

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals  
APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas  
Joseph F. Strickland, Master in Equity Court Judge

RECEIVED  
DEC 02 2020  
SC Court of Appeals

Appellate Case No. 2020-000069

U.S. Bank, National  
Association, as trustee for the  
Holders of the Banc of  
America Funding Corporation,  
2008-FTI,

Respondent,

V

Rhonda Lewis Meisner a/k/a  
Rhonda L. Meisner, Bank of  
America, N.A. and SCBT  
of whom Rhonda L. Meisner  
is the

Appellant.

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## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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June 28, 2019

The Honorable Jeanette W. McBride  
PO Box 2766  
Columbia SC 29202-2766

### REMITTITUR

Re: U.S. Bank, N.A. v. Rhonda Lewis Meisner(2)  
Lower Court Case No. 2014CP4002063  
Appellate Case No. 2016-001019

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

Enclosure

cc: Rhonda Lewis Meisner  
Magalie Arcure Creech, Esquire  
Jacob Shuler Barker, Esquire  
Trent M. Grissom, Esquire  
Robert A. Muckenfuss, Esquire  
Brian A. Calub, Esquire



\*\*\*\*\* IMPORTANT NOTICE - READ THIS INFORMATION \*\*\*\*\*

NOTICE OF ELECTRONIC FILING [NEF]

-

**A filing has been submitted to the court RE:** 2014CP4002063

**Official File Stamp:** 07-03-2019 10:47:32 AM

**Court:** CIRCUIT COURT

Common Pleas

Richland

**Case Caption:** U S Bank N A , plaintiff, et al vs Rhonda Lewis Meisner , defendant, et al

**Document(s) Submitted:** Remittitur From Court Of Appeals  
Supreme Court Order writ of certiorari is DENIED  
SC Court of Appeals Order Appeal Dismissed

**Filed by or on behalf of:** Paul Gunter

This notice was automatically generated by the Court's auto-notification system.

-

**The following people were served electronically:**

Jacob Shuler Barker for Bank of America N A

Jonathan McKey Milling for SCBT

Edward L. Grimsley for SCBT

Teresa DeToma Van Vlakte for U S Bank N A

Magalie Arcure Creech for U S Bank N A et al

**The following people have not been served electronically by the Court. Therefore, they must be served by traditional means:**

Rhonda Lewis Meisner for Rhonda Lewis Meisner

Rhonda L Meisner

Rhonda Lewis Meisner for Rhonda Lewis Meisner

## Certificate of Electronic Notification

### Recipients

**Jacob Barker** - Notification transmitted on 07-03-2019 10:47:54 AM.  
**Teresa Van Vlakte** - Notification transmitted on 07-03-2019 10:47:53 AM.  
**Magalie Creech** - Notification transmitted on 07-03-2019 10:47:53 AM.  
**Jonathan Milling** - Notification transmitted on 07-03-2019 10:47:54 AM.  
**Edward Grimsley** - Notification transmitted on 07-03-2019 10:47:53 AM.

# The South Carolina Court of Appeals

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding Corporation,  
2008-FT1 Trust, Mortgage Pass-Through Certificates,  
Series 2008-FT1, Respondent,

v.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner; Bank  
of America, N.A.; and SCBT, Defendants,

Of whom Rhonda Lewis Meisner is the Appellant.

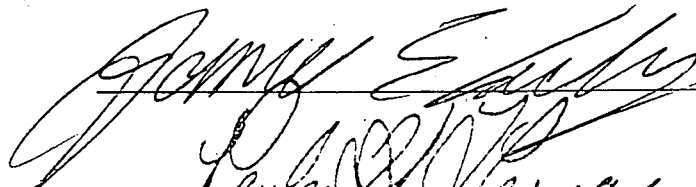
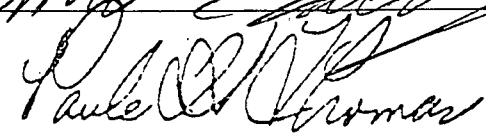
Appellate Case No. 2016-001019

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## ORDER

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

 C.J.  
 J.

---

 J.

Columbia, South Carolina

**FILED**

cc:

mailed 21, 2019

4

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

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

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding Corporation,  
2008-FT1 Trust, Mortgage Pass-Through Certificates,  
Series 2008-FT1, Respondent,

v.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner; Bank  
of America, N.A.; and SCBT, Defendants,

Of whom Rhonda Lewis Meisner is the Appellant.

Appellate Case No. 2016-001019

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Appeal From Richland County  
DeAndrea G. Benjamin, Circuit Court Judge

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Unpublished Opinion No. 2019-UP-066  
Submitted January 1, 2019 – Filed February 13, 2019

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**APPEAL DISMISSED**

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Rhonda Lewis Meisner, of Blythewood, pro se.

Magalie Arcure Creech, of Finkel Law Firm LLC, and  
Jacob Shuler Barker, of Graybill, Lansche & Vinzani,  
LLC, both of Charleston; and Trent M. Grissom, of

McGuire Woods LLP, of Charlotte, North Carolina, all  
for Respondent.

**PER CURIAM:** Dismissed pursuant to Rule 220(b), SCACR, and the following authorities: *Hagood v. Sommerville*, 362 S.C. 191, 194, 607 S.E.2d 707, 708 (2005) ("The right of appeal arises from and is controlled by statutory law."); S.C. Code Ann. § 14-3-330(2) (2017) ("[Our s]upreme [c]ourt shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal: . . . [a]n order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action . . ."); *Flagstar Corp. v. Royal Surplus Lines*, 341 S.C. 68, 72, 533 S.E.2d 331, 333 (2000) ("Pursuant to [section] 14-3-330(2), this [c]ourt has held on numerous occasions that when a trial court's order deprives a party of a mode of trial to which it is entitled as a matter of right, such order is immediately appealable."); *Williford v. Downs*, 265 S.C. 319, 321, 218 S.E.2d 242, 243 (1975) ("Ordinarily the granting or refusal of an order of reference is not appealable unless the granting of the reference deprives a party of a mode of trial to which he is entitled by law . . ."); *id.* ("Hence, the issue before the [c]ourt is whether the appellant is entitled to a jury trial [a]s a matter of right. If she is not, the appeal should be dismissed."); *id.* ("The only issue [that] must be decided is whether the case at bar is a legal or equitable action. If it is equitable, the order of reference is not directly appealable."); *Hayne Fed. Credit Union v. Bailey*, 327 S.C. 242, 248, 489 S.E.2d 472, 475 (1997) ("A mortgage foreclosure is an action in equity."); *Wachovia Bank, Nat'l Ass'n v. Blackburn*, 407 S.C. 321, 328, 755 S.E.2d 437, 441 (2014) ("In equity the parties are not entitled, as a matter of right, to a trial by jury." (quoting *Williford*, 265 S.C. at 321, 218 S.E.2d at 243)); *id.* ("However, counterclaims—including those raised in equitable actions—may, at times, be entitled to a jury trial."); *id.* at 329, 755 S.E.2d at 441 ("If both the complaint and the counterclaim are in equity, the entire matter is triable by the court."); *id.* ("If both are at law, the issues are triable by a jury."); *id.* at 330, 755 S.E.2d at 441 ("If the complaint is equitable and the counterclaim is legal and permissive, the defendant waives his right to a jury trial."); *id.* at 330, 755 S.E.2d at 441-42 ("If the complaint is equitable and the counterclaim is legal and compulsory, the plaintiff or the defendant has a right to a jury trial on the counterclaim unless a valid jury trial waiver exists that encompasses the counterclaim."); *Blackburn*, 407 S.C. at 330 n.7, 755 S.E.2d at 442 n.7 ("We have previously adopted the 'logical relationship' test to determine whether a counterclaim is compulsory . . ."); *id.* ("Under this

test, 'the "logical relationship" determination is made by asking whether the counterclaim would affect the lender's right to enforce the note and foreclose the mortgage.'" (quoting *Wells Fargo Bank, Nat'l Ass'n v. Smith*, 398 S.C. 487, 496, 730 S.E.2d 328, 333 (Ct. App. 2012))); *id.* ("If the defendant's prevailing on his counterclaim would affect the bank's right to enforce the note and foreclose the mortgage, there is a logical relationship between the counterclaim and the underlying suit, and the counterclaim is therefore compulsory.").

**APPEAL DISMISSED.<sup>1</sup>**

**LOCKEMY, C.J., and THOMAS and GEATHERS, JJ., concur.**

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<sup>1</sup> We decide this case without oral argument pursuant to Rule 215, SCACR.

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# The South Carolina Court of Appeals

U.S. Bank, National Association, as Trustee for the  
Holders of The Banc of America Funding Corporation,  
2008-FT1 Trust, Mortgage Pass Through Certificates,  
Series 2008-FT1, Respondent,

v.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner; Bank  
of America, N.A.; and SCBT, Defendants,

Of whom Rhonda Lewis Meisner is the Appellant,

And Bank of America is also a Respondent.

Appellate Case No. 2014-002098

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## ORDER

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Appellant has filed a notice of appeal from the circuit court's order denying her motion to dismiss and the circuit court's order denying her motion to reconsider. Because orders denying a motion to dismiss are not immediately appealable, we dismiss this appeal. *See Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 93, 529 S.E.2d 11, 13 (2000) (stating the denial of a Rule 12(b), SCRCP, motion is not immediately appealable).

  
FOR THE COURT

Columbia, South Carolina

**FILED**

2014 JUN 11 11:22 AM  
RECEIVED  
C.C.A. CLERK

2015 JUN -3 AM 11:22

APPELLATE COURT

18

.F43801

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of The Banc of America  
Funding Corporation, 2008-FT1 Trust,  
Mortgage Pass-Through Certificates, Series  
2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A NO: 2014-CP-40-2063

**ORDER DENYING DEFENDANT MEISNER'S  
MOTION TO RECONSIDER**

**THIS MATTER** comes before the Court upon Motion to Alter or Amend the Judgment pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure filed by Defendant Rhonda Lewis Meisner (*"Pro Se Defendant"*). Specifically, *Pro Se Defendant* asks this Court to Reconsider its grant of Summary Judgment and resulting Order and Judgment of Foreclosure and Sale filed November 7, 2019.

After careful consideration of the record in this case and the submissions of the parties, the Court is unable to discover any material fact or principle of law that has been either overlooked or disregarded and further finds no error of law or facts not appropriately considered. Accordingly, this Court **DENIES** *Pro Se Defendant's* Motion under Rule 59(e) of the South Carolina Rules of Civil Procedure, to reconsider this Court's Order filed November 7, 2019.

**IT IS SO ORDERED!**

ELECTRONIC SIGNATURE FOLLOWS

\_\_\_\_\_  
Joseph M. Strickland  
Master in Equity for Richland County

Columbia, South Carolina

\_\_\_\_\_, 2019





Richland Common Pleas

**Case Caption:** U S Bank N A , plaintiff, et al vs Rhonda Lewis Meisner , defendant,  
et al  
**Case Number:** 2014CP4002063  
**Type:** Master/Order/Other

It is so Ordered

s/Joseph M. Strickland, 3055

Electronically signed on 2019-12-02 10:12:05 page 2 of 2

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of the Bank of America  
Funding Corporation, 2008-FT1 Trust  
Mortgage Pass Through Certificates, Series  
2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,  
DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A NO: 2014-CP-40-2063

**ORDER RESTORING CASE TO  
THE ACTIVE ROSTER**

(NON-JURY MORTGAGE FORECLOSURE)

This matter came before the Court on Motion of counsel for the Plaintiff seeking an order restoring the within action to the active docket, on the grounds that the action appears to have been inadvertently dismissed by order of the Court on September 12, 2017, without prejudice and with leave to restore, while stayed during the pendency of an appeal. Said appeal was dismissed on February 13, 2019, and Defendant Meisner/Appellant's Petition for Rehearing was denied on March 21, 2019. Therefore, it is

**ORDERED** that this case be restored to the active docket under the same civil action number as the original action without the necessity of an additional filing fee.

ELECTRONIC SIGNATURE TO FOLLOW



Richland Common Pleas

**Case Caption:** U S Bank N A , plaintiff, et al vs Rhonda Lewis Meisner , defendant,  
et al  
**Case Number:** 2014CP4002063  
**Type:** Order/Restore Case To Active Docket

So Ordered

Jocelyn Newman, Chief Judge for Administrative  
Purposes, Court of Common Pleas, 5th Judicial  
Circuit

Electronically signed on 2019-04-09 16:37:27 page 2 of 2

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

2014 CP 400 2063

JEANETTE W. MCBRIDE  
C.C.P. & G.S.

2017 SEP 12 PM 2:57

RICHLAND COUNTY  
FILED

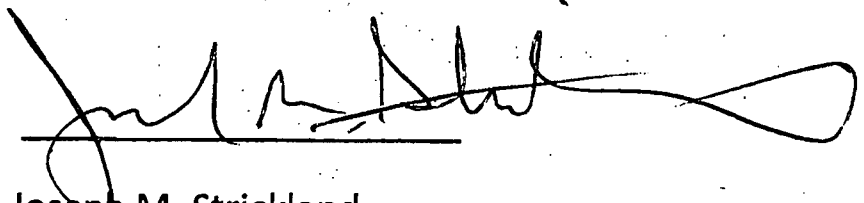
## Omnibus Order of Dismissal

### Without Prejudice

The court's transition to an electronic case management system inadvertently failed to provide a method of closing some cases. As a result, South Carolina Court Administration has notified this office of several thousand pending cases in Richland County. Court Administration records are not accurate, because of a computer glitch.

Thus, all cases reported as pending on the attached exhibit are hereby dismissed without prejudice.

IT IS SO ORDERED.



Joseph M. Strickland

Richland County Master-In- Equity

Date: August 15, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

**ORDER STRIKING DEFENDANT'S  
JURY TRIAL DEMAND  
AND FOR  
MANDATORY REFERENCE**

RICHLAND COUNTY  
FILED  
2016 APR 13 PM 2:33  
JANETTE M. MORRIS  
C.C.P. & G.S.

This matter came before the Honorable DeAndrea Gist Benjamin on Plaintiff's Motion for an Order striking Defendant's jury demand and referring this matter to the Honorable Joseph M. Strickland, Master in Equity for Richland County, pursuant to Rule 53(b), SCRPC. The Court conducted a hearing on the Motion on December 16, 2015. Based upon the parties' oral arguments and respective memoranda, this Court finds as follows:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The Defendant mortgagor Rhonda Lewis Meisner a/k/a Rhonda L. Meisner ("Defendant Meisner") filed an Amended Answer on August 10, 2015, which contains a demand for a jury trial. The Answer raises counterclaims for a declaratory judgment, breach of contract, breach of contract accompanied by fraudulent act, and abuse of process, in addition to affirmative defenses. Defendant Meisner's counterclaims for declaratory judgment, breach of contract, and breach of contract accompanied by fraudulent act are also asserted as crossclaims against Defendant Bank of America, N.A ("BANA"). Defendant Meisner further asserts crossclaims

against Defendant BANA for violation of S.C. Code 29-3-310, and against Defendant SCBT for slander of title.

In order to determine whether a counterclaim is compulsory in South Carolina, the courts use the "logical relationship" test. *N.C. Federal Savings and Loan Assoc. v. DAV Corp.*, 298 S.C. 514, 518, 381 S.E.2d 903, 905 (1989). "A counterclaim is compulsory only if a 'logical relationship' exists between the claim and counterclaim." *Advance International, Inc. v. NC National Bank of SC*, 316 S.C. 266, 269, 449 S.E.2d 580, 582 (1994). If a counterclaim arises out of the same transaction or occurrence as the opposing party's claim, it is compulsory. *DAV* at 517. In a foreclosure action, a counterclaim is compulsory when there is a "logical relationship" between the counterclaim and the enforceability of the Note and Mortgage. *Carolina First Bank v. BADD, LLC, et al.*, 2015 S.C. LEXIS 45, 7 (2015) (finding guarantor's claims for breach of contract and civil conspiracy did not arise from the same transaction or occurrence as execution of guaranty agreements because they did not affect the execution or enforceability of the guaranty agreements). The test of a "logical relationship" is whether the counterclaim would affect the lender's right to enforce the note and foreclose the mortgage. *Wells Fargo Bank, NA v. Michael Smith, et al.*, 398 S.C. 487, 493, 730 S.E.2d 328, 332 (2012).

The alleged factual basis for Defendant Meisner's counterclaims is that the Plaintiff's predecessor, BANA, erroneously ceased making monthly automatic payments on the loan. See Amended Ans. ¶134. This is the sole contention that gives rise to the counterclaims asserted against Plaintiff. However, even if Defendant's allegations are proven true, they do not have any impact upon the terms of the subject note and mortgage, her obligations thereunder, and their enforceability against Defendant. Specifically, Defendant Meisner's counterclaims for

*MB*

*3 15*

declaratory judgment<sup>1</sup>, breach of contract, breach of contract accompanied by fraudulent act, and abuse of process bear no logical relationship to either the execution of the note and mortgage or their enforceability. It is undisputed that Defendant Meisner signed the note and mortgage, and that the terms of the note and mortgage have not been modified. Instead, Defendant Meisner asserts claims based solely upon the prior servicer's alleged failure to continue drafting automatic monthly payments on the loan which, if proven, may at best entitle Defendant to an offset from the Plaintiff's total debt amount for her damages on these permissive claims. Accordingly, Defendant's counterclaims are permissive and she has waived her right to a jury trial by asserting them in Plaintiff's equitable foreclosure action.

It is further evidence of the permissive nature of Defendant's counterclaims for declaratory judgment, breach of contract, and breach of contract accompanied by fraudulent act that Defendant Meisner seeks to assert *identical crossclaims* against the other Defendants based upon the same facts, i.e., BANA's alleged failure to continue drafting monthly automatic payments on the loan. See DAV at 519 (cross-claims are permissive); Rule 13(g), SCR (party may assert cross-claim against co-party). These claims, whether asserted against Plaintiff and/or the other Defendants, would merely entitle Plaintiff to monetary damages. None of the proposed claims, if successful, would have any effect upon the enforceability of the note and mortgage.

By asserting said permissive claims in this foreclosure action, Defendant Meisner has waived the right to a jury trial. See *Wachovia Bank, National Association v. Blackburn*, No.

27359, 2014 WL 766311 at \*4 (February 26, 2014) (finding that where the complaint is equitable and the counterclaim is legal and permissive, the defendant waives his right to a jury

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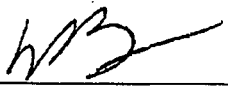
<sup>1</sup> Defendant Meisner's declaratory judgment claim also seeks a determination that she is entitled to assert appraisal rights; however, Plaintiff has waived a deficiency and appraisal rights are only applicable in actions where a deficiency is sought. See S.C. Code 29-3-680 ("In any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked... may within thirty days after the sale of the mortgaged property apply by verified petition to the clerk of court in which the decree or order of sale was taken for an order of appraisal.")

trial). Furthermore, affirmative defenses raised in response to an equitable cause of action are inherently equitable in nature, and not triable by a jury. *See Farley v. Matthews*, 186 S.C. 294, 167 S.E. 502 (1933). This being an action for foreclosure of a mortgage and, as such, an action in equity, it is an appropriate matter to be referred to the Master in Equity. *See Collier v. Green*, 244 S.C. 346, 137 S.E.2d 277 (1964).

It is, therefore, hereby

**ORDERED** that this case be referred to Honorable Joseph M. Strickland, Master in Equity for Richland County, who shall exercise all power and authority which a Circuit Judge sitting without a jury would have, including but not limited to, making findings of fact and conclusions of law; directing entry of final judgment; hearing any issues, including motions, after sale or judgment; issuing any and all orders, supplemental orders, and writs of assistance, and hearing any issues involving possession and/or removal of property and appraisal proceedings under Section 29-3-360, *et seq.* of the South Carolina Code, with any appeal from the final judgment being to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules. Any judicial sale of the property subject of this action may be held on a day other than the regular judicial sale day.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
The Honorable DeAndrea Gist Benjamin

Columbia, South Carolina

4-12, 2016



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
CASE NO.: 2014-CP-40-2063

U. S. Bank National Association, as )  
Trustee for the Holders of The Banc )  
Of America Funding Corporation )  
2008-FTI Trust, Mortgage Pass- )  
Through Certificated, Series 2008- FITI, )  
Plaintiff, )  
vs. )  
Rhonda Lewis Meisner a/k/a Rhonda )  
L. Meisner; Bank of America, N.A.; )  
And SCBT, )  
Defendant(s) )

ORDER TO VACATE  
ORDER  
STRIKING DEFENDANT'S  
JURY TRIAL  
DEMAND AND FOR  
MANDATORY REFERENCE

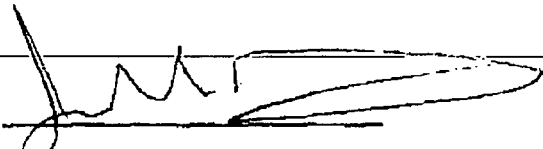
2015 JAN 12 PM 5:34  
FILED  
RICHLAND COUNTY  
CLERK OF COURT  
J. M. STRICKLAND

The matter before the court is the Plaintiff's motion for an order striking Defendant's jury demand and referring this matter the Honorable Joseph M. Strickland, Master in Equity for Richland County, pursuant to Rule 53(b), SCRCP. The order was inadvertently signed by the Clerk of Court on July 7, 2014 and filed in Richland County on July 24, 2014. The order should have been signed by a Circuit Court Judge.

Thus, the order signed by the Clerk of Court is hereby vacated and remanded to the Court of Common Pleas.

IT IS SO ORDERED.

Columbia, South Carolina  
January 12, 2015

  
Joseph M. Strickland,  
Richland County Master in Equity

18

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

ORDER STRIKING DEFENDANT'S  
JURY TRIAL DEMAND  
AND FOR  
MANDATORY REFERENCE

2014 JUL 24 AM 8:58  
FILED  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

RICHLAND COUNTY

This matter came before the Court on the Plaintiff's motion for an order striking Defendant's jury demand and referring this matter to the Honorable Joseph M. Strickland, Master in Equity for Richland County, pursuant to Rule 53(b), SCRPC.

The defendant mortgagor Rhonda Lewis Meisner a/k/a Rhonda L. Meisner ("Defendant") served an answer on May 15, 2013 which contains a demand for a jury trial. The answer raises counterclaims for breach of contract and a declaratory judgment that Defendant is entitled to statutory appraisal rights pursuant to S.C. Code 29-3-680, in addition to affirmative defenses.

As a threshold matter, the counterclaim for a declaratory judgment has no bearing on the lender's right to enforce the note and foreclose the mortgage and is not legal in nature. A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue. Felts v. Richland County, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991). While this counterclaim potentially may require the Court to construe the terms of the note and mortgage, it relates exclusively to the determination of Defendant's rights after the sale of the foreclosed premises under those same agreements and because the underlying action is a foreclosure which sounds in equity, this counterclaim necessarily flows from this same underlying issue. See Hardy v. Aiken, 369 S.C. 160, 631 S.E.2d 539 (2006) (holding that

6/19/14

underlying issue in declaratory judgment action to enforce restrictive covenants is equitable and not legal action to construe a contract). Moreover, this counterclaim is moot in that it prematurely seeks a declaration that Defendant is entitled to statutory appraisal rights pursuant to S.C. Code §29-3-680. Pursuant to that statute, a mortgagor defendant in a foreclosure action upon which a deficiency judgment is rendered may within thirty days after the sale of the mortgage property apply by petition to the Clerk of Court for an appraisal. See S.C. Code §29-3-680(a) ("In any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked, whether he has theretofore appeared in the action or not, may within thirty days *after the sale of the mortgaged property* apply by verified petition to the clerk of court in which the decree or order of sale was taken for an order of appraisal.")(emphasis added). The property that is the subject of this action has not been sold at foreclosure sale, and does not provide a basis for Defendant to request a jury trial.

The sole legal counterclaim raised in the Answer is for breach of contract, and the thrust of Defendant claims with regard to that cause of action is that the prior servicer and Plaintiff's predecessor in interest improperly applied escrow payments to the loan account. Defendant does not allege that the alleged misapplication is the reason for the default in monthly mortgage payment. In fact, the Answer does provide contain any allegation that the alleged conduct which Defendant contend gives rise to her counterclaim for breach of contract is related in any manner to the default in payments; since Plaintiff's foreclosure action is centered entirely on the obligations created by the note and mortgage and the Defendants' default thereunder, Defendants' legal counterclaim does not arise from the same transaction or occurrence as Plaintiff's foreclosure action and is necessarily permissive.

By asserting this permissive claim in the instant foreclosure action, Defendant has waived the right to a jury trial. See Wachovia Bank, National Association v. Blackburn, No. 27359, 2014 WL 766311 at \*4 (February 26, 2014) (finding that where the complaint is equitable and the counterclaim is legal and permissive, the defendant waives his right to a jury trial). Furthermore,

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affirmative defenses raised in response to an equitable cause of action are inherently equitable in nature, and not triable by a jury. See Farley v. Mathews, 186 S.C. 294, 167 S.E. 502 (1933). This being an action for foreclosure of a mortgage and, as such, an action in equity, it is an appropriate matter to be referred to the Master in Equity. See Collier v. Green, 244 S.C. 346, 137 S.E.2d 277 (1964).

It is, therefore, hereby

**ORDERED** that this case be referred to Honorable Joseph M. Strickland, Master in Equity for Richland County, who shall exercise all power and authority which a Circuit Judge sitting without a jury would have, including but not limited to, making findings of fact and conclusions of law; directing entry of final judgment; hearing any issues, including motions, after sale or judgment; issuing any and all orders, supplemental orders, and writs of assistance, and hearing any issues involving possession and/or removal of property and appraisal proceedings under Section 29-3-360, *et seq.* of the South Carolina Code, with any appeal from the final judgment being to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules. Any judicial sale of the property subject of this action may be held on a day other than the regular judicial sale day.

**IT IS SO ORDERED.**

  
Judge/Clerk of Court

Columbia, South Carolina

7-7, 2014

8211

## FORM 4

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS  
U S Bank N A

## JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP4002063

Rhonda Lewis Meisner

Banc of America Funding Corporation  
PLAINTIFF(S)

Rhonda L. Meisner  
DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for: ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

## DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other \_\_\_\_\_
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other \_\_\_\_\_
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: Motion to dismiss was denied. Formal order to follow.

## INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled |
|-------------------------------------------|---------------------------------------|--------------------------------|
|                                           |                                       | \$                             |
|                                           |                                       | \$                             |
|                                           |                                       | \$                             |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge WVJudge Code 2161Date 6/24/14

## For Clerk of Court Office Use Only

This judgment was entered on the 27 day of June, 20 14 and a copy mailed first class or placed in the appropriate attorney's box on this 27 day of June, 20 14 to attorneys of record or to parties (when appearing pro se) as follows:

Teresa DeToma Van Vlakte  
ATTORNEY(S) FOR THE PLAINTIFF(S)

Rhonda Lewis Meisner  
ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter Debbie McCurdyClerk of Court Jeanette W. McAnide

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

**ORDER DENYING DEFENDANT'S  
MOTION TO DISMISS**

RICHLAND COUNTY  
FILED  
2014 JUN 27 PM 1:59  
JEANNETTE W. MCERIDE  
C.C.P. & G.S.

**THIS MATTER** came before the Court upon the filing of Defendant Rhonda Lewis Meisner a/k/a Rhonda L. Meisner's Motion to Dismiss ("Motion") pursuant to Rule 12(b)(8), SCRPC. A hearing was held on June 10, 2014, and attended by counsel for the Plaintiff and the Defendant, *pro se*. Based upon the arguments and the memoranda submitted by the parties, I find, conclude and order that Defendant's Motion is denied based upon the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Plaintiff brings the instant action for foreclosure of real property located in Richland County, pursuant to S.C. Code 15-7-10(3). The Lis Pendens, Summons, Complaint, and Notice Foreclosure Intervention were filed on March 31, 2014.
2. On April 25, 2014, Plaintiff filed a Certification of Exemption from S.C. Supreme Court Administrative Order 2011-05-02-01, on the grounds the real property that is the subject of this foreclosure is not an "owner-occupied dwelling" as defined in the Administrative Order.
3. Defendant filed a Motion to Dismiss on May 6, 2014, asserting Rules 12(b)(8) and (9), SCRPC<sup>1</sup> as the stated grounds therefor. On or about May 15, 2014, Defendant served an Answer and Counterclaim on the Plaintiff.

<sup>1</sup> The Court notes that the South Carolina Rules of Civil Procedure do not contain a Rule 12(b)(9). Therefore this order only addresses the motion as it pertains to Rule 12(b)(8), SCRPC.

4. Plaintiff possesses a first lien, purchase money mortgage on the subject property given by Defendant Meisner to Bank of America N.A., its successors or assigns, dated August 13, 2003, and recorded in the Richland County Register of Deeds Office on August 18, 2003 in Book 838 at Page 2632, in the amount of \$61,516.00.

5. By virtue of an Assignment of Mortgage dated April 3, 2013 and recorded May 2, 2014 in Book 1943 at Page 1234, South Carolina Bank and Trust, NA assigned the subject mortgage to U.S. Bank, National Association, as trustee for the Holders of The Banc of America Funding Corporation, 2008-FT1 Trust, Mortgage Pass-Through Certificates, Series 2008-FT1, the present lienholder and Plaintiff herein.

6. Defendant South Carolina Bank & Trust ("SCBT") is named as a party to this action by virtue of a mortgage given by Defendant Meisner to South Carolina Bank and Trust, NA, dated November 27, 2007, and recorded December 18, 2007, in Book 1384 at Page 3706, in the amount of \$50,000.00. The interest of this Defendant, if any, is junior and subordinate to Plaintiff's purchase money mortgage.

7. The Motion alleges that Plaintiff's predecessor in interest, Bank of America N.A. failed to answer a separate action commenced by Defendant SCBT to foreclose its second mortgage lien on the property that is the subject of this action. For this reason, Defendant seeks a dismissal of Plaintiff's foreclosure action pursuant to Rule 12(b)(8).

#### CONCLUSIONS OF LAW

8. In South Carolina, dismissal under Rule 12(b)(8) may be proper when there is (1) another action pending, (2) between the same parties, (3) for the same claim. See Rule 12(b)(8), SCRPC.

9. South Carolina narrowly interprets Rule 12(b)(8), such that the claim must be precisely or substantially the same in both proceedings in order for the drastic remedy of dismissal to be appropriate under this Rule. See Capital City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 674 S.E.2d 524; quoting Beatty v. Liberty Mut. Ins. Group, 893 N.E.2d 1079, 1084 (Ind. App. Ct. 2008) (applying 12(b)(8) dismissal "where the parties, subject matter, and remedies are precisely the same, and it also applies when they are only substantially the same.")

10-24

10. Plaintiff holds a first lien, purchase money mortgage on the subject property. See Compl. ¶ 9. The foreclosure of SCBT's second lien would have no effect upon the validity or existence of Plaintiff's lien, and therefore Plaintiff is not a necessary party to the SCBT foreclosure. In fact, Plaintiff's predecessor in interest was voluntarily dismissed as a party to that action on April 24, 2014. As a result, Plaintiff's failure to respond to the SCBT foreclosure action is simply not basis for dismissal of this action under Rule 12(b)(8).

11. Defendant's default under the terms of the note and mortgage assigned to Plaintiff is entirely unrelated to her performance under the terms of the Defendant's loan agreement with SCBT.

12. Because the loan agreements between Plaintiff and Defendant, and SCBT and Defendant are wholly independent and distinct from one another, Plaintiff's Motion is denied.

**IT IS THEREFORE ORDERED THAT** Defendant's Motion to Dismiss pursuant to Rule 12(b)(8), SCRPC is denied.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
The Honorable DeAndrea G. Benjamin

Columbia, South Carolina

Date: 6-27-14



STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND  
IN THE COURT OF COMMON PLEAS

## JUDGMENT IN A CIVIL CASE

CASE NUMBER: 2014CP402063

U.S. Bank, National Association, as trustee for the  
Holders of the Bank of America Funding Corp.

Rhonda Lewis Meisner

2008-FT1 Trust, Mortgage Pass through  
Certificates Series 2008 FT1

A.K.A Rhonda L. Meisner; Bank of America, N.A. and SCBT

PLAINTIFF(S)

DEFENDANT(S)

Submitted by: \_\_\_\_\_

Attorney for : ☐ Plaintiff ☐ Defendant or ☐ Self-Represented Litigant

## DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Pl. Consent);  
☐ Rule 43(k), SCRPC (Settled); ☐ Other \_\_\_\_\_
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other \_\_\_\_\_
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk :

Motion for Reconsideration has been denied. The court did not receive a copy of the motion as required under rule 59(g), SCRPC.

## INFORMATION FOR THE PUBLIC INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

| Judgment in Favor of (List name(s) below) | Judgment Against (List name(s) below) | Judgment Amount To be Enrolled |
|-------------------------------------------|---------------------------------------|--------------------------------|
|                                           |                                       | \$                             |
|                                           |                                       | \$                             |
|                                           |                                       | \$                             |

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. Note: Title abstractors and researchers should refer to the official court order for judgment details.

Circuit Court Judge

Judge Code 2161

Date

9-5-14

## For Clerk of Court Office Use Only

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and a copy mailed first class or placed in the appropriate attorney's box on this 10 day of Sept, 2014 to attorneys of record or to parties (when appearing pro se) as follows:

Maggie A. Arcure

ATTORNEY(S) FOR THE PLAINTIFF(S)

Rhonda Meisner Prose

ATTORNEY(S) FOR THE DEFENDANT(S)

Court Reporter

Clerk of Court

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.F43801

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of The Banc of America  
Funding Corporation, 2008-FT1 Trust,  
Mortgage Pass-Through Certificates, Series  
2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A NO: 2014-CP-40-2063

**ORDER AND JUDGMENT OF  
FORECLOSURE AND SALE  
(DEFICIENCY WAIVED)**

TO: Magalie A. Creech  
FINKEL LAW FIRM LLC  
*Attorneys for the Plaintiff*

ANSWERING DEFENDANTS  
Edward L. Grimsley, Esquire  
*Attorney for Defendant SCBT*

Jacob S. Barker, Esquire  
*Attorney for Defendant Bank of  
America, N.A.*

Rhonda L. Meisner  
*Defendant Pro Se*

**THIS MATTER** having been opened to the Court upon the filing of the Motion for Summary Judgment by U.S. Bank, National Association, as trustee for the Holders of The Banc of America Funding Corporation, 2008-FT1 Trust, Mortgage Pass-Through Certificates, Series 2008-FT1 for the foreclosure of a residential mortgage on property owned by Rhonda Lewis Meisner; the Court having considered the facts and law cited in the Motion, Plaintiff's Affidavit in Support of Summary Judgment together with the supporting exhibits annexed thereto; the Court having conducted a hearing on the Motion on October 29, 2019 at which counsel for Plaintiff and Defendant Rhonda Lewis Meisner, *Pro Se*, were present; the Court having considered the oral argument of the parties; there being no material facts in dispute and good and sufficient cause having been shown.

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Pursuant to Rule 53 SCRPC, the above-entitled matter was referred. Any appeal from any order or judgment issued by the master or special referee shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules.

Pursuant to the said Order of Reference, a hearing was held. The testimony was taken, which is reported herewith. From the testimony and evidence, I find, conclude and order as follows:

### FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Based upon the Certification of Non-Owner Occupancy, the property is not owner occupied and provisions of the Administrative Order issued by the Chief Justice of the Supreme Court of South Carolina on May 2, 2011, Order 2011-05-02-01, do not apply to the within foreclosure action.
2. Pursuant to the Administrative Order of the Chief Justice, 2009-05-22-01, the loan that is subject of this action is not subject to modification under the Home Affordable Modification Program (HMP), because the program terminated on December 31, 2016 pursuant to Section 709(b) of the Consolidated Appropriation Act, P.L. 114-113.
3. The Lis Pendens was filed on March 31, 2014.
4. A Second Lis Pendens was filed on March 18, 2019.
5. The Summons and Complaint were filed on March 31, 2014.
6. Service was made upon the Defendants named in this Report as is shown by the proof of service filed herein.
7. All of the defendants herein and/or all attorneys of record were notified of the time, date and place of the hearing in this matter.
8. According to the Affidavit filed herein, the Defendant Rhonda L. Meisner is not in the Military Service of the United States of America, as contemplated under the Servicemembers Civil Relief Act (2003), and any amendments thereto.
9. Jacob S. Barker, Esquire, attorney for Defendant Bank of America, N.A. ("BANA"), served an Answer on Plaintiff which is on file herein. Defendant BANA admits that it has an interest in the subject property by virtue of that certain mortgage from Rhonda Lewis Meisner, dated September 19, 2005, and recorded September 23, 2005, in Book 1101 at Page 2609.
10. Edward L. Grimsley, Esquire, attorney for Defendant SCBT, served an Answer on the Plaintiff, which is on file herein. Defendant SCBT admits that it has an interest in the subject property by virtue of that certain mortgage from Rhonda Lewis Meisner, dated November 26, 2007, and recorded December 18, 2007, in Book 1384 at Page 3706. Defendant SCBT admits that it also has an interest in the subject property by virtue of a deficiency judgment against Rhonda Meisner, filed August 8, 2012, in case no. 2011-CP-40-6318, in the amount of \$34,165.22.

11. Rhonda L. Meisner, Defendant *Pro Se*, served an Answer and Counterclaim on the Plaintiff, which is on file herein. The Answer asserts counterclaims against Plaintiff for a declaratory judgment, breach of contract, breach of contract accompanied by fraudulent act, and abuse of process, in addition to affirmative defenses. *Pro Se* Defendant Meisner's counterclaims for declaratory judgment, breach of contract, and breach of contract accompanied by fraudulent act are also asserted as crossclaims against Defendant Bank of America, N.A ("BANA"). *Pro Se* Defendant Meisner further asserts crossclaims against Defendant BANA for violation of S.C. Code § 29-3-310, and against Defendant SCBT for slander of title.

12. Plaintiff filed a Motion for Summary Judgment on April 22, 2016, to which Defendant BANA filed a Notice of Joinder on May 5, 2016. Plaintiff refiled its Motion for Summary Judgment on April 15, 2019.

13. In the interim, *Pro Se* Defendant Meisner filed an appeal of the Order Striking her Jury Demand and for Mandatory Reference on May 12, 2016. The Court of Appeals dismissed the appeal by Order filed on February 13, 2019. *Pro Se* Defendant Meisner petitioned the Court of Appeals for a rehearing on February 28, 2019. The Court of Appeals denied the Petition for Rehearing on March 21, 2019. *Pro Se* Defendant Meisner then filed a Petition for Certiorari with the Supreme Court on April 20, 2019, which was denied by Order filed on June 28, 2019. On July 3, 2019, the Remittitur from the Court of the Appeals was filed.

14. First, the Court notes that it possesses jurisdiction to finally determine all matters in the case pursuant to the Order Striking Defendant's Jury Demand and for Mandatory Reference to which *Pro Se* Defendant Meisner filed an appeal. At hearing, *Pro Se* Defendant Meisner argued that this Court lacked subject matter jurisdiction to hear the Motion for Summary Judgment because it was filed before the remittitur from the Court of the Appeals was issued. This argument is without merit.

As a general rule, the service of a notice of appeal in a civil matter acts to automatically stay matters decided in the order, judgment, decree or decision on appeal, and to automatically stay the relief ordered in the appealed order, judgment, or decree or decision. This automatic stay continues in effect for the duration of the appeal unless lifted by order of the lower court, the administrative tribunal, appellate court, or judge or justice of the appellate court. The lower court or administrative tribunal retains jurisdiction over matters not affected by the appeal including the authority to enforce any matters not stayed by the appeal. Rule 241(a), SCACR.

"The jurisdiction of the circuit court to *hear* matters after issuance of the remittitur is well established. For instance, once the remittitur is issued from an appellate court, the circuit court acquires jurisdiction to enforce the judgment and take any action consistent with the appellate court's ruling." *Martin v. Paradise Cove Marina, Inc.*, 348 S.C. 379, 385, 559 S.E.2d 348, 351-52 (emphasis added); see

also *Muller v. Myrtle Beach Golf & Yacht Club*, 313 S.C. 412, 438 S.E.2d 248 (1993). In *Moore v. North American Van Lines*, 319 S.C. 446, 462 S.E.2d 275 (1995), the South Carolina Supreme Court held that despite the issuance of the remittitur and the fact that the case was not expressly “remanded” to the circuit court, the circuit court was still vested with jurisdiction to hear the appellant’s motion for restitution. *Moore*, 319 S.C. at 448, 462 S.E.2d at 276.

Here, the appealed Order Striking Defendant’s Jury Demand and for Mandatory Reference conferred this Court with “all power and authority which a Circuit Judge sitting without a jury would have, including but not limited to, making findings of fact and conclusion of law; directing entry of final judgment; [and] hearing any issues, including motions. . . .” The appeal was dismissed on February 13, 2019, and petitions for rehearing to the Court of Appeals and for certiorari to the Supreme Court were denied. The propriety of this forum to hear the case is made clear by both superior courts. It is irrelevant that Plaintiff refiled its Summary Judgment Motion between the time the appeal was dismissed and the remittitur was issued; the Motion was heard after the remittitur, and this Court has been vested with authority to dispose of all matters not affected by the appeal since the appealed Order was entered. The issue on appeal was whether *Pro Se* Defendant Meisner’s counterclaims were compulsory or permissive in nature and, concomitantly, whether she was entitled to a trial by jury. The authority cited by the Court of Appeals stands for the proposition that a party is only entitled to a jury trial in an equitable action if the counterclaim is logically related to the underlying suit. The dismissal of the Appeal establishes that *Pro Se* Defendant Meisner is not entitled to a jury trial.

15. “Once the moving party carries its initial burden, the opposing party must come forward with specific facts that show there is a genuine issue of fact remaining for trial.” *Sides v. Greenville Hosp. Sys.*, 362 S.C. 250, 255, 607 S.E.2d 362, 364 (Ct. App. 2004). “[A] ssertions as to liability must be more than mere bald allegations made by the non-moving party in order to create a genuine issue of material fact.” *Jackson v. Bermuda Sands, Inc.*, 383 S.C. 11, 17, 677 S.E.2d 612, 616 (Ct. App. 2009). “The evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.” *Fleming v. Rose*, 350 S.C. 488, 493-94, 567 S.E.2d 857, 860 (2002).

16. The Court has thoroughly considered the Affidavits submitted in support of the Motion and in opposition thereto, together with the discovery responses and deposition transcript of *Pro Se* Defendant Meisner in the record, and the arguments of the parties at hearing. In the light most favorable to *Pro Se* Defendant Meisner, this Court finds that there is no genuine issue of material fact in dispute and as such the matter is appropriate for disposition under Rule 56, SCRPC.

17. Specifically, there is no dispute that the monthly payments are in default as of July 12, 2013, and that *Pro Se* Defendant Meisner is required to make payments pursuant to the terms of the Note. Plaintiff is the holder of the original Note, which is endorsed in blank, and is the assignee of the original

mortgagee. Further, *Pro Se* Defendant Meisner admits that she never set up an auto-payment upon the transfer of serving to Nationstar Mortgage, LLC, and that the default in payments occurred because the prior servicer Bank of America was no longer drafting payments from her account. These are material, undisputed facts which show that Plaintiff is entitled to the foreclosure of its mortgage. Moreover, these facts are dispositive of *Pro Se* Defendant Meisner's counterclaims, which are entirely unsubstantiated by any evidence in the record. Indeed, her misunderstanding of the loan instruments does not create a triable issue of fact. For these reasons and as further set forth below, summary judgment is granted in Plaintiff's favor on its cause of action for foreclosure and as to the counterclaims asserted by *Pro Se* Defendant Meisner.

18. The Court also concludes that based on Defendant BANA's Joinder to Plaintiff's Motion for Summary Judgment and the commonality of facts underlying those claims, Defendant BANA is entitled to summary judgment in its favor on the crossclaims asserted by *Pro Se* Defendant Meisner.

19. The crossclaims asserted by *Pro Se* Defendant Meisner against Defendant SCBT have no effect upon the disposition of Plaintiff's foreclosure herein, and shall be adjudicated by separate order. Such relief shall be junior and subordinate to Plaintiff's first mortgage lien.

20. For value received, Rhonda L. Meisner made, executed and delivered a Note dated August 13, 2003, promising thereby to pay to the order of Bank of America, N.A., the sum of \$61,516.00, together with interest pursuant to the terms of the Note and any extensions, amendments, or modifications thereto. Other terms and conditions are stated in the Note, which is of record herein.

21. To better secure the payment of the Note described above, the said made, executed and delivered to Bank of America, N.A., a Mortgage in writing, dated August 13, 2003, covering real property in Richland County, which is the same as that described in the Complaint. The Mortgage was filed on August 18, 2003, and is of record in the Office of the Register of Deeds for Richland County in Book 838 at Page 2632.

22. This Mortgage constitutes a first mortgage lien on the subject property and is a Purchase Money Mortgage.

23. By Assignment of Mortgage dated April 3, 2014, and recorded May 2, 2014, in Book 1943 at Page 1234, in the Office of the Register of Deeds for Richland County, Bank of America, N.A. assigned the subject Mortgage to U.S. Bank, National Association, as trustee for the Holders of The Banc of America Funding Corporation, 2008-FT1 Trust, Mortgage Pass-Through Certificates, Series 2008-FT1, the present lienholder and Plaintiff herein.

24. Due solely to inadvertence and scrivener's error, the legal description in Plaintiff's mortgage and the vesting deed recorded August 18, 2003 in Book 838 at Page 2627 incorrectly reference the plat of the subject property as being dated May 9, 1979 instead of the correct date of March 20, 1979.

25. The titleholder of record in and to the subject property as of the filing of the Lis Pendens in this action is Rhonda Lewis Meisner.

26. Payment due on the Note has not been made as provided for therein, and Plaintiff, as the holder thereof, has elected to require immediate payment of the entire amount due thereon and has placed the Note and Mortgage in the hands of an attorney for collection.

27. Counsel for Plaintiff filed an affidavit as to attorney's fees and costs in this case, which was not contested, and, therefore, I find as fact herein. Having considered the nature, extent and difficulty of the services rendered, the time involved in reviewing the various documents, performing the title search, preparing the pleadings, attending hearings and argument, the professional standing of counsel, the fee customarily charged for similar services, and the beneficial results obtained for Plaintiff, I find that the sum of \$22,492.84 is a reasonable fee to allow under the terms of the Note and Mortgage as attorney's fees for Plaintiff's attorney for services performed and anticipated to be performed until final adjudication of the action. Plaintiff has advanced \$16,184.99 to its counsel as partial payment of the attorney's fee, and this amount is included in the Legal Fees and Costs. Plaintiff has advanced \$2,429.85 to its counsel as partial payment of its costs of collection, and this amount is included in the Legal Fees and Costs.

28. The amount due and owing on the Note, with interest at the rate provided in the Note, and other costs and expenses of collection, including an attorney's fee, secured by Note and Mortgage, is as follows:

|                                                                                        |                    |
|----------------------------------------------------------------------------------------|--------------------|
| Principal due as of July 12, 2013                                                      | \$26,945.74        |
| Interest from June 12, 2013<br>through October 29, 2019 @ 5.40%                        | 9,284.69           |
| Suspense                                                                               | (850.94)           |
| Property Inspection Costs                                                              | 783.00             |
| BPO Costs                                                                              | 95.00              |
| Legal Fees and Costs (awarded and paid)                                                | 18,614.84          |
| Hazard Insurance Advances                                                              | 3,264.00           |
| Tax Advances                                                                           | 22,006.21          |
| Costs of collection prior to hearing                                                   | 200.00             |
| Attorney Fees (awarded but unpaid)                                                     | 3,878.00           |
| <b>TOTAL DEBT</b> secured by Note and<br>Mortgage, including interest to date<br>shown | <b>\$84,220.54</b> |

Interest for the period from October 29, 2019 as shown above at the rate of 5.40% shall be added to the Principal Balance shown above through the date this Judgment is filed. After the date of judgment, interest at the rate of 5.40% on the total judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the Mortgage.

29. Plaintiff does not demand a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto Plaintiff, including costs and Attorney's fees.

30. The following Defendants claim, or may claim a lien upon or interest in the subject property as follows:

- a. Bank of America, N.A., by virtue of a Mortgage from Rhonda Lewis Meisner, dated September 19, 2005, and recorded September 23, 2005, in Book 1101 at Page 2609, in the amount of \$30,364.00.
- b. SCBT, by virtue of:
  - i. a Mortgage from Rhonda Lewis Meisner, dated November 26, 2007, and recorded December 18, 2007, in Book 1384 at Page 3706, in the amount of \$50,000.00.
  - ii. a deficiency judgment against Rhonda Meisner, filed August 8, 2012, in case no. 2011-CP-40-6318, in the amount of \$34,165.22.

The interest or liens of the above Defendants, if any, are junior and subordinate to the Plaintiff's Mortgage.

**IT IS THEREFORE ORDERED:**

1. Plaintiff's Motion for Summary Judgment against Defendant Rhonda L. Meisner.
2. Judgment is granted in favor of Plaintiff on all counterclaims and defenses asserted by Defendant Rhonda L. Meisner.
3. Judgment is granted in favor of Defendant BANA on all crossclaims asserted by Defendant Rhonda L. Meisner.
4. The legal description in Plaintiff's mortgage and the vesting deed recorded August 18, 2003 in Book 838 at Page 2627 are hereby reformed to reference the plat of the subject property as being dated March 20, 1979.
5. There is due to Plaintiff on the obligation and Mortgage set forth in the Complaint the sum of **\$84,220.54**, representing the "Total Debt" due Plaintiff as set forth in the Findings of Fact, *supra*, together with interest at the rate provided therein from the date aforesaid to the date hereof.
6. The amount due in the preceding paragraph (the "Total Debt" as set forth in the Findings of Fact, *supra*, and later accrued interest) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the rate of 5.40%.
7. The Defendant(s) liable for the aforesaid Mortgage debt shall, on or before the date of sale of the property hereinafter described, pay to Plaintiff, or Plaintiff's attorney, the amount of Plaintiff's debt as



aforesaid, together with the costs and disbursements of this action. If such debt is paid in full, then the foreclosure sale shall be cancelled.

8. On default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, shall be sold by the Master in Equity, or his agent under the direction of the Master in Equity, at public auction, at the Richland County Courthouse, Columbia, South Carolina, on some convenient sales day hereafter (and should the regular day of judicial sales fall on a legal holiday, then and in such event, the sales day shall be on Tuesday next succeeding such holiday), on the following terms, that is to say:

A. **FOR CASH:** The Master in Equity will require a deposit of 5% on the amount of the bid (in cash or equivalent), same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within 20 days, the deposit may be forfeited without further hearing and applied to the costs and Plaintiff's debt.

B. Interest on the balance of the bid shall be paid to the day of compliance at the rate of 5.40%.

C. The sale shall be subject to taxes and assessments, existing easements and easements and restrictions of record.

D. This Mortgage constitutes a first priority lien on the subject property and is a Purchase Money Mortgage.

E. Purchaser to pay for deed preparation and costs of recording the Deed, and transfer taxes.

9. If Plaintiff be the successful bidder at the said sale, for a sum not exceeding the amount of costs, disbursements and expenses and the indebtedness of Plaintiff in full, Plaintiff may pay to the Master in Equity only the amount of the costs, disbursements and expenses crediting the balance of the bid on Plaintiff's indebtedness.

10. The Master in Equity will, by advertisement according to law, give notice of the time, date, place of sale, and the terms thereof, which Notice of Sale is incorporated herein by reference; and will execute to the Purchaser, or Purchasers, a deed to the premises sold. Plaintiff, or any other party to this action, may become a purchaser at such sale, and that if, upon such sale being made, the Purchaser, or Purchasers, should fail to comply with the terms thereof within 20 days after date of sale, then the Master in Equity may advertise the said premises for sale on the next, or some other subsequent sales day, at the risk of the highest bidder, and so from time to time thereafter until a full compliance shall be secured.

11. Should Plaintiff, Plaintiff's attorney, or Plaintiff's agent fail to appear on the day of sale, the property shall not be sold, and in that event any such sale shall be null and void and of no force and effect. The property shall be re-advertised and sold at some convenient sales day thereafter when Plaintiff, Plaintiff's attorney, or Plaintiff's agent is present.

12. That the Master in Equity will apply the proceeds of the sale as follows:

**FIRST:** To payment of the amount of the costs and expenses of this action, including any Guardian Ad Litem fee or fees of attorneys appointed under Order of Court.

**NEXT:** To the payment of Plaintiff, or Plaintiff's attorney, of the amount of Plaintiff's debt and interest, so much thereof as the purchase money will pay on the same.

**NEXT:** Any surplus funds will be held pending further order of the Court.

13. **IT IS FURTHER ORDERED** that in the event the successful bidder is other than the Defendant(s) in possession herein, upon full compliance with the bid, and upon issuance of a Writ of Assistance by this Court, the Sheriff of Richland County is ordered and directed to eject and remove from the premises the occupant(s) of the property sold, together with all personal property located thereon, and put the successful bidder or his assigns in full, quiet and peaceable possession of said premises without delay, and to keep said successful bidder or his assigns in such peaceable possession.

14. **IT IS FURTHER ORDERED** that, in the event the successful bidder is other than the Defendant(s) in possession herein and the occupant(s) have voluntarily vacated the premises or have been ejected from the premises leaving furnishings, fixtures and items not subject to Plaintiff's Mortgage in said premises, upon full compliance with the bid, Purchaser is authorized to remove therefrom all furnishings, fixtures and items not subject to the lien of Plaintiff's mortgage, which personal property, being deemed abandoned, shall be removed by Purchaser or its agents from the subject property by placing said personal property on the public street or highway or by any other means.

15. **IT IS FURTHER ORDERED** that, in addition to all parties deemed by law to have received constructive notice of the action herein, the Defendant(s) named herein and all persons whomsoever claiming under said defendant(s), be forever barred and foreclosed of all right, title, interest and equity of redemption in the said mortgaged premises so sold, or any part thereof.

16. **IT IS FURTHER ORDERED** that the Deed of conveyances made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant(s) who was/were the titleholder(s) of the mortgaged property at the time of filing of the notice of pendency of the within action, and the name of the grantee, and the Register of Deeds is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.

17. **IT IS FURTHER ORDERED** that the Master in Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, issuing a Writ of Assistance and hearing any issues involving appraisal proceedings under Section 29-3-680 *et seq.*, South Carolina Code of Laws (1976), as amended.

18. Any sale pursuant to this order is *without* warranty of any kind. Neither Plaintiff nor Court warrant title to any third-party purchaser. All third-party purchasers are made parties to this action and

are deemed to have notice of all matters disclosed by the public record, *including* the status of title. *See Ex parte Keller*, 185 S.C. 283, 194 S.E. 15 (1937); *Wells Fargo Bank, NA v. Turner*, 378 S.C. 147, 662 S.E.2d 424 (Ct. App. 2008).

19. The Master in Equity shall direct the Register of Deeds to release of record the Mortgage lien being foreclosed, all subordinate liens and all prior liens ordered satisfied herein, after the Order Confirming Sale and Disbursements has been executed and filed. Plaintiff's Mortgage lien is described as follows:

That certain Mortgage given by Rhonda L. Meisner to Bank of America, N.A. dated August 13, 2003 and recorded in the Office of the Register of Deeds for Richland County on August 18, 2003 in Book 838 at Page 2632.

20. The following is a description of the premises herein ordered to be sold:

All that certain piece, parcel or lot of land, situate, lying and being on the southern side of Koon Store Road (S-40-61), North of the City of Columbia, in the County of Richland, State of South Carolina, being shown and delineated as Lot No. 9, containing one acre, on a plat prepared for Eberdease Thomas by Douglas E. Platt, Sr., Reg. Land Surveyor, dated March 20, 1979 and recorded in Plat Book Y at page 4038; said lot being bounded and measuring as follows: On the North by Koon Store Road measuring thereon 100 feet; on the East by Lot 10 measuring thereon 435.6 feet; on the South by property of Denny Hills North measuring thereon 100 feet; and on the West by Lot 8, property of Eberdease Thomas, measuring thereon 435.6 feet; be all measurements a little more or less; subject to easements and restrictions of record.

TMS Number: 12100-04-23

PROPERTY ADDRESS: 406 Koon Store Rd, Columbia, SC 29203

This being the same property conveyed to Rhonda Lewis Meisner by deed of Federal Home Loan Mortgage Corporation, dated August 11, 2003 and recorded in the Office of the Register of Deeds for Richland County on August 18, 2003 in Deed Book 838 at Page 2627.

ELECTRONIC SIGNATURE FOLLOWS

Joseph M. Strickland

Master in Equity for Richland County

Columbia, South Carolina

\_\_\_\_\_, 2019



Richland Common Pleas

**Case Caption:** U S Bank N A , plaintiff, et al vs Rhonda Lewis Meisner , defendant,  
et al  
**Case Number:** 2014CP4002063  
**Type:** Master/Order/Foreclosure & Sale and Form 4

It is so Ordered

s/Joseph M. Strickland, 3055

Electronically signed on 2019-11-07 10:01:11 page 15 of 15

58020.F43801  
STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS

U.S. Bank, National Association, as trustee for the Holders of  
The Banc of America Funding Corporation, 2008-FT1 Trust,  
Mortgage Pass-Through Certificates, Series 2008-FT1,

PLAINTIFF

FORM 4  
JUDGMENT IN A CIVIL CASE

C/A NO: 14-CP-40-2063

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner; Bank of  
America, N.A.; and SCBT,

DEFENDANTS.

Submitted by: **FINKEL LAW FIRM LLC**  
Magalie A. Creech (SC Bar 78855)

Attorney for: ☒ Plaintiff; ☐ Defendant;  
or ☐ Self-Represented Litigant

**DISPOSITION TYPE (CHECK ONE)**

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED. (CHECK REASON)** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43 (k), SCRPC (Settled); ☐ Other \_\_\_\_\_

☐ **ACTION STRICKEN. (CHECK REASON)** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding Arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other \_\_\_\_\_

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (Check applicable box): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other \_\_\_\_\_

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

**IT IS ORDERED AND ADJUDGED:** ☐ See attached order (formal order to follow). ☐ Statement of Judgment by the Court:

**ORDER INFORMATION**

This order ☒ ends ☐ does not end the case.

Additional Information for the Clerk: \_\_\_\_\_

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**INFORMATION FOR THE PUBLIC INDEX**

Complete this section below when the judgment affects title to real or personal property or in any amount should be enrolled. If there is no judgment information, indicate 'N/A' in one of the boxes below.

| <b>Judgment in Favor of<br/>(List Name(s) below)</b>                                                                                                                                       | <b>Judgment Against<br/>(List name(s) below)</b> | <b>Judgment Amount To Be<br/>Enrolled<br/>(List amount(s) below)</b> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------|----------------------------------------------------------------------|
| U.S. Bank, National Association,<br>as trustee for the Holders of The<br>Banc of America Funding<br>Corporation, 2008-FT1 Trust,<br>Mortgage Pass-Through<br>Certificates, Series 2008-FT1 |                                                  |                                                                      |
|                                                                                                                                                                                            |                                                  |                                                                      |
|                                                                                                                                                                                            |                                                  |                                                                      |

If applicable, describe the property, including tax map information and address referenced in the order:

All that certain piece, parcel or lot of land, situate, lying and being on the southern side of Koon Store Road (S-40-61), North of the City of Columbia, in the County of Richland, State of South Carolina, being shown and delineated as Lot No. 9, containing one acre, on a plat prepared for Eberdease Thomas by Douglas E. Platt, Sr., Reg. Land Surveyor, dated March 20, 1979 and recorded in Plat Book Y at page 4038; said lot being bounded and measuring as follows: On the North by Koon Store Road measuring thereon 100 feet; on the East by Lot 10 measuring thereon 435.6 feet; on the South by property of Denny Hills North measuring thereon 100 feet; and on the West by Lot 8, property of Eberdease Thomas, measuring thereon 435.6 feet; be all measurements a little more or less; subject to easements and restrictions of record.

TMS Number: 12100-04-23

PROPERTY ADDRESS: 406 Koon Store Rd, Columbia, SC 29203

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk. **Note: Title abstractors and researchers should refer to the official court order for judgment details.**

\_\_\_\_\_  
Circuit Court Judge

\_\_\_\_\_  
Judge Code

\_\_\_\_\_  
Date

**For Clerk of Court Office Use Only**

This judgment was entered on the \_\_\_\_\_ day of \_\_\_\_\_, 2019 and a copy mailed first class or placed in the appropriate attorney's box on this \_\_\_\_\_ day of \_\_\_\_\_, 2019 to attorneys of record or to parties (when appearing pro se) as follows:

FINKEL LAW FIRM LLC  
Post Office Box 71727  
North Charleston, SC 29415

SEE ATTACHED LIST

58030.P41601

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of The Banc of America  
Funding Corporation, 2008-FTI Trust,  
Mortgage Pass-Through Certificates, Series  
2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,

DEFENDANT(S).

TO THE ABOVE NAMED DEFENDANT(S):

IN THE COURT OF COMMON PLEAS  
C/A NO: 2014-CP-40-

SUMMONS AND NOTICES

(NON-JURY MORTGAGE FORECLOSURE)

FILED  
2014 MAR 31 AM 11:31  
JEANETTE W. MCBRIDE  
C.C.P. & G.S.

**YOU ARE HEREBY SUMMONED** and required to answer the Complaint herein, a copy of which is herewith served upon you, or to otherwise appear and defend, and to serve a copy of your Answer to said Complaint upon the plaintiff's attorneys at their office, 4000 Faber Place, Suite 450 (29405), P.O. Box 71727, North Charleston, South Carolina, 29415, or to otherwise appear and defend the action pursuant to applicable court rules, within thirty (30) days after service hereof, exclusive of the day of such service; except that the United States of America, if named, shall have sixty (60) days to answer after the service hereof, exclusive of such service; and if you fail to answer the Complaint or otherwise appear and defend within the time aforesaid, the Plaintiff in this action will apply to the Court for relief demanded therein, and judgment by default will be rendered against you for the relief demanded in the Complaint.

**TO MINOR(S) OVER FOURTEEN YEARS OF AGE, AND/OR TO MINOR(S) UNDER FOURTEEN YEARS OF AGE AND THE PERSON WITH WHOM THE MINOR(S) RESIDE(S), AND/OR TO PERSONS UNDER SOME LEGAL DISABILITY:**

**YOU ARE FURTHER SUMMONED AND NOTIFIED** to apply for the appointment of a guardian ad litem within thirty (30) days after the service of this Summons and Notice upon you. If you fail to do so, application for such appointment will be made by the Plaintiff.

**YOU WILL ALSO TAKE NOTICE** that pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, as amended effective September 1, 2002, the Plaintiff will move for a general Order of Reference to the Master in Equity for Richland County, which Order shall, pursuant to Rule 53(b) of the

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

VS.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS  
C/A NO: 2014-CP-40-

COMPLAINT

(NON-JURY MORTGAGE FORECLOSURE)

FILED  
2014 MAR 31 AM 11:31  
JEANETTE W. MCBRIDE  
C.C.P. & G.S.

The Plaintiff alleges as follows:

1. The Plaintiff, a corporation or other legal entity, brings this foreclosure action to collect a debt and/or enforce a mortgage, security interest, or other rights in property securing the debt.
2. The Plaintiff is the servicer and/or mortgagee of the note and mortgage covering real property located in Richland County, which is the subject of the within captioned action, and is entitled to enforce same.
3. The defendant(s) named herein may have an interest in the property that is the subject of this action.
4. Any defendant(s) described herein as Judgment Creditor(s) have by filing judgment(s) designated the attorney(s) entering the judgment(s) as their agent for service of process pursuant to the provisions of §15-35-840 of the South Carolina Code of Laws (1976 as amended).
5. Upon information and belief, the defendant(s) Rhonda Lewis Meisner a/k/a Rhonda L. Meisner is not in the military service of the United States of America pursuant to the provisions of the Servicemembers Civil Relief Act (2003).
6. On or about August 13, 2003, for value received, Rhonda L. Meisner executed and delivered to Bank of America, N.A. a certain promissory note in the sum of \$61,516.00, together with interest thereon pursuant to the terms of the note.
7. To secure the payment of the said note and debt, secured thereby, and in accordance with the terms and conditions thereof, on August 13, 2003, Rhonda L. Meisner executed and delivered to Bank of America, N.A., its successors and assigns, a mortgage covering the following described property:

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All that certain piece, parcel or lot of land, situate, lying and being on the southern side of Koon Store Road (S-40-61), North of the City of Columbia, in the County of Richland, State of South Carolina, being shown and delineated as Lot No. 9, containing one acre, on a plat prepared for Eberdease Thomas by Douglas E. Platt, Sr., Reg. Land Surveyor, dated May 9, 1979 and recorded in Plat Book Y at page 4038; said lot being bounded and measuring as follows: On the North by Koon Store Road measuring thereon 100 feet; on the East by Lot 10 measuring thereon 435.6 feet; on the South by property of Denny Hills North measuring thereon 100 feet; and on the West by Lot 8, property of Eberdease Thomas, measuring thereon 435.6 feet; be all measurements a little more or less; subject to easements and restrictions of record.

TMS #: 12100-04-23

Property Address: 406 Koon Store Rd, Columbia, SC

8. Thereafter the mortgage was recorded in the Office of the Register of Deeds for Richland County in book 838 at page 2632 on August 18, 2003.

9. The above-referenced instrument constitutes a purchase money mortgage with the proceeds of the loan being used to purchase the property above described.

10. Subsequently, the subject mortgage was assigned or otherwise transferred to U.S. Bank, National Association, as trustee for the Holders of The Banc of America Funding Corporation, 2008-FT1 Trust, Mortgage Pass-Through Certificates, Series 2008-FT1, the Plaintiff herein.

11. Due solely to inadvertence and scrivener's error the legal description in the plaintiff's mortgage and vesting deed recorded August 18, 2003 in book 838 at page 2627 incorrectly references the plat of the subject property as being dated May 9, 1979 instead of the correct date of March 20, 1979.

12. The plaintiff seeks reformation of the legal description to correctly reference the plat of the subject property as being dated March 20, 1979, comport with the public records.

13. Pursuant to the Administrative Order of the Chief Justice, 2009-05-22-01, the loan that is subject of this action may be eligible for participation in the Home Affordable Modification Program (HMP), however, that process has been completed without resulting in modification under the HMP due to no response from borrower.

14. Pursuant to the terms of the mortgage, any sums paid by the plaintiff for inspecting and securing the subject property, for fire and other hazard insurance, taxes and assessments for the mortgaged premises, and any costs of collection, including reasonable attorney's fees, are secured by the mortgage.

15. The monthly payments due on said note and mortgage are in default since July 12, 2013, although demand for payment thereof has been made and the plaintiff, as the holder of the said note and mortgage, after providing all required notices, elects to, and does declare the entire balance of said indebtedness due and payable, and that there is due on said note and mortgage as of July 12, 2013, the

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sum of \$ 26,945.74, together with interest at the rate of 5.40% per annum, from June 12, 2013, and also for the costs and disbursements of this action, including attorney's fees.

16. Pursuant to Section 37-3-105, South Carolina Code of Laws (1976 as amended), the mortgage lien, which is the subject of this action, is a first lien on real estate and is not a 'consumer loan' for the purposes of the South Carolina Consumer Protection Code. Any notice of right to cure has been given as required.

17. The Plaintiff does not demand a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the plaintiff, including costs and attorney's fees.

18. The following Defendant(s) claim(s), or may claim a lien upon or interest in the subject property as follows:

- a. Bank of America, N.A., by virtue of a mortgage from Rhonda Lewis Meisner, dated September 19, 2005, and recorded September 23, 2005, in Book 1101 at Page 2609, in the amount of \$30,364.00.
- b. SCBT, by virtue of the following
  - i. A mortgage originally given to South Carolina Bank and Trust, NA, from Rhonda Lewis Meisner, dated November 26, 2007, and recorded December 18, 2007, in Book 1384 at Page 3706, in the amount of \$50,000.00.
  - ii. Deficiency Judgment against Rhonda Meisner, filed August 8, 2012 in Case No. 2011-CP-40-6318, in the amount of \$34,165.22.

The interests or liens of the above Defendants, if any, are junior and subordinate to the plaintiff's purchase money mortgage.

**WHEREFORE**, having fully set forth its Complaint, the Plaintiff prays that this Honorable Court inquire into the matters set forth herein and that:

1. The amount due upon the said note and mortgage held by Plaintiff be ascertained and determined under the direction of this Court, together with attorney's fees and the costs of this action.
2. The said Plaintiff's Mortgage be declared a first mortgage lien and that the said Plaintiff have judgment of foreclosure for the amount so found to be due and owing thereon, together with any taxes or insurance premiums which may be due, with a reasonable sum as attorney's fees and for the costs of this action.
3. The Court grant reformation of the legal description in the Plaintiff's mortgage and vesting deed recorded August 18, 2003 in book 838 at page 2627 to correctly reference the plat of the subject property as being dated March 20, 1979, to comport with the public records.

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4. The mortgaged premises be sold under the direction of this Court, the equity of redemption be barred, and that the proceeds of sale be applied as follows:

**First**, to the costs and expenses of the within action and sale.

**Second**, to the payment and discharge of the amount due on Plaintiff's note and mortgage, together with the attorney's fees as aforesaid, and

**Third**, the surplus, if any be distributed according to law.

5. An Order be entered directing and empowering the Sheriff of Richland County, South Carolina, to place the successful purchaser at said foreclosure sale in possession of the property hereinabove described should the same become necessary.

6. An Order be entered for the ejectment of the defendants in possession herein and all persons claiming thereunder and the removal therefrom of all furnishings, fixtures and items not subject to the lien of the plaintiff's mortgage, which personal property if not removed shall be deemed abandoned and shall be removed by the plaintiff or its agents from the subject property by placing said property on the public street or highway or by any other means.

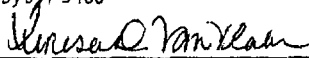
7. An Order be entered granting the appointment of a Receiver to secure and supervise the rental of the property sought to be foreclosed with authority to take possession thereof and collect rents, issues and profits thereon during the pendency of this action and to hold the same as further security for Plaintiff's debt.

8. An Order be entered for reimbursement of all costs for inspecting and securing the property incurred by the plaintiff as a result of the delinquency.

9. An Order be entered for such other and further relief as may be just and proper.

FINKEL LAW FIRM LLC  
P.O. Box 71727  
N. Charleston, SC 29415  
(843) 577-5460

By:

  
☐ Thomas A. Shook, SC Bar # 68340  
☐ Susan S. White, SC Bar # 5453  
☐ Andrew M. Wilson, SC Bar # 72553  
☐ Elizabeth S. Moore, SC Bar # 69236  
☒ Teresa D. Van Vlakte, SC Bar # 11118  
Attorneys for Plaintiff

March 27, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANT(S).

IN THE COURT OF COMMON PLEAS

C/A NO: 2014-CP-40-20603

LIS PENDENS

(NON-JURY MORTGAGE FORECLOSURE)

JEANETTE W. McBRIDE  
C.C.P. & G.S.

2014 MAR 31 AM 11:31

FILED

NOTICE IS HEREBY GIVEN that an action has been commenced and is now pending in this court upon Complaint of the above-named Plaintiff against the above-named Defendant(s) for foreclosure of a certain mortgage of real estate given by Rhonda L. Meisner to Bank of America, N.A. in the amount of \$61,516.00, dated August 13, 2003, and recorded in the Office of the Register of Deeds for Richland County in Book 838 at Page 2632 on August 18, 2003 at 5:08 p.m.

The premises covered and affected by the said mortgage as by the foreclosure thereof, were at the time of the making thereof, and at the time of the filing of this Notice, described as follows:

All that certain piece, parcel or lot of land, situate, lying and being on the southern side of Koon Store Road (S-40-61), North of the City of Columbia, in the County of Richland, State of South Carolina, being shown and delineated as Lot No. 9, containing one acre, on a plat prepared for Eberdease Thomas by Douglas E. Platt, Sr., Reg. Land Surveyor, dated March 20, 1979 and recorded in Plat Book Y at page 4038; said lot being bounded and measuring as follows: On the North by Koon Store Road measuring thereon 100 feet; on the East by Lot 10 measuring thereon 435.6 feet; on the South by property of Denny Hills North measuring thereon 100 feet; and on the West by Lot 8, property of Eberdease Thomas, measuring thereon 435.6 feet; be all measurements a little more or less; subject to easements and restrictions of record.

