

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

The Honorable Benjamin C.P. Sapp
Jasper County

Case No. 2015-CP-27-00524
Appellate Case No. 2017-002286

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SC Court of Appeals

Deutsche Bank National Trust Company,
As Trustee for GSAA Home Equity Trust
2006-17, Asset-Backed Certificates, Series 2006-17,

Respondent,

v.

Louise-Legare Gardner; South Carolina National Bank, N.A.,

Defendants,

Of Whom Louise Legare-Gardner is

Appellant.

BRIEF OF RESPONDENT

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JURISDICTIONAL STATEMENT

Appellee disagrees with Appellant that this Court has jurisdiction over this appeal. Pursuant to South Carolina Rule of Appellate Practice 203(b) and as further stated below, Appellant's failure to timely appeal the April 25, 2016 Special Referee's Order and Judgment of Foreclosure and Sale that is actually being challenged by Appellant on appeal divests this Court of subject matter jurisdiction and warrants dismissal. *See USAA Property & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791 (S.C. 2008).

STATEMENT OF THE ISSUES

1. Whether Defendant-Appellant's appeal is time-barred and subject to dismissal under South Carolina Rule of Appellate Practice 203(b), because she never appealed the April 2016 Special Referee's Order and Judgment of Foreclosure and Sale that is actually being appealed, and this Court is thereby divested of subject matter jurisdiction?

2. Whether the trial court properly recognized Defendant-Appellant's improper attempt to re-litigate and belatedly attack the never-appealed April 2016 Special Referee's Order and Judgment of Foreclosure and Sale, and its order allowing the foreclosure sale to be re-set should thereby be affirmed on appeal?

3. Whether the trial court's Order Denying Defendant's Objection to Hearing Schedule and Request for Trial Scheduling Order/Motion to Set and Certificate of Readiness For Trial and Order Granting Plaintiff's Request to Re-Set Property for Foreclosure Sale should be affirmed, because Defendant-Appellant failed to state any specific error by the presiding judge or make any mention of this order in her argument to this Court?

STATEMENT OF THE CASE

A. Appellant's Default and the Trial Court's Entry of the Order Permitting Foreclosure.

On or about July 24, 2006, Defendant-Appellant Louise Legare-Gardner ("Gardner") executed an Adjustable Rate Note ("Note") in favor of Quicken Loans, Inc. in the amount of \$188,000. (R. p. Supp 001, ¶ 4, lines 1–4). The Note had an interest rate of 6.375%, and was secured by a mortgage ("Mortgage") on the Property located at 1471 South Okatie Highway, Hardeeville, South Carolina 29927. (R. p. Supp 001, ¶ 4, line 3–p. Supp 002, ¶ 5, line 25). The Mortgage was recorded on August 1, 2006 in Book 452 at Page 231, in the Jasper County Registry. (R. p. Supp 002, ¶ 6, lines 1–2). The Note and Mortgage were thereafter both transferred to Plaintiff-Appellee/Respondent Deutsche Bank National Trust Company, as Trustee for GSAA Home Equity Trust 2006-17, Asset-Backed Certificates, Series 2006-17 ("Deutsche Bank"), with the assignment of Mortgage to Deutsche Bank recorded on February 6, 2012 in Book 822 at Page 122 of the Jasper County Registry. (R. p. Supp 002, ¶ 7, lines 1–3).

Deutsche Bank initiated this foreclosure action against Gardner and OneWest Bank, National Association s/b/m to IndyMac Bank, F.S.B. ("OneWest") on December 7, 2015. (R. pp. Supp 001–Supp 005). A Lis Pendens was also filed by Deutsche Bank that same day. (R. p. Supp 008, ¶ 1, line 1). The Complaint alleged that Gardner had been in default for failing to make the February 1, 2010 and subsequent payments, and that Deutsche Bank was in possession of the Note and entitled to enforce the Note and Mortgage. (R. p. Supp 002, ¶ 7, line 1–¶ 8, line 2; R. p. Supp 003, ¶ 11, lines 1–4; R. p. Supp 003, ¶ 15, line 1–p. Supp 004, line 8). Deutsche Bank also filed an Affidavit Non-Military, Notice of Right to Foreclosure Intervention, and a letter to Gardner confirming that a notice of rights was mailed to her on November 12, 2015.

