at

⁸ See ROA involving lawsuit #3 at page 1108 at paragraph 7 and FRCP 13(a).

⁹ I am not including the 43 exhibits that was attached to the 5/10/2011 complaint of lawsuit #2. The ROA includes the majority of these exhibits; and you can see all of these 43 exhibits and all documents of law suits #1-#3 at the public access room of the USDC in Florence.

pages 165-232 in exchange for cancellation of the mortgage. See ROA at page 1108 at paragraph 7.

Thereafter, I through the **verified** First Amended Counterclaims in the ROA at pages 299-338, etc. have insisted on having my day in court with the result that BBT has made its move to cause me irreparable harm by trespassing, stalking, harassment and obstruction of justice, etc involving a barred foreclosure complaint¹⁰ as part of its continuing effort to bury the **verified evidence** in the ROA at pages 165-232, etc.

First Visit: The mortgage became delinquent on July 1, 2012. BBT filed the barred foreclosure complaint on April 16, 2013. Three years after the mortgage became delinquent and just prior to the November 10, 2015 hearing on Hunt's motion to alter or amend the judgement, Hunt received the first visit from persons (two women in a yellow mustang) that stated that they were from BBT in September 2015.

Second Visit: As of August 2017 HUNT submitted her final brief in this matter to the SC Court of Appeals. Thereafter, Hunt received the second visit from persons (a woman and a man in a black SUV) that stated that they were from BBT in September 2017.

Third Visit: As of March 2019 case number 2016-001550 has been marked by the SC Court of Appeals as "ready for consideration". As, such it appears that there will be no oral arguments in this matter. And the matter is ready for the consideration of the judges of the SC Court of Appeals where the evidence in the four volumes that make up the record on appeal (ROA) has been under staff consideration for about 18 months. As such, where a ruling by the Court is imminent BBT has dispatched a third visitor to Hunt's home - a person (a man)¹¹ in

¹⁰ That I have a high likelihood of success on the merits.

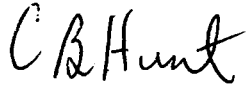
¹¹ Chief Hill said that Mr. Forester spoke of two persons but I saw only one person, a white male.

a black BMW on Thursday, March 21, 2019.

Surely, you can see how this behavior by BBT is both escalating and is threatening. My mental and physical health, now and in the future, is in the hands of the HCPD and you, where I continue to request that a lawful arrest should be made based on past violations of the criminal laws to include the threats as told to Chief Hill and shown above.

Enclosures include: Picture of Black SUV, picture of No Trespass sign, HCPD report and phone number of Lamar Sawyer.

With Kind Regards,

A handwritten signature in cursive script that reads "CB Hunt".

CB Hunt



C: P49 T2719
Cindy B. Hunt
195 Willow Green Dr. Unit D
Conway SC 29526-9382

Two legacies. One future. Introducing Truist.



Dear Cindy B. Hunt,

Great news! BB&T and SunTrust have joined forces to become Truist, a company built on strong values and dedicated to delivering what you want from a financial institution. With our shared purpose and mission-driven cultures, Truist represents the best in banking and even more ways to grow your financial confidence.

For now, you don't need to do a thing, just keep banking and doing business with us as usual. It will take some time to merge our operating systems. Until then, we'll continue to serve you as BB&T, with the same great products and services delivered by the same BB&T associates you know and trust.

We've also got some exciting changes ahead, including one that will add more convenience to your life today. **Your BB&T Debit or ATM Card can now be used at any SunTrust ATM to make cash withdrawals, with no ATM fees!**

And more to come:

- ▣ Enhanced digital innovations for an even better banking experience.
- ▣ More convenience and more branches to choose from.
- ▣ Increased community-focused support and involvement.

Watch for more communications as we keep you informed every step of the way. **To ensure you don't miss any important messages, please log on to your account at BBT.com or through the U by BB&T® app and update your email and mail address as well as your phone numbers.**

We're working hard behind the scenes to ensure a smooth transition. Please take a few moments to read the information on the back, and the enclosed brochure, which may answer many of your questions. If you still have questions, please contact your local BB&T financial center or customer service center at **800-724-4278**, 6 a.m. to midnight, ET, seven days a week. You can also visit **BBT.com/Truist**.

We greatly appreciate your business and look forward to serving all your financial needs as Truist.