TMS# 12100-04-23

Property Address: 406 Koon Store Rd, Columbia, SC

FINKEL LAW FIRM LLC

Post Office Box 71727

North Charleston, South Carolina 29415

(843) 577-5460

By:

*Teresa D. Van Vlase*

☐ Thomas A. Shook, SC Bar # 68340

☐ Susan S. White, SC Bar # 5453

☐ Andrew M. Wilson, SC Bar # 72553

☐ Elizabeth S. Moore, SC Bar # 69236

☒ Teresa D. Van Vlase, SC Bar # 11118

Attorneys for Plaintiff

March 27, 2014

45  
19  
GB049

Affidavit of Service



DOCKET NUMBER: 14-cv-40-2063

FILE NUMBER: F43801

COURT OF COMMON PLEAS FOR RICHLAND COUNTY, SC  
CASE STYLE:

PLAINTIFF

U.S. BANK NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF THE BANC OF AMERICA FUNDING CORPORATION, 2008-FTI TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2008-FTI: et seq.

vs.

DEFENDANT

RHONDA LEWIS MEISNER A/K/A RHONDA L. MEISNER; et al.

SERVICE OF PROCESS ON:

BANK OF AMERICA, N.A.

METHOD OF SERVICE:

A true and correct copy of the above-described papers were served on the below-named party in the following manner:

(x) (CORPORATION/PARTNERSHIP) By leaving a copy with an officer, a managing or general agent, or with any other agent authorized by appointment or by law to receive service of process.

PLACE OF SERVICE:

200 meeting at  
charleston, SC 29401

Is the place of service the dwelling house or usual place of abode for the party being served? ( ) Yes (x) No

DATE OF SERVICE:

04/02/2014

TIME OF SERVICE:

11:20 AM

TYPE OF DOCUMENTS:

(x) SUMMONS & COMPLAINT (x) LIS PENDENS

(x) OTHER: NOTICE OF FORECLOSURE INTERVENTION

DESCRIPTION OF PARTY  
RECEIVING DOCUMENTS:

The person receiving the documents is described as follows:

Name AMY ROITH; Relationship/Title AUTHORIZED AGENT

Sex FEMALE; Race WHITE; Facial Hair NO

Age(prox.) 31-35; Height(prox.) 5'6"; Weight(prox.) 140

COMMENTS:

Signature of Process Server: The undersigned declares, under penalty of perjury, that the foregoing is true and correct and that the deponent is over the age of 18 and is not a party to nor interested in this action.

NAME: ZACHARY A COX

Signature of Process Server

Date

STATE OF

SC

COUNTY OF

Charleston

worn and subscribed before me this 2 day of APRIL, in  
the year of 2014

Personally known to me or identified by the following document:

Type: Number/Reference:

Notary Public (Legal Signature)

Notary Public for South Carolina

Commission Expiration 1/27/2022

2046

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. BANK, NATIONAL ASSOCIATION,  
AS TRUSTEE FOR THE HOLDERS OF THE  
BANC OF AMERICA FUNDING  
CORPORATION, 2008-FT1 TRUST,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2008-FT1,

Plaintiff,

vs.

RHONDA LEWIS MEISNER A/K/A  
RHONDA L. MEISNER; BANK OF  
AMERICA, N.A.; AND SCBT,

Defendants.

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

C/A #: 2014-CP-40-2063

RICHLAND COUNTY  
FILED  
2014 APR 14 PM 12:45  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

ANSWER OF DEFENDANT  
SCBT

COMES NOW the Defendant SCBT, answering Plaintiff's Complaint as follows:

1. SCBT denies each and every allegation contained in the Complaint which is not hereinafter specifically admitted or to which a response is not otherwise provided.
2. SCBT states that it is a bank authorized to do business in the state of South Carolina.
3. SCBT admits so much of Paragraph 18 of the Complaint alleging that it has an interest in the subject property by virtue of a mortgage lien recorded in the Office of the Register of Deeds for Richland County in Book 1384 at Page 3706 and by virtue of a Deficiency Judgment against Rhonda Meisner filed in the Richland County records, Judgment Roll # 2011-CP-40-6318. SCBT lacks sufficient information or knowledge at this time to form a belief as to the remaining allegations contained in Paragraph 18 and demands strict proof thereof.
4. SCBT lacks sufficient information or knowledge at this time to form a belief as to the allegations contained in Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the Complaint and therefore denies the same, except to the extent that such matters are of public record.
5. SCBT would show that, pursuant to written agreement between the defendant(s) Rhonda Lewis Meisner, as debtor(s), and this Defendant, as creditor, SCBT is entitled to

21 47

recovery of attorney's fees and costs in connection with its efforts to protect its interest under the agreement and the mortgage and hereby requests that the Court award attorney's fees and costs to this Defendant consistent therewith.

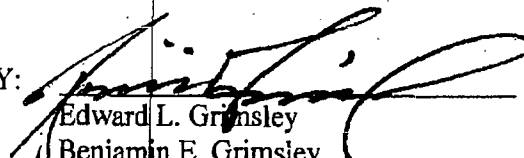
6. SCBT respectfully requests that the Court determine the relative priority of the liens on the subject property and, upon sale of the subject property, permit this Defendant to share in the proceeds from sale in accordance with such determination.

WHEREFORE, having fully answered the Complaint, SCBT prays that this Court protect its interest by:

- A. Recognizing the lien of its mortgage against the property subject of this action;
- B. Recognizing the lien of its judgment against the property subject of this action;
- C. Awarding proceeds, including attorney's fees and costs, to SCBT from the sale of the subject property according to law and as determined by this Court;
- D. Requiring proof from the Plaintiff of the allegations in its Complaint not admitted by this Defendant; and
- E. For such other and further relief as this Court may deem just and proper.

GRIMSLEY LAW FIRM, LLC  
P. O. BOX 11682  
COLUMBIA, SC 29211  
(803) 233-1177

BY:

  
Edward L. Grimsley  
Benjamin E. Grimsley  
*Attorneys for SCBT*

April 10, 2014

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI Trust, Mortgage pass  
Through Certificates, Series 2008-FTI,

Plaintiff,  
v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT

Defendants

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2014-CP-40-2063

ANSWER & COUNTERCLAIM JURY  
TRIAL DEMANDED

RICHLAND COUNTY  
FILED  
2014 MAY 15 PM 4:11  
JEANNETTE W. MCBRIDE  
C.C.P. & C.S.

TO: **TERESA D. VAN VLAKE ESQ. ATTORNEY, AND EDWARD GRIMSLEY OF  
GRIMSLEY LAW FIRM FOR SCBT**

Defendant, Rhonda Meisner, answering the Complaint of the Plaintiff herein would respectfully show  
unto the Court as follows:

**FIRST DEFENSE**  
(General Denial)

1. Each and every allegation of the Complaint not herein specifically admitted, qualified or explained is denied. As an initial matter the action here-in is subject to a motion to dismiss filed by the Defendant pursuant to S.C. Rules of Civ. P. Rule 12(b) (8) (9) as an action in equity (2013-CP-40-7144) has already commenced naming the predecessor in servicing as a Defendant. The Defendant specifically denies the amounts owed in the above mentioned complaint.
2. The Defendant is without knowledge to dispute ¶1 of the complaint to the extent that the Plaintiff purport to suggest that the Plaintiff is a corporation or other legal entity that is authorized to bring this foreclosure action; however, the Defendant specifically denies many of the facts asserted in this complaint. According to Defendants records, the loan in question is current considering the re-application of funds received by the Plaintiff from the escrow account associated with the loan in this litigation.

23-49



3. The Defendant does not have adequate information to admit or deny ¶2 which states that the Plaintiff is the authorized agent acting as the servicer for the aforementioned loan and is therefore authorized to act on behalf of U. S. Bank, National Association, as trustee for the holders of the Banc of America Funding Corporation, 2008-FTI Trust, Mortgage Pass Through Certificates, Series 2008-FTI.
  4. Paragraph 3 is denied to the extent it purports to suggest that the transfer of the servicing rights were incomplete or inconsistent with the contract between the Plaintiff party and Bank of America, NA or that it purports to suggest a relationship (or right) which may not legally be recognized in the State of South Carolina. Defendant specifically reserves the right to challenge any interest in the real property associated with the above referenced complaint by Defendants or the previously filed mortgage foreclosure action, South Carolina Complaint reference # 2013-CP-40-7144.
  5. Defendant is without knowledge to admit or deny the allegations in ¶4 to determine whether proper service was affected to other Defendants pursuant to S. C. Code Ann. §15-35-840.
  6. Defendant admits paragraph 5
  7. Defendant is without knowledge to admit or deny the actual dates and legal entities named in paragraph 6 without reviewing the original documents.
  8. Defendant is without knowledge to admit or deny the legal description supplied by the Plaintiff associated with tax map # 1200-04-23. The Defendant Rhonda Meisner admits she owns the property located at 406 Koon Store Road, Columbia, SC 20203.
- 
9. Defendant is without present knowledge to admit or deny the information in Paragraph 8.
  10. Defendant is without knowledge to admit or deny paragraph 9 to the extent it purports to describe a mortgage that has been unconfirmed by the Defendants.
  11. Defendant is without knowledge to admit or deny Paragraph 10.
  12. Defendant is without knowledge to admit or deny Paragraph 11.

13. Defendant objects to any change in the legal documents prior to Plaintiff's gaining legal title to the property as described in Paragraph 12.
14. Defendant denies receipt of any request for information by Plaintiff for the Home Affordable Modification Program as described in Paragraph 13.
15. Defendant denies Paragraph 14 to the extent the Plaintiff purports to suggest that all fees are attached to the mortgage as described in Paragraph 14 prior to a mortgage foreclosure hearing.
16. Defendant denies Paragraph 16 to the extent it purports to convey that a right to cure has been received by the Defendant, Rhonda Meisner.
17. Defendant accepts the waiver of deficiency as absolute by the Plaintiff in Paragraph 17.
18. Defendant expressly denies the validity of the judgement referenced in Paragraph 18 at ii. Defendant denies the mortgage dated Sept. 19, 2005 has not been paid. Defendant denies the amount owed referenced in Paragraph 18 at i is \$50,000.
19. Defendant, Rhonda Meisner specifically invokes her rights under the appraisal statute S.C. Code Ann. §29-3-610 and specifically prays the Court will direct Plaintiff to pay Defendant any proceeds of the sale.
20. Defendant Rhonda Meisner denies the amount owed in the Complaint are accurate and demands strict proof of all amounts owed. Defendant, Rhonda Meisner's amount owed is subject to the provisions of S.C. Code § 29-3-660 *et. seq.*
21. Any response inconsistent with the Defendant's previous responses are denied.
22. Defendant attempted in good faith to work out a settlement of claims with predecessor servicer Bank of America, N.A. that would avoid foreclosure.
23. Defendant Rhonda Meisner requires strict proof that she owes money to the Plaintiff and in the exact amounts but the amounts are governed by S.C. Code § 29-3-660 *et. seq.*

24. **SECOND DEFENSE**

(Estoppel)

25. The Plaintiff should be estopped to foreclose. The Plaintiff purports to be the current servicer of the loan; however, any rights the Plaintiff has are those rights assumed from the previous servicer.
26. The Plaintiff's purportedly assumed the servicing rights from Bank of America, NA. At the time of the assumption the Defendant Rhonda Meisner was in a dispute with Bank of America, N.A. regarding a newly imposed escrow account. This escrow account did not reflect accurate payments and reductions which was brought to the attention of the previous servicer Bank of America, N.A. The loan payment amounts was automatically drafted from Defendants Bank accounts with the new servicer without consideration of the application of payments made Rhonda Meisner to the Richland County Tax Assessor's office .
27. The Plaintiff's predecessor in servicing the loan Bank of America, N.A. then made a duplicate payment to the Richland County Assessor's office and charged the payment to the escrow account.
28. Defendant complained of the extra amounts deducted from the checking account as well as Bank of America's refusal to request a refund from Richland County and eliminate the need for the newly opened escrow account.

**THIRD DEFENSE**  
(Unclean Hands)

29. The Plaintiff's request to foreclose should be denied under the unclean hands doctrine. The Plaintiff was in a dispute with the previous servicer of the loan regarding the implementation of an escrow account which the Plaintiff has " assumed" in the servicing of the loan in question.
30. Plaintiff's predecessor in servicing has refused to apply the funds charged to the escrow account and transferred the servicing rights to the current Plaintiff.
31. Plaintiff did not transfer the debiting rights from Defendants checking account without proper notification of the transfer of the loan and failed to make the required notifications pursuant to

the Dodd-Frank Consumer Financial Protection Act of 2010 (subtitle E sect. 1462 and sect. 1465.)

32. Violations of the Dodd-Frank Consumer Financial Protection Act constitutes unclean hands by the previous servicer Bank of America, N.A.. The liability of the acts of the servicer are imputed to the principal.

### **COUNTERCLAIM**

#### **FIRST CAUSE OF ACTION** (Declaratory Judgment)

33. Defendant incorporates the allegations contained above as if fully set forth verbatim.
34. Upon information and belief the Defendants are entitled to a declaratory judgment pursuant to S.C.R.C.P 57 and S.C. Code Ann. §§15-53-10 through 15-15-140 to determine a question in actual controversy between or among the parties as to their respective rights and liabilities under a Note AND Mortgage pertaining to real property located at 406 Koon Store Road and more particularly described in the Plaintiff's Complaint, which is incorporated by reference and to determine the respective rights and obligations of the parties with respect to the amount of excess funds distributions pursuant to the first filed liens under South Carolina law and to determine the appraisal rights of the Defendant.
35. Defendant Rhonda Meisner was not notified in writing before the transaction that a waiver of appraisal rights would be required. The only written information about the waiver of appraisal rights was contained in the mortgage itself, which was not provided "before" the transaction it was provided during the transaction.
36. Defendant Rhonda Meisner seeks a declaratory judgment that she is entitled to her statutory appraisal rights; that the appraised value will be substituted for the high bid at the foreclosure auction if the appraised value is greater than the high bid and that the amount she would be obligated to pay.

37. The Defendant prays that the Court more fully inquire into the terms and conditions of the Note and Mortgage and issue its declaration as to the rights, responsibilities and obligations of the parties.
38. The Defendant, Rhonda Meisner reserves the right to assert any further claims or defenses that may be appear disclosed during discovery in this case.

**FOR A SECOND CAUSE OF ACTION: BREACH OF CONTRACT**

39. The Plaintiffs have breached the contract and have attempted via a change in servicer to avoid liability for the breach by not resolving the escrow dispute prior to transferring the servicing of the loan.
40. The Plaintiff's have also failed to comply with the Dodd-Frank Consumer Protection statute and by initiating this action, the Defendant should be entitled to costs, fees and punitive damages as a violation of the unfair trade practices act S.C. Code Ann. §39-5-10; §39-5-20; and §39-5-35.
41. The Plaintiff's predecessor in servicing Bank of America, N.A. also breached the implied covenant of good faith and fair dealing inherent in all contracts in South Carolina by transferring the servicing of the loan prior to resolution of the escrow dispute or reassigning disputed funds to the payment of the mortgage.
42. The Defendant prays for an accurate accounting acknowledging the dual payments to the Richland County Assessor's office.
43. The Defendant reserves the right to add additional counterclaims as may arise after discovery in this litigation.
44. **WHEREFORE**, having answered the Plaintiff's Complaint the Defendant prays the Complaint be dismissed with costs and grant the relief requested in the Defendants' Counterclaim including trial by jury of the legal issues at hand, costs, expenses and all such orders to be determined by the Court as fair and just.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Rhonda Meisner", written over a horizontal line.

Rhonda Meisner, Defendant

P.O. Box 689

Blythewood, S.C. 29016

(803) 960-3696

pegasus333@icloud.com

pegasus@nuvox.net

May 15, 2014

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as  
trustee for the Holders of the Banc of  
America Funding Corporation, 2008-FT1  
Trust, Mortgage Pass-Through  
Certificates, Series 2008-FT1,

Plaintiff,

v.

Rhonda Lewis Meisner, a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and  
SCBT,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-40-2063

ANSWER OF DEFENDANT BANK  
OF AMERICA, N.A.

RICHLAND COUNTY  
FILED  
2014 AUG 26 AM 10:11  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

Defendant Bank of America, N.A. ("Defendant" or "BANA") answers the Complaint of the Plaintiff above-named by saying and alleging as follows:

**FOR A FIRST DEFENSE**

1. Without waiving its right to dismiss this Complaint, Defendant BANA specifically denies each and every allegation of the Complaint that is not specifically admitted and demands strict proof thereof.

2. In answering the allegations of Paragraphs 1 and 2 of the Complaint, Defendant BANA does not currently have sufficient information to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

3. In answering the allegations in Paragraph 3 of the Complaint, Defendant BANA admits only so much that it has an interest in the property that is the subject of this action, but specifically denies the remaining allegations of this Paragraph.

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4. In answering the allegations of Paragraph 4 of the Complaint, Defendant BANA responds and states that these allegations contain legal conclusions which do not require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

5. In answering the allegations in Paragraphs 5, 6, 7 and 8 of the Complaint, Defendant BANA does not currently have sufficient information to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

6. In answering the allegations of Paragraph 9 of the Complaint, Defendant BANA responds and states that these allegations contain legal conclusions which do not require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

7. In answering the allegations of Paragraphs 10 and 11 of the Complaint, Defendant BANA does not currently have sufficient information or belief to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

8. In answering the allegations of Paragraph 12 of the Complaint, these allegations do not require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

9. In answering the allegations of Paragraphs 13, 14, 15, 16 and 17 of the Complaint, these allegations contain legal conclusions to which no response is required. To the extent any



response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

10. In answering the allegations of Paragraph 18(a) of the Complaint, Defendant BANA admits only so much that it has an interest in the property that is the subject of this action, but specifically denies the remaining allegations of this Paragraph.

11. In answering the allegations of Paragraph 18(b) of the Complaint and its subparts, Defendant BANA does not currently have sufficient information or belief to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

#### **FOR A SECOND DEFENSE**

12. Plaintiff's Complaint fails to allege sufficient facts upon which to constitute a cause of action against Defendant BANA pursuant to Rule 12(b)(6), such that the Complaint should be dismissed.

#### **FOR A THIRD DEFENSE**

13. Defendant BANA's mortgage was duly recorded in the Richland County Register of Deeds, such that Plaintiff was on notice of its recording.

14. Plaintiff, by virtue of being placed on notice of the recording of the mortgage has knowingly waived any and all rights to contest the validity of said mortgage.

15. As a result of Plaintiff's waiver, its Complaint is barred.

**WHEREFORE**, having answered Plaintiff's Complaint, Defendant BANA prays to this Honorable Court to order Plaintiff to protect the priority of Defendant BANA's mortgage, order

that any sale of the subject property be subject to Defendant BANA's mortgage lien; to satisfy Defendant BANA's mortgage lien plus interest from any sale of the real property that is the subject matter of this action, plus costs and attorneys' fees, and for such further relief as this Court deems proper.

Attorneys for Defendant Bank of America, N.A.



---

Jake S. Barker (SC Bar #77449)  
GRAYBILL LANSCH & VINZANI, LLC  
225 Seven Farms Drive, Suite 107  
Charleston, South Carolina 29492  
Direct Dial: (843) 408-4063  
jbarker@glvlawfirm.com

Charleston, South Carolina  
August 25, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,  
v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. ~~2015~~ CP-40- 02063

2014  
CM  
FIRST AMENDED SUMMONS

RICHLAND COUNTY  
FILED  
2015 AUG 10 PM 2:29  
JEANETTE M. HICERIDE  
CLERK, P. G.S.

TO: THE PLAINTIFF AND CO- DEFENDANTS NAMED ABOVE; U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FTI, represented by attorney Magalie Arcure; Bank of America, N.A. represented by attorney Jake Barker; and SCBT represented by attorney Ed Grimsley.

YOU ARE HEREBY SUMMONED and required to answer this FIRST Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the said Amended Complaint on the Defendant Rhonda Meisner at PO Box 689 Blythewood South Carolina 29016 , within 30 days after service hereof , exclusive of the day of such service, with three days added for mail service and if you fail to answer the Amended Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Amended Complaint. Any Answer that you serve on the parties in this action must be filed with the Clerk of Court and copying all parties to the action within a reasonable period of time after service or contemporaneously therewith.

August 10, 2015

Respectfully,

  
Rhonda Meisner, Defendant Pro-Se  
Post Office Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803)212-5407

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34

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,  
v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

FIRST AMENDED COMPLAINT

RICHLAND COUNTY  
FILED  
2015 APR 10 PM 2:30  
JEANETTE W. MORRIS  
CLERK, S.C.P. & S.

**TO: TERESA D VAN VLAKE ESQ., MAGALIE ARCURE, ATTORNEYS FOR THE  
PLAINTIFF; EDWARD GRIMSLEY, ATTORNEY FOR THE CO-DEFENDANT SCBT  
JAKE BARKER, ATTORNEY FOR CO-DEFENDANT BANK OF AMERICA, N.A.**

The Defendant Rhonda Meisner further answering the Complaint of the Plaintiff herein would respectfully show unto the Court as follows:

**FIRST DEFENSE**  
**( General Denial)**

1. Each and every allegations of the Complaint not herein specifically admitted, qualified or explained is denied. As an initial matter the action here-in is subject to a motion to dismiss filed by the Defendant pursuant to S.C. Rules of Civ. P. Rule 12(b)(7) (8) as an action in equity (2013-CP-40-7144) has already commenced naming the predecessor in servicing as a Defendant. The Defendant specifically denies the amounts owed in the above mentioned complaint.
2. The Defendant is without knowledge to dispute ¶ 1 of the complaint to the extent that the Plaintiff purports to suggest that the Plaintiff is a corporation or other legal entity that is authorized to bring this foreclosure action; however, the Defendant specifically denies many of the facts asserted in this complaint. According to Defendants records, the loan in question is current considering the re-application of funds received by the Plaintiff from the escrow account associated with the loan in this litigation. No evidence of payments or

applications were attached to the complaint as evidence of the applications of payments to the loan.

3. The Defendant does not have adequate information to admit or deny ¶ 2 which states that the Plaintiff is the authorized agent acting as the servicer and/or mortgagee for the aforementioned loan and is therefore authorized to act on behalf of U.S. Bank, National Association, as trustee for the holders of the Bank of America Funding Corporations, 2008- FT1 Trust, Mortgage Pass through Certificates, Series 2008-FT1.
4. Paragraph 3 is denied to the extent it purports to suggest that the transfer of the servicing rights were incomplete or inconsistent with the contract between the Plaintiff party and Bank of America, N.A. or that it purports to suggest a relationship (or right) which may not legally be recognized in the State of South Carolina. Defendant specifically reserves the right to challenge any interest in the real property associated with the above reference complaint by Plaintiff or co-defendant Bank of America, N.A. or the previously filed mortgage foreclosure action, South Carolina Complaint reference # 2013-CP-40-7144.
5. Defendant is without knowledge to admit or deny the allegations in ¶ 4 to determine whether proper service was affected to other Defendants pursuant to S.C. Code Ann. § 15-35-840.
6. Defendant admits ¶ 5
7. Defendant is without knowledge to admit or deny the actual dates and legal entities named in ¶ 6 without reviewing the original documents.
8. Defendant is without knowledge to admit or deny the legal description supplied by the Plaintiff associated with tax map # 12000-04-23. The Defendant Rhonda Meisner admits she owns the property located at 406 Koon Store Road, Columbia, South Carolina 29203.

9. Defendant is without present knowledge to admit or deny ¶ 8.
10. Defendant is without knowledge to admit or deny ¶ 9 to the extents it purports to describe a mortgage that has been unconfirmed by the Defendant.
11. Defendant is without knowledge to admit or deny ¶ 10.
12. Defendant is without knowledge to admit or deny ¶ 11.
13. Defendant objects to any change in the legal documents prior to Plaintiff's gaining legal title to the property as described in ¶ 12
14. Defendant denies receipt of any request for information by Plaintiff for the Home Affordable Modification Program as described in ¶ 13
15. Defendant denies ¶ 14 to the extent the Plaintiff purports to suggest that all fees are attached to the mortgage as described in ¶ 14 prior to a mortgage foreclosure hearing.
16. Defendant denies that she caused the default as described in ¶ 15 and demands strict proof thereof. Defendant further denies that all of the costs, disbursements and attorney's fees attach to the amount owed and further responds that these attachments can only be approved by a judge or jury interpreting the contract between the parties.
17. Defendant denies ¶ 16 to the extent it purports to convey that a right to cure has been received by the Defendant Rhonda Meisner
18. Defendant accepts the waiver of deficiency as absolute by the Plaintiff in ¶ 17. However, since Bank of America, N.A. is still a party to the previously filed lawsuit 2013-CP-40-7144 where a deficiency was demanded and as such the Defendant asserts her rights under the deficiency statute for appraisal should the court grant foreclosure.
19. Defendant expressly denies the validity of the judgments referenced in ¶ 18 at ii.  
Defendant denies the mortgage dated Sept 19, 2005 has not been paid. Defendant denies

the amount owed reference in ¶ 18 at I. is \$50,000.

20. Defendant Rhonda Meisner specifically invokes her rights under the appraisal statute S.C. Code Ann. 29-3-10 and specifically prays the Court will direct Plaintiff to pay Defendant Rhonda Meisner any proceeds of the sale should the Court order foreclosure.
21. Defendant Rhonda Meisner denies the amount owed in the Complaint are accurate and demands strict proof of all amounts owed. Defendant, Rhonda Meisner amount owed is subject to the provisions of S.C. Code Ann. § 29-3-660 *et. seq.*
22. Defendant Rhonda Meisner asserts the Bank is due any money determined to be owed by a judge or jury but US Bank or the predecessor Bank of America, N.A. is not entitled to the equity in the property. The owner of the note and mortgage possess only a right to the amount owed and not to any right associated with the equity in the property.
23. The plaintiff's request for the property to be sold and the equity of redemption be barred represents a penalty not allowed by South Carolina law.
24. Any response inconsistent with the Defendant's previous responses are denied.
25. Defendant attempted in good faith to work out a settlement of claims with the predecessor servicer Bank of America, N.A. that would avoid foreclosure.
26. Defendant Rhonda Meisner requires strict proof that she owes money to the Plaintiff and in the exact amounts but the amounts are governed by S.C. Code § 29-3-660 *et. seq.*
27. Defendant Rhonda Meisner demands strict proof of the amounts owed and requires a Jury Trial for the determination of whether the attorney fees are available to the Defendants under the contract terms of the mortgage and the note. ¶ 15 is Denied to the extent it purports to conclude the Plaintiff is owed money under the note and or mortgage referenced in this case.

### FOR A FIRST DEFENSE ESTOPPEL

28. The Plaintiff should be estopped to foreclose. The Plaintiff purports to be the current servicer and holder of the note and mortgage of the loan; however, any rights the Plaintiff has are encompassed and contained exclusively within the rights assumed from the previous servicer and or holder of the note and mortgage, Bank of America, N.A.
29. The Plaintiff purportedly assumed the servicing rights and or the note and mortgage from Bank of America, N.A. by assignment. At the time of the assumption the defendant Rhonda Meisner was in a dispute with Bank of America, N.A. regarding a newly imposed escrow account. This escrow account did not reflect accurate payments and deductions which was brought to the attention of the previous servicer Bank of America, N.A.
30. The loan payment amounts were automatically drafted from the defendant Rhonda Meisner's personal bank accounts pursuant to the agreement in the original loan documenting the agreement between the parties: Drafts from the personal bank account of Rhonda Meisner have occurred monthly since the inception of the loan and increased with the amounts for the new escrow account.
31. The increase in the monthly draft amounts did not take into consideration the application of payments made by Rhonda Meisner directly to the Richland County tax assessor's office which had occurred in the previous years of the loan.
32. The Plaintiff's predecessor in servicing the loan, Bank of America, N.A. then made duplicate payments to the Richland County Assessor's office and charged the duplicate payment to the defendant Rhonda Meisner's escrow account.
33. The terms of the note which were agreed upon by and between Bank of America, N.A.



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and Rhonda Meisner at the inception of the loan in 2003, specifically required if the Mortgagor ( Rhonda Meisner) elected automatic payments, in order to stop or cease the payments the mortgagor must notify the servicer in writing for the request to cease debiting the automatic payments.

34. Defendant Meisner made no such request and upon information and belief the note and mortgage was not sold and or endorsed to another entity at the time Bank of America, N.A. ceased automatic withdrawals of the appropriate payments causing the default now referenced in the above mentioned complaint.
35. Bank of America, N.A. was aware of their obligations to debit the checking account of Ms. Meisner because they had been doing so for the previous 7 plus years without interruption and Bank of America, N.A. drafted the document so Bank of America, N.A. was on actual notice of their continuing obligations to debit the checking account and to apply the funds to the note and mortgage originated in 2003.
36. Bank of America, N.A. was aware under the terms of the contract with Rhonda Meisner that they could change the amount debited from her checking account and took advantage of this contractual provision and changed the debited amount in the last several months of the account prior to assigning the note and mortgage to the plaintiff, US Bank.
37. Bank of America, N.A. has not filed in the Richland County register of deeds office any changes to the ownership of the note and mortgage prior to the assignment of the mortgage to U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FT1 that occurred in early 2014; however Bank of America, N.A. ceased debiting the bank account in July of 2013, a frank violation of the agreement between the parties.

38. Upon information and belief U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FT1 is a trust governed by the pooling and servicing agreements associated with trust.
39. Upon information and belief trusts like the Plaintiff in this case U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FT1 closes in the year of the inception of the trust or within months of the inception of the trust.
40. The plaintiff purports to have accepted ownership of the note and mortgage years after the creation of the trust without providing documentation attached to the lawsuit that the trust remained open or was re-opened and could accept the assignment into the trust.
41. Defendant complained of the dual payments and the extra amounts deducted from the checking account as to Bank of America's refusal to request a refund from Richland County and to adjust the escrow account accordingly or to eliminate the need for the newly opened escrow account or in the alternative credit the payments made by Meisner directly to Richland County tax assessor for payment of taxes as such prior to assignment the trust account was inaccurate.

#### **SECOND DEFENSE UNCLEAN HANDS**

42. Defendant incorporates the allegations contained above as if fully set forth verbatim.
43. The Plaintiff's request to foreclose should be denied under the unclean hands doctrine.
- The Defendant, Rhonda Meisner was in a dispute with the previous servicer and owner of the note and mortgage of the 2003 loan regarding the implementation of an escrow account which the Plaintiff has "assumed" in the servicing and /or ownership of the note and mortgage of the loan in question.

44. Additionally, unless the Plaintiff, U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FTI, trust was re-opened pursuant to the pooling and servicing agreement or the prospectus then the transfer of the note and mortgage into the trust after a "note default" is a fraudulent conveyance and as such voids the transfer of the note and mortgage into the trust. The Plaintiff's original lawsuit that was filed pled the Defendant Rhonda Meisner was in default since July 12, 2013 and that the note and mortgage were transferred to the Plaintiff U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FTI in April of 2014.
45. According to the pleadings by the plaintiff, U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FTI received the assignment after the note was in default.
46. Receiving the note and mortgage assignment after default makes, the Plaintiff, U.S. Bank, a third party creditor as described under Article III and Article IX of the Uniform Commercial Code by accepting a "defaulted" note and mortgage.
47. The Plaintiff's predecessor in servicing, Bank of America, N.A. did not properly credit the payments made directly to Richland County Treasurer for property taxes by Rhonda Meisner and instead Bank of America, N.A. insisted on paying Richland County and charge the defendant duplicate amounts by requiring an escrow account which had not previously been required.
48. Bank of America, N.A. did not continue debiting the mortgage payments pursuant to the note and or mortgage agreements nor did they transfer their rights of debiting to the Plaintiff U.S. Bank upon assignment without interruption from Defendant's checking

account. The Bank of America, N.A. did not make the required notifications pursuant to the laws regulating servicers of notes and mortgages or the Dodd-Frank Consumer Financial Protection Act of 2010( subtitle E sect. 1462 and sect. 1465) or the original note and mortgage agreements regarding drafting of the payments from defendants checking account.

49. Violation of the Dodd-Frank Consumer Financial Protection Act constitutes unclean hands by the previous servicer Bank of America, N.A. The liability of the acts of the servicer are imputed to the principal.
50. The violations of the law covered by the Dodd-Frank Act are also violations for second homes and investment properties.
51. Violation of the laws regulating servicing agents and violations of the requirements for transfers of the servicing rights also constitutes unclean hands.
52. The plaintiff US Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FTI has assumed the breaches associated with the Bank of America, N.A.'s failure to continue debiting and the failure of Bank of America, N.A. to transfer the debiting rights associated with the note and mortgage when they transferred and or assigned the note and mortgage created the default status.

**FOR A FIRST CAUSE OF ACTION REQUEST FOR DECLARATORY  
JUDGMENT ACTION**

53. Defendant incorporates the allegations contained above as if fully set forth verbatim herein.
54. Upon information and belief the defendant Rhonda Meisner is entitled to a declaratory judgment pursuant to S.C. R.C. P. 57 and S.C. Code Ann. §§ 15-53-10 through §15-15-140 to determine a question in actual controversy between or among all of the parties

including the co-defendants as to the real party in interest, who is the true owner of the note and mortgage and their respective rights and liabilities under a note AND mortgage and the associated lis pendens pertaining to real property located at 406 Koon Store Road and more particularly described in the Plaintiff's complaint, which is incorporated by reference and to determine the respective rights and obligations of all of the parties with respect to the amount of excess funds distributions pursuant to the first filed liens under South Carolina law and to determine the appraisal rights of the Defendant, Rhonda Meisner.

55. Defendant Rhonda Meisner was not notified in writing before the transaction that a waiver of appraisal rights would be required pursuant to South Carolina law. The only written information about the waiver of appraisal rights was contained in the mortgage itself, which was not provided "before" the transaction and therefore does not comply with South Carolina law. It was provided during the transaction and did not include the requisite disclaimer language of S.C. Code Ann. §29-3-680 (B).
56. Defendant Rhonda Meisner seeks a declaratory judgment that pursuant to the terms of the note and mortgage the Plaintiff's cessation of drafting the defendants bank account caused the default in the above mentioned lawsuit and is therefore the source of the breach in the agreement between the parties.
57. Defendant Rhonda Meisner seeks a declaratory judgment that she is entitled to her statutory appraisal rights; that the appraised value will be substituted for the high bid at the foreclosure sale auction if the appraised value is greater than the high bid and that the amount she would received pursuant to the sale be according to the appraisal.
58. Because a deficiency is not demanded in the current lawsuit referencing the 2003 note

and the mortgage; the Defendant seeks an order of the Court or declaratory judgment that the Defendant Rhonda Meisner if the sale of the property is ordered is entitled to substitute the appraisal amount for the sale amount of the property if the Court rules the property can be sold.

59. Further she seeks a declaratory judgment that the co-defendants must prove the amounts listed in the lis pendens . Additionally, the Defendant further seeks order from the Court that the liens associated with the co-defendant SCBT be removed from the lis pendens and eliminated from this litigation as SCBT has changed their lawsuit to a suit on a note which does not provide for an encumbrance on the property.
60. Pursuant to S.C. Code Ann. § 29-3-380 the defendant requests as part of the declaratory judgment action the submission to the jury to decide whether the 2005 mortgage to Bank of America, N.A. has been paid and whether Bank of America, N.A. is liable under S.C. Code Ann. §29-3-320 for failure to enter a satisfaction of mortgage after notice.
61. Pursuant to S.C. Code Ann. § 29-3-630 the defendant requests as part of the declaratory judgment the amount owed in sum certain terms prior to an order of foreclosure be determined to be liquidated damages subject to pre-judgment and post-judgment interest.
62. Pursuant to S.C. Code Ann. §29-3-660 the defendant requests as part of the declaratory judgment that the defendant is offered the protections of S.C. Code §29-3-660 as opposed to S.C. Code Ann. §29-3-650 based on the previous lawsuit of the parties as pled in 2013-CP-40-7144 including appraisal rights pursuant to S.C. Code Ann. §29-3-680 (B) and rights to a jury trial pursuant to S.C. Code Ann. §15-23-60 and S.C. Rules of Civ. P. Rule 38(a).
63. The Defendant further prays that the Court enter its declaration as to the amounts owed

by each party with a final accounting being applied to the outstanding balances of the loan, if any and order a bond be purchased in lieu of foreclosure or the amounts paid within the Court ascribed time limits.

64. The Defendant prays that the Court more fully inquire into the terms and conditions of the Note and Mortgage referenced and issue its declaration as to the rights, responsibilities and obligations of the parties.

65. The Defendant Rhonda Meisner reserves the right to assert further claims or defenses that may appear disclosed during discovery in the case.

**FOR A SECOND CAUSE OF ACTION BREACH OF CONTRACT BY BANK OF AMERICA, N. A.**

66. Defendant incorporates the allegations contained above as if fully set forth verbatim herein.

67. The co-defendant Bank of America, N.A. has breached the terms of the note contract with the defendant Rhonda Meisner by not debiting her checking account as agreed.

68. The co-defendant Bank of America, N.A. has attempted via a change in servicer to avoid liability for the breach by not assigning the debiting to the new servicer.

69. The co -defendant Bank of America, N.A. has breached the contract of the note by not resolving the escrow dispute prior to transferring the servicing of the loan in this litigation.

70. The co-defendant, Bank of America, N.A. has breached the terms of the note and mortgage contract with Rhonda Meisner by ceasing debiting of her account without receiving a written request for stopping the debit from her bank account, calling the loan in default and refusing to accept additional payments which is a frank violation of the contract terms of the note.

**FOR A THIRD CAUSE OF ACTION BREACH OF CONTRACT  
ACCOMPANIED BY A FRAUDULENT ACT BY BANK OF AMERICA, N.A.**

71. Defendant incorporates the allegations contained above as if fully set forth verbatim herein.
72. The co-defendant Bank of America, N.A. by ceasing to debit the bank account of Rhonda Meisner as agreed in the contract terms of the note and then declaring the mortgage in default has violated the contract terms of the note and the mortgage.
73. The co-defendant Bank of America, N.A. intentionally and maliciously ceased the debiting of the bank account and then declared the note and mortgage in default, with full knowledge that the Defendant had not requested any such action.
74. The co-defendant Bank of America, N.A. by ceasing to debit the account while still owning the note and mortgage committed a fraudulent act by declaring its own actions as a default event and accelerating the mortgage.
75. The co-defendant Bank of America, N.A. did not have the authority to cease debiting the bank account of defendant Meisner pursuant to the contract terms.
76. The co-defendant Bank of America, N.A. unauthorized manipulation of the debiting functions of the defendant's account is a fraudulent act by a servicer.
77. The co-defendant Bank of America, N.A.'s fraudulent servicing actions of ceasing to debit the Defendants checking account without the express request and authority to do so amounts to a breach of the note contract accompanied by a fraudulent act.
78. The co-defendant, Bank of America, N.A. by causing the breach, declaring the loan in default, refusing to accept additional payments and refusing to prior to the transfer or assignment of the loan has committed a fraudulent act.
79. The co defendant Bank of America, N.A. knew in certain terms a required written request



from defendant Meisner is the only way to stop the debiting of the account; however, without permission the co defendant Bank of America, N.A. ceased debiting the account in order to create the default and then refused to accept payments once the wrongful act was discovered.

80. The Plaintiff's have also failed to comply with the Dodd-Frank Consumer Protection statute and by initiating this action, the Defendant should be entitled to costs, fees and punitive damages as a violation of the unfair trade practices act S.C. Code Ann. § 39-5-10; § 39-5-20 and §39-5-35.

81. The Plaintiff's predecessor in servicing Bank of America, N.A. also breached the implied covenant of good faith and fair dealing inherent in all contracts in South Carolina by transferring the servicing of the loan without transfer of the debiting rights and prior to resolution of the escrow dispute or reassigning the disputed funds to the payment of the mortgage.

82. Defendant Prays for an accurate accounting acknowledging the dual payments to the Richland County Assessor's office.

83. The plaintiff in this action has caused to be entered on the account attorney fees that have not been granted by the Court in violation of the agreement between the parties.

84. Attorneys fees in this action are subject to interpretation of the contract and therefore the determination of whether the fees are available and to which party considering the contract terms and circumstances of the case should be presented to the jury.

85. The defendant reserves the right to add additional counterclaims and cross claims as may arise during discovery in this litigation.

**FOR A FOURTH CAUSE OF ACTION ABUSE OF PROCESS BY U.S. BANK IN  
VIOLATION OF SOUTH CAROLINA COMMON LAW AND THE LAWS OF  
EQUITY**

86. The defendant repeats and incorporates the allegations contained above as if fully set forth verbatim herein.
87. The Plaintiff, U.S. Bank pursuant to article 3 of the Uniform Commercial Code is a third party debt collector and as such possesses only the rights conveyed as part of the assignment.
88. The Plaintiff U.S. Bank drafted and submitted a "Proposed Order" to the Clerk of Court, Jeanette McBride for signature and processing that included findings of fact and conclusions of law.
89. The "Proposed Order" was drafted, attached to a motion for mandatory referral to the Master in Equity Judge that included not only findings of fact but also included a "strike of the Jury demand" by the Defendant, Rhonda Meisner, a substantial and substantive right.
90. The "Proposed Order" was submitted by members of the bar of South Carolina representing the Plaintiff Bank and was a willful, wanton and an overt act in perverting the use of the Court's normal process for submitting a motion or requesting a hearing for referral to the Master in Equity Judge.
91. The "Proposed Order" circumvented the normal processes of the Court by circumventing the fact finder Judge and/or Jury from the process.
92. The "Proposed Order" circumvented and perverted the normal processes of the Court by placing the Clerk of Court on equal footing as a Circuit Court Judge and/or a Jury.
93. The Plaintiff US Bank intentionally, willfully and wantonly submitted the "Proposed

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Order" to the Clerk of Court at a time when a motion to reconsider was under advisement by the Court.

94. The Plaintiff US Bank willfully and wantonly circumvented the Court's normal process for motions and hearings in order to get the collateral advantage of denying defendant Meisner to a hearing and /or a trial with a jury in order to fast track the foreclosure process.

95. The Plaintiff's use of the process they employed is improper because it (a) authorized the Clerk of Court to sign the "Proposed Order " without the Clerk possessing the authority under the laws of South Carolina to sign the order that made findings of fact and conclusions of law.

96. The Plaintiff's use of the process also impermissibly placed the Clerk of Court on par with a Circuit Court Judge and potentially placed the Master in Equity in the position of making rulings without the jurisdiction to do so.

97. The Plaintiff's use of the process impermissibly placed the Clerk of Court in a position of practicing law without a license as the Clerk of Court has admitted she is not an attorney or a judge.

98. The Plaintiff, US Bank's willful and reckless abuse of process actions has damaged the defendant Rhonda Meisner by causing her to spend additional money on motion fees parking, gas, office supplies and other expenses associated with defending the Plaintiff's

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abuse of process actions. The Defendant Rhonda Meisner expended approximately 47 hours of her time researching the referral, drafting replies, speaking with the Clerk of Court and drafting motions and attending hearings before the Master in equity and mounting a defense and counterclaim to the " illegal referral to the Master in Equity"

caused by the Plaintiff's actions.

99. The Plaintiff, US Bank's willful and reckless abuse of process actions have caused serious incremental stress to the Defendant in addition to the normal stress and anxieties associated with litigation in the weeks and months prior to discovery of the fact that the "Proposed Order" was not allowed by law to be signed by the Clerk of Court.
100. The Plaintiff US Bank's abuse of process actions are capable of repetition as US Bank's parent company US Banc Corp. is one of the largest Bank's in the United States and therefore represents a risk and threat to other citizens going through a foreclosure action filed by US Bank in the State of South Carolina warranting punitive damages to deter the plaintiff, US Bank's future actions in South Carolina.
101. These specific abuse of process actions of US Bank are an affront to public policy as their actions are implemented to deny the right of a defendant the right of having a Judge or Jury determine the findings of fact and conclusions of law prior to ruling on the referral to the Master in Equity.
102. The Plaintiff, U.S. Bank's actions have the potential to violate the due process clause of the United States Constitution by depriving the Defendant Rhonda Meisner the proper processes afforded by the South Carolina Rules of Civil Procedure and the United States Constitution and for her defenses, counterclaims and cross claims to be heard by a Judge and/or a Jury.
103. The Plaintiff, U.S. Bank's actions have the potential to be replicated against other citizens of the State of South Carolina should the Plaintiff again attempt to circumvent the processes of the Circuit Court warranting punitive damages.
104. The Plaintiff, U.S. Bank was aware their actions were unlawful because they

acknowledged that Rule 53(b) only allows for a general Order of Reference in their Summons and Notices filed on March 31, 2014.

105. The Plaintiff, US Bank's intentional, willful and wanton actions of attempting to circumvent and abuse the Court's processes by impermissibly allowing the Clerk of Court to sign an Order that the State of South Carolina has never legally allowed, amounts to an abuse of process as the Clerk's office has never been authorized by law to make findings of fact and conclusions of law and their actions warrant punitive damages.

**FOR A FIFTH CAUSE OF ACTION: BANK OF AMERICA, N.A. HAS FAILED TO FILE SATISFACTION OF MORTGAGE AFTER NOTICE PURSUANT TO S.C. CODE ANN. § 29-3-310**

106. Defendant incorporates the allegations contained above as if fully set forth verbatim.
107. The Plaintiff US Bank listed a mortgage in the lis pendens by Bank of America, N.A. that has been paid in full and therefore completely satisfied.
108. The Co-defendant Bank of America, N.A. has not entered a satisfaction of the mortgage in the public records or released the lien associated with the mortgage pursuant to S.C. Code Ann. § 29-3-310.
109. The Co-defendant Bank of America, N.A. reported in 2008 that the 2005 mortgage to Rhonda Meisner had gone into foreclosure to the credit bureaus; however this loan was previously paid off via an online banking transfer.
110. Rhonda Meisner in the process of getting another loan in 2008 found the reporting error by Bank of America, N.A. and the fact the Bank of America, N.A. was reporting that the mortgage had not been satisfied based on the bank's reports to the credit agencies and that the loan was in foreclosure by Bank of America, N.A.

111. Rhonda Meisner requested the wrongful reports to the credit agencies be removed and the satisfaction of the mortgage along with release of lien to be entered by Bank of America, N.A.; the reporter of the wrongful information.
112. Bank of America, N.A. promised to correct the wrongful reports and enter satisfaction of the mortgage loan and release of the lien against the subject property.
113. The corrections of the wrongful information to the credit agencies was completed by Bank of America, N.A. as evidenced by the ability of Ms. Meisner to get the additional loan for which she applied; however, the Bank of America, N.A. did not enter a satisfaction of the mortgage as required by S.C. Code Ann. § 29-3-310.
114. The Failure of Bank of America, N.A. to enter satisfaction of the mortgage and the accompanying release of lien subjects them to liability for their failure pursuant to S.C. Code Ann. § 29-3-320.
115. Pursuant to S.C. Code Ann. §29-3-320 the defendant Rhonda Meisner is entitled to specific remuneration for the Bank of America, N.A.'s violation of the statute. Specifically, 50 % of the value of the mortgage or \$25,000 whichever is less. The amount of the mortgage is \$30,000; therefore the statutory penalty of \$15,000 is a liquidated damage.
116. The amount certain for recovery as outlined and detailed pursuant to the statute amounts to liquidated damages in the amount of \$15,000.
117. Liquidated damages under South Carolina law are subject to pre-judgment interest from the date of the violation and post-judgment interest as well as attorney's fees and costs.

**FOR A SIXTH CAUSE OF ACTIONS LANDER OF TITLE BY BANK OF AMERICA, N.A.**

118. Defendant incorporates the allegations contained above as if fully set forth verbatim herein.
119. The Failure of Bank of America, N.A. to enter satisfaction of the mortgage creates a slander of title for the property located at 406 Koon Store Road.
120. Bank of America, N.A. was on notice that the loan initiated in 2005 by Rhonda Meisner was paid in full in 2008.
121. Bank of America, N.A.'s refusal to remove the mortgage encumbrance after notice of the failure to file for satisfaction makes the refusal willful, wanton and made with reckless disregard of the rights of Rhonda Meisner's peaceful enjoyment of her property without the cloud on the title of an erroneous lien.
122. Bank of America, N.A.'s actions have resulted in special damages such as the extra costs associated with the research, drafting of motions, copying, parking fees and time spent researching and defending the specific portion of the action associated with the erroneous liens which should equate to attorney's fees (since the defendant is pro-se) against third party claimants as well as the co-defendant Bank of America, N.A.
123. Bank of America, N.A. actions have resulted in the diminishment of value of the property in the eyes of third party as evidenced by the co-defendant SCBT changing their action from foreclosure to a suit on a note; effectively making Defendant Meisner defend two lawsuits instead of one, thereby doubling the effort and expense of the defense.
124. The lack of removal of the liens by Bank of America, N.A. resulted in the diminishment of the property in the eyes of third parties and prompted the 30 (b) (6) deponent for SCBT to change his lawsuit from a mortgage foreclosure action to a suit on the note which he noted was due to Bank of America's liens and is a special damage

resulting directly from Bank of America's refusal to satisfy the mortgage of already paid loans with the Richland County register of deeds office.

125. The co-defendants' actions were willful and wanton and with reckless disregard to the rights of Ms. Meisner for the peaceful enjoyment of her property without the additional encumbrance of already satisfied liens in the form of a mortgage encumbrance which diminished the value of the property and prevented disposal of the property expeditiously.

126. The plaintiff US Bank and the co-defendant Bank of America, N.A. have requested reimbursement of attorneys fees pursuant to the note and the mortgage entitling defendant Meisner to a right of trial by jury for the contract interpretation.

**FOR A SEVENTH CAUSE OF ACTION SLANDER OF TITLE BY SCBT BASED  
ON COMMON LAW PRINCIPLE OF EQUITY**

127. Defendant incorporates the allegations contained above as if fully set forth verbatim herein.

128. The plaintiff US Bank has referenced liens by the co-defendant SCBT which should have been removed from the Lis Pendens by SCBT.

129. The co defendant SCBT has elected to pursue suit on a note in a separate action; therefore, the lis pendens referencing any loans or judgments by SCBT should be removed from the lis pendens in this action.

130. SCBT was on notice that reference to the liens should have been removed from the property in this action because the Honorable Alison Renee Lee vacated the liens in a previous action 2013-CP-40-7144.

131. The reference of the liens effectively puts SCBT in a position of a dual course for recovery via the present foreclosure action and their independent action of a suit on a



note 2013-CP-40-7144 and should not be allowed.

132. The Honorable Alison Renee Lee has already removed the liens from the lis pendens associated with 2013-40-CP-7144 and the co-defendant, SCBT was aware the liens were still in tact in this case but failed or refused to file a request for amendment to the lis pendens in this action by requesting the removal subsequent to the Court's Order that a lis pendens was not appropriate for SCBT because of the change in the action to suit on a note.

133. The Defendant requests the Court to enforce the Honorable Alison Lee's direction to SCBT and direct U.S. Bank to file an amended lis pendens eliminating SCBT's liens.

The defendant Rhonda Meisner for the above reasons and all references to the record respectfully requests the Court to enter its judgment finding

1) The Plaintiff US Bank is a third party debt collector pursuant to article 3 of the UCC based on the pleadings in the case.

2) The co-defendant Bank of America, N.A. caused the default of the mortgage and note by ceasing to debit defendant Meisner's account, causing the referenced default and then declining to accept payments and accelerate the note.

3) A finding the Plaintiff U.S. Bank, as a third party debt collector abused the process of the Courts and in doing so has violated the unfair trade practices act S.C. Code Ann. § 39-5-10; § 39-5-20 and § 39-5-35 and has damaged the defendant Rhonda Meisner and U.S. Bank's actions warrant actual and punitive damages to be proved at trial.

4) A finding that co-defendant Bank of America, N.A. slandered the title of defendants' Rhonda Meisner's property located at 406 Koon Store Road, Columbia, SC 29203 by not removing the mortgage lien from 2005 and therefore damaged defendant Meisner.

- 5) A finding that co-defendant's Bank of America, N.A.'s failure to remove the liens associated with the 2005 mortgage that was satisfied violated S.C. Code Ann. §29-3-310 warranting recovery via S.C. Code Ann. §29-3-320.
- 6) A declaratory judgment that Bank of America's damages to Rhonda Meisner be subtracted from the amounts owed to the rightful owner of the note and mortgage once determined and prior to calculation of any monies owed for the note in this case.
- 6) The liens associated with SCBT as referenced and recorded in the lis pendens be removed from the litigation.
- 7) A determination that the counterclaims, cross claims and the availability of recovery of attorney's fees are subject to contract interpretation and therefore warrant a jury trial as the facts and arguments are sufficiently connected between the foreclosure action, the cross claims and the counterclaims as to not allow for bifurcation of trials.
- 8) A determination that the case be submitted to ADR and the Jury Trial Roster based on the facts of the case.

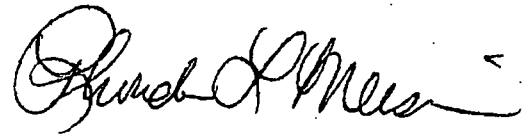
And for an order of all other such relief as may be appropriate and available under the law including a trial by jury for all causes of action that are have rights to a jury trial, for attorney fees or the commensurate amount in damages of time spent and punitive judgments against the Plaintiff and co-defendant Bank of America, N.A., pre-judgment and post-judgment interest as to all liquidated damages for Bank of America, N.A.'s failure to file satisfaction of lien and all such other Orders as the Court may determine and for all other judgments as the Court may determine to be fair and just.

Respectfully Submitted,

SIGNATURE LINE NEXT PAGE



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Rhonda L. Meisner  
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July 13, 2015

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

**PLAINTIFF'S REPLY TO DEFENDANT'S  
AMENDED ANSWER AND  
COUNTERCLAIM**

RICHLAND COUNTY  
FILED  
2015 AUG 21 AM 10:55  
JEANETTE V. MCGRUB  
CLERK, C.S.

Plaintiff, by undersigned counsel, hereby submits its Reply to the Amended Answer and Counterclaim ("Answer") filed by Rhonda Lewis Meisner a/k/a Rhonda L. Meisner ("Defendant").<sup>1</sup> In support of its Reply, Plaintiff states as follows:

1. Unless expressly admitted herein, Plaintiff denies each and every allegation in the Answer.
2. Each allegation of the Complaint in this matter is hereby incorporated by reference. Plaintiff denies any factual allegation in the Answer inconsistent therewith and demands strict proof.
3. Plaintiff craves reference to the public records of Richland County, South Carolina, for the subject documents of Plaintiff's action, and denies anything inconsistent therewith.
4. Plaintiff denies paragraph 1 of the Answer and demands strict proof. Plaintiff avers that civil action 2013-CP-40-7144 is an action for foreclosure of a second mortgage held by Defendant SCBT in which Plaintiff's predecessor-in-interest was voluntarily dismissed as a party. Further responding, Defendant Meisner's Motion to Dismiss the instant action pursuant to Rule 12(b)(8) was denied on the grounds that the Defendant's loan agreements with Plaintiff and SCBT are wholly independent and distinct from one another and Plaintiff was not a necessary party to the SCBT foreclosure as a senior lienholder.

<sup>1</sup> Plaintiff notes that Defendant's Answer is styled as a "First Amended Complaint".

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5. Plaintiff denies paragraph 2 of the Answer to the extent it alleges that the subject loan is not in default, and demands strict proof. To the extent the remainder of paragraph 2 requires a response, Plaintiff denies same and demands strict proof.
6. To the extent paragraphs 3 through 17 of the Answer require a response, Plaintiff denies same and demands strict proof.
7. Plaintiff admits so much of paragraph 18 of the Answer which alleges that Plaintiff does not demand a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the Plaintiff, including costs and attorney's fees. Plaintiff denies the remainder of paragraph 18 and demands strict proof.
8. To the extent paragraph 19 of the Answer requires a response, Plaintiff denies same and demands strict proof.
9. Paragraph 20 of the Answer appears to state legal conclusions which require no response; to the extent a response is required, Plaintiff craves reference to applicable South Carolina law, denies anything inconsistent therewith, and demands strict proof.
10. Paragraphs 21 and 22 of the Answer appear to state legal conclusions which require no response; to the extent a response is required, Plaintiff craves reference to applicable South Carolina law, denies anything inconsistent therewith, and demands strict proof. Plaintiff denies the remainder of paragraphs 21 and 22 and demands strict proof.
11. Plaintiff denies paragraph 23 of the Answer, and demands strict proof.
12. To the extent paragraph 24 of the Answer requires a response, Plaintiff denies same and demands strict proof.
13. Plaintiff has insufficient information to admit or deny the allegations of Paragraphs 25 of the Answer; therefore, denies same and demands strict proof
14. Paragraphs 26 and 27 of the Answer appear to state legal conclusions which require no response; to the extent a response is required, Plaintiff craves reference to applicable South Carolina law, denies

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anything inconsistent therewith, and demands strict proof. Plaintiff denies the remainder of paragraphs 26 and 27 and demands strict proof.

15. Plaintiff admits so much of paragraph 28 of the Answer which may be construed to allege that Plaintiff is the holder of the subject note and assignee of the corresponding mortgage. Plaintiff denies the remainder of paragraph 28 and demands strict proof.

16. Plaintiff admits so much of paragraph 29 which may be construed to allege that Plaintiff is the assignee of the original creditor. Plaintiff has insufficient information to admit or deny the remainder of paragraph 29; therefore, denies same and demands strict proof.

17. Plaintiff has insufficient information to admit or deny paragraphs 30 through 32 of the Answer; therefore, denies same and demands strict proof.

18. In response to paragraph 33 of the Answer, Plaintiff craves reference to the terms of the subject note and mortgage, denies anything inconsistent therewith, and demands strict proof.

19. Plaintiff has insufficient information to admit or deny paragraphs 34 through 36 of the Answer; therefore, denies same and demands strict proof.

20. Plaintiff admits so much of paragraph 37 of the Answer which may be construed to allege that an assignment of mortgage from the original mortgagee to Plaintiff was recorded in the Richland County Register of Deeds office on May 2, 2014 in Book 1943 at Page 1234. Plaintiff has insufficient information to admit or deny the remainder of paragraph 37; therefore, denies same and demands strict proof. Plaintiff specifically denies any violation of state and/or federal law.

21. Plaintiff admits so much of paragraph 38 of the Answer which may be construed to allege that it is a private trust and party to a servicing agreement with its servicer for the subject loan, Nationstar Mortgage, LLC. Plaintiff denies the remainder of paragraph 38 and demands strict proof.

22. Plaintiff denies paragraphs 39 and 40 of the Answer and demands strict proof.

23. Plaintiff has insufficient information to admit or deny paragraph 41 of the Answer; therefore, denies same and demands strict proof.

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**FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION**  
**(Violation of 15 U.S.C. § 1638 (Dodd Frank Act §§ 1462, 1465))**

24. Plaintiff notes that paragraphs Plaintiff 42 through 52 of the Answer are denoted as a defense; to the extent they maybe construed to allege a counterclaim for violation of 15 U.S.C. § 1638 *et seq.*, Plaintiff responds as follows.

25. To the extent paragraph 42 of the Answer requires a response, Plaintiff denies same and demands strict proof.

26. Plaintiff denies paragraphs 43 through 45 of the Answer; therefore, denies same and demands strict proof.

27. Paragraph 46 of the Answer appears to state legal conclusions which require no response; to the extent a response is required, Plaintiff craves reference to applicable South Carolina law, denies anything inconsistent therewith, and demands strict proof.

28. Plaintiff has insufficient information to admit or deny paragraph 47 of the Answer; therefore, denies same and demands strict proof.

29. Paragraph 48 through 52 of the Answer appears to state legal conclusions which require no response; to the extent a response is required, Plaintiff craves reference to applicable South Carolina and federal law, denies anything inconsistent therewith, and demands strict proof. Plaintiff has insufficient information to admit or deny the remainder of paragraphs 48 through 52; therefore, denies same and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION**  
**(Declaratory Judgment)**

30. Plaintiff reasserts the foregoing statements as if set forth at length herein.

31. To the extent paragraph 53 of the Answer requires a response, Plaintiff denies same and demands strict proof.

32. Paragraph 54 of the Answer appears to state legal conclusions for which no response is required.

To the extent that a response is required, Plaintiff craves reference to applicable South Carolina law and

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denies anything inconsistent therewith. Plaintiff denies the remainder of paragraph 54 and demands strict proof.

33. Paragraph 55 of the Answer appears to state legal conclusions for which no response is required. To the extent that a response is required, Plaintiff craves reference to applicable South Carolina law and denies anything inconsistent therewith. Plaintiff has insufficient information to admit or deny the remainder of paragraph 55; therefore, denies same and demands strict proof.

34. Plaintiff denies paragraphs 56 through 65 of the Answer and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION**  
**(Breach of Contract)**

35. Plaintiff reasserts the foregoing statements as if set forth at length herein.

36. Plaintiff notes that paragraphs 66 through 70 of the Answer appear to state a crossclaim against Defendant Bank of America, which does not require a response from Plaintiff. To the extent any of the foregoing allegations may be construed to allege a counterclaim against Plaintiff, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE FOURTH CAUSE OF ACTION**  
**(Breach of Contract Accompanied by Fraudulent Act)**

37. Plaintiff reasserts the foregoing statements as if set forth at length herein.

38. Plaintiff notes that paragraphs 71 through 79 of the Answer appear to state a crossclaim against Defendant Bank of America, which does not require a response from Plaintiff. To the extent any of the foregoing allegations may be construed to allege a counterclaim against Plaintiff, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

39. Plaintiff denies paragraphs 80 through 85 of the Answer and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE FIFTH CAUSE OF ACTION**  
**(Abuse of Process)**

40. Plaintiff reasserts the foregoing statements as if set forth at length herein.

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41. To the extent paragraph 86 of the Answer requires a response, Plaintiff denies same and demands strict proof.

42. Plaintiff denies paragraph 87 of the Answer and demands strict proof.

43. In response to paragraphs 88 and 89 of the Answer, Plaintiff admits only that a Motion to Strike the Defendant's Jury Demand and for a Mandatory Order of Reference was properly filed with the Court, duly granted pursuant to Rule 53, SCRCP, subsequently vacated, and is pending a hearing date in the Court of Common Pleas. Plaintiff denies the remainder of paragraphs 88 and 89, and demands strict proof.

44. Plaintiff denies paragraphs 90 through 105 of the Answer and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE SIXTH CAUSE OF ACTION**  
**(Failure to Satisfy Mortgage/Violation of S.C. Code § 29-3-310)**

45. Plaintiff reasserts the foregoing statements as if set forth at length herein.

46. Plaintiff notes that paragraphs 106 through 117 of the Answer appear to state a crossclaim against Defendant Bank of America, which does not require a response from Plaintiff. To the extent any of the foregoing allegations may be construed to allege a counterclaim against Plaintiff, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE SEVENTH CAUSE OF ACTION**  
**(Slander of Title as to Defendant Bank of America)**

47. Plaintiff reasserts the foregoing statements as if set forth at length herein.

48. Plaintiff notes that paragraphs 118 through 126 of the Answer appear to state a crossclaim against Defendant Bank of America, which does not require a response from Plaintiff. To the extent any of the foregoing allegations may be construed to allege a counterclaim against Plaintiff, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FIRST DEFENSE TO THE EIGHTH CAUSE OF ACTION**  
**(Slander of Title as to Defendant SCBT)**

49. Plaintiff reasserts the foregoing statements as if set forth at length herein.

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50. Plaintiff notes that paragraphs 127 through 133 of the Answer appear to state a crossclaim against Defendant SCBT, which does not require a response from Plaintiff. To the extent any of the foregoing allegations may be construed to allege a counterclaim against Plaintiff, Plaintiff denies same and demands strict proof. Plaintiff specifically denies any violation of South Carolina and/or federal law.

**FOR A FURTHER DEFENSE TO DEFENDANT'S COUNTERCLAIM**

51. Plaintiff reasserts the foregoing statements as if set forth at length herein.

52. Defendant has a debt due and owing to Plaintiff.

53. In order to secure the payment of the subject loan, Defendant did make, execute, and deliver to Plaintiff, its successors and assigns, a certain real estate Mortgage covering real property located in the County and State aforesaid and specifically described in said Mortgage.

54. Plaintiff and Defendant intended the subject real property to serve as security for the payment of the debt.

55. As a result, Plaintiff has an equitable lien on the property.

56. Because Defendant defaulted on the loan, Plaintiff is entitled to the relief prayed for in its Complaint.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

57. Plaintiff avers that Defendant's claims are barred by the doctrine of laches and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

58. Plaintiff avers that Defendant's claims are barred by the doctrine of estoppel and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

59. Plaintiff avers that Defendant's claims are barred by the doctrine of waiver and should be dismissed with prejudice.

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**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

60. Plaintiff avers that Defendant's claims are barred by the applicable statute(s) of limitations and statute(s) of repose, and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

61. Plaintiff avers that Defendant's claims are barred by the statute of frauds and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

62. Plaintiff avers that Defendant's claims are barred by the doctrine of release, and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

63. Defendant has failed to state facts sufficient to constitute a cause of action against Plaintiff pursuant to Rule 12(b)(6), SCRCP, and Defendant's claims should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

64. Defendant's damages, if any, are the result of her own actions and/or omissions or the actions, omissions of individuals over whom Plaintiff exercised no control, or both.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

65. Defendant's claims are barred by her failure to perform certain conditions precedent under his loan agreement with Plaintiff.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

66. The relief requested by Defendant is barred by S.C. Code § 15-36-10.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

67. Plaintiff reserves the right to assert additional claims and defenses as they may become known.

**WHEREFORE**, Plaintiff requests that the Court dismiss the Defendant's Counterclaims with prejudice, award Plaintiff its costs and attorneys' fees, and grant such other and further relief as is just and necessary.

bb 92

FINKEL LAW FIRM LLC

  
Magalie A. Creech (S.C. Bar 78855)  
Post Office Box 41489  
Charleston, South Carolina 29423  
Tel: (843) 577-5460  
Facsimile: (843) 577-5135  
*Attorneys for the Plaintiff*

Dated: August 18, 2015

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as  
trustee for the Holders of the Banc of  
America Funding Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and  
SCBT,

Defendants.

IN THE COURT OF COMMON PLEAS

2014 (M)  
CASE NO. ~~2015~~ CP-40-2063

**DEFENDANT BANK OF  
AMERICA'S ANSWER TO FIRST  
AMENDED COMPLAINT OF  
DEFENDANT RHONDA LEWIS  
MEISNER**

RICHLAND COUNTY  
FILED  
2015 SEP - 3 AM 11:14  
CLERK

Defendant Bank of America, N.A. ("BANA") answers the First Amended Complaint filed by Rhonda Lewis Meisner on August 10, 2015 ("Amended Complaint") by saying and alleging as follows:

1. Without waiving its right to dismiss this Amended Complaint, BANA specifically denies each and every allegation of the Amended Complaint that is not specifically admitted and demands strict proof thereof.

**AS TO THE FIRST DEFENSE – "GENERAL DENIAL"**

2. In answering the allegations of Paragraphs 1-21 of the Amended Complaint, these paragraphs do not contain allegations which require a response from BANA. To the extent any response is required, BANA denies the allegations and demands strict proof thereof.

3. In answering the allegations of Paragraphs 22 and 23 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

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4. In answering the allegations of Paragraph 24 of the Amended Complaint, this paragraph does not contain allegations which require a response from BANA. To the extent any response is required, BANA denies the allegations and demands strict proof thereof.

5. In answering the allegations of Paragraphs 25 of the Amended Complaint, BANA does not currently have sufficient information or belief to admit the allegations; therefore, BANA denies the allegations and demands strict proof thereof.

6. In answering the allegations of Paragraphs 26 and 27 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

**AS TO THE FIRST DEFENSE – “ESTOPPEL”**

7. In answering the allegations of Paragraphs 28 and 29 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

8. In answering the allegations of Paragraphs 30 and 31 of the Amended Complaint, BANA does not currently have sufficient information or belief to admit these allegations; therefore, BANA denies the allegations and demands strict proof thereof.

9. In answering the allegations of Paragraph 32 of the Amended Complaint, BANA denies the allegations and demands strict proof thereof.

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10. In answering the allegations of Paragraph 33 of the Amended Complaint, BANA would crave reference to the documents referenced therein; as to any allegation inconsistent with those documents, BANA denies the allegations and demands strict proof thereof.

11. In answering the allegations of Paragraphs 34, 35, 36 and 37 of the Amended Complaint, BANA denies the allegations and demands strict proof thereof.

12. In answering the allegations of Paragraph 38 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

13. In answering the allegations of Paragraphs 39, 40 and 41 of the Amended Complaint, BANA does not currently have sufficient information or belief to admit the allegations; therefore, BANA denies the allegations and demands strict proof thereof.

#### **AS TO THE SECOND DEFENSE – UNCLEAN HANDS**

14. In answering Paragraph 42 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

15. In answering the allegations of Paragraphs 43 and 44 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

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16. In answering the allegations of Paragraph 45 of the Amended Complaint, BANA would crave reference to the documents referenced therein; as to any allegation inconsistent with those documents, BANA denies the allegations and demands strict proof thereof.

17. In answering the allegations of Paragraph 46 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

18. In answering the allegations of Paragraphs 47 and 48 of the Amended Complaint, BANA denies the allegations and demands strict proof thereof.

19. In answering the allegations of Paragraphs 49, 50, 51, and 52 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

**AS TO THE FIRST CAUSE OF ACTION – “REQUEST FOR DECLARATORY JUDGMENT”**

20. In answering Paragraph 53 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

21. In answering the allegations of Paragraphs 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

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22. In answering the allegations of Paragraphs 65 of the Amended Complaint, this paragraph does not contain allegations which require a response from BANA. To the extent any response is required, BANA denies the allegations and demands strict proof thereof.

**AS TO THE SECOND CAUSE OF ACTION – “BREACH OF CONTRACT BY BANK OF AMERICA, N.A.”**

23. In answering Paragraph 66 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

24. In answering the allegations of Paragraphs 67, 68, 69 and 70 of the Amended Complaint, BANA denies the allegations and demands strict proof thereof.

**AS TO THE THIRD CAUSE OF ACTION – “BREACH OF CONTRACT ACCOMPANIED BY A FRAUDULENT ACT BY BANK OF AMERICA, N.A.”**

25. In answering Paragraph 71 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

26. In answering the allegations of Paragraphs 72, 73, 74, 75, 76, 77, 78, 79, 80 and 81 of the Amended Complaint, BANA denies the allegations and demands strict proof thereof.

27. In answering the allegations of Paragraphs 82 of the Amended Complaint, this paragraph does not contain allegations which require a response from BANA. To the extent any response is required, BANA denies the allegations and demands strict proof thereof.

~~28. In answering the allegations of Paragraphs 83 of the Amended Complaint, BANA~~  
does not currently have sufficient information or belief to admit the allegations; therefore,  
BANA denies the allegations and demands strict proof thereof.

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29. In answering the allegations of Paragraph 84 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

30. In answering the allegations of Paragraph 85 of the Amended Complaint, this paragraph does not contain allegations which require a response from BANA. To the extent any response is required, BANA denies the allegations and demands strict proof thereof.

**AS TO THE FOURTH CAUSE OF ACTION – ‘ABUSE OF PROCESS BY U.S. BANK’**

31. In answering Paragraph 86 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

32. In answering the allegations of Paragraph 87 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

33. In answering the allegations of Paragraphs 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104 and 105 of the Amended Complaint, BANA does not currently have sufficient information or belief to admit the allegations; therefore, BANA denies the allegations and demands strict proof thereof.

**AS TO THE FIFTH CAUSE OF ACTION – ‘FAILURE TO FILE SATISFACTION OF MORTGAGE AGAINST BANK OF AMERICA, N.A.’**

34. In answering Paragraph 106 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

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35. In answering the allegations of Paragraph 107 of the Amended Complaint, BANA would crave reference to the documents referenced therein; as to any allegation inconsistent with those documents, BANA denies the allegation and demands strict proof thereof.

