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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

Perry H. Gravely, Circuit Court Judge
Robin B. Stilwell, Circuit Court Judge

RECEIVED

Jun 24 2020

SC Court of Appeals

Case No. 2019-001565

Wells Fargo Bank, N. A. Plaintiff – Respondent

v.

Michelle Hodges, Individually and as Personal Representative
of the Estate of Ruth Ladson Witherspoon; Stanley Witherspoon;
SC Housing Corp.; and Twin Creeks Homeowners Association,
Inc. Defendants,

Of Whom Michelle Hodges, in her Individual capacity,
is the Appellant.

**NOTICE AND MOTION TO AMEND
INITIAL BRIEF AND ATTACH NOTICE OF DESIGNATION**

Michelle Hodges, Pro Se Appellant
6 Young Harris DR
Simpsonville, SC 29681
864-714-5263
Certified mail to: PO Box 95
Mauldin, SC 29662

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South Carolina Rule 15 and Statute 15-15-920 under arguments under Judge Stilwells' Order

The preliminary order typed on 7/24/19

*Joytime Distribs. & Amusement Co. v. State, 338 S.C. 634, 639, 528 S.E.2d 647, 649(1999).
Concerning the issue of standing under paragraph A of this document*

*Dawkings v. Fields, 345 S.C. 23, 545 S.E.2d 15(Ct. App.2001) under Arugents concerning
Discovery*

The record from the circuit from the notice of appeal down to the 6th amended answer.

Harper v. Ethrige 290 S.C. 112 (1986) 348 S.E.2d 374 referenced for breach of contract
mentioned on page 7 of this document.

STATEMENT OF ISSUES ON APPEAL

1. Did the Trial Court err in not allowing me to amend my 6th amended answer?
2. Did the Trial Court err in awarding Summary Judgment, when it knew that Discovery Admissions were outstanding?



3. Did the Trial Court err in its jurisdictional analysis?
4. Did the Trial Court err in not recognizing the Plaintiff proceeded with the Note only?
5. Did the Trial Court err in not finding for fraud upon the court?
6. Did the Trial Court err in awarding Summary Judgment, as the Plaintiff did not put forth any evidence that I defaulted on the loan?
7. Did the Trial Court err in referring this case to the Master in equity

STATEMENT OF THE CASE

I preserved all causes of action and defenses in my motion to alter or amend dated 8/16/2019
STANDARD OF REIVEW

De novo, since the court determined that there was not issue of a material fact

FACTS

See statement of the case above

ARGUMENTS

Concerning Judge Stilwells' Order dated 4/26/19

CONCERNING AMENDING ANSWER

Pursuant to Rule 15 while it is the court's discretion to allow amendments, it is to be freely given so long as it does not prejudice the other party. And SC Code 15-13-920 broadens the court's power to allow amendments to conform the pleadings to the evidence to prevent late stage amendments and to provide extensions to the nonmoving party. There was no prejudice to the Plaintiff, as discovery had not been completed, no trial date had been set and the Plaintiff had opportunity to respond.

Concerning Judge Gravely's Order dated 8/7/19

CONCERNIGN THE ISSUE OF DISCOVERY

A) Summary Judgment is not proper when discovery is not complete see *Dawkings v.*

Fields, 345 S.C. 23, 545 S.E.2d 15(Ct. App.2001) and the Court granted summary judgment

when it knew that and Discovery had not been completed per the Order typed up on 7/24/19 by the Plaintiff's Attorney's office.

C CONCERNING THE ISSUE OF JURISDICTION

A) The Plaintiff proceeded on the Note (and not the mortgage) in its motion for

Summary Judgment and this represents a Creditor's claim. And in my Affidavit in opposition to summary judgment I stated that the Plaintiff failed to timely file a creditor's claim and provided case law *re Estate of Tollison, 320, S.C. 132, 135, 463 S.E. 2d 611, 613 (Ct. App. 1995) and the most recent decision reversing summary judgment by the Supreme Court in Gurnham v. Beach First national bank appellant case #2012-20747..*

B) In Gurnham the court stated that a creditors claim refers to the entire debt (Note) and or a Deficiency judgment. Under the Trial Court's analysis 1) subject matter jurisdiction it simply states that "a secured creditor is not required to file a claim against the probate estate if it is solely seeking to foreclose the mortgage and is not attempting to hold the estate liable for the deficiency. And as I stated above that the Plaintiff proceeded with Note as evidence and not the mortgage. I realized that I made a mistake in stating "On information and belief" and I am correcting this by requesting to vacate the Oder 8/7/2019 and 8/22/19 under rule 60. The Plaintiff's Attorney's office typed up all of the orders, which does not feel like justice.