Gardner was properly served with the Complaint on January 20, 2016, and an Affidavit of Service was filed with the Jasper County Clerk of Court.¹ In response to the Complaint, Gardner filed documents entitled “Notice About Citizenship,” “Affidavit of Facts Concerning American Citizens” and “Response to Complaint” on February 16, 2016.

On February 24, 2016, the case was transferred to the Honorable Benjamin C.P. Sapp as Special Referee by an Order of Reference. The Order of Reference permitted Special Referee Sapp “to take testimony arising under the pleadings and to make his findings of fact and conclusions of law and with authority to enter final judgment in the case. *An appeal from the final judgment so entered shall be made directly to the Supreme Court of South Carolina.*” (R. p. Supp 025–Supp 026 (emphasis added)).

Deutsche Bank thereafter filed a Rule 12(f) Motion to Strike Gardner’s responsive pleading(s). Following proper notice to Gardner, a trial was held before Judge Sapp on April 1, 2016 (“Trial”), whereby Deutsche Bank presented evidence as to its ability to foreclose on the Property following Gardner’s alleged default. At the Trial, Deutsche Bank offered the Record of Hearing for Foreclosure Case, which was attested to by William P. Stork, and included the original Note and a copy of the original mortgage encumbering the Property, and Mr. Stork’s sworn testimony as to the satisfaction of all South Carolina statutory and administrative requirements necessary to foreclose, Gardner’s ongoing default of the Note, and the total amount of indebtedness arising from this default. (R. pp. Supp 026–Supp 030).

¹ Co-defendant OneWest was named as a party because it might have an interest in the Subject Property. (R. p. Supp 004, ¶ 16, lines 1–12). OneWest was later declared in default for failing to answer the Complaint.

On April 25, 2016, Judge Sapp entered an Order entitled “Special Referee’s Order and Judgment of Foreclosure and Sale” (“2016 Foreclosure Judgment”), which provides in pertinent part that:

- Garder was notified of the time, date, and location of the Trial (R. p. Supp 009, ¶ 7, line 1);
- Gardner executed the Note and provided the Mortgage on the property as security for her payment obligations under the Note (R. p. Supp 009, ¶ 8, line 1–¶ 10, line 1);
- The Mortgage was assigned to Deutsche Bank (R. p. Supp 009, ¶ 11, lines 1–3);
- Gardner failed to comply with her payment obligations under the Note and Deutsche Bank (as holder of the Note) accelerated the entire indebtedness (R. p. Supp 010, ¶ 15, lines 1–3);
- The total debt secured by the Note and Mortgage is \$256,627 (R. p. Supp 010, ¶ 16, line 21);
- Deutsche Bank expressly waived the right to a personal or deficiency judgment pursuant to Rule 71(b), SCRCF (R. p. Supp 011, ¶ 17, lines 1–3);
- That Deutsche Bank “should have judgment of foreclosure of its Mortgage; and the Property should be ordered sold at public auction after due advertisement” (R. p. Supp 011, ¶ 1, lines 1–2);
- “There is due to [Deutsche Bank] on its Note and Mortgage the sum of \$256,627.00, representing the Total Debt due to [Deutsche Bank] as outlined above, together with interest thereon at the rate provided in the Note to the date hereof.” (R. p. Supp 011, ¶ 2, lines 1–3).

The 2016 Foreclosure Judgment was served on Gardner on July 13, 2016. **Gardner has never appealed the 2016 Foreclosure Judgment.**

B. Gardner's Attempted Removal of the Case to Federal Court and Chapter 13 Bankruptcy Following Her Failure to Appeal the 2016 Foreclosure Judgment.