36. In answering the allegations of Paragraph 108 of the Amended Complaint, BANA denies the allegation and demands strict proof thereof.

37. In answering the allegations of Paragraph 109 of the Amended Complaint, BANA would crave reference to the documents referenced therein; as to any allegation inconsistent with those documents, BANA denies the allegations and demands strict proof thereof.

38. In answering the allegations of Paragraphs 110, 111, and 112 of the Amended Complaint, BANA does not currently have sufficient information or belief to admit the allegations; therefore, BANA denies the allegations and demands strict proof thereof.

39. In answering the allegations of Paragraph 113 of the Amended Complaint, BANA denies the allegation and demands strict proof thereof.

40. In answering the allegations of Paragraph 114 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

41. In answering the allegations of Paragraphs 115, 116 and 117 of the Amended Complaint, BANA denies the allegations and demands strict proof thereof.

**AS TO THE SIXTH CAUSE OF ACTION – "SLANDER OF TITLE BY BANK OF AMERICA, N.A."**

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42. In answering Paragraph 118 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

43. In answering the allegations of Paragraph 119 of the Amended Complaint, BANA responds and states that these allegations contain legal conclusions, which do not require a response. To the extent any response to these allegations is required, BANA denies the allegations and demands strict proof thereof.

44. In answering the allegations of Paragraph 120, 121, 122, 123, 124, 125 and 126 of the Amended Complaint, BANA denies the allegation and demands strict proof thereof.

**AS TO THE SEVENTH CAUSE OF ACTION – ‘SLANDER OF TITLE AGAINST SCBT’**

45. In answering Paragraph 127 of the Amended Complaint, BANA re-alleges and reincorporates its responses to the preceding paragraphs as if repeated verbatim.

46. In answering the allegations of Paragraph 128, 129, 130, and 131 of the Amended Complaint, BANA would crave reference to the documents referenced therein; as to any allegation inconsistent with those documents, BANA denies the allegations and demands strict proof thereof.

47. In answering the allegations of Paragraphs 132 and 133 of the Amended Complaint, BANA does not currently have sufficient information or belief to admit the allegations; therefore, BANA denies the allegations and demands strict proof thereof.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

48. BANA avers that the claims in the Amended Complaint are barred by the doctrine of laches and should be dismissed with prejudice.

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**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

49. BANA avers that the claims in the Amended Complaint are barred by the doctrine of estoppel and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

50. BANA avers that the claims in the Amended Complaint are barred by the doctrine of waiver and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

51. BANA avers that the claims in the Amended Complaint are barred by the applicable statute(s) of limitations and statute(s) of repose and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

52. BANA avers that the claims in the Amended Complaint are barred by the statute of fraud and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

53. BANA avers that the claims in the Amended Complaint are barred by the doctrine of release and should be dismissed with prejudice.

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**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

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54. BANA avers that the claims in the Amended Complaint fail to state facts sufficient to constitute a cause of action against BANA pursuant to Rule 12(b)(6), SCRCF, and the Amended Complaint should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

55. BANA avers that the damages, if any, asserted in the Amended Complaint are the result of the actions of Rhonda Lewis Meisner and/or her omissions, or the actions and/or omissions of individuals over whom BANA exercised no control, or both.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

56. BANA alleges that the claims in the Amended Complaint are barred by the failure of Rhonda Lewis Meisner to perform certain conditions precedent under her loan agreement with BANA.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

57. BANA avers that the claims in the Amended Complaint are barred by S.C. Code § 15-36-10.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

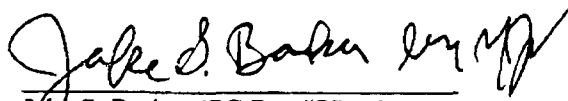
58. BANA further reserves the right to assert additional claims and defenses as they become known.

**WHEREFORE**, having answered the Amended Complaint, Defendant Bank of America, N.A. prays to this Honorable Court to order the claims of Defendant Rhonda Lewis Meisner

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against Bank of America, N.A. be dismissed, to award Defendant Bank of America, N.A. its costs and fees for defending this matter, and for such other relief that may be proper.

Attorney for Bank of America N.A.,



Jake S. Barker (SC Bar #77449)  
GRAYBILL LANSCH & VINZANI, LLC  
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Direct Dial: (843) 408-4063  
jbarker@glvlawfirm.com

Charleston, South Carolina  
August 31, 2015

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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
) FIFTH JUDICIAL CIRCUIT

C/A #: 2014-CP-40-2063

U.S. BANK, NATIONAL ASSOCIATION,  
AS TRUSTEE FOR THE HOLDERS OF THE  
BANC OF AMERICA FUNDING  
CORPORATION, 2008-FT1 TRUST,  
MORTGAGE PASS-THROUGH  
CERTIFICATES, SERIES 2008-FT1,

Plaintiff,

vs.

RHONDA LEWIS MEISNER A/K/A  
RHONDA L. MEISNER; BANK OF  
AMERICA, N.A.; AND SCBT,

Defendants.

**DEFENDANT SCBT'S REPLY TO  
FIRST AMENDED COMPLAINT OF  
DEFENDANT RHONDA LEWIS  
MEISNER A/K/A RHONDA L.  
MEISNER**

2015 SEP 10 AM 10:25  
RICHLAND COUNTY  
CLERK OF COURT  
JENNIFER H. HOBBS

TO: Rhonda Lewis Meisner a/k/a Rhonda L. Meisner, Pro Se Defendant; Teresa D. Van Vlake and Magalie A. Creech, Attorneys For Plaintiff; and Jake S. Barker Attorney for Defendant Bank Of America, N.A.:

COMES NOW the Defendant SCBT, replying to the First Amended Complaint of the Defendant Rhonda Lewis Meisner a/k/a Rhonda L. Meisner (the "Defendant Meisner") as follows:

1. Defendant SCBT denies each and every allegation contained in Defendant Meisner's First Amended Complaint ("Defendant's Counterclaims") which is not hereinafter specifically admitted or to which a response is not otherwise provided.
2. The allegations contained in Paragraphs 1 through 52 of the Defendant's Counterclaims do not require a response.

**FOR A FIRST DEFENSE**

3. Defendant SCBT realleges and incorporates the preceding paragraphs as fully as

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105



if set forth herein verbatim.

4. Paragraph 54 of the Defendant's Counterclaims calls for legal conclusion and therefore does not require a response. To the extent a response is required, Defendant SCBT denies Paragraph 54 of the Defendant's Counterclaims.

5. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 55, 56, 57 and 58 of the Defendant's Counterclaims and therefore denies the allegations.

6. Defendant SCBT denies the allegations contained in Paragraph 59 of the Defendant's Counterclaims.

7. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 60, 61, 62, 63, 64, and 65 of the Defendant's Counterclaims and therefore denies these allegations.

8. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 66, 67, 68, 69, and 70 of the Defendant's Counterclaims and therefore denies these allegations.

9. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, and 85 of the Defendant's Counterclaims and therefore denies these allegations.

10. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, and 105 of the Defendant's Counterclaims and therefore denies these allegations.

11. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, and

117 of the Defendant's Counterclaims and therefore denies these allegations.

12. Defendant SCBT lacks information at this time sufficient to form a belief as to the allegations contained in Paragraphs 118, 119, 120, 121, 122, 123, 124, 125, 126 and 127 of the Defendant's Counterclaims and therefore denies these allegations.

13. Defendant SCBT admits so much of Paragraph 128 of the Defendant's Counterclaims asserting that the Plaintiff has identified lien or liens against the subject property in favor of the Defendant SCBT, but denies the remaining allegations in Paragraph 128 of the Defendant's Counterclaims.

14. Defendant SCBT admits so much of Paragraph 129 of the Defendant's Counterclaims asserting that this Defendant has filed a suit on a Note by separate action, but denies the remaining allegations in Paragraph 129 of the Defendant's Counterclaims.

15. Defendant SCBT denies Paragraph 130 of the Defendant's Counterclaims.

16. Defendant SCBT denies Paragraph 131 of the Defendant's Counterclaims.

17. Defendant SCBT denies Paragraph 132 of the Defendant's Counterclaims.

18. Defendant SCBT denies Paragraph 133 of the Defendant's Counterclaims.

**FOR A SECOND DEFENSE**  
**(Dismissal pursuant to Rule 12(b)(6), SCRCP)**

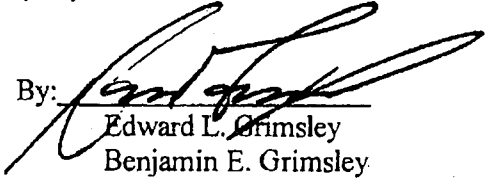
19. Defendant SCBT realleges and incorporates the preceding paragraphs as fully as if set forth herein verbatim.

20. To the extent the Defendant asserts claims against the Defendant SCBT through their Defenses, such claim or claims fail to state facts sufficient to constitute a cause of action against the Defendant SCBT.

WHEREFORE, having fully answered the Counterclaims of the Defendant, Defendant SCBT prays that this Court protect its interest by:

- A. Barring the Counterclaims of the Defendant Rhonda Lewis Meisner a/k/a Rhonda L. Meisner by recognizing the defenses plead herein.
- B. For such other and further relief as this Court may deem just and proper.

**GRIMSLEY LAW FIRM, LLC**  
P. O. Box 11682  
Columbia, South Carolina 29211  
(803) 233-0797

By: 

Edward L. Grimsley  
Benjamin E. Grimsley  
*Attorneys for the Defendant SCBT*

September 9, 2015

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

PLAINTIFF'S REPLY TO DEFENDANT'S  
ANSWER AND COUNTERCLAIM

RICHLAND COUNTY  
FILED  
JANETTE W. MCBRIDE  
C.C.P. & G.S.  
MAY 28 AM 11:52

Plaintiff, by undersigned counsel, hereby submits its Reply to the Answer and Counterclaim ("Answer") filed by Rhonda Lewis Meisner a/k/a Rhonda L. Meisner ("Defendant"). In support of its Reply, Plaintiff states as follows:

1. Unless expressly admitted herein, Plaintiff denies each and every allegation in the Answer.
2. Each allegation of the Complaint in this matter is hereby incorporated by reference. Plaintiff denies any factual allegation in the Answer inconsistent therewith and demands strict proof.
3. Plaintiff craves reference to the public records of Richland County, South Carolina, for the subject documents of Plaintiff's action, and denies anything inconsistent therewith.
4. Paragraph 1 of the Answer appears to state legal conclusions for which no response is required. To the extent that a response is required, Plaintiff craves reference to applicable South Carolina law and denies anything inconsistent therewith. Plaintiff has insufficient information to admit or deny the remaining allegations of paragraph 1; therefore, denies same and demands strict proof.
5. Plaintiff denies paragraph 2 of the Answer to the extent it alleges that the subject loan is not in default, and demands strict proof. To the extent the remainder of paragraph 2 requires a response, Plaintiff denies same and demands strict proof.
6. To the extent paragraphs 3 through 16 of the Answer require a response, Plaintiff denies same and demands strict proof.

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7. Plaintiff admits so much of paragraph 17 of the Answer which alleges that Plaintiff does not demand a deficiency judgment in the event the sale of the real estate herein does not yield a sum sufficient to satisfy all indebtedness due unto the Plaintiff, including costs and attorney's fees. Plaintiff denies the remainder of paragraph 17 to the extent it is inconsistent with the foregoing, and demands strict proof.
8. To the extent paragraph 18 of the Answer requires a response, Plaintiff denies same and demands strict proof.
9. Plaintiff denies paragraphs 19 and 20 of the Answer and demands strict proof.
10. To the extent paragraph 21 of the Answer requires a response, Plaintiff denies same and demands strict proof.
11. Plaintiff has insufficient information to admit or deny the allegations in paragraph 22 of the Answer; therefore, denies same and demands strict proof.
12. Plaintiff denies paragraph 23 of the Answer, and demands strict proof.
13. Plaintiff notes that the Answer contains no paragraph 24.
14. Plaintiff denies paragraph 25 of the Answer and demands strict proof.
15. Plaintiff has insufficient information to admit or deny the allegations of paragraphs 26, 27, and 28 of the Answer; therefore, denies same and demands strict proof. Plaintiff specifically denies any violation of federal and/or South Carolina law.
16. Plaintiff denies paragraph 29 of the Answer and demands strict proof.
17. Plaintiff has insufficient information to admit or deny the allegations in paragraph 30 of the Answer; therefore, denies same and demands strict proof.

---

**FOR A FIRST DEFENSE TO THE FIRST CAUSE OF ACTION**  
**(Violation of 15 U.S.C. § 1638 (Dodd Frank Act §§ 1462, 1465))**

18. Plaintiff reasserts the foregoing statements as if set forth at length herein.
19. Plaintiff denies paragraphs 31 and 32 of the Answer and demands strict proof. Plaintiff specifically denies any violation of federal law.

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SM

**FOR A FIRST DEFENSE TO THE SECOND CAUSE OF ACTION**  
**(Declaratory Judgment)**

20. Plaintiff reasserts the foregoing statements as if set forth at length herein.
21. To the extent paragraph 33 of the Answer requires a response, Plaintiff denies same and demands strict proof,
22. Paragraph 34 of the Answer appears to state legal conclusions for which no response is required. To the extent that a response is required, Plaintiff craves reference to applicable state law and denies anything inconsistent therewith.
23. Plaintiff has insufficient information to admit or deny the allegations in paragraph 35 of the Answer; therefore, denies same and demands strict proof.
24. Plaintiff denies paragraphs 36, 37, and 38 of the Answer and demands strict proof.

**FOR A FIRST DEFENSE TO THE THIRD CAUSE OF ACTION**  
**(Breach of Contract)**

25. Plaintiff reasserts the foregoing statements as if set forth at length herein.
26. Plaintiff denies paragraphs 39 through 43 of the Answer and demands strict proof. Plaintiff specifically denies any violation of federal and/or South Carolina law.

**FOR A FURTHER DEFENSE TO DEFENDANT'S COUNTERCLAIM**

27. Plaintiff reasserts the foregoing statements as if set forth at length herein.
28. Defendant has a debt due and owing to Plaintiff.
29. In order to secure the payment of the subject loan, Defendant did make, execute, and deliver to Plaintiff, its successors and assigns, a certain real estate Mortgage covering real property located in the County and State aforesaid and specifically described in said Mortgage.
30. Plaintiff and Defendant intended the subject real property to serve as security for the payment of the debt.
31. As a result, Plaintiff has an equitable lien on the property.
32. Because Defendant defaulted on the loan, Plaintiff is entitled to the relief prayed for in its Complaint.

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**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

33. Plaintiff avers that Defendant's claims are barred by the doctrine of laches and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

34. Plaintiff avers that Defendant's claims are barred by the doctrine of estoppel and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

35. Plaintiff avers that Defendant's claims are barred by the doctrine of waiver and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

36. Plaintiff avers that Defendant's claims are barred by the applicable statute(s) of limitations and statute(s) of repose, and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

37. Plaintiff avers that Defendant's claims are barred by the doctrine of release, and should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

38. Defendant has failed to state facts sufficient to constitute a cause of action against Plaintiff pursuant to Rule 12(b)(6), SCRCF, and Defendant's claims should be dismissed with prejudice.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

39. Defendant's damages, if any, are the result of her own actions and/or omissions or the actions, omissions of individuals over whom Plaintiff exercised no control, or both.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

40. Defendant's claims are barred by her failure to perform certain conditions precedent under his loan agreement with Plaintiff.

**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

41. The relief requested by Defendant is barred by S.C. Code § 15-36-10.

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**FURTHER ANSWERING AS A COMPLETE AND AFFIRMATIVE DEFENSE**

42. Plaintiff reserves the right to assert additional claims and defenses as they may become known.

**WHEREFORE**, Plaintiff requests that the Court dismiss the Defendant's Counterclaims with prejudice, award Plaintiff its costs and attorneys' fees, and grant such other and further relief as is just and necessary.

FINKEL LAW FIRM LLC

  
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Facsimile: (843) 577-5135  
*Attorneys for the Plaintiff*

Dated: May 23, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

SCBT F/K/A SOUTH CAROLINA  
BANK AND TRUST, N.A.,

Plaintiff,

v.

RHONDA LEWIS MEISNER; BANK  
OF AMERICA, N.A.; AND SCBT  
F/K/A SCBT, N.A.,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2013-CP-40-7144

**ANSWER OF DEFENDANT BANK  
OF AMERICA, N.A.**

RECORDED  
FILED  
2014 APR -4 AM 11:41  
CLERK OF COURT  
JANET L. HARRIS

Defendant Bank of America, N.A. ("Defendant" or "BANA") answers the Amended Complaint of the Plaintiff above-named by saying and alleging as follows:

**FOR A FIRST DEFENSE**

1. Without waiving its right to dismiss this Amended Complaint, Defendant BANA specifically denies each and every allegation of the Amended Complaint that is not specifically admitted and demands strict proof thereof.

2. In answering the allegations of Paragraph 1 of the Amended Complaint, Defendant BANA does not currently have sufficient information to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

3. In answering the allegations in Paragraph 2 of the Amended Complaint, these allegations do not require a response. To the extent any response is required, Defendant BANA denies the allegations and demands strict proof thereof.

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4. In answering the allegations of Paragraphs 3 and 4 of the Amended Complaint, Defendant BANA responds and states that these allegations contain legal conclusions which do not require a response. To the extent any response to these allegations is required, Defendant BANA denies and demands strict proof thereof

5. In answering the allegations in Paragraphs 5, 6, 7, 8, 9, 10, 11, 12 and 13 of the Amended Complaint, Defendant BANA does not currently have sufficient information to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

6. Defendant BANA denies the allegations of Paragraph 14 of the Amended Complaint and demands strict proof thereof.

7. In answering the allegations of Paragraphs 15 and 16 of the Amended Complaint, Defendant BANA does not currently have sufficient information or belief to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

8. In answering the allegations of Paragraph 17 of the Amended Complaint and its subparts, Defendant BANA admits only so much that it has an interest in the property that is the subject of this action, but specifically denies the remaining allegations of this Paragraph.

9. In answering the allegations of Paragraph 18 of the Amended Complaint and its subparts, Defendant BANA does not currently have sufficient information or belief to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

10. In answering the allegations of Paragraph 19 of the Amended Complaint, these allegations contain legal conclusions to which no response is required. To the extent any

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response to these allegations is required, Defendant BANA denies and demands strict proof thereof.

11. In answering the allegations of Paragraphs 20, 21 and 22 of the Amended Complaint, Defendant BANA does not currently have sufficient information or belief to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

#### **FOR A SECOND DEFENSE**

12. Plaintiff's Amended Complaint fails to allege sufficient facts upon which to constitute a cause of action against Defendant BANA pursuant to Rule 12(b)(6), such that the Amended Complaint should be dismissed.

#### **FOR A THIRD DEFENSE**

13. Defendant BANA's mortgages were duly recorded in the Richland County Register of Deeds, such that Plaintiff was on notice of their recording.

14. Plaintiff, by virtue of being placed on notice of the recording of the mortgages has knowingly waived any and all rights to contest the validity of said mortgages.

15. As a result of Plaintiff's waiver, its Amended Complaint is barred.

---

#### **FOR A FOURTH DEFENSE**

16. Defendant BANA's mortgages were duly recorded in the Richland County Register of Deeds, such that Plaintiff was on notice of their recording.

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17. Defendant BANA's mortgage dated August 12, 2003 and recorded on August 18, 2013 in Book 838 at Page 2632 ("2003 BANA Mortgage") represents a first priority mortgage on the subject property senior to any interest of the Plaintiff, and any judgment obtained by the Plaintiff or any sale of the subject property shall be subject to the 2003 BANA Mortgage interest.

18. Defendant BANA's mortgage dated September 19, 2005 and recorded on September 23, 2005 in Book 1101 at Page 2609 ("2005 BANA Mortgage") represents a mortgage on the subject property senior to any interest of the Plaintiff, and any judgment obtained by the Plaintiff or any sale of the subject property shall be subject to the 2005 BANA Mortgage.

**WHEREFORE**, having answered Plaintiff's Amended Complaint, Defendant BANA prays to this Honorable Court to

- i. dismiss this Amended Complaint;
- ii. protect the priority of Defendant BANA's Mortgages;
- iii. declare that the 2003 BANA Mortgage represents a first priority mortgage on the subject property senior to any interest of the Plaintiff, and any judgment obtained by the Plaintiff or any sale of the subject property shall be subject to the 2003 BANA Mortgage;
- iv. declare that the 2005 BANA Mortgage represents a mortgage on the subject property senior to any interest of the Plaintiff, and any judgment obtained by the Plaintiff or any sale of the subject property shall be subject to the 2005 BANA Mortgage;
- v. award all costs and attorneys' fees; and
- vi. for such further relief as this Court deems proper.

*(signature on following page)*

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117

Attorneys for Defendant Bank of America, N.A.



M. Jeffrey Vinzani (SC Bar #07988)

✓ Jake S. Barker (SC Bar #77449)

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jvinzani@glvlawfirm.com

jbarker@glvlawfirm.com

Charleston, South Carolina

April 3, 2014

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118

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as  
trustee for the Holders of the Banc of  
America Funding Corporation, 2008-FT1  
Trust, Mortgage Pass-Through  
Certificates, Series 2008-FT1,

Plaintiff,

v.

Rhonda Lewis Meisner, a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and  
SCBT,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-40-2063

**RESPONSE OF DEFENDANT BANK  
OF AMERICA, N.A. TO ANSWER  
AND CROSS-CLAIM OF  
DEFENDANT RHONDA LEWIS  
MEISNER, a/k/a RHONDA L.  
MEISNER**

RICHLAND COUNTY  
FILED  
2014 AUG 26 AM 10:18  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

Defendant Bank of America, N.A. ("Defendant" or "BANA") responds to the Answer and Cross-Claim of Defendant Rhonda Lewis Meisner, a/k/a Rhonda L. Meisner dated June 12, 2014 ("Cross-Claim") by saying and alleging as follows:

#### **FOR A FIRST DEFENSE**

1. Without waiving its right to dismiss this Cross-Claim, Defendant BANA specifically denies each and every allegation of the Complaint that is not specifically admitted and demands strict proof thereof.

2. In answering the allegations of Paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20 and 21 of the Cross-Claim, these allegations do not set forth claims against Defendant BANA which require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

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3. Defendant BANA specifically denies the allegations of Paragraph 22 of the Cross-Claim and demands strict proof thereof.

4. In answering the allegations of Paragraphs 23 and 24 of the Cross-Claim, these allegations do not set forth claims against Defendant BANA which require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

5. Defendant BANA specifically denies the allegations of Paragraphs 25, 26, 27, 28, 29, 30, 31 and 32 of the Cross-Claim and demands strict proof thereof.

6. In answering the allegations of Paragraph 33 of the Cross-Claim, Defendant BANA re-alleges its responses to the allegations contained above as if fully set forth verbatim.

7. In answering the allegations of Paragraphs 34, 35, 36 and 37 of the Cross-Claim, Defendant BANA does not currently have sufficient information or belief to admit the allegations; therefore, Defendant BANA denies the allegations and demands strict proof thereof.

8. In answering the allegations of Paragraph 38 of the Cross-Claim, these allegations do not require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

9. In answering the allegations of Paragraphs 39, 40, and 41 of the Cross-Claim, these allegations contain legal conclusions to which no response is required. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

10. In answering the allegations of Paragraphs 42, 43 and 44 of the Complaint, these allegations do not require a response. To the extent any response to these allegations is required, Defendant BANA denies the allegations and demands strict proof thereof.

**FOR A SECOND DEFENSE**

11 The Cross-Claim fails to allege sufficient facts upon which to constitute a cause of action against Defendant BANA pursuant to Rule 12(b)(6), such that the Cross-Claim should be dismissed.

**FOR A THIRD DEFENSE**

12. The Cross-Claim is barred by the doctrine of Laches.

**FOR A FOURTH DEFENSE**

13. The Cross-Claim is barred by the doctrine of Waiver and Estoppel.

**FOR A FIFTH DEFENSE**

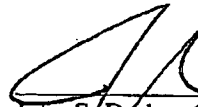
15. The Cross-Claim is barred by the doctrine of set-off.

**WHEREFORE**, having answered Plaintiff's Complaint, Defendant BANA prays to this Honorable Court to order Plaintiff to protect the priority of Defendant BANA's mortgage, order that any sale of the subject property be subject to Defendant BANA's mortgage lien; to satisfy Defendant BANA's mortgage lien plus interest from any sale of the real property that is the subject matter of this action, plus costs and attorneys' fees, and for such further relief as this Court deems proper.

Attorneys for Defendant Bank of America, N.A.

95  
121





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Charleston, South Carolina  
August 25, 2014

9/6  
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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

) COURT OF COMMON PLEAS

) C/A No. 2014-CP-40-2063

U.S. Bank, National )  
Association, as trustee for )  
the Holders of the Banc of )  
America Funding Corporation, )  
2008-FT1 Trust Mortgage )  
Pass-Through Certificates, )  
Series 2008-FT1, )

Plaintiff, )

v. )

Rhonda Lewis Meisner a/k/a )  
Rhonda L. Meisner, Bank of )  
America; Bank of America, )  
N.A.; and SCBT )

Defendants. )  
----- )

## HEARING

\*\*\*\*\*

**Friday, November 22, 2019**

2:26 p.m. - 3:04 p.m.

The hearing before the Honorable Joseph M. Strickland, Master-In-Equity for Richland County, was taken at 1701 Main Street, Columbia, South Carolina on the 22nd day of November, 2019 before Tiffany V. Evans, Court Reporter and Notary Public in and for the State of South Carolina.



**CREEL COURT REPORTING, INC.**

1230 Richland Street / Columbia, SC 29201

(803) 252-3445 / (800) 822-0896

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### APPEARANCES

**Magalie A. Creech, Esquire**

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North Charleston, South Carolina 29405  
Attorney for the Plaintiff

**Rhonda L. Meisner**

South Carolina Operating Room Equipment  
1024 Chester Road  
Blythewood, South Carolina 29016  
Defendant, Pro Se

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### EXHIBITS

(There were no exhibits marked during the hearing.)



**CALL TO ORDER:**

**THE COURT:** This is Civil Action number 2014-CP-40-2063 US Bank National Association and others against Rhonda Lewis Meisner and others. This is a foreclosure according to my notes. And refresh my recollection, Ms. Meisner, is this your home where you live?

**DEFENDANT'S POSITION:**

**MS. MEISNER:** Actually, Your Honor, it's a foreclosure and also counterclaims and cross-claims against the Defendant and the note that was initiated by the predecessor entitled Bank of America. It is a foreclosure action; however, there are legal cross-claims and counterclaims that are associated with it. And to answer your question, it's not my primary home at this time. As I mentioned, I am going through a divorce so -- but at this time, it's not.

**THE COURT:** All right. And let me ask you, is your motion under rule 59(e)?

**MS. MEISNER:** Yes. It's a motion to alter and amend under 59(e). I'm not sure if we would need a 60 or not because there were some mistakes. I think that Ms. Creech misspoke on a couple of



1 things at the last hearing that I wanted to  
2 clear up and perhaps she could clear up, but I  
3 have those notated when I got the order that  
4 you placed.

5 **THE COURT:** Okay. Now, this was a case that was  
6 filed on March 31st, 2014, four to five and a  
7 half years ago. Well, that's what the public  
8 record says because I looked at it right before  
9 I came in.

10 **MS. MEISNER:** Oh, okay.

11 **THE COURT:** Yeah, March the 31st, 2014, which is  
12 more than five and a half years ago. Did you  
13 file a bankruptcy in that moment of time?

14 **MS. MEISNER:** No, sir. I did not.

15 **THE COURT:** So ...

16 **MS. MEISNER:** And the assignment of the mortgage was  
17 in April, so it was filed in March. And the  
18 assignment of the mortgage actually is dated on  
19 April 2nd, 2014, but then it's notarized on  
20 April the 3rd and that was one of our initial  
21 ~~things as a motion to dismiss that the owner,~~  
22 US Bank, was saying that they were the owner of  
23 the note and mortgage; however, they filed  
24 before the assignment of the mortgage, which  
25 meant that the mortgage follows the note. So



1 we moved to dismiss a long time ago; however,  
2 that's an interlocutory appeal as you know, and  
3 so that's what the Court of Appeals said that,  
4 you know, we don't look at that until it goes  
5 back up the chain.

6 **THE COURT:** Now, issues involving this case have  
7 been appealed, as you pointed out, before. How  
8 did we get to where we are today if that was  
9 appealed and the Court of Appeals ruled?

10 **MS. MEISNER:** They ruled that it was interlocutory.

11 **THE COURT:** Okay.

12 **MS. MEISNER:** That was their ruling that a motion to  
13 dismiss was interlocutory. That was part of  
14 the time, but the other part of the time, Your  
15 Honor, if you will recall is Ms. Creech gave a  
16 motion to -- for an order of reference that has  
17 findings of fact and conclusions of law that  
18 basically went over counterclaims,  
19 cross-claims, denied all of those and had the  
20 clerk of court sign that. And, Your Honor,  
21 returned that to the circuit court that took  
22 probably about a year and a half of all this  
23 because by the time that was filed, getting the  
24 hearing to go back and that was part of the  
25 abusive process counter-claim that was



1 initially asserted awhile back. So it does  
2 have a very, varied past; however, the motion  
3 to dismiss is still an interlocutory order that  
4 you know should we have to appeal will be ruled  
5 on at that time.

6 And it's my supposition, and I actually have an  
7 order by a circuit court out of Charleston that  
8 agreed that the note and mortgage must be owned  
9 in a foreclosure action at the time the  
10 foreclosure action is filed based on Carpenter  
11 versus Longan, which is like an 1800s case.

12 **THE COURT:** All right. Now, when was the last  
13 payment made on this mortgage?

14 **MS. MEISNER:** The last payment was returned to me.  
15 I'm not sure because I don't think that I  
16 cashed that check. As you know, we had a  
17 dispute about the -- whether -- because Bank of  
18 America, the predecessor entitled to the note  
19 and mortgage, had an election in their note  
20 that the payment would be automatically  
21 drafted. The terms of that were -- in

22 compulsory terms, if you make a selection, we  
23 will unless you do certain things like put in  
24 writing. And I did provide an affidavit saying  
25 that I never did that and filed that back in



1           2015, you know, I have a copy if you'd like for  
2           that to be ---

3       **THE COURT:**   Yes, ma'am.

4       **MS. MEISNER:**   --- it's part of the record, so I  
5           don't know that it's ...

6       **THE COURT:**   All right. So, my question, though, is  
7           when was the last payment made, and I think  
8           your answer was you weren't really sure because  
9           there was a check returned, so that was the  
10          last time you tried to make a payment when that  
11          check was returned?

12       **MS. MEISNER:**   Well, again, Your Honor, it was on  
13           automatic draft. I didn't even realize it had  
14           not been drafted until maybe a month or two  
15           afterwards. By then, I think Ms. Arcure's --  
16           her clients were sending notices. I sent a  
17           payment, or I think two payments and that was  
18           returned. I think she has records of that in  
19           the Statement of Indebtness. I don't know if  
20           they reccredited that back, but they wouldn't  
21           accept payments after that.

22       **THE COURT:**   Do you remember when that was?

23       **MS. MEISNER:**   Well, that was in -- okay. Bank of  
24           America said that they still owned the loan as  
25           of the filing of this action, which would have





1           been 2014. Their answer, and that's one of the  
2           things Ms. Arcure thought that the answer to  
3           Bank of America regarding the specific loan and  
4           mortgage wasn't only in another case -- wasn't  
5           only in another case, it was in another case  
6           and also this case. They do claim ownership of  
7           this loan; however, they claimed that the  
8           default in some of the discovery happened back  
9           July 12th, which was the date of an automatic  
10          withdrawal so that would have been July 12th of  
11          2013. So they would have returned that payment  
12          somewhere in 2014 or so, but I don't know the  
13          exact date of when the payment was sent to me,  
14          or returned to me.

15       **THE COURT:** Let me ask counsel for the Plaintiff, do  
16          you remember when the last payment was made?

17       **MS. CREECH:** The default date, Your Honor, is July  
18          12th of 2013. If there was a payment  
19          subsequent to that, it would have been in an  
20          amount insufficient to bring the loan current,  
21          and it would have been returned.

22       **THE COURT:** Okay.

23       **MS. MEISNER:** And, Your Honor, I will object to that  
24          because July 12th was the last date that is --  
25          therein lies the issue of fact. At that time,



1 Bank of America was supposed to debit the  
2 account, but they say that their assignments to  
3 Ms. Arcur's client says based on the mortgage  
4 assignment that that happened April the 2nd of  
5 2014 by Bank of America Nationstar Mortgage in  
6 Lewisville, Texas; however, it's witnessed by  
7 someone in Nebraska the next day.

8 **THE COURT:** All right. So you're telling me that  
9 there hasn't been a payment made in six and a  
10 half years, going on seven years, and this is  
11 residential property, it's not commercial?

12 **MS. MEISNER:** It is not commercial property.

13 **THE COURT:** All right.

14 **MS. MEISNER:** And it's -- and when I say this hasn't  
15 been made, as Ms. Arcure said, the drafting  
16 should have been taken care of. I had an  
17 affidavit on file that I never asked them to  
18 stop drafting. There was sufficient funds in  
19 the account, and they didn't do that, but in  
20 addition to that, the legal and equitable  
21 claims should -- the legal claims should have  
22 been taken care of before the equitable claims.

23 **THE COURT:** Which would have slowed the process down  
24 a bit, right?

25 **MS. MEISNER:** Well, it would have required a trial,



1 and as you know, Bank of America wasn't here at  
2 the summary judgment motion, and I didn't see  
3 that this -- I almost said Arcure again Ms. ---

4 **THE COURT:** Creech.

5 **MS. MEISNER:** --- Creech filed a motion to represent  
6 Bank of America on their behalf, on Bank of  
7 America's behalf. So they weren't here, and I  
8 had a cross-claim against Bank of America for  
9 treble damages. There's an affidavit on file  
10 that they did not -- and I think I have a copy  
11 of that here that they did not satisfy the note  
12 back in 2005. That was the 2005 note, which  
13 was not satisfied. And as of when we had the  
14 hearing last time, it still was not satisfied  
15 on the property.

16 Ms. Acure's arguments were, well, that would  
17 just go away, but the fact of the matter was  
18 the property was encumbered even before the  
19 breech and therein lies the problem.

20 And we had that discussion where if Bank of  
21 ~~America is found liable for their failure to~~  
22 satisfy the mortgage than they owe money in  
23 treble damages pursuant to the statute.

24 The affidavit on file shows that they did not  
25 do that. It was filed on July the 13th, 2015,



1 and it basically said that the second line of  
2 mortgage, which was a 2005 loan, was paid off  
3 via transfer of funds and Bank of America  
4 subsequently reported this loan as going into  
5 foreclosure erroneously, and it was discovered  
6 in 2000 -- 2008, and when Bank of America was  
7 contacted, they did not remove it from the  
8 credit report and to this day, it has not been  
9 removed as far as the lis pendens.

10 So I guess my point is that that offset  
11 precludes foreclosure, and I made that point  
12 last time, all though, Bank of America was not  
13 here.

14 And I know Ms. Creech said that they joined in  
15 her foreclosure action, but that was actually  
16 the previous foreclosure action. Subsequent to  
17 her most recent foreclosure action, they did  
18 not join that at least according to the file  
19 records that I'm aware of, but in my motion to  
20 alter and amend -- and let me pull that up --  
21 I made all of those arguments.

22 The other thing that the order said was that  
23 there were no objections to the attorney fees,  
24 but not only did I object that I didn't think  
25 that Ms. Creech's client US Bank was entitled



1 to attorney fees because they were a third-  
2 party lender, and again the assignment was in  
3 April, the foreclosure in March, so they were  
4 assigned the note after they filed for the  
5 action so that definitely, in my opinion, makes  
6 them a third-party lender under the UCC, so  
7 there's no provision for a third-party lender.  
8 Additionally, the Affidavit of Attorney's Fees,  
9 which did not include an itemization of fees  
10 was submitted on behalf of the servicer, loan  
11 -- Ms. Creech -- I apologize, Ms. Creech. I  
12 think we should all remember things, but I  
13 apologize.

14 The Affidavit of Attorney Fees was submitted by  
15 the servicer, and while the servicer can file  
16 for foreclosure, they were not the Plaintiff in  
17 this case so ...

18 **THE COURT:** Okay. Now, I ask people questions all  
19 the time, and they think I'm coming from  
20 left-field. A couple of things I wanted to ask  
21 you. First of all, are you familiar with Rule

22 11?

23 **MS. MEISNER:** Yes, I am familiar with Rule 11 per  
24 sanctions.

25 **THE COURT:** Well, per sanctions for if you make a



1 motion for the only purpose of delay and the  
2 Court somehow is convinced of that. The  
3 Plaintiff hasn't raised that issue, but when I  
4 look at a date the last payment was made in  
5 2013 and here it is 2019, in November of 2019.  
6 So the last payment was made six and a half  
7 years ago, and the property is finally going to  
8 be up for auction after six and a half years,  
9 or more than six and a half years of not making  
10 payments.

11 My question is are you trying to keep the  
12 property as far as making a reinstatement or a  
13 payoff or something?

14 **MS. MEISNER:** At the last hearing, you asked Ms.  
15 Acure to get -- Ms. Creech -- I so apologize,  
16 Ms. Creech -- you asked her to get me the  
17 payoff dates and things like that when she --  
18 and I don't know that you sent those to me  
19 other than with the order, but the Attorney's  
20 Fees Affidavit was like 18,000, which, again,  
21 I've made the objection there was no  
22 itemization and there were several trips to the  
23 Appellate Court, so whether those include  
24 Appellate Court fees, which were not applied  
25 for; whether they included Bank of America



1 fees; whether they included other fees, I'm not  
2 sure since Bank of America joined that because  
3 there's never been an Affidavit of Attorney  
4 Fees.

5 With regard to Rule 11, I think that there is  
6 an abusive process claim against the Defendants  
7 for submitting a form that they knew or should  
8 have known to the clerk of court that could not  
9 possibly have been signed by her because she's  
10 not an attorney. She's found findings of fact  
11 and conclusions of law, and this is not a  
12 delay. It's about, you know, a wrongful  
13 foreclosure. You can't file a foreclosure if  
14 you're not the owner of the note and the  
15 mortgage.

16 **THE COURT:** Right Now, so ...

17 **MS. MEISNER:** And based on the documents at the time  
18 they filed foreclosure, they were not the owner  
19 of the note or the mortgage on the assignment.

20 **THE COURT:** So if you win, what do you win? You get  
21 ~~to stay in the house free and clear, right?~~

22 You don't have to pay them anything?

23 **MS. MEISNER:** No, sir. I think that what happens is  
24 it's termination of, you know -- if Bank of  
25 America did not file a satisfaction of the 2005



1 mortgage, which I know they did not because the  
2 records reflect that and that was on there from  
3 2007 until 2014.

4 I mean, you know, the statute said that they  
5 are culpable for not doing their job of filing  
6 a satisfaction, and in fact, there was a case  
7 -- I do not have the case citation, but there's  
8 a case where it's not even required to be in  
9 writing. You just have to orally tell them  
10 that the satisfaction was not made and then  
11 they are supposed to do it. That's been done  
12 because this is, like you said, been in  
13 litigation, and as you mentioned the last time  
14 we were here, it still wasn't done on the  
15 property.

16 **THE COURT:** Satisfaction doesn't have to be in  
17 writing?

18 **MS. MEISNER:** Does not according to the Court of  
19 Appeals. I fact -

20 **THE COURT:** I'm not sure that's right. Any -- under  
21 the Statute of Frauds, I'm not sure something  
22 like a satisfaction of mortgage can be done  
23 verbally. I don't buy that.

24 **MS. MEISNER:** No, the request -- they -- the Court  
25 of Appeals -- and I wish I had the case





1 citation. I can certainly get that for you,  
2 but the Court of Appeals said that the request  
3 for the satisfaction of mortgage does not have  
4 to be in writing, but it has to be documentable  
5 through like third-party evidence. I mean,  
6 it's been a couple of years since I've read  
7 that case, but that is -- I'll have to find it  
8 for you, but they did -- I don't know if I can  
9 find it. I have to look it up.

10 **THE COURT:** I don't think the Statute of Frauds  
11 doesn't -- there's certain types of things or  
12 contracts, or whatever that have to be in  
13 writing and that's under the Statute of Frauds.  
14 There's a whole list of them, and one of them  
15 is anything involving title of real estate if  
16 I'm not mistaken.

17 Ms. Creech, do you remember that?

18 **MS. CREECH:** Yes. The Statute of Frauds would  
19 require a writing for an interest in land.

20 **MS. MEISNER:** Well, it requires writing for the  
21 ~~interest in land, but not for the request for~~  
22 satisfaction of mortgage and that's how it was  
23 interpreted. It does not have to be in writing  
24 according to, or verified in writing according  
25 to the Court of Appeals. So I need to find



1           that argument.

2       **THE COURT:**     I mean, I just put that out there  
3           because, again, and maybe I am missing the  
4           point, but this has been going on so long now,  
5           and I get the feeling whatever I rule, you're  
6           going to still fight it, and fight it through  
7           the Courts, and you're going to ask for a stay.  
8           You're not going to keep fighting after the  
9           judicial sale on it. I get the impression you  
10          will still keep fighting after the judicial  
11          sale.

12       **MS. MEISNER:**   Well, Your Honor ...

13       **THE COURT:**    You're asking us to postpone the sale  
14           that's scheduled for December 2nd, 2019, and  
15           right now, I mean, that's the gist of what  
16           you're doing, right, you're trying to keep it  
17           from being sold on December 2nd?

18       **MS. MEISNER:**     Well, I don't think that the  
19           foreclosure was properly filed.

20       **THE COURT:**    You think it was a wrongful foreclosure?

21       **MS. MEISNER:**    I do. I think that when you make a  
22           contract with the bank, and I made this  
23           argument last time I was before, Your Honor.  
24           And that's a question of fact. I mean, they  
25           could have put that requirement to draft the



1 payments outside of the loan documents, outside  
2 of the note. They didn't do that. They put it  
3 in mandatory terms that -

4 **THE COURT:** So if you win, what do you win? You're  
5 not trying to get the house free and clear you  
6 said, or is that really what you want, you want  
7 the house free and clear without having to pay  
8 anything on the mortgage; is that my  
9 understanding of what you're saying, if you  
10 win, if I rule in your favor?

11 **MS. MEISNER:** What I want is if there is a rule, and  
12 there is, there's a statutory rule that Bank of  
13 America when you pay off a mortgage they're  
14 supposed to satisfy that mortgage. They're not  
15 supposed to say that it went to foreclosure and  
16 put it on your credit report, which, you know,  
17 actually, in hindsight, I wish they would have  
18 left it on there in some respects because then  
19 I wouldn't have all this other trouble, but in  
20 any event, the fact of the matter is they  
21 didn't leave it on there after it was requested

22 to be satisfied. Then they sold the loan in  
23 the last -- there was only 25,000 left on this  
24 loan, 26,000 left on the loan.

25 **THE COURT:** Back in 2013?



1 **MS. MEISNER:** Yes, and Bank of America sold it, and  
2 I don't think they properly noticed it;  
3 however, they could have sent me mail that I  
4 did not receive. In any event, that's  
5 irrelevant. If they - if US Bank acquired the  
6 note and the mortgage, they acquired the terms  
7 of the note and mortgage. If that is an  
8 agreement that is an offer and acceptance,  
9 that's a contract within the contract then US  
10 Bank should have drafted the statement. And  
11 Ms. Creech said last time that I should have  
12 done another thing. Well, that's a  
13 modification of the note, right?

14 **THE COURT:** Well, I don't know, but let me -- we  
15 have another hearing later today.

16 **MS. MEISNER:** I'm so sorry.

17 **THE COURT:** No problem. That's fine, but, again,  
18 I'm trying to get you to tell me, you know, if  
19 you win, what do you want? I mean, what's your  
20 remedy? If in fact, everything you say is  
21 accurate, if in fact it is, and I agree with  
22 you, what's your remedy? I mean, are you going  
23 to start making payments; is that what you  
24 want, or are you going to ask to make payments  
25 at a lower rate, or what are you trying to get,



1 I guess is what I'm ...

2 **MS. MEISNER:** Well, Your Honor, I think that Bank of  
3 America is liable for treble ---

4 **THE COURT:** Treble damages, but what damages do you  
5 have? You've had a property for six and a half  
6 years without making your payments and you say  
7 you're damaged by that?

8 **MS. MEISNER:** Well, I'm damaged by the fact that  
9 they didn't do what the statute says they have  
10 to do, and if they don't do it, and you make a  
11 request, the statute says that there is damage,  
12 and the damage is -- I mean, I did have to go  
13 and get, you know, work to try to get it  
14 removed. They removed it from the credit  
15 report, but they still didn't remove it from  
16 the house. So, I mean, I think that banks have  
17 to follow contracts and follow the laws too.  
18 That's what I'm here about.

19 **THE COURT:** All right. So that's what you want?

20 **MS. MEISNER:** Well, I mean ---

21 **THE COURT:** You want treble damages, but I know you  
22 want a chance to show what your damages were?

23 **MS. MEISNER:** Yes, I do, and the fact that Bank of  
24 America wasn't here. I think it's -- I think  
25 it's just not right. They were the predecessor



1 and interest.

2 **THE COURT:** Are you willing to pay them anything?

3 **MS. MEISNER:** Well, I mean, when we determine what I  
4 owe them, yes, but I don't think Ms. Creech is  
5 entitled to attorney fees. I think she's a  
6 third-party debt collector.

7 **THE COURT:** Now, attorney fees in South Carolina  
8 has to be a contract or a statute, or a  
9 sanction. In this case, what is your demand  
10 for attorney fees based on, Ms. Creech?

11 **MS. CREECH:** The Plaintiff's Award of Attorney's  
12 Fees, Your Honor, was based on the terms of the  
13 note mortgage, which permit reasonable  
14 attorney's fees for enforcement with loan  
15 documents.

16 **THE COURT:** That's the contract part?

17 **MS. CREECH:** Yes, Your Honor.

18 **THE COURT:** Contract. Okay. Ms. Meisner, how do  
19 you get around that?

20 **MS. MEISNER:** Well, Ms. Creech submitted a Affidavit  
21 of Indebtedness from the servicer. She's never  
22 submitted an Affidavit of Indebtedness from the  
23 Plaintiff, and, therefore, she's not entitled  
24 under the contract to attorney's fees if she's  
25 not the lender. We had that discussion last



1 time that the lender -- so by assignment ---

2 **THE COURT:** If I strike the attorney fees, are you  
3 going to pay everything else that's owed on the  
4 property?

5 **MS. MEISNER:** Well, I mean, if that's what your  
6 ruling is. I mean ...

7 **THE COURT:** No, seriously, I mean, if that's all you  
8 really -- if that's not all you really  
9 complained about, but if I strike the attorney  
10 fees, you would pay everything else?

11 **MS. MEISNER:** Well, I think that that would be a  
12 remedy. I mean, I owe Bank of America. If  
13 you're saying that I owe US Bank then, you  
14 know, I would pay what's supposed to be paid.

15 **THE COURT:** Which is how much, Ms. Creech, how much  
16 does she owe less the attorney fees?

17 **MS. CREECH:** The total debt, Your Honor, I'm just  
18 approximating through the date of the hearing  
19 was \$84,000 and the attorney's fees award was  
20 for \$18,000, so about \$68,000 we'd be looking  
21 at.

22 **MS. MEISNER:** Your Honor, may I make a caveat to my  
23 answer to that?

24 **THE COURT:** Yes, ma'am.

25 **MS. MEISNER:** I made objections previously about the



1 property inspections and so forth. The  
2 property inspections, the things incidental to  
3 the foreclosure, I object to because again I  
4 think it was a wrongful foreclosure. I think  
5 that they should have continued complying with  
6 the contract and then if not, they should have  
7 reinstated the loan way back and that didn't  
8 happen. So the property inspection fees and  
9 the costs and the insurance that they put  
10 forward at the times that I did not have  
11 insurance.

12 Now, recently, I have not had insurance on the  
13 property, but for most of the term, I haven't  
14 had insurance. Those are the main objections  
15 that I have.

16 **THE COURT:** Okay. All right. Thank you so much.

17 Any response, Ms. Creech?

18 **PLAINTIFF'S RESPONSE:**

19 **MS. CREECH:** Yes, Your Honor. Thank you. I just  
20 wanted to point out that the motion filed by  
21 Ms. Meisner fails to raise any fact or legal  
22 issue that the Court overlooked in its original  
23 order, and we would ask that the motion be  
24 denied.

25 I believe that at some point Ms. Meisner had





1 stated that I had filed something on behalf of  
2 Bank of America in this action and that is not  
3 the case. Bank of America filed a joinder to  
4 the motion for summary judgment back if 2016.

5 I did speak with counsel for Bank of America,  
6 Jake Parker, who indicated that Bank of America  
7 joins the Plaintiff's position today, and the  
8 grant of the original judgment. Mr. Parker is  
9 available by telephone if that is something the  
10 Court would deem appropriate.

11 And I would also like to note for the record  
12 that Ms. Meisner's opportunity to present some  
13 factual evidence was at the summary judgment  
14 hearing. At the summary judgment stage, a  
15 party cannot rely on arguments on allegations.  
16 She must come forth with some factual evidence.  
17 And essentially her argument, Your Honor, is  
18 that the terms of the contract required the  
19 Plaintiff to continue to auto draft payments  
20 and that is simply incorrect. The terms of the  
21 contract speaks for themselves. The Parole

22 Evidence Rule prohibits the admission of  
23 extrinsic evidence or arguments that would vary  
24 or contradict the terms of those instruments  
25 and really that's all that she's brought up



1 again here today and at the summary judgement  
2 hearing.

3 Furthermore, with respect to jurisdictional  
4 argument, Your Honor, the motion for summary  
5 judgement was heard after the remittitur from  
6 the Court of Appeals. There was an appeal by  
7 Ms. Meisner, which I don't think she mentioned.  
8 There were two appeals in this case. The first  
9 one, which was deemed interlocutory, but the  
10 second one being of the order directing her  
11 jury demand and referring this matter to Your  
12 Honor. That was dismissed by the Court of  
13 Appeals, the Supreme Court additionally denied  
14 the Writ of Certiorari on that. So again, you  
15 have both the Superior Courts of the State  
16 determining through their dismissals that this  
17 is the appropriate forum and that this Court  
18 has jurisdiction to hear all the claims in this  
19 matter.

20 **THE COURT:** Is your client demanding a deficiency?

21 **MS. CREECH:** No, Your Honor, we waive the  
22 deficiency.

23 **THE COURT:** Okay.

24 **DEFENDANT'S REPLY:**

25 **MS. MEISNER:** Your Honor, the other thing I wanted



1 to mention, while they did say that the claims  
2 could be heard in this court, it's always been  
3 the case that the legal claims have to be heard  
4 before the equitable because if there are legal  
5 claims, which is the interpretation of whether  
6 Bank of America failed to satisfy the mortgage,  
7 which I think that there's ample evidence in  
8 the record. While Ms. Arcure said that at that  
9 date you have to do it, but it's -- it's -- the  
10 summary judgment is based on the record, and  
11 the record includes the fact that there's an  
12 affidavit on file that said that they failed to  
13 follow the terms of the satisfaction of the  
14 mortgage statute therefore they should have --  
15 should be responsible for treble damages. The  
16 other thing is that the things that I brought  
17 up in my complaint were as part of the order.  
18 There wasn't -- in the order, it said there was  
19 no objection to attorney fees; however, there  
20 was a filed objection to the indebtedness and

21 ~~specifically in here referenced the attorney~~  
22 fees in two different ways.

23 I also said that I don't believe Ms. Creech's  
24 party is entitled to attorney fees based on  
25 being a third party. I mean, I'm not bringing



1 up something in this hearing that has not been  
2 part of the record and was not argued either  
3 directly or tangentially at the last meeting.  
4 I did say I think it was improper for Bank of  
5 America to not be here. Ms. Creech argued that  
6 they didn't make a claim in this case about  
7 ownership of the mortgage; however, they did in  
8 their answer, their initial answer they claimed  
9 that they had a superior loan to Ms. Creech's.  
10 That's what they claimed, and I've got that  
11 answer somewhere, but if you don't mind, Your  
12 Honor, I would like to make that ruling from  
13 the Lowcountry that you have to be owner of the  
14 note and the mortgage as an exhibit if you  
15 don't mind if I can find it again.

16 **MS. CREECH:** If I recall, is that a decision by  
17 Judge Nicholson in Charleston?

18 **MS. MEISNER:** Yes, it is.

19 **MS. CREECH:** That decision, Your Honor, has been  
20 reversed by the Court of Appeals, and since  
21 then we have binding precedent that a servicer  
22 is entitled to foreclose and that an assignment  
23 of mortgage is not required under South  
24 Carolina law. Additionally, I have the  
25 original note, which was in here at the hearing



1 last time that we had the summary judgement  
2 motion, and when I deposed Ms. Meisner, she had  
3 the opportunity to review that as well.

4 **MS. MEISNER:** Well, even the portions of the  
5 deposition that she attached, do -- I  
6 continually said that Bank of America is the  
7 right party if you read those deposition  
8 excerpts, but that while a servicer may be  
9 entitled to foreclose, that's not where we are.  
10 They're not -- the servicer did not enter the  
11 Affidavit of Attorney Fees and Affidavit of  
12 Indebtedness. They weren't the party  
13 Plaintiff. She didn't explain -- she had no  
14 one to explain how that you know ---

15 **DECISION OF THE COURT:**

16 **THE COURT:** All right. Ms. Meisner, your motion's  
17 been denied. I would ask for a brief  
18 non-argumentative order pointing out that the  
19 motion has been denied and you can file that.  
20 As far as the judicial sale, Ms. Meisner, now  
21 ~~you have what's called a Right of Redemption.~~  
22 You can resolve this before the judicial sale  
23 and also you can bid on it yourself at the sale  
24 if you decide that's what you want to do. The  
25 only catch is you have to follow the terms of



1 the order, the foreclosure order. In other  
2 words, you'd have to put five percent down that  
3 day and the rest in 20 days. A lot of people  
4 don't realize that they can actually bid on it  
5 themselves, and if you have the money, or can  
6 come up with the money, you can certainly bid  
7 on it yourself.

8 **CLARIFICATION:**

9 **MS. MEISNER:** And so are you awarding the attorney  
10 fees to US Bank in the denial?

11 **THE COURT:** In the denial?

12 **MS. MEISNER:** Well, you denied my motion to alter  
13 and amend ---

14 **THE COURT:** Right.

15 **MS. MEISNER:** So I'm asking for clarification that  
16 you are awarding the entire attorney fees  
17 requested.

18 **THE COURT:** Yes, I am. All right. Anything further  
19 today?

20 **MS. MEISNER:** I think that's it. Oh, I would  
21 request a continuance on the sale to January to  
22 give me a little more time to ---

23 **THE COURT:** Ms. Creech, do you have to talk to your  
24 client about that?

25 **MS. CREECH:** I would need to speak with them about



1           it, but based on my understanding they would  
2           like to proceed with the December 2nd sale. I  
3           can certainly ask if they would be willing, but  
4           my sense is that that would likely be  
5           objectionable given the time that this case has  
6           been pending.

7       **THE COURT:** All right. But keep in mind a lot of  
8           people in the heat of battle forget they can  
9           always resolve this out of Court, so if y'all  
10          just keep communicating, you know, maybe you  
11          can reach some kind of agreement at the very  
12          least you're asking that the sale be postponed  
13          another month and there are two ways to look at  
14          that because the last payment was made in 2013.  
15          They want to get it done as soon as possible,  
16          maybe before the end of the year, but the other  
17          argument is always well, it's taken this long,  
18          what's the hurry now and so maybe y'all can  
19          talk about that, whether you can push the sale  
20          back and that will give you a better  
21          ~~opportunity to maybe redeem the property, or~~  
22          reinstate the mortgage if they're willing to do  
23          that at that time. All right. Anything  
24          further again?

25       **MS. CREECH:** Nothing further, Your Honor.



1 THE COURT: All right. Thank you both.

2 (There being nothing further, the hearing concluded  
3 at 3:04 p.m.)  
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Deposition of:  
**Transcript of Proceedings**

*October 29, 2019*

In the Matter of:  
**U.S. Bank National Association Vs.  
Rhonda Lewis Meisner; Et Al**

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1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF RICHLAND

3  
4 U.S. BANK NATIONAL ASSOCIATION, as trustee  
for the Holders of The Banc of America  
5 Funding Corporation, 2008-FTI TRUST,  
MORTGAGE PASS-THROUGH CERTIFICATES,  
6 SERIES 2008-FTI,

7 Plaintiff,

8 vs.

CASE NO. 2014-CP-40-2063

9 RHONDA LEWIS MEISNER a/k/a  
RHONDA L. MEISNER, BANK OF  
AMERICA, N.A., and SCBT,

10 Defendants.

11  
12 TRANSCRIPT OF PROCEEDINGS

13  
14 DATE: October 29, 2019

15 TIME: 11:00 a.m.

16 LOCATION: Richland County Courthouse  
17 1701 Main Street  
Columbia, SC

18 BEFORE THE: HONORABLE JOSEPH STRICKLAND

19 REPORTED BY: KIMBERLY T. POWER, CR

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1 APPEARANCES OF COUNSEL:

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9  
10 RHONDA LEWIS MEISNER, PRO SE  
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20 (INDEX AT REAR OF TRANSCRIPT)  
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1 THE COURT: This is Civil Action No.  
2 2014-CP-40-2063, U.S. Bank and others against  
3 Rhonda Lewis Meisner and others. Our notes indicate  
4 this is a motion for summary judgment rescheduled.  
5 And, Ms. Creech, tell me what's going on.

6 MS. CREECH: Certainly, Your Honor.  
7 The plaintiff, U.S. Bank, has brought a foreclosure  
8 action with respect to the property that is the  
9 subject of this action, which is not owner-occupied,  
10 and, thus, exempt from the 2011 administrative order.  
11 Ms. Meisner responded to the complaint asserting a  
12 number of counterclaims against the plaintiff for  
13 declaratory judgment, breach of contract, breach of  
14 contract accompanied by fraudulent act, and abusive  
15 process. Additionally, some of those counterclaims  
16 were asserted as crossclaims against the two other  
17 named defendants, South Carolina Bank and Trust and  
18 Bank of America who at the time that the lis pendens  
19 was filed had mortgages -- junior mortgages against  
20 the property.

21 I'm going to walk you through a little bit  
22 of the procedural background for this case. As you  
23 know, it's been pending for quite some time.

24 THE COURT: Yes, ma'am.

25 MS. CREECH: Initially, prior to

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1 filing the answer, Ms. Meisner had filed a motion to  
2 dismiss. That motion to dismiss was denied and Ms.  
3 Meisner appealed the order denying the motion to  
4 dismiss which, of course, is an interlocutory appeal  
5 and it was denied.

6 Subsequently, she filed the answer  
7 and counterclaim. We engaged in some written  
8 discovery and a motion to strike the answer and  
9 counterclaim and refer the matter to Your Honor was  
10 filed. That motion was granted. That order was  
11 subsequently appealed, and that is, I think -- the  
12 majority of the time that this case has been pending,  
13 it was on that appeal which was subsequently  
14 dismissed via the Court of Appeals. It was an  
15 unpublished opinion, but dismissed it citing a number  
16 of cases which stand for the support of that being  
17 the counterclaims that Ms. Meisner asserted were  
18 either permissive or equitable and, as such, she  
19 wasn't entitled to a jury trial and that the  
20 matter -- cause of action in equity being foreclosure

21 and claims asserted in response thereto was properly  
22 referable to Your Honor as the Master-in-Equity.

23 Ms. Meisner then petitioned for a  
24 rehearing. That petition was denied and subsequently  
25 petitioned the Supreme Court on a writ of certiorari,

1 which was also denied, and we are back in this court  
2 to hear the motion of summary judgment which has been  
3 filed. But in support of the motion, Your Honor, we  
4 submitted an affidavit of verified statement of  
5 account which lays out the debt amounts, specifically  
6 the loan has been in default as of July 12th of 2013  
7 with an unpaid principle balance of \$26,945.74.  
8 Interest has been accruing at the rate of 4 -- 5.4  
9 percent under the terms of the note from June 12th  
10 through today's date for a total of \$9,284.69. There  
11 are \$850.94 in expenses, \$783 in property inspection  
12 costs, \$95 in P.O. costs, \$18,614.84 in advanced  
13 legal costs and expenses, \$3,260 in hazard insurance  
14 advances, \$22,006.21 in tax advanced. And we  
15 additionally filed an affidavit of attorney's fees  
16 and costs for \$200 in unpaid costs of collection and  
17 \$3,878 in unpaid attorney's fees, bringing the total  
18 debt secured by the note and mortgage to \$84,220.54.  
19 The plaintiff is not seeking a deficiency in this  
20 case.

21 In addition to the affidavit of  
22 verified statement of account, an affidavit in  
23 support of the motion was also filed, which is --  
24 which attaches a number of business records under  
25 Rule 803(6), specifically the note, the mortgage, the

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1 payment history for the account, and the judgment  
2 figures used for calculating the debt as of today's  
3 date. I've also offered an attorney's affidavit  
4 which attaches excerpts of the deposition of  
5 Ms. Meisner which was taken in April of 2016,  
6 together with the responses to discovery we received  
7 in her deposition testimony, as well as the written  
8 testimony submitted by the plaintiff. We  
9 respectfully submit that there is no issue of  
10 material fact in dispute. Ms. Meisner admitted that  
11 the note has not been paid pursuant to its terms --

12 MS. MEISNER: Your Honor, the reason  
13 that --

14 THE COURT: I'll give you a chance to  
15 explain.

16 MS. CREECH: That the reason for the  
17 default was that the auto payments were no longer  
18 being drafted from her account. And basically  
19 that -- that is her position, is that by no longer  
20 having had automatically drafted payments from her

21 account, that it is somehow -- that that in some way  
22 obviates her obligations under the terms of the note  
23 and mortgage. The terms of the note and mortgage  
24 speak for themselves. They are written contracts.  
25 They clearly state the amounts that are due and

1 payable. And while there is an option to add  
2 automatic payments, the lender clearly has the right  
3 to designate when and where those payments are to be  
4 made. And at the time that the loan went into  
5 default, that was a service transfer to Nationstar.  
6 Ms. Meisner did not set up a new payment with  
7 Nationstar. If she wanted to continue auto drafting,  
8 that was her responsibility to do and she did not do  
9 so.

10 And so based on that testimony and  
11 what the terms of the contract state, it's not in  
12 dispute that no payments have been made since July of  
13 2013. There's no dispute that there have been no  
14 reinstatements, there have been no payoffs, there  
15 have been no loss mitigation efforts whatsoever. And  
16 based on that, Your Honor, we respectfully submit  
17 that the plaintiff is entitled to foreclose and that  
18 there is no issue of fact regarding her counterclaims  
19 for declaratory judgment.

20 The right -- the rights between the  
21 plaintiff and Ms. Meisner are clearly set forth  
22 between -- in the contract that -- that they are both  
23 parties to. And as far as breach of contract,  
24 there's absolutely nothing in the contract between  
25 the plaintiff and Ms. Meisner that has been breached.

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1 She's additionally made a number of allegations with  
2 respect to standing. When she was deposed, this was  
3 also included as part of the deposition excerpt  
4 attached to the affidavit in support of the motion.

5 She was presented with the original  
6 note. It's endorsed in blank. It's bare paper. UCC  
7 Article 3. Just because it's a different original  
8 lender doesn't mean that the current plaintiff isn't  
9 entitled to foreclose. Furthermore, under Bank of  
10 America vs. Draper, a servicer has the right to  
11 foreclose. She admitted that Nationstar appears to  
12 be the current servicer. It still is the current  
13 servicer. And for all these reasons, Your Honor, we  
14 submit that we are entitled to summary judgment.

15 THE COURT: All right. Now, I always  
16 put on the record that summary judgment is hard to  
17 get because --

18 MS. CREECH: I understand.

19 THE COURT: -- because the other side  
20 doesn't have to prove anything. All they have to do

21 is come up with some issue of fact precluding summary  
22 judgment. Summary judgment is judgment without  
23 trial. The plaintiff in this case is saying that  
24 there are no issues -- general issues of material  
25 fact and that they are entitled to relief as a matter

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1 of law. That's -- that's what the law -- that's what  
2 the rule says.

3 Now, in response, you need to show me  
4 some issues of -- genuine issues of material fact so  
5 it would justify a trial on those issues. So...

6 MS. MEISNER: Yes, Your Honor.  
7 First, I'm going to object that the other  
8 cross-defendants are not here because contrary to  
9 Ms. Arcure's -- well, let me start from the  
10 beginning.

11 THE COURT: All right.

12 MS. MEISNER: Ms. Arcure actually  
13 filed this motion -- and I did make an objection to  
14 this in the filings that she filed it when this court  
15 did not have subject matter jurisdiction over the  
16 case because it was in the Court of Appeals and they  
17 had not sent the rematour (phonetic) down.  
18 Rematour...

19 THE COURT: Remittitur?

20 MS. MEISNER: Remittitur. So -- but  
21 they had not sent that down. So at the time of the  
22 filing, the Court of Appeals still had jurisdiction  
23 over this case. I made that objection in one of my  
24 returns and there has been -- there's not been  
25 another filing subsequent to receiving the

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1 remittitur. So remittitur -- remittitur. So I think  
2 that that's procedurally a problem with the filing.

3           Secondarily, Ms. Arcure made some  
4 comments that are actually inaccurate, one of which  
5 was she said that Nationstar is the servicer.  
6 However, the servicing of that -- the time that the  
7 servicing began is in dispute. She recently -- and  
8 this is one thing that I was going to bring to you.  
9 This is a copy of an envelope that was sent to me on  
10 the 23rd, and it -- it enclosed some additional  
11 discovery items, and those discovery items were  
12 initially filed with them in 2015 or something like  
13 that. So they've got some additional discovery  
14 items. So discovery is not complete because those  
15 items that they sent actually create an issue of fact  
16 between -- and I was looking. I had a packet. I  
17 apologize.

18           But, anyway, it brings an issue of  
19 fact of whether foreclosure is even available to them  
20 at all. First of all, they're not a party to the

21 initial contract, Bank of America is, and they're not  
22 here today. So they -- they were the lender.

23 Ms. Arcure has asked for attorney's fees, but the  
24 plain language of the note speaks only to the lender.  
25 So subsequent purchasers of that, there's no reason



1 for them to be allowed to get attorney's fees.

2 THE COURT: Let me ask you, is this  
3 where you live?

4 MS. MEISNER: And that's -- I'm  
5 getting to that. As I told you or as I mentioned  
6 earlier, I am actually going through a divorce. So  
7 I don't know if --

8 THE COURT: You told me off the  
9 record.

10 MS. MEISNER: Yeah. So on the  
11 record, I'm going through a divorce. So I'm not sure  
12 where I'm going to live yet.

13 THE COURT: Where do you live now?

14 MS. MEISNER: Well, I'm living right  
15 now in -- in another property that's very small  
16 because I don't have my children right now. But when  
17 I get my children, then I will need more bedrooms.  
18 So, anyway, that's unclear right now.

19 THE COURT: So, now -- now, you're  
20 not just being dilatory? Because -- because if I  
21 deny the motion, that just means we'll have a trial  
22 on all these issues.

23 MS. MEISNER: Well, I think -- I  
24 think a trial is warranted, and I actually was going  
25 to ask for a continuance and also ask that this be

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1 transmuted to -- I mean, be ordered for mediation  
2 because Bank of America was the original lender.  
3 They said that I was in default on July 1st. There  
4 is language in the note that says that if we choose  
5 automatic payments, they will. So it was mandatory  
6 language in the note.

7 So if someone else took over the  
8 language -- and the actual discovery that Ms. Arcure  
9 just sent, and somehow I've misplaced it this morning  
10 not paying attention to what I was doing, actually.  
11 But the language that she just sent said that the  
12 rights in the note via the servicer are still  
13 maintained. So even though they have changed  
14 servicers, it still refers back to the note and  
15 that -- that requirement of debiting the account was  
16 in the note. It wasn't a second or -- or outside  
17 contract. It was within the note itself.

18 THE COURT: Did you sign the note?

19 MS. MEISNER: I did sign the note and  
20 I did agree for automatic debiting, but Bank of

21 America breached that term and did not automatic  
22 debit. What they did is they -- well, initially they  
23 said they purportedly sold the note. The other --  
24 and -- and I know that there is a requirement that is  
25 scintilla of evidence.



1                   The other issue of this and, again,  
2                   they are not here today, but Bank of America in  
3                   another case, Case No. 2014-CP-40-07144, claimed  
4                   ownership of this note in their answer and reply.  
5                   That specific case has been dismissed.

6                   THE COURT: What's the status of your  
7                   crossclaim against the other defendants?

8                   MS. MEISNER: Well, we still have to  
9                   have those. So that was my next question for summary  
10                  judgment -- summary judgment pursuant to, I think  
11                  it's -- I was pulling it up on my computer, the rule.  
12                  It would not eliminate all of the claims. So it's  
13                  not -- I'm sorry. I was a little dilatory getting my  
14                  things together this morning. I apologize.

15                  THE COURT: I want to clarify, then.  
16                  The plaintiff is not moving to deal with the  
17                  crossclaims.

18                  MS. CREECH: I mean, the plaintiff  
19                  doesn't have the ability because they're -- they're  
20                  not -- we don't have any claims that are asserted  
21                  between one another. Now, I will say that with  
22                  respect to the counterclaims, those claims were  
23                  asserted as crossclaims. So if the Court finds there  
24                  is no issue of material fact in dispute of the  
25                  counterclaims, those purported crossclaims would be

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1 mooted.

2 And while we're -- while Ms. Meisner  
3 is looking through her notes, I did want to read  
4 through the last sentence in the first full paragraph  
5 of the note which references payment. It states, "I  
6 will pay this loan in 179 payments of \$499.46 each  
7 payment and a regular last payment estimated at  
8 \$500.22." It goes on to state first payment date and  
9 subsequent payment dates. The very last sentence of  
10 that paragraph states, "I will pay lender at lender's  
11 address shown above or at such other place as lender  
12 may designate in writing." And I submit that after  
13 the service transfer, that is what happens. That  
14 notification that servicing is transferred tells you  
15 that the servicer who currently is servicing your  
16 loan will no longer accept payments and tells you  
17 where to send your new payments. Getting auto  
18 payments drafted is, of course, an option to do.  
19 Ms. Meisner didn't elect to do any of those things  
20 and simply let the account go delinquent and made no

21 effort whatsoever to reinstate it.

22 THE COURT: And her position is they  
23 haven't made -- she hasn't made payments since 2013?

24 MS. CREECH: As she admits. That's  
25 correct.

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1 THE COURT: So six years?

2 MS. CREECH: Yes.

3 THE COURT: Go ahead.

4 MS. MEISNER: Thank you, Your Honor.

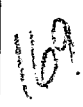
5 And also it does -- as far as the payment -- I'm  
6 trying to find this in here. First of all, Bank of  
7 America is the author of this. They drafted this.  
8 So any confusion of interpretation has to be held  
9 against Bank of America. Again, they're not at this  
10 hearing. But the -- there is -- it is a -- let me  
11 see this. I apologize.

12 THE COURT: That's all right.

13 MS. MEISNER: Your Honor, I'm going  
14 to need a minute to look at the --

15 THE COURT: Sure.

16 MS. MEISNER: -- mortgages and the  
17 notes associated with it because -- but it is a --  
18 it's a frank term that they will draft once elected.  
19 And even -- even if I made the payment, it says that  
20 they still have the right to auto draft. So if they  
21 assumed the whole note, or if they bought the note,  
22 or if the note transferred in any way, they have the  
23 obligations still within the note just as I have the  
24 obligations within the note. So there is material  
25 issue of fact of whether that's a material breach for





1     them not drafting or assigning the drafting  
2     requirements out of the note and then subsequently  
3     charging late fees charging reinstatement fees and  
4     calling me in default because --

5             THE COURT: Now, is it true that you  
6     haven't made a payment since 2013? Is that true?

7             MS. MEISNER: That is -- well, I  
8     haven't made a payment to Ms. Arcure's client. Bank  
9     of America owes me, based on the crossclaims, of  
10    non-satisfaction of another mortgage which, by the  
11    way, again, they're not here today and they were the  
12    original lender. They owe me for not satisfying.  
13    And I checked again today in the clerk's office, it's  
14    still not satisfied as of that property.

