

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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**May 29 2020**

APPEAL FROM MARION COUNTY  
COURT OF COMMON PLEAS

**SC Court of Appeals**

Case No. 2020-000139  
APPELLATE CASE NO. 2020-00139

Ex Parte Beauliah Belin and James Belin, Appellants,

In re Wilmington Savings Fund Society, FSB, as trustee of  
Stanwich Mortgage Loan Trust A, Plaintiff,

v.

Bertha Dunham a/k/a Bertha E. Dunham; and Ernest L. Dunham,  
Defendant(s)

of which Wilmington Savings Fund Society, FSB, as trustee of Stanwich  
Mortgage Loan Trust A is the Respondent.

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**REPLY TO RESPONDENT'S MOTION TO DISMISS APPEAL**

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May 26, 2020

Paul B. Ferrara, III  
S.C. Bar No. 70511  
8887 Old University Blvd. Ste.200  
North Charleston, SC 29406  
(843) 569-5511  
Attorney for Appellants

In reply to Respondent's Motion to Dismiss Appeal, Beaulah Belin and James Belin, by and through their attorney, Paul B. Ferrara, III hereby would respectfully this Court to take notice of the following: Rule 210 (h) requires that an issue must have been properly raised and ruled upon in the lower court. Here, the Special Referee heard the arguments of counsel, in support of their motion to intervene, that Mr. and Mrs. Belin had an adverse interest in the subject property and made findings of fact in his order. Specifically, on page 7 of the Special Referee's order, he found that as a matter of fact that the Belin's claimed interest of adverse possession was immaterial but went further to make factual findings. His Order stated "According to their own Motion, their mobile home was not placed on the subject property until June 2006." The point in the Petitioner's appeal is that Petitioner did have a legal interest in the property being foreclosed which provided a legal basis to intervene. The exact year that Petitioner's placed their mobile home on the subject property did not appear to be in dispute given that the Order found that Petitioner placing a mobile home on the property did not entitle Petitioner a basis to intervene. Nonetheless, Petitioner's seeks permission of this Court to change 1988 to 2006 in the statement of facts and remove the "retail Installment contract dated 7/16/1988" as it was not presented to the lower court. However, the issue of a claimed adverse possessory interest, at least as of June 2006 was raised and ruled upon. As such, the fact that the Belin's claimed an adverse possessory interest should not be stricken. This fact is the basis of Petitioner's motion to intervene and was clearly raised and ruled upon.

Further, the motion to dismiss should be denied as it was not a knowing violation. Petitioner's assert that the inclusion of the 1988 Retail installment agreement was not a knowing failure to follow the Appellate Court Rules but rather submitted in an effort to support the public policy/fairness argument. While it is clear that this contract was not presented below, this Court may still consider matters not raised below based upon judicial economy and public policy/fairness. See Bell v. Prog. Direct Ins. Co., 407 S.C. 565, 582 n.9, (2014); Jeter v. S.C Dept. of Transp., 369 S.C. 433, 441, n.6 (2006). The evidence of ownership of the mobile home, located on the subject property since 1988, is germane to the public policy arguments set forth by Petitioner's in their brief.

WHEREFORE, Petitioners respectfully pray that this Honorable Court enter an Order allowing Petitioner twenty (20) days to file an amended initial brief of Appellant and amended designation of matter to be included on appeal with the corrected matters as stated above.

Respectfully Submitted,  
**FERRARA LAW FIRM, PLLC**



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Attorney for Petitioners

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**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM MARION COUNTY  
COURT OF COMMON PLEAS

Honorable W. Haigh Porter, Special Referee

CASE NO. 2018-CP-33-00653  
APPELLATE CASE NO. 2020-000139

Ex Parte Beullah Belin and James Belin, Appellants,  
In re Wilmington Savings Fund Society, FSB, as trustee of Stanwich Mortgage Loan Trust A,  
Plaintiff,


v.

Bertha Dunham a/k/a Bertha E. Dunham and Ernest L. Dunham, Defendant(s) of which  
Wilmington Savings Fund Society, FSB, as trustee of Stanwich Mortgage Loan  
Trust A are the Respondents.

**PROOF OF SERVICE**

I, the undersigned counsel, hereby certify that I have served the Reply to Motion to Dismiss by depositing a copy of the same in the United States Mail, postage prepaid, on May 26, 2020, addressed to their attorney of record, Peter Balthazor, Esquire, Riley, Pope and Laney, P.O. Box 11412, Columbia, SC 29211.

Respectfully submitted this 26th day of May, 2020.



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Paul B. Ferrara, III\*  
Janel K. Ferrara\*

*\*(also Admitted in N.C.)*

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**SC Court of Appeals**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Ex Parte Beullah and James Belin (Wilmington Savings Fund  
Society v. Bertha Dunham)  
Appellate Case No.: 2020-000139  
Our File No.: 19-561

Dear Ms. Kitchings:

Please find the original and a copy of the Reply to Respondent's Motion to Dismiss Appeal, along with proof of service regarding the same.

Please file the original and return a clocked copy to our office in the self-addressed, stamped envelope which is enclosed.

Sincerely,

FERRARA LAW FIRM, PLLC



Paul B. Ferrara, III

Enclosures

cc: Peter M. Balthazor  
Attorney for Respondents

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**SC Court of Appeals**

**FAX COVER SHEET**

TO	V. Claire Allen
COMPANY	South Carolina Court of Appeals
FAX NUMBER	18037341839
FROM	Paul Ferrara
DATE	2020-05-29 19:06:36 GMT
RE	2020-000139

**COVER MESSAGE**

Please see the attached