Following entry of the 2016 Foreclosure Judgment, Gardner filed a Notice of Removal on June 1, 2016, seeking to remove this case to the Federal District Court for the District of South Carolina (Case No. 9:16-cv-01777-CWH). This case was remanded back to the state court on February 1, 2017 by order of the federal district court.

Following remand, Deutsche Bank filed a Notice of Sale on April 4, 2017, re-setting the sale date of the Property for May 9, 2017. In response, Gardner on April 21, 2017 filed 1) a Judicial Notice of Disclaiming Trusteeship and Affidavit in Support, 2) a response to the summons and Complaint filed in 2016, and 3) a number of other documents described by the trial court as “nonsensical.”

On May 5, 2017 (four days before the scheduled foreclosure sale), Gardner filed for Chapter 13 bankruptcy protection with the District of South Carolina (Case No. 17-02306-jw) and the sale of the Property was stayed by order of the bankruptcy court on June 5, 2017. Gardner's bankruptcy proceeding was later dismissed on June 9, 2017 (34 days after she filed for bankruptcy protection), and this case was restored in the state trial court on July 10, 2017.

C. The September 5, 2017 Hearing and Judge Sapp's Order Re-Setting the Foreclosure Sale.

Following the dismissal of her bankruptcy proceeding, Deutsche Bank petitioned the trial court for a supplemental hearing to re-set the Property sale date for November 7, 2017. Gardner in turn filed an affidavit and motion on September 1, 2017 objecting to Deutsche Bank's request for a supplemental hearing to re-set the trial date. In these filings, she also requested a new trial scheduling order.

A hearing (“Hearing”) was held before Judge Sapp on the parties’ motions on September 5, 2017. At the Hearing, Judge Sapp inquired as to the specific relief being sought by Gardner, and he read aloud Gardner’s affidavit, which stated her purported frustration with the scheduling of the Hearing and she “wonder[ed] how the attorneys have no problem getting hearings and are given special treatment while I’m denied access to the court like some kind of dog.” (R. p. 33, line 4–p. 36, line 19). Gardner then objected to the “proceedings today” because she believed that the Hearing was “very untimely.” (R. p. 36, line 24–p. 37, line 3). Gardner elaborated on the basis of her motion:

This is a contested foreclosure, and the Plaintiff has never proven anything and no evidence has been taken in the case ever. I was denied discovery, any evidentiary hearing and a trial, and no witness testified to the allegations in the complaint. Filing a piece of paper copy with, you know, with words on it is not evidence. There is no cross -- there was no cross-examination, no witnesses. So, what I request is my trial scheduling order. That’s what I’m here for today”

(R. p. 38, lines 9–19).

Gardner further claimed that a “money transaction” took place between her and Deutsche Bank in 2016. (R. p. 39, line 17–p. 40, line 5). When pressed further by Judge Sapp on the details and relevance of this purported transaction to the issues before the court, Gardner refused to elaborate, stating that “this will all be in the trial” and “I can -- I will not discuss it now. This will be discussed in the trial.” (R. p. 40, lines 6–8). Finally, Gardner stated that she was “tricked” into the Trial in 2016, because it “was at the last minute, but there was never a fair trial. There was never any evidence. When you bring a copy of a mortgage, that’s a copy, that’s not evidence.” (R. p. 40, lines 10–25).

In response, Deutsche Bank’s counsel noted that Gardner never appealed the 2016 Foreclosure Judgment, and instead attempted to remove the case to federal court and then filed

Chapter 13 bankruptcy after the case was remanded. (R. p. 41, lines 4–10). She also reiterated that the only issue before the court at the Hearing was resetting the Property sale date, and further noted “there can’t be a trial when we’ve already had a trial [in April 2016].” (R. p. 41, lines 11–22). Judge Sapp then asked both parties to prepare orders detailing the specific relief being sought. (R. p. 42, lines 3–10).