15            THE COURT: You don't have to make  
16    payments at this time?

17            MS. MEISNER: That's not the  
18    argument. The argument is that there has to be an  
19    amount owed. And if they owe me \$50,000 and I owe  
20    them \$25,000, then there's a discrepancy in what's

21    owed to whom. And that's why I was going to make a  
22    motion for this -- for this case to be sent based on  
23    the crossclaims and the -- the counterclaims for this  
24    case to be sent to mediation because typically even  
25    in a mortgage foreclosure case, you have to -- I

1 mean, you don't have mediation.

2 But the crossclaims, based on one of  
3 the counterclaims, was that Ms. Arcure, not her  
4 personally, but potentially her, U.S. Bank abused the  
5 process because they had Ms. McBride sign a findings  
6 of fact and conclusions of law and sent this to here,  
7 and I had expenses and so forth associated with that.

8 But if I would not have caught it --  
9 and this is not just about me. It's about everybody  
10 else that becomes before Your Honor. If you've got a  
11 lot of pro se people that are coming before Your  
12 Honor, and if there's a workaround by the plaintiff  
13 where they -- they know and they intentionally use  
14 that workaround to get Ms. McBride to transfer the  
15 case without -- really without due process by not  
16 having the circuit court transfer the case or just if  
17 there are no counterclaims transferring the case,  
18 that's fine. But there were counterclaims and there  
19 were crossclaims inserted and yet they still had  
20 Ms. McBride transfer that.

21 THE COURT: Let me ask you, though,  
22 how much do you think you owe?

23 MS. MEISNER: For the abuse of  
24 process?

25 THE COURT: No. For the whole -- for

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1 the whole thing, the whole mortgage. I mean, how  
2 much do you think you should pay?

3 MS. MEISNER: Well, first of all,  
4 Bank of America, in my opinion, the frank amount is  
5 for the attorney's fees is only for Bank of America.  
6 I don't think Ms. Arcure -- because I believe that  
7 they are a third-party debt collector that they --  
8 according to Bank of America and their allegations,  
9 they assumed the note after it was in default. So,  
10 therefore, they're not entitled to attorney's fees.  
11 And, also, there may be a statute of limitations  
12 depending on how they are determined to be, whether  
13 they're entitled to be the person that does it.

14 What I think -- what I think -- if we're  
15 talking about what I think should happen, is I think  
16 that the amount of the loan that was owed to Bank of  
17 America should be reinstated at that amount with the  
18 original terms. And that's what should happen, is it  
19 should be reinstated because --

20 THE COURT: So how much do you think  
21 you owe?

22 MS. MEISNER: Well, it was \$26,549, I  
23 believe, plus the -- not the accelerated interest  
24 because I don't think that's proper, but the -- I  
25 think it was a 5.4 percent interest loan. So that

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1 should be calculated in, plus what is owed in the --  
2 whatever they -- advance that is properly advanced.  
3 For example, they put in there that they are entitled  
4 to hazard insurance, but I had hazard insurance at  
5 the time that they asked for that. So that's not a  
6 proper advancement. They've asked for fees that are  
7 not inspection fees and so forth. But, again, that  
8 was as a result of Bank of America's breach. So  
9 there's several things that they've asked for as far  
10 as payments that I don't believe are there.

11 What I think is proper -- in my  
12 opinion what's right is the amount that was due, the  
13 interest that has accrued under the original  
14 contract, plus any advances for fees that -- that are  
15 supposed to be due, like the escrow fees for the  
16 thing, not escrow fees for, you know, somebody coming  
17 out to inspect the property and somebody coming out  
18 to -- or an issuance of insurance.

19 THE COURT: So you're saying you owe  
20 Bank of America money?

21 MS. MEISNER: Yes.

22 THE COURT: You don't owe U.S. Bank?

23 MS. CREECH: If I may, Your Honor,  
24 just to clarify that because I think that there  
25 are -- certainly from what Ms. Meisner has alleged in

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1 her pleadings and based on her deposition, there  
2 seems to be some factual confusion with respect to  
3 who the entities are and the transfer process. The  
4 original lender was Bank of America. The note was  
5 then was being serviced by Bank of America. It was  
6 subsequently transferred to Nationstar, who is still  
7 the current servicer, and the note and mortgage were  
8 assigned the U.S. Bank National Association, the  
9 current captioned plaintiff.

10 And so U.S. Bank, as the assignee,  
11 stands in the shoes of the assignor, has all the  
12 rights and interests with respect to this note, which  
13 it is the holder of the original note, which is  
14 endorsed in blank. It's bare paper under Article 3.  
15 And, therefore, the lender as defined under the note  
16 is the plaintiff. And the plaintiff, the lender, has  
17 the right to designate where payments go, and that is  
18 where the role of the servicer comes in.

19 And so while Bank of America may have  
20 been the original lender and she may have had other

21 loans with Bank of America and other properties, that  
22 really is not material to the relevant facts of this  
23 case, which are that this loan is in default, it has  
24 been in default since July of 2012, and these claims  
25 that have been asserted to sort of bring in other

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1 entities really don't have anything to do with these  
2 issues.

3 THE COURT: Let me get the facts  
4 straight. 2012, not 2013?

5 MS. CREECH: Excuse me. 2013. I was  
6 looking at the July 12th of 2013. Pardon me.

7 THE COURT: Are you saying in a  
8 nutshell is that if you owe Bank of America, is what  
9 you said you do, that you actually owe U.S. Bank  
10 because -- because the paper was assigned, I guess,  
11 to U.S. Bank.

12 MS. MEISNER: Right. But the  
13 assignment was defective. And Ms. Arcure has argued  
14 that I don't have a right to talk about the  
15 assignment, but I think from a standing -- from a  
16 standpoint of standing, based on Barden Properties  
17 vs. Elong, I have to allege standing at each step of  
18 the way. And I don't believe that Ms. Arcure has  
19 standing, and the reason for that is Bank of America  
20 in another lawsuit based on this same note, this same  
21 mortgage, has alleged that they have an interest in  
22 it.

23 So if they have an interest in it and  
24 it was after the point of assignment that they  
25 alleged the interest, there's a material issue of

1 fact whether Bank of America or even if she's -- if  
2 she's owed that amount, the loss of the other --  
3 there are two -- well, let me -- let me clarify this.

4 There's a 2003 mortgage and a 2005  
5 mortgage. Bank of America -- both mortgages were  
6 drafted and are -- they were on auto payment, but  
7 they also had the ability for me to go online and  
8 make payments. I paid off the two thousand -- either  
9 '03 or '05 mortgage. Let me see which one this one  
10 is. So it was paid -- the 2005 mortgage was paid  
11 off. It was the second mortgage, actually called a  
12 HELOC, and that was paid off. However, they did not  
13 enter satisfaction on that. It was still the  
14 mortgage on the same property by the same lender,  
15 just a separate instrument.

16 So they did not pay that off -- I  
17 mean, I paid it off. They entered on my credit that  
18 it was a foreclosure. It was not a foreclosure  
19 because I think there was, like, \$3 or \$4 left on  
20 that payment. And so they said that they sent it to

21 foreclosure when they found their error when they  
22 went back to that.

23 In -- in the -- in the time of that,  
24 this 2003 mortgage was also on auto draft and it's --  
25 and it's a term in the actual note itself that says

1 that -- I'm looking for the payment.

2 THE COURT: So if I deny the motion  
3 for summary judgment and we go to trial and I rule in  
4 your favor, you're going to pay Bank of America?

5 MS. MEISNER: Yes. I mean, I'm going  
6 to pay who -- I'm going to pay what is -- what is  
7 owed by the time we get through all of this because  
8 they're --

9 THE COURT: You can do that now if  
10 you wanted to, then. If you really -- I mean, if you  
11 want to deal with that, I mean, you tender the funds  
12 to Bank of America and ask me to dismiss this case.

13 MS. CREECH: Bank of America did  
14 answer in this case, Your Honor, and they have not  
15 asserted an interest in the note and mortgage that  
16 are the subject of this action.

17 THE COURT: I understand that.

18 MS. CREECH: They are not entitled to  
19 payment under the terms of this note that's in  
20 default and under -- if I may just address briefly  
21 the argument with respect to the assignment of  
22 mortgage. An assignment of mortgage is not required  
23 under South Carolina law, VAC vs. Kinder. And as a  
24 non-party to that instrument, Ms. Meisner does not  
25 have standing to challenge the assignment. And,





1 again, I refer back to the plaintiff being the holder  
2 in possession of the original note and there being no  
3 dispute that the plaintiff is entitled to foreclose.

4 THE COURT: I'm looking for something  
5 that we could have a trial about, Ms. Meisner.  
6 That's why I keep asking you these questions.

7 MS. MEISNER: Yeah. The -- the --  
8 the other question about that is even though she says  
9 that I can't challenge it, the Court certainly would  
10 look at the assignment. And you cannot have, I don't  
11 believe, an assignment that is done on April the 2nd  
12 of 2014, but it's notarized the following day, even  
13 if it's a scrivener's error. Somebody has to come  
14 and testify that that's a scrivener's error and they  
15 didn't do it.

16 But beyond that, the -- and I was  
17 thinking of something that Ms. Arcure said. Whether  
18 they alleged ownership or a claim on this particular  
19 note and mortgage in another case or in this case,  
20 they still alleged a claim. So --

21 THE COURT: So if we go to trial --

22 MS. CREECH: That's not before this  
23 Court.

24 THE COURT: Hold on a second. I'm  
25 looking for something to try, Ms. Meisner. I mean,

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1 is that something that -- that you think should be  
2 handled in a trial or is that something I could rule  
3 on as a matter of law today?

4 MS. MEISNER: Well, Your Honor, I  
5 personally think that this needs to go to mediation  
6 because Bank of America did not file a satisfaction  
7 of this -- of another loan. So statutorily  
8 they're -- they're required to pay if -- if they --  
9 if you agree with me that they did not -- and I've  
10 got evidence that they did not satisfy it and did not  
11 satisfy it properly. They did put a -- they did put  
12 a loss note affidavit in there. But if -- if they're  
13 owed money -- I mean, if they owe me money based on  
14 their failure to satisfy on this and -- and it's not  
15 a note that's like on another property. It's a note  
16 specifically associated with this property. So if  
17 they're owed money from that prior to the assignment,  
18 then, Ms. Arcure, there's nothing to assign.

19 The other thing that I would mention  
20 is Ms. Arcure's clients didn't pay anything for this  
21 loan. There's no -- there's no remuneration that's  
22 been offered for this, and she can't offer evidence  
23 that there is.

24 THE COURT: Well, what's that got to  
25 do with you, though? I mean, if you -- you signed

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1 the note, you were at the closing, money changed  
2 hands, and --

3 MS. MEISNER: That's right.

4 THE COURT: -- and for whatever  
5 reason, you stopped making payments in 2013, right?  
6 Am I correct so far?

7 MS. MEISNER: Well, they stopped  
8 drafting. Just as I have an obligation to pay, they  
9 had an obligation to draft, and it was a frank term  
10 of the note. It was -- it wasn't a second --

11 THE COURT: And so if they don't  
12 draft your account, then they owe you and you don't  
13 owe them?

14 MS. MEISNER: No, no, no. That's a  
15 separate issue. If they don't draft the account, the  
16 terms of the promissory note -- and we can look at  
17 all this -- say that even if I pay them, they can  
18 still draft the amount that was due on the draft date  
19 unless I notify them in writing to stop.

20 So when they didn't draft it on the

21 12th, the following month they said that I was in  
22 default of the mortgage which accelerated the loan  
23 and so forth. And then they returned \$800 -- \$874 to  
24 me that I tried to pay them. They said, no, we can't  
25 do that and then charged all these extra fees and

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1 everything.

2 So if it's an agreement between the  
3 parties, then both their obligations and my  
4 obligations have to be met. It's not like they can  
5 just say, well, we -- we quit on that. So you got to  
6 do something different.

7 THE COURT: So you say your  
8 obligations have to be met. What is your obligation?

9 MS. MEISNER: Well, as far as from  
10 Bank of America, again, they're not here. But if  
11 they were here, if they're going to transfer  
12 servicing to another entity from Bank of America to  
13 Nationstar, which I -- I'm not sure how Nationstar  
14 and Cooper are involved.

15 MS. CREECH: They're one and the  
16 same.

17 MS. MEISNER: It's the same  
18 organization. Just a name change?

19 MS. CREECH: It's Nationstar  
20 Mortgage, LLC doing business as Mr. Cooper.

21 MS. MEISNER: But when they  
22 originally had the change, it wasn't Mr. Cooper. It  
23 was Nationstar?

24 MS. CREECH: Yeah. I think it was --  
25 it started out as just Nationstar Mortgage, and then

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1 they added the d/b/a Mr. Cooper.

2 MS. MEISNER: So, to that end, yes, I  
3 had an obligation to pay, and -- and the way that I  
4 met that obligation was to sign up for automatic  
5 drafting. Bank of America had an obligation to draft  
6 that payment, which they didn't do, and there were  
7 funds sufficient in my account at the time for them  
8 to do that.

9 When they sold -- assigned or had a  
10 new servicer come in, if they took over that note,  
11 they took over that obligation to service. So they  
12 can't say, well, you just -- you just don't get that  
13 term anymore because it was in mandatory terms. It  
14 said if you do this, we will draft your account and  
15 they didn't do that.

16 So, in my opinion, I think that there  
17 is an issue for trial, and I do think that there were  
18 a couple of other things that I had that --

19 THE COURT: We're going to have a  
20 trial and bring in witnesses, I don't know how many

21 of them will be from out of town, and you're going  
22 to -- you're going to cross-examine them and examine  
23 them, and what you're trying to prove is they didn't  
24 draft your account?

25 MS. MEISNER: Well, not only that

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1 they didn't draft the account, but that they didn't  
2 transfer the note when they said they did. And --  
3 and the reason is because U.S. Bank an entity that  
4 started. It was -- it started in 2008.

5 THE COURT: All right. So what  
6 you're saying is, then, you're not obligated to pay  
7 anything? Is that your position, that --

8 MS. MEISNER: No. I'm not saying --

9 THE COURT: -- you live in the house  
10 free and clear, you don't have to pay anything to  
11 anyone ever because they messed up the assignment,  
12 they didn't draft like they said they would, and all  
13 those things?, That's what I'm hearing, Ms. Meisner.

14 MS. MEISNER: No. But they can't --  
15 but they can't change -- if you have a term in  
16 your -- in your note --

17 THE COURT: Right.

18 MS. MEISNER: -- they can't change  
19 the terms in the note that you have agreed to when  
20 they sell it to someone else.

21 THE COURT: And what terms did they  
22 change?

23 MS. MEISNER: It says if you sign up  
24 for automatic drafts, we will mandatory term draft  
25 your account. If they're going to give it to

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1 somebody else, then they have to make that provision.  
2 If they're assigning or assuming that note, that  
3 provision goes with the note.

4 THE COURT: So you're saying --  
5 you're saying that the assignee, the new owner or the  
6 new servicer, has to draft your account and that's  
7 what you want? You want them to draft your account?

8 MS. MEISNER: Well, what I -- what I  
9 want is for them to have done it when they breached  
10 the contract back in July of 2013 and not -- and not  
11 draft my account and say I'm in default and  
12 accelerate this loan and charge all these late fees.

13 THE COURT: So you're saying you're  
14 not in default?

15 MS. MEISNER: I wasn't in default in  
16 2013.

17 THE COURT: What about today, six  
18 years later?

19 MS. MEISNER: Well, I mean, I think  
20 that that's something that has to be -- that has to

21 be argued of how much is owed to Bank of America, and  
22 I don't think that they're here today, you know.  
23 They were -- they agreed to draft the account. They  
24 agreed for that as a mechanism of payment, yet they  
25 didn't do it. And they sold the note and then

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1 fraudulently told me that I was default 40 days  
2 later.

3 THE COURT: Now, you say you want  
4 mediation. What -- what -- what is your ultimate  
5 goal? Mediation, of course, is when a mediator talks  
6 to the parties and y'all reach some kind of  
7 agreement.

8 MS. MEISNER: Right.

9 THE COURT: You said -- you said  
10 you're not in default, and that they're not the  
11 proper party to be suing you, and that Bank of  
12 America should be here, but you filed a crossclaim  
13 against them because they're named as a defendant in  
14 this case and they have appeared and they have  
15 answered. You know, I'm -- Ms. Meisner, you can  
16 probably tell from the questions I'm asking, I'm  
17 looking for something that we have to try, and -- and  
18 you've admitted that you haven't made payments. You  
19 say it's not your fault. It's Bank of America's  
20 fault.

21 MS. MEISNER: Right. It was their  
22 breach.

23 THE COURT: Their breach in 2013?

24 MS. MEISNER: Correct.

25 THE COURT: And as a result, you



1 don't -- they owe you. You don't owe them?

2 MS. MEISNER: Well, they owe me  
3 something, I owe them something, and that amount  
4 needs to be determined before anything else. And I  
5 think not only do they owe me something on this note,  
6 but also on the other note that they didn't satisfy  
7 because there is a statute, and I don't have the  
8 statute, for Bank of America --

9 THE COURT: For the record, how much  
10 do they owe you, in your opinion?

11 MS. MEISNER: Ms. Arcure can't tell  
12 me how much they owe me because the -- she -- the  
13 submitted thing that she had initially had attorney's  
14 fees associated with it which --

15 THE COURT: I'm asking you. I was  
16 asking you how much does Bank of America owe you?

17 MS. MEISNER: For which -- for which  
18 breach?

19 THE COURT: Either breach, in your  
20 opinion.

21 MS. MEISNER: So the one breach was  
22 \$25,000. And if Your Honor agrees that they didn't  
23 satisfy the mortgage, I think the statute is -- gives  
24 double that amount, which would be more than the  
25 actual note -- the other note. For this breach --

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1 for this breach, I think that the -- that they owe me  
2 to reinstate the loan, whether it was with Ms. Arcure  
3 or with Bank of America, for the original terms  
4 that -- that they offered without the late fees,  
5 without all of the other things, because they were  
6 the ones who breached the agreement to debit the  
7 account.

8 It would have been different, Your  
9 Honor, if they would have had a separate form that  
10 says if you want to sign up for debiting the account,  
11 sign this form over here and then we will debit your  
12 account. That would have been a completely different  
13 situation. And Ms. Arcure's argument about, well,  
14 she didn't sign up for automatic drafts with -- with  
15 another party. I didn't have to because that  
16 assignment of the note went with it, the obligation  
17 to debit the account.

18 THE COURT: Aside from the motion,  
19 that's what you want? You want them to start  
20 drafting your account for the amount that you owe?  
21 Is that what you want? You want to be able to  
22 reinstate --

23 MS. MEISNER: Yes.

24 THE COURT: -- or pay off?

25 MS. MEISNER: I would -- I would

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1 like -- I would like reinstatement of the loan at the  
2 original terms and --

3 THE COURT: Oh, you're not asking  
4 them to let you pay a certain amount to catch up the  
5 payments?

6 MS. MEISNER: Well, I mean, I think  
7 all of that -- I think all of that is negotiable  
8 depending on what, you know, is decided about the  
9 other things that Bank of America didn't satisfy on  
10 this -- on this same property, a note.

11 MS. CREECH: Your Honor, if I may,  
12 I'd like to read into the record that paragraph under  
13 the note with respect to automatic payments.

14 THE COURT: All right.

15 MS. CREECH: It states, "If you  
16 choose to have payments made from a designated  
17 account and have arranged with us to do so, we will  
18 automatically draft the payment. Drafts will be made  
19 on the payment due date or immediately after the  
20 payment due date if the payment due date is on a

21 Saturday, Sunday, or legal holiday. If your account  
22 does not contain the amount payment due, you  
23 understand that it is your obligation, without notice  
24 from us, to make full payment. Even if you make a  
25 manual payment on an automatic -- an automatic

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1 payment will be drafted from your designated account  
2 unless you make such manual payment for the full  
3 amount due at least three business days prior to the  
4 due date. However, if you make less than the full  
5 manual payment at least three business bays prior to  
6 the due date, only the remaining account currently  
7 due will be drafted. To stop an automatic draft, you  
8 must contact us at least three days -- business days  
9 prior to the scheduled payment draft date. We may  
10 accept late payments, partial payments, or checks and  
11 money orders marked payment in full or similar  
12 notation or payments accompanied by letter stating  
13 that our acceptance of the payment indicates our  
14 agreement to the terms set forth in the letter  
15 without giving up, waiving, or losing any of our  
16 rights under law or under this agreement."

17 Respectfully, Ms. Meisner's  
18 misunderstanding of the terms of this note,  
19 specifically this paragraph, do not create an issue  
20 of fact. This clearly states if you choose to have  
21 automatic payments made from a designated account, we  
22 will make those auto draft payments. But "we" is  
23 lender. And once that transfers, that creates a new  
24 obligation for Ms. Meisner to set that up with the  
25 new servicer. And that is black and white. This

1 is -- this is not a matter of contract  
2 interpretation. There's nothing ambiguous about it.  
3 She's obligated to make that payment. There is an  
4 option for automatic payment, but she did not set it  
5 up with who was entitled to receive the payment,  
6 which was no longer Bank of America. That is not a  
7 disputed fact.

8 Bank of America answered, admitted  
9 they don't have an interest in this note.  
10 Conversely, the current plaintiff is the one entitled  
11 to those payments, and they have not been made as  
12 Ms. Meisner admits today.

13 MS. MEISNER: And, Your Honor, I  
14 would just say that Ms. Arcure's client was not the  
15 drafter of this. And if there's in confusion in my  
16 interpretation of the fact that the plain language of  
17 the agreement says we will in mandatory terms do  
18 this, if there is any confusion, it's not  
19 Ms. Arcure's argument to make that confusion. It's  
20 Bank of America and they're still over here -- not

21 here. They're still not here in the lawsuit. So if  
22 it is a term of the contract that they will, then  
23 that means Ms. Arcure's client will when she assumed  
24 this -- this note. So that is a material issue of  
25 fact.

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1 THE COURT: Well, the paragraph she  
2 read says if you choose, they will.

3 MS. MEISNER: But I did choose.  
4 That's the whole issue.

5 THE COURT: Your point -- your point  
6 is now you don't owe them anything because they  
7 didn't draft it from your account?

8 MS. MEISNER: Well, again, Your  
9 Honor, I think that's an issue of fact of whether --

10 THE COURT: You want a trial?

11 MS. MEISNER: Yes, sir.

12 THE COURT: A full-blown trial to  
13 determine whether or not they owe you money because  
14 they didn't draft money from your account in 2013?

15 MS. MEISNER: Well, Your Honor --

16 THE COURT: And it's now late 2019.  
17 This is October 29, 2019.

18 MS. MEISNER: Let me, again,  
19 reiterate there are two separate notes, both of which  
20 Bank of America had and owned. They have made a  
21 claim on this particular note that Ms. Arcure is  
22 trying to foreclose on in a separate case ending in  
23 7144. Their answer there said that they do have a  
24 legal interest in it. So whether it's in this case  
25 or another case or any -- any time they've put me on

1 notice that they have an interest in this loan.

2                   Secondarily, there is another loan,  
3 the 2005 loan, that was paid off in full and a  
4 satisfaction should have been entered. The statute  
5 for satisfaction of mortgage, once they were on  
6 notice, they received written notice. I didn't even  
7 have to give a written notice that they should  
8 satisfy that.

9                   THE COURT: Okay. Now, what mortgage  
10 are we here about today?

11                   MS. MEISNER: Well, we're -- again,  
12 Bank of America is not here. So the satisfaction --  
13 and it is a crossclaim. That's why I said that the  
14 summary judgment cannot be --

15                   THE COURT: I'm losing track of the  
16 facts. The 2005 mortgage is paid off?

17                   MS. MEISNER: Yes, sir.

18                   THE COURT: Now, are they foreclosing  
19 you on that mortgage?

20                   MS. MEISNER: No. But they've --

21 they have put in writing a legal interest in the 2003  
22 note, which is here. They want that.

23                   THE COURT: What's that got to do  
24 with the 2005 note?

25                   MS. MEISNER: Well, the 2005 note, I

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1 paid it off.

2 THE COURT: Right.

3 MS. MEISNER: They never entered a  
4 satisfaction of mortgage. And to this day, today,  
5 they do not have, according to the Register of Deeds,  
6 a satisfaction of mortgage.

7 THE COURT: Well, what's that got to  
8 do with this case? That's what I'm -- that's what  
9 I'm scratching my head over.

10 MS. MEISNER: Well, the -- the  
11 foreclosure is on tax map number -- in both loans are  
12 on the same tax map number and the same property. So  
13 if -- if they're claiming an interest in both the  
14 2003 and the 2005 mortgage and there's been no  
15 satisfaction associated with that tax map number,  
16 those are both material issues of fact because  
17 they've got to issue that. Certainly, if  
18 Ms. Arcure -- if you grant summary judgment and that  
19 goes away, there is still an issue with that that I  
20 don't think can be rectified without a trial. I  
21 think that Bank of America needs to be here and needs  
22 to say we're not claiming any interest in that  
23 because -- and, perhaps, I should enter into evidence  
24 their answer on the 7144.

25 MS. CREECH: I object on relevancy.



1 MS. MEISNER: Well, they've answered  
2 your --

3 MS. CREECH: Your Honor, this is a  
4 2003 mortgage. The 2005 mortgage, Your Honor, will  
5 be extinguished upon the sale of the property at  
6 foreclosure. And, again, they're separate  
7 instruments. As I recall from Ms. Meisner's  
8 deposition, that mortgage secured a line of credit,  
9 and whether or not that should have been satisfied  
10 prior to today really is irrelevant to the issues  
11 before this court.

12 MS. MEISNER: It's -- it's -- it's  
13 relevant to the extent that if Bank of America is not  
14 owed anything before the assignment of the mortgage,  
15 how can Ms. Arcure claim --

16 MS. CREECH: I'm talking about  
17 separate instruments.

18 MS. MEISNER: -- that she's --

19 THE COURT: Hold on. Let her finish.  
20 Go ahead.

21 MS. MEISNER: If Bank of America,  
22 regardless of the instrument, if they're not owed  
23 anything -- let's say on the right hand they are not  
24 owed anything and they actually owe me something for  
25 not satisfying the mortgage based on the statute,

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1 then on the left hand they're owed a lesser amount  
2 than the right hand, then there is no reason for  
3 Ms. Arcure to get over \$100,000 in equity based on  
4 her foreclosure of this property.

5 THE COURT: Anything further?

6 MS. MEISNER: Yes, I did have a  
7 couple of other things, Your Honor. I need to look  
8 at my notes. Oh, I did want to make one other  
9 comment. If Your Honor does rule that summary  
10 judgment is appropriate, which I don't believe it is  
11 on procedural ground and other grounds, I would like  
12 the opportunity to pay a bond so that the house is  
13 not sold until such time as that can be reviewed.

14 THE COURT: You want the right to  
15 appoint -- to post an appeal bond in case you appeal?

16 MS. MEISNER: Yes, in case summary  
17 judgment is granted. The other thing is  
18 Ms. Arcure -- and, of course, this probably didn't  
19 really matter before. As a plaintiff, she didn't  
20 assign, like, a guardian ad litem or something like  
21 that now that I'm going through a divorce because  
22 there is a significant amount of equity involved in  
23 this property.

24 THE COURT: Now, you're in family  
25 court now?

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1 MS. MEISNER: Yes, sir. Well, I just  
2 got in family court at the end of July, and the  
3 guardian has quit. She has not quit. She has asked  
4 to be relieved.

5 THE COURT: Who is the guardian?

6 MS. MEISNER: The guardian is an  
7 attorney named April Gremillion.

8 THE COURT: Now -- now, why was a  
9 guardian appointed in family court?

10 MS. MEISNER: Why were they?

11 THE COURT: Yes. Why was she  
12 appointed guardian? Who was she guardian for?

13 MS. MEISNER: The three minor  
14 children because I'm going through a divorce. And,  
15 you know, when this started, I was not going through  
16 a divorce. So there really was not an issue with,  
17 you know --

18 THE COURT: Well, the --

19 MS. MEISNER: My husband can say I --  
20 I, you know, failed to preserve \$100,000 in equity  
21 and so, therefore, I'm not entitled to it.

22 THE COURT: But neither plaintiff's  
23 counsel or I have the power to do anything in family  
24 court. That's just not my jurisdiction.

25 MS. MEISNER: No. But in this -- in

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1 this situation, I think that the plaintiff should  
2 provide a guardian or require an appointment prior to  
3 a substantively ruling on foreclosure.

4 THE COURT: On what grounds?

5 MS. MEISNER: Well, on the grounds  
6 that, you know, that I could be held accountable for  
7 my husband for -- you know, if summary judgment is  
8 granted, then I've, you know, lost the ability to  
9 have \$100,000 in equity from a property.

10 THE COURT: Do you have an attorney  
11 representing you in family court?

12 MS. MEISNER: I do.

13 THE COURT: Who is your attorney?

14 MS. MEISNER: Her -- her name is  
15 Brett -- Brett Stevens.

16 THE COURT: Okay. You might want to,  
17 you know -- depending on how I rule, you might want  
18 to take that up with her. But based on everything  
19 presented here today, I find for the plaintiff and  
20 grant the motion for summary judgment. Now, we'll  
21 schedule this for judicial on December 2nd. Today is  
22 October 29th. The sale will be December 2, 2019.  
23 And, Ms. Creech, you're not -- you're not asking for  
24 deficiency judgment, are you?

25 MS. CREECH: No, Your Honor.

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1 MS. MEISNER: Oh, Your Honor,  
2 actually, may I say in the previous -- this -- this  
3 property was also -- there was a previous case, 7144,  
4 that I've referenced several times, and they had  
5 filed a motion for foreclosure before Ms. Creech got  
6 here and so forth. And, in any event, Ms. -- they  
7 asked for a deficiency judgment, and in my  
8 declaratory judgment -- again, I don't think that the  
9 declaratory judgment -- all of the issues can be  
10 resolved with summary judgment by Ms. Arcure. So,  
11 again, I'm arguing that objection. But, also, they  
12 asked for a deficiency. So I guess my argument is  
13 that I think the appraisal rights should be retained  
14 even though that was converted into a note and it's  
15 changed. It was a different --

16 THE COURT: Who asked for the  
17 deficiency? Where? In this case there's a --

18 MS. MEISNER: It was not in this  
19 case. I asked for the cases to be brought together,  
20 but they were not. But we still have crossclaims and  
21 counterclaims that have not been addressed in this  
22 case. So I don't think summary judgment is  
23 appropriate in this because we haven't addressed the  
24 judicial process claims.

25 THE COURT: Those will all be

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1 addressed in the order.

2 MS. MEISNER: I beg your pardon?

3 THE COURT: I will address all of  
4 those in the order.

5 MS. MEISNER: But I never got a  
6 chance to argue them, Your Honor, or -- or have  
7 witnesses for that.

8 THE COURT: You did, though. It did  
9 come out that you haven't made a payment in six  
10 years, and you argued that the bank owes you money.  
11 You don't owe them because they stopped drafting your  
12 account.

13 MS. MEISNER: Well, for other  
14 reasons --

15 THE COURT: I'll ask Ms. Creech --

16 MS. MEISNER: -- as well.

17 THE COURT: -- if you'll provide her  
18 with a reinstatement figure --

19 MS. CREECH: Happy to do that.

20 THE COURT: -- and also a payoff  
21 figure. And I understand you want to post a bond.  
22 We may do another hearing. I don't think we should.  
23 First of all, you have to wait, I guess, until the  
24 transcript is available. And judicial sale, again,  
25 is going to be December 2nd. So both -- everybody is

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1 under the gun. But you're right in your  
2 interpretation of the rule, you need to post a bond  
3 that would prevent the appeal -- or prevent the  
4 judicial sale pending appeal and that's --

5 MS. MEISNER: Well, Your Honor, can  
6 we -- can we expand -- is it possible, if Your Honor  
7 would, extend the sale date so that we can have a  
8 little more time to discuss that.

9 THE COURT: Well, this case was filed  
10 back in 2014. Ms. Creech, does your client agree  
11 that y'all want to -- y'all want to push it out even  
12 further?

13 MS. CREECH: My client will not agree  
14 to that.

15 MS. MEISNER: Well, Your Honor,  
16 again, I'm going to bring up the affirmative -- the  
17 affirmative thing that I don't think that this motion  
18 is even properly before the court because they filed  
19 it when the court did not have jurisdiction, and I  
20 don't think assumption of jurisdiction without a

21 refiling of the summary judgment claim should be  
22 heard. That's my opinion. I think it's a procedural  
23 issue that should be resolved, and I still don't  
24 think that summary judgment is appropriate because  
25 Bank of America is not here and they are the original

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1 lender and they are the original drafter of this  
2 contract.

3 THE COURT: All right. Anything  
4 further today? Thank you all.

5 MS. CREECH: Thank you, Your Honor.

6 MS. MEISNER: Oh, you know what, Your  
7 Honor?

8 THE COURT: Hold on a second. Yes?

9 MS. MEISNER: I did make an  
10 additional payment.

11 THE COURT: Hold on a second. Are  
12 you ready? Give us one second, please.

13 THE COURT REPORTER: Okay.

14 THE COURT: Okay. Go ahead.

15 MS. MEISNER: I did make a payment  
16 that they returned, and that should not have happened  
17 because it says if they -- if they -- in the contract  
18 it says if they accept payments, that -- they  
19 accepted payment of 850-whatever dollars and then  
20 returned it. So just as a point when you asked me  
21 about the payment, they sent that back and said that  
22 they wouldn't take it. Even they --

23 THE COURT: That was back in 2014 or  
24 2013? When was that?

25 MS. MEISNER: Yes.

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1 THE COURT: 2013?

2 MS. MEISNER: Yes.

3 THE COURT: Okay. All right. Thank  
4 you.

5 MS. MEISNER: Oh, and discovery -- I  
6 did tell you discovery is still pending, right? I  
7 did not offer these up, but this is something that  
8 Ms. Arcure sent just now dated October 23rd that I  
9 did not have a chance to look at for discovery, and I  
10 don't think summary judgment is appropriate without  
11 discovery. May I enter these into evidence?

12 THE COURT: Sure.

13 MS. MEISNER: This is --

14 THE COURT: Yes, ma'am.

15 MS. MEISNER: So this is the date  
16 that she sent additional discovery items. That's  
17 that. And then this is the supplemental responses  
18 and objections to discovery. She just sent the  
19 additional discovery on the 23rd, which I haven't had  
20 time to look at.

21 THE COURT: And today is the 29th?

22 MS. MEISNER: Right. So in six days  
23 she sent that. I got it, actually, in the mail  
24 yesterday and I did not have time to look at the...

25 MS. CREECH: We supplemented the

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1 discovery responses, Your Honor, with the welcome  
2 letter and goodbye letter from each of the servicers,  
3 respectfully, based on the possibility of us going to  
4 trial and I wanted that to be part of our discovery.  
5 It's ongoing. You have an ongoing duty to supplement  
6 your discovery responses. So that's what we did.

7 THE COURT: All right. Thank you so  
8 much.

9 (DEF. EXHIBIT 1, Copy of Postage  
10 Mailing, was marked and entered as evidence.)

11 (DEF. EXHIBIT 2, Letter dated  
12 10/23/2019, was marked and entered as evidence.)

13 (The hearing was adjourned at 11:42 a.m.)  
14  
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CERTIFICATE OF REPORTER

I, Kimberly T. Power, Court Reporter  
and Notary Public for the State of South Carolina at  
Large, do hereby certify that the foregoing  
transcript is a true, accurate, and complete record.

I further certify that I am neither  
related to nor counsel for any party to the cause  
pending or interested in the events thereof.

Witness my hand, I have hereunto  
affixed by official seal this 31st day of March,  
2020, at Lexington, Lexington County, South Carolina.



Kimberly T. Power, Court Reporter  
My Commission Expires: 4/24/2025

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South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

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that the reasons given for the refusal to sign  
require rejection of the deposition in whole or in  
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES  
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,  
2019. PLEASE REFER TO THE APPLICABLE STATE RULES  
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND ) COURT OF COMMON PLEAS  
  
U.S. Bank N.A., et al., )  
Plaintiff, )  
vs. ) 2014-CP-40-02063  
Rhonda Lewis Meisner, et al., )  
Defendant. ) TRANSCRIPT OF RECORD  
SCBT, et al., )  
Plaintiff, )  
vs. ) 2014-CP-40-07144  
Rhonda Lewis Meisner, et al., )  
Defendant. )  
December 16, 2015  
Columbia, South Carolina

B E F O R E:

THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

A P P E A R A N C E S:

MAGALIE ARCURE CREECH, ESQ.  
Attorney for the Plaintiff U.S. Bank  
  
JONATHAN M. MILLING, ESQ.  
Attorney for the Plaintiff SCBT  
  
RHONDA LEWIS MEISNER, PRO SE  
Appearing for the Defendant

DEBORAH M. McCURDY, RPR  
Official Court Reporter

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I N D E X   O F   W I T N E S S E S

(WHEREUPON, no witnesses were called  
during these proceedings.)

E X H I B I T S

(WHEREUPON, no exhibits were introduced  
during these proceedings.)

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DECEMBER 16, 2015

THE COURT: U.S. Bank v. Rhonda Lewis Meisner?

MS. CREECH: Yes, Your Honor. I am here for that.

THE COURT: Which case are you here for?

MR. MILLING: I am in SCBT v. Meisner.

THE COURT: All right. SCBT v. Rhonda Lewis Meisner.

And are you Ms. Meisner?

MS. MEISNER: Yes, Your Honor, I am.

THE COURT: Are you Pro Se?

MS. MEISNER: Yes, ma'am, I am.

THE COURT: And this is the Plaintiff's motion to strike jury trial?

MS. CREECH: Yes, Your Honor.

THE COURT: And then the Plaintiff SCBT has a motion for summary judgment on the pleadings?

MR. MILLING: Yes, Your Honor.

THE COURT: And then you all have two motions to compel?

MS. CREECH: Yes, Your Honor. U.S. Bank has a motion to compel against Ms. Meisner.

THE COURT: All right. So if you will give me a little bit of background information on the cases, and then I will be glad to hear from you.

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1 And your name?

2 MS. CREECH: I am Magalie Creech, for the  
3 Plaintiff.

4 THE COURT: All right. Yes, ma'am?

5 MS. CREECH: Thank you, Your Honor.

6 This is a residential foreclosure action  
7 against Ms. Meisner. The property that is the  
8 subject of this action has not been occupied and is  
9 therefore exempt from the 2011 administrative  
10 order. The loan is in default, has been in default  
11 since July 12th of 2013. And the Plaintiff  
12 commenced this foreclosure action in March of 2014.

13 In response, Ms. Meisner filed an answer and  
14 counterclaim, which was most recently amended in  
15 August to assert counterclaims for declaratory  
16 judgment, violation of the truth and lending act,  
17 breach of contract, breach of contract accompanied  
18 by fraudulent act, and abuse of process.

19 The Plaintiff has moved to strike the  
20 Defendant's legal counterclaims on the grounds that  
21 by asserting them in this equitable foreclosure  
22 action she has waived her right to a jury trial on  
23 those claims, specifically the legal counterclaim  
24 for violation of the truth and lending act, breach  
25 of contract, breach of contract accompanied by

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1 fraud, and abuse of process are not compulsory  
2 under Rule 13(a) because they do not arise out of  
3 the same transaction or occurrence as the  
4 Plaintiff's foreclosure action.

5 The test as to whether a counterclaim is  
6 compulsory is within the context of the  
7 foreclosure, which was most recently cited in the  
8 Carolina First v. BADD, LLC, case. That is -- I  
9 have a Westlaw cite that I will be happy to  
10 provide. But a guarantor's counterclaims for  
11 breach of contract and civil conspiracy were found  
12 to be permissive because they did not logically  
13 relate to the execution of the guarantee agreement  
14 and their enforcement.

15 And the conduct which Ms. Meisner has asserted  
16 gives rise to these civil counterclaims occurred  
17 after the default in loan payments, some of which  
18 occurred during -- within the foreclosure  
19 litigation and does not have any impact on the  
20 terms of the note and mortgage or the Plaintiff's  
21 ability to enforce the note and mortgage against  
22 Ms. Meisner.

23 Furthermore, if Ms. Meisner were to be  
24 successful with those claims, in fact she would be  
25 entitled to money damages, which would act as a

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1 set-off on the debt amount, but they are permissive  
2 because, again, they do not logically relate to the  
3 Plaintiff's foreclosure action and that they do not  
4 preclude enforcement of the note and the mortgage.

5 For those reasons, Your Honor, we have  
6 requested that the Court strike the jury demand and  
7 to refer this case under Rule 53 as it is an  
8 equitable foreclosure action to the master in  
9 equity.

10 THE COURT: Okay. Let me make sure I'm clear.  
11 It is your position that -- what is your position  
12 as to a counterclaim?

13 MS. CREECH: The counterclaims needs to be  
14 adjudicated, the legal counterclaims would need to  
15 be adjudicated before the foreclosure, but we --  
16 under Rule 13(a) they are not compulsory, and  
17 therefore by asserting them in an equitable action  
18 the right to a jury trial on the legal claims has  
19 been waived. The legal counterclaims are  
20 permissive based on the conduct which gives rise to  
21 those claims having occurred after the execution of  
22 the instrument, which is not in dispute, and after  
23 the default in payment of the loan.

24 THE COURT: All right. But your position is  
25 that because she asserted those on the equitable

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1 claim of foreclosure that she is waiving a jury  
2 trial?

3 MS. CREECH: That is correct, Your Honor.

4 THE COURT: And then you said Carolina First  
5 v.?

6 MS. CREECH: Carolina First v. BADD, LLC. I  
7 have a Westlaw citation. This came out of the  
8 advance sheets in I believe April of this year.  
9 And another case which sets forth the applicable  
10 test for determining the right to a jury trial on  
11 legal claims asserted within an equitable action is  
12 Wachovia Bank v. Blackburn. That is 407 S.C. 321.

13 THE COURT: All right. All right. So your  
14 motion is to strike the jury trial and refer to the  
15 master?

16 MS. CREECH: Yes, Your Honor.

17 THE COURT: All right, thank you.

18 Yes, ma'am, Ms. Meisner?

19 MS. MEISNER: Good afternoon, Your Honor. I  
20 did have a memorandum that I just filed. And,  
21 unfortunately, because of the protective order, I  
22 did not get a chance to get it in. I actually got  
23 the notice via e-mail on the same day that you had  
24 asked for these to be turned in. But I did file  
25 this earlier. If I could hand it to you. I'd

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1           like --

2           THE COURT: Did you give a copy to the other  
3           side?

4           MS. MEISNER: Yes, ma'am, I did. Prior to  
5           coming in I did give that to Ms. Creech. I'm  
6           sorry, I want to call her Ms. Arcure, but  
7           Ms. Creech.

8           I, quite obviously, am opposed to the motion  
9           for a couple of reasons. First of all, I do think  
10          that the counterclaims are compulsory. The Supreme  
11          Court outlined that whether a claim is permissive  
12          or compulsory and whether a party is entitled to a  
13          jury trial in Verenes v. Alvanos, 387 S.Ct. 11, 15.  
14          And it is all in the brief. But it also in  
15          Wachovia Bank v. Blackburn went through how a test  
16          logically relates to the complaint. And I'll just  
17          skip down to Item Number 4. It says:

18          If the complaint is equitable -- which  
19          obviously a foreclosure action is  
20          equitable -- and the counterclaim is  
21          legal and compulsory, the Plaintiff or  
22          the Defendant has a right to a jury  
23          trial on the counterclaim.

24          And then skipping down, it says:

25          The procedure for handling that is the

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1 judge may, pursuant to 42(b), order a  
2 separate trial or if the trials are  
3 separated they can determine which claim  
4 should be tried first.

5 And then so forth. So it goes on. A breach  
6 of contract claim is quite obviously a compulsory  
7 counterclaim because it arises out of the same  
8 transaction and occurrence. It is actually part  
9 and parcel to the contract.

10 And my contention in the breach claim, which  
11 is -- I think it is about 117 items long, is that  
12 it was not me that breached the complaint. This  
13 was a mortgage loan that was automatically drafted  
14 out of my checking account every month for eight  
15 and a half years. And Bank of America unilaterally  
16 decided that they were just going to stop taking  
17 the money out of my account.

18 In doing so, they have -- both U.S. Bank and  
19 Bank of America have submitted conflicting  
20 affidavits, of which I do have a copy for you.  
21 Bank of America says that they sold the loan to  
22 U.S. Bank in the same month as they stopped  
23 debiting my account. However, U.S. Bank, in their  
24 filings before the Court, actually said that they  
25 got a -- it was assigned to them on April 2nd, but

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1           it was actually notarized a day later, but they did  
2           put in the pleadings.

3           So, Your Honor, either Ms. Creech's customers  
4           have submitted a fraudulent affidavit to your court  
5           or Mr. Barker's customers have submitted a  
6           fraudulent affidavit, because they can't sell it in  
7           July and then eight months later sell it again when  
8           they said that they have already sold it and lost  
9           it and done it.

10          So my point is, is that the breach of contract  
11          claim is part of the foreclosure action because it  
12          is actually a legal interpretation of the note,  
13          which is tied to the mortgage.

14          In that note it specifically says that if you  
15          were going to -- if I wanted to stop the payments  
16          coming out of my account, I had to give them  
17          written notice. I gave no such written notice.  
18          There is no documentation of the notice. They just  
19          stopped taking the money out.

20          And then, you know, two and a half months  
21          later filed for foreclosure and would not accept  
22          the money -- would not accept additional money to  
23          cure what they considered the breach. However, of  
24          course, I'm contending there is a breach.

25          In addition to that, what happened

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1 subsequently, and I think part of the -- if you'll  
2 look in the back part of the tablet, the Honorable  
3 Joseph Strickland struck the referral previously  
4 because -- in somewhat of an end run, the bank --  
5 and I'm not sure who it is, I'm not casting  
6 aspersions, I'm just saying that they improperly  
7 gave the clerk of court, the Honorable Jeanette  
8 McBride, an order that made conclusions of fact  
9 and -- made findings of facts and conclusions of  
10 law which far exceed the scope of this process.

11 You know, a foreclosure action, if there is  
12 going to be a referral, only a judge like yourself  
13 can sign an order of referral. Ms. McBride in her  
14 position cannot. And that is abuse of process.  
15 And, because this action is currently in front of  
16 the Court, that counterclaim I believe is  
17 compulsory as well.

18 And then there was one other thing that I  
19 wanted to mention. And I also did ask for -- oh,  
20 the order that Judge Strickland signed was on  
21 January 12th of this year. And he basically just  
22 said it was signed erroneously by the clerk of  
23 court.

24 My position of that is, you know, attorneys  
25 understand that the clerk of court can't make

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1 findings of fact striking jury demands or mandatory  
2 referral without a hearing, without a judge ruling  
3 on it. So I think that this was an end run that is  
4 somewhat egregious because, you know, this for me  
5 is not my primary home. But there are people that  
6 come before your court, Your Honor, that if it is  
7 their primary home they are going to lose it. And  
8 when a bank does something like, if they do have  
9 counterclaims and if they don't have the money to  
10 get an attorney to automatically send that to the  
11 master in equity and say, Guess what, there is no  
12 jury trial available. That is unfair and that is  
13 an abuse of process.

14 Thank you, Your Honor.

15 THE COURT: Thank you.

16 Yes, ma'am?

17 MS. CREECH: Thank you, Your Honor.

18 I think some of the issues that Ms. Meisner  
19 has addressed are outside of the scope of this  
20 motion, but I will try to address them all in  
21 order.

22 First, with respect to affidavits in this  
23 case, the Plaintiff has not filed any affidavits,  
24 so I'm not aware as to what she may be referring to  
25 with that.

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1           Second, the assignment of mortgage in this  
2       case, Your Honor, Ms. Meisner is not a party to  
3       that contract and lacks standing to challenge the  
4       assignment of mortgage. An assignment of mortgage  
5       is not required in South Carolina, so to the extent  
6       that that has any impact on whether her -- on her  
7       argument as to whether the counterclaims are legal  
8       and therefore compulsory is irrelevant.

9           And if we are going to discuss the terms of  
10      the note, they state that she is required to make  
11      her monthly payments, which has not occurred. And  
12      it is her responsibility to make those payments as  
13      required per the terms of the note and mortgage.  
14      Therefore, her counterclaims, which may deal with  
15      application of payment and perhaps relate to the  
16      debt amount, does not arise out of the same  
17      transaction or occurrence as the Plaintiff's  
18      foreclosure action. But if she may have some  
19      dispute as to the debt figures, perhaps she will  
20      request a live witness to testify as to the  
21      damages, but as to liability on the foreclosure  
22      action, that is clear, and her counterclaims do not  
23      have any impact on that.

24           With respect to the --

25           THE COURT: What about her position regarding

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1 the -- I don't think she used the terminology --  
2 but regarding bifurcating the two cases?

3 MS. CREECH: As I understand it -- I believe  
4 that she was citing the Blackburn case, which we  
5 also cited. It states that:

6 A trial judge may, under Rule 42, order  
7 separate trials of the legal and  
8 equitable claims, or may order the  
9 claims tried in a single proceeding.

10 And in other cases it has been held that in a  
11 context of an equitable action which has legal  
12 counterclaims, the legal counterclaims should be  
13 adjudicated first.

14 That is really not the issue. The issue that  
15 we're presenting to the Court is whether she is  
16 entitled to a jury trial on those legal claims.  
17 And our position is that she is not under Rule  
18 13(a).

19 The prior order of reference was signed by the  
20 clerk of court, which, pursuant to Rule 53, it  
21 states that the judge or the clerk of court shall  
22 sign an order of reference.

23 So we styled that motion as a form motion with  
24 a proposed order. No hearing was requested. And  
25 it was referred to Judge Strickland. He then

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1 determined that a hearing would be more appropriate  
2 and the matter was remanded back to circuit court,  
3 and now we are here today to argue that very same  
4 issue.

5 So, with respect to the prior reference, at  
6 that point that is really no longer an issue  
7 because Ms. Meisner is getting her day to assert  
8 her position with respect to the counterclaims.

9 But, again, the case law is very clear that  
10 the legal counterclaims will only logically relate  
11 to the transaction or occurrence in the foreclosure  
12 if it has any impact on the execution of the loan  
13 instrument and the enforceability.

14 The terms are not in dispute. There hasn't  
15 been a payment since July of 2013. And her  
16 counterclaims do nothing to change that. Again,  
17 her counterclaims are requesting money damages,  
18 which would operate as a set-off on the debt amount  
19 under the loan.

20 Another case, Your Honor, that we would like  
21 to cite to is Advance International v. North  
22 Carolina National Bank of S.C -- that is 316 S.C.  
23 266 -- which found that claims for fraud,  
24 negligence, and Unfair Trade Practices Act in a  
25 foreclosure action were not compulsory because

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1       those claims did not affect the enforceability of  
2       the note.

3       And we are asserting the same position based  
4       on the legal counterclaims that Ms. Meisner  
5       asserted.

6       THE COURT: Yes, ma'am?

7       MS. MEISNER: Oh, I'm sorry. I'm just waiting  
8       for you.

9       THE COURT: Go ahead. I am trying to jot  
10      down --

11      MS. MEISNER: Your Honor, I just wanted to  
12      make a distinction between a couple of the cases  
13      that Ms. Creech has mentioned.

14      She referenced the BADD, LLC. That it is a  
15      third party counterclaim. All third party  
16      counterclaims are permissive.

17      As an initial matter, actually Ms. Creech's  
18      client is not the original holder of the note and  
19      the mortgage, and the breach of contract action  
20      involved Bank of America. Bank of America has been  
21      noticed about this hearing, but they are not here

22      today. They were aware of it.

23      And so I guess what I'm saying is it is  
24      irreconcilable to say that a breach of the contract  
25      that they are trying to enforce is not related to

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1 the contract they are trying to enforce. That is a  
2 non sequitur. And the Supreme Court has been clear  
3 that if there is a breach of contract that it would  
4 preclude foreclosure. If the legal claims for Bank  
5 of America to foreclose, if they were the initiator  
6 of the breach, then equitable estoppel would not  
7 allow them to foreclose. Therefore, the legal  
8 interpretation of the breaching agreement based on  
9 the note is what is relevant, whether it is a  
10 compulsory counterclaim or not.

11 But I think Bank of America is -- in my -- in  
12 fact, in Number 34 of my amended complaint, it  
13 basically -- and 33, Number 33 and 34 -- it  
14 basically says:

15 Bank of America was aware of your  
16 obligation to debit the checking account  
17 because they have been doing so for the  
18 previous seven years without  
19 interruption.

20 Bank of America drafted the document, so they  
21 were on actual notice of their continuing  
22 obligation -- drafted the note -- so they were on  
23 notice of their continued obligation to debit the  
24 account and apply the funds unless it was requested  
25 by me. And I never requested that. And they never

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1 sent me notice saying that.

2 If they sold the note, Bank of America still  
3 had the same obligation -- if they were selling  
4 every legal obligation that they had, then they  
5 should have transferred the debiting process to  
6 whoever they sold it to.

7 Now, I do have -- and, unfortunately, I did  
8 not make a copy of this. It was my error. I do  
9 have Bank of America's certified statement. And  
10 the affidavits that I was referencing earlier that  
11 Ms. Creech said she was unaware of any, is the  
12 affidavit of indebtedness and an assignment from  
13 Bank of America.

14 They said that their assignment -- while they  
15 say that I'm not a party to that assignment, they  
16 still can't tell you things that are inaccurate  
17 because they just can't, you know, represent  
18 something that happened on April 2nd when this  
19 affidavit from Bank of America says that it  
20 happened back in July. And this affidavit was  
21 signed in November.

22 So their representation -- Bank of America's  
23 representation was that they sold the loan to U.S.  
24 Bank back in July and then U.S. Bank said that they  
25 purchased it or assumed it or it was assigned or

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1           somehow conveyed the following March or April. I  
2           think it was April 2nd, I believe.

3           But, in any event, the breach of the contract,  
4           who breached the contract is essential to the  
5           ability to foreclose and, as such, is a compulsory  
6           counterclaim.

7           And I was trying to think of something else.  
8           The cases that Ms. Creech referenced with the third  
9           party guarantors who are not party to the mortgage  
10          but they actually raised a counterclaim based on  
11          their position as a guarantor, I think you did say  
12          that earlier, that that is a third party permissive  
13          claim.

14          This is a situation where it was Bank of  
15          America and me in the same contract, the same  
16          negotiation. And they stopped debiting my account.  
17          That is a breach of the contract based on the note.

18          And I'm trying to think if there was anything  
19          else. I was trying to take notes. I think there  
20          is something else I'm missing.

21          Oh, if in fact Bank of America is accurate and  
22          the note -- or, excuse me, U.S. Bank is accurate  
23          and the note and the mortgage were transferred in  
24          April, that makes U.S. Bank a third party debt  
25          collector, which under the U.C.C., all of the

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1 things that Ms. Creech said were not available as a  
2 counterclaim are available, because if she is a  
3 third party debt collector, which is a debt  
4 collector that assumes any mortgage, loan, note  
5 pursuant to the U.C.C., becomes a third party debt  
6 collector.

7 So it is a material issue of fact whether Bank  
8 of America's affidavit is to be believed or U.S.  
9 Bank's affidavit is to be believed as far as when  
10 the note and thing was transferred.

11 So I guess what I'm saying is, discovery is  
12 not over. And I think referral and the strike of  
13 the jury demand prior to the end of discovery would  
14 be premature and somewhat prejudicial, because if  
15 we find out she is a third party Defendant, then I  
16 have lost my chance to a jury trial, even though I  
17 do believe these are compulsory counterclaims.

18 THE COURT: All right.

19 MS. MEISNER: I can show you the thing if you  
20 want to see it. And I can make copies later for  
21 you if you would like for me to do that.

22 THE COURT: What is that?

23 MS. MEISNER: This is their -- Bank of  
24 America's responses to the interrogatories that I  
25 sent where they said that they sold the loan to

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1 U.S. Bank back in -- nine months before they sold  
2 it -- before they said they sold it, or assigned  
3 it.

4 THE COURT: Yes, ma'am?

5 MS. CREECH: Just to clarify a couple of  
6 things. The Plaintiff in this action, U.S. Bank,  
7 is the assignee of a loan that was originated by  
8 Bank of America.

9 Bank of America is also named as a Defendant  
10 because they are the mortgagee of a second lien in  
11 the action.

12 So Ms. Meisner has engaged in some discovery  
13 with Bank of America. However, as it relates to  
14 the first mortgage lien in this action, it is the  
15 Plaintiff who is the party in interest.

16 With all due respect to Ms. Meisner, I am not  
17 really following the argument with respect to Bank  
18 of America's -- her claims with Bank of America as  
19 they relate to the Plaintiff. But what is of note  
20 is that the claims that she has asserted against  
21 the Plaintiff, who, again, is the mortgagee, and as  
22 the mortgagee collecting its own debt, is not a  
23 third party debt collector, are simply permissive,  
24 because, again, they do not preclude enforcement of  
25 the note and mortgage or do anything to allege that

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1 she didn't execute them or that the terms were  
2 somehow modified. None of that is pled in her  
3 answer and counterclaim.

4 And the argument that discovery is necessary  
5 to develop these issues is simply irrelevant  
6 because these are her allegations. These are her  
7 claims. And we believe that discovery is proper.  
8 But as to whether or not they are compulsory or  
9 permissive, that can be determined from the case in  
10 the answer itself.

11 What else was addressed? I apologize. It was  
12 a lot of other issues. But, again, I think that we  
13 are digressing from the issue before the Court,  
14 which is whether the legal counterclaims asserted  
15 by Ms. Meisner are compulsory or permissive.

16 And the case law, the case of Carolina First  
17 Bank v. BADD, LLC, do relate to guarantors working  
18 with the Defendant based on the personal  
19 guarantees, but there are other cases where a  
20 mortgagor's claims, counterclaims, for fraud, for  
21 violation of the Unfair Trade Practices Act,

22 violations of the Truth and Lending Act, again, are  
23 all determined to be permissive because, again, all  
24 you get is money damages, but it doesn't affect the  
25 terms of the note or the thorough enforcement.

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1 MS. MEISNER: Your Honor, I'm sorry, I just  
2 remembered something when she sat down. May I  
3 address you?

4 THE COURT: Yes.

5 MS. MEISNER: When she mentioned that she is  
6 the owner of the note and mortgage, if Bank of  
7 America breached the contract prior to finding  
8 that, it is black letter law that she only got what  
9 they assigned. And if they were in breach -- and I  
10 did put as a third cause of action breach of  
11 contract accompanied by a fraudulent act. It is at  
12 Page 13, Item 71 of my counterclaim.

13 And it basically says our agreement was that  
14 they were going to debit my checking account unless  
15 I told them not to. And they stopped doing that.  
16 That is a breach of the contract. If they did --  
17 if they breached that, then their -- my equitable  
18 defense is against Bank of America. That is what  
19 she received from the assignment.

20 And so I guess my argument is, because it  
21 involves the note and the servicing and the breach  
22 of the note, like who breached what, it is a  
23 compulsory counterclaim.

24 Specifically, the additional function to  
25 enforce the abuse of process that I talked about

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1 circumventing a judge in this matter and sending  
2 items, certainly any attorney licensed to practice  
3 law in South Carolina understands that a clerk of  
4 court can't make findings of fact.

5 THE COURT: So the abuse of process would not  
6 be -- that is after.

7 MS. MEISNER: Well, Your Honor, the Supreme  
8 Court has been clear about whether it relates to  
9 the enforcement of -- this foreclosure action is  
10 part of the process. It is not so attenuated that  
11 it is not part of the process. We're here before  
12 you to find out whether we're going to have a jury  
13 trial or a bench trial or whatever. But that  
14 process is still part of the action of foreclosure.  
15 And the action of foreclosure only happens after  
16 the breach.

17 The question for the Court becomes, Did Bank  
18 of America breach the contract by not debiting the  
19 account and then assign that breach over to U.S.  
20 Bank? Or, you know, their claim is that I stopped  
21 paying. Well, I can't make them debit my checking  
22 account. And if they won't take money  
23 afterwards -- once I found out that they weren't  
24 debiting the account for this loan, a couple of  
25 months later I sent them \$1,000. They just sent it

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1 back to me and said, No, we want to foreclose. You  
2 owe us \$26,000 on \$150,000 property. We would  
3 rather have the property.

4 THE COURT: Let me ask you this, Ms. Creech.  
5 What is your position on -- she is saying that the  
6 bank stopped taking her payments and that is why --  
7 she is saying that the bank stopped taking her  
8 payments, which were being drafted from her  
9 account, and that therefore the bank breached the  
10 contract, and then she says that that is  
11 compulsory.

12 MS. CREECH: Well, we have yet to -- this next  
13 motion that we are going to address is again a  
14 motion to compel. We still don't have any  
15 information from Ms. Meisner which supports those  
16 claims. So to the extent that it relates to the  
17 factual allegations on that, I am not really in a  
18 position to speak to that, but --

19 THE COURT: Well, let me just ask you this I  
20 guess hypothetically. The abuse of process, I'm  
21 not -- that seems -- I mean, when you get into  
22 things -- well -- I'm trying to decide if it is  
23 permissive or compulsory. But the one that is  
24 concerning me is if she had some agreement with the  
25 bank and the bank was supposed to draft her account

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1 and then, for whatever reason, the bank stopped  
2 drafting her account for the payments -- let's just  
3 say that is what happened. As you stated, we don't  
4 know if that is what happened at this point. And  
5 then the bank notifies her that they were going to  
6 foreclose on the property because the account was  
7 not drafted and she got behind in the mortgage  
8 payments. Would that not, under the breach of  
9 contract, be compulsory?

10 MS. CREECH: No, not based on these facts,  
11 because the note that the Plaintiff is seeking to  
12 enforce, which is what governs the rights of the  
13 parties, requires Ms. Meisner to make the payments  
14 every month. It does not state that the lender  
15 must debit -- must accept payments via certain  
16 drafting method. At the end of the day, whether  
17 she had some understanding that they were going to  
18 draft those payments or if she asked them to stop  
19 doing that is not dispositive because it doesn't do  
20 anything to deviate or otherwise advocate her  
21 requirement to make the payments every month.

22 MS. MEISNER: Your Honor, may I find that in  
23 the note to read to you, because it is in the note  
24 or the mortgages. It is in there.

25 MS. CREECH: The note does provide that the

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1 party may elect automatic payments.

2 THE COURT: Yes, ma'am?

3 MS. MEISNER: I am looking for that because it  
4 does say, If you elect to have it automatically  
5 debited, you -- in order to stop the debiting, you  
6 must send a written notice to the bank in order to  
7 stop that. I did not send a written notice to the  
8 bank. And it is part of this. I'm looking for it.

9 MS. CREECH: I'm happy to read the paragraph  
10 regarding automatic payment on Page 2 of the note.

11 It states that:

12 If you choose to have payments made from  
13 a designated account and have arranged  
14 with us to do so, we will automatically  
15 draft a payment. Drafts are to be made  
16 on the payment due date or immediately  
17 after payment due if the payment due is  
18 on Saturday, Sunday, or legal holiday.

19 If your account does not contain any  
20 amount due, it is your obligation  
21 without notice from us to make the full  
22 payment. Even if you have a manual  
23 payment on automatic payment, an  
24 automatic payment will be drafted from  
25 your designated account unless you make

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1           such manual payment or the full payment  
2           due at least three business days prior  
3           to the due date. However, if you make  
4           less than a full manual payment at least  
5           three business days prior to the due  
6           date, only the remaining amount  
7           currently due will be drafted. To stop  
8           an automatic draft, you must contact us  
9           at least three business days prior to  
10          the scheduled payment draft. We may  
11          accept late payments, partial payments,  
12          or checks or money orders marked payment  
13          in full or similar notations or payment  
14          accompanied by a letter, but our  
15          acceptance of the payment indicates our  
16          agreeing to the terms set forth in the  
17          letter without us waiving or losing any  
18          of our rights under law or under this  
19          agreement.

20                It does not state that they are required to  
21                accept -- or that they are required to

22                automatically draft every month. It is still her  
23                obligation to make the monthly payment.

24                MS. MEISNER: Your Honor, to me it is quite  
25                clear: To stop an automatic draft, you must

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1 contact us three business days prior to the  
2 scheduled payment draft.

3 That is pretty black and white. I mean, I  
4 have got to let them know. And I thought it said  
5 in writing. But it said that I had to let them  
6 know, and that just absolutely did not occur.

7 But, in any event, any dispute over this  
8 contract, this contract -- there is nothing on here  
9 that says U.S. Bank. This is a Bank of America/  
10 Rhonda Meisner contract. They are not here. Any  
11 breach is compulsory in the counterclaims. And she  
12 assumed it, in April or in July, or whenever it  
13 turns out that they assumed it, but it is -- you  
14 know --

15 MS. CREECH: Bank of America no longer has an  
16 interest in this loan. It has been fully purchased  
17 and is not serviced by them. So we are -- as we  
18 understand the counterclaims have been pled, the  
19 Plaintiff is responding to the breach of contract  
20 allegation, that the assignee has assumed all of  
21 the rights and responsibilities associated with the  
22 loan on this account.

23 And, again, to the extent that it is  
24 necessary, nothing in the provisions we just read  
25 preclude or otherwise release Ms. Meisner of the

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1 responsibility to make her monthly payments. And  
2 that is the essence of the foreclosure action. And  
3 her counterclaims don't have anything to do with  
4 that.

5 THE COURT: All right. Thank you. I'll take  
6 a look at it.

7 MS. MEISNER: I beg your pardon, Your Honor.  
8 This is the assignment where they said -- this is  
9 by U.S. Bank, Nationstar Mortgage. And it says  
10 that: Bank of America, by Nationstar Mortgage, as  
11 attorney in fact, received this loan on April 3rd  
12 of 2014, not back when the breach happened.

13 So, again, we're back to the whole thing. The  
14 breach was before this assignment. And this is  
15 what they have given to your court.

16 MS. CREECH: And that is, again, not relevant.  
17 Those claims have been asserted against us, and  
18 we're defending them. I am not really sure --

19 THE COURT: All right.

20 MS. CREECH: I will be very brief, Your Honor,  
21 with the motion to compel. We filed -- we served

22 Ms. Meisner with interrogatories, requests for  
23 production, and requests for admission back in June  
24 of 2014. She did receive responses to the requests  
25 for admission, but did not receive responses to the

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1       interrogatories and requests for production. We  
2       filed a motion to compel on September 2nd of 2014  
3       in the year before last. Since then we did receive  
4       responses to the interrogatories, but the requests  
5       for production remain outstanding. So we're first  
6       seeking an order from the Court compelling  
7       Ms. Meisner to respond for requests for production.

8               And with respect to the interrogatories that  
9       we did receive, we're requesting the Court to order  
10      complete responses to Interrogatories Number 3, 7,  
11      and 9 through 14.

12             Ms. Meisner has objected to a number -- to the  
13      majority of these requests on the grounds that  
14      they lack standing. I will read a few of them into  
15      the record.

16             For example, in our Interrogatory Number 3,  
17      where the Plaintiff has requested an itemization of  
18      the damages that she sustained. She has objected  
19      based on standing, that it is overly broad, and  
20      states that her damages can only be determined by a  
21      jury.

22             With all due respect, Your Honor, these are  
23      her damages and her claims. She should be able to  
24      tell us how much money she is contending is owed to  
25      her.

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1 With respect to Interrogatory Number 7, we  
2 have asked her to state the facts which give rise  
3 to her affirmative defenses in the case. She has  
4 objected to those again on the grounds that the  
5 Plaintiff lacked standing, that it speaks to a  
6 legal conclusion.

7 Again, we are simply trying to ascertain the  
8 facts upon which she is basing her claim.

9 Response to Interrogatory Number 9, we are  
10 asking -- and she disputes the amount that is due  
11 to the Plaintiff. Please state the amount, if any,  
12 that remains unpaid and the party's liability for  
13 such debt.

14 Again, she makes the same objection based on  
15 lack of standing, that it is overly broad, and that  
16 a jury is to determine how much is due on the note  
17 and mortgage.

18 And the same with respect to Response Number  
19 10, which is really I think at the crux of her  
20 claims, asking her to state the facts and  
21 circumstances and information supporting her claim

22 that she is not in default under the terms of the  
23 note and mortgage.

24 Again, she is asserting that we lacked  
25 standing and that it is overly burdensome, and

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1 seeks legal conclusions that are impermissible.

2 And then for Responses 11 through 14, she  
3 objects based on standing. And has not responded  
4 at all, simply has objected based on standing and  
5 that it is not being relevant.

6 With all due respect, Your Honor, we are  
7 simply trying to ascertain the merits of these  
8 claims and the facts which she is contending.

9 And with the responses we have right now, we  
10 were unable to make anything of it. So we  
11 respectfully request an order compelling responses  
12 to the requests for production and Interrogatories  
13 3, 7, and 9 through 14 to be fully and completely  
14 responded to.

15 Thank you.

16 THE COURT: Thank you.

17 Any response?

18 MS. MEISNER: Yes, ma'am. As far as the  
19 allegation based on what my claim for damages are,  
20 I filed a 132-item, 22-page counterclaim that set  
21 out in detail the information that they stopped  
22 debiting the account, all of the reasons why all of  
23 these things have gone on.

24 With regard to her motion to compel, I am  
25 happy to do that. I'm happy to provide documents.

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1        However, all of these are bank statements of mine.  
2        I don't have any documents. It has all been  
3        electronically. So I would have a 7- or 8-page  
4        bank statement that I would have to redact the  
5        whole thing with one line that said, Automatic  
6        debit, Bank of America.

7            And, again, they are not Bank of America. I  
8        don't -- you know, documents as far as how I paid  
9        the mortgage over the last eight and a half years  
10       was a line item on my bank account. For me to go  
11       through eight years of line items when they simply  
12       could ask Bank of America for the electronic, you  
13       know, history of the account, that seems a lot  
14       more -- a lot easier to do.

15           Now, if you tell me that I have got to go home  
16       and get -- print out eight years of bank statements  
17       and redact everything on there but that one line  
18       item, I will do it. But I think that that is  
19       overly burdensome, and I don't think it is going to  
20       change anything as far as what they know about the  
21       account.

22           For eight and a half years the account was  
23       debited. Bank of America stopped debiting it. It  
24       seems more appropriate to compel Bank of America,  
25       if they don't have the electronic entries, to

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1 provide them those electronic entries. But I'll do  
2 what you tell me to do, Your Honor.

3 THE COURT: All right. Well, you are going to  
4 have to do -- I am going to grant the motion to  
5 compel. You have to produce it as part of  
6 litigation. You have to produce the documents in  
7 the requests to produce. And you need to answer 3,  
8 7, and 9 through 14, provide complete answers to  
9 those.

10 MS. MEISNER: And, Your Honor, if I may? I  
11 never got any objections, specific objections,  
12 other than her oral objections here. She has never  
13 sent oral objections or put it in any motion for  
14 the Court before today. So just so you know, I  
15 don't -- have you sent that and I did not receive  
16 it?

17 MS. CREECH: This motion to compel was filed a  
18 year before we received -- we received responses I  
19 believe last month from Ms. Meisner.

20 MS. MEISNER: So what you are saying I did not  
21 do you have never sent to me or given me an  
22 opportunity --

23 MS. CREECH: Well, the rules speak -- it is  
24 part of our motion to compel complete responses and  
25 responses to requests for production and it is part

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1 of the instruction in the request to respond, which  
2 you were served with.

3 THE COURT: All right. And anything else?

4 MS. CREECH: Nothing further, Your Honor.

5 THE COURT: All right. I'll take a look at  
6 this motion to strike the request for jury trial,  
7 refer to master, and I will get something back to  
8 you all shortly.

9 MS. CREECH: Thank you very much, Your Honor.

10 MS. MEISNER: Is it possible to take a quick  
11 break before we start? The next motion is going to  
12 be really big.