Sincerely,

Kelly S. King
Chairman and Chief Executive Officer
Truist Financial Corporation

*Former Chairman and Chief Executive Officer
BB&T Corporation*

William H. Rogers, Jr.
President and Chief Operating Officer
Truist Financial Corporation

*Former Chairman and Chief Executive Officer
SunTrust Banks, Inc.*



3036625

Keeping you informed

Our goal is to keep you fully informed as BB&T and SunTrust move forward as Truist. In the coming months, you will receive additional information regarding how any changes will impact you. For now, please read the following information concerning your accounts.

As you are aware, Branch Banking and Trust Company ("BB&T") merged with SunTrust Bank ("SunTrust") and the combined bank is now known as Truist Bank ("Truist"). Although now Truist, we will continue to operate under the BB&T name for some period of time until our operating systems convert to Truist systems. While we continue to operate under the BB&T name, you will receive correspondence, statements and notices from BB&T regarding your BB&T accounts.

AMENDMENT TO DOCUMENTS

Effective on the date of the merger, any agreement, disclosure, form or instrument naming BB&T as a party, constitutes a valid and binding obligation with Truist even though the documents reference BB&T as the party in interest. The documents shall be read with Truist in place of BB&T.

The terms and conditions of any agreement, disclosure, form or instrument shall remain in effect unless modified or amended in accordance with any such provision contained therein.

IMPORTANT NOTICE REGARDING FDIC INSURANCE

Your deposits at Truist will continue to be insured by the FDIC up to the maximum amount allowed by law. Any deposits you held separately at BB&T and SunTrust prior to the date of the merger will continue to be insured separately for a period of six months from the merger date. Any deposit made to an account you open on or after the date of the merger at BB&T is a Truist deposit for FDIC insurance purposes.

Certificates of Deposit (CDs) are insured separately for six months from the merger date or until maturity, whichever is later. In addition, if you have a CD that is renewed for the same term and amount during this six-month transition period, the CD will continue to be insured separately until the next renewal date.

After the six-month transition period, your deposits at the former BB&T and the former SunTrust will be added together for the purpose of determining the amount of your FDIC coverage at Truist. Your total deposits at Truist that are in the same ownership rights and capacity will be insured up to \$250,000.00. If you have more than \$250,000.00 in total deposits at the combined banks, you may call the FDIC directly at **877-275-3342** for more information about how your funds may be insured at Truist.

CONSUMER PRIVACY

Your privacy is important at Truist and we are committed to maintaining and protecting your personal information. After the merger date, accounts opened at BB&T will continue to be governed by the BB&T privacy policy up to the date of conversion of the operating systems to Truist. You will still be able to manage your privacy choices to fit your particular needs. We will keep you informed as to any changes to the privacy policy that may occur upon conversion to Truist.

FRAUD PROTECTION

Protecting your information and identity is our priority. BB&T will never send unsolicited emails, phone calls or texts asking you to provide, update or verify your personal or account information, such as passwords, Social Security numbers, personal identification numbers (PINs), credit or debit card numbers. If you receive an email that appears to be from BB&T (or Truist) and requests confidential personal information, ignore the message and report it to us at InternetFraud@BBandT.com. Discover what you can do to avoid scams with the help of our cyber security checklist and tips on BBT.com/Security.

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM HORRY COUNTY

Court of Common Pleas

Cynthia Graham Howe, Master-in-Equity Judge

Appellate Case No.: 2016-001550

Branch Banking and Trust CompanyRespondent

v.

Cindy B. Hunt; Willow Greens

Homeowners Association, Inc.;

CJ Developers, LLC.....Defendant(s),

Of Whom Cindy B. Hunt isAppellant

Affidavit of Attorney Fees and Costs

RECEIVED

JAN 02 2020

SC Court of Appeals

Cindy B. Hunt, Pro Se, SC Bar # 65408.

195 D Willow Green Drive
Conway, SC 29526
843 488-1131

Counsel of Record: Sean Foerster
Rogers Townsend & Thomas, PC
PO Box 100200
Columbia, SC 29202

Affidavit of Attorney Fees and Costs

PERSONALLY APPEARED BEFORE ME, Cindy B. Hunt, who after being duly sworn and deposed, states as follows:

1. The matters contained herein are based upon my personal knowledge.
2. I am an attorney licensed in the State of South Carolina. SC Bar # 65408.

Attorney Fees and Costs:

For lawsuit #s 1-3

see exhibit # 46 at pp. 1577-1586

Costs:	\$3405.00
Attorney Fees to Attorneys Valtorta and Ballard:	\$8000.00
Attorney Fees to Hunt:	\$ 2, 665,500.00.