On September 27, 2017, Judge Sapp entered an Order Denying Defendant’s Objection to Hearing Schedule and Request for Trial Scheduling Order/Motion to Set and Certificate of Readiness For Trial and Order Granting Plaintiff’s Request to Re-Set Property for Foreclosure Sale (“Order Resetting Property Sale”). (R. p. 22–24). Judge Sapp stated in the order that “[a]ll findings of fact, conclusions of law, orders and judgments contained in the [2016 Foreclosure Judgment] remain binding and in full force and effect” and that “[a]s [the 2016 Foreclosure Judgment], has already been granted, the Defendant’s Motions are not timely and are thus rendered moot.” (R. p. 23, ¶ 18, lines 1–3). He also ruled both that Deutsche Bank “has a valid judgment of foreclosure of its mortgage; and the mortgaged property should be ordered sold at public auction after due advertisement, and that [Deutsche Bank] may proceed to the November 7, 2017 foreclosure sale [of the Property] or any sale thereafter.” (R. p. 24, ¶ 1, line 1–¶ 3, line 1). The Order Resetting Property Sale was served on Gardner on October 3, 2017. (R. p. 28).

On or about November 3, 2017, Gardner filed a Lis Pendens in the Jasper County Court of Common Pleas (Case No. 2017-LP-27-063), which states in pertinent part:

Notice is hereby given, that a collateral attack suit on the Summary Judgment involving case number **2015 CP 27-00524 case title named Deutsche Bank National Trust Company, as TRUSTEE for GSAA HOME EQUITY TRUST 2006-17, Asset-Backed Certificates, Series 2006-17 v. Louise Legare Gardner.**

This suit will be or has been filed as a result of lack of subject matter jurisdiction due to the fact that there were no competent witnesses, only statements and briefs from Plaintiff's counsel....

(R. p. Supp 022 (emphasis in original)).

D. Gardner's Notice of Appeal and Initial Brief to This Court.

Gardner filed and served a Notice of Appeal to this Court on November 2, 2017. (R. p. Supp 019–021). In her Notice of Appeal she stated that the “Court never acquired jurisdiction because the exhibits conflicted with the allegations in the original complaint. Appellant will file an initial brief explaining.” (R. p. Supp 020 (emphasis in original)).

On November 21, 2017, this Court issued a deficiency notice advising Gardner that her notice of appeal was not “accompanied by the order(s) and/or judgment(s) challenged on appeal” and “must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed.” Gardner filed a copy of the Order Re-Setting Sale *fifteen (15)* days later on December 6, 2017.

Gardner served her Appellant's Initial Brief on January 25, 2018. Gardner's Initial Brief does not identify the issues before this Court on Appeal, and she states the following in the first three paragraphs of the summary of argument and arguments section of her Brief regarding the basis for her appeal:

- “This case involves a contested foreclosure in which the appellee obtained judgment without a trial and the appellant was unfairly denied a trial. The court should have held a trial in this case as it was contested and the appellee was unfairly allowed a judgment without proving any of its allegations. The appellant was unfairly denied her day in court. The court completely disregard [sic] existing law in denying the motion.”
- “This case involves a contested foreclosure in which the appellee obtained judgment without a trial and appellant's request for trial was unfairly denied. Refusing to hold a trial was not proper as there were genuine issues of material fact in dispute and the appellee was not entitled to judgment as a matter of law.”

- “The allegations in the pleadings conflicted with the exhibits for the reason that the exhibits demonstrated a completely different set of facts that [sic] those alleged in the complaint. The exhibits demonstrated that the plaintiff was not the lender and had no interest in the claims alleged, or in the title to the appellant’s property, for which the foreclosure was sought to obtain.”
- “The appellee never produced one word of evidence and no witness to authenticate any documentary evidence or make any statements that would be considered evidentiary. The appellee failed to meet its burden of proof and the pleadings failed to invoke the jurisdiction of the court.”