However, it has been stated that "the Court of common pleas in the county where the property is located has subject matter jurisdiction; despite the Supreme Court's Order that I cited, whom reversed summary judgment for a creditor's claim.

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NOTICE OF DESIGNATION

Greenville County Clerk records
to include:

1. Initial Complaint
2. Certificate of Non Owner Occupancy
3. Sixth Amended Answer
4. All orders including final order
5. Wells Fargo Motion for Summary Judgment (all Exhibits only)
6. Wells Fargo Reply to Opposition to Motion for Summary Judgement
(All Exhibits only)
7. All order included with Notice of Appeal
8. 8/5/2019 Motion to alter of Amend and exhibit pages 3 - 10
9. 8/16/2019 Motion to alter of Amend
10. 3/5 amended answer exhibit page #49, 50 54, pages 72- 80 page 86 and 87

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REFERRAL TO THE MASTER IN EQUITY

A) There has not been a determination by Court if the Plaintiff has properly offered Intervention, in this court or when I applied for loss mitigation. This is does not seem like a fair situation or justice. The attorney is allowed to type up orders for the judge with obvious errors and allowed to just certify that state requirement have been met. What does the Court do? This affects my substantial right to a jury trial.

B) DISMISSAL OF ALL OF MY CLAIM,

When I attempted to amend my 6th amended answer, I included a short and plain statement without which the court lacks jurisdiction over my claims. Therefore my claims should not be dismissed.

UNCLEAN HANDS ASSERT IN 6TH AMENDED ANSWER

A) Was part of the courts sweeping dismissal of all claims and defenses. Unclean hands unclean hands is an issue of undisputed fact and on page 5 of 8/16/19 Motion to Alter amend, I called this to the court's attention on page 5.:

I have been aggrieved by all of the orders that I address in this brief, as deception, Fraud upon the court and the filing of sham documents have all occurred and I feel Defrauded. I have suffered loss of additional money and time spent on the case.

Respectfully submitted,

Michelle Hodges 6/24/2020
Michelle Hodges, Pro Se

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Simpsonville, SC 29681

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(6)

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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Case No. 2019-001565

Wells Fargo Bank, N. A. Plaintiff – Respondent

v.

Michelle Hodges, Individually et al..

CERTIFICATE OF SERVICE

NOTICE AND MOTION FOR LEAVE TO AMEND
INITIAL BRIEF

I hereby certify that a copy of the above mention document was sent via first-class mail, with property postage and served on the following parties:

S. Sterling Laney, III, Esquire
Womble Bond Dickinson
For Wells Fargo Bank, N.A.
550 South Main ST
Suite 400
Greenville, SC 29601

Bryant S. Caldwell, Associate
For Wells Fargo Bank, N. A.
1221 Main ST
Suite 1600
Columbia, SC 29201

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SC Court of Appeals

Note: All other parties defaulted and SC Help no longer has an interest in this case as they have filed a satisfaction of mortgage as of September 2019.

Michelle Hodges 6/23/2020

Michelle Hodges, Appellant
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②

original

MICHELLE HODGES
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June 23, 2020

Jenny Abbott Kitchings,
Clerk of Court, of South
Carolina Court of Appeals
1220 Senate ST
Columbia, SC 29201

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SC Court of Appeals

RE: Wells Fargo Bank, N.A. v. Michelle Hodges
Appellate - Case No. 2019-001565

Dear Ms. Kitchings:

In response to your letter dated 6/8/2020, the following documents are attached:

1. Notice and Motion for Leave to amend ~~Title Page~~ ^{Final Brief}, excluding comments
 2. Copy of corrected Title Page —
 3. ~~Copy of the original page 10 with signature removed~~ ^{Amended Brief}
 4. ~~Amended final page now numbered 11, adding comments removed for original title page, numbered page 11~~
 5. Certificate of service
- TOTAL NUMBER OF PAGES - 6

Sincerely,

Michelle Hodges, Appellant
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