For lawsuit # 4, appeal and Petition:

Transcripts:	\$ 3898.35
Printing:	\$ 2321.40
Mailing:	\$ 527.82
Filing Fees:	<u>\$ 1050.00</u>
Lawsuit #4 Costs:	\$ 7,797.57

Lawsuit #4 Attorney Fees: 1, 525,000.00

Research and Drafting
And compiling 8/14/2017

Appellant Brief for Appeal: \$ 924, 000.00

Petition for Rehearing of December 18, 2019 Opinion
of the South Carolina Court of Appeal:
Researching, Drafting and compiling
12/31/2019

Motion / Petition for Rehearing: \$50, 050.00

Total Lawsuit #4 Attorney Fees: \$2,499,050.00

Attorney Fees For lawsuits # 1-4:

\$8,000.00
\$2, 665,500.00
\$2, 499,050.00
\$ 5, 172,550.00

Costs in lawsuits # 1-4:

\$3,405.00
\$7,797.57
\$11,202.57

Lawsuit #4:

Reviewing and researching the Affidavits of Non Service; and drafting the 7/30/2013 **Objection to Affidavit of Non Service with exhibits; and**

Researching and drafting
Motion for Injunction; and

Reviewing and researching the Foreclosure Complaint; and drafting the 8/2/2013 **Answer, Counterclaims with exhibits; and**

Reviewing and researching the Foreclosure Complaint; and drafting the 8/2/2013 **motion for summary judgment; and**

Researching and drafting 8/12/2013
Motion for Injunction Quash re Order of Publication; and

Researching and drafting 8/13/2013
Waiver of Service of Process; and

Researching and drafting 8/21/2013
Motion to alter or amend; and

Researching and drafting 8/21/2013
Motion For Restraining Order; and

Researching and drafting 9/9/2013
Motion to alter or amend; and

Researching and drafting 9/9/2013
Motion for Default Judgment; and

Researching and drafting 9/19/2013
**Response/Motion to Dismiss/Motion to Strike
with exhibits; and**

Researching and drafting 10/17/2013
Motion/Strike at pp. 1812-1813; and

Researching and drafting 10/17/2013
**Response to Proposed Motion for Order of
Reference; and**

Researching and drafting 10/22/2013
Motion Contempt / Strike; and

Researching and drafting 10/22/2013
Motion for Production of Note; and

Researching and drafting 11/15/2013
**Motion to Alter or Amend the Order of
Reference; and**

Researching and drafting 12/02/2013

**Response to Motion for
Scheduling Order; and**

Researching and drafting 12/23/2013

**Response to Notice of Hearing on Motion for
Scheduling Order; and**

Researching and drafting 1/2/2014

**Supplement to Response re
Scheduling Order; and**

Researching and drafting 1/3/2014

Motion for Default Judgment; and

Researching and drafting 1/7/2014

Motion for Continuance;

Drafting 1/27/2014

Notice of 2/6/2014; and

Preparing and attending

2/17/2014 Scheduling Order

Hearing; and

Drafting

Notice for 4/21/2014 Hearing; and

Drafting 5/20/2014
Notice of Hearing; and

Brief dated 10/16/2014 from 5/20/2014
Hearing at pp. 1119-1178:

Drafting 5/19/2014
Affidavit at pp. 1835-1838; and

Researching and drafting 6/6/2014
Motion for Sanctions; and

Researching and drafting 6/6/2014
Amended Counterclaims at pp. 299-338; and

Researching and drafting 7/15/2014
Affidavits of Default at pp. 433-492; and

Certificate of Service 7/15/2014
at pp. 539-544; and

Drafting on 8/6/2014 the 9/17/2014
Notice of Sanctions Hearing; and

Researching and drafting 9/17/2014 Brief on
motion for sanctions – 36 pages; and
Researching and drafting 9/30/2014
Motion for EOD / Default at pp. 533-538;

Drafting Certificate of Service 9/30/2014
at pp. 539-544; and

Drafting and mailing 9/30/2014
Notice of 10/14/2014
Hearing at pp. 545-546;

Brief dated 10/16/2014 from 10/14/2014
Hearing at pp. 1179-1224; and

Researching and drafting 10/30/2014
Motion to alter or amend at 1073-1086; and

Researching and drafting 11/10/2014
Notice of Removal at pp. 1110-1118;

Researching and drafting 12/22/2014
Response to Motion to Remand
at pp. 1847-1870;

Researching and drafting 5/27/2015
Motion under
SCRCP 41 at pp. 1087-1094;