(Gardner Initial Brief, pp. 8-9). The remainder of Gardner’s Initial Brief cites to general South Carolina case law on various topics including contracts, guaranties, accounts stated, and summary judgment. Gardner notably makes no reference to the specific facts of the case in her Initial Brief, nor does she state any basis for claiming that Judge Sapp erred either at the Trial or Hearing.

SUMMARY OF THE ARGUMENT

This appeal is just the latest attempt by Gardner to delay resolution of this case and interfere with Deutsche Bank's legal right to sell the Property following her undisputed default under the Note and entry of the 2016 Foreclosure Judgment. Gardner's appeal is improper for a number of reasons.

First, Gardner challenges only the findings of the 2016 Foreclosure Judgment in her Initial Brief, but she never appealed this order that was entered nearly two years ago. As a result of her failure to appeal the 2016 Foreclosure Judgment, this Court is divested of subject matter jurisdiction under SCACR Rule 203(b), and Gardner's appeal must be dismissed.

Second (and irrespective of the fatal jurisdictional deficiencies on appeal), the trial court should be affirmed because Gardner is improperly seeking to re-open and belatedly attack the issues previously decided by Judge Sapp in the 2016 Foreclosure Judgment by appealing the Order Resetting Property Sale. However, Gardner's argument fails because Judge Sapp's findings in the 2016 Foreclosure Judgment became the "law of the case" following Gardner's failure to appeal that order and are no longer subject to appellate review.

Finally, Gardner notably makes no mention of the order purportedly being appealed -- the Order Resetting Property Sale -- anywhere in the argument of her Initial Brief. As a result, Gardner has waived her right to appellate review of this order under long-established South Carolina law.

ARGUMENT

I. Gardner's Failure to Appeal the 2016 Foreclosure Judgment Divests This Court of Subject Matter Jurisdiction and Requires Dismissal of Her Appeal.

“Rule 203(b), SCACR, requires a party to serve [her] notice of appeal within thirty days after receiving written entry of a final order or judgment, and failure to do so divests this court of subject matter jurisdiction and results in dismissal of the appeal.” *USAA Property & Cas. Ins. Co. v. Clegg*, 377 S.C. 643, 651, 661 S.E.2d 791, 795 (S.C. 2008) (quoting *Canal Ins. Co. v. Caldwell*, 338 S.C. 1, 4, 524 S.E.2d 416, 418 (S.C. Ct. App. 1999)). “The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *Id.* (quoting *Elam v. S.C. Dep’t of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (S.C. 2004)).

By her own admissions both at the Hearing and in her Initial Brief to this Court, Gardner is erroneously attempting to re-litigate *only* the issues and claims previously resolved at the April 2016 Trial and memorialized in the 2016 Foreclosure Judgment:

- “This is a contested foreclosure, and the Plaintiff has never proven anything and no evidence has been taken in the case ever. I was denied discovery, any evidentiary hearing and a trial, and no witness testified to the allegations in the complaint. Filing a piece of paper copy with, you know, with words on it is not evidence. There is no cross -- there was no cross-examination, no witnesses. So, what I request is my trial scheduling order. That’s what I’m here for today”. (R. p. 38, lines 9–19).
- “This case involves a contested foreclosure in which the appellee obtained judgment without a trial and appellant’s request for trial was unfairly denied. Refusing to hold a trial was not proper as there were genuine issues of material fact in dispute and the appellee was not entitled to judgment as a matter of law.” (Gardner Initial Brief, p. 1).
- “The allegations in the pleadings conflicted with the exhibits for the reason that the exhibits demonstrated a completely different set of facts that [sic] those alleged in the complaint. The exhibits demonstrated that the plaintiff was not the lender and had no interest in the claims alleged, or in the title to

the appellant's property, for which the foreclosure was sought to obtain.” (Gardner Initial Brief, p. 1).