13 THE COURT: Well, it is not going to be very  
14 long. Actually, y'all have -- each motion is  
15 scheduled for 30 minutes, and you have already --  
16 on this one you have already gone over on the 30  
17 minutes. But you can take a break.

18 MS. MEISNER: I am just going to run to the  
19 restroom.

20 THE COURT: Okay.

21 MS. CREECH: Thank you very much, Your Honor.

22 (WHEREUPON, a break was taken.)

23 \*\*\*\*\*

24 MR. MILLING: This is a different case number,  
25 a different action, Judge.

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1 THE COURT: Completely different?

2 MR. MILLING: Other than having involved some  
3 of the same parties, Ms. Meisner is central to both  
4 of the actions, this current action, as well as the  
5 one she just had.

6 The last action, I have not -- quite frankly,  
7 I don't have much knowledge about that other case,  
8 other than understanding Bank of America was a  
9 primary lienholder on the same piece of property.  
10 I think SCBT initially filed a foreclosure action  
11 in this case number upon realizing that Bank of  
12 America had the first lienholder. That file  
13 amended the foreclosure adding them confirming that  
14 they took priority, so they converted this to a  
15 suit on a note.

16 THE COURT: So is it the same property?

17 MR. MILLING: It was the same piece of  
18 property, I believe. And then she subsequently,  
19 I'm assuming, stopped making payments on that  
20 account, and that is when they initiated the  
21 foreclosure.

22 But we don't have -- other than being  
23 identified because we filed this action, I think  
24 SCBT also has a judgment against Ms. Meisner based  
25 upon a guarantee of a note owed by Sand Dollar,

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1           LLC.

2           MS. MEISNER: That was reversed and remanded  
3           by the Court of Appeals. And the determination  
4           hasn't been finalized.

5           MR. MILLING: I would disagree that it was  
6           reversed and remanded. A portion of it has been  
7           vacated because, based upon the Court of Appeals,  
8           they determined that Judge Strickland didn't have  
9           sufficient evidence in the record to award  
10          attorney's fees. But everything else was affirmed.  
11          I have got a copy of that case, Your Honor, if you  
12          would like it.

13          THE COURT: If you can give me a copy.

14          MS. MEISNER: And, Your Honor, just -- this is  
15          somewhat complicated, but in fact that is still  
16          under appeal. And Judge Strickland does not want  
17          to rule on the amount of damages.

18          And what happened in that case is, SCBT  
19          foreclosed on two of the rental properties. I  
20          brought one loan current. The other loan was not  
21          current, but I told them that I would be able to do  
22          that. I lost my job for about nine months.

23          And what happens with these banks is they all  
24          have cross-defaulting clauses in them, so if you  
25          get behind with one bank or if one bank initiates

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3/18 258

1 foreclosure, then they all want to jump on the  
2 bandwagon, so to speak.

3 In any event, those particular loans, there  
4 still are outstanding questions on the judgments  
5 because I was able to purchase those rental houses  
6 back in a different LLC. The bank filed a motion  
7 to vacate the sale claiming that the proper  
8 valuation of the property was not what they bid at  
9 the judicial sale. They bid \$10,000 on one  
10 property and \$25,000 on another property, and then  
11 proceeded to argue, because I was able to buy the  
12 properties back in a different LLC, that the sale  
13 should be vacated and the value of the property  
14 should be the mortgage value.

15 It is a long and complicated story, but  
16 basically Judge Strickland still has not ruled on  
17 that because of the attorney fees question that was  
18 vacated and remanded. So that still is not on  
19 there.

20 There is a petition for certiorari to the  
21 Supreme Court for the cross-application of  
22 deficiency statutes with non deficiency statutes  
23 based on the fact when SCBT initially filed the  
24 lawsuit they filed a deficiency demanded action,  
25 which meant that guarantors have certain rights and

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1 processes like --

2 THE COURT: All right. Well, we are going to  
3 get to this motion.

4 MS. MEISNER: Okay. I'm sorry, Your Honor. I  
5 was just trying to be thorough because, you know,  
6 at first glance it looks like that it is an easy  
7 answer, but it is not a simple question. Those  
8 liens are still in limbo, if you will.

9 THE COURT: All right.

10 MR. MILLING: Thank you, Your Honor. May it  
11 please the Court?

12 Judge, as I alluded to earlier, this action  
13 was initially filed on November 26th, 2013, as a  
14 foreclosure. It was subsequently amended to add  
15 Bank of America after observing that they had a  
16 lien on the piece of property as well.

17 On May 29th of 2014, SCBT filed a second  
18 amended summons and complaint which did not seek to  
19 foreclose on this property, but rather only sought  
20 to enforce their rights under a note in this case  
21 that had been executed by Ms. Meisner.

22 Judge, Bank of America has been dismissed as a  
23 party to this action by SCBT. There were  
24 counterclaims and affirmative defenses which were  
25 brought by Ms. Meisner as a part of her response to

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1 our second amended complaint.

2 Judge, there were no cross-claims. There were  
3 no third-party claims against Bank of America, or  
4 anything like that. It was just the counterclaims.

5 Judge, we can go through each of the  
6 counterclaims. There was estoppel, which was an  
7 affirmative defense, which was raised. There was  
8 unclean hands is another affirmative defense which  
9 was raised. There were counterclaims of  
10 declaratory judgment seeking to determine her  
11 appraisal rights under the appraisal statute;  
12 29-3-680; counterclaim for slander of title; and  
13 the counterclaim for abuse of process.

14 Judge, I have attempted to address each of  
15 these in my motion for summary judgment motion, as  
16 well as judgment on the pleadings. I will go  
17 through as briefly as I can hitting the highlights  
18 of these basically, Judge.

19 Based upon what we know in this case and what  
20 Ms. Meisner has admitted to in her deposition, she  
21 acknowledges that there was a debt. She  
22 acknowledges that she received \$50,000. She  
23 acknowledges that she has not made payments to  
24 bring the account current.

25 That is the sum and substance of what we would

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1 move for summary judgment based upon our claims.

2 Judge, we looked at the affirmative defenses.

3 As you can tell from the last hour, Ms. Meisner is  
4 a very intelligent person. She certainly had every  
5 opportunity to read the documents that she executed  
6 in this case under the note. The law of South  
7 Carolina has long established that somebody has an  
8 affirmative duty to read the documents, therefore  
9 are bound by it.

10 Based upon that, based upon her opportunity to  
11 read these documents, based upon the fact that she  
12 does not qualify for estoppel, we are entitled to  
13 judgment on the pleadings based upon that  
14 affirmative defense.

15 Unclean hands is an equitable defense. This  
16 is an action under the law. Therefore, based upon  
17 the case that I cited in my motion, unclean hands  
18 is not a valid affirmative defense in this case.

19 Her first counterclaim was one for declaratory  
20 judgment. That has nothing to do with this suit on  
21 a note right now. It is not ripe for adjudication.

22 We are not seeking to foreclose upon the property.  
23 If she wants to bring that as a part of another  
24 action in the foreclosure the U.S. Bank case is  
25 going to want, that is up to her, but it has

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1 nothing to do with this pending suit on a note.

2 Slander of title. That is outlined in my  
3 motion. The filing of a lis pendens is absolutely  
4 privileged. It is provided for by statute, Judge.  
5 That is what was done in this case. It was done --  
6 the lis pendens was filed with the initial  
7 complaint in November of 2013. An amended lis  
8 pendens was filed February 2014 when it was still a  
9 foreclosure action. One was not included May 29th  
10 when Judge Lee subsequently entered an order, I  
11 believe in September 2014, vacating that lis  
12 pendens because the foreclosure action was no  
13 longer pending.

14 South Carolina recognizes that this is an  
15 absolute privilege. It is not a valid  
16 counterclaim.

17 The abuse of process, as I outlined in my  
18 memorandum, there is insufficient even allegations  
19 to sustain that.

20 Judge, based upon what I have outlined in my  
21 motion, we are entitled to summary judgment and for  
22 the counterclaims and affirmative defenses be  
23 stricken, and judgment to be entered on behalf of  
24 SCBT.

25 THE COURT: Yes, ma'am?

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1 MS. MEISNER: May I give you the memorandum?  
2 These are attachments with the 30(b)(6) deposition  
3 of Mr. Boyd that are binding on the Court.

4 MR. MILLING: And, Judge, I received a copy  
5 about 3:25 this afternoon.

6 THE COURT: All right. Yes, ma'am?

7 MS. MEISNER: And, Your Honor, just to kind of  
8 give a recap of things. This case again was stayed  
9 because part of the allegations in the complaint  
10 are that SCBT did abuse the process. I think in my  
11 memorandum it talks about what they did with the  
12 Sand Dollar case. Those cases have not been  
13 adjudicated as far as the liens on the property,  
14 but they did file those. And the Supreme Court has  
15 been clear that when you file a lis pendens that is  
16 not legal by law, even though it is a completely  
17 privileged filing, if the underlying filing of the  
18 lis pendens, because real property does create a  
19 cause of action for abuse of process. The  
20 Honorable Alison Lee did vacate that before.

21 But even before getting to the summary  
22 judgment --

23 THE COURT: She denied it. She didn't vacate  
24 it.

25 MS. MEISNER: She vacated the lis pendens, and

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1 actually she granted a continuance.

2 MR. MILLING: She did dismiss the lis pendens  
3 in September of '14.

4 MS. MEISNER: Yes. So she vacated it, but  
5 they should have never had that on there. When  
6 they changed from a mortgage foreclosure to a lis  
7 pendens, a note, as Judge Lee recognized and ruled,  
8 until a note has determined the amount, you cannot  
9 attach that to real property. So we had a full  
10 hearing in front of her, and she did vacate the lis  
11 pendens.

12 Because that case was stayed -- and I think  
13 that there was some confusion about when it was  
14 re-added back to the court's docket thinking that  
15 the appeal had been finalized; Judge Strickland has  
16 never ruled on those actions, but because he  
17 overruled, or reversed and remanded those  
18 judgments, the amounts that were on the property  
19 were erroneously placed on the property. So it is  
20 not a matter of whether they were erroneous, it is  
21 a matter of how erroneous they were.

22 And typically the Supreme Court has looked at  
23 the damage to the property being the amount of the  
24 defect. I think there was a case -- and I'm trying  
25 to remember the case -- a woman had -- and a

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1 husband owned a property and the husband went  
2 behind the woman's back and got a mortgage on it,  
3 and they said that that was improper by the bank  
4 because the bank put a lis pendens on it. In any  
5 event, that was not allowed.

6 In my recent -- once I realized that it was  
7 back on the docket, I did file a motion and  
8 memorandum of continuance to complete discovery and  
9 for mandatory mediation.

10 Judge Lee did -- we had a meeting in her  
11 chambers, and she did grant the continuance until  
12 March.

13 The deposition for the 30(b)(6) deponent, the  
14 30(b)(6) deponent was unprepared. And if you will  
15 read his deposition, several of the things he had  
16 no answers to.

17 He also was confused about a bank subsidiary  
18 that actually collected accounts. I believe once  
19 the discovery is over that they are going to be  
20 liable for a wrongful foreclosure in this action as  
21 well, because -- and I've got payments from 2013

22 that they did not --

23 THE COURT: I thought you all weren't seeking  
24 foreclosure?

25 MR. MILLING: We're not.

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1 MS. MEISNER: Your Honor, they changed it.  
2 Their initial suit was a foreclosure, and when they  
3 filed the foreclosure these payments showed that  
4 the account was up to date. So they filed the  
5 foreclosure action and then changed it to a suit on  
6 the note, because they know that they can't do  
7 that.

8 His comment about that I acknowledged that I  
9 did not pay, the actual testimony in the deposition  
10 was -- he said, Why did you stop making payments on  
11 this account? And I said, Because you sued me.

12 And if you looked at the 30(b)(6) deponent,  
13 they stopped applying the payments. In fact,  
14 Mr. Boyd says -- first of all, he was confused what  
15 happened. They apparently -- the bank had an  
16 employee whose briefcase was stolen and my  
17 information was in the briefcase. So the bank  
18 assigned me a new loan number. And the loan number  
19 was originally -- and I know you are not supposed  
20 to give this -- last four digits 9857 -- no, 3989.  
21 They assigned me a new loan number, which was 5987.  
22 But they did not credit payments made and said that  
23 I was in default. But I have got documentation of  
24 the payments that were made.

25 And, in fact, Mr. Boyd, in their affidavit to

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1 the court, they said that no payments had been made  
2 since July or August of 2013. But here is payments  
3 in November, in August of 2013.

4 Mr. Boyd, in his deposition, I asked him, Have  
5 you ever heard of Community Bank and Trust? Are  
6 you aware --

7 I can't say that I have, was his answer.

8 Are you aware if they are affiliated with  
9 South Carolina Bank and Trust in any way?

10 No, I'm not.

11 Could you identify the loan number?

12 And then he went through the loan number.

13 And I said, Did that loan number change at any  
14 time?

15 Yes, I believe it did.

16 Can you tell me when that occurred?

17 I think it was August of 2013.

18 What was the previous account number?

19 I don't have it with me. And then he found  
20 it.

21 Then he goes on to testify that -- Earlier you  
22 testified that the last payment made on the  
23 account -- can you refresh my memory?

24 August 14 of 2013.

25 And you said that in August of 2013 there was

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358 268

1 a change in the account numbers; is that correct?

2 That's right.

3 How did you merge the information?

4 So it goes on. Anyway, the 30(b)(6) deponent  
5 acknowledged that the account numbers changed in  
6 August. I have documentation that payments were  
7 made after that. And he also said -- he did  
8 finally remember who Community Bank and Trust was.  
9 And he did finally acknowledge -- well, he said he  
10 couldn't answer the question today.

11 In any event, the 30(b)(6) deponent only got  
12 his questions to prepare for his deposition one day  
13 in advance of the deposition.

14 We went through the whole -- all of the  
15 questions and answers, and he was unable to answer  
16 many of the questions. But when he did go through  
17 the answers, he did say that the bank just doesn't  
18 have to credit the account. They can cash the  
19 check, but they don't have to credit the account.  
20 That is a paraphrase of mine. I can find the exact  
21 quote.

22 This is contrary to South Carolina law. You  
23 can't give a bank money and then cash your check  
24 and then say, Oh, well, here, I am going to give it  
25 back to you and I am going to pursue foreclosure.

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1 That is not right.

2 MR. MILLING: Judge, she can't just throw out,  
3 That is not South Carolina law. If she wants to  
4 cite to a law, that is fine. But South Carolina  
5 law does allow banks and lenders, if the account is  
6 not brought current, to initiate foreclosure, to  
7 initiate suits on an account.

8 And what I haven't heard from Ms. Meisner is  
9 that she is still making payments.

10 MS. MEISNER: Your Honor, the testimony of the  
11 30(b)(6) deponent will make it clear that it was  
12 irrelevant for me to continue making payments  
13 because once we were in litigation they weren't  
14 keeping them, and they were sending payments back  
15 to me in lump sum. They would send me \$3,000  
16 checks.

17 THE COURT: They usually require you to pay in  
18 full.

19 MS. MEISNER: I was already paid up. That is  
20 what I'm saying. They did not credit the account.  
21 I was not behind, according to my records. They  
22 put an insurance policy on there. I had insurance.  
23 A force to pay the policy is not allowed when you  
24 have insurance. I told them I had insurance. They  
25 didn't take it off. They had this bank that is one

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~~260~~ 270

1 of their affiliates receive payment and then say  
2 they never got any payments. That is what his  
3 affidavit said.

4 He also says -- Mr. Grimsley asked me in the  
5 deposition, Why did you stop making payments?

6 If I'm going to give them a payment and they  
7 are going to send me a check back, what point is  
8 that? After it is in litigation, the breach of the  
9 contract already happened again way before. And  
10 the question is, Who breached the contract? I can  
11 prove that I made payments. They can't prove that  
12 they didn't -- that they -- what they can prove is  
13 exactly what their 30(b)(6) deponent says: We took  
14 the payments, but we don't have to apply them.

15 And it becomes a matter of accounting. And  
16 what happens -- and, unfortunately, that is why  
17 there are so many issues with foreclosure. When  
18 one bank goes to a foreclosure, they all decide  
19 that there is something going on and they are going  
20 to get there first before somebody files for  
21 bankruptcy, or something like that, and they don't  
22 get their money.

23 THE COURT: All right.

24 MS. MEISNER: I mean, that is just the way it  
25 is. But, in any event, Your Honor, we had an

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1 agreement to resume the 30(b)(6) deposition because  
2 Mr. Boyd was not prepared.

3 And, additionally, the bank did not answer any  
4 interrogatories or requests for production from  
5 2000 and -- that I sent them in 2014. The reason  
6 for that is, I think both of us were -- and I know  
7 Mr. Milling has just joined the case, what, a month  
8 ago?

9 MR. MILLING: Maybe 45 days ago, Judge.

10 MS. MEISNER: So he has just joined the case.  
11 He is the third attorney firm on this case. The  
12 first attorney firm was Rogers, Townsend and  
13 Thomas. And they were the actual people that were  
14 involved -- they are still involved in the appeal  
15 process for the liens that were placed on there  
16 erroneously. Then Mr. Grimsley had it.

17 So during the time that Mr. Grimsley had it,  
18 the case was stayed. And then all of a sudden it  
19 was put back on the docket. But we never had the  
20 discovery from the bank of all these documents of,  
21 you know, when they received things.

22 I've got canceled checks and deposits from  
23 their bank showing that payments were made. And  
24 they -- other than them giving an affidavit which  
25 conflicts with my payments and receipts, they have

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1 not put forth any evidence that there was a breach  
2 prior to them initiating the lawsuit.

3 And I think that I can prove that the loans  
4 were up to date and they filed this maliciously  
5 because they were mad that they got a lot of  
6 attorney's fees based on the appeal from the other  
7 thing that they can't get because, you know, when  
8 you get to the appeals court it is \$1,000. That  
9 is -- you know, if they don't agree with you, that  
10 is the attorney's fees that are involved.

11 But this is simply a case of retribution.  
12 They had no reason to do this to me. And, you  
13 know, they just didn't. And if they are doing it  
14 to me, they are doing it to a lot of other people  
15 too, Your Honor.

16 THE COURT: All right. Thank you.

17 Reply?

18 MS. MEISNER: Your Honor, are you going to  
19 entertain the motion to compel the discovery?

20 THE COURT: I don't -- what motion to compel?  
21 It is not on my docket.

22 MS. MEISNER: We were going to mention that to  
23 you.

24 MR. MILLING: Judge, if I can head this off at  
25 the pass. There was a motion to compel which was

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363 273



1 filed. I have gone back through the file. There  
2 were discovery responses which were prepared by  
3 Mr. Grimsley that were signed by Mr. Grimsley. I  
4 have not been able to confirm that they were  
5 served. I have got a copy I can give to her here  
6 today, head that off.

7 THE COURT: All right.

8 MR. MILLING: Judge, I will try to be as brief  
9 as I can.

10 The matter was not stayed because the other  
11 action was appealed. These are separate. There is  
12 no order of stay, or anything like that. I do not  
13 believe that the appellate court rules would  
14 provide that. It just happened to come up last  
15 month. Ms. Meisner filed a motion to continue that  
16 was granted until March, I believe. Nothing -- no  
17 discovery was undertaken.

18 I do believe, in looking through Mr. Boyd's  
19 deposition, that there was an agreement that if  
20 Ms. Meisner tried to resume the deposition that  
21 they would hold it open. Nothing was done in the  
22 last year. The same agreement was included in  
23 Ms. Meisner's deposition. Again, neither side  
24 tried to undertake anything with regard to  
25 participating in deposition.

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1           If I had been made aware prior to the middle  
2       of November that there was outstanding discovery,  
3       you know, I think that it would have been produced  
4       before now. But if we get back to the meat and  
5       potatoes of the motion, there is no dispute as to  
6       whether or not there was an agreement. There was  
7       no dispute that she received the money. There was  
8       no dispute that she stopped making payments.

9           She wants to argue why she stopped making  
10      payments, but arguments are different from facts,  
11      which is what is required at this stage of the  
12      game. She is required to come forth with more than  
13      mere allegations in her pleadings. We don't have  
14      anything supporting that she has made payments,  
15      that she has made payments to the court to keep the  
16      account current, that she has the money in her bank  
17      account right now to bring the account current.  
18      She doesn't dispute that she stopped making  
19      payments. And that is really what gets us to where  
20      we are today.

21           Judge, I have outlined in my motion why each  
22      of these affirmative defenses and counterclaims are  
23      invalid as a matter of law. We would just ask you  
24      to enter judgment for SCBT.

25           MS. MEISNER: Your Honor, again, he is putting

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1 the cart before the horse. Once it is in the legal  
2 system -- he has already brought us here. I have  
3 already been damaged. This foreclosure action and  
4 then the change to the suit on the note, this is  
5 the damages that result from that.

6 He -- you can't make payments on an account  
7 and the bank just decide not to apply them. That  
8 is not allowed. And they have brought forth no  
9 evidence.

10 In fact, Mr. Boyd in his deposition  
11 acknowledged that he had no idea whether they were  
12 applied or not. And he was shown payments that he  
13 said, Yes, that is the same -- let me find it in  
14 here. It is in there. He acknowledged that  
15 payments were made to Community Bank and Trust. He  
16 acknowledged that the account numbers were the same  
17 as SCBT.

18 This is not a case that should be granted  
19 summary judgment. In addition, under South  
20 Carolina's pleadings standard, this is a common law  
21 and state law claim of foreclosure. There are no  
22 federal issues. And --

23 THE COURT: This is not a foreclosure action.

24 MS. MEISNER: It is a suit on the note, so it  
25 is a legal claim, but it is a common law suit on

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1 the note, so it is not a federal -- it does not  
2 raise to the Iqbal and Twombly pleading standards,  
3 because here a preponderance of the evidence is  
4 there.

5 South Carolina requires only a scintilla of  
6 evidence for non federal claims to defeat summary  
7 judgment. South Carolina has bifurcated the level  
8 of evidence needed to defeat summary judgment. And  
9 this was Hancock v. Mid-South Management, Opinion  
10 26587, of 2009.

11 The fact that the bank had filed pleadings  
12 with this court and they said that they did not  
13 receive payments that their 30(b)(6) bank deponent  
14 acknowledged that they did receive makes this  
15 impossible.

16 Now, you know, after we finish discovery --  
17 that is another thing. Discovery is not complete.  
18 He acknowledged that it is not complete. He has  
19 been here for 45 days. And while he says that the  
20 case was not stayed, when you look up the case  
21 status on the Richland County courthouse, the  
22 acknowledgment beside it was "stayed." That is  
23 what it said.

24 And I'm sure that there is a computer person  
25 here in the courthouse that can look back and find

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1           that. That is not something that you -- just  
2           somehow gets put on your computer if there wasn't  
3           some order or something somewhere.

4           The other thing, Your Honor, he is -- and I  
5           say "he." I should say SCBT is confusing the two  
6           different causes of action for slander of title.  
7           Slander of title is not actionable as a pleading  
8           for a defective pleading standard, which the  
9           Supreme Court acknowledged. However, it is -- it  
10          is a viable claim when you file a lis pendens --  
11          when you file a lis pendens and there is no legal  
12          right or legal authority to add that to the  
13          property.

14          And that is exactly what happened when  
15          Mr. Grimsley and Judge Lee acknowledged this. She  
16          said, Sure. If it was a mortgage foreclosure  
17          action, it is completely privileged. But this is a  
18          suit on the note. You didn't remove it.  
19          Twenty-one days -- twenty days you have when you  
20          file a mortgage foreclosure to actually institute  
21          the action or the lis pendens becomes void.

22          Because they did this in reverse, they filed a  
23          lis pendens and then changed the action to a suit  
24          on a note. Had they filed a suit on a note, the  
25          lis pendens would have never been proper. And they

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208 278

1 did not remove the lis pendens. Therefore, that  
2 overstay is a defect in the file of the title,  
3 which is actually why there is South Carolina.

4 The abuse of process part, which is the claim  
5 that is in there, has been recognized, although  
6 there are two causes of action that South Carolina  
7 recognizes on the abuse of process or malicious  
8 prosecution based on a title -- an erroneous lien,  
9 because they are privileged.

10 If it turns out -- and he thinks that there is  
11 no material fact. The fact that the bank gave an  
12 affidavit to this court and said, We haven't  
13 received any payments, and their 30(b)(6) deponent,  
14 making binding representations from the bank, said,  
15 Oh, we didn't know about those payments. That  
16 precludes summary judgment.

17 So I would ask Your Honor to require the bank  
18 to finish the -- or to participate at all in  
19 discovery and also to resume the 30(b)(6)  
20 deposition of Mr. Boyd.

21 And I do think that you can look back and see  
22 that I am being truthful about that this was  
23 stayed. It had on the case name and it said  
24 "stayed."

25 THE COURT: All right. All right.

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1 MR.. MILLING: Judge, the only thing that I  
2 will say is going back and looking at the discovery  
3 responses I am about to tender to Ms. Meisner, they  
4 don't have anything to do that would defeat our  
5 summary judgment motion in this case.

6 The first one requests -- I'm happy to make a  
7 copy of these as a part of record, if Your Honor  
8 would like, just for consideration.

9 Explain in detail the relationship between  
10 SCBT N.A. and SCBT. That doesn't have anything to  
11 do with what her request is.

12 Describe in detail each and every factual  
13 basis for your contention that it is merely a  
14 distinctive accompaniment.

15 The phone number and address of people who  
16 have communicated about any claims, whether  
17 written, oral, or communications or further  
18 statements been requested or taken related to any  
19 affirmative defenses or request for statements of  
20 agents, investigators, subcontractors of SCBT.

21 And then we get to documents requested  
22 detailing the transfer of ownership between the two  
23 entities. Documents related to Sand Dollar, which  
24 is the other entity. E-mails between Rhonda  
25 Meisner or have Rhonda Meisner's name in there.

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1 Judge, these just don't have anything to do  
2 with whether or not she paid her debt.

3 MS. MEISNER: And, Your Honor, you know, I  
4 would disagree that --

5 THE COURT: All right. I know you disagree.  
6 I have heard enough.

7 All right, thank you.

8 MS. MEISNER: Your Honor, may I say one other  
9 thing?

10 THE COURT: No, ma'am.

11 All right. I have your memos. I have allowed  
12 you all to proceed, him to present the motion and  
13 you to respond, him to respond, you to respond  
14 again, and respond again. So I think I have heard  
15 enough.

16 Thank you.

17 MR. MILLING: Thank you, Your Honor.

18 MS. MEISNER: Thank you, Your Honor.

19 MR. MILLING: Judge, if you could, just for  
20 the court reporter, make sure that I am providing a  
21 copy of these to Ms. Meisner.

22 MS. MEISNER: Your Honor, can I give you this  
23 motion to compel their discovery that was filed on  
24 November 12th?

25 THE COURT: It is already in the file.

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1 MS. MEISNER: Oh, okay.

2 THE COURT: And he apparently has given you  
3 the documents. So at this point it is moot if he  
4 is going to give you the documents today.

5 MS. MEISNER: Well, Your Honor, I haven't had  
6 a chance to look at what he has given me. The  
7 30(b)(6) deponent said that --

8 MR. MILLING: Would you acknowledge, please,  
9 that you received a copy of it?

10 MS. MEISNER: Well, I am acknowledging I  
11 received what you just gave me, but --

12 MR. MILLING: If you can identify the  
13 document, please, just so the record is clear.

14 MS. MEISNER: Okay. It says, Plaintiff's  
15 First Set of Interrogatories and Requests for  
16 Production. But there is nothing produced.

17 MR. MILLING: I beg your pardon?

18 MS. MEISNER: There is nothing produced. The  
19 request for production asks for e-mails. So there  
20 is no e-mails in there.

21 MR. MILLING: Judge, we can do that at a later  
22 date.

23 THE COURT: All right.

24 MS. MEISNER: Your Honor, I feel somewhat -- a  
25 little bit railroaded, because this case was

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1 stayed, and they put it back on the docket. Judge  
2 Lee did grant a continuance. And we -- you know,  
3 -- some of the things that I have asked for, they  
4 have not -- these are all Secretary of State  
5 filings, they are things that I already have. Here  
6 is a Certificate of Existence for SCBT. And --

7 THE COURT: What you need to do, ma'am, is  
8 review the documents. And if they are not  
9 complete, then you will need to file something with  
10 the court. But I have to be able to, just as she  
11 did earlier, have to be able to say where the  
12 documents are lacking or what has not been  
13 answered. You have to send him a letter, give him  
14 an opportunity to cure it. If he does not, then  
15 you have to file a motion to -- another motion to  
16 compel at that time.

17 MS. MEISNER: Yes, ma'am.

18 THE COURT: But he -- but the Court has to  
19 have some detail as to what it is he did not answer  
20 and if, in fact, me or another judge is going to  
21 order him to respond to it. So you almost have to  
22 go through and list right now what is lacking or  
23 deficient and then send an e-mail and give him an  
24 opportunity to respond. If he does not respond,  
25 then you have to come back before the Court. That

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1 is the proper way to handle it.

2 MS. MEISNER: Yes, ma'am, I will do that.

3 THE COURT: And I understand you just got them  
4 today. That is why it is almost impossible to do  
5 that.

6 MS. MEISNER: Well, and I wasn't trying to be  
7 hard to get along with, it is just I don't find  
8 these to be responsive at all.

9 THE COURT: All right.

10 MS. MEISNER: But, in any event, Your Honor,  
11 if it is possible, I did not enter any of the  
12 payments into the record with the -- I think that  
13 the 30(b)(6) deponent's deposition testimony should  
14 be adequate, but if you do require either  
15 additional pleadings, I would just ask that you  
16 would allow me to either amend the pleadings that  
17 you find deficient. I think that they are  
18 adequate, but --

19 THE COURT: You mean -- you have to make a  
20 motion to amend.

21 MS. MEISNER: Well, that is what I'm doing.

22 He had a motion to strike my counterclaim. I feel  
23 like that the pleadings were sufficient to not  
24 allow the strike of the counterclaim. However, if  
25 Your Honor finds them deficient, I would ask to be

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313 284

1 given the opportunity to, you know, provide the  
2 Court with amended pleadings to make those  
3 sufficient.

4 THE COURT: You would have to file a motion to  
5 amend your counterclaim is the appropriate way to  
6 do that.

7 MS. MEISNER: All right, yes, ma'am.

8 THE COURT: All right, thank you.

9 MS. MEISNER: Thank you, Your Honor.

10 MR. MILLING: Thank you, Your Honor.

11 (WHEREUPON, the proceedings were concluded.)  
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(END OF TRANSCRIPT)

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CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )

COUNTY OF RICHLAND )

I, Deborah M. McCurdy, Official Court Reporter for the Fifth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 16th day of December, 2015.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

September 13, 2016

s. Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR  
Fifth Circuit Court Reporter

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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND ) COURT OF COMMON PLEAS  
2014-CP-40-02063  
  
U.S. Bank N.A., )  
Plaintiff, )  
vs. ) TRANSCRIPT OF RECORD  
Rhonda Lewis Meisner, )  
Defendant. )

July 10, 2014  
Columbia, South Carolina

B E F O R E:  
THE HONORABLE DEANDREA G. BENJAMIN, JUDGE.

A P P E A R A N C E S:  
MAGALIE ARCURE, ESQ.  
Attorney for the Plaintiff  
RHONDA LEWIS MEISNER, PRO SE  
Appearing for the Defendant

DEBORAH M. McCURDY, RPR  
Official Court Reporter

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JUNE 10, 2014

THE COURT: All right. So U.S. Bank N.A. v.  
Rhonda Lewis Meisner.

And you are Ms. Vlake? Van Vlake?

MS. ARCURE: Ms. Arcure.

THE COURT: What is it?

MS. ARCURE: Magalie Arcure.

THE COURT: Can you spell that for me?

MS. ARCURE: M-A-G-A-L-I-E. And the last name  
is A-R-C-U-R-E.

THE COURT: And you are Ms., is it Meisner?

MS. MEISNER: Yes, ma'am.

THE COURT: And this is a motion that has been  
filed by Ms. Meisner; is that correct?

MS. MEISNER: Yes, ma'am. And that's -- yes.

THE COURT: And it is a motion to --

MS. MEISNER: To dismiss and/or join. And in  
the motion I inadvertently did a motion on a  
12(b)(8) and (b)(9), but what I meant was a  
12(b)(7) and (b)(8), the (b)(7) in reference to  
Rule 19.

THE COURT: All right, yes, ma'am, I will be  
glad to hear from you.

MS. MEISNER: Okay. Initially, I will just  
give you a little bit of history with regard to the

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1 parties in this case.

2 This particular mortgage and note is  
3 presumably held by U.S. Bank and Trust, the actual  
4 Plaintiff in the action that is being requested to  
5 dismiss and/or join them to a previous action.

6 That mortgage and trust was initially given to  
7 Bank of America. And they have been the owner of  
8 such for -- since 2003.

9 They sold it at some point and/or changed the  
10 servicing rights at some point. So currently in  
11 question is who actually owns it, because Bank of  
12 America, in their response, or their reply, to  
13 SCBT, which is a junior lienholder, foreclosure  
14 action, said that they have an interest in that  
15 note, that particular note and mortgage as well.

16 So starting with U.S. Bank -- well, actually  
17 SCBT's action. They filed in November an action  
18 for mortgage foreclosure. That action included a  
19 previous -- some previous liens that are now in the  
20 Court of Appeals, which they have not ruled on. So  
21 I replied to that action -- well, I didn't know  
22 about that action because they actually served  
23 me -- the service was improper. So they refiled.  
24 They got a new set of attorneys because they  
25 recognized that there was a conflict of interest

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370 289



1 with the attorneys representing the Court of  
2 Appeals action and this action. So they did a  
3 transfer to a new group of attorneys. They refiled  
4 the mortgage foreclosure. And in refiling the  
5 mortgage foreclosure, the lis pendens, they redid  
6 the previous judgments that are not available to  
7 them to add to this action.

8 In the mortgage foreclosure they also  
9 identified as a Defendant Bank of America, who is  
10 the superior lienholder, or at the time of the  
11 action was the superior lienholder.

12 Bank of America at some point, and the  
13 timeline is unclear, which is why it is important  
14 that U.S. Bank be joined to this action as opposed  
15 to initiating a new action, and I will go over  
16 that.

17 THE COURT: And that is what I'm confused  
18 about. U.S., they are not a -- they are the  
19 Plaintiff, is that --

20 MS. ARCURE: Yes.

21 MS. MEISNER: Yes, ma'am. So what happened is  
22 this. I apologize, Magalie, I think you probably  
23 were going to try to -- what happened is this.  
24 SCBT filed a mortgage foreclosure action as a  
25 junior lienholder. As such, according to the Rules

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1 of Civil Procedure -- and I can find that for  
2 you -- a second lienholder can file for foreclosure  
3 with a prior mortgage redemption under South  
4 Carolina annotated 29-320. So their foreclosure  
5 action was subject to the superior lien.

6 They filed that action, notified Bank of  
7 America about the lawsuit. Bank of America  
8 defaulted by not responding in the 30-day time  
9 period.

10 In my response, which was timely, I said that  
11 there were issues with the Bank of America  
12 servicing agreement because of a dispute between  
13 property taxes. What happened is I did not pay the  
14 property taxes exactly on the date due. And so  
15 they instituted an escrow account. That escrow  
16 account then paid the property taxes, but I had  
17 paid the property taxes too, so there was an issue  
18 with the servicing on that account.

19 I'm giving you a little bit of minutia only so  
20 you understand that because of the question with  
21 what U.S. Bank actually acquired is at issue. You  
22 know, whenever you acquire anything you acquire  
23 only what they have to give. And Bank of  
24 America -- we were in dispute. They changed their  
25 servicing person. They have been automatically

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1 debiting their payments out of my checking account  
2 since the inception of the loan. There had never  
3 been a break. But then they changed their  
4 servicing without notification, without the notice  
5 that is required under the Dodd-Frank Act, which  
6 came into effect in 2010 and specifically  
7 references the secure type trust loan.

8 The reason for that is, Number One, to have  
9 some continuity about the way the secure possession  
10 works from the standpoint of pooling in servicing  
11 agreements when these loans are sold as a trust so  
12 that exactly what is before Your Honor today  
13 doesn't happen, so that Bank of America is still  
14 claiming an interest in the note and mortgage via  
15 their answer and U.S. Bank is saying, No, we're  
16 going to file a lawsuit, we don't care that our  
17 previous predecessor in the mortgage and note  
18 are -- you know, defaulted and didn't answer. By  
19 doing this we can circumvent and gain -- regain  
20 rights lost by the predecessor in servicing.

21 THE COURT: All right. So help me out here.

22 So I'm confused because you say you are trying to  
23 join U.S. Bank National Association. Who are you  
24 trying to dismiss?

25 MS. MEISNER: I'm trying to dismiss them.

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1 They want to join, or if Your Honor feels it  
2 appropriate for them to join the other lawsuit by  
3 their predecessor in title and their predecessor in  
4 servicing, Bank of America, then they can certainly  
5 do that. But right now, even -- and I do have an  
6 exhibit to show you, if I may?

7 THE COURT: All right. Let me hear from you  
8 real quick.

9 MS. ARCURE: Thank you, Your Honor.

10 U.S. Bank is a successor in interest to Bank  
11 of America, and they hold a first position, first  
12 money mortgage.

13 The assignment of mortgage from Bank of  
14 America to U.S. Bank was recorded on April 2nd of  
15 2014. So at the time that South Carolina Bank and  
16 Trust, who holds a second mortgage, brought their  
17 foreclosure action against Ms. Meisner, they named  
18 Bank of America because of their first position  
19 mortgage, but because Bank of America's mortgage  
20 would be unaffected by that foreclosure of the  
21 second mortgage, they were dismissed as a party.  
22 They are not a necessary party. And now that a  
23 separate proceeding has been brought by Bank of  
24 America, successor in interest, to foreclose its  
25 lien, Bank of America -- excuse me, U.S. Bank has

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1 named all necessary parties, including the SCBT.  
2 And a dismissal under Rule 12(b) would require  
3 identity of the parties and identity of the  
4 claimants, neither of which are present here. U.S.  
5 Bank was not a necessary party in the other  
6 foreclosure action, and that is why they have been  
7 dismissed. And even if they were a necessary  
8 party, the facts and circumstances giving rise to  
9 the South Carolina Bank and Trust claims are wholly  
10 distinct from those that are at issue in this  
11 foreclosure action. They are a different  
12 instrument. And so that leaves the motion to be  
13 dismissed.

14 THE COURT: All right. Yes, ma'am?

15 MS. MEISNER: Your Honor, if you look back at  
16 the timeline, again, we talked about, you know,  
17 when things happened and when things are  
18 transferred in and out. And I was going to give  
19 you an exhibit that --

20 THE COURT: I will be glad to look at it.

21 MS. MEISNER: Okay. Thank you. This is  
22 actually -- and I am making a motion that -- they  
23 may not -- U.S. Bank may not have the ability to  
24 even proceed with this. And the reason is because  
25 the corporate assignment of their mortgage is

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1 defective. So that is another reason to dismiss  
2 this case.

3 THE COURT: All right. Is that filed with the  
4 court today? Because I can't hear it if it is not  
5 filed today. Have you filed a motion and served  
6 them with a copy of that motion?

7 MS. MEISNER: Yes, ma'am. I have filed the  
8 motion with the court.

9 MS. ARCURE: The only motion that we have been  
10 served with is a motion to dismiss under Rule  
11 12(b)(8).

12 THE COURT: Yes, you just made another motion.

13 MS. MEISNER: Well, yes. Well, Your Honor, in  
14 looking at the actual date -- and I'll give you  
15 this information -- let me hand this to you. This  
16 is a copy of their assignment. It was listed as  
17 Exhibit 1 in my memorandum to do -- and I think  
18 that the memorandum did reference what has been  
19 filed with the court and actually in the record of  
20 the court. And if you look at that, they do the  
21 transfer the day before they actually did the  
22 notarization of that transfer. So the transfer  
23 happened -- if you look down under corporate  
24 assignment of mortgage, it says: Date of  
25 assignment, April 2nd, 2014, Bank of America as

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1 attorney in fact. And then she writes 4/3/2014 in  
2 two separate places. So the notarization of the  
3 assignment is separate.

4 Also this happened, as I mentioned in the  
5 memorandum in support of the dismissal, this  
6 happened in Nebraska, and then the previous  
7 assignment was in California. So basically these  
8 assignments are going all over the country. And I  
9 don't think that that is an effective assignment  
10 with a notary that notarizes something that  
11 occurred the day before. You know, it could be  
12 just a scrivener's error where, you know, they say,  
13 Oh, we made a mistake, we didn't -- we meant the  
14 2nd. But that is not what it is in the court  
15 record.

16 Before we even address that portion, getting  
17 back to the timeline that I was talking about  
18 earlier, SCBT filed a lis pendens back in November.  
19 Even though that lis pendens was absolutely  
20 inaccurate -- and I actually am current on that  
21 loan. It is a long story. I claimed abuse of  
22 process with the way that they -- they are  
23 basically trying to get the liens that were in the  
24 Court of Appeals actually effected prior to a  
25 decision by the Court of Appeals. So I've made a

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1 motion for a hearing on that particular decision.  
2 But, they filed that in November. So Bank of  
3 America knew about the lis pendens back in  
4 November, even though they were not served as a  
5 party.

6 In February of this year they actually were  
7 made a party as a Defendant, February 19th. So in  
8 February they were served. They had until, at the  
9 earliest, the end of March to respond to that.  
10 They did not respond to that.

11 In my response, I actually made counterclaims  
12 for a couple of things which are in the contract,  
13 the initial contract, which Ms. Arcure's clients  
14 have acquired via their transfer of either and/or  
15 servicing rights or ownership of that note and  
16 mortgage.

17 Those counterclaims -- while SCBT can dismiss  
18 them in the action and refile their thing as a suit  
19 on note, they can't -- and I'm objecting to that  
20 too, because what they are attempting to do is  
21 basically give Bank of America the opportunity to  
22 redeem their default via the U.S. Bank filing their  
23 motion -- filing their action. But they can  
24 only -- U.S. Bank can only get from Bank of America  
25 what they have to give. And the default Defendant,

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1       whether it is a counterclaim or any other claim,  
2       once they are a default Defendant, their voice is  
3       silent before the court.

4               In my counterclaim, I specifically asked for a  
5       declaratory judgment based on the right that the  
6       mortgage and the note that SCBT was seeking to  
7       enforce, that declaratory judgment would affect  
8       U.S. Bank's ability to do anything as a superior  
9       lienholder. Basically SCBT would in effect have to  
10      pay their loan, but because of the legal  
11      counterclaim, the U.S. Supreme Court has said that  
12      you have to resolve legal counterclaims prior to  
13      equitable claims.

14             In this situation, SCBT is doing two things.  
15      They are creating a war on three fronts for me,  
16      which, you know, going over judicial economy,  
17      because of some of the claims against Bank of  
18      America with regard to their servicing prior to --  
19      via the Dodd-Frank Act as well as SCBT attempting  
20      to collect these liens, all of those are legal  
21      issues.

22             The other thing that Ms. Arcure has done in  
23      her brief is, there are several things that each of  
24      the parties have waived and several things that  
25      each of the parties is demanding.

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1           For example, Ms. Arcure in her suit, or U.S.  
2           Bank is saying that they want to have a  
3           receivership for rent. Well, Bank of America in  
4           their answer did not request that, even though  
5           their answer was late. So even if they would have  
6           requested it, it would have been untimely because  
7           their voice was silent as to the default.

8           So now they have asserted new claims. I, in  
9           my declaratory judgment request, asked for the  
10          appraisal rights pursuant to the statute for  
11          appraisal rights. And, I'm sorry, I don't have  
12          that statute now. But in the counterclaim to the  
13          initial SCBT action, I requested appraisal rights  
14          which would affect the price of the property and  
15          any ability for deficiency.

16          U.S. Bank has not asked for a deficiency,  
17          mainly because the note that went in there is  
18          potentially owned by Fannie Mae, Freddie Mack, that  
19          was reassigned to Bank of America in an unknown  
20          note, but if it went into the securitization trust  
21          prior to the transfer of that loan, then it is  
22          still under that. So they don't ask for a  
23          deficiency. But SCBT has asked for a deficiency.

24          Now that all of this has gone on, SCBT wants  
25          to say, Okay, Bank of America, we're going to give

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1       you a pass because we're going to eliminate our  
2       claims against you, our legal and equitable claims  
3       against you. But they can't eliminate my legal and  
4       equitable claims against Bank of America.

5       And Ms. Arcure's assumption of those issues  
6       can't be dismissed by bringing a new suit. I mean,  
7       she can't just resurrect, you know, all of the  
8       benefits of being a new Plaintiff by ignoring a  
9       default status of the previous predecessor.

10       So going back to what we talked about, Bank of  
11       America is in default at the end of March, but my  
12       answer and counterclaim against both Bank of  
13       America and SCBT were served. Bank of America  
14       filed their answer. And in their amended complaint  
15       on April 4th, they still -- they say that they do  
16       have rights at Paragraph, I think Paragraph 8,  
17       right to the mortgage and the note that U.S. Bank  
18       is now starting a new action on.

19       THE COURT: All right.

20       MS. MEISNER: So they both can't have rights  
21       to the same mortgage and note. And, again --

22       THE COURT: All right.

23       MS. MEISNER: Sorry.

24       THE COURT: That's fine. All right. Yes,  
25       ma'am. I will give her an opportunity to respond.

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1 MS. ARCURE: Just simply that the foreclosure  
2 in South Carolina Bank and Trust junior mortgage  
3 does not affect whatsoever the first lien position  
4 mortgage. They are not a necessary party. Whether  
5 they were named as defaulted or weren't named is  
6 irrelevant when there was a different loan  
7 instrument. And there is simply no basis to  
8 dismiss the action based on 12(b)(8). It is not a  
9 requirement of identity of the parties or identity  
10 of the claimants present.

11 And that is all I have, Your Honor. If it  
12 convenient, I did print out the index for the South  
13 Carolina Bank and Trust foreclosure action which  
14 shows that they filed an amended complaint back in  
15 February and Bank of America answered. And then in  
16 April they were dismissed as a party.

17 THE COURT: All right. So, just so I'm clear,  
18 U.S. Bank has the first lien?

19 MS. ARCURE: Yes.

20 THE COURT: Or mortgage?

21 MS. ARCURE: Not on the property being  
22 foreclosed by South Carolina Bank and Trust. That  
23 is the position. In their foreclosure action they  
24 don't challenge the validity or priority of Bank of  
25 America, now U.S. Bank's, first mortgage.

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1 THE COURT: All right. And that issue is  
2 before the Court of Appeals?

3 MS. ARCURE: No, not to my knowledge. I think  
4 what Ms. Meisner is referring to -- and please  
5 correct me if I'm wrong -- is that there are other  
6 foreclosure actions which proceeded to judgment  
7 which she has appealed, and those are pending in  
8 the Court of Appeals. And to the extent that those  
9 are judgments and those entities may have claims  
10 against -- in property and interest in said  
11 property as a judgment creditor, that would affect  
12 whether or not they be named as a party. That is  
13 not before the court today.

14 MS. MEISNER: And, Your Honor, that is  
15 actually part of my claim against the abuse of  
16 process because the foreign judgment --

17 THE COURT: Well, that is not before me today.

18 MS. MEISNER: Well, it is indirectly because  
19 that is the counterclaim against Bank of America  
20 and SCBT, which, again, is her predecessor in  
21 servicing and in right to this thing.

22 They can't both -- and one of the things that  
23 they -- and I know that this was just a mistake,  
24 but in the return to dismiss she said that this  
25 property is located in Horry County, but we know

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1           that is not the case.

2           But Rule 12(b)(7) specifically gives the  
3           authority to join parties to an action that are  
4           necessary. And it is my supposition that Bank of  
5           America is the -- was the correct party when they  
6           defaulted. And according to the transfers, U.S.  
7           Bank purportedly has owned the loan for longer than  
8           this April because they can't receive the mortgage  
9           and the note at the same time they foreclose.

10          And there is a case that -- it basically says  
11          when you get something, you need to notify people  
12          so that the proper parties are sued in the first  
13          place, or the proper parties are joined in the  
14          first place. U.S. Bank did not do that. Had they  
15          filed their mortgage transfers, foreclosure note,  
16          whatever, at the time that they actually assumed  
17          the note and the mortgage, which at this state we  
18          don't know what the date is other than the  
19          erroneous declaration and corporate assignment of  
20          mortgage. Well, the contradictory assignment of  
21          mortgage on the 2nd, and then the notarization on  
22          the 3rd. We don't know what that date is, but we  
23          know that it was before April because they filed  
24          their motion after that.

25          Because there are several substantive claims,

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302 303

1       such as the right to appraisal, the appraisal  
2       statute, the right to a jury trial on the legal and  
3       claims that preceded that, the Bank of America, as  
4       well as the SCBT, the jury waivers that are noticed  
5       in the mortgage to Bank of America that were  
6       assumed by U.S. Bank, the contract interpretation  
7       between Bank of America that U.S. Bank assumed.

8       Now, Ms. Arcure went over some of the  
9       compulsory -- and whether a counterclaim is  
10      compulsory or not.

11       A declaratory judgment with regard to what is  
12      going to happen in the foreclosure of a junior  
13      lienholder to the respective rights of the notice  
14      and parties is compulsory if it arises out of the  
15      same transaction.

16       They were notified as a Defendant in the same  
17      transaction while the origination of the loan is  
18      not what is in question, it is the foreclosure,  
19      that is the transaction.

20       THE COURT: I hate to cut you off, but, ma'am,  
21      I have to stick to the issue that is before me  
22      today. The other case is not before me, and so it  
23      is my understanding -- and your position is that  
24      Bank of America was the original lienholder and  
25      that your case should be dismissed because -- U.S.

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1       should be dismissed because of the assignment and  
2       when the assignment occurred and that Bank of  
3       America is the true person that is the lienholder.  
4       Is that your position for purposes of this hearing  
5       today?

6               MS. MEISNER: For purposes of this hearing,  
7       because some of the legal and equitable questions  
8       have merged with Bank of America and U.S. Bank as  
9       the acquirer of Bank of America, this action should  
10      be dismissed against U.S. Bank for two reasons.  
11      For two -- you know, the faulty assignment, Number  
12      One; and, Number Two, the fact that they are  
13      seeking to gain additional substantial rights that  
14      Bank of America has already waived in their  
15      default. So they can't get rights that Bank of  
16      America no longer has assigned to them.

17             THE COURT: Okay. Thank you.

18             MS. MEISNER: And, Your Honor, may I say one  
19      other thing? The Supreme Court did look at whether  
20      a counterclaim is compulsory or not in Wells Fargo  
21      Bank v. Smith. And because the counterclaims that  
22      I raised earlier are compulsory defense  
23      counterclaims, Bank of America should have  
24      responded to those counterclaims. And they were  
25      notified of this hearing today. And they could

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~~204~~ 305



1 have shown up. But they did not.

2 THE COURT: All right. Thank you. All right,  
3 I'll get something to you all. Thank you.

4 MS. MEISNER: Did you want these other  
5 exhibits that I had of the transfer from Bank of  
6 America in too? Because they transferred in and  
7 out of Bank of America in March and in April and  
8 their default was in February.

9 THE COURT: You gave me the corporate  
10 assignment, Exhibit 1?

11 MS. MEISNER: Exhibit 1. There is also  
12 Exhibit 2 and --

13 THE COURT: I'll take a look at it.

14 MS. MEISNER: And also the mortgages. So  
15 you'll make this part of the record?

16 MS. ARCURE: To the extent that it helps to  
17 clarify, Bank of America no longer has any interest  
18 in this property. They assigned their entire  
19 interest in the form of a note and mortgage to U.S.  
20 Bank in an assignment of mortgage. It is not  
21 required, but one was done nonetheless. U.S. Bank  
22 is the holder of the original note and mortgage,  
23 which I have with me today. To the extent that the  
24 motion did incorporate elements of the motion to  
25 dismiss, based on my understanding they should also

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3/15 306

1 be denied.

2 THE COURT: All right, ma'am, you can make  
3 that a part of the record.

4 MS. MEISNER: All right. And, Your Honor,  
5 just so you are aware, Bank of America in their  
6 answer to SCBT, even though it was late, they did  
7 claim an interest in the property in the note and  
8 the mortgage. So they claimed an ownership  
9 interest. It is exactly what you are hearing in  
10 the news about multiple banks claiming the same  
11 ownership and same interest in the same note and  
12 mortgage, which is why they should be joined with  
13 the original suit so that they can -- so to fully  
14 litigate the issues of the rights between the  
15 parties, and so forth.

16 THE COURT: All right. Thank you.

17 MS. ARCURE: Thank you.

18 THE COURT: All right, we will make that as a  
19 part of the record. Hand those to the court  
20 reporter.

21 MS. MEISNER: Yes, ma'am. It is Exhibit 2,  
22 which is the assignment from U.S. Bank and Bank of  
23 America. Again, another assignment in and out.  
24 And the actual mortgage that is a question as to  
25 legal issues that are involved. And also the

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29/10 307

1 previous mortgage which Bank of America did not  
2 satisfy. So that is another one of the legal  
3 claims that again involve Bank of America.

4 THE COURT: All right. And you can make those  
5 part of the record. Thank you.

6 (WHEREUPON, Defendant's Exhibit Nos. 1 -  
7 4 were marked for identification and  
8 received into evidence.)

9 THE COURT: All right, thank you.

10 (WHEREUPON, the proceedings were concluded.)  
11  
12  
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17  
18  
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22  
23 (END OF TRANSCRIPT)  
24  
25

184  
397 308

CERTIFICATE OF REPORTER

STATE OF SOUTH CAROLINA )

COUNTY OF RICHLAND )

I, Deborah M. McCurdy, Official Court Reporter for the Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas for Richland County, South Carolina, on the 10th day of June, 2014.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

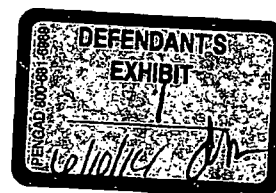
September 11, 2016

s/Deborah M. McCurdy, RPR

Deborah M. McCurdy, RPR  
Fifth Circuit Court Reporter

185  
308 309

# EXHIBIT #1



259  
~~349~~ 310

Instrument: 2014032766

Book/Page: R 1943 : 1234

Date/Time: 05/02/2014 14:39:54:737

Document: 03

Recording Requested By:  
Nationstar Mortgage

When Recorded Return To:

DOCUMENT ADMINISTRATION  
Nationstar Mortgage  
2617 COLLEGE PARK  
SCOTTSBLUFF, NE 69361

### CORPORATE ASSIGNMENT OF MORTGAGE

Richland, South Carolina

"MEISNER"

Date of Assignment: April 2nd, 2014

Assignor: BANK OF AMERICA, N.A. BY NATIONSTAR MORTGAGE LLC AS ITS ATTORNEY-IN-FACT at 350  
HIGHLAND DRIVE, LEWISVILLE, TX 75067

Assignee: U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF THE BANK OF  
AMERICA FUNDING CORPORATION, 2008-FT1 TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES  
2008-FT1 at 425 WALNUT STREET, CINCINNATI, OH 45202

Executed By: RHONDA LEWIS MEISNER To: BANK OF AMERICA, N.A.

Date of Mortgage: 08/13/2003 Recorded: 08/18/2003 In Book/Reel/Liber: 00838 Page/Folio: 2632 as Instrument  
No.: 2003086123 In the County of Richland, State of South Carolina.

Property Address: 406 KOONS DOOR RD, COLUMBIA, SC 29203-0000

KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration, the receipt and sufficiency of  
which is hereby acknowledged, the said Assignor hereby assigns unto the above-named Assignee, the said  
Mortgage having an original principal sum of \$61,516.00 with interest, secured thereby, with all moneys now owing  
or that may hereafter become due or owing in respect thereof, and the full benefit of all the powers and of all the  
covenants and provisos therein contained, and the said Assignor hereby grants and conveys unto the said Assignee,  
the Assignor's interest under the Mortgage.

TO HAVE AND TO HOLD the said Mortgage, and the said property unto the said Assignee forever, subject to the  
terms contained in said Mortgage.

BANK OF AMERICA, N.A. BY NATIONSTAR MORTGAGE LLC AS ITS ATTORNEY-IN-FACT  
On 4-3-2014

By: [Signature]  
Traci Garton, Assistant  
Secretary

WITNESS

[Signature]  
Angel Bolton

WITNESS

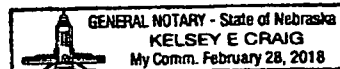
[Signature]  
Susan Lindhorst

STATE OF Nebraska  
COUNTY OF Scotts Bluff

On 4-3-2014 before me, Kelsey Craig, a Notary Public in  
and for Scotts Bluff in the State of Nebraska, personally appeared Traci Garton, Assistant  
Secretary, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose  
name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in  
his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity  
upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal,

[Signature]  
Kelsey Craig  
Notary Expires: 2/28/2018



(This area for notarial seal)

"AM1"AM1NATN"04/02/2014 08:11:48 AM" NATTO1NATN4000000000000000482191" SCRICH" 0511826535 SCSTATE\_MORT\_ASSIGN\_ASSN "BDNATN"

Book 1943-1234

2014032766 05/02/2014 14:39:54:737

Fee: \$6.00

County Tax: \$0.00

Assignment of Mortgage  
State Tax: \$0.00



2014032766 John T. Hopkins II

Richland County R.O.D.

58020.F43801

260 311  
420

EXHIBIT  
#  
2



401 312  
26T

Instrument: 2014019373

Book/Page: R 1933 : 1398

Date/Time: 03/20/2014 13:26:11:040

Document: 02

## Recording Requested By:

Bank of America, N.A.

When recorded mail to:

CoreLogic

Mail Stop: ASGN

1 CoreLogic Drive

Westlake, TX 76262-9823



DocID# 61287375919751376

Tax ID: 12100-04-23

Property Address:

406 Koons Door Rd

Columbia, SC 29203

SC0-AM 25499216 3/14/2014 NS0630D

Book 1933-1398

2014019373 03/20/2014 13:26:11:040

Fee: \$6.00 County Tax: \$0.00

Assignment of Mortgage

State Tax: \$0.00



2014019373 John T. Hopkins II

Richland County R.O.D.

This space for Recorder's use

## ASSIGNMENT OF MORTGAGE

For Value Received, the undersigned holder of a Mortgage (herein "Assignor") whose address is 1800 TAPO CANYON ROAD, SIMI VALLEY, CA 93063 does hereby grant, sell, assign, transfer and convey unto U.S. BANK, NATIONAL ASSOCIATION, AS TRUSTEE FOR THE HOLDERS OF THE BANC OF AMERICA FUNDING CORPORATION, 2008-FTI TRUST, MORTGAGE PASS-THROUGH CERTIFICATES, SERIES 2008-FTI whose address is C/O BAC, M/C: CA6-914-01-43, 1800 Tapo Canyon Road, Simi Valley, CA 93063 all beneficial interest under that certain Mortgage described below together with the note(s) and obligations therein described and the money due and to become due thereon with interest and all rights accrued or to accrue under said Mortgage.

Beneficiary:

BANK OF AMERICA, N.A.

Original Borrower(s):

RHONDA LEWIS MEISNER

Date of Mortgage:

8/13/2003

Original Loan Amount:

\$61,516.00

Recorded in Richland County, SC on: 8/18/2003, book 00838, page 2632 and instrument number 2003086123

IN WITNESS WHEREOF, the undersigned has caused this Assignment of Mortgage to be executed on

Dated: MAR 14 2014

Bank of America, N.A.

By:

Gloria Provencio  
Gloria Provencio  
Assistant Vice President

Witness:

Gina Sordia

Witness:

JAMES FORBESState of California  
County of Los AngelesOn MAR 14 2014

before me,

Sophie Neary Pok

Notary Public, personally appeared

Gloria Provencio

who proved to me on the basis of satisfactory evidence to be the person (s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public: Sophie Neary Pok  
My Commission Expires: July 30, 2015



403  
262 313



EXHIBIT  
#3



4/8/14  
263-314

Instrument: 2003086123

Book/Page: R 838 : 2632

Date/Time: 08/18/2003 17:08:39:267

Document: 01

Book 00838-2632

2003086123 08/18/2003 17:08:39:267  
Fee: \$14.00 County Tax: \$0.00 State Tax: \$0.00

Mortgage



2003086123 John G. Norris

Richland County ROD

**WHEN RECORDED MAIL TO:**

Bank of America Consumer Collateral Tracking, FL9-700-04-10  
9000 Southside Blvd, Bldg 700  
Jacksonville, FL 32256

**SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY****MORTGAGE**

**THIS MORTGAGE** dated August 13, 2003, is made and executed between RHONDA LEWIS MEISNER, whose address is 1 CHESTER RD, BLYTHEWOOD, SC 29016-8555 (referred to below as "Grantor") and Bank of America, N.A., whose address is 1301 Gervais St., Columbia, SC 29201 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages, grants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in RICHLAND County, State of South Carolina:

See Exhibit A, which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein:

The Real Property or its address is commonly known as 406 KOONS DOOR RD, COLUMBIA, SC 29203-0000.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

State of South Carolina

I certify that this is a true and correct copy

Date: 8/18/03

Register of Deeds  
Richland County

This document not to scale

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1/05

Loan No: 7022631449

**MORTGAGE  
(Continued)**

Page 2

**Removal of Improvements.** Grantor shall not demolish or remove any Improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any Improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such Improvements with Improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by South Carolina law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all Improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impeded in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$10,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed Improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**LENDER'S EXPENDITURES.** If Grantor fails (A) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims, (B) to provide any required insurance on the Property, or (C) to make repairs to the Property then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on Grantor's behalf may, but is not

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1/06

Loan No: 7022631449

**MORTGAGE  
(Continued)**

Page 3

required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Promises.** All promises, agreements, and statements Grantor has made in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature and shall remain in full force and effect until such time as Grantor's indebtedness is paid in full.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

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407  
317

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**MORTGAGE  
(Continued)**

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**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refilled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**EVENTS OF DEFAULT.** At Lender's option, Grantor will be in default under this Mortgage if any of the following happen:

**Payment Default.** Grantor fails to make any payment when due under the Indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Break Other Promises.** Grantor breaks any promise made to Lender or fails to perform promptly at the time and strictly in the manner provided in this Mortgage or in any agreement related to this Mortgage.

**False Statements.** Any representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Death or Insolvency.** The death of Grantor, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Taking of the Property.** Any creditor or governmental agency tries to take any of the Property or any other of Grantor's property in which Lender has a lien. This includes taking of, garnishing of or levying on Grantor's accounts with Lender. However, if Grantor disputes in good faith whether the claim on which the taking of the Property is based is valid or reasonable, and if Grantor gives Lender written notice of the claim and furnishes Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the Indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the Indebtedness.

**Insecurity.** Lender in good faith believes itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire Indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and, as mortgagee-in-possession, collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Sale.** If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

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**MORTGAGE  
(Continued)**

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**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Appraisal.** Grantor hereby waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Grantor in the event of foreclosure under this Mortgage.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled, in exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender will give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Election of Remedies.** All of Lender's rights and remedies will be cumulative and may be exercised alone or together. An election by Lender to choose any one remedy will not bar Lender from using any other remedy. If Lender decides to spend money or to perform any of Grantor's obligations under this Mortgage, after Grantor's failure to do so, that decision by Lender will not affect Lender's right to declare Grantor in default and to exercise Lender's remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, the amount owing on the indebtedness and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveys' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES.** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any person may change his or her address for notices under this Mortgage by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors. It will be Grantor's responsibility to tell the others of the notice from Lender.

**PAYMENT INFORMATION.** If you make a payment(s) before or after the due date, the amount of your final payment may be higher or lower than the original scheduled amount. We may accept late payments or partial payments, even though marked "Payment in Full" (or a similar notation). We may accept payments accompanied by a letter stating that acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Note. You will make all payments by check or money order, payable to us, drawn in U.S. dollars and payable through a U.S. financial institution or the U.S. Post Office. We will credit payments to this Note on the business day received if received before 2:00 P.M. at the location we specify or at one of our banking centers in the state of our address first described above. Otherwise, payments may not be credited to your loan for up to five (5) business days, even if payment is received under our arrangement with an affiliated bank to accept payments from our customers or at one of our ATMs. A business day is any day Monday through Friday that is not a legal holiday. Unless otherwise required by applicable law, to determine whether a late charge is due, we will apply any payment received to the oldest payment due.

**NOTITLED SPOUSES AND NON-BORROWER GRANTORS.** Any Grantor or Trustor who signs this Deed of Trust, Mortgage or Modification ("Security Instrument") but does not execute the Note or Credit Agreement ("Non-borrower Grantor or Trustor"): (a) is signing only to grant, bargain, sell and convey such Non-borrower Grantor's or Trustor's interest in the Property under the terms of this Security Instrument; (b) is not by signing becoming personally obligated to pay the Note or Credit Agreement; and (c) agrees that without such Non-borrower Grantor's or Trustor's consent, Lender and any other Grantor or Trustor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the obligation evidenced by the Note or the Credit Agreement ("Related Document").

Any spouse of a Grantor or Trustor who is not in title to the Property and who signs this Security Instrument: (a) is signing only to grant, bargain, sell and convey any marital and homestead rights of such spouse in the Property; (b) is not by signing becoming personally obligated to pay the Note or Credit Agreement; and (c) agrees that without such spouse's consent, Lender and any other Grantor or Trustor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of any Related Document.

Neither of the two foregoing sentences limit the liability of any Non-borrower Grantor or Trustor or signing spouse of a Grantor or Trustor, as applicable, under any guaranty agreement or other agreement by such person, whereby such person becomes liable for the indebtedness in whole or in part; both such sentences apply notwithstanding any language to the contrary in this Security Instrument or any of the Related Documents and apply only to the extent permitted by applicable law.



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**MORTGAGE  
(Continued)**

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**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** What is written in this Mortgage and in the Related Documents is Grantor's entire agreement with Lender concerning the matters covered by this Mortgage. To be effective, any change or amendment to this Mortgage must be in writing and must be signed by whoever will be bound or obligated by the change or amendment.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Governing Law.** This Mortgage will be governed by and interpreted in accordance with federal law and the laws of the State of South Carolina. This Mortgage has been accepted by Lender in the State of South Carolina.

**No Waiver by Lender.** Grantor understands Lender will not give up any of Lender's rights under this Mortgage unless Lender does so in writing. The fact that Lender delays or omits to exercise any right will not mean that Lender has given up that right. If Lender does agree in writing to give up one of Lender's rights, that does not mean Grantor will not have to comply with the other provisions of this Mortgage. Grantor also understands that if Lender does consent to a request, that does not mean that Grantor will not have to get Lender's consent again if the situation happens again. Grantor further understands that just because Lender consents to one or more of Grantor's requests, that does not mean Lender will be required to consent to any of Grantor's future requests. Grantor waives presentment, demand for payment, protest, and notice of dishonor. Grantor waives all rights of exemption from execution or similar law in the Property, and Grantor agrees that the rights of Lender in the Property under this Mortgage are prior to Grantor's rights while this Mortgage remains in effect.

**Severability.** If a court finds that any provision of this Mortgage is not valid or should not be enforced, that fact by itself will not mean that the rest of this Mortgage will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Mortgage even if a provision of this Mortgage may be found to be invalid or unenforceable.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of South Carolina as to all indebtedness secured by this Mortgage.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage:

**Borrower.** The word "Borrower" means RHONDA LEWIS MEISNER, and all other persons and entities signing the Note.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Grantor.** The word "Grantor" means RHONDA LEWIS MEISNER.

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Bank of America, N.A., its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Note.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated August 13, 2003, in the original principal amount of \$61,516.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is August 12, 2018.



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Loan No: 7022631449

**MORTGAGE**  
(Continued)

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**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

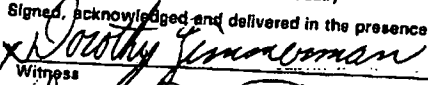
**Rents.** The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

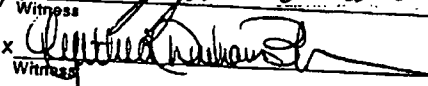
GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS. THIS MORTGAGE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS MORTGAGE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

GRANTOR:

  
RHONDA LEWIS MEISNER, individually (Seal)

Signed, acknowledged and delivered in the presence of:

x   
Witness

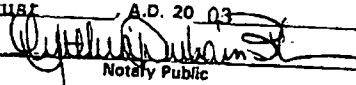
x   
Witness

**INDIVIDUAL ACKNOWLEDGMENT**STATE OF South CarolinaCOUNTY OF Richland

) SS

PERSONALLY appeared before me and made oath that he or she saw the within-named Grantor(s) sign, seal, and, as his or her act and deed, deliver the within-written Mortgage for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above, witnessed the execution thereof.

SWORN to before me this 13day of August, A.D. 20 03

  
Notary Public (Seal)

My Commission expires: 6-14-06

270 321



## Exhibit A

All that certain piece, parcel or lot of land, situate, lying and being on the southern side of Koon Store Road (S-40-61), north of the City of Columbia, in the County of Richland, State of South Carolina, being shown and delineated as Lot No. 9, containing one acre, on a plat prepared for Eberdease Thomas by Douglas E. Platt, Sr., Reg. Land Surveyor, dated May 9, 1979 and recorded in Plat Book Y at page 4038; said lot being bounded and measuring as follows: On the North by Koon Store Road measuring thereon 100 feet; on the East by Lot 10 measuring thereon 435.6 feet; on the South by property of Denny Hills North measuring thereon 100 feet; and on the West by Lot 8, property of Eberdease Thomas, measuring thereon 435.6 feet; be all measurements a little more or less; subject to easements and restrictions of record.

Tax Map #: 12100-04-23

This being the same property conveyed to the Mortgagor by deed of Federal Home Loan Mortgage Corporation dated 08/11/03 and recorded \_\_\_\_\_ in Record Book \_\_\_\_\_ at page \_\_\_\_\_ in the Office of the Register of Deeds for Richland County.

Richland County Register of Deeds

John T. Hopkins II

277 322  
4/12

# EXHIBIT #4



272 323  
413

Instrument: 2005076632

Book/Page: R 1101 : 2609

Date/Time: 09/23/2005 12:59:18.780

Document: 04

State of South Carolina

I certify that this is a true and correct copy

Dated: 10/14/2004

Register of Deeds  
Richland County**WHEN RECORDED MAIL TO:**Bank of America Consumer Collateral Tracking  
FL9-700-04-10  
9000 Southside Blvd. Bldg 700  
Jacksonville, FL 32256

Book 1101-2609

2005076632 09/23/2005 12:59:18.780

Mortgage

Fee: \$14.00 County Tax: \$0.00

State Tax: \$0.00



2005076632 John G. Norris

Richland County ROD

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

**MORTGAGE**

**THIS MORTGAGE** dated September 19, 2005, is made and executed between RHONDA LEWIS MEISNER, whose address is 1 CHESTER RD, BLYTHEWOOD, SC 29016-8555 (referred to below as "Grantor") and Bank of America, N.A., whose address is 1301 Gervais St., Columbia, SC 29201 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages, grants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in RICHLAND County, State of South Carolina:

See Exhibit A, which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 406 KOON STORE RD, COLUMBIA, SC 29203-0000. The Real Property tax identification number is 12100-04-23

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

**THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:**

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other

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party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

**Removal of Improvements.** Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond, reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by South Carolina law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for the Existing Indebtedness referred to in this Mortgage or those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property, if any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$10,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the Indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the Indebtedness. If Lender holds any proceeds after payment in full of the Indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

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**Compliance with Existing Indebtedness.** During the period in which any Existing Indebtedness described below is in effect, compliance with the insurance provisions contained in the instrument evidencing such Existing Indebtedness shall constitute compliance with the insurance provisions under this Mortgage, to the extent compliance with the terms of this Mortgage would constitute a duplication of insurance requirement. If any proceeds from the insurance become payable on loss, the provisions in this Mortgage for division of proceeds shall apply only to that portion of the proceeds not payable to the holder of the Existing Indebtedness.

**LENDER'S EXPENDITURES.** If Grantor fails (A) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims, (B) to provide any required insurance on the Property, (C) to make repairs to the Property or to comply with any obligation to maintain Existing Indebtedness in good standing as required below, then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on Grantor's behalf may, but is not required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the Indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in the Existing Indebtedness section below or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Promises.** All promises, agreements, and statements Grantor has made in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature and shall remain in full force and effect until such time as Grantor's Indebtedness is paid in full.