Drafting 7/27/2015 letter to HC Clerk of Court
at pp. 1887-1891; and

Researching and drafting 8/11/2015
Motion at pp. 1095-1100; and

Researching and drafting 8/11/2015
Motion at pp. 1101-1106; and

Drafting 8/27/2015 Email to BBT / Judge
at pp. 1885-1886; and

Drafting 11/9/2015 Affidavit
at pp. 1897-1898; and

Drafting Notice of 11/10/2015
Hearing; and

Transcript of 11/10/2015
Hearing at 959-1072; and

Brief from 11/10/2015
**Hearing at pp. 1224-1270
and exhibits; and**

Drafting 2/26/2016 Email to BBT / Judge
at pp. 1929-1931; and

Drafting 6/17/2016 Email to BBT / Judge
at pp. 1906-1928.

Lawsuit #4 attorney fees: 1, 525,000.

August 14, 2017 Appeal

Drafting 7/25/2016

Notice of Appeal; and

Drafting 10/4/2016

Motion for Extension of Time; and

Research and Drafting 12/19/2016

Appellant Brief for Appeal; and

Research and Drafting 12/19/2016

Designation of Matter For the Record on Appeal; and

Drafting 2/15/2017

Motion for Extension of Time; and

Research and Drafting 3/28/2017

Appellant Amended Initial Brief; and

Drafting 6/7/2017

Motion for Less than 15 Copies; and

Research, Drafting and Compiling 8/14/2017

Appellant Brief for Appeal: \$ 924, 000.00

Petition for Rehearing of December 18, 2019
Opinion of the South Carolina Court of Appeal:
Research and Drafting 12/30/2019
Motion / Petition for Rehearing: \$ 50, 050.00

Cindy B. Hunt

Signature: Cindy B. Hunt

Sworn to and subscribed before me this

31st Day of December 2019

Christina J. Ropp
Notary Public State of South Carolina

My Commission expires 5-6-2029



CERTIFICATE OF SERVICE BY MAIL
Appellate Case No. 2016-001550

Certification: I hereby certify that the MOTION / PETITION FOR REHEARING complies with Rule 240, SCACR.

Proof of Service: I hereby certify that I have served the MOTION / PETITION FOR of the Appellant on December 31, 2019, by depositing a copy in the United States Mail, postage pre-paid, addressed to the following:

Documents Served: MOTION / PETITION FOR REHEARING with the following attachments:

- 1) Letter from BBT re recent merger;
- 2) Letter to SLED; and
- 3) Affidavit of Attorney fees and costs for lawsuit #s 1-4 and this appeal; Certification; and Proof of Service.

MAILED TO:

SC Court of Appeals
Jenny Abbott Kitchings, Clerk
1220 Senate Street
Columbia, SC 29201

Sean Foerster
Rogers Townsend & Thomas, PC
PO Box 100200
Columbia, SC 29202

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JAN 02 2020

SC Court of Appeals

Thank You,

CB Hunt

Cindy B. Hunt, Pro Se, SC Bar # 65408.
195 D Willow Green Drive
Conway, SC 29526
843 488-1131

Express

FedEx carbon-neutral envelope shipping

From: C B Hunt
195 D Willow Green Dr
Conway, SC 29526

ORIGIN ID: MYRA (843) 488-1131
CINDY HUNT
195 WILLOW GREEN DR UNIT D
CONWAY, SC 29526
UNITED STATES US

SHIP DATE: 31DEC19
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CAD: 6991066/SSF02021

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SC COURT OF APPEALS
1220 SENATE ST

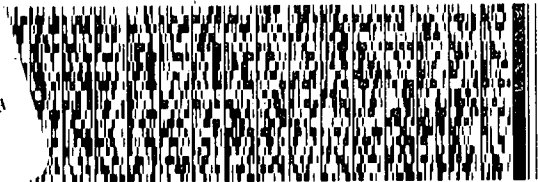
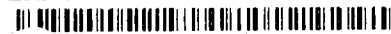
COLUMBIA SC 29201

(803) 734-1890

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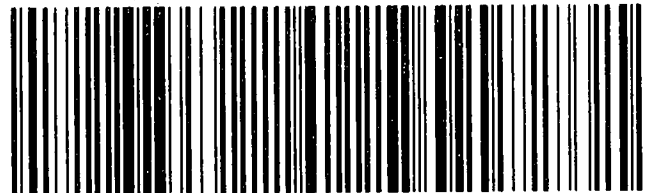
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Clerk of Court
1220 Senate Street
Columbia, SC
29201

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Part # 156297453/193022 42P 09/20