- “The appellee never produced one word of evidence and no witness to authenticate any documentary evidence or make any statements that would be considered evidentiary. The appellee failed to meet its burden of proof and the pleadings failed to invoke the jurisdiction of the court.” (Gardner Initial Brief, p. 1).

But Gardner *never* appealed the 2016 Foreclosure Judgment, and instead improperly embarked on a (now 20 months and counting) odyssey of repeatedly stalling Deutsche Bank's legal right to sell the Property at every turn. First, she attempted to remove the case to federal court nearly five months after being served with the Complaint and 37 days *after* entry of the 2016 Foreclosure Judgment.² Then (following remand), she sought to enjoin the scheduled May 9, 2017 sale date by filing for Chapter 13 bankruptcy on May 4, 2017 -- a proceeding that lasted 34 days before being dismissed due to her failure to file the required documentation.

In short, Gardner has attempted every mechanism possible to forestall Deutsche Bank's sale of the Property, except for actually filing the notice of appeal necessary to pursue appellate review of the 2016 Foreclosure Judgment. As such, Gardner's appeal cannot now be “rescued” by the filing of a frivolous motion (that she makes no mention of in her Initial Brief) and a notice of appeal 19 months after entry of the 2016 Foreclosure Judgment. For these reasons, Gardner's appeal should be dismissed.

II. The Trial Court's Rejection of Gardner's Impermissible and Belated Attack on the 2016 Foreclosure Judgment Should Be Affirmed.

Even if Gardner's appeal is not dismissed by this Court due to the lack of subject matter jurisdiction (and for the reasons stated above it certainly should be), the only order actually being

² Gardner's filing of her removal action was obviously long after the 30 day deadline required to timely file a notice of removal following service of the Complaint as required by 28 U.S.C § 1446(b)(1).

appealed -- the Order Resetting Property Sale -- should still be affirmed, because Judge Sapp correctly recognized that Gardner was simply attempting to re-litigate the 2016 Foreclosure Judgment by requesting a new trial in opposition to Deutsche Bank's attempt to re-set the Property sale date.

Gardner's attempt to circumvent Judge Sapp's prior rulings in the 2016 Foreclosure Judgment is barred by the long-established "law of the case" doctrine. Under this doctrine, Gardner's undisputed failure to appeal the 2016 Foreclosure Judgment means she "may not seek relief from [this] prior unappealed order of the circuit court because the order has become the law of the case." *Judy v. Martin*, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (S.C. 2009) ("Under the law of the case doctrine, a party is precluded from relitigating, after an appeal, matters that were either not raised on appeal, but should have been, or raised on appeal, but expressly rejected by the appellate court."); *see also Buckner v. Preferred Mut. Ins. Co.*, 255 S.C. 159, 160-61, 177 S.E.2d 544 (S.C. 1970) (holding that an unappealed ruling, whether right or wrong, is the law of the case).

Accordingly the "unappealed [2016 Foreclosure Judgment and Judge Sapp's findings therein as to Deutsche Bank's ability to foreclose] is the law of the case and requires affirmance" of Judge Sapp's Order Resetting Property Sale. *Transportation Ins. Co. & Flagstar Corp. v. South Carolina Second Injury Fund*, 389 S.C. 422, 431, 699 S.E.2d 687, 691 (S.C. 2010) (citing *Charleston Lumber Co., Inc. v. Miller Housing Corp.*, 338 S.C. 171, 175, 525 S.E.2d 869, 871 (S.C. 2000)).

Moreover, it appears Gardner's September 1, 2017 motions request that Judge Sapp order a new trial following the Trial and entry of the 2016 Foreclosure Judgment. However, as she failed to make such a request within ten (10) days of receipt of the 2016 Foreclosure Judgment, Gardner (as with her failure to appeal) is now time-barred from requesting a new trial under either Rules

29(a) or 59(b) of the South Carolina Rules of Civil Procedure. Nor does she assert there is any newly discovered evidence that would support a new trial under Rule 29(b), which would similarly be time-barred due to her failure to file such motion within one year of receipt of the 2016 Foreclosure Judgment.