**EXISTING INDEBTEDNESS.** The following provisions concerning Existing Indebtedness are a part of this Mortgage:

**Existing Lien.** The lien of this Mortgage securing the Indebtedness may be secondary and inferior to an existing lien. Grantor expressly covenants and agrees to pay, or see to the payment of, the Existing Indebtedness and to prevent any default on such indebtedness, any default under the instruments evidencing such indebtedness, or any default under any security documents for such indebtedness.

**No Modification.** Grantor shall not enter into any agreement with the holder of any mortgage, deed of trust, or other security agreement which has priority over this Mortgage by which that agreement is modified, amended, extended, or renewed without the prior written consent of Lender. Grantor shall neither request nor accept any future advances under any such security agreement without the prior written consent of Lender.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the Indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the Indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the Indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the Indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

Richland County Register of Deeds

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**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall take whatever action is requested by Lender to perfect and continue Lender's security interest in the Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refiled, or rerecorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-in-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the Indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**DEFAULT.** Grantor will be in default if any of the following happens:

**Payment Default.** Grantor fails to make any payment when due under the Note.

**Other Payment Defaults.** Grantor fails to make any other payment when due under this Mortgage.

**Property.** The prospect of payment, performance, or realization of the Property is significantly impaired.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of an Event of Default and at any time thereafter but subject to any limitation in the Note or any limitation in this Mortgage, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Subject to any notice and cure provisions required by the South Carolina Consumer Protection Code, Lender shall have the right at its option to declare the entire Indebtedness immediately due and payable.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and, as mortgages-in-possession, collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the Indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the Indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the Indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Sale.** If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the Indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Appraisal.** Grantor hereby waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Grantor in the event of foreclosure under this Mortgage.

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**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender will give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Election of Remedies.** All of Lender's rights and remedies will be cumulative and may be exercised alone or together. An election by Lender to choose any one remedy will not bar Lender from using any other remedy. If Lender decides to spend money or to perform any of Grantor's obligations under this Mortgage, after Grantor's failure to do so, that decision by Lender will not affect Lender's right to declare Grantor in default and to exercise Lender's remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees and Lender's legal expenses whether or not there is a lawsuit, however not to exceed fifteen percent (15%) of the unpaid debt after default, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES.** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any person may change his or her address for notices under this Mortgage by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Grantor agrees to keep Lender informed at all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors. It will be Grantor's responsibility to tell the others of the notice from Lender.

**PAYMENT INFORMATION.** If you make a payment(s) before or after the due date, the amount of your final payment may be higher or lower than the original scheduled amount. We may accept late payments or partial payments, even though marked "Payment in Full" (or a similar notation). We may accept payments accompanied by a letter stating that acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Note. You will make all payments by check or money order, payable to us, drawn in U.S. dollars and payable through a U.S. financial institution or the U.S. Post Office. We will credit payments to this Note on the business day received if received before 2:00 P.M. at the location we specify or at one of our banking centers in the state of our address first described above. Otherwise, payments may not be credited to your loan for up to five (5) business days, even if payment is received under our arrangement with an affiliated bank to accept payments from our customers or at one of our ATMs. A business day is any day Monday through Friday that is not a legal holiday. Unless otherwise required by applicable law, to determine whether a late charge is due, we will apply any payment received to the oldest payment due.

**NONTITLED SPOUSES AND NON-BORROWER GRANTORS.** Any Grantor or Trustor who signs this Deed of Trust, Mortgage or Modification ("Security Instrument") but does not execute the Note or Credit Agreement ("Non-borrower Grantor or Trustor"): (a) is signing only to grant, bargain, sell and convey such Non-borrower Grantor's or Trustor's interest in the Property under the terms of this Security Instrument; (b) is not by signing becoming personally obligated to pay the Note or Credit Agreement; and (c) agrees that without such Non-borrower Grantor's or Trustor's consent, Lender and any other Grantor or Trustor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the obligation evidenced by the Note or the Credit Agreement ("Related Document").

Any spouse of a Grantor or Trustor who is not in title to the Property and who signs this Security Instrument: (a) is signing only to grant, bargain, sell and convey any marital and homestead rights of such spouse in the Property; (b) is not by signing becoming personally obligated to pay the Note or Credit Agreement; and (c) agrees that without such spouse's consent, Lender and any other Grantor or Trustor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of any Related Document.

Neither of the two foregoing sentences limit the liability of any Non-borrower Grantor or Trustor or signing spouse of a Grantor or Trustor, as applicable, under any guaranty agreement or other agreement by such person, whereby such person becomes liable for the indebtedness in whole or in part; both such sentences apply notwithstanding any language to the contrary in this Security Instrument or any of the Related Documents and apply only to the extent permitted by applicable law.

**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** What is written in this Mortgage and in the Related Documents is Grantor's entire agreement with Lender concerning the matters covered by this Mortgage. To be effective, any change or amendment to this Mortgage must be in writing and must be signed by whoever will be bound or obligated by the change or amendment.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

277 308

Loan No: 7023007466

**MORTGAGE  
(Continued)**

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**Governing Law.** This Mortgage will be governed by and interpreted in accordance with federal law and the laws of the State of South Carolina. This Mortgage has been accepted by Lender in the State of South Carolina.

**No Waiver by Lender.** Grantor understands Lender will not give up any of Lender's rights under this Mortgage unless Lender does so in writing. The fact that Lender delays or omits to exercise any right will not mean that Lender has given up that right. If Lender does agree in writing to give up one of Lender's rights, that does not mean Grantor will not have to comply with the other provisions of this Mortgage. Grantor also understands that if Lender does consent to a request, that does not mean that Grantor will not have to get Lender's consent again if the situation happens again. Grantor further understands that just because Lender consents to one or more of Grantor's requests, that does not mean Lender will be required to consent to any of Grantor's future requests. Grantor waives presentment, demand for payment, protest, and notice of dishonor. Grantor waives all rights of exemption from execution or similar law in the Property, and Grantor agrees that the rights of Lender in the Property under this Mortgage are prior to Grantor's rights while this Mortgage remains in effect.

**Severability.** If a court finds that any provision of this Mortgage is not valid or should not be enforced, that fact by itself will not mean that the rest of this Mortgage will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Mortgage even if a provision of this Mortgage may be found to be invalid or unenforceable.

**Merger.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of South Carolina as to all indebtedness secured by this Mortgage.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage:

**Borrower.** The word "Borrower" means RHONDA LEWIS MEISNER and includes all co-signers and co-makers signing the Note.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Existing Indebtedness.** The words "Existing Indebtedness" mean the indebtedness described in the Existing Liens provision of this Mortgage.

**Grantor.** The word "Grantor" means RHONDA LEWIS MEISNER.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Bank of America, N.A., its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Note.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated September 19, 2005, in the original principal amount of \$30,364.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is September 15, 2020.

**Personal Property.** The words "Personal Property" mean all equipment, fixtures, and other articles of personal property now or hereafter owned by Grantor, and now or hereafter attached or affixed to the Real Property; together with all accessions, parts, and additions to, all replacements of, and all substitutions for, any of such property; and together with all proceeds (including without limitation all insurance proceeds and refunds of premiums) from any sale or other disposition of the Property.

**Property.** The word "Property" means collectively the Real Property and the Personal Property.

**Real Property.** The words "Real Property" mean the real property, interests and rights, as further described in this Mortgage.

**Related Documents.** The words "Related Documents" mean all promissory notes, credit agreements, loan agreements, environmental agreements, guaranties, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments,

Richland County Register of Deeds

John T. Hopkins II

278 419 329



Loan No: 7023007466

**MORTGAGE  
(Continued)**

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agreements and documents, whether now or hereafter existing, executed in connection with the indebtedness.

Rents. The word "Rents" means all present and future rents, revenues, income, issues, royalties, profits, and other benefits derived from the Property.

GRANTOR ACKNOWLEDGES HAVING READ ALL THE PROVISIONS OF THIS MORTGAGE, AND GRANTOR AGREES TO ITS TERMS.

GRANTOR:

*Rhonda Lewis Meisner*  
 RHONDA LEWIS MEISNER

Signed, acknowledged and delivered in the presence of:

X *Don E. Lafaye*  
 Witness

X *DeAnna Rock*  
 Witness

**INDIVIDUAL ACKNOWLEDGMENT**STATE OF South Carolina

)

) SS

COUNTY OF Richland

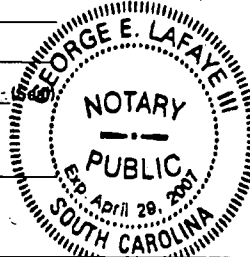
)

PERSONALLY appeared before me and made oath that he or she saw the within-named Grantor(s) sign, seal, and, as his or her act and deed, deliver the within-written Mortgage for the uses and purposes therein mentioned, and that he or she with the other witness subscribed above witnessed the execution thereof.

*DeAnna Rock*  
 (Witness)

SWORN to before me this 19thday of September, A.D. 2005

*Don E. Lafaye*  
 Notary Public

My Commission expires: 4-29-07

LASER PRO Lending, Ver. 5.14.10.102 Copy: Notary Public Seal, Inc. 1997, 2005. All Rights Reserved. C:\NCP\7023007466\FC TR-25728942 PB-24007

Richland County Register of Deeds

John T. Hopkins II

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Instrument: 2005076632

Book/Page: R 1101: 2616

DateTime: 09/23/2005 12:59:18:780

Document: 04

## EXHIBIT "A"

ALL THAT CERTAIN PIECE, PARCEL OR LOT OF LAND, SITUATE, LYING AND BEING ON THE SOUTHERN SIDE OF KOON STORE ROAD (S-40-61), NORTH OF THE CITY OF COLUMBIA, IN THE COUNTY OF RICHLAND, STATE OF SOUTH CAROLINA, BEING SHOWN AND DELINEATED AS LOT NO. 9, CONTAINING ONE ACRE, ON A PLAT PREPARED FOR EBERDEASE THOMAS BY DOUGLAS E. PLATT, SR., REG. LAND SURVEYOR, DATED MAY 9, 1979 AND RECORDED IN PLAT BOOK Y AT PAGE 4038; SAID LOT BEING BOUNDED AND MEASURING AS FOLLOWS: ON THE NORTH BY KOON STORE ROAD MEASURING THEREON 100 FEET; ON THE EAST BY LOT 10 MEASURING THEREON 435.6 FEET; ON THE SOUTH BY PROPERTY OF DENNY HILLS NORTH MEASURING THEREON 100 FEET; AND ON THE WEST BY LOT 8, PROPERTY OF EBERDEASE THOMAS, MEASURING THEREON 435.6 FEET; BE ALL MEASUREMENTS A LITTLE MORE OR LESS; SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

This being the same property conveyed to Rhonda Lewis Meisner by deed of Federal Home Loan Mortgage Corporation dated August 13, 2003, recorded August 18, 2003 in Record Book 838, page 2632.

TMS# 12100-04-23

Richland County Register of Deeds

John T. Hopkins II

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280 1/4

## PROMISSORY NOTE

ACCOUNT NUMBER 7022631449

**Borrower:** RHONDA LEWIS MEISNER  
1 CHESTER RD  
BLYTHEWOOD, SC 29016-8555

**Lender:** Bank of America, N.A.  
c/o South Carolina Main Office  
1301 Gervais St.  
Columbia, SC 29201



**Principal Amount:** \$61,516.00

**Interest Rate:** 5.400%

**Date of Note:** August 13, 2003

**PROMISE TO PAY.** I ("Borrower") promise to pay to Bank of America, N.A. ("Lender"), or order, in lawful money of the United States of America, the principal amount of Sixty-one Thousand Five Hundred Sixteen & 00/100 Dollars (\$61,516.00), together with interest at the rate of 5.400% per annum on the unpaid principal balance from August 13, 2003, until paid in full.

**PAYMENT.** I will pay this loan in 179 payments of \$499.46 each payment and an irregular last payment estimated at \$500.22. My first payment is due September 12, 2003, and all subsequent payments are due on the same day of each month after that. My final payment will be due on August 12, 2018, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. Interest on this Note is computed on a 365/365 simple interest basis; that is, by applying the ratio of the annual interest rate over the number of days in a year, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**PREPAYMENT.** I may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will relieve me of my obligation to continue to make payments under the payment schedule and will be applied to the next - due payment(s). If a prepayment is insufficient to meet the entire requirements of a particular future installment then I shall be obligated to pay such portion of the installment not covered by the partial prepayment. My obligation to continue to make regular payments under the payment schedule will resume with the next payment coming due after all early payments have been applied. Early payments will reduce the principal balance due and may result in my making fewer payments. I agree not to send Lender payments marked "paid in full", "without recourse" or similar language. If I send such a payment, Lender may accept it without losing any of Lender's rights under this Note, and I will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any checks or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to Lender at the address shown on my coupon book or statement.

**LATE CHARGE.** If a payment is 10 days or more late, I will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$12.50, whichever is less.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note to 18.000% per annum. The interest rate will not exceed the maximum rate permitted by applicable law.

**DEFAULT.** I will be in default under this Note if any of the following happen:

**Payment Default.** I fail to make any payment when due under this Note.

**Break Other Promises.** I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Note or in any agreement related to this Note, or in any other agreement or loan I have with Lender.

**False Statements.** Any representation or statement made or furnished to Lender by me or on my behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished.

**Death or Insolvency.** Any Borrower dies or becomes insolvent; a receiver is appointed for any part of my property; I make an assignment for the benefit of creditors; or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

**Taking of the Property.** Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, or levying on my accounts with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

**Defective Collateralization.** This Note or any of the related documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Collateral Damage or Loss.** Any collateral securing this Note is lost, stolen, substantially damaged or destroyed and the loss, theft, substantial damage or destruction is not covered by insurance.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Insecurity.** Lender in good faith believes itself insecure.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then I will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if I do not pay. I will pay Lender that amount. This includes Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on this Note and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

**JURY WAIVER.** Lender and I hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or me against the other.

**GOVERNING LAW.** This Note will be governed by and interpreted in accordance with federal law and the laws of the State of South Carolina. This Note has been accepted by Lender in the State of South Carolina.

**DISHONORED ITEM FEE.** I will pay a fee to Lender of \$20.00 if I make a payment on my loan and the check or preauthorized charge with which I pay is later dishonored.

**COLLATERAL.** I acknowledge this Note is secured by the following collateral described in the security instrument listed herein, all the terms and

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# **PROMISSORY NOTE** (Continued)

Loan No: 7022631449

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conditions of which are hereby incorporated and made a part of this Note: a Mortgage dated August 13, 2003, to Lender on real property located in RICHLAND County, State of South Carolina.

**PROPERTY REQUIREMENTS.** If this Note is secured by real or personal property (the "Collateral"), you will do all things required under the Collateral agreement. If we incur an expense because you do not fulfill all the obligations of this Note, or if you or another party do not fulfill all obligations under the Collateral agreement, you will pay those expenses under this Note. If this Note is secured by insurable real or personal Collateral, you agree to obtain and keep maintained, or cause to be obtained and maintained, property insurance, flood insurance (if applicable) and any other insurance required by us for the Collateral in an amount described in the Collateral agreement. You will pay the charge for such insurance, which may be subject to interest at the rate described in this Note. We have the option to reschedule your regular payments for the remaining term (thus increasing the regularly scheduled payment to incorporate the amount of insurance premium plus finance charges on the premium), require a lump sum payment at the maturity of this Note, or demand payment of the premium for this insurance.

**PAYMENT INFORMATION.** If you make a payment(s) before or after the due date, the amount of your final payment may be higher or lower than the original scheduled amount. We may accept late payments or partial payments, even though marked "Payment in Full" (or a similar notation). We may accept payments accompanied by a letter stating that acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Note. You will make all payments by check or money order, payable to us, drawn in U.S. dollars and payable through a U.S. financial institution or the U.S. Post Office. We will credit payments to this Note on the business day received if received before 2:00 P.M. at the location we specify or at one of our banking centers in the state of our address first described above. Otherwise, payments may not be credited to your loan for up to five (5) business days, even if payment is received under our arrangement with an affiliated bank to accept payments from our customers or at one of our ATMs. A business day is any day Monday through Friday that is not a legal holiday. Unless otherwise required by applicable law, to determine whether a late charge is due, we will apply any payment received to the oldest payment due.

**AUTOMATIC PAYMENT AND RESERVATION OF RIGHTS.** If you choose to have payments made from a designated account and have arranged with us to do so, we will automatically draft the payment. Drafts will be made on the payment due date or immediately after the payment due date (if the payment due date is on a Saturday, Sunday or legal holiday). If your account does not contain the payment amount due, you understand that it is your obligation without notice from us to make the full payment. Even if you make a manual payment an automatic payment will be drafted from your designated account, unless you make such manual payment for the full payment due at least three (3) business days prior to the due date; however, if you make less than a full manual payment at least three (3) business days prior to the due date, only the remaining amount currently due will be drafted. To stop an automatic draft, you must contact us at least three (3) business days prior to the scheduled payment draft date. We may accept late payments, partial payments or checks and money orders marked "payment in full" (or similar notations) or payments accompanied by a letter stating that our acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Agreement.

**MISCELLANEOUS.** If this Note or Agreement represents a renewal, modification, extension, substitution or consolidation of an obligation owed to us, then you acknowledge and agree that there are no claims, setoffs, avoidances, counterclaims or defenses or rights to claims, setoffs, avoidances, counterclaims or defenses to payment or enforcement of the prior obligation. You agree that if this Note or Agreement is in default, including the failure to make the Minimum Payment by the due date, you will accept calls regarding the collection of this Note or Agreement at any residence or place of employment. The calls can be automatically dialed and a recorded message may be played. You agree such calls will not be "unsolicited" calls for purposes of any federal, state or local law. To improve customer service and security, telephone communications with you may be monitored and recorded. You agree that monitoring or recording may be done and that no additional notice to you or additional approval from you is needed. You authorize us, our parent company, Bank of America Corporation (or any successor company) and Bank of America Corporation's affiliates and subsidiaries ("Affiliates") to: (a) obtain other information deemed necessary concerning the granting and maintaining of this Note or Credit Line Account, including the obtaining of credit bureau and other reports concerning your credit experience and other information from credit reporting agencies, creditors, any department of motor vehicles or similar state agency, your employer (past, present and future) and other persons (and all such entities may release and/or verify such information to us at any time without notification to you or without your consent), and (b) share information with our Affiliates, except to the extent that you have opted out of such sharing as provided in our Privacy Policy for Consumers. This Note or Agreement constitutes the entire understanding and agreement between the parties as to the matters set forth in this Note or Agreement and supercedes all prior understandings and correspondence, oral or written, with respect to the subject matter hereof. We reserve the right to defer or delay the date certain changes are to occur without notice and without being liable for any such deferment or delay. A court decree for divorce or separation or a non-court approved mutual agreement does not affect, eliminate or reduce any person's liability for the Note or Credit Line balance if we are not a party to the decree or agreement. Notwithstanding any other provision contained in the Note or this Agreement, we do not intend to charge, and you shall not be required to pay, any amount of finance charge or fee more than the maximum permitted by applicable law. Any payment in excess of the maximum shall be refunded to you or credited against principal, at our option. If this Note or CreditLine Agreement is a renewal of a prior Note or CreditLine Agreement, then it is the intent of the parties that the Note or CreditLine Agreement evidencing the original extension of credit not be extinguished by the renewal. It is further the intent of the parties that no novation shall occur by the renewal of such extension of credit. Our records shall be evidence of whether this Note or CreditLine Agreement is a renewal. The word "you" shall also mean Borrower. The word "we" shall also mean Lender.

**ADDITIONAL GENERAL PROVISIONS.** We reserve the right to waive or reduce any or all fees from time to time in our sole discretion without notice. Unless required by law, we need not pay any refund if the amount is less than one dollar (\$1.00). Acceptance of partial payments or partial performance shall not operate as a waiver of any requirement under this Note. Any notice from us shall be deemed to be reasonable if mailed to your address at least five (5) calendar days before the time of the event to which such notice relates. It is your sole and exclusive responsibility to determine any and all aspects of federal, state and local tax law regarding the deduction of interest and costs on this Note. You should consult a tax advisor regarding the deductibility of interest and costs incurred under this Note. We have not provided and do not provide tax advice of any kind. At any time, we may assign or transfer this Note to another person or entity and the assignee will have all of our rights under this Note. You cannot assign or transfer any of your rights or responsibilities under this Note.

**RIGHT OF SETOFF.** Borrower agrees and authorizes Lender, upon an event of default occurring and to the extent allowed by applicable law, to charge, withdraw or set off all sums owed under this Note or Agreement against any of Borrower's deposits and accounts or securities now or hereafter in the possession of or on deposit with Lender or any Bank of America Corporation affiliate or subsidiary, including without limitation all accounts held jointly with someone else and all accounts Borrower may open in the future (excluding all IRA, Keogh and trust accounts), without prior notice to or demand on Borrower and, at Lender's option, administratively to freeze all such accounts to allow Lender to protect Lender's rights provided in this paragraph. Borrower hereby grants to Lender a contractual possessory security interest in such accounts, and hereby assigns, conveys, delivers, pledges and transfers to Lender all of Borrower's rights, title and interest in such accounts.

**BORROWERS PROTECTION PLAN.** (Borrowers Protection Plan is a registered trademark of Bank of America Corporation.) If you selected the optional Borrowers Protection Plan, each of the Borrowers covered by the Plan must sign the Optional Borrowers' Protection Plan Addendum, which is made a part of and incorporated into this Note. Interest is not charged on the fees for Borrowers Protection Plan.

**FL LOANS ONLY: BOOKING/MAINTENANCE FEE.** A portion of the Bank Fee (an amount equal to the lesser of \$50 or 2% of the Amount of the Note), if any, disclosed in the Itemization of Amount Financed, is a booking/maintenance fee as provided by Florida Statutes, Section 658.49 (as

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**PROMISSORY NOTE  
(Continued)**

Loan No: 7022631449

Page 3

amended from time to time). Any amount above the booking/maintenance fee is either a loan or an origination fee. All fees, charges and other expenses of this loan (if this Promissory Note is secured by real property) are authorized pursuant to Chapter 665, Florida Statutes and Chapter 687.12, Florida Statutes.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words: "I", "me", and "my" mean each and all of the persons signing below.

**PRIOR TO SIGNING THIS NOTE, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. I AGREE TO THE TERMS OF THE NOTE.**

**I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.**

**THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.**

**BORROWER:**

x  (Seal)  
RHONDA LEWIS MEISNER, Individually

LASER PRO Lending, Inc. 8.21.00.107 Copy: Portland Promissory Note, Inc. 1997, 2001. All Rights Reserved. - SC C:\CRIC\PL\LD\PL\PC TR-70463396 PH LMDRT

PAY TO THE ORDER OF

WITHOUT RECOURSE

Bank of America, N.A.

BY

  
CHRISTINA M. SCHMITT  
ASSISTANT VICE PRESIDENT

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283

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of the Banc of America  
Funding Corporation, 2008-FTI,

Plaintiff,

vs.

Rhonda Meisner; Bank of America, N.A.;  
South State Bank

Defendant.

IN THE COURT OF COMMON PLEAS  
5th JUDICIAL CIRCUIT

CASE NO.: 2014-CP-40-2063

MOTION AND ORDER INFORMATION

FORM AND COVERSHEET

RICHLAND COUNTY  
FILED  
2019 NOV 18 PM 2:34  
JEANETTE W. McBRIDE  
C.C.P., S.S., & J.C.

Plaintiff's Attorney:

Magalie Arcure, Bar No. n/a

Address:

4000 Faber Place Drive, Suite 450 North  
Charleston, SC 29405

Phone: Fax

E-mail: Other:

Defendant's Attorney:

Rhonda Meisner, Bar No. n/a

Address:

PO Box 689 Blythewood, SC 29016

Phone: (803)206-3402 Fax

E-mail: pegasus333@icloud.com Other:

☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)

☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)

☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)

SECTION I: Hearing Information

Nature of Motion: Motion to Alter and Amend

Estimated Time Needed: 1 hour

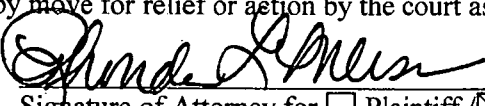
Court Reporter Needed: ☒ YES/☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

  
Signature of Attorney for ☐ Plaintiff / ☒ Defendant

11/18/2019

Date submitted

SECTION III: Motion Fee

☒ PAID - AMOUNT: \$

☐ EXEMPT:

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCF)

☐ Proposed order submitted at request of the court; or,  
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: \_\_\_\_\_

☐ Other: \_\_\_\_\_

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached  
order.

☐ Other:

JUDGE CODE \_\_\_\_\_

Date: \_\_\_\_\_

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CLERK'S VERIFICATION

Collected by: \_\_\_\_\_ Date Filed: \_\_\_\_\_

☐ MOTION FEE COLLECTED: \$ \_\_\_\_\_

☐ CONTESTED - AMOUNT DUE: \$ \_\_\_\_\_

paid  
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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MOTION TO ALTER AND AMEND  
PURSUANT TO SCRPC RULE 59 (e)

MOTION HEARING REQUESTED

2019 NOV 18 PM 2:34  
JENNIFER M. McBRIDE  
Clerk, P., S., & F.C.

RICHLAND COUNTY  
FILED

Now comes the defendant, Rhonda Meisner asking to alter and amend the judgment in this case pursuant to SCRPC Rule 59 (e). The defendant received notice of entry of the judgment on November 8, 2019. This motion is filed within 10 days of notice and based on the following as previously advanced in memorandum, supporting evidence in defense and oral argument at the summary judgment hearing:

1. The motion for summary judgment was made at a time that the Circuit Court did not have jurisdiction and a motion after jurisdiction was re-obtained was not made based on the timing of the remittitur.
2. The plaintiff is US Bank, as argued, does not have standing and/or standing of the plaintiff is contested based on Bank of America, N.A.s representations in other cases. Additionally, the affidavit was presented by the servicer who was not the plaintiff.
3. The Plaintiff does not have a right to attorney's fees based on the contract, did not submit an itemized attorney's fees affidavit, and the affidavit submitted was on behalf of the servicer and not the plaintiff, who is a non-party, as such, it appears that the plaintiff has



not made a proper request for attorneys fees even if they were available pursuant to the contract.

4. As argued, the co-defendant did not satisfy the mortgage and as such is liable for treble damages. As represented during the hearing, as of the date of the hearing the mortgage was not satisfied. While Ms. Arcure argued the foreclosure takes away the mortgage, this argument does not supplant the fact the credit and lien on the property as not satisfied prejudiced the defendant, Rhonda Meisner for which Bank of America ,N.A. is liable under South Carolina law. Additionally, the co-defendant did not attend the hearing therefore, the defendant Rhonda Meisner's representations were left unchallenged which should award damages to Ms. Meisner The Order stated:

Jacob S. Barker, Esquire, attorney for Defendant Bank of America, N.A. ("BANA"), served an Answer on Plaintiff which is on file herein. Defendant BANA admits that it has an interest in the subject property by virtue of that certain mortgage from Rhonda Lewis Meisner, dated September 19, 2005, and recorded September 23, 2005, in Book 1101 at Page 2609.

5. Bank of America, N.A. did not rejoin the motion for summary judgment filed in April of this year. Therefore, at the hearing Bank of America's, lack of appearance should have resulted in the defendant Rhonda Meisner's award of the statutory treble damages for failure to file a satisfaction of mortgage which was the testimony during the hearing. Additionally, because Bank of America, N.A. was the predecessor in title and an affidavit

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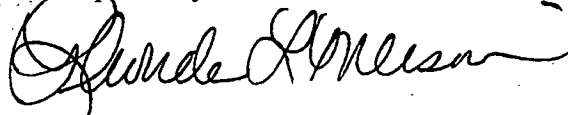
was attached and filed on August 2, 2019. This created a material issue of fact as to whether Bank of America, N.A. breached the agreement before transferring the note; therefore, making US Bank a third-party debt collector.

6. On September 13, 2019 the defendant made objections to the statement of indebtedness that precludes foreclosure.
7. Additionally, based on the contract the attorney's fees are excessive because they were not calculated pursuant to the contract and include appeal fees that were not applied for timely.
8. Whether defendant Meisner was required to "re-negotiate" terms of the contract that were drafted by the co-defendant Bank of America, N. A. is an issue of material fact. Bank of America, N.A. could have made the contract to draft outside of the note document, but failed to do so; therefore, as a required portion of the assumed contract, the same terms apply.
9. BANA's joinder for summary judgment was not re-alleged in the instant summary judgment motion; instead, US bank requested summary judgment in the current instance without BANA's joinder. Additionally, the defendant testified that although the 2005 mortgage was paid off it was still unsatisfied as of the date of the summary judgment hearing; therefore, summary judgment was appropriate to the defendant Rhonda Meisner and not BANA because they did not properly join the renewed summary judgment motion and therefore did not defend this claim.
10. Because the cross claims against BANA require BANA to pay defendant Meisner the equitable right of foreclosure is lost against BANA and therefore against US Bank.
11. The defendant specifically contested the attorney fees by not only filed objections but also noted the fees are exorbitant and were awarded outside of the contract. The Defendant specifically stated the contract allowed attorneys fees for BANA but not its predecessor in title. Additionally, the request for attorneys' fees did not include an

- itemization of charges, so that the *Jackson v. Speed* factors could be considered. Finally, the defendant specifically made objections to the fees in her objections to fees and costs.
12. The defendant also argued the hazard insurance was issued at a time when she possessed insurance and therefore should be disallowed.
13. The defendant incorporates all the arguments in the record and on appeal and specifically requests this Court to review the grant of summary judgment based on the non-attendance and the non-joinder of BANA and South State Bank in the motion for summary judgment.
14. The affidavit of indebtedness and the final calculations do not match. Additionally, the affidavit was given by the servicer who is not a party to the case and therefore cannot request attorneys' fees on behalf of non-party.
15. The South State Bank judgments are still on appeal and should not be awarded in this case.
16. The scheduled sale does not comply with South Carolina foreclosure statutes in that it is scheduled prior to 30 days of judgment.

November 18, 2019

Respectfully Submitted,



Rhonda Meisner  
PO Box 689  
Blythewood, SC 29016  
(803)206-3402  
Pegasus333@icloud.com

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MEMORANDUM IN OPPOSITION TO  
SUMMARY JUDGMENT  
HEARING REQUESTED

FILED  
JUL 25 2019  
C.C.P., G.S., & F.C.

2019 AUG -2 PM 3:29

RICHLAND COUNTY  
FILED

The Defendant, counter-claimant and cross claimant Rhonda Meisner respectfully requests a hearing on the motion for summary judgment and submits this memorandum in opposition to summary judgment out of an abundance of caution because the remittur has only recently been sent by the appellate courts so that the lower courts have subject matter jurisdiction. The defendant argues there is not a properly filed motion for summary judgment in this case due to the fact the plaintiff filed the motion at a time the lower courts did not have jurisdiction and a subsequent summary judgment.

As such, the motion for summary judgment was filed at a time the defendant argues the lower courts did not have jurisdiction of the case. To the knowledge of the defendant the motion has not been re-filed once the Court had jurisdiction remitted.

Second, the plaintiff U.S. Bank has made a motion for summary judgment which is conclusory without attaching a memorandum in support or evidence to support the motion. Summary judgment is appropriate once the moving party has met its burden of showing there is no question of material fact and the non-moving party has not put forth evidence to contradict the assertion. *Sides v. Greenville Hosp. Sys.*, 362 S.C. 250, 255, 607 S.E. 2d 362, 364 (Ct. App.

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2004). Therefore, the motion should be summarily dismissed as U.S. Bank has not carried the initial burden of proving summary judgment is appropriate because U.S. Bank has not attached the requisite evidence to the motion.

The motion for summary judgment was made prior to the remittur being returned to the circuit court; therefore the motion and the required response was filed when there was no jurisdiction of the lower courts. See Rule 204, SCACR. The appellate court retained jurisdiction of the case until the remittitur was issued and the proceedings were returned to the circuit court. *Muller v. Myrtle Beach Golf and Yacht Club*, 313 S.C. 412, 438 S.E. 2d 248 (1993).

Additionally, because the plaintiff U.S. Bank and Bank of America, N.A. have conflicting accounts of when the note and mortgage were transferred from Bank of America, N.A. to U.S. Bank, it is unclear if U.S. Bank even has standing to pursue the action before the Court based on Bank of America's representations to the Court in filings and answers to interrogatories. Conflicting claims of ownership creates a material issue of fact which requires the services of a fact finder which precludes summary judgment.

#### **Argument in opposition of Summary Judgment**

This matter is before the Court on Plaintiff's motion for summary judgment pursuant to Rule 56 (c), SCRCP.

The grant of summary judgment is appropriate when there are no genuine issues of material fact and it is clear the moving party is entitled to judgment as a matter of law. Rule 56

(c) SCRCP. Whether there are triable issues of fact, the evidence must be viewed in the light most favorable to the non-moving party. *Koester v Carolina Rental Ctr*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). "[s]ummary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those

facts." *Gignilliat v. Gignilliat, Savitz & Bettis, L.L.P.*, 385 S.C. 452, 456, 684 S.E.2d 756, 758 (2009) (quoting *Brockbank*, 341 S.C. at 378, 534 S.E.2d at 692).

The South Carolina Supreme Court has held that the non-moving party, in cases that do not involve a federal question, is required to submit only 'a mere scintilla' of evidence in order to withstand a summary judgment challenge. *Hancock v. Mid-South Management Co. Inc.*, 673 S.E. 2d 801, 381 S.C. 326. (1994). The defendant has met this burden; therefore, summary judgment must be denied.

Here, Bank of America, N.A., U.S. Bank's predecessor in interest in the note and mortgage associated with the above entitled foreclosure action has claimed an interest in the note and mortgage via filings in a related case. (See: 2013-CP-40-7144). The filings before the Court by U.S. Bank suggests that Bank of America, N.A. transferred ownership of the note and mortgage via an assignment in April of 2014; however, the transfer was notarized a day later which does not comport with South Carolina law. That is, the transfer occurred on April 2, 2014 but was notarized on April 3, 2014. Even if the disparity is a scrivener's error, in over two years the Bank has not attempted to correct the error. Additionally, Bank of America, N.A. has submitted that the transfer occurred in 2013 which creates a material issue of fact as to who the proper party is for purposes of real party in interest and who has the right to foreclose if any such right exists. Additionally, the conflicting claims of the co-defendant and the plaintiff create a material issue of fact whether the plaintiff, who filed the motion for summary judgment is entitled to relief as an entity with standing to pursue the relief.

Summary judgment is a drastic remedy and should be invoked cautiously so that no person will be improperly deprived of a trial. *Baughman v. American Tel. & Tel Co.*, 306 S.C. 101, 112, 410 S.E. 2d 537 543 (1991). This means that summary judgment must not be granted

until the opposing party has had a full and fair opportunity to complete discovery. *Id. Doe Ex Rel. Doe v. Batson*, 548 S.E. 2d 854 (S.C. 2001).

Here, just as in *Doe*, discovery is outstanding and a motion to compel has been filed against Bank of America, N.A. and therefore the grant of summary judgment is premature and precluded as to the cross claims against Bank of America, N.A. Bank of America, N.A. has also claimed an ownership interest in a loan that was previously paid in full but never satisfied. As such, the determination of whether the loan was satisfied requires the services of a fact finder.

The plaintiff claims that the account was not paid as agreed. The defendant craves reference to the actual note executed by Bank of America and Rhonda Meisner and argues the defendant did not change or alter the agreement for repayment; however, Bank of America and U.S. Bank did alter the terms by not complying with the agreement.

#### **SUMMARY JUDGMENT ON COUNTER CLAIMS**

The Plaintiff has not put forth the requisite evidence attached to the summary judgment motion in the form of affidavits and/or other evidence on the counterclaims for the Court to rule on summary judgment of the counterclaims. In fact, the evidence in the case file specifically evidences summary judgment is not appropriate as to the counterclaims based on the filings of the defendants. To wit, all of the elements have been pled for Abuse of process, breach of contract, breach of contract accompanied by a fraudulent act.

The defendant respectfully requests the Court to inquire if there was actual consideration for the transfer of the note into U.S. Bank and whether this transfer was legal based on the trust guidelines.

The defendant respectfully requests the Court to inquire whether the breach in the terms of the note contract allow for foreclosure as an equitable remedy.

The defendant requests the Court to inquire whether the breach in the terms of the note contract allow a subsequent owner to foreclose when the subsequent owner breached the terms of the note as well and whether foreclosure is an equitable remedy.

The defendant requests the Court to declare the plaintiff a third party debt collector under the UCC based on the plaintiff's own pleadings.

The defendant craves reference to the record to show the counterclaim of abuse of process cannot be dismissed on summary judgment.

The South Carolina Supreme Court has made clear that a Bank's failure to enter satisfaction of a mortgage (even for a home equity line of credit) exposes the Bank to liability for its failure to satisfy the mortgage. *Regions Bank v. Strawn*, Opinion No. 27555 Heard Sept. 23, 2014 filed August 5, 2015. Here, because the liability of Bank of America, N.A. may exceed any claim Bank of America, N.A. has to monies owed, summary judgment is inappropriate. In fact, since Bank of America, N.A. was the drafter and previous owner of the note and mortgage that was transferred unto U.S. Bank and is the subject of this controversy, the amount owed on the cross claims must be adjudicated before the Court can determine if any amount is owed to both the plaintiff and the cross claimant. Violations of S.C. Code Ann. 29-3-310 creates liability for punitive damages under S.C. Code 29-3-320 pursuant to *Strawn. Id.*

The questions of material fact as to which entity owns the note and mortgage (U.S. Bank or Bank of America, N.A.) creates a material issue of fact and precludes summary judgment. The defendant further argues the motion for summary judgment should be stayed because the referral to the master in equity is under appeal based on the mode of trial. Additionally, the defendants have argued the right to a jury trial is interlocutory and should be determined after the conclusion of the trial. As such, it is possible that once the Master in Equity hears the evidence before it, the



case may still be remanded. The defendant respectfully reserves to enter additional evidence in support of the denial of summary judgment during the hearing.

Respectfully Submitted,

*Rhonda L Meisner*

Rhonda Meisner

PO Box 689

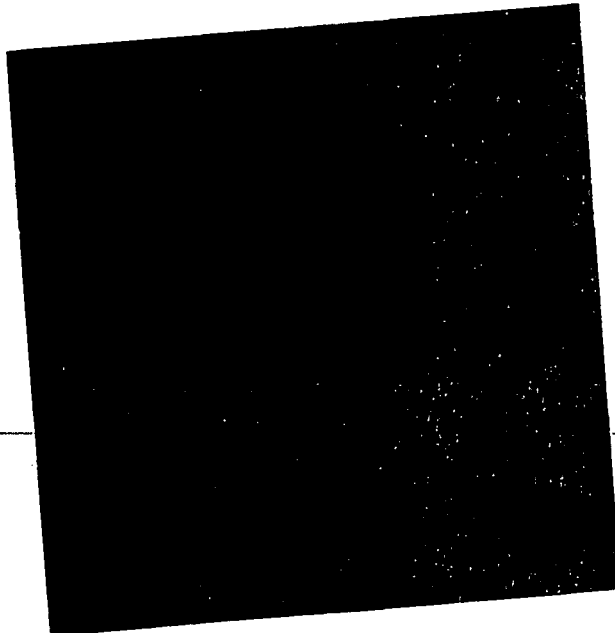
Blythewood, SC 29016

pegasus333@icloud.com

(803)206-3402

~~July 30, 2019~~

*August 2, 2019*



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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of the Banc of America  
Funding Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

DECLARATION/AFFIDAVIT  
SUBMITTED UNDER PENALTY OF  
PERJURY IN OPPOSITION TO SUMMARY  
JUDGMENT

*Pol*  
2019 AUG -2 PM 3:29  
RICHLAND COUNTY  
FILED  
JANETTE M. McBRIDE  
C.C.P., G.S., & F.C.

1. My name is Rhonda Meisner and I am the defendant, counter claimant and cross claimant in the above entitled case.
2. I am over 18 years of age and am competent to make this declaration/ affidavit under penalty of perjury.
3. I declare the fact asserted in this declaration are true and accurate and submit them to the Court under penalty of perjury.
4. I executed a note and mortgage with the co-defendant Bank of America, N.A. that is the subject of this mortgage foreclosure cause of action.
5. The terms of the note associated with the mortgage, if elected required Bank of America, N.A. to draft the payments from my bank account.
6. I certify that I did not request in writing or otherwise the cessation of such debits.
7. Additionally, Bank of America, N.A. changed the amounts of the debit throughout the term of the note.
8. I also certify at the time Bank of America, N.A. should have debited my bank account there was sufficient money to cover the debit.

I certify the above statements are true and are submitted under penalty of perjury.

*August 2, 2019*  
July 31, 2019

*Rhonda Meisner*  
Rhonda Meisner

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

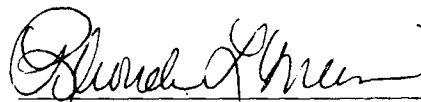
DOCKET NO. 2014-CP-40-2063

CERTIFICATE OF SERVICE  
MEMORANDUM IN OPPOSITION TO  
SUMMARY JUDGMENT

RICHLAND COUNTY  
FILED  
2019 AUG -2 PM 3:29  
JANETTE W. McBRIDE  
C.C.P., G.S., & F.C.D.

The Defendant Rhonda Lewis Meisner hereby certifies that she has caused a copy of the  
MEMORANDUM IN OPPOSITION TO SUMMARY JUDGMENT CA#2014-CP-40-2063 and  
Certificate of service filed in the above case to be served via United States Mail, first class,  
postage pre-paid to the following parties on this day .

TO: Magalie Creech Finkel Law Firm 4000 Faber Place Drive, Suite 450 North Charleston, SC  
29405 Ed Grimsley c/o Grimsley Law firm, LLC P.O. 11682 Columbia, SC 29211 Jonathan  
Milling 1614 Taylor Street Columbia, SC 29201. Jake S. Barker Graybill Lansche and Vinzani  
225 Seven Farm Drive suite 107 Charleston, SC 29492  
Jake S. Barker Graybill Lansche and Vinzani 225 Seven Farm Drive suite 107 Charleston, SC  
29492



Rhonda Lewis Meisner  
Post Office Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803)206-3402

August 2, 2019  
July 30, 2019

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of the Banc of America  
Funding Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

DECLARATION/AFFIDAVIT  
SUBMITTED UNDER PENALTY OF  
PERJURY IN OPPOSITION TO SUMMARY  
JUDGMENT

*Pol*  
2019 AUG -2 PM 3:29  
RICHLAND COUNTY  
FILED  
LETITIA W. McBRIDE  
C.C.P., G.S., & F.C.

1. My name is Rhonda Meisner and I am the defendant, counter claimant and cross claimant in the above entitled case.
2. I am over 18 years of age and am competent to make this declaration/ affidavit under penalty of perjury.
3. I declare the fact asserted in this declaration are true and accurate and submit them to the Court under penalty of perjury.
4. I executed a note and mortgage with the co-defendant Bank of America, N.A. that is the subject of this mortgage foreclosure cause of action.
5. The terms of the note associated with the mortgage, if elected required Bank of America, N.A. to draft the payments from my bank account.
6. I certify that I did not request in writing or otherwise the cessation of such debits.
7. Additionally, Bank of America, N.A. changed the amounts of the debit throughout the term of the note.
8. I also certify at the time Bank of America, N.A should have debited my bank account there was sufficient money to cover the debit.

I certify the above statements are true and are submitted under penalty of perjury.

*August 2, 2019*  
July 31, 2019

*Rhonda Meisner*  
Rhonda Meisner

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of the Bank of America Funding  
Corporation, 2008-FT1 Trust Mortgage Pass  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

**PLAINTIFF'S MOTION FOR SUMMARY  
JUDGMENT ON FORECLOSURE AND  
DEFENDANT'S COUNTERCLAIMS**

U.S. Bank, National Association, as trustee for the Holders of the Bank of America Funding Corporation, 2008-FT1 Trust Mortgage Pass Through Certificates, Series 2008-FT1 ("Plaintiff") by and through its undersigned counsel, hereby moves pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for summary judgment against Rhonda Lewis Meisner a/k/a Rhonda L. Meisner ("Defendant"). In support of its Motion, Plaintiff states that there are no material facts in dispute concerning Plaintiff's claims that: i). it holds a valid and enforceable note and mortgage; ii). Defendant is in default under the terms and conditions contained therein; and, iii). Plaintiff is entitled to the foreclosure of its mortgage.

Plaintiff further states that that there are no material facts in dispute concerning the Defendant's defenses or counterclaims and entry of summary judgment in Plaintiff's favor is proper.

Plaintiff reserves the right to submit supporting affidavits and/or a memorandum pursuant to applicable law at or prior to the hearing on this motion.

Respectfully submitted,

FINKEL LAW FIRM LLC

/S/ Magalie A. Creech (S.C. Bar 78855)  
Post Office Box 41489  
Charleston, South Carolina 29423  
Telephone: (843) 577-5460  
Facsimile: (843) 577-5135  
*Attorneys for Plaintiff*

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of the Bank of America Funding  
Corporation, 2008-FT1 Trust Mortgage Pass  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

**AFFIDAVIT IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT**

Theresa Robertson, being duly sworn, deposes and says:

1. I am of the age of majority and am competent to testify with respect to the following matters.
2. I am employed by Nationstar Mortgage LLC d/b/a Mr. Cooper, authorized servicer of the above-named Plaintiff for the loan that is the subject of this action, and am authorized to make this affidavit on its behalf.
3. I submit this Affidavit in Support of Plaintiff's Motion for Summary Judgment against the Defendant.
4. I am familiar with the loan transaction at issue in this matter, and make my declaration based on my review and understanding of records that Nationstar Mortgage LLC d/b/a Mr. Cooper maintains in the ordinary course of business. These records are kept in the course of Nationstar Mortgage LLC d/b/a Mr. Cooper's regularly conducted loan administration, and it is the regular practice of Nationstar Mortgage LLC d/b/a Mr. Cooper to keep these records. It is Nationstar Mortgage LLC d/b/a Mr. Cooper's regular practice to make these records at or near the time of the occurrence of the events reflected in the records. I have personally reviewed the documents, records, and other data relied on to make the statements in this Affidavit.
5. On August 13, 2003, Rhonda L. Meisner ("Defendant") executed a promissory note ("Note") in favor of Bank of America, N.A., in the original principal amount of \$61,516.00.

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Bull

6. Defendant was obligated to repay the principal amount borrowed, plus interest at the rate of 5.400% *per annum*, by making monthly payments. A true and correct copy of the Note is attached hereto as Exhibit A.

7. The Note was secured by a mortgage ("Mortgage") given by the Defendant simultaneously with the execution of the Note. The property encumbered by the Mortgage is located in Columbia, Richland County, South Carolina and as is more particularly described in the Mortgage and the Lis Pendens filed by Plaintiff. It has the TMS#: 12100-04-23 and property address of: 406 Koon Store Road, Columbia, South Carolina 29203 ("Property").

8. The Mortgage was recorded in the Office of the Register of Deeds for Richland County in Book 838 at Page 2632 on August 18, 2003. A true and correct copy of the Mortgage is attached hereto as Exhibit B.

9. The proceeds of the loan evidenced by the Note and Mortgage were used to purchase the Property.

10. Due solely to inadvertence and scrivener's error, the legal description in the Mortgage and vesting deed recorded August 18, 2003 in Book 838 at Page 2627 incorrectly reference the plat of the Property as being dated May 9, 1979 instead of the correct date of March 20, 1979.

11. By virtue of an Assignment of Mortgage recorded in the Office of the Register of Deeds for Richland County in Book 1943 at Page 1234 on May 2, 2014, Bank of America, N.A. assigned the Mortgage to U.S. Bank, National Association, as trustee for the Holders of the Bank of America Funding Corporation, 2008-FT1 Trust Mortgage Pass Through Certificates, Series 2008-FT1, the present lienholder and Plaintiff herein.

12. Defendant defaulted on her obligations due and owing under the Note and Mortgage. Plaintiff sent Defendant all required notices of default. A true and correct copy of the default letter is attached hereto as Exhibit C.

13. Despite demand, Defendant has not paid the amounts due and owing.

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B42

14. As of June 12, 2013, Defendant is indebted to Plaintiff in the amount of \$26,945.74, exclusive of attorneys' fees and costs of this action. Interest continues to accrue on the foregoing at the rate of 5.400% *per annum* from June 12, 2013.

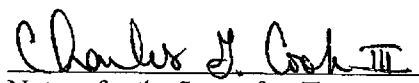
15. In addition to the amounts set forth above, the loan documents provide that Plaintiff is entitled to the reimbursement of its costs and expenses, including reasonable attorneys' fees.

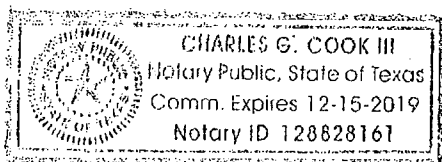
16. There has been no loss mitigation activity on the subject loan account during the entire pendency of this action.

**FURTHER AFFIANT SAYETH NOT.**

  
Name:  
Nationstar Mortgage LLC d/b/a Mr. Cooper  
Theresa Robertson - Document Execution Associate  
3.27.19

Sworn to before me this  
27th day of March, 2019

  
Notary for the State of Texas  
My Commission Expires: 12.15.19



353  
243



**PROMISSORY NOTE****ACCOUNT NUMBER**

**Borrower:** RHPDND LEWIS MEISNER  
1 CHESTER RD  
BLYTHERWOOD, SC 29016-8855

**Lender:** Bank of America, N.A.  
c/o South Carolina Main Office  
1301 Garvale St.  
Columbia, SC 29201

**Principal Amount:** \$81,516.00**Interest Rate:** 5.400%**Date of Note:** August 13, 2003

**PROMISE TO PAY.** I ("Borrower") promise to pay to Bank of America, N.A. ("Lender"), or order, in lawful money of the United States of America, the principal amount of Sixty-one Thousand Five Hundred Sixteen & 00/100 Dollars (\$61,516.00), together with interest at the rate of 5.400% per annum on the unpaid principal balance from August 13, 2003, until paid in full.

**PAYMENT.** I will pay this loan in 179 payments of \$498.48 each payment and an irregular last payment estimated at \$600.22. My first payment is due September 12, 2003, and all subsequent payments are due on the same day of each month after that. My final payment will be due on August 12, 2018, and will be for all principal and all accrued interest not yet paid. Payments include principal and interest. Unless otherwise agreed or required by applicable law, payments will be applied first to accrued unpaid interest, then to principal, and any remaining amount to any unpaid collection costs and late charges. Interest on this Note is computed on a 365/365 simple interest basis; that is, by applying the ratio of the annual interest rate over the number of days in a year, multiplied by the outstanding principal balance, multiplied by the actual number of days the principal balance is outstanding. I will pay Lender at Lender's address shown above or at such other place as Lender may designate in writing.

**PREPAYMENT.** I may pay without penalty all or a portion of the amount owed earlier than it is due. Early payments will relieve me of my obligation to continue to make payments under the payment schedule and will be applied to the next - due payment(s). If a prepayment is insufficient to meet the entire requirements of a particular future installment then I shall be obligated to pay such portion of the installment not covered by the partial prepayment. My obligation to continue to make regular payments under the payment schedule will resume with the next payment coming due after all early payments have been applied. Early payments will reduce the principal balance due and may result in my making fewer payments. I agree not to send Lender payments marked "paid in full", "without recourse" or similar language. If I send such a payment, Lender may accept it without losing any of Lender's rights under this Note, and I will remain obligated to pay any further amount owed to Lender. All written communications concerning disputed amounts, including any checks or other payment instrument that indicates that the payment constitutes "payment in full" of the amount owed or that is tendered with other conditions or limitations or as full satisfaction of a disputed amount must be mailed or delivered to Lender at the address shown on my coupon book or statement.

**LATE CHARGE.** If a payment is 10 days or more late, I will be charged 5.000% of the unpaid portion of the regularly scheduled payment or \$12.50, whichever is less.

**INTEREST AFTER DEFAULT.** Upon default, including failure to pay upon final maturity, Lender, at its option, may, if permitted under applicable law, increase the interest rate on this Note to 18.000% per annum. The interest rate will not exceed the maximum rate permitted by applicable law.

**DEFAULT.** I will be in default under this Note if any of the following happen:

**Payment Default.** I fail to make any payment when due under this Note.

**Break Other Promises.** I break any promise made to Lender or fail to perform promptly at the time and strictly in the manner provided in this Note or in any agreement related to this Note, or in any other agreement or loan I have with Lender.

**False Statements.** Any representation or statement made or furnished to Lender by me or on my behalf under this Note or the related documents is false or misleading in any material respect, either now or at the time made or furnished.

**Death or Insolvency.** Any Borrower dies or becomes insolvent; a receiver is appointed for any part of my property; I make an assignment for the benefit of creditors; or any proceeding is commenced either by me or against me under any bankruptcy or insolvency laws.

**Taking of the Property.** Any creditor or governmental agency tries to take any of the property or any other of my property in which Lender has a lien. This includes taking of, garnishing of or levying on my accounts with Lender. However, if I dispute in good faith whether the claim on which the taking of the property is based is valid or reasonable, and if I give Lender written notice of the claim and furnish Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

**Defective Collateralization.** This Note or any of the related documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Collateral Damage or Loss.** Any collateral securing this Note is lost, stolen, substantially damaged or destroyed and the loss, theft, substantial damage or destruction is not covered by insurance.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any guaranty of the indebtedness evidenced by this Note.

**Insolvency.** Lender in good faith believes itself insecure.

**LENDER'S RIGHTS.** Upon default, Lender may declare the entire unpaid principal balance on this Note and all accrued unpaid interest immediately due, and then I will pay that amount.

**ATTORNEYS' FEES; EXPENSES.** Lender may hire or pay someone else to help collect this Note if I do not pay. I will pay Lender that amount. This includes Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on this Note and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and legal expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), and appeals. If not prohibited by applicable law, I also will pay any court costs, in addition to all other sums provided by law.

**JURY WAIVER.** Lender and I hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by either Lender or me against the other.

**GOVERNING LAW.** This Note will be governed by and interpreted in accordance with federal law and the laws of the State of South Carolina. This Note has been accepted by Lender in the State of South Carolina.

**DISHONORED ITEM FEE.** I will pay a fee to Lender of \$20.00 if I make a payment on my loan and the check or preauthorized charge with which I pay is later dishonored.

**COLLATERAL.** I acknowledge this Note is secured by the following collateral described in the security instrument listed herein, all the terms and

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**Loan No:**

**PROMISSORY NOTE**  
(Continued)

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amended from time to time). Any amount above the booking/maintenance fee is either a loan or an origination fee. All fees, charges and other expenses of this loan (if this Promissory Note is secured by real property) are authorized pursuant to Chapter 655, Florida Statutes and Chapter 687.12, Florida Statutes.

**SUCCESSOR INTERESTS.** The terms of this Note shall be binding upon me, and upon my heirs, personal representatives, successors and assigns, and shall inure to the benefit of Lender and its successors and assigns.

**GENERAL PROVISIONS.** Lender may delay or forgo enforcing any of its rights or remedies under this Note without losing them. I and any other person who signs, guarantees or endorses this Note, to the extent allowed by law, waive presentment, demand for payment, and notice of dishonor. Upon any change in the terms of this Note, and unless otherwise expressly stated in writing, no party who signs this Note, whether as maker, guarantor, accommodation maker or endorser, shall be released from liability. All such parties agree that Lender may renew or extend (repeatedly and for any length of time) this loan or release any party or guarantor or collateral; or impair, fail to realize upon or perfect Lender's security interest in the collateral. All such parties also agree that Lender may modify this loan without the consent of or notice to anyone other than the party with whom the modification is made. The obligations under this Note are joint and several. This means that the words "I," "me," and "my" mean each and all of the persons signing below.

PRIOR TO SIGNING THIS NOTE, I READ AND UNDERSTOOD ALL THE PROVISIONS OF THIS NOTE. I AGREE TO THE TERMS OF THE NOTE.  
I ACKNOWLEDGE RECEIPT OF A COMPLETED COPY OF THIS PROMISSORY NOTE.

THIS NOTE IS GIVEN UNDER SEAL AND IT IS INTENDED THAT THIS NOTE IS AND SHALL CONSTITUTE AND HAVE THE EFFECT OF A SEALED INSTRUMENT ACCORDING TO LAW.

BORROWER:

x Rhonda Lewis Meisner (Sep)  
RHONDA LEWIS MEISNER, individually

LASER PRIZEMING, Hq, D-21, PG: 103 Copy: Hq and 7 Branch/ Stations, in, 1987, 2005. All rights reserved. - SC EUCHECTD-PL1020 EG 70-26001500 AN IMPD

PAY TO THE ORDER OF

**WITHOUT RECOURSE**

Bank of America, N.A.

NY Christina M. Schmitt  
CHRISTINA M. SCHMITT  
ASSISTANT VICE PRESIDENT

355  
BHS

Book 00838-2632  
 2003089125 John G. Morris  
 Fee: \$14.00 County Tax: \$0.00 State Tax: \$0.00

Mortgage

2003089125 John G. Morris

Sufficiency Fee

WHEN RECORDED MAIL TO:  
 Bank of America Consumer Collateral Tracking,  
 9000 Southside Blvd, Bldg 700  
 Jacksonville, FL 32256

SPACE ABOVE THIS LINE IS FOR RECORDER'S USE ONLY

## MORTGAGE

THIS MORTGAGE dated August 13, 2003, is made and executed between RHONDA LEWIS MEISNER, whose address is 1 CHESTER RD, BLYTHEWOOD, SC 29016-8555 (referred to below as "Grantor") and Bank of America, N.A., whose address is 1301 Gervais St., Columbia, SC 29201 (referred to below as "Lender").

**GRANT OF MORTGAGE.** For valuable consideration, Grantor mortgages, grants, and conveys to Lender all of Grantor's right, title, and interest in and to the following described real property, together with all existing or subsequently erected or affixed buildings, improvements and fixtures; all easements, rights of way, and appurtenances; all water, water rights, watercourses and ditch rights (including stock in utilities with ditch or irrigation rights); and all other rights, royalties, and profits relating to the real property, including without limitation all minerals, oil, gas, geothermal and similar matters, (the "Real Property") located in RICHLAND County, State of South Carolina:

See Exhibit A, which is attached to this Mortgage and made a part of this Mortgage as if fully set forth herein.

The Real Property or its address is commonly known as 406 KOONS DOOR RD, COLUMBIA, SC 29203-0000.

Grantor presently assigns to Lender all of Grantor's right, title, and interest in and to all present and future leases of the Property and all Rents from the Property. In addition, Grantor grants to Lender a Uniform Commercial Code security interest in the Personal Property and Rents.

THIS MORTGAGE, INCLUDING THE ASSIGNMENT OF RENTS AND THE SECURITY INTEREST IN THE RENTS AND PERSONAL PROPERTY, IS GIVEN TO SECURE (A) PAYMENT OF THE INDEBTEDNESS AND (B) PERFORMANCE OF ANY AND ALL OBLIGATIONS UNDER THE NOTE, THE RELATED DOCUMENTS, AND THIS MORTGAGE. THIS MORTGAGE IS GIVEN AND ACCEPTED ON THE FOLLOWING TERMS:

**PAYMENT AND PERFORMANCE.** Except as otherwise provided in this Mortgage, Grantor shall pay to Lender all amounts secured by this Mortgage as they become due and shall strictly perform all of Grantor's obligations under this Mortgage.

**POSSESSION AND MAINTENANCE OF THE PROPERTY.** Grantor agrees that Grantor's possession and use of the Property shall be governed by the following provisions:

**Possession and Use.** Until the occurrence of an Event of Default, Grantor may (1) remain in possession and control of the Property; (2) use, operate or manage the Property; and (3) collect the Rents from the Property.

**Duty to Maintain.** Grantor shall maintain the Property in good condition and promptly perform all repairs, replacements, and maintenance necessary to preserve its value.

**Compliance With Environmental Laws.** Grantor represents and warrants to Lender that: (1) During the period of Grantor's ownership of the Property, there has been no use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance by any person on, under, about or from the Property; (2) Grantor has no knowledge of, or reason to believe that there has been, except as previously disclosed to and acknowledged by Lender in writing, (a) any breach or violation of any Environmental Laws, (b) any use, generation, manufacture, storage, treatment, disposal, release or threatened release of any Hazardous Substance on, under, about or from the Property by any prior owners or occupants of the Property, or (c) any actual or threatened litigation or claims of any kind by any person relating to such matters; and (3) Except as previously disclosed to and acknowledged by Lender in writing, (a) neither Grantor nor any tenant, contractor, agent or other authorized user of the Property shall use, generate, manufacture, store, treat, dispose of or release any Hazardous Substance on, under, about or from the Property; and (b) any such activity shall be conducted in compliance with all applicable federal, state, and local laws, regulations and ordinances, including without limitation all Environmental Laws. Grantor authorizes Lender and its agents to enter upon the Property to make such inspections and tests, at Grantor's expense, as Lender may deem appropriate to determine compliance of the Property with this section of the Mortgage. Any inspections or tests made by Lender shall be for Lender's purposes only and shall not be construed to create any responsibility or liability on the part of Lender to Grantor or to any other person. The representations and warranties contained herein are based on Grantor's due diligence in investigating the Property for Hazardous Substances. Grantor hereby (1) releases and waives any future claims against Lender for indemnity or contribution in the event Grantor becomes liable for cleanup or other costs under any such laws; and (2) agrees to indemnify and hold harmless Lender against any and all claims, losses, liabilities, damages, penalties, and expenses which Lender may directly or indirectly sustain or suffer resulting from a breach of this section of the Mortgage or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release occurring prior to Grantor's ownership or interest in the Property, whether or not the same was or should have been known to Grantor. The provisions of this section of the Mortgage, including the obligation to indemnify, shall survive the payment of the indebtedness and the satisfaction and reconveyance of the lien of this Mortgage and shall not be affected by Lender's acquisition of any interest in the Property, whether by foreclosure or otherwise.

**Nuisance, Waste.** Grantor shall not cause, conduct or permit any nuisance nor commit, permit, or suffer any stripping of or waste on or to the Property or any portion of the Property. Without limiting the generality of the foregoing, Grantor will not remove, or grant to any other party the right to remove, any timber, minerals (including oil and gas), coal, clay, scoria, soil, gravel or rock products without Lender's prior written consent.

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Loan No.

**MORTGAGE  
(Continued)**

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required to, take any action that Lender believes to be appropriate to protect Lender's interests. All expenses incurred or paid by Lender for such purposes will then bear interest at the rate charged under the Note from the date incurred or paid by Lender to the date of repayment by Grantor. All such expenses will become a part of the indebtedness and, at Lender's option, will (A) be payable on demand; (B) be added to the balance of the Note and be apportioned among and be payable with any installment payments to become due during either (1) the term of any applicable insurance policy; or (2) the remaining term of the Note; or (C) be treated as a balloon payment which will be due and payable at the Note's maturity. The Mortgage also will secure payment of these amounts. The rights provided for in this paragraph shall be in addition to any other rights or any remedies to which Lender may be entitled on account of any default. Any such action by Lender shall not be construed as curing the default so as to bar Lender from any remedy that it otherwise would have had.

**WARRANTY; DEFENSE OF TITLE.** The following provisions relating to ownership of the Property are a part of this Mortgage:

**Title.** Grantor warrants that: (a) Grantor holds good and marketable title of record to the Property in fee simple, free and clear of all liens and encumbrances other than those set forth in the Real Property description or in any title insurance policy, title report, or final title opinion issued in favor of, and accepted by, Lender in connection with this Mortgage, and (b) Grantor has the full right, power, and authority to execute and deliver this Mortgage to Lender.

**Defense of Title.** Subject to the exception in the paragraph above, Grantor warrants and will forever defend the title to the Property against the lawful claims of all persons. In the event any action or proceeding is commenced that questions Grantor's title or the interest of Lender under this Mortgage, Grantor shall defend the action at Grantor's expense. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of Lender's own choice, and Grantor will deliver, or cause to be delivered, to Lender such instruments as Lender may request from time to time to permit such participation.

**Compliance With Laws.** Grantor warrants that the Property and Grantor's use of the Property complies with all existing applicable laws, ordinances, and regulations of governmental authorities.

**Survival of Promises.** All promises, agreements, and statements Grantor has made in this Mortgage shall survive the execution and delivery of this Mortgage, shall be continuing in nature and shall remain in full force and effect until such time as Grantor's indebtedness is paid in full.

**CONDEMNATION.** The following provisions relating to condemnation proceedings are a part of this Mortgage:

**Proceedings.** If any proceeding in condemnation is filed, Grantor shall promptly notify Lender in writing, and Grantor shall promptly take such steps as may be necessary to defend the action and obtain the award. Grantor may be the nominal party in such proceeding, but Lender shall be entitled to participate in the proceeding and to be represented in the proceeding by counsel of its own choice, and Grantor will deliver or cause to be delivered to Lender such instruments and documentation as may be requested by Lender from time to time to permit such participation.

**Application of Net Proceeds.** If all or any part of the Property is condemned by eminent domain proceedings or by any proceeding or purchase in lieu of condemnation, Lender may at its election require that all or any portion of the net proceeds of the award be applied to the indebtedness or the repair or restoration of the Property. The net proceeds of the award shall mean the award after payment of all reasonable costs, expenses, and attorneys' fees incurred by Lender in connection with the condemnation.

**IMPOSITION OF TAXES, FEES AND CHARGES BY GOVERNMENTAL AUTHORITIES.** The following provisions relating to governmental taxes, fees and charges are a part of this Mortgage:

**Current Taxes, Fees and Charges.** Upon request by Lender, Grantor shall execute such documents in addition to this Mortgage and take whatever other action is requested by Lender to perfect and continue Lender's lien on the Real Property. Grantor shall reimburse Lender for all taxes, as described below, together with all expenses incurred in recording, perfecting or continuing this Mortgage, including without limitation all taxes, fees, documentary stamps, and other charges for recording or registering this Mortgage.

**Taxes.** The following shall constitute taxes to which this section applies: (1) a specific tax upon this type of Mortgage or upon all or any part of the indebtedness secured by this Mortgage; (2) a specific tax on Grantor which Grantor is authorized or required to deduct from payments on the indebtedness secured by this type of Mortgage; (3) a tax on this type of Mortgage chargeable against the Lender or the holder of the Note; and (4) a specific tax on all or any portion of the indebtedness or on payments of principal and interest made by Grantor.

**Subsequent Taxes.** If any tax to which this section applies is enacted subsequent to the date of this Mortgage, this event shall have the same effect as an Event of Default, and Lender may exercise any or all of its available remedies for an Event of Default as provided below unless Grantor either (1) pays the tax before it becomes delinquent, or (2) contests the tax as provided above in the Taxes and Liens section and deposits with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender.

**SECURITY AGREEMENT; FINANCING STATEMENTS.** The following provisions relating to this Mortgage as a security agreement are a part of this Mortgage:

**Security Agreement.** This instrument shall constitute a Security Agreement to the extent any of the Property constitutes fixtures, and Lender shall have all of the rights of a secured party under the Uniform Commercial Code as amended from time to time.

**Security Interest.** Upon request by Lender, Grantor shall execute financing statements and take whatever other action is requested by Lender to perfect and continue Lender's security interest in the Personal Property. In addition to recording this Mortgage in the real property records, Lender may, at any time and without further authorization from Grantor, file executed counterparts, copies or reproductions of this Mortgage as a financing statement. Grantor shall reimburse Lender for all expenses incurred in perfecting or continuing this security interest. Upon default, Grantor shall not remove, sever or detach the Personal Property from the Property. Upon default, Grantor shall assemble any Personal Property not affixed to the Property in a manner and at a place reasonably convenient to Grantor and Lender and make it available to Lender within three (3) days after receipt of written demand from Lender to the extent permitted by applicable law.

**Addresses.** The mailing addresses of Grantor (debtor) and Lender (secured party) from which information concerning the security interest granted by this Mortgage may be obtained (each as required by the Uniform Commercial Code) are as stated on the first page of this Mortgage.

**FURTHER ASSURANCES; ATTORNEY-IN-FACT.** The following provisions relating to further assurances and attorney-in-fact are a part of this Mortgage:

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Loan No:

**MORTGAGE  
(Continued)**

Page 5

**Deficiency Judgment.** If permitted by applicable law, Lender may obtain a judgment for any deficiency remaining in the indebtedness due to Lender after application of all amounts received from the exercise of the rights provided in this section.

**Appraisal.** Grantor hereby waives the right to assert any statute providing appraisal rights which may reduce any deficiency judgment obtained by Lender against Grantor in the event of foreclosure under this Mortgage.

**Tenancy at Sufferance.** If Grantor remains in possession of the Property after the Property is sold as provided above or Lender otherwise becomes entitled to possession of the Property upon default of Grantor, Grantor shall become a tenant at sufferance of Lender or the purchaser of the Property and shall, at Lender's option, either (1) pay a reasonable rental for the use of the Property, or (2) vacate the Property immediately upon the demand of Lender.

**Other Remedies.** Lender shall have all other rights and remedies provided in this Mortgage or the Note or available at law or in equity.

**Sale of the Property.** To the extent permitted by applicable law, Grantor hereby waives any and all right to have the Property marshalled. In exercising its rights and remedies, Lender shall be free to sell all or any part of the Property together or separately, in one sale or by separate sales. Lender shall be entitled to bid at any public sale on all or any portion of the Property.

**Notice of Sale.** Lender will give Grantor reasonable notice of the time and place of any public sale of the Personal Property or of the time after which any private sale or other intended disposition of the Personal Property is to be made. Reasonable notice shall mean notice given at least ten (10) days before the time of the sale or disposition. Any sale of the Personal Property may be made in conjunction with any sale of the Real Property.

**Election of Remedies.** All of Lender's rights and remedies will be cumulative and may be exercised alone or together. An election by Lender to choose any one remedy will not bar Lender from using any other remedy. If Lender decides to spend money or to perform any of Grantor's obligations under this Mortgage, after Grantor's failure to do so, that decision by Lender will not affect Lender's right to declare Grantor in default and to exercise Lender's remedies.

**Attorneys' Fees; Expenses.** If Lender institutes any suit or action to enforce any of the terms of this Mortgage, Lender shall be entitled to recover such sum as the court may adjudge reasonable as attorneys' fees at trial and upon any appeal. Whether or not any court action is involved, and to the extent not prohibited by law, all reasonable expenses Lender incurs that in Lender's opinion are necessary at any time for the protection of its interest or the enforcement of its rights shall become a part of the indebtedness payable on demand and shall bear interest at the Note rate from the date of the expenditure until repaid. Expenses covered by this paragraph include, without limitation, however subject to any limits under applicable law, Lender's reasonable attorneys' fees in an amount not less than fifteen percent (15%) of the amount owing on the indebtedness and Lender's legal expenses whether or not there is a lawsuit, including reasonable attorneys' fees and expenses for bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction), appeals, and any anticipated post-judgment collection services, the cost of searching records, obtaining title reports (including foreclosure reports), surveyors' reports, and appraisal fees and title insurance, to the extent permitted by applicable law. Grantor also will pay any court costs, in addition to all other sums provided by law.

**NOTICES.** Any notice required to be given under this Mortgage, including without limitation any notice of default and any notice of sale shall be given in writing, and shall be effective when actually delivered, when actually received by telefacsimile (unless otherwise required by law), when deposited with a nationally recognized overnight courier, or, if mailed, when deposited in the United States mail, as first class, certified or registered mail postage prepaid, directed to the addresses shown near the beginning of this Mortgage. All copies of notices of foreclosure from the holder of any lien which has priority over this Mortgage shall be sent to Lender's address, as shown near the beginning of this Mortgage. Any person may change his or her address for notices under this Mortgage by giving formal written notice to the other person or persons, specifying that the purpose of the notice is to change the person's address. For notice purposes, Grantor agrees to keep Lender informed of all times of Grantor's current address. Unless otherwise provided or required by law, if there is more than one Grantor, any notice given by Lender to any Grantor is deemed to be notice given to all Grantors. It will be Grantor's responsibility to tell the others of the notice from Lender.

**PAYMENT INFORMATION.** If you make a payment(s) before or after the due date, the amount of your final payment may be higher or lower than the original scheduled amount. We may accept late payments or partial payments, even though marked "Payment in Full" (or a similar notation). We may accept payments accompanied by a letter stating that acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Note. You will make all payments by check or money order, payable to us, drawn in U.S. dollars and payable through a U.S. financial institution or the U.S. Post Office. We will credit payments to this Note on the business day received if received before 2:00 P.M. at the location we specify or at one of our banking centers in the state of our address first described above. Otherwise, payments may not be credited to your loan for up to five (5) business days, even if payment is received under our arrangement with an affiliated bank to accept payments from our customers or at one of our ATMs. A business day is any day Monday through Friday that is not a legal holiday. Unless otherwise required by applicable law, to determine whether a late charge is due, we will apply any payment received to the oldest payment due.

**UNTITLED SPOUSES AND NON-BORROWER GRANTORS.** Any Grantor or Trustor who signs this Deed of Trust, Mortgage or Modification ("Security Instrument") but does not execute the Note or Credit Agreement ("Non-borrower Grantor or Trustor"): (a) is signing only to grant, bargain, sell and convey such Non-borrower Grantor's or Trustor's interest in the Property under the terms of this Security Instrument; (b) is not by signing becoming personally obligated to pay the Note or Credit Agreement; and (c) agrees that without such Non-borrower Grantor's or Trustor's consent, Lender and any other Grantor or Trustor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of all promissory notes, credit agreements, loan agreements, environmental agreements, guarantees, security agreements, mortgages, deeds of trust, security deeds, collateral mortgages, and all other instruments, agreements and documents, whether now or hereafter existing, executed in connection with the obligation evidenced by the Note or the Credit Agreement ("Related Document").

Any spouse of a Grantor or Trustor who is not in title to the Property and who signs this Security Instrument: (a) is signing only to grant, bargain, sell and convey any marital and homestead rights of such spouse in the Property; (b) is not by signing becoming personally obligated to pay the Note or Credit Agreement; and (c) agrees that without such spouse's consent, Lender and any other Grantor or Trustor may agree to renew, extend, modify, forbear or make any accommodations with regard to the terms of any Related Document.

Neither of the two foregoing sentences limit the liability of any Non-borrower Grantor or Trustor or signing spouse of a Grantor or Trustor, as applicable, under any guaranty agreement or other agreement by such person, whereby such person becomes liable for the indebtedness in whole or in part; both such sentences apply notwithstanding any language to the contrary in this Security Instrument or any of the Related Documents and apply only to the extent permitted by applicable law.

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Rogers Townsend & Thomas, P.C.  
Rogers Townsend & Thomas, P.C.  
700 Gervais Street, Suite 100  
Post Office Box 100200  
Columbia, SC 29202

2/10/19

360  
250







08/26/2013

Sent Via Certified Mail

RHONDA L MBISNER  
1 CHESTER RD  
BLYTHEWOOD, SC 29016-8555

Loan Number:  
Property Address: 406 KOONS DOOR RD  
COLUMBIA, SC 29203

Dear RHONDA L MBISNER:

Federal law requires us to advise you that Nationstar Mortgage, LLC is a debt collector and that this is an attempt to collect a debt. Any information obtained may be used for that purpose. To the extent your obligation has been discharged or is subject to the automatic stay in a bankruptcy proceeding, this notice is for informational purposes only and does not constitute a demand for payment or an attempt to collect an indebtedness as your personal obligation. If you are represented by an attorney, please provide us with the attorney's name, address and telephone number.

Nationstar Mortgage, LLC is currently servicing the above referenced mortgage loan. You are hereby notified that you are in default under the terms and conditions of the mortgage loan, for failure to pay the required installments when due.

This letter serves as further notice that Nationstar Mortgage, LLC intends to enforce the provisions of the Note and Security Instrument. You must pay the full amount of the default on this loan by the thirty-fifth (35th) day from the date of this letter which is 09/30/2013 (or if said date falls on a Saturday, Sunday, or legal holiday, then on the first business day thereafter). If you do not pay the full amount of the default, we may accelerate the entire sum of both principal and interest due and payable, and invoke any remedies provided for in the Note and Security Instrument, including but not limited to the foreclosure sale of the property. If you received a bankruptcy discharge which included this debt, this notice is not intended and does not constitute an attempt to collect a debt against you personally; notice provisions may be contained within your mortgage/deed of trust which notice may be required prior to foreclosure.

You are hereby informed that you may have the right to "cure" or reinstate the loan after acceleration and the right to assert in a foreclosure proceeding, or to bring a court action to assert, the non-existence of a default or any other defense you may have to acceleration and sale.

As of 08/26/2013 the amount of the debt that we are seeking to collect is \$1,701.88, which includes the sum of payments that have come due on and after the date of default 07/12/2013, any late charges, periodic adjustments to the payment amount (if applicable) and expenses of collection. Because of interest, late charges, and other charges or credits that may vary from day to day, or be assessed during the processing of this letter, the amount due on the day that you pay may be greater. Please contact Nationstar Mortgage, LLC at 1-888-480-2432 on the day that you intend to pay for the full amount owed on your account. This letter is in no way intended as a payoff statement for your mortgage, it merely states an amount necessary to cure the current

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(Page 5 of 6)

Lewisville, TX 75067-4177

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# EXHIBIT A

# PROMISSORY NOTE (Continued)

Loan No:

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conditions of which are hereby incorporated and made a part of this Note: a Mortgage dated August 13, 2003, to Lender on real property located in RICHLAND County, State of South Carolina.

**PROPERTY REQUIREMENTS.** If this Note is secured by real or personal property (the "Collateral"), you will do all things required under the Collateral agreement. If we incur an expense because you do not fulfill all the obligations of this Note, or if you or another party do not fulfill all obligations under the Collateral agreement, you will pay those expenses under this Note. If this Note is secured by insurable real or personal Collateral, you agree to obtain and keep maintained, or cause to be obtained and maintained, property insurance, flood insurance (if applicable) and any other insurance required by us for the Collateral in an amount described in the Collateral agreement. You will pay the charge for such insurance, which may be subject to interest at the rate described in this Note. We have the option to reschedule your regular payments for the remaining term (thus increasing the regularly scheduled payment to incorporate the amount of insurance premium plus finance charges on the premium), require a lump sum payment at the maturity of this Note, or demand payment of the premium for this insurance.

**PAYMENT INFORMATION.** If you make a payment(s) before or after the due date, the amount of your final payment may be higher or lower than the original scheduled amount. We may accept late payments or partial payments, even though marked "Payment in Full" (or a similar notation). We may accept payments accompanied by a letter stating that acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Note. You will make all payments by check or money order, payable to us, drawn in U.S. dollars and payable through a U.S. financial institution or the U.S. Post Office. We will credit payments to this Note on the business day received if received before 2:00 P.M. at the location we specify or at one of our banking centers in the state of our address first described above. Otherwise, payments may not be credited to your loan for up to five (5) business days, even if payment is received under our arrangement with an affiliated bank to accept payments from our customers or at one of our ATMs. A business day is any day Monday through Friday that is not a legal holiday. Unless otherwise required by applicable law, to determine whether a late charge is due, we will apply any payment received to the oldest payment due.

**AUTOMATIC PAYMENT AND RESERVATION OF RIGHTS.** If you choose to have payments made from a designated account and have arranged with us to do so, we will automatically draft the payment. Drafts will be made on the payment due date or immediately after the payment due date (if the payment due date is on a Saturday, Sunday or legal holiday). If your account does not contain the payment amount due, you understand that it is your obligation without notice from us to make the full payment. Even if you make a manual payment an automatic payment will be drafted from your designated account, unless you make such manual payment for the full payment due at least three (3) business days prior to the due date; however, if you make less than a full manual payment at least three (3) business days prior to the due date, only the remaining amount currently due will be drafted. To stop an automatic draft, you must contact us at least three (3) business days prior to the scheduled payment draft date. We may accept late payments, partial payments or checks and money orders marked "payment in full" (or similar notations) or payments accompanied by a letter stating that our acceptance of the payment indicates our agreement to the terms set forth in the letter without giving up, waiving or losing any of our rights under law or under this Agreement.

**MISCELLANEOUS.** If this Note or Agreement represents a renewal, modification, extension, substitution or consolidation of an obligation owed to us, then you acknowledge and agree that there are no claims, setoffs, avoidances, counterclaims or defenses or rights to claims, setoffs, avoidances, counterclaims or defenses to payment or enforcement of the prior obligation. You agree that if this Note or Agreement is in default, including the failure to make the Minimum Payment by the due date, you will accept calls regarding the collection of this Note or Agreement at any residence or place of employment. The calls can be automatically dialed and a recorded message may be played. You agree such calls will not be "unsolicited" calls for purposes of any federal, state or local law. To improve customer service and security, telephone communications with you may be monitored and recorded. You agree that monitoring or recording may be done and that no additional notice to you or additional approval from you is needed. You authorize us, our parent company, Bank of America Corporation (or any successor company) and Bank of America Corporation's affiliates and subsidiaries ("Affiliates") to: (a) obtain other information deemed necessary concerning the granting and maintaining of this Note or Credit Line Account, including the obtaining of credit bureau and other reports concerning your credit experience and other information from credit reporting agencies, creditors, any department of motor vehicles or similar state agency, your employer (past, present and future) and other persons (and all such entities may release and/or verify such information to us at any time without notification to you or without your consent), and (b) share information with our Affiliates, except to the extent that you have opted out of such sharing as provided in our Privacy Policy for Consumers. This Note or Agreement constitutes the entire understanding and agreement between the parties as to the matters set forth in this Note or Agreement and supercedes all prior understandings and correspondence, oral or written, with respect to the subject matter hereof. We reserve the right to defer or delay the date certain changes are to occur without notice and without being liable for any such deferral or delay. A court decree for divorce or separation or a non-court approved mutual agreement does not affect, eliminate or reduce any person's liability for the Note or Credit Line balance if we are not a party to the decree or agreement. Notwithstanding any other provision contained in the Note or this Agreement, we do not intend to charge, and you shall not be required to pay, any amount of finance charge or fee more than the maximum permitted by applicable law. Any payment in excess of the maximum shall be refunded to you or credited against principal, at our option. If this Note or Credit Line Agreement is a renewal of a prior Note or Credit Line Agreement, then it is the intent of the parties that the Note or Credit Line Agreement evidencing the original extension of credit not be extinguished by the renewal. It is further the intent of the parties that no novation shall occur by the renewal of such extension of credit. Our records shall be evidence of whether this Note or Credit Line Agreement is a renewal. The word "you" shall also mean Borrower. The word "we" shall also mean Lender.

**ADDITIONAL GENERAL PROVISIONS.** We reserve the right to waive or reduce any or all fees from time to time in our sole discretion without notice. Unless required by law, we need not pay any refund if the amount is less than one dollar (\$1.00). Acceptance of partial payments or partial performance shall not operate as a waiver of any requirement under this Note. Any notice from us shall be deemed to be reasonable if mailed to your address at least five (5) calendar days before the time of the event to which such notice relates. It is your sole and exclusive responsibility to determine any and all aspects of federal, state and local tax law regarding the deduction of interest and costs on this Note. You should consult a tax advisor regarding the deductibility of interest and costs incurred under this Note. We have not provided and do not provide tax advice of any kind. At any time, we may assign or transfer this Note to another person or entity and the assignee will have all of our rights under this Note. You cannot assign or transfer any of your rights or responsibilities under this Note.

**RIGHT OF SETOFF.** Borrower agrees and authorizes Lender, upon an event of default occurring and to the extent allowed by applicable law, to charge, withdraw or set off all sums owed under this Note or Agreement against any of Borrower's deposits and accounts or securities now or hereafter in the possession of or on deposit with Lender or any Bank of America Corporation affiliate or subsidiary, including without limitation all accounts held jointly with someone else and all accounts Borrower may open in the future (excluding all IRA, Keogh and trust accounts), without prior notice to or demand on Borrower and, at Lender's option, administratively to freeze all such accounts to allow Lender to protect Lender's rights provided in this paragraph. Borrower hereby grants to Lender a contractual possessory security interest in such accounts, and hereby assigns, conveys, delivers, pledges and transfers to Lender all of Borrower's rights, title and interest in such accounts.

**BORROWERS PROTECTION PLAN.** (Borrowers Protection Plan is a registered trademark of Bank of America Corporation.) If you selected the optional Borrowers Protection Plan, each of the Borrowers covered by the Plan must sign the Optional Borrowers Protection Plan Addendum, which is made a part of and incorporated into this Note. Interest is not charged on the fees for Borrowers Protection Plan.

**FL LOANS ONLY: BOOKING/MAINTENANCE FEE.** A portion of the Bank Fee (an amount equal to the lesser of \$50 or 2% of the Amount of the Note), if any, disclosed in the Itemization of Amount Financed, is a booking/maintenance fee as provided by Florida Statutes, Section 658.49 (as

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# EXHIBIT B

# MORTGAGE (Continued)



Loan No:

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**Removal of Improvements.** Grantor shall not demolish or remove any improvements from the Real Property without Lender's prior written consent. As a condition to the removal of any improvements, Lender may require Grantor to make arrangements satisfactory to Lender to replace such improvements with improvements of at least equal value.

**Lender's Right to Enter.** Lender and Lender's agents and representatives may enter upon the Real Property at all reasonable times to attend to Lender's interests and to inspect the Real Property for purposes of Grantor's compliance with the terms and conditions of this Mortgage.

**Compliance with Governmental Requirements.** Grantor shall promptly comply with all laws, ordinances, and regulations, now or hereafter in effect, of all governmental authorities applicable to the use or occupancy of the Property. Grantor may contest in good faith any such law, ordinance, or regulation and withhold compliance during any proceeding, including appropriate appeals, so long as Grantor has notified Lender in writing prior to doing so and so long as, in Lender's sole opinion, Lender's interests in the Property are not jeopardized. Lender may require Grantor to post adequate security or a surety bond; reasonably satisfactory to Lender, to protect Lender's interest.

**Duty to Protect.** Grantor agrees neither to abandon or leave unattended the Property. Grantor shall do all other acts, in addition to those acts set forth above in this section, which from the character and use of the Property are reasonably necessary to protect and preserve the Property.

**DUE ON SALE - CONSENT BY LENDER.** Lender may, at Lender's option, declare immediately due and payable all sums secured by this Mortgage upon the sale or transfer, without Lender's prior written consent, of all or any part of the Real Property, or any interest in the Real Property. A "sale or transfer" means the conveyance of Real Property or any right, title or interest in the Real Property; whether legal, beneficial or equitable; whether voluntary or involuntary; whether by outright sale, deed, installment sale contract, land contract, contract for deed, leasehold interest with a term greater than three (3) years, lease-option contract, or by sale, assignment, or transfer of any beneficial interest in or to any land trust holding title to the Real Property, or by any other method of conveyance of an interest in the Real Property. However, this option shall not be exercised by Lender if such exercise is prohibited by federal law or by South Carolina law.

**TAXES AND LIENS.** The following provisions relating to the taxes and liens on the Property are part of this Mortgage:

**Payment.** Grantor shall pay when due (and in all events prior to delinquency) all taxes, payroll taxes, special taxes, assessments, water charges and sewer service charges levied against or on account of the Property, and shall pay when due all claims for work done on or for services rendered or material furnished to the Property. Grantor shall maintain the Property free of any liens having priority over or equal to the interest of Lender under this Mortgage, except for those liens specifically agreed to in writing by Lender, and except for the lien of taxes and assessments not due as further specified in the Right to Contest paragraph.

**Right to Contest.** Grantor may withhold payment of any tax, assessment, or claim in connection with a good faith dispute over the obligation to pay, so long as Lender's interest in the Property is not jeopardized. If a lien arises or is filed as a result of nonpayment, Grantor shall within fifteen (15) days after the lien arises or, if a lien is filed, within fifteen (15) days after Grantor has notice of the filing, secure the discharge of the lien, or if requested by Lender, deposit with Lender cash or a sufficient corporate surety bond or other security satisfactory to Lender in an amount sufficient to discharge the lien plus any costs and reasonable attorneys' fees, or other charges that could accrue as a result of a foreclosure or sale under the lien. In any contest, Grantor shall defend itself and Lender and shall satisfy any adverse judgment before enforcement against the Property. Grantor shall name Lender as an additional obligee under any surety bond furnished in the contest proceedings.

**Evidence of Payment.** Grantor shall upon demand furnish to Lender satisfactory evidence of payment of the taxes or assessments and shall authorize the appropriate governmental official to deliver to Lender at any time a written statement of the taxes and assessments against the Property.

**Notice of Construction.** Grantor shall notify Lender at least fifteen (15) days before any work is commenced, any services are furnished, or any materials are supplied to the Property. If any mechanic's lien, materialmen's lien, or other lien could be asserted on account of the work, services, or materials. Grantor will upon request of Lender furnish to Lender advance assurances satisfactory to Lender that Grantor can and will pay the cost of such improvements.

**PROPERTY DAMAGE INSURANCE.** The following provisions relating to insuring the Property are a part of this Mortgage:

**Maintenance of Insurance.** Grantor shall procure and maintain policies of fire insurance with standard extended coverage endorsements on a replacement basis for the full insurable value covering all improvements on the Real Property in an amount sufficient to avoid application of any coinsurance clause, and with a standard mortgagee clause in favor of Lender. Policies shall be written by such insurance companies and in such form as may be reasonably acceptable to Lender. Grantor shall deliver to Lender certificates of coverage from each insurer containing a stipulation that coverage will not be cancelled or diminished without a minimum of thirty (30) days' prior written notice to Lender and not containing any disclaimer of the insurer's liability for failure to give such notice. Each insurance policy also shall include an endorsement providing that coverage in favor of Lender will not be impaired in any way by any act, omission or default of Grantor or any other person. Should the Real Property be located in an area designated by the Director of the Federal Emergency Management Agency as a special flood hazard area, Grantor agrees to obtain and maintain Federal Flood Insurance, if available, within 45 days after notice is given by Lender that the Property is located in a special flood hazard area, for the full unpaid principal balance of the loan and any prior liens on the property securing the loan, up to the maximum policy limits set under the National Flood Insurance Program, or as otherwise required by Lender, and to maintain such insurance for the term of the loan.

**Application of Proceeds.** Grantor shall promptly notify Lender of any loss or damage to the Property if the estimated cost of repair or replacement exceeds \$10,000.00. Lender may make proof of loss if Grantor fails to do so within fifteen (15) days of the casualty. Whether or not Lender's security is impaired, Lender may, at Lender's election, receive and retain the proceeds of any insurance and apply the proceeds to the reduction of the indebtedness, payment of any lien affecting the Property, or the restoration and repair of the Property. If Lender elects to apply the proceeds to restoration and repair, Grantor shall repair or replace the damaged or destroyed improvements in a manner satisfactory to Lender. Lender shall, upon satisfactory proof of such expenditure, pay or reimburse Grantor from the proceeds for the reasonable cost of repair or restoration if Grantor is not in default under this Mortgage. Any proceeds which have not been disbursed within 180 days after their receipt and which Lender has not committed to the repair or restoration of the Property shall be used first to pay any amount owing to Lender under this Mortgage, then to pay accrued interest, and the remainder, if any, shall be applied to the principal balance of the indebtedness. If Lender holds any proceeds after payment in full of the indebtedness, such proceeds shall be paid to Grantor as Grantor's interests may appear.

**LENDER'S EXPENDITURES.** If Grantor fails (A) to keep the Property free of all taxes, liens, security interests, encumbrances, and other claims, (B) to provide any required insurance on the Property, or (C) to make repairs to the Property then Lender may do so. If any action or proceeding is commenced that would materially affect Lender's interests in the Property, then Lender on Grantor's behalf may, but is not

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# MORTGAGE (Continued)



Loan No:

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**Further Assurances.** At any time, and from time to time, upon request of Lender, Grantor will make, execute and deliver, or will cause to be made, executed or delivered, to Lender or to Lender's designee, and when requested by Lender, cause to be filed, recorded, refilled, or re-recorded, as the case may be, at such times and in such offices and places as Lender may deem appropriate, any and all such mortgages, deeds of trust, security deeds, security agreements, financing statements, continuation statements, instruments of further assurance, certificates, and other documents as may, in the sole opinion of Lender, be necessary or desirable in order to effectuate, complete, perfect, continue, or preserve (1) Grantor's obligations under the Note, this Mortgage, and the Related Documents, and (2) the liens and security interests created by this Mortgage as first and prior liens on the Property, whether now owned or hereafter acquired by Grantor. Unless prohibited by law or Lender agrees to the contrary in writing, Grantor shall reimburse Lender for all costs and expenses incurred in connection with the matters referred to in this paragraph.

**Attorney-In-Fact.** If Grantor fails to do any of the things referred to in the preceding paragraph, Lender may do so for and in the name of Grantor and at Grantor's expense. For such purposes, Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact for the purpose of making, executing, delivering, filing, recording, and doing all other things as may be necessary or desirable, in Lender's sole opinion, to accomplish the matters referred to in the preceding paragraph.

**FULL PERFORMANCE.** If Grantor pays all the indebtedness when due, and otherwise performs all the obligations imposed upon Grantor under this Mortgage, Lender shall execute and deliver to Grantor a suitable satisfaction of this Mortgage and suitable statements of termination of any financing statement on file evidencing Lender's security interest in the Rents and the Personal Property. Grantor will pay, if permitted by applicable law, any reasonable termination fee as determined by Lender from time to time.

**EVENTS OF DEFAULT.** At Lender's option, Grantor will be in default under this Mortgage if any of the following happen:

**Payment Default.** Grantor fails to make any payment when due under the indebtedness.

**Default on Other Payments.** Failure of Grantor within the time required by this Mortgage to make any payment for taxes or insurance, or any other payment necessary to prevent filing of or to effect discharge of any lien.

**Break Other Promises.** Grantor breaks any promise made to Lender or fails to perform promptly at the time and strictly in the manner provided in this Mortgage or in any agreement related to this Mortgage.

**False Statements.** Any representation or statement made or furnished to Lender by Grantor or on Grantor's behalf under this Mortgage or the Related Documents is false or misleading in any material respect, either now or at the time made or furnished.

**Defective Collateralization.** This Mortgage or any of the Related Documents ceases to be in full force and effect (including failure of any collateral document to create a valid and perfected security interest or lien) at any time and for any reason.

**Death or Insolvency.** The death of Grantor, the insolvency of Grantor, the appointment of a receiver for any part of Grantor's property, any assignment for the benefit of creditors, any type of creditor workout, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against Grantor.

**Taking of the Property.** Any creditor or governmental agency tries to take any of the Property or any other of Grantor's property in which Lender has a lien. This includes taking of, garnishing of or levying on Grantor's accounts with Lender. However, if Grantor disputes in good faith whether the claim on which the taking of the Property is based is valid or reasonable, and if Grantor gives Lender written notice of the claim and furnishes Lender with monies or a surety bond satisfactory to Lender to satisfy the claim, then this default provision will not apply.

**Breach of Other Agreement.** Any breach by Grantor under the terms of any other agreement between Grantor and Lender that is not remedied within any grace period provided therein, including without limitation any agreement concerning any indebtedness or other obligation of Grantor to Lender, whether existing now or later.

**Events Affecting Guarantor.** Any of the preceding events occurs with respect to any guarantor, endorser, surety, or accommodation party of any of the indebtedness or any guarantor, endorser, surety, or accommodation party dies or becomes incompetent, or revokes or disputes the validity of, or liability under, any Guaranty of the indebtedness.

**Insecurity.** Lender in good faith believes itself insecure.

**RIGHTS AND REMEDIES ON DEFAULT.** Upon the occurrence of an Event of Default and at any time thereafter, Lender, at Lender's option, may exercise any one or more of the following rights and remedies, in addition to any other rights or remedies provided by law:

**Accelerate Indebtedness.** Lender shall have the right at its option without notice to Grantor to declare the entire indebtedness immediately due and payable, including any prepayment penalty which Grantor would be required to pay.

**UCC Remedies.** With respect to all or any part of the Personal Property, Lender shall have all the rights and remedies of a secured party under the Uniform Commercial Code.

**Collect Rents.** Lender shall have the right, without notice to Grantor, to take possession of the Property and, as mortgagee-in-possession, collect the Rents, including amounts past due and unpaid, and apply the net proceeds, over and above Lender's costs, against the indebtedness. In furtherance of this right, Lender may require any tenant or other user of the Property to make payments of rent or use fees directly to Lender. If the Rents are collected by Lender, then Grantor irrevocably designates Lender as Grantor's attorney-in-fact to endorse instruments received in payment thereof in the name of Grantor and to negotiate the same and collect the proceeds. Payments by tenants or other users to Lender in response to Lender's demand shall satisfy the obligations for which the payments are made, whether or not any proper grounds for the demand existed. Lender may exercise its rights under this subparagraph either in person, by agent, or through a receiver.

**Appoint Receiver.** Lender shall have the right to have a receiver appointed to take possession of all or any part of the Property, with the power to protect and preserve the Property, to operate the Property preceding foreclosure or sale, and to collect the Rents from the Property and apply the proceeds, over and above the cost of the receivership, against the indebtedness. The receiver may serve without bond if permitted by law. Lender's right to the appointment of a receiver shall exist whether or not the apparent value of the Property exceeds the indebtedness by a substantial amount. Employment by Lender shall not disqualify a person from serving as a receiver.

**Judicial Foreclosure.** Lender may obtain a judicial decree foreclosing Grantor's interest in all or any part of the Property.

**Nonjudicial Sale.** If permitted by applicable law, Lender may foreclose Grantor's interest in all or in any part of the Personal Property or the Real Property by non-judicial sale.

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**MORTGAGE  
(Continued)**

Loan No. :

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**MISCELLANEOUS PROVISIONS.** The following miscellaneous provisions are a part of this Mortgage:

**Amendments.** What is written in this Mortgage and in the Related Documents is Grantor's entire agreement with Lender concerning the matters covered by this Mortgage. To be effective, any change or amendment to this Mortgage must be in writing and must be signed by whoever will be bound or obligated by the change or amendment.

**Caption Headings.** Caption headings in this Mortgage are for convenience purposes only and are not to be used to interpret or define the provisions of this Mortgage.

**Governing Law.** This Mortgage will be governed by and interpreted in accordance with federal law and the laws of the State of South Carolina. This Mortgage has been accepted by Lender in the State of South Carolina.

**No Waiver by Lender.** Grantor understands Lender will not give up any of Lender's rights under this Mortgage unless Lender does so in writing. The fact that Lender delays or omits to exercise any right will not mean that Lender has given up that right. If Lender does agree in writing to give up one of Lender's rights, that does not mean Grantor will not have to comply with the other provisions of this Mortgage. Grantor also understands that if Lender does consent to a request, that does not mean that Grantor will not have to get Lender's consent again if the situation happens again. Grantor further understands that just because Lender consents to one or more of Grantor's requests, that does not mean Lender will be required to consent to any of Grantor's future requests. Grantor waives presentment, demand for payment, protest, and notice of dishonor. Grantor waives all rights of exemption from execution or similar law in the Property, and Grantor agrees that the rights of Lender in the Property under this Mortgage are prior to Grantor's rights while this Mortgage remains in effect.

**Severability.** If a court finds that any provision of this Mortgage is not valid or should not be enforced, that fact by itself will not mean that the rest of this Mortgage will not be valid or enforced. Therefore, a court will enforce the rest of the provisions of this Mortgage even if a provision of this Mortgage may be found to be invalid or unenforceable.

**Merge.** There shall be no merger of the interest or estate created by this Mortgage with any other interest or estate in the Property at any time held by or for the benefit of Lender in any capacity, without the written consent of Lender.

**Successors and Assigns.** Subject to any limitations stated in this Mortgage on transfer of Grantor's interest, this Mortgage shall be binding upon and inure to the benefit of the parties, their successors and assigns. If ownership of the Property becomes vested in a person other than Grantor, Lender, without notice to Grantor, may deal with Grantor's successors with reference to this Mortgage and the indebtedness by way of forbearance or extension without releasing Grantor from the obligations of this Mortgage or liability under the indebtedness.

**Time is of the Essence.** Time is of the essence in the performance of this Mortgage.

**Waive Jury.** All parties to this Mortgage hereby waive the right to any jury trial in any action, proceeding, or counterclaim brought by any party against any other party.

**Waiver of Homestead Exemption.** Grantor hereby releases and waives all rights and benefits of the homestead exemption laws of the State of South Carolina as to all indebtedness secured by this Mortgage.

**DEFINITIONS.** The following words shall have the following meanings when used in this Mortgage:

**Borrower.** The word "Borrower" means RHONDA LEWIS MEISNER, and all other persons and entities signing the Note.

**Environmental Laws.** The words "Environmental Laws" mean any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment, including without limitation the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Section 9601, et seq. ("CERCLA"), the Superfund Amendments and Reauthorization Act of 1986, Pub. L. No. 99-499 ("SARA"), the Hazardous Materials Transportation Act, 49 U.S.C. Section 1801, et seq., the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq., or other applicable state or federal laws, rules, or regulations adopted pursuant thereto.

**Event of Default.** The words "Event of Default" mean any of the events of default set forth in this Mortgage in the events of default section of this Mortgage.

**Grantor.** The word "Grantor" means RHONDA LEWIS MEISNER.

**Guaranty.** The word "Guaranty" means the guaranty from guarantor, endorser, surety, or accommodation party to Lender, including without limitation a guaranty of all or part of the Note.

**Hazardous Substances.** The words "Hazardous Substances" mean materials that, because of their quantity, concentration or physical, chemical or infectious characteristics, may cause or pose a present or potential hazard to human health or the environment when improperly used, treated, stored, disposed of, generated, manufactured, transported or otherwise handled. The words "Hazardous Substances" are used in their very broadest sense and include without limitation any and all hazardous or toxic substances, materials or waste as defined by or listed under the Environmental Laws. The term "Hazardous Substances" also includes, without limitation, petroleum and petroleum by-products or any fraction thereof and asbestos.

**Improvements.** The word "Improvements" means all existing and future improvements, buildings, structures, mobile homes affixed on the Real Property, facilities, additions, replacements and other construction on the Real Property.

**Indebtedness.** The word "Indebtedness" means all principal, earned interest, and other amounts, costs and expenses payable under the Note or Related Documents, together with all renewals of, extensions of, modifications of, consolidations of and substitutions for the Note or Related Documents and any amounts expended or advanced by Lender to discharge Grantor's obligations or expenses incurred by Lender to enforce Grantor's obligations under this Mortgage, together with interest on such amounts as provided in this Mortgage.

**Lender.** The word "Lender" means Bank of America, N.A., its successors and assigns. The words "successors or assigns" mean any person or company that acquires any interest in the Note.

**Mortgage.** The word "Mortgage" means this Mortgage between Grantor and Lender.

**Note.** The word "Note" means the promissory note dated August 13, 2003, in the original principal amount of \$61,516.00 from Grantor to Lender, together with all renewals of, extensions of, modifications of, refinancings of, consolidations of, and substitutions for the promissory note or agreement. The maturity date of this Mortgage is August 12, 2018.

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## Exhibit A

All that certain piece, parcel or lot of land, situate, lying and being on the southern side of Koon Store Road (S-40-61), north of the City of Columbia, in the County of Richland, State of South Carolina, being shown and delineated as Lot No. 9, containing one acre, on a plat prepared for Eberdease Thomas by Douglas E. Platt, Sr., Reg. Land Surveyor, dated May 9, 1979 and recorded in Plat Book Y at page 4038; said lot being bounded and measuring as follows: On the North by Koon Store Road measuring thereon 100 feet; on the East by Lot 10 measuring thereon 435.6 feet; on the South by property of Denny Hills North measuring thereon 100 feet; and on the West by Lot 8, property of Eberdease Thomas, measuring thereon 435.6 feet; be all measurements a little more or less; subject to easements and restrictions of record.

Tax Map #: 12100-04-23

This being the same property conveyed to the Mortgagor by deed of Federal Home Loan Mortgage Corporation dated 08/11/03 and recorded \_\_\_\_\_ in Record Book \_\_\_\_\_ at page \_\_\_\_\_ in the Office of the Register of Deeds for Richland County.

RECORDED  
08/11/03  
FEDERAL HOME LOAN  
MORTGAGE CORPORATION  
BY [illegible]  
[illegible]

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# EXHIBIT C

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delinquency.

Please note, however, that your right to cure this default as referenced herein does not suspend your payment obligations. Pursuant to the terms of the Note, your 09/12/2013 installment is still due on 09/12/2013 (or if said date(s) falls on a Saturday, Sunday, or legal holiday, then on the first business day thereafter). In addition, any subsequent advances made by the Servicer to protect their lien position must be added to the total amount necessary to cure the default. Please disregard this notice if a payment sufficient to cure the default has already been sent.

A "CURE" or "Reinstatement Right" similar to that described in the prior paragraph may be available in many states. If, at any time, you make a written request to us not to be contacted by phone at your place of employment, we will not do so. If, at any time, you make a written request to us not to contact you, we will not do so, except to send statutorily and/or contractually required legal notice.

Nationstar Mortgage, LLC would like you to be aware that if you are unable to make payments or resume payments within a reasonable period of time due to a reduction in your income resulting from a loss or reduction in your employment, you may be eligible for Homeownership Counseling. To obtain a list of HUD approved counseling agencies, please call 1-800-569-4287 or by visiting <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>. You may also contact the Homeownership Preservation Foundation's Hope hotline at 1-888-995-HOPE (4673).

**Attention Servicemembers and Dependents:** Servicemembers on active duty, or a spouse or dependent of such a servicemember, may be entitled to certain protections under the Servicemembers Civil Relief Act ("SCRA"). SCRA and certain state laws provide important protections for you, including prohibiting foreclosure without a court order. If you are currently in the military service, or have been within the last 12 months, please notify Nationstar Mortgage, LLC immediately. When contacting Nationstar Mortgage, LLC as to your military service, you may be required to provide positive proof as to your military status. Servicemembers and dependents with questions about the SCRA should contact their unit's Judge Advocate, or their installation's Legal Assistance Officer. Homeowner counseling is also available at agencies such as Military OneSource ([www.militaryonesource.mil](http://www.militaryonesource.mil); 1-800-342-9647) and Armed Forces Legal Assistance (<http://legalassistance.law.af.mil>), and through HUD-certified housing counselors (<http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>). You can also contact us toll-free at 1-888-480-2432 if you have questions about your rights under SCRA.

You are notified that this default and any other legal action that may occur as a result thereof may be reported to one or more local and national credit reporting agencies by Nationstar Mortgage, LLC. Nationstar Mortgage, LLC requests that all payments be made in certified funds, cashier's check or money order(s) payable to and mailed to Nationstar Mortgage, LLC at 350 Highland Drive, Lewisville TX 75067-4177. You may contact Nationstar Mortgage, LLC at 1-888-480-2432 should you have servicing questions regarding your account or by mail at 350 Highland Drive, Lewisville, TX 75067-4177. You may have options available to you to help you avoid foreclosure. Please contact Nationstar Mortgage, LLC's Foreclosure Prevention Department at 1-888-480-2432 or by visiting [www.nationstarmtg.com](http://www.nationstarmtg.com) for additional information and to see what options are available to you.

The matters discussed herein are of extreme importance. We trust you will give them appropriate attention.

Sincerely,

Jacquinda Williams  
Dedicated Loan Specialist  
Nationstar Mortgage, LLC  
1-877-450-8638 ext. 3073152  
350 Highland Drive

373  
213

374  
364

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

C/A NO: 2014-CP-40-2063

**AFFIDAVIT OF VERIFIED  
STATEMENT OF ACCOUNT**

(NONJURY MORTGAGE FORECLOSURE)

Personally appeared, who being duly sworn, deposes and says:

1. My name is Daphne Alexander and I am Doc Exec Associate (title) for Nationstar Mortgage LLC d/b/a Mr. Cooper, authorized servicer of the Plaintiff in the above-captioned action.
2. I am authorized to execute this Affidavit of Verified Statement of Account on behalf of the Plaintiff.
3. I am familiar with the loan transaction at issue in this matter, and make my declaration based on my review and understanding of records that Nationstar Mortgage LLC d/b/a Mr. Cooper maintains in the ordinary course of business. These records are kept in the course of Nationstar Mortgage LLC d/b/a Mr. Cooper's regularly conducted loan administration, and it is the regular practice of Nationstar Mortgage LLC d/b/a Mr. Cooper to keep these records. It is Nationstar Mortgage LLC d/b/a Mr. Cooper's regular practice to make these records at or near the time of the occurrence of the events reflected in the records. It is Nationstar Mortgage LLC, Inc.'s regular practice for these records to be made by a person with knowledge, or from information transmitted by a person with knowledge. I have personally reviewed the documents, records, and other data relied on to make the statements in this Affidavit.
4. The loan that is the subject of this account is in default as of July 12, 2013. A true and correct payment history for the subject loan account is attached hereto as Exhibit A.
5. A true and correct copy of the judgment figures for the subject loan account is attached hereto as Exhibit B.

375  
265  
11/1/19

6. The following principal, interest and deferred amount, which are secured by the mortgage being foreclosed, have been incurred as set forth below:

|                                              |             |
|----------------------------------------------|-------------|
| Principal Balance                            | \$26,945.74 |
| Interest from 6/13/2013 to 9/17/2019 @ 5.40% | \$9,117.11  |
| Suspense                                     | \$(850.94)  |
| Property Inspection Costs                    | \$783.00    |
| BPO Costs                                    | \$95.00     |
| Legal Fees                                   | \$18,614.84 |
| Hazard Insurance Advances                    | \$3,264.00  |
| Tax Advances                                 | \$22,006.21 |

Total

\$79,974.96

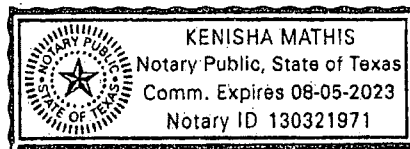
AFFIANT

Daphne Alexander 9/26/19  
 Nationstar Mortgage LLC d/b/a Mr. Cooper  
 Affiant's Name: Daphne Alexander  
 Affiant's Title: Document Execution Associate

SWORN to before me this  
26 day of September, 2019.

Kenisha Mathis (L.S.)  
 Notary Public for Texas

My Commission Expires: 8-5-2023



376  
 206  
 116  
 10

# EXHIBIT A

377  
267  
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100



Mr. Cooper  
DETAIL TRANSACTION HISTORY

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JOB DT: 7/24/19

Processing Options Selected:

|                    |                                     |
|--------------------|-------------------------------------|
| 1.                 | Loan Number Range                   |
| 2. 000000 - 072419 | Date Range                          |
| 3. B               | Output Type                         |
| 4.                 | Select State                        |
| 5.                 | Escrow Group Code                   |
| 6.                 | Message Code                        |
| 7.                 | Investor                            |
| 8. 0000000         | Pool                                |
| 9. Y               | Select only loans with Transactions |
| 10. N              | Include liquidated loans            |

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368  
11/1/19

Mr. Cooper  
DETAIL TRANSACTION HISTORY

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LOAN# INV# BX# POOL# 0000001  
BORR1 RHONDA L. MEISNER TYPE: 03-00 Conv/Unins  
BORR2 ADDL INFORMATION  
PROP: 406 KOONS DOOR RD MAIL: P. O. BOX 689

NEXT DUE 7/12/13 INTEREST RATE 5.400 PRIN. BAL 26945.74  
INT PD TO 6/13/13 P&I SHORT .00 ESC. BAL .00  
CORP ADV 19022.84-

COLUMBIA SC 29203 BLYTHEWOOD SC 29016

| ---TRANSACTION--- | DATE     | CODE | DESCRIPTION                            | NEXT DUE | AFTER TRANS. BALANCE | PRINCIPAL | ESCROW  | TOTAL AMOUNT | APPLIED | PRINCIPAL | INTEREST | ESCROW | SUSPENSE/CD | MISC. PMTS |
|-------------------|----------|------|----------------------------------------|----------|----------------------|-----------|---------|--------------|---------|-----------|----------|--------|-------------|------------|
| 241               | 7/17/19  | 6225 | MISC SUSP DISB                         | 7/13     | 26945.74             | .00       | .00     | 1.28-        | .00     | .00       | .00      | .00    | 1.28-25     |            |
|                   |          |      | PAYER 63COREC #1008994136 DUE 7/11/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1008994136                 |          |                      |           |         |              |         |           |          |        |             |            |
| 240               | 7/10/19  | 1325 | PMT-MISC SUSP                          | 7/13     | 26945.74             | .00       | .00     | 1.28         | .00     | .00       | .00      | .00    | 1.28 25     |            |
|                   |          |      | S/F AD REF#                            |          |                      |           |         |              |         |           |          |        |             |            |
| 239               | 7/02/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 40.00-       | .00     | .00       | .00      | .00    | 40.00-26    |            |
|                   |          |      | PAYEE 61FINKF #1001655240 DUE 7/02/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001655240                 |          |                      |           |         |              |         |           |          |        |             |            |
| 238               | 6/18/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 15.00-       | .00     | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      | PAYEE 63SOLAG #1001653631 DUE 6/18/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001653631                 |          |                      |           |         |              |         |           |          |        |             |            |
| 237               | 5/28/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 20.00-       | .00     | .00       | .00      | .00    | 20.00-26    |            |
|                   |          |      | PAYEE 61FINKF #1001650629 DUE 5/28/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001650629                 |          |                      |           |         |              |         |           |          |        |             |            |
| 236               | 5/28/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 80.00-       | .00     | .00       | .00      | .00    | 80.00-26    |            |
|                   |          |      | PAYEE 61FINKF #1001650629 DUE 5/28/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001650629                 |          |                      |           |         |              |         |           |          |        |             |            |
| 235               | 5/28/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 31.74-       | .00     | .00       | .00      | .00    | 31.74-26    |            |
|                   |          |      | PAYER 61FINKF #1001650629 DUE 5/28/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001650629                 |          |                      |           |         |              |         |           |          |        |             |            |
| 234               | 5/28/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 31.74-       | .00     | .00       | .00      | .00    | 31.74-26    |            |
|                   |          |      | PAYEE 61FINKF #1001650629 DUE 5/28/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001650629                 |          |                      |           |         |              |         |           |          |        |             |            |
| 233               | 5/14/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 15.00-       | .00     | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      | PAYER 63SOLAG #1001649046 DUE 5/14/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001649046                 |          |                      |           |         |              |         |           |          |        |             |            |
| 232               | 5/03/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 100.00-      | .00     | .00       | .00      | .00    | 100.00-26   |            |
|                   |          |      | PAYER 61FINKF #1001647719 DUE 5/03/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001647719                 |          |                      |           |         |              |         |           |          |        |             |            |
| 231               | 5/03/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 60.00-       | .00     | .00       | .00      | .00    | 60.00-26    |            |
|                   |          |      | PAYEE 61FINKF #1001647719 DUE 5/03/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001647719                 |          |                      |           |         |              |         |           |          |        |             |            |
| 230               | 4/09/19  | 6226 | CORP ADV DISB                          | 7/13     | 26945.74             | .00       | .00     | 15.00-       | .00     | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      | PAYEE 63SOLAG #1001644699 DUE 4/09/19  |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F BX REF# 1001644699                 |          |                      |           |         |              |         |           |          |        |             |            |
| 229               | 12/31/18 | 1325 | PMT-MISC SUSP                          | 7/13     | 26945.74             | .00       | .00     | 850.94       | .00     | .00       | .00      | .00    | 850.94 25   |            |
|                   |          |      | S/F AD REF# 0000                       |          |                      |           |         |              |         |           |          |        |             |            |
| 228               | 12/10/18 | 6031 | COUNTY TAX DISBURSED                   | 7/13     | 26945.74             | .00       | .00     | 4211.16-     | .00     | .00       | 4211.16- | .00    |             |            |
|                   |          |      | PAYEE 31SC013 # DUE 12/31/18           |          |                      |           |         |              |         |           |          |        |             |            |
|                   |          |      | S/F WR REF#                            |          |                      |           |         |              |         |           |          |        |             |            |
| 227               | 12/10/18 | 1931 | COUNTY TAX ADVANCE                     | 7/13     | 26945.74             | 4211.16   | 4211.16 |              | .00     | .00       | 4211.16  | .00    |             |            |
|                   |          |      | S/F WR REF#                            |          |                      |           |         |              |         |           |          |        |             |            |
| 226               | 11/01/18 | 6050 | HAZARD SFR DISBURSED                   | 7/13     | 26945.74             | .00       | .00     | 1677.00-     | .00     | .00       | 1677.00- | .00    |             |            |
|                   |          |      | PAYEE 50ASGHH #11012018IN DUE 10/29/18 |          |                      |           |         |              |         |           |          |        |             |            |

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Mr. Cooper  
DETAIL TRANSACTION HISTORY

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MISC. PMTS

| ---TRANSACTION--- |           |      |                                | NEXT     |           | -AFTER TRANS. BALANCES- |           | TOTAL<br>AMOUNT | ---APPLIED--- |          |             |            | PAGE: 2 |
|-------------------|-----------|------|--------------------------------|----------|-----------|-------------------------|-----------|-----------------|---------------|----------|-------------|------------|---------|
| NBR               | DATE      | CODE | -----DESCRIPTION-----          | DUE      | PRINCIPAL | ESCROW                  | PRINCIPAL |                 | INTEREST      | ESCROW   | SUSPENSE/CD | MISC. FMTS |         |
| LOAN#             | CONTINUED |      |                                |          |           |                         |           |                 |               |          |             |            |         |
| 225               | 11/01/18  | 1950 | HAZARD SFR ADVANCE             | 7/13     | 26945.74  | 1677.00                 | 1677.00   | .00             | .00           | 1677.00  | .00         |            |         |
|                   |           |      | S/F WR REF# 11012018INS        |          |           |                         |           |                 |               |          |             |            |         |
| 224               | 9/04/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001618674 DUE  | 9/04/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001618674         |          |           |                         |           |                 |               |          |             |            |         |
| 223               | 8/07/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001615345 DUE  | 8/07/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001615345         |          |           |                         |           |                 |               |          |             |            |         |
| 222               | 7/06/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001611595 DUE  | 7/06/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001611595         |          |           |                         |           |                 |               |          |             |            |         |
| 221               | 6/08/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001608345 DUE  | 6/08/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001608345         |          |           |                         |           |                 |               |          |             |            |         |
| 220               | 5/07/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001604185 DUE  | 5/07/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001604185         |          |           |                         |           |                 |               |          |             |            |         |
| 219               | 4/10/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001598101 DUE  | 4/10/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001598101         |          |           |                         |           |                 |               |          |             |            |         |
| 218               | 4/09/18   | 6050 | HAZARD SFR DISBURSED           | 7/13     | 26945.74  | .00                     | 1587.00-  | .00             | .00           | 1587.00- | .00         |            |         |
|                   |           |      | PAYEE 50ASGHH #04092018INS DUE | 10/29/17 |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F WR REF# 04092018INS        |          |           |                         |           |                 |               |          |             |            |         |
| 217               | 4/09/18   | 1950 | HAZARD SFR ADVANCE             | 7/13     | 26945.74  | 1587.00                 | 1587.00   | .00             | .00           | 1587.00  | .00         |            |         |
|                   |           |      | S/F WR REF# 04092018INS        |          |           |                         |           |                 |               |          |             |            |         |
| 216               | 3/21/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001595500 DUE  | 3/21/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001595500         |          |           |                         |           |                 |               |          |             |            |         |
| 215               | 2/12/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001590715 DUE  | 2/12/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001590715         |          |           |                         |           |                 |               |          |             |            |         |
| 214               | 1/10/18   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001586570 DUE  | 1/10/18  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001586570         |          |           |                         |           |                 |               |          |             |            |         |
| 213               | 12/13/17  | 5031 | COUNTY TAX DISBURSED           | 7/13     | 26945.74  | .00                     | 4090.20-  | .00             | .00           | 4090.20- | .00         |            |         |
|                   |           |      | PAYEE 31SC013 # DUE            | 12/31/17 |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F WR REF#                    |          |           |                         |           |                 |               |          |             |            |         |
| 212               | 12/13/17  | 1931 | COUNTY TAX ADVANCE             | 7/13     | 26945.74  | 4090.20                 | 4090.20   | .00             | .00           | 4090.20  | .00         |            |         |
|                   |           |      | S/F WR REF#                    |          |           |                         |           |                 |               |          |             |            |         |
| 211               | 12/11/17  | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001582486 DUE  | 12/11/17 |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001582486         |          |           |                         |           |                 |               |          |             |            |         |
| 210               | 11/21/17  | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 15.00-    | .00             | .00           | .00      | 15.00-26    |            |         |
|                   |           |      | PAYEE 62SOLAG #1001580247 DUE  | 11/21/17 |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F BX REF# 1001580247         |          |           |                         |           |                 |               |          |             |            |         |
| 209               | 9/21/17   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 80.00-    | .00             | .00           | .00      | 80.00-26    |            |         |
|                   |           |      | PAYEE 61FINKF #1001571187 DUE  | 9/21/17  |           |                         |           |                 |               |          |             |            |         |
|                   |           |      | S/F SC REF# 1001571187         |          |           |                         |           |                 |               |          |             |            |         |
| 208               | 9/21/17   | 6226 | CORP ADV DISB                  | 7/13     | 26945.74  | .00                     | 40.00-    | .00             | .00           | .00      | 40.00-26    |            |         |
|                   |           |      | PAYEE 61FINKF #1001571187 DUE  | 9/21/17  |           |                         |           |                 |               |          |             |            |         |

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Mr. Cooper  
DETAIL TRANSACTION HISTORY

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JOB DT: 7/24/19

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MISC.PMTS

| TRANSACTION | DATE     | CODE | DESCRIPTION                   | NEXT DUE | AFTER TRANS. BALANCE | PRINCIPAL | ESCROW  | TOTAL AMOUNT | APPLIED | PRINCIPAL | INTEREST | ESCROW   | SUSPENSE/CD | MISC.PMTS |
|-------------|----------|------|-------------------------------|----------|----------------------|-----------|---------|--------------|---------|-----------|----------|----------|-------------|-----------|
| LOAN#       |          |      | CONTINUED                     |          |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 1001571187        |          |                      |           |         |              |         |           |          |          |             |           |
| 207         | 9/21/17  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 40.00-       |         | .00       | .00      | .00      | 40.00-26    |           |
|             |          |      | PAYEE 61FINKF #1001571187 DUE | 9/21/17  |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 1001571187        |          |                      |           |         |              |         |           |          |          |             |           |
| 206         | 9/21/17  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 20.00-       |         | .00       | .00      | .00      | 20.00-26    |           |
|             |          |      | PAYEE 61FINKF #1001571187 DUE | 9/21/17  |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 1001571187        |          |                      |           |         |              |         |           |          |          |             |           |
| 205         | 9/21/17  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 20.00-       |         | .00       | .00      | .00      | 20.00-26    |           |
|             |          |      | PAYEE 61FINKF #1001571187 DUE | 9/21/17  |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 1001571187        |          |                      |           |         |              |         |           |          |          |             |           |
| 204         | 9/20/17  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 15.00-       |         | .00       | .00      | .00      | 15.00-26    |           |
|             |          |      | PAYEE 62SOLAG #1001571083 DUE | 9/20/17  |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 1001571083        |          |                      |           |         |              |         |           |          |          |             |           |
| 203         | 12/30/16 | 6225 | MISC SUSP DISB                | 7/13     | 26945.74             |           | .00     | 50.00-       |         | .00       | .00      | .00      | 50.00-25    |           |
|             |          |      | PAYEE 63CYPRR #0005850135 DUE | 12/28/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0005850135        |          |                      |           |         |              |         |           |          |          |             |           |
| 202         | 12/23/16 | 1325 | PMT-MISC SUSP                 | 7/13     | 26945.74             |           | .00     | 35.00        |         | .00       | .00      | .00      | 35.00 25    |           |
|             |          |      | S/F AD REF# 0000              |          |                      |           |         |              |         |           |          |          |             |           |
| 201         | 12/23/16 | 1325 | PMT-MISC SUSP                 | 7/13     | 26945.74             |           | .00     | 15.00        |         | .00       | .00      | .00      | 15.00 25    |           |
|             |          |      | S/F AD REF# 0000              |          |                      |           |         |              |         |           |          |          |             |           |
| 200         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 40.00-       |         | .00       | .00      | .00      | 40.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 199         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 25.00-       |         | .00       | .00      | .00      | 25.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 198         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 20.00-       |         | .00       | .00      | .00      | 20.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 197         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 20.00-       |         | .00       | .00      | .00      | 20.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 196         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 60.00-       |         | .00       | .00      | .00      | 60.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 195         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 40.00-       |         | .00       | .00      | .00      | 40.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 194         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 100.00-      |         | .00       | .00      | .00      | 100.00-26   |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 193         | 12/22/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 20.00-       |         | .00       | .00      | .00      | 20.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001514800 DUE | 12/21/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F SC REF# 0001514800        |          |                      |           |         |              |         |           |          |          |             |           |
| 192         | 12/12/16 | 6031 | COUNTY TAX DISBURSED          | 7/13     | 26945.74             |           | .00     | 4017.48-     |         | .00       | .00      | 4017.48- | .00         |           |
|             |          |      | PAYEE 31GCO13 # DUE           | 12/31/16 |                      |           |         |              |         |           |          |          |             |           |
|             |          |      | S/F WR REF#                   |          |                      |           |         |              |         |           |          |          |             |           |
| 191         | 12/12/16 | 1931 | COUNTY TAX ADVANCE            | 7/13     | 26945.74             | 4017.48   | 4017.48 |              |         | .00       | .00      | 4017.48  | .00         |           |
|             |          |      | S/F WR REF#                   |          |                      |           |         |              |         |           |          |          |             |           |
| 190         | 10/19/16 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74             |           | .00     | 40.00-       |         | .00       | .00      | .00      | 40.00-26    |           |
|             |          |      | PAYEE 61FINKF #0001505043 DUE | 10/18/16 |                      |           |         |              |         |           |          |          |             |           |

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| ---TRANSACTION---                     |          | NEXT - AFTER TRANS. |               | BALANCES- | TOTAL     | ---APPLIED--- |          |           |          | MISC. PMTS |             |
|---------------------------------------|----------|---------------------|---------------|-----------|-----------|---------------|----------|-----------|----------|------------|-------------|
| NBR                                   | DATE     | CODE                | DESCRIPTION   | DUE       | PRINCIPAL | ESCROW        | AMOUNT   | PRINCIPAL | INTEREST | ESCROW     | SUSPENSE/CD |
| LOAN# CONTINUED                       |          |                     |               |           |           |               |          |           |          |            |             |
| 189                                   | 10/03/16 | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 15.00-   | .00       | .00      | .00        | 15.00-26    |
| S/F SC REF# 0001505043                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 63SSPSL #0001502949 DUE 9/30/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 188                                   | 9/20/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001502949                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001500809 DUE 9/19/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 187                                   | 9/20/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001500809                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001500809 DUE 9/19/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 186                                   | 9/20/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 100.00-  | .00       | .00      | .00        | 100.00-26   |
| S/F SC REF# 0001500809                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001500809 DUE 9/19/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 185                                   | 9/01/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 15.00-   | .00       | .00      | .00        | 15.00-26    |
| S/F SC REF# 0001498504                |          |                     |               |           |           |               |          |           |          |            |             |
| 184                                   | 8/16/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001495472                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001495472 DUE 8/15/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 183                                   | 8/16/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001495472                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001495472 DUE 8/15/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 182                                   | 8/16/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 20.00-   | .00       | .00      | .00        | 20.00-26    |
| S/F SC REF# 0001495472                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001495472 DUE 8/15/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 181                                   | 8/05/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 15.00-   | .00       | .00      | .00        | 15.00-26    |
| S/F SC REF# 0001494142                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 63SSPSL #0001494142 DUE 8/04/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 180                                   | 7/21/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001491215                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001491215 DUE 7/20/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 179                                   | 7/21/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 60.00-   | .00       | .00      | .00        | 60.00-26    |
| S/F SC REF# 0001491215                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001491215 DUE 7/20/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 178                                   | 7/21/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 80.00-   | .00       | .00      | .00        | 80.00-26    |
| S/F SC REF# 0001491215                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001491215 DUE 7/20/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 177                                   | 7/21/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001491215                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001491215 DUE 7/20/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 176                                   | 7/08/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 15.00-   | .00       | .00      | .00        | 15.00-26    |
| S/F SC REF# 0001489367                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 63SSPSL #0001489367 DUE 7/07/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 175                                   | 6/22/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 40.00-   | .00       | .00      | .00        | 40.00-26    |
| S/F SC REF# 0001486052                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001486052 DUE 6/21/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 174                                   | 6/22/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 1002.00- | .00       | .00      | .00        | 1002.00-26  |
| S/F SC REF# 0001486052                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001486052 DUE 6/21/16 |          |                     |               |           |           |               |          |           |          |            |             |
| 173                                   | 6/22/16  | 6226                | CORP ADV DISB | 7/13      | 26945.74  | .00           | 22.85-   | .00       | .00      | .00        | 22.85-26    |
| S/F SC REF# 0001486052                |          |                     |               |           |           |               |          |           |          |            |             |
| PAYEE 61FINKF #0001486052 DUE 6/21/16 |          |                     |               |           |           |               |          |           |          |            |             |

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MISC. PMTS

| ---TRANSACTION--- |         | NEXT |                               | AFTER TRANS. |           | BALANCES- |          | TOTAL     |          | APPLIED |             | MISC. PMTS |  |
|-------------------|---------|------|-------------------------------|--------------|-----------|-----------|----------|-----------|----------|---------|-------------|------------|--|
| NBR               | DATE    | CODE | -----DESCRIPTION-----         | DUE          | PRINCIPAL | ESCRON    | AMOUNT   | PRINCIPAL | INTEREST | ESCRON  | SUSPENSE/CD |            |  |
| LOAN# CONTINUED   |         |      |                               |              |           |           |          |           |          |         |             |            |  |
| 172               | 6/16/16 |      | S/F SC REF# 0001486052        |              |           |           |          |           |          |         |             |            |  |
|                   |         |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 15.00-   | .00       | .00      | .00     | 15.00-26    |            |  |
|                   |         |      | PAYEE 63SSPSL #0001485181 DUE | 6/15/16      |           |           |          |           |          |         |             |            |  |
| 171               | 5/26/16 |      | S/F SC REF# 0001485181        |              |           |           |          |           |          |         |             |            |  |
|                   |         |      | 2526 CORP ADVANCE ADJUST      | 7/13         | 26945.74  | .00       | 15.00    | .00       | .00      | .00     | 15.00 26    |            |  |
|                   |         |      | S/F BT REF# 0000              |              |           |           |          |           |          |         |             |            |  |
| 170               | 5/25/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 15.00-   | .00       | .00      | .00     | 15.00-26    |            |  |
|                   |         |      | PAYEE 63SSPSL #0001480643 DUE | 5/24/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001480643        |              |           |           |          |           |          |         |             |            |  |
| 169               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 20.00-   | .00       | .00      | .00     | 20.00-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 168               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 12.50-   | .00       | .00      | .00     | 12.50-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 167               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 360.00-  | .00       | .00      | .00     | 360.00-26   |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 166               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 1560.00- | .00       | .00      | .00     | 1560.00-26  |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 165               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 20.00-   | .00       | .00      | .00     | 20.00-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 164               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 40.00-   | .00       | .00      | .00     | 40.00-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 163               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 100.00-  | .00       | .00      | .00     | 100.00-26   |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 162               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 25.00-   | .00       | .00      | .00     | 25.00-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 161               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 125.00-  | .00       | .00      | .00     | 125.00-26   |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 160               | 5/18/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 58.98-   | .00       | .00      | .00     | 58.98-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001479273 DUE | 5/17/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001479273        |              |           |           |          |           |          |         |             |            |  |
| 159               | 5/04/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 15.00-   | .00       | .00      | .00     | 15.00-26    |            |  |
|                   |         |      | PAYEE 63SSPSL #0001476869 DUE | 5/03/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001476869        |              |           |           |          |           |          |         |             |            |  |
| 158               | 4/15/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 600.00-  | .00       | .00      | .00     | 600.00-26   |            |  |
|                   |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001472794        |              |           |           |          |           |          |         |             |            |  |
| 157               | 4/15/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 80.00-   | .00       | .00      | .00     | 80.00-26    |            |  |
|                   |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001472794        |              |           |           |          |           |          |         |             |            |  |
| 156               | 4/15/16 |      | 6226 CORP ADV DISB            | 7/13         | 26945.74  | .00       | 200.00-  | .00       | .00      | .00     | 200.00-26   |            |  |
|                   |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16      |           |           |          |           |          |         |             |            |  |
|                   |         |      | S/F SC REF# 0001472794        |              |           |           |          |           |          |         |             |            |  |

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| TRANSACTION<br>NBR | DATE    | CODE | DESCRIPTION                   | NEXT<br>DUE | AFTER TRANS.<br>PRINCIPAL | BALANCES-<br>ESCROW | TOTAL<br>AMOUNT | APPLIED<br>PRINCIPAL | INTEREST | ESCROW | SUSPENSE/CD | MISC. PMTS |
|--------------------|---------|------|-------------------------------|-------------|---------------------------|---------------------|-----------------|----------------------|----------|--------|-------------|------------|
| LOAN#              |         |      | CONTINUED                     |             |                           |                     |                 |                      |          |        |             |            |
| 155                | 4/15/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 600.00-         | .00                  | .00      | .00    | 600.00-26   |            |
|                    |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001472794        |             |                           |                     |                 |                      |          |        |             |            |
| 154                | 4/15/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 80.00-          | .00                  | .00      | .00    | 80.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001472794        |             |                           |                     |                 |                      |          |        |             |            |
| 153                | 4/15/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 25.00-          | .00                  | .00      | .00    | 25.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001472794        |             |                           |                     |                 |                      |          |        |             |            |
| 152                | 4/15/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 40.00-          | .00                  | .00      | .00    | 40.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001472794 DUE | 4/14/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001472794        |             |                           |                     |                 |                      |          |        |             |            |
| 151                | 3/30/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 15.00-          | .00                  | .00      | .00    | 15.00-26    |            |
|                    |         |      | PAYEE 63SSPSL #0001469118 DUE | 3/29/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001469118        |             |                           |                     |                 |                      |          |        |             |            |
| 150                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 60.00-          | .00                  | .00      | .00    | 60.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 149                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 40.00-          | .00                  | .00      | .00    | 40.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 148                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 12.50-          | .00                  | .00      | .00    | 12.50-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 147                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 40.00-          | .00                  | .00      | .00    | 40.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 146                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 25.00-          | .00                  | .00      | .00    | 25.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 145                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 25.00-          | .00                  | .00      | .00    | 25.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 144                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 400.00-         | .00                  | .00      | .00    | 400.00-26   |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 143                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 100.00-         | .00                  | .00      | .00    | 100.00-26   |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 142                | 3/18/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 25.00-          | .00                  | .00      | .00    | 25.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001466747 DUE | 3/17/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001466747        |             |                           |                     |                 |                      |          |        |             |            |
| 141                | 3/04/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 15.00-          | .00                  | .00      | .00    | 15.00-26    |            |
|                    |         |      | PAYEE 63SSPSL #0001464207 DUE | 3/03/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001464207        |             |                           |                     |                 |                      |          |        |             |            |
| 140                | 2/11/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 15.00-          | .00                  | .00      | .00    | 15.00-26    |            |
|                    |         |      | PAYEE 63SSPSL #0001459489 DUE | 2/10/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001459489        |             |                           |                     |                 |                      |          |        |             |            |
| 139                | 1/28/16 | 6226 | CORP ADV DISB                 | 7/13        | 26945.74                  | .00                 | 25.00-          | .00                  | .00      | .00    | 25.00-26    |            |
|                    |         |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16     |                           |                     |                 |                      |          |        |             |            |
|                    |         |      | S/F SC REF# 0001456400        |             |                           |                     |                 |                      |          |        |             |            |

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|-------------|----------|------|-------------------------------|----------|-----------------------|--------------|---------------------------------------|-----------------------|
|             |          |      |                               |          | PRINCIPAL             | ESCROW       | PRINCIPAL INTEREST ESCROW SUSPENSE/CD |                       |
| LOAN#       |          |      | CONTINUED                     |          |                       |              |                                       |                       |
| 138         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 60.00-                                | .00 .00 .00 60.00-26  |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 137         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 125.61-                               | .00 .00 .00 125.61-26 |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 136         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 20.00-                                | .00 .00 .00 20.00-26  |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 135         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 900.00-                               | .00 .00 .00 900.00-26 |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 134         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 300.00-                               | .00 .00 .00 300.00-26 |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 133         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 20.00-                                | .00 .00 .00 20.00-26  |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 132         | 1/28/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 20.00-                                | .00 .00 .00 20.00-26  |
|             |          |      | PAYEE 61FINKF #0001456400 DUE | 1/27/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001456400        |          |                       |              |                                       |                       |
| 131         | 1/12/16  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 15.00-                                | .00 .00 .00 15.00-26  |
|             |          |      | PAYEE 63SSFSL #0001453820 DUE | 1/11/16  |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001453820        |          |                       |              |                                       |                       |
| 130         | 12/18/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 12.50-                                | .00 .00 .00 12.50-26  |
|             |          |      | PAYEE 61FINKF #0001449160 DUE | 12/17/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001449160        |          |                       |              |                                       |                       |
| 129         | 12/18/15 | 2526 | CORP ADVANCE ADJUST           | 7/13     | 26945.74              | .00          | 15.00                                 | .00 .00 .00 15.00 26  |
|             |          |      | S/F ST REF# 0000              |          |                       |              |                                       |                       |
| 128         | 12/17/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 15.00-                                | .00 .00 .00 15.00-26  |
|             |          |      | PAYEE 63SSFSL #0001449000 DUE | 12/16/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001449000        |          |                       |              |                                       |                       |
| 127         | 12/08/15 | 5031 | COUNTY TAX DISBURSED          | 7/13     | 26945.74              | .00          | 3960.60-                              | .00 .00 3960.60- .00  |
|             |          |      | PAYEE 31SC013 #0004485318 DUE | 12/31/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0004485318        |          |                       |              |                                       |                       |
| 126         | 12/08/15 | 1931 | COUNTY TAX ADVANCE            | 7/13     | 26945.74              | 3960.60      | 3960.60                               | .00 .00 3960.60 .00   |
|             |          |      | S/F SC REF# 0004485318        |          |                       |              |                                       |                       |
| 125         | 12/02/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 15.00-                                | .00 .00 .00 15.00-26  |
|             |          |      | PAYEE 63SSFSL #0001445855 DUE | 12/01/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001445855        |          |                       |              |                                       |                       |
| 124         | 11/18/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 12.50-                                | .00 .00 .00 12.50-26  |
|             |          |      | PAYEE 61FINKF #0001442877 DUE | 11/17/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001442877        |          |                       |              |                                       |                       |
| 123         | 11/18/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 40.00-                                | .00 .00 .00 40.00-26  |
|             |          |      | PAYEE 61FINKF #0001442877 DUE | 11/17/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001442877        |          |                       |              |                                       |                       |
| 122         | 11/18/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 40.00-                                | .00 .00 .00 40.00-26  |
|             |          |      | PAYEE 61FINKF #0001442877 DUE | 11/17/15 |                       |              |                                       |                       |
|             |          |      | S/F SC REF# 0001442877        |          |                       |              |                                       |                       |
| 121         | 11/18/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74              | .00          | 160.00-                               | .00 .00 .00 160.00-26 |
|             |          |      | PAYEE 61FINKF #0001442877 DUE | 11/17/15 |                       |              |                                       |                       |

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| ---TRANSACTION--- |          |      | NEXT -APTHR TRANS.BALANCES-   |          |           | TOTAL  | APPLIED----- |           |          |        | PAGE: 1     |           |
|-------------------|----------|------|-------------------------------|----------|-----------|--------|--------------|-----------|----------|--------|-------------|-----------|
| NBR               | DATE     | CODE | -----DESCRIPTION-----         | DUE      | PRINCIPAL | ESCROW | AMOUNT       | PRINCIPAL | INTEREST | ESCROW | SUSPENSE/CD | MISC.PMTS |
| LOAN# CONTINUED   |          |      |                               |          |           |        |              |           |          |        |             |           |
|                   |          |      | 9/F SC REF# 0001442877        |          |           |        |              |           |          |        |             |           |
| 120               | 11/18/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 25.00-       | .00       | .00      | .00    | 25.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001442877 DUE | 11/17/15 |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001442877        |          |           |        |              |           |          |        |             |           |
| 119               | 10/29/15 | 2526 | CORP ADVANCE ADJUST           | 7/13     | 26945.74  | .00    | 15.00        | .00       | .00      | .00    | 15.00-26    |           |
|                   |          |      | S/F BT REF# 0000              |          |           |        |              |           |          |        |             |           |
| 118               | 10/28/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 15.00-       | .00       | .00      | .00    | 15.00-26    |           |
|                   |          |      | PAYEE 63SSPSL #0001432801 DUE | 10/27/15 |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001432801        |          |           |        |              |           |          |        |             |           |
| 117               | 10/27/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 15.00-       | .00       | .00      | .00    | 15.00-26    |           |
|                   |          |      | PAYEE 63SSPSL #0001431950 DUE | 10/26/15 |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001431950        |          |           |        |              |           |          |        |             |           |
| 116               | 10/14/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 40.00-       | .00       | .00      | .00    | 40.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001429320 DUE | 10/13/15 |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001429320        |          |           |        |              |           |          |        |             |           |
| 115               | 10/14/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 40.00-       | .00       | .00      | .00    | 40.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001429320 DUE | 10/13/15 |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001429320        |          |           |        |              |           |          |        |             |           |
| 114               | 10/14/15 | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 40.00-       | .00       | .00      | .00    | 40.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001429320 DUE | 10/13/15 |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001429320        |          |           |        |              |           |          |        |             |           |
| 113               | 9/18/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 40.00-       | .00       | .00      | .00    | 40.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001424855 DUE | 9/17/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001424855        |          |           |        |              |           |          |        |             |           |
| 112               | 9/18/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 40.00-       | .00       | .00      | .00    | 40.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001424855 DUE | 9/17/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001424855        |          |           |        |              |           |          |        |             |           |
| 111               | 9/18/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 12.50-       | .00       | .00      | .00    | 12.50-26    |           |
|                   |          |      | PAYEE 61FINKF #0001424855 DUE | 9/17/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001424855        |          |           |        |              |           |          |        |             |           |
| 110               | 9/18/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 400.00-      | .00       | .00      | .00    | 400.00-26   |           |
|                   |          |      | PAYEE 61FINKF #0001424855 DUE | 9/17/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001424855        |          |           |        |              |           |          |        |             |           |
| 109               | 9/10/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 15.00-       | .00       | .00      | .00    | 15.00-26    |           |
|                   |          |      | PAYEE 63SSPSL #0001423521 DUE | 9/09/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001423521        |          |           |        |              |           |          |        |             |           |
| 108               | 8/14/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 40.00-       | .00       | .00      | .00    | 40.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001417619        |          |           |        |              |           |          |        |             |           |
| 107               | 8/14/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 500.00-      | .00       | .00      | .00    | 500.00-26   |           |
|                   |          |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001417619        |          |           |        |              |           |          |        |             |           |
| 106               | 8/14/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 160.00-      | .00       | .00      | .00    | 160.00-26   |           |
|                   |          |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001417619        |          |           |        |              |           |          |        |             |           |
| 105               | 8/14/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 60.00-       | .00       | .00      | .00    | 60.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001417619        |          |           |        |              |           |          |        |             |           |
| 104               | 8/14/15  | 6226 | CORP ADV DISB                 | 7/13     | 26945.74  | .00    | 60.00-       | .00       | .00      | .00    | 60.00-26    |           |
|                   |          |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15  |           |        |              |           |          |        |             |           |
|                   |          |      | S/F SC REF# 0001417619        |          |           |        |              |           |          |        |             |           |