For these reasons, Judge Sapp correctly denied Gardner's baseless, improper, and untimely motions, and the Order Resetting Property Sale is thereby due to be affirmed.

III. Gardner's Initial Brief States No Error By the Trial Court as to the Order Resetting Property Sale, and She Has Thereby Waived Any Challenge To This Order on Appeal.

As noted above, Gardner filed a notice of appeal to this Court of the Order Resetting Property Sale. However, Gardner tellingly makes no reference to any error by Judge Sapp's ruling with respect to the Order Resetting Property Sale *anywhere* in her Initial Brief.

As a result, any issue Gardner asserts with respect to this order is now deemed abandoned and cannot be considered further on appeal. *See Holly Woods Ass'n of Residence Owners v. Hiller*, 392 S.C. 172, 190 708 S.E.2d 787, 797 (S.C. Ct. App. 2011) ("An issue is deemed abandoned and will not be considered on appeal if the argument is raised in a brief but not supported by authority."); *First Sav. Bank v. Mclean*, 314 S.C. 361, 363, 444, S.E.2d 513, 514 (S.C. 1994) (finding appellant abandoned issue when he failed to provide argument or supporting authority); *Shealy v. Doe*, 370 S.C. 194, 205-206, 634 S.E.2d 45, 51 (S.C. Ct. App. 2006) (refusing to address issue on appeal when appellant failed to cite supporting authority and only made conclusory arguments).

Here, Gardner did not even *mention* the Order Resetting Property Sale in the argument section of her Initial Brief, much less provide any supporting factual basis or legal authority supporting any error by Judge Sapp. The only argument she provides is a rambling and irrelevant recitation of general South Carolina case law addressing various topics including contracts,

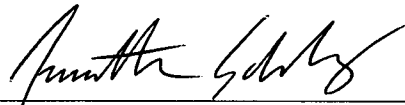
guaranties, accounts stated, and summary judgment that have no bearing on the issues on appeal and Judge Sapp's ruling. This is because there was no error by the trial court and this appeal is being used only as an improper mechanism to forestall Deutsche Bank's legal right to sell the Property.

Regardless, Gardner has abandoned any appellate challenge to the Order Resetting Property Sale under well-established South Carolina law, and the trial court's judgment should be affirmed.

CONCLUSION

For these reasons, Gardner's appeal should be dismissed due to lack of subject matter jurisdiction, and the trial court's Order Denying Defendant's Objection to Hearing Schedule and Request for Trial Scheduling Order/Motion to Set and Certificate of Readiness For Trial and Order Granting Plaintiff's Request to Re-Set Property for Foreclosure Sale is due to be affirmed.

This 19th day of July, 2018.



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2006-17, Asset-Backed Certificates, Series 2006-17*

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Court of Common Pleas

The Honorable Benjamin C.P. Sapp
Jasper County

Case No. 2015-CP-27-00524
Appellate Case No. 2017-002286

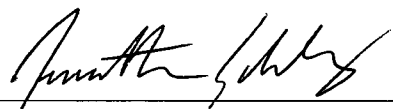
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2006-17, Asset-Backed Certificates, Series 2006-17, Respondent,
v.
Louise-Legare Gardner; South Carolina National Bank, N.A., Defendants,
Of Whom Louise Legare-Gardner is Appellant.

RULE 211(b) CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing Brief of Respondent complies with SCACR 211(b) because it is identical to Respondent's previously filed Initial Brief of Respondent except for references to the record and correction of typographical errors and misspellings.

This the 19th day of July, 2018.



Jonathan Schulz (SC Bar No. 79850)