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| ---TRANSACTION--- |         |      |                               | NEXT    |           | -AFTER TRANS. BALANCES- |         | TOTAL     | -----APPLIED----- |        |             |            | PAGE: 9 |
|-------------------|---------|------|-------------------------------|---------|-----------|-------------------------|---------|-----------|-------------------|--------|-------------|------------|---------|
| NBR               | DATE    | CODE | -----DESCRIPTION-----         | DUE     | PRINCIPAL | ESCROW                  | AMOUNT  | PRINCIPAL | INTEREST          | ESCROW | SUSPENSE/CD | MISC. PMTS |         |
| LOAN# CONTINUED   |         |      |                               |         |           |                         |         |           |                   |        |             |            |         |
| 103               | 8/14/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 60.00-  | .00       | .00               | .00    | 60.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001417619        |         |           |                         |         |           |                   |        |             |            |         |
| 102               | 8/14/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 12.50-  | .00       | .00               | .00    | 12.50-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001417619        |         |           |                         |         |           |                   |        |             |            |         |
| 101               | 8/14/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 40.00-  | .00       | .00               | .00    | 40.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001417619 DUE | 8/13/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001417619        |         |           |                         |         |           |                   |        |             |            |         |
| 100               | 8/11/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 15.00-  | .00       | .00               | .00    | 15.00-26    |            |         |
|                   |         |      | PAYEE 6398FSL #0001416926 DUE | 8/10/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001416926        |         |           |                         |         |           |                   |        |             |            |         |
| 99                | 7/17/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 40.00-  | .00       | .00               | .00    | 40.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001411086 DUE | 7/16/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001411086        |         |           |                         |         |           |                   |        |             |            |         |
| 98                | 7/16/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 15.00-  | .00       | .00               | .00    | 15.00-26    |            |         |
|                   |         |      | PAYEE 6398FSL #0001410949 DUE | 7/15/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001410949        |         |           |                         |         |           |                   |        |             |            |         |
| 97                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 60.00-  | .00       | .00               | .00    | 60.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 96                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 40.00-  | .00       | .00               | .00    | 40.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 95                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 12.50-  | .00       | .00               | .00    | 12.50-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 94                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 40.00-  | .00       | .00               | .00    | 40.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 93                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 20.00-  | .00       | .00               | .00    | 20.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 92                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 20.00-  | .00       | .00               | .00    | 20.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 91                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 40.00-  | .00       | .00               | .00    | 40.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 90                | 7/10/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 60.00-  | .00       | .00               | .00    | 60.00-26    |            |         |
|                   |         |      | PAYEE 61FINKF #0001409492 DUE | 7/09/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001409492        |         |           |                         |         |           |                   |        |             |            |         |
| 89                | 6/29/15 | 2526 | CORP ADVANCE ADJUST           | 7/13    | 26945.74  | .00                     | 15.00   | .00       | .00               | .00    | 15.00 26    |            |         |
|                   |         |      | S/F BT REF# 0000              |         |           |                         |         |           |                   |        |             |            |         |
| 88                | 6/26/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 15.00-  | .00       | .00               | .00    | 15.00-26    |            |         |
|                   |         |      | PAYEE 6398FSL #0001406494 DUE | 6/25/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001406494        |         |           |                         |         |           |                   |        |             |            |         |
| 87                | 6/03/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 15.00-  | .00       | .00               | .00    | 15.00-26    |            |         |
|                   |         |      | PAYEE 6398FSL #0001401595 DUE | 6/02/15 |           |                         |         |           |                   |        |             |            |         |
|                   |         |      | S/F SC REF# 0001401595        |         |           |                         |         |           |                   |        |             |            |         |
| 86                | 5/28/15 | 6226 | CORP ADV DISB                 | 7/13    | 26945.74  | .00                     | 100.00- | .00       | .00               | .00    | 100.00-26   |            |         |

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MISC.FMTS

| ---TRANSACTION--- |         |      |                               | NEXT -AFTER TRANS. BALANCES- |           | TOTAL  |         | ---APPLIED--- |          |        |             | PAGE: 1   |
|-------------------|---------|------|-------------------------------|------------------------------|-----------|--------|---------|---------------|----------|--------|-------------|-----------|
| NR                | DATE    | CODE | DESCRIPTION                   | DUE                          | PRINCIPAL | BSCROW | AMOUNT  | PRINCIPAL     | INTEREST | BSCROW | SUSPENSE/CD | MISC.FMTS |
| CONTINUED         |         |      |                               |                              |           |        |         |               |          |        |             |           |
|                   |         |      | PAYEE 61FINKF #0001399630 DUE | 5/27/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001399630        |                              |           |        |         |               |          |        |             |           |
| 85                | 5/28/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 80.00-  | .00           | .00      | .00    | 80.00-26    |           |
|                   |         |      | PAYEE 61FINKF #0001399630 DUE | 5/27/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001399630        |                              |           |        |         |               |          |        |             |           |
| 84                | 5/28/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 37.50-  | .00           | .00      | .00    | 37.50-26    |           |
|                   |         |      | PAYEE 61FINKF #0001399630 DUE | 5/27/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001399630        |                              |           |        |         |               |          |        |             |           |
| 83                | 5/28/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 12.50-  | .00           | .00      | .00    | 12.50-26    |           |
|                   |         |      | PAYEE 61FINKF #0001399630 DUE | 5/27/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001399630        |                              |           |        |         |               |          |        |             |           |
| 82                | 5/28/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 12.50-  | .00           | .00      | .00    | 12.50-26    |           |
|                   |         |      | PAYEE 61FINKF #0001399630 DUE | 5/27/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001399630        |                              |           |        |         |               |          |        |             |           |
| 81                | 5/18/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 15.00-  | .00           | .00      | .00    | 15.00-26    |           |
|                   |         |      | PAYEE 63SSPSL #0001397834 DUE | 5/15/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001397834        |                              |           |        |         |               |          |        |             |           |
| 80                | 4/13/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 15.00-  | .00           | .00      | .00    | 15.00-26    |           |
|                   |         |      | PAYEE 63SSPSL #0001389808 DUE | 4/10/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001389808        |                              |           |        |         |               |          |        |             |           |
| 79                | 3/23/15 | 2576 | CORP ADV NOCASH ADJ           | 7/13                         | 26945.74  | .00    | 42.00   | .00           | .00      | .00    | 42.00 26    |           |
|                   |         |      | S/P AD REF# 0000              |                              |           |        |         |               |          |        |             |           |
| 78                | 3/19/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 15.00-  | .00           | .00      | .00    | 15.00-26    |           |
|                   |         |      | PAYEE 63SSPSL #0001383214 DUE | 3/18/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001383214        |                              |           |        |         |               |          |        |             |           |
| 77                | 3/13/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 40.00-  | .00           | .00      | .00    | 40.00-26    |           |
|                   |         |      | PAYEE 61FINKF #0001381599 DUE | 3/12/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001381599        |                              |           |        |         |               |          |        |             |           |
| 76                | 3/13/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 60.00-  | .00           | .00      | .00    | 60.00-26    |           |
|                   |         |      | PAYEE 61FINKF #0001381599 DUE | 3/12/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001381599        |                              |           |        |         |               |          |        |             |           |
| 75                | 3/13/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 40.00-  | .00           | .00      | .00    | 40.00-26    |           |
|                   |         |      | PAYEE 61FINKF #0001381599 DUE | 3/12/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001381599        |                              |           |        |         |               |          |        |             |           |
| 74                | 2/24/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 300.00- | .00           | .00      | .00    | 300.00-26   |           |
|                   |         |      | PAYEE 61FINKF #0001376227 DUE | 2/20/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001376227        |                              |           |        |         |               |          |        |             |           |
| 73                | 2/24/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 40.00-  | .00           | .00      | .00    | 40.00-26    |           |
|                   |         |      | PAYEE 61FINKF #0001376227 DUE | 2/20/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001376227        |                              |           |        |         |               |          |        |             |           |
| 72                | 2/24/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 80.00-  | .00           | .00      | .00    | 80.00-26    |           |
|                   |         |      | PAYEE 61FINKF #0001376227 DUE | 2/20/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001376227        |                              |           |        |         |               |          |        |             |           |
| 71                | 2/17/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 15.00-  | .00           | .00      | .00    | 15.00-26    |           |
|                   |         |      | PAYEE 63SSPSL #0001374478 DUE | 2/13/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001374478        |                              |           |        |         |               |          |        |             |           |
| 70                | 2/05/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 15.00-  | .00           | .00      | .00    | 15.00-26    |           |
|                   |         |      | PAYEE 63SSPSL #0001372088 DUE | 2/04/15                      |           |        |         |               |          |        |             |           |
|                   |         |      | S/P SC REF# 0001372088        |                              |           |        |         |               |          |        |             |           |
| 69                | 1/15/15 | 6226 | CORP ADV DISB                 | 7/13                         | 26945.74  | .00    | 100.00- | .00           | .00      | .00    | 100.00-26   |           |
|                   |         |      | PAYEE 61FINKF #0001366684 DUE | 1/14/15                      |           |        |         |               |          |        |             |           |

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| ---TRANSACTION--- |          |      | NEXT -AFTER TRANS.BALANCES-                                                 |                  | TOTAL    | APPLIED----- |          |        |             | MISC.PMTS |
|-------------------|----------|------|-----------------------------------------------------------------------------|------------------|----------|--------------|----------|--------|-------------|-----------|
| NBR               | DATE     | CODE | DESCRIPTION-----                                                            | DUE              |          | PRINCIPAL    | INTEREST | ESCROW | SUSPENSE/CD |           |
| LOAN#             |          |      | CONTINUED                                                                   |                  |          |              |          |        |             |           |
| 68                | 1/15/15  | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001366684<br>S/F SC REF# 0001366684        | 7/13<br>1/14/15  | 26945.74 | .00          | 40.00-   | .00    | .00         | 40.00-26  |
| 67                | 1/15/15  | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001366684<br>S/F SC REF# 0001366684        | 7/13<br>1/14/15  | 26945.74 | .00          | 40.00-   | .00    | .00         | 40.00-26  |
| 66                | 1/06/15  | 6226 | CORP ADV DISB<br>PAYEE 63SSFSL #0001364631<br>S/F SC REF# 0001364631        | 7/13<br>1/05/15  | 26945.74 | .00          | 15.00-   | .00    | .00         | 15.00-26  |
| 65                | 12/15/14 | 6226 | CORP ADV DISB<br>PAYEE 63SSFSL #0001359921<br>S/F SC REF# 0001359921        | 7/13<br>12/12/14 | 26945.74 | .00          | 15.00-   | .00    | .00         | 15.00-26  |
| 64                | 12/11/14 | 6226 | CORP ADV DISB<br>PAYEE 63SSFSL #<br>S/F SC REF#                             | 7/13<br>12/10/14 | 26945.74 | .00          | 15.00-   | .00    | .00         | 15.00-26  |
| 63                | 12/11/14 | 6031 | COUNTY TAX DISBURSED<br>PAYEE 31SC013 #0003261514<br>S/F SC REF# 0003261514 | 7/13<br>12/31/14 | 26945.74 | .00          | 3881.98- | .00    | .00         | 3881.98-  |
| 62                | 12/11/14 | 1931 | COUNTY TAX ADVANCE<br>S/F SC REF# 0003261514                                | 7/13             | 26945.74 | 3881.98      | 3881.98  | .00    | .00         | 3881.98   |
| 61                | 11/19/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001350551<br>S/F SC REF# 0001350551        | 7/13<br>11/18/14 | 26945.74 | .00          | 150.00-  | .00    | .00         | 150.00-26 |
| 60                | 11/19/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001350551<br>S/F SC REF# 0001350551        | 7/13<br>11/18/14 | 26945.74 | .00          | 12.50-   | .00    | .00         | 12.50-26  |
| 59                | 11/19/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001350551<br>S/F SC REF# 0001350551        | 7/13<br>11/18/14 | 26945.74 | .00          | 40.00-   | .00    | .00         | 40.00-26  |
| 58                | 11/19/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001350551<br>S/F SC REF# 0001350551        | 7/13<br>11/18/14 | 26945.74 | .00          | 25.00-   | .00    | .00         | 25.00-26  |
| 57                | 11/19/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001350551<br>S/F SC REF# 0001350551        | 7/13<br>11/18/14 | 26945.74 | .00          | 12.50-   | .00    | .00         | 12.50-26  |
| 56                | 11/19/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001350551<br>S/F SC REF# 0001350551        | 7/13<br>11/18/14 | 26945.74 | .00          | 12.50-   | .00    | .00         | 12.50-26  |
| 55                | 11/05/14 | 6226 | CORP ADV DISB<br>PAYEE 63SSFSL #0001346445<br>S/F SC REF# 0001346445        | 7/13<br>11/04/14 | 26945.74 | .00          | 15.00-   | .00    | .00         | 15.00-26  |
| 54                | 10/29/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001343783<br>S/F SC REF# 0001343783        | 7/13<br>10/28/14 | 26945.74 | .00          | 25.00-   | .00    | .00         | 25.00-26  |
| 53                | 10/21/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001340308<br>S/F SC REF# 0001340308        | 7/13<br>10/21/14 | 26945.74 | .00          | 37.50-   | .00    | .00         | 37.50-26  |
| 52                | 10/21/14 | 6226 | CORP ADV DISB<br>PAYEE 61FINKF #0001340308<br>S/F SC REF# 0001340308        | 7/13<br>10/21/14 | 26945.74 | .00          | 140.00-  | .00    | .00         | 140.00-26 |

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MISC. PMTS

| ---TRANSACTION--- | NBR      | DATE | CODE          | -----DESCRIPTION-----         | NEXT DUE | AFTER TRANS. BALANCES-<br>PRINCIPAL | ESCRON | TOTAL<br>AMOUNT | -----APPLIED----- | PRINCIPAL | INTEREST | ESCRON | SUSPENSE/CD | MISC. PMTS |
|-------------------|----------|------|---------------|-------------------------------|----------|-------------------------------------|--------|-----------------|-------------------|-----------|----------|--------|-------------|------------|
| LOAN#             |          |      |               | CONTINUED                     |          |                                     |        |                 |                   |           |          |        |             |            |
| 51                | 10/21/14 | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001340308 DUE | 7/13     | 26945.74                            | .00    | 25.00-          | .00               | .00       | .00      | .00    | 25.00-26    |            |
|                   |          |      |               | S/F SC REF# 0001340308        | 10/21/14 |                                     |        |                 |                   |           |          |        |             |            |
| 50                | 10/17/14 | 6226 | CORP ADV DISB | PAYEE 63SSPSL # DUE           | 7/13     | 26945.74                            | .00    | 15.00-          | .00               | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      |               | S/F WR REF# 10/17/14          |          |                                     |        |                 |                   |           |          |        |             |            |
| 49                | 9/30/14  | 6226 | CORP ADV DISB | PAYEE 63SSPSL # DUE           | 7/13     | 26945.74                            | .00    | 15.00-          | .00               | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      |               | S/F WR REF# 9/30/14           |          |                                     |        |                 |                   |           |          |        |             |            |
| 48                | 9/24/14  | 6226 | CORP ADV DISB | PAYEE 63SSPSL # DUE           | 7/13     | 26945.74                            | .00    | 15.00-          | .00               | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      |               | S/F WR REF# 9/23/14           |          |                                     |        |                 |                   |           |          |        |             |            |
| 47                | 8/20/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001320057 DUE | 7/13     | 26945.74                            | .00    | 180.00-         | .00               | .00       | .00      | .00    | 180.00-26   |            |
|                   |          |      |               | S/F SC REF# 0001320057        | 8/19/14  |                                     |        |                 |                   |           |          |        |             |            |
| 46                | 8/20/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001320057 DUE | 7/13     | 26945.74                            | .00    | 25.00-          | .00               | .00       | .00      | .00    | 25.00-26    |            |
|                   |          |      |               | S/F SC REF# 0001320057        | 8/19/14  |                                     |        |                 |                   |           |          |        |             |            |
| 45                | 8/20/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001320057 DUE | 7/13     | 26945.74                            | .00    | 160.00-         | .00               | .00       | .00      | .00    | 160.00-26   |            |
|                   |          |      |               | S/F SC REF# 0001320057        | 8/19/14  |                                     |        |                 |                   |           |          |        |             |            |
| 44                | 8/12/14  | 6226 | CORP ADV DISB | PAYEE 63SSPSL # DUE           | 7/13     | 26945.74                            | .00    | 15.00-          | .00               | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      |               | S/F WR REF# 8/11/14           |          |                                     |        |                 |                   |           |          |        |             |            |
| 43                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 122.34-         | .00               | .00       | .00      | .00    | 122.34-26   |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 42                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 37.50-          | .00               | .00       | .00      | .00    | 37.50-26    |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 41                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 1000.00-        | .00               | .00       | .00      | .00    | 1000.00-26  |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 40                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 1600.00-        | .00               | .00       | .00      | .00    | 1600.00-26  |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 39                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 125.00-         | .00               | .00       | .00      | .00    | 125.00-26   |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 38                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 25.00-          | .00               | .00       | .00      | .00    | 25.00-26    |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 37                | 8/01/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001315717 DUE | 7/13     | 26945.74                            | .00    | 29.34-          | .00               | .00       | .00      | .00    | 29.34-26    |            |
|                   |          |      |               | S/F SC REF# 0001315717        | 7/31/14  |                                     |        |                 |                   |           |          |        |             |            |
| 36                | 7/07/14  | 6226 | CORP ADV DISB | PAYEE 61FINKF #0001308941 DUE | 7/13     | 26945.74                            | .00    | 520.00-         | .00               | .00       | .00      | .00    | 520.00-26   |            |
|                   |          |      |               | S/F SC REF# 0001308941        | 7/07/14  |                                     |        |                 |                   |           |          |        |             |            |
| 35                | 6/18/14  | 6226 | CORP ADV DISB | PAYEE 63SSPSL # DUE           | 7/13     | 26945.74                            | .00    | 15.00-          | .00               | .00       | .00      | .00    | 15.00-26    |            |
|                   |          |      |               | S/F WR REF# 6/12/14           |          |                                     |        |                 |                   |           |          |        |             |            |

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| ---TRANSACTION--- |          | NEXT |                           | AFTER TRANS. |           | BALANCES |           | TOTAL<br>AMOUNT | APPLIED  |          |             |  | MISC. PMTS |
|-------------------|----------|------|---------------------------|--------------|-----------|----------|-----------|-----------------|----------|----------|-------------|--|------------|
| NBR               | DATE     | CODE | DESCRIPTION               | DUE          | PRINCIPAL | ESCROW   | PRINCIPAL |                 | INTEREST | ESCROW   | SUSPENSE/CD |  |            |
| CONTINUED         |          |      |                           |              |           |          |           |                 |          |          |             |  |            |
| 34                | 6/16/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 15.00-    | .00             | .00      | .00      | 15.00-26    |  |            |
|                   |          |      | PAYER 63SSFSL #           | DUE          | 6/11/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F WR REF#               |              |           |          |           |                 |          |          |             |  |            |
| 33                | 6/04/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 1155.00-  | .00             | .00      | .00      | 1155.00-26  |  |            |
|                   |          |      | PAYEE 61FINKF #0001300056 | DUE          | 6/03/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001300056    |              |           |          |           |                 |          |          |             |  |            |
| 32                | 6/04/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 6.00-     | .00             | .00      | .00      | 6.00-26     |  |            |
|                   |          |      | PAYER 61FINKF #0001300056 | DUE          | 6/03/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001300056    |              |           |          |           |                 |          |          |             |  |            |
| 31                | 6/04/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 435.00-   | .00             | .00      | .00      | 435.00-26   |  |            |
|                   |          |      | PAYER 61FINKF #0001300056 | DUE          | 6/03/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001300056    |              |           |          |           |                 |          |          |             |  |            |
| 30                | 6/04/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 11.74-    | .00             | .00      | .00      | 11.74-26    |  |            |
|                   |          |      | PAYER 61FINKF #0001300056 | DUE          | 6/03/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001300056    |              |           |          |           |                 |          |          |             |  |            |
| 29                | 6/04/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 150.00-   | .00             | .00      | .00      | 150.00-26   |  |            |
|                   |          |      | PAYER 61FINKF #0001300056 | DUE          | 6/03/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001300056    |              |           |          |           |                 |          |          |             |  |            |
| 28                | 5/22/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 15.00-    | .00             | .00      | .00      | 15.00-26    |  |            |
|                   |          |      | PAYER 63SSFSL #           | DUE          | 5/21/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F WR REF#               |              |           |          |           |                 |          |          |             |  |            |
| 27                | 4/30/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 15.00-    | .00             | .00      | .00      | 15.00-26    |  |            |
|                   |          |      | PAYER 63SSFSL #           | DUE          | 4/30/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F WR REF#               |              |           |          |           |                 |          |          |             |  |            |
| 26                | 4/28/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 60.00-    | .00             | .00      | .00      | 60.00-26    |  |            |
|                   |          |      | PAYER 60SOSSE #0001290166 | DUE          | 4/25/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001290166    |              |           |          |           |                 |          |          |             |  |            |
| 25                | 4/24/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 15.00-    | .00             | .00      | .00      | 15.00-26    |  |            |
|                   |          |      | PAYER 63SSFSL #           | DUE          | 4/24/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F WR REF#               |              |           |          |           |                 |          |          |             |  |            |
| 24                | 1/31/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 12.00-    | .00             | .00      | .00      | 12.00-26    |  |            |
|                   |          |      | PAYER 63CYPRE #0001266422 | DUE          | 1/30/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001266422    |              |           |          |           |                 |          |          |             |  |            |
| 23                | 1/17/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 265.00-   | .00             | .00      | .00      | 265.00-26   |  |            |
|                   |          |      | PAYER 60SOSSE #0001262860 | DUE          | 1/17/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001262860    |              |           |          |           |                 |          |          |             |  |            |
| 22                | 1/10/14  | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 12.00-    | .00             | .00      | .00      | 12.00-26    |  |            |
|                   |          |      | PAYER 63CYPRE #0001260798 | DUE          | 1/09/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001260798    |              |           |          |           |                 |          |          |             |  |            |
| 21                | 12/26/13 | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | .00      | 12.00-    | .00             | .00      | .00      | 12.00-26    |  |            |
|                   |          |      | PAYER 63CYPRE #0001256858 | DUE          | 12/24/13  |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001256858    |              |           |          |           |                 |          |          |             |  |            |
| 20                | 12/19/13 | 6031 | COUNTY TAX DISBURSED      | 7/13         | 26945.74  | .00      | 3681.09-  | .00             | .00      | 3681.09- | .00         |  |            |
|                   |          |      | PAYER 31SC013 #0002168779 | DUE          | 1/15/14   |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0002168779    |              |           |          |           |                 |          |          |             |  |            |
| 19                | 12/19/13 | 1931 | COUNTY TAX ADVANCE        | 7/13         | 26945.74  | 3681.09  | 1844.79   | .00             | .00      | 1844.79  | .00         |  |            |
|                   |          |      | S/F SC REF# 0002168779    |              |           |          |           |                 |          |          |             |  |            |
| 18                | 11/15/13 | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | 1836.30  | 12.00-    | .00             | .00      | .00      | 12.00-26    |  |            |
|                   |          |      | PAYER 63SAFCD #0001246055 | DUE          | 11/12/13  |          |           |                 |          |          |             |  |            |
|                   |          |      | S/F SC REF# 0001246055    |              |           |          |           |                 |          |          |             |  |            |
| 17                | 11/14/13 | 6226 | CORP ADV DISB             | 7/13         | 26945.74  | 1836.30  | 95.00-    | .00             | .00      | .00      | 95.00-26    |  |            |

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| ---TRANSACTION--- |           | NEXT -AFTER TRANS.BALANCES-            |      | TOTAL     | -----APPLIED----- |           |           |          | MISC.PMTS |             |         |
|-------------------|-----------|----------------------------------------|------|-----------|-------------------|-----------|-----------|----------|-----------|-------------|---------|
| NBR               | DATE CODE | DESCRIPTION-----                       | DUE  | PRINCIPAL | ESCROW            | AMOUNT    | PRINCIPAL | INTEREST | ESCROW    | SUSPENSE/CD |         |
| CONTINUED         |           |                                        |      |           |                   |           |           |          |           |             |         |
|                   |           | PAYEE 6080859 #0001244991 DUE 11/14/13 |      |           |                   |           |           |          |           |             |         |
|                   |           | S/F SC REF# 0001244991                 |      |           |                   |           |           |          |           |             |         |
| 16                | 11/13/13  | 6225 MISC BUSP DISB                    | 7/13 | 26945.74  | 1836.30           | 850.94-   | .00       | .00      | .00       | 850.94-25   |         |
|                   |           | PAYEE WEISNER #0001994524 DUE 11/13/13 |      |           |                   |           |           |          |           |             |         |
|                   |           | S/F SC REF# 0001994524                 |      |           |                   |           |           |          |           |             |         |
| 15                | 10/08/13  | 1408 ZZZZF-E PAY FEB                   | 7/13 | 26945.74  | 1836.30           | 7.50      | .00       | .00      | .00       | .00         | 7.50 08 |
|                   |           | S/F C REF#                             |      |           |                   |           |           |          |           |             |         |
| 14                | 10/08/13  | 1499 ZZZZF-E PAY FEB                   | 7/13 | 26945.74  | 1836.30           | 7.50      | .00       | .00      | .00       | .00         | 7.50 08 |
|                   |           | S/F REF#                               |      |           |                   |           |           |          |           |             |         |
| 13                | 10/08/13  | 1325 PMT-MISC SUSP                     | 7/13 | 26945.74  | 1836.30           | 850.94    | .00       | .00      | .00       | 850.94 25   |         |
|                   |           | S/F SP REF#                            |      |           |                   |           |           |          |           |             |         |
| 12                | 10/07/13  | 6226 CORP ADV DISB                     | 7/13 | 26945.74  | 1836.30           | 12.00-    | .00       | .00      | .00       | 12.00-26    |         |
|                   |           | PAYEE 638AFGD #0001235956 DUE 10/04/13 |      |           |                   |           |           |          |           |             |         |
|                   |           | S/F SC REF# 0001235956                 |      |           |                   |           |           |          |           |             |         |
| 11                | 7/05/13   | 2543 ESCROW ADJ                        | 7/13 | 26945.74  | 1836.30           | 1836.30   | .00       | .00      | 1836.30   | .00         |         |
|                   |           | Effective date: 6/13/13                |      |           |                   |           |           |          |           |             |         |
|                   |           | S/F LB REF#                            |      |           |                   |           |           |          |           |             |         |
| 10                | 7/05/13   | 8103 NEW LOAN NOCASH                   | 7/13 | 26945.74  | .00               | 26945.74- | 26945.74- | .00      | .00       | .00         |         |
|                   |           | Effective date: 6/13/13                |      |           |                   |           |           |          |           |             |         |
|                   |           | S/F LB REF#                            |      |           |                   |           |           |          |           |             |         |
|                   |           | * * * * * TOTALS * * * * *             |      |           |                   | 26945.74- | .00       |          |           |             |         |

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Bank of America  
Home Loans

| Transaction Date | Description     | Total Payment | PMT/Mo  | Principal Balance   | Interest | Escrow Balance | Optional | Buydown | Late Charges Total | Unapplied Total |
|------------------|-----------------|---------------|---------|---------------------|----------|----------------|----------|---------|--------------------|-----------------|
| 05/14/2007       | REGULAR PAYMENT | 499.46        | 05/2007 | 274.40<br>59,432.80 | 225.06   | .00            | .00      | .00     | .00                | .00             |
| 06/12/2007       | REGULAR PAYMENT | 499.46        | 06/2007 | 268.15<br>59,164.64 | 231.30   | .00            | .00      | .00     | .00                | .00             |
| 07/12/2007       | REGULAR PAYMENT | 499.46        | 07/2007 | 278.81<br>49,887.83 | 222.66   | .00            | .00      | .00     | .00                | .00             |
| 08/13/2007       | REGULAR PAYMENT | 499.46        | 08/2007 | 270.85<br>49,617.17 | 226.60   | .00            | .00      | .00     | .00                | .00             |
| 09/12/2007       | REGULAR PAYMENT | 499.46        | 09/2007 | 271.90<br>49,345.27 | 227.56   | .00            | .00      | .00     | .00                | .00             |
| 10/12/2007       | REGULAR PAYMENT | 499.46        | 10/2007 | 280.45<br>49,064.82 | 219.01   | .00            | .00      | .00     | .00                | .00             |
| 11/13/2007       | REGULAR PAYMENT | 499.46        | 11/2007 | 274.43<br>48,796.39 | 225.03   | .00            | .00      | .00     | .00                | .00             |
| 12/12/2007       | REGULAR PAYMENT | 499.46        | 12/2007 | 282.91<br>48,507.48 | 216.55   | .00            | .00      | .00     | .00                | .00             |
| 01/14/2008       | REGULAR PAYMENT | 499.46        | 01/2008 | 277.23<br>48,230.25 | 222.23   | .00            | .00      | .00     | .00                | .00             |
| 02/12/2008       | REGULAR PAYMENT | 499.46        | 02/2008 | 278.87<br>47,951.38 | 220.59   | .00            | .00      | .00     | .00                | .00             |
| 03/12/2008       | REGULAR PAYMENT | 499.46        | 03/2008 | 284.29<br>47,667.09 | 205.17   | .00            | .00      | .00     | .00                | .00             |
| 04/14/2008       | REGULAR PAYMENT | 499.46        | 04/2008 | 281.49<br>47,375.69 | 217.97   | .00            | .00      | .00     | .00                | .00             |
| 05/12/2008       | REGULAR PAYMENT | 499.46        | 05/2008 | 289.76<br>47,085.94 | 209.70   | .00            | .00      | .00     | .00                | .00             |
| 06/12/2008       | REGULAR PAYMENT | 499.46        | 06/2008 | 284.10<br>46,801.74 | 216.36   | .00            | .00      | .00     | .00                | .00             |
| 07/14/2008       | REGULAR PAYMENT | 499.46        | 07/2008 | 282.30<br>46,509.44 | 207.16   | .00            | .00      | .00     | .00                | .00             |
| 08/12/2008       | REGULAR PAYMENT | 499.46        | 08/2008 | 286.74<br>46,222.70 | 212.72   | .00            | .00      | .00     | .00                | .00             |
| 09/12/2008       | REGULAR PAYMENT | 499.46        | 09/2008 | 288.05<br>45,934.65 | 211.41   | .00            | .00      | .00     | .00                | .00             |
| 10/14/2008       | REGULAR PAYMENT | 499.46        | 10/2008 | 286.14<br>45,638.51 | 203.32   | .00            | .00      | .00     | .00                | .00             |

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404





| Transaction Date | Description     | Total Payment | PMT/Mo  | Principal Balance   | Interest | Escrow Balance         | Optional | Buydown | Late Charges Total | Unapplied Total |
|------------------|-----------------|---------------|---------|---------------------|----------|------------------------|----------|---------|--------------------|-----------------|
| 11/12/2008       | REGULAR PAYMENT | 489.48        | 11/2008 | 280.72<br>43,347.79 | 208.74   | .00                    | .00      | .00     | .00                | .00             |
| 12/12/2008       | REGULAR PAYMENT | 489.48        | 12/2008 | 286.74<br>43,049.05 | 200.72   | .00                    | .00      | .00     | .00                | .00             |
| 01/12/2009       | REGULAR PAYMENT | 489.48        | 01/2009 | 293.20<br>44,755.86 | 208.28   | .00                    | .00      | .00     | .00                | .00             |
| 02/12/2009       | REGULAR PAYMENT | 489.48        | 02/2009 | 294.20<br>44,461.66 | 206.26   | .00                    | .00      | .00     | .00                | .00             |
| 03/12/2009       | REGULAR PAYMENT | 489.48        | 03/2009 | 315.28<br>44,146.37 | 184.18   | .00                    | .00      | .00     | .00                | .00             |
| 04/13/2009       | REGULAR PAYMENT | 489.48        | 04/2009 | 296.89<br>43,849.38 | 202.47   | .00                    | .00      | .00     | .00                | .00             |
| 05/12/2009       | REGULAR PAYMENT | 489.48        | 05/2009 | 304.84<br>43,544.54 | 194.62   | .00                    | .00      | .00     | .00                | .00             |
| 06/12/2009       | REGULAR PAYMENT | 489.48        | 06/2009 | 289.75<br>43,244.79 | 189.71   | .00                    | .00      | .00     | .00                | .00             |
| 07/13/2009       | REGULAR PAYMENT | 489.48        | 07/2009 | 307.82<br>42,937.27 | 191.94   | .00                    | .00      | .00     | .00                | .00             |
| 08/12/2009       | REGULAR PAYMENT | 489.48        | 08/2009 | 302.64<br>42,634.73 | 188.92   | .00                    | .00      | .00     | .00                | .00             |
| 09/14/2009       | REGULAR PAYMENT | 489.48        | 09/2009 | 303.92<br>42,330.81 | 185.54   | .00                    | .00      | .00     | .00                | .00             |
| 10/13/2009       | REGULAR PAYMENT | 489.48        | 10/2009 | 311.68<br>42,019.23 | 187.86   | .00                    | .00      | .00     | .00                | .00             |
| 11/12/2009       | REGULAR PAYMENT | 489.48        | 11/2009 | 308.75<br>41,712.48 | 192.71   | .00                    | .00      | .00     | .00                | .00             |
| 12/14/2009       | REGULAR PAYMENT | 489.48        | 12/2009 | 320.60<br>41,391.88 | 178.96   | .00                    | .00      | .00     | .00                | .00             |
| 01/05/2010       | HAZARD INS PMT  | -2,523.00     | 12/2009 | .00<br>41,391.88    | .00      | -2,523.00<br>-2,523.00 | .00      | .00     | .00                | .00             |
| 01/12/2010       | REGULAR PAYMENT | 489.48        | 01/2010 | 308.62<br>41,692.38 | 189.84   | .00<br>-2,523.00       | .00      | .00     | .00                | .00             |
| 02/12/2010       | REGULAR PAYMENT | 489.48        | 02/2010 | 311.04<br>40,771.32 | 188.42   | .00<br>-2,523.00       | .00      | .00     | .00                | .00             |
| 02/22/2010       | HAZ INS CREDIT  | 2,523.00      | 02/2010 | .00<br>40,771.32    | .00      | 2,523.00<br>.00        | .00      | .00     | .00                | .00             |

394  
384  
1/18

Bank of America  
  
 Home Loans

| Transaction Date | Description     | Total Payment | PMT/Mo  | Principal Balance   | Interest | Escrow Balance     | Optional | Buydown | Late Charges Total | Unapplied Total |
|------------------|-----------------|---------------|---------|---------------------|----------|--------------------|----------|---------|--------------------|-----------------|
| 03/12/2010       | REGULAR PAYMENT | 1,024.94      | 03/2010 | 330.57<br>40,440.75 | 168.89   | 525.48<br>525.48   | .00      | .00     | .00                | .00             |
| 04/12/2010       | REGULAR PAYMENT | 499.46        | 04/2010 | 313.99<br>40,126.76 | 165.47   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 05/12/2010       | REGULAR PAYMENT | 499.46        | 05/2010 | 321.38<br>39,805.40 | 178.10   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 06/14/2010       | REGULAR PAYMENT | 499.46        | 06/2010 | 316.90<br>39,488.50 | 182.66   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 07/12/2010       | REGULAR PAYMENT | 499.46        | 07/2010 | 324.20<br>39,164.30 | 175.28   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 08/12/2010       | REGULAR PAYMENT | 499.46        | 08/2010 | 319.84<br>38,844.46 | 179.82   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 09/13/2010       | REGULAR PAYMENT | 499.46        | 09/2010 | 321.31<br>38,523.15 | 176.15   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 10/12/2010       | REGULAR PAYMENT | 499.46        | 10/2010 | 328.48<br>38,194.67 | 170.98   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 11/12/2010       | REGULAR PAYMENT | 499.46        | 11/2010 | 324.29<br>37,870.38 | 175.17   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 12/13/2010       | REGULAR PAYMENT | 499.46        | 12/2010 | 331.38<br>37,539.00 | 168.08   | .00<br>525.48      | .00      | .00     | .00                | .00             |
| 01/03/2011       | HAZARD INS PMT  | -685.00       | 12/2010 | .00<br>37,539.00    | .00      | -685.00<br>-160.52 | .00      | .00     | .00                | .00             |
| 01/12/2011       | REGULAR PAYMENT | 499.46        | 01/2011 | 327.29<br>37,211.71 | 172.17   | .00<br>-160.52     | .00      | .00     | .00                | .00             |
| 02/14/2011       | REGULAR PAYMENT | 499.46        | 02/2011 | 328.80<br>36,882.91 | 170.86   | .00<br>-160.52     | .00      | .00     | .00                | .00             |
| 03/14/2011       | REGULAR PAYMENT | 499.46        | 03/2011 | 348.87<br>36,534.24 | 152.79   | .00<br>-160.52     | .00      | .00     | .00                | .00             |
| 04/12/2011       | REGULAR PAYMENT | 603.31        | 04/2011 | 331.89<br>36,204.35 | 187.67   | 103.85<br>-56.67   | .00      | .00     | .00                | .00             |
| 05/12/2011       | REGULAR PAYMENT | 603.31        | 05/2011 | 336.77<br>35,865.58 | 160.89   | 103.85<br>47.18    | .00      | .00     | .00                | .00             |
| 06/10/2011       | OVERAGE REFUND  | -47.18        | 06/2011 | .00<br>35,865.58    | .00      | -47.18<br>.00      | .00      | .00     | .00                | .00             |
| 08/13/2011       | REGULAR PAYMENT | 499.46        | 08/2011 | 334.97<br>35,530.61 | 164.49   | .00<br>.00         | .00      | .00     | .00                | .00             |

395  
 285  
 110  
 100



| Transaction Date | Description       | Total Payment | PMT/Mo  | Principal Balance | Interest | Escrow Balance | Optional | Buydown | Late Charges Total | Unapplied Total |
|------------------|-------------------|---------------|---------|-------------------|----------|----------------|----------|---------|--------------------|-----------------|
| 08/15/2011       | HAZ INS CREDIT    | 668.00        | 08/2011 | .00               | .00      | 668.00         | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 35,530.61         |          | 668.00         |          |         | .00                | .00             |
| 07/12/2011       | REGULAR PAYMENT   | 499.48        | 07/2011 | 341.76            | 167.70   | .00            | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 35,188.86         |          | 668.00         |          |         | .00                | .00             |
| 08/12/2011       | REGULAR PAYMENT   | 499.48        | 08/2011 | 338.07            | 161.39   | .00            | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 34,890.78         |          | 668.00         |          |         | .00                | .00             |
| 09/12/2011       | REGULAR PAYMENT   | 499.48        | 09/2011 | 339.82            | 169.84   | .00            | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 34,511.18         |          | 668.00         |          |         | .00                | .00             |
| 10/12/2011       | REGULAR PAYMENT   | 499.48        | 10/2011 | 348.29            | 183.17   | .00            | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 34,164.87         |          | 668.00         |          |         | .00                | .00             |
| 11/14/2011       | REGULAR PAYMENT   | 499.48        | 11/2011 | 342.77            | 168.69   | .00            | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,822.10         |          | 668.00         |          |         | .00                | .00             |
| 11/18/2011       | COUNTY TAX PMT    | -4,128.99     | 11/2011 | .00               | .00      | -4,128.99      | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,822.10         |          | -3,449.99      |          |         | .00                | .00             |
| 11/18/2011       | COUNTY TAX PMT    | -4.60         | 11/2011 | .00               | .00      | -4.60          | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,822.10         |          | -3,445.40      |          |         | .00                | .00             |
| 12/07/2011       | COUNTY TAX PMT    | -3,622.99     | 11/2011 | .00               | .00      | -3,622.99      | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,822.10         |          | -8,968.47      |          |         | .00                | .00             |
| 12/12/2011       | REGULAR PAYMENT   | 499.47        | 12/2011 | 349.35            | 160.11   | .01            | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,472.75         |          | -8,968.46      |          |         | .00                | .00             |
| 01/03/2012       | HAZARD INS PMT    | -921.00       | 12/2011 | .00               | .00      | -921.00        | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,472.75         |          | -7,889.46      |          |         | .00                | .00             |
| 01/11/2012       | COUNTY TAX CREDIT | 4,128.99      | 12/2011 | .00               | .00      | 4,128.99       | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,472.75         |          | -3,762.47      |          |         | .00                | .00             |
| 01/12/2012       | REGULAR PAYMENT   | 1,422.49      | 01/2012 | 348.10            | 153.38   | 923.03         | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,126.66         |          | -2,839.44      |          |         | .00                | .00             |
| 02/06/2012       | HAZ INS CREDIT    | 921.00        | 01/2012 | .00               | .00      | 921.00         | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 33,126.66         |          | -1,918.44      |          |         | .00                | .00             |
| 02/13/2012       | REGULAR PAYMENT   | 1,199.75      | 02/2012 | 347.95            | 151.61   | 899.29         | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 32,778.70         |          | -1,218.15      |          |         | .00                | .00             |
| 03/12/2012       | REGULAR PAYMENT   | 1,198.75      | 03/2012 | 359.21            | 140.25   | 898.29         | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 32,419.49         |          | -519.86        |          |         | .00                | .00             |
| 03/15/2012       | MISC ESC CREDIT   | 47.18         | 03/2012 | .00               | .00      | 47.18          | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 32,419.49         |          | -472.68        |          |         | .00                | .00             |
| 04/12/2012       | REGULAR PAYMENT   | 1,198.75      | 04/2012 | 351.18            | 148.26   | 898.29         | .00      | .00     | .00                | .00             |
|                  |                   |               |         | 32,068.31         |          | 228.61         |          |         | .00                | .00             |

3916  
386  
289



| Transaction Date | Description     | Total Payment | PMT/Mo  | Principal Balance | Interest | Escrow Balance | Optional | Buydown | Late Charges Total | Unapplied Total |
|------------------|-----------------|---------------|---------|-------------------|----------|----------------|----------|---------|--------------------|-----------------|
| 05/14/2012       | REGULAR PAYMENT | 872.02        | 06/2012 | 357.52            | 141.84   | 372.58         |          |         |                    |                 |
|                  |                 |               |         | 31,710.79         |          | 899.17         | .00      | .00     | .00                | .00             |
| 06/12/2012       | REGULAR PAYMENT | 872.02        | 06/2012 | 354.42            | 145.04   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 31,356.37         |          | 871.73         |          |         |                    |                 |
| 07/12/2012       | REGULAR PAYMENT | 872.02        | 07/2012 | 350.57            | 138.79   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 30,995.70         |          | 1,344.29       |          |         |                    |                 |
| 08/13/2012       | REGULAR PAYMENT | 872.02        | 08/2012 | 357.69            | 141.77   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 30,638.01         |          | 1,718.88       |          |         |                    |                 |
| 09/12/2012       | REGULAR PAYMENT | 872.02        | 09/2012 | 359.33            | 140.13   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 30,278.68         |          | 2,089.41       |          |         |                    |                 |
| 10/12/2012       | REGULAR PAYMENT | 872.02        | 10/2012 | 368.44            | 134.02   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 29,913.24         |          | 2,461.87       |          |         |                    |                 |
| 11/13/2012       | REGULAR PAYMENT | 872.02        | 11/2012 | 362.84            | 136.82   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 29,550.40         |          | 2,834.53       |          |         |                    |                 |
| 12/05/2012       | COUNTY TAX PMT  | -3,803.15     | 11/2012 | .00               | .00      | -3,803.15      | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 29,550.40         |          | -768.62        |          |         |                    |                 |
| 12/12/2012       | REGULAR PAYMENT | 872.02        | 12/2012 | 368.68            | 130.80   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 29,181.94         |          | -398.08        |          |         |                    |                 |
| 01/14/2013       | REGULAR PAYMENT | 872.02        | 01/2013 | 368.86            | 133.80   | 372.58         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 28,816.08         |          | -23.50         |          |         |                    |                 |
| 02/12/2013       | REGULAR PAYMENT | 878.54        | 02/2013 | 367.30            | 132.18   | 377.08         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 28,448.78         |          | 353.58         |          |         |                    |                 |
| 03/12/2013       | REGULAR PAYMENT | 878.54        | 03/2013 | 361.61            | 117.85   | 377.08         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 28,087.17         |          | 739.08         |          |         |                    |                 |
| 04/12/2013       | REGULAR PAYMENT | 878.54        | 04/2013 | 370.74            | 128.72   | 377.08         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 27,696.43         |          | 1,107.74       |          |         |                    |                 |
| 05/13/2013       | REGULAR PAYMENT | 878.54        | 05/2013 | 376.53            | 122.93   | 377.08         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 27,319.90         |          | 1,484.82       |          |         |                    |                 |
| 06/12/2013       | REGULAR PAYMENT | 880.94        | 06/2013 | 374.16            | 125.30   | 351.48         | .00      | .00     | .00                | .00             |
|                  |                 |               |         | 26,945.74         |          | 1,836.30       |          |         |                    |                 |

Fee Transaction Activity (01/1999 - 04/2018)

No fee transaction for the time period.

397  
287  
1100  
100

# EXHIBIT B

398  
288  
1187

=====

Payoff Quote Include/Omit Items

=====

9/17/19  
14:06:29  
CPY-EDT

| Loan Number                            | PO Dt      | 9/17/19                     | Int Paid To | 6/13/13 |           |                      |
|----------------------------------------|------------|-----------------------------|-------------|---------|-----------|----------------------|
| Inv# BX5 Loan Type 03 Sub Code         | 00         |                             | Next Due Dt | 7/12/13 | Int Rate  | 5.400                |
| Prin Bal                               | 26,945.74  | Per Diem Int                | 3.99        |         | Int Calcs | 9,117.11             |
| Optional Items to I-Include or O-Omit: |            |                             |             |         |           | Plan Number          |
| Q Escrow Balance                       | .00        | I Total Late Charges        |             |         |           | 00001                |
| Interest on Escrow                     | .00        | I Total NSF Charges         |             |         |           | .00                  |
| I Escrow Advance                       | 25,270.21  | I Optional Ins Payment      |             |         |           | .00                  |
| Q Misc Suspense Bal                    | 850.94     | I Prepayment Penalty        |             |         |           | .00                  |
| Q Forbearance Bal                      | .00        | I Last FHA PMI Premium      |             |         |           | .00                  |
| Q B235 Balance                         | .00        | I Other Fees Due            |             |         |           | .00                  |
| Q Hazard Suspense Bal                  | .00        | I Rebate Points Financed    |             |         |           | 0000000              |
| Int on Hazard Loss                     | .00        | Q Deferred Principal        |             |         |           | .00                  |
| I Inv. Advance                         | .00        | Q Recording Fee             |             |         |           | 000000000000000000   |
| I Corp Advance Bal                     | 19,492.84- | I Quote fee                 |             |         |           | 000000000000000000   |
| Q Corp Expense Bal                     | 23,065.88- | I Oth1 PREPAYMENT PENALTY   |             |         |           | 000000000000000000   |
| Q Default Int Due                      | .00        | Q Oth2 COUNTY RECORDING FEE |             |         |           | 000000000000000000 + |
| I Deferred Int                         | .00        | I MBS Liq Difference        |             |         |           | .00                  |
| Q Prepaid Ins Rebate                   | .00        |                             |             |         |           |                      |
| Accept Quote - Y/N N                   |            |                             |             |         |           |                      |
|                                        |            | PO Amt                      |             |         |           | 80,825.90            |

F3=Exit F5=Refresh F6=New Loan# F10=Fees F16=Suspense F24=More keys

399  
289  
1000

Loan# Inv# BX6 Asum: N Total Due 100822.74 Due 7/12/13  
 CP: ZZZ\_ZOMG Mag#1: 08 2: 45 3: UnPaidBal 26945.74 LPR 6/12/13

LOAN DATA

Closing Date 8/13/03 Loan Term: 180 Months, 15 Years Org Branch: 0964  
 1st Pmt.Due 9/12/03 Orig.Principal Bal: 61516.00 Loan Type: 03

Maturity Date 8/12/18 Interest Paid YTD: .00 Mortgage Instrument: 1  
 Interest Rate: N 5.400 Interest Paid Life: .00 Arm Ext Chg: 0/00/00  
 Interest Flag: D Payment Frequency: M Per Diem: 3.99  
 Acquisition Method: 3 Int Poor: .00

2nd Mortgage Flag: Lienholder:  
 Alternate Loan Type: Alternate Loan# 0611826835  
 Deferred Non Interest Bearing Princ: .00

Investor# BX6 Inv.Loan# Prepaid Limit Date 0/00/00  
 Pool# 1 Prepay Pen.1-3 yrs: .000  
 Prepay Pen.4-5 yrs: .000

FHA/VA Case#

MBS Issue Date: 000000

Servicing Branch: 01

Comments:

Pay Habit History: Jan - Feb - Mar - Apr - May - Jun -  
 Jul - Aug - Sep - Oct - Nov - Dec -

F3=Exit F7=Next Loan F8=Prev Loan F9=Stnt Inq F12=Return  
 Page Dn=Loan & Escrow Status Page Up=Personal & Property Data

400  
 390

Loan# Inv# BX6 Asum: N Total Due 100822.74 Due 7/12/13  
 CP: ZZZ\_ZOMG Msg#1: 08 2: 45 3: UnPaidBal 26945.74 LPR 6/12/13  
 -----Payments-----Total Due -----Outstanding Charges-----  
 P & I 499.46 N 36062.85  
 Escrow 312.19 Y 20847.78 Current Late Charge .00  
 Non-Escrow .00 .00 Current NSF Due .00  
 -Subs-Gov .00 N .00 -Forbear Deferred Late Chg .00  
 CA Fmt .00 .00 Deferred NSF Charge .00  
 Corp Adv 19492.84 19492.84 Deferred Interest .00  
 Total 811.65 100822.74 NOW DUE Total Fees .00

Account Balances-----Current Balance INCLUDES-> Total Charges .00  
 Subsidy-Government .00 -----Delinquency History-----  
 Subsidy-Borrower .00 #Payments Del. 00062  
 Partial Pmt/Forbear .00 #Times Del. YTD 00 Life 000  
 Hazard Loss .00 Days Del. 02258  
 Miscellaneous 850.94 To-Next-Late-Chg 11  
 CA Int/Bal .00 19492.84 -----Dates-----  
 Escrow Balance .00 Last Activity 9/04/19  
 Deferred Escrow Bal .00 Interest Paid Thru 6/13/13  
 Advances by Investor .00 Last Payment Received 6/12/13  
 Advances by Servicer 25270.21 Next Payment Due 7/12/13

F3=Exit F7=Next Loan F8=Prev Loan F9=Stmnt Inq F12=Return PageUp=Loan Data

401  
 391  
 1/9/20



===== 9/17/19  
 Escrow Inquiry 14:05:35  
 =====

Loan# \_\_\_\_\_ ; Pr Ln# 7 Corp Adv 19492.84- P&I 499.46  
 Borr Nm RHONDA L. MEISNER Esc Bal .00 Esc 312.19  
 Address 406 KOONS DOOR RD Esc Adv 25270.21 Other .00  
 COLUMBIA, SC 29203 Avail Esc .00 Tot Pmt 811.65  
 Nxt Due 7/12/13 Inv BX6 Flood Ins/Zone N X Lien 1  
 1st Pmt 9/12/03 Pool 0000001 Last Anly Date 2/25/19 Msgs 08 45  
 Prin Bal 26945.74 WI Tax Option

Opt 5=Inquiry 7=Late Release Dates

| Opt | Escrow Type   | Seq# | Mat/Red Date | Acc/Arr Amt | * | Mthly Amt | Vendor Esc |
|-----|---------------|------|--------------|-------------|---|-----------|------------|
| -   | HAZARD SFR-50 | 1    | 10/29/19     | 1677.00     |   | 139.75    | ASGIM Y    |
| -   | COUNTY TAX-31 | 2    | 12/31/19     | 4211.16     |   | 350.93    | SC013 Y    |

F1=Master File Inq F2=Pmt Inq F3=Exit F5=Refresh F7=Aggr Analysis  
 F8=Detl Hist F9=Coupon Hist F10=Alt Mast Inq F11=Annual Mort Info F24=More

402  
 392  
 402

===== 9/17/19  
Corporate Adv/Exp Sub-Acct Inq/Listing 14:07:11  
=====

Loan# RHONDA MEISNER Corp Adv Bal \$19,492.84-

Opt 1=Select

| Opt Code | Description          | O/S Balance  | Last Act | Mthly Pay | Pay D1 |
|----------|----------------------|--------------|----------|-----------|--------|
|          |                      | Orig Balance | Due Date | Int Rate  |        |
| - A D2   | OOAPA-BPO            | 95.00-       | 11/14/13 | .00       | 4      |
|          |                      | 95.00-       | 0/00/00  |           |        |
| - A E2   | OOAPA-Prop Insp      | 783.00-      | 9/04/19  | .00       | 2      |
|          |                      | 885.00-      | 0/00/00  |           |        |
| - A 2F   | AFLGA-FC Fee         | 16,135.45-   | 9/03/19  | .00       | 10     |
|          |                      | 16,135.45-   | 0/00/00  |           |        |
| - A 2R   | CFLGA-Title Examintr | 325.00-      | 4/28/14  | .00       | 6      |
|          |                      | 325.00-      | 0/00/00  |           |        |
| - A 2S   | CFLGA-Certified Mail | 29.34-       | 8/01/14  | .00       | 12     |
|          |                      | 29.34-       | 0/00/00  |           |        |
| - A 2U   | CFLGA-Posting Costs  | 1,678.31-    | 5/28/19  | .00       | 10     |
|          |                      | 1,678.31-    | 0/00/00  |           |        |
| - A 2V   | CFLGA-Publication    | 446.74-      | 6/04/14  | .00       | 10     |
|          |                      | 446.74-      | 0/00/00  |           |        |

Bottom

F3=Exit F6=Corp Exp F7=Corp Close F8=Corp G/L F9=Corp Orig F12=Return

403  
393  
12/1/19

9/17/19  
14:05:51

=====  
Detail Transaction History  
=====

Loan# Inv# BK6 Pool 0000001 InvLn# UPB: 26945.74  
Borr1 RHONDA L. MEISNER Status R Int.Rate 5.400 EscBal .00  
Borr2 Type 03 - 00 SrvFees .02500 EscAdv 25270.21  
Prop: 406 KQONS DOOR RD Conv/Unins YldDif .00000 TotPmt 811.65  
COLUMBIA SC 29203 #PmtDltg 62 NextDue 7/12/13 TotDel 76403.47

Int Pd To 6/13/13 P&I Short .00 Corp Adv 19,492.84- MSG: 08 45

| TRN# | CODE  | POSTED  | EFFECTIVE | DESCRIPTION    | NEXT DUE | TOTAL AMT |
|------|-------|---------|-----------|----------------|----------|-----------|
| 247  | 62 26 | 9/04/19 | 9/04/19   | CORP ADV DISB  | 7/12/13  | 15.00-    |
| 246  | 62 26 | 9/03/19 | 9/03/19   | CORP ADV DISB  | 7/12/13  | 60.00-    |
| 245  | 62 26 | 9/03/19 | 9/03/19   | CORP ADV DISB  | 7/12/13  | 40.00-    |
| 244  | 62 26 | 8/15/19 | 8/15/19   | CORP ADV DISB  | 7/12/13  | 15.00-    |
| 243  | 62 26 | 7/29/19 | 7/29/19   | CORP ADV DISB  | 7/12/13  | 40.00-    |
| 242  | 62 26 | 7/29/19 | 7/29/19   | CORP ADV DISB  | 7/12/13  | 300.00-   |
| 241  | 62 25 | 7/17/19 | 7/17/19   | MISC SUSP DISB | 7/12/13  | 1.28-     |
| 240  | 13 25 | 7/10/19 | 7/10/19   | PMT-MISC SUSP  | 7/12/13  | 1.28      |
| 239  | 62 26 | 7/02/19 | 7/02/19   | CORP ADV DISB  | 7/12/13  | 40.00-    |
| 238  | 62 26 | 6/18/19 | 6/18/19   | CORP ADV DISB  | 7/12/13  | 15.00-    |
| 237  | 62 26 | 5/28/19 | 5/28/19   | CORP ADV DISB  | 7/12/13  | 20.00-    |

More...

F2=Switch view F3=Exit F9=BKC Transactions F10=Position to transaction  
F11=Return Page Up Page Down

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394

===== 9/17/19  
 Detail Transaction History 14:06:13  
 =====

Loan# Inv# BX6 Pool 0000001 InvLn# UPB: 26945.74  
 Borr1 RHONDA L. MEISNER Status R Int.Rate 5.400 EscBal .00  
 Borr2 Type 03 - 00 SrvFees .02500 EscAdv 25270.21  
 Prop: 406 KOONS DOOR RD Conv/Unins YldDif .00000 TotPmt 811.65  
 COLUMBIA SC 29203 #PmtDltg 62 NextDue 7/12/13 TotDel 76403.47  
 Int Pd To 6/13/13 P&I Short .00 Corp Adv 19,492.84- MSG: 08 45

| TRN# | CODE  | POSTED  | EFFECTIVE | DESCRIPTION    | NEXT DUE | TOTAL AMT |
|------|-------|---------|-----------|----------------|----------|-----------|
| 247  | 62 26 | 9/04/19 | 9/04/19   | CORP ADV DISB  | 7/12/13  | 15.00-    |
| 246  | 62 26 | 9/03/19 | 9/03/19   | CORP ADV DISB  | 7/12/13  | 60.00-    |
| 245  | 62 26 | 9/03/19 | 9/03/19   | CORP ADV DISB  | 7/12/13  | 40.00-    |
| 244  | 62 26 | 8/15/19 | 8/15/19   | CORP ADV DISB  | 7/12/13  | 15.00-    |
| 243  | 62 26 | 7/29/19 | 7/29/19   | CORP ADV DISB  | 7/12/13  | 40.00-    |
| 242  | 62 26 | 7/29/19 | 7/29/19   | CORP ADV DISB  | 7/12/13  | 390.00-   |
| 241  | 62 25 | 7/17/19 | 7/17/19   | MISC SUSP DISB | 7/12/13  | 1.28-     |
| 240  | 13 25 | 7/10/19 | 7/10/19   | PMT-MISC SUSP  | 7/12/13  | 1.28      |
| 239  | 62 26 | 7/02/19 | 7/02/19   | CORP ADV DISB  | 7/12/13  | 40.00-    |
| 238  | 62 26 | 6/18/19 | 6/18/19   | CORP ADV DISB  | 7/12/13  | 15.00-    |
| 237  | 62 26 | 5/28/19 | 5/28/19   | CORP ADV DISB  | 7/12/13  | 20.00-    |

More...

F2=Switch view F3=Exit F9=BKC Transactions F10=Position to transaction  
 F12=Return Page Up Page Down

405  
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## =====

## Change File Inquiry

9/17/19

14:06:18

=====

Loan#:                    Assum: N       Inv/Pool: EX6 /       1 Lien: 1  
 RHONDA L REISNER       Loan Type/Sub: J /       Nxt Due: 7/12/13  
 Prop St: SC   Ln Stat: R   Rate: 5.400       UPB:       26945.74   Pmt: 811.65  
 1st Due: 9/12/03 #Pmts Delq: 62   Delq Amt: 100822.74   P&I: 499.46  
 LPR: 6/12/13       Msgs: 08 45       Term Mos: 180   Esc: 312.19

|      | Date (MDY) | Amount    | Type |                |
|------|------------|-----------|------|----------------|
| 0001 | 091203     | 000035148 | E    | Escrow Payment |
| 0002 | 071213     | 000031219 | E    | Escrow Payment |
| 0003 | 061218     | 000082931 | E    | Escrow Payment |
| 0004 | 071218     | 000079963 | E    | Escrow Payment |
| 0005 | 111218     | 000069078 | E    | Escrow Payment |
| 0006 | 011219     | 000067075 | E    | Escrow Payment |
| 0007 | 041219     | 000064758 | E    | Escrow Payment |
| 0008 | 000000     | 000000000 |      |                |
| 0009 | 000000     | 000000000 |      |                |
| 0010 | 000000     | 000000000 |      |                |

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F3=Exit F2=New Loan F6=Arm Spec F12=Return F1=HELP

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===== 9/17/19  
Change File Inquiry 14:06:21  
=====

Loan#: RHONDA L WEISNER    Assun: N    Inv/Pcol: BX6 /    1 Lien: 1  
Prop St: SC    Ln Stat: R    Rate: 5.400    UPB:    25945.74    Pmt: 811.65  
1st Due: 9/12/03    #Pmts Delq: 62    Delq Amt: 100822.74    P&I: 499.46  
LPR: 6/12/13    Msgs: 08 45    Term Mos: 180    Rsc: 312.19

|      | Date (MMYY) | Amount     | Type |
|------|-------------|------------|------|
| 0008 | 000000      | 0000000000 |      |
| 0009 | 000000      | 0000000000 |      |
| 0010 | 000000      | 0000000000 |      |
| 0011 | 000000      | 0000000000 |      |
| 0012 | 000000      | 0000000000 |      |
| 0013 | 000000      | 0000000000 |      |
| 0014 | 000000      | 0000000000 |      |
| 0015 | 000000      | 0000000000 |      |
| 0016 | 000000      | 0000000000 |      |
| 0017 | 000000      | 0000000000 |      |

More...  
Page Up/Dn

F3=Exit    F2=New Loan    F6=Arm Spec    F12=Return    F1=HELP

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NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

RECEIVED  
MAY 12 2016  
SC Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable DeAndrea Gist Benjamin, District Court Judge

Case No. 2014-CP-40-2063

U.S. BANK, N.A. as trustees  
for the holders of the Banc of  
America Funding Corporation  
Trust, 2008-FT1, Mortgage  
passthrough certificates 2008-  
FT1

Respondent,

v.

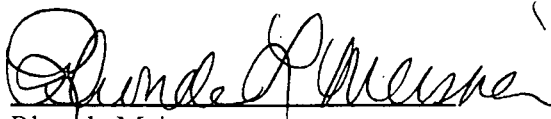
Rhonda Meisner, Bank of  
America, N.A., SCBT

Respondent.

NOTICE OF APPEAL

Rhonda Meisner appeals the Order of the Honorable DeAndrea Gist Benjamin dated April 13, 2016. The appellant received notice of the Order on April 15, 2016. The filing of this notice of appeal is within 30 days of notice of the filing of the Order.

May 12, 2016



Rhonda Meisner  
Post Office Box 689  
Columbia, South Carolina 29016  
(803) 206-3402  
pegasus333@icloud.com

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398  
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NOTICE OF APPEAL

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

The Honorable DeAndrea Gist Benjamin, District Court Judge

Case No. 2014-CP-40-2063

U.S. BANK, N.A. as trustees  
for the holders of the Banc of  
America Funding Corporation  
Trust, 2008-FT1, Mortgage  
passthrough certificates 2008-  
FT1

Respondent,

v.

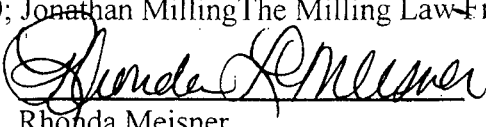
Rhonda Meisner, Bank of  
America, N.A., SCBT

Respondent.

NOTICE OF APPEAL PROOF OF SERVICE

I certify that I have served the NOTICE OF APPEAL by filing a copy in the circuit court, placing a copy in Judge Benjamin's Judges box at the Court of Common Pleas and by depositing a copy of the notice of appeal in the United States Mail, postage prepaid, on May 12, 2016 addressed to his attorneys of record for the represented parties to: Magalie Creech Finkel Law Firm 4000 Faber Place Drive, Suite 450 North Charleston, SC 29405. Jake Barker Graybill Vinzani and Lansche, LLC 225 Seven Farm Drive suite 107 Charleston, SC 29492; Ed Grimsley Grimsley Law firm, LLC P.O. 11682 Columbia, SC 29210; Jonathan Milling The Milling Law Firm 1614 Taylor Street Columbia, SC 29201

May 12, 2016

  
Rhonda Meisner  
Post Office Box 689  
Columbia, South Carolina 29016  
(803) 206-3402 pegasus333@icloud.com

RECEIVED

MAY 12 2016

SC Court of Appeals

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee  
for the Holders of the Banc of America  
Funding Corporation, 2008-FTI,

Plaintiff,

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MOTION TO ALTER AND AMEND  
RULING PURSUANT TO SCRPC RULE  
59-e

2016 APR 20 PM 12:28  
RECEIVED  
CLERK OF COURT

TO THE PLAINTIFF'S ATTORNEY MAGALIE CREECH, JAKE BARKER AND JONATHAN MILLING AND TO THE PLAINTIFF NOTED ABOVE PLEASE TAKE NOTE THAT THE DEFENDANT RHONDA MEISNER WILL MOVE BEFORE THE PRESIDING JUDGE OF THE FIFTH JUDICIAL CIRCUIT OR HIS OR HER DESIGNEE FOR AN ORDER ALTER AND AMENDING THE MOTION TO STRIKE JURY DEMAND AND FOR MANDATORY REFERRAL PURSUANT TO RULE 59-e. THE MOTION IS REQUESTED TO BE HEARD WITHIN 14 DAYS OR AS SOON AS THE COURT ROSTER ALLOWS.

The Defendant, Counter claimant and Cross claimant, Rhonda Meisner respectfully requests the Court to review the decision rendered on April 13, 2016, striking the jury demand and ordering the case referred to the Master in Equity based on the ruling the counter and cross claims were permissive and not mandatory and compulsive, as argued by the defendant in the hearing.

The Court previously denied the real party in interest challenge which was based on a defective U.S. Bank affidavit, and appealed. The Court of Appeals determined the issue to be interlocutory in nature and therefore, not immediately appealable. The Court's recent Order changes the mode of trial, which makes the Order striking the jury demand and for Mandatory referral immediately appealable. Creed v. Stokes, 285 S.C. 542, 331 S.E. 2d 351 (1985) (order

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referring case to master in equity affects the mode of trial, which is a substantial right, and party waived objection to the reference and his right to jury trial by failing to immediately appeal the order.

As such, the real party in interest challenge is central to the finding that the cross claims against Bank of America, N.A. are compulsory. Should the transfer to U.S. Bank via a defective affidavit of assignment by Bank of America, N.A. be determined dispositive to the change in ownership of the note and mortgage, then U.S. Bank would be a third party creditor and not the real party in interest as argued in the complaint.<sup>1</sup> It should be noted that Bank of America, N.A. and U.S. Bank offer competing affidavits that conflict as to when the note and mortgage were assigned, sold, or transferred to US Bank. During the deposition of Rhonda Meisner held the Monday before the Order was entered, US bank displayed the original note that indicated the endorsement was blank and therefore, unexecuted as to the date and the party of transfer.

The defendant would respectfully request the Court to reconsider its finding that the counter claims against US Bank are not mandatory and compulsory because U.S. Bank can only inherit "whatever" Bank of America, N.A. has to confer and if it is determined that Bank of America's failure to draft payments was the cause of the breach of contract; then the breach speaks directly to the enforceability of the note and mortgage by a third party creditor in the foreclosure action. As argued during the hearing, under the UCC a transfer from Bank of America, N.A. to U.S. Bank after the breach makes U.S. Bank a third party creditor. Bank of America, N.A. cannot breach the contract by not drafting payments, which was an express term of the contract and then transfer the mortgage without transferring the liability of the breach by Bank of America, N.A.

---

<sup>1</sup> First Amended Complaint filed August 10, 2015 at ¶45-46

Additionally, the counterclaim for abuse of process by US Bank is part of the action to enforce the note, as was argued in the hearing; therefore, the counterclaim is compulsory and mandatory because it implicated the enforcement tactics of US Bank once the case was docketed which specifically involves the Court's processes. As evidence, the Master in Equity remanded the action back to Circuit Court, finding the actions by the plaintiff to be improper, by gaining the signature of the Clerk of Court that made findings of fact and conclusions of law, instead of a Judge.

While the current plaintiff U.S. Bank did not demand a deficiency, SCBT did demand a deficiency and therefore the appraisal statute was invoked for the property that both plaintiff's reference. Once the protections of the statute are implicated on the property, the Plaintiff's cannot remove the protections by changing the suit or waiving the deficiency when the statute was invoked. Here, SCBT demanded a deficiency, changed the suit to a suit on the note and released Bank of America, N.A. (without prejudice); however, the protections of the deficiency statute were already invoked and cannot be withdrawn by design of the parties. Whether by collusion or accident, the protections of the appraisal statute are part of the original action and cannot be rescinded by the parties.

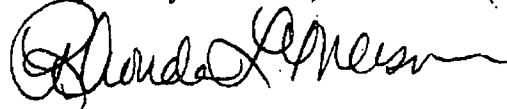
In conclusion, the ruling striking the jury demand and for mandatory reference did not incorporate a finding that the conflicting dates in the affidavit of assignment were either ministerial and of no effect or that the error in the assignment affidavit does not adequately confer the ownership of the note and mortgage to US Bank and therefore, Bank of America, N.A. is still the real party in interest. The defendant respectfully requests a ruling on this issue as it is integral to the finding of mandatory and compulsory counterclaims and cross claims and the issue of availability of mode of trial and therefore, also immediately appealable. The Court also

ruled the appraisal statute was not available to the property; however, the protections of the appraisal statute were already invoked by SCBT, it would be inequitable for the parties to be able to change their actions to avoid defendant's statutory protections.

The statute requires additional steps that protect the defendant, so if the property is deemed available for foreclosure the additional steps must be followed or the due process clause of the United States Constitution is violated. The property is appraised by Richland County at \$145,000 and U.S. Bank's (Bank of America, N.A.'s) mortgage is approximately \$26,000. The plaintiffs should not be allowed to manipulate the Court and circumvent statutory protections by changing their cause of actions.

The entry of the Order was clocked on April 13, 2016. The defendant received the Order on April 14, 2016. This motion is made within 10 days of the Order and a copy was placed in Judge Benjamin's mailbox and mailed to the parties.

Respectfully Submitted;



Rhonda Lewis Meisner  
Post Office Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803) 206-3402

APRIL 20, 2016

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MEMORANDUM IN OPPOSITION TO  
SUMMARY JUDGMENT

RICHLAND COUNTY  
FILED  
2016 JUN -1 PM 4:30  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

The Defendant, counter-claimant and cross claimant Rhonda Meisner respectfully  
submits this memorandum in opposition to summary judgment.

There are two initial matters which should be addressed. First, the defendant has filed an appeal based on the mode of trial, which is a substantial right. As such the South Carolina Court of Appeals and the Supreme Court of South Carolina has determined, is immediately appealable. Because the mode of trial is a substantial right, the defendant argues neither the Circuit Court nor the Master in Equity's office currently has the ability to hear a substantive motion for summary judgment until the mode of trial question is resolved by the Court of Appeals. Second, the plaintiff U.S. Bank has made a motion for summary judgment which is conclusory without attaching a memorandum in support or evidence to support the motion. Summary judgment is appropriate once the moving party has met its burden of showing there is no question of material fact and the non-moving party has not put forth evidence to contradict the assertion. *Sides v. Greenville Hosp. Sys.*, 362 S.C. 250, 255, 607 S.E. 2d 362, 364 (Ct. App. 2004). Therefore, the motion should be summarily dismissed as U.S. Bank has not carried the initial burden of proving

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summary judgment is appropriate because U.S. Bank has not attached the requisite evidence to the motion.

Additionally, because the plaintiff U.S. Bank and Bank of America, N.A. have conflicting accounts of when the note and mortgage were transferred from Bank of America, N.A. to U.S. Bank, it is unclear if U.S. Bank even has standing to pursue the action before the Court based on Bank of America's representations to the Court in filings and answers to interrogatories. Conflicting claims of ownership creates a material issue of fact which requires the services of a fact finder.

#### **Argument in opposition of Summary Judgment**

This matter is before the Court on Plaintiff's motion for summary judgment pursuant to Rule 56 (c), SCRCP.

The grant of summary judgment is appropriate when there are no genuine issues of material fact and it is clear the moving party is entitled to judgment as a matter of law. Rule 56 (c) SCRCP. Whether there are triable issues of fact, the evidence must be viewed in the light most favorable to the non-moving party. *Koester v Carolina Rental Ctr*, 313 S.C. 490, 493, 443 S.E.2d 392, 394 (1994). "[s]ummary judgment should not be granted even when there is no dispute as to evidentiary facts if there is dispute as to the conclusion to be drawn from those facts." *Gignilliat v. Gignilliat, Savitz & Bettis, L.L.P.*, 385 S.C. 452, 456, 684 S.E.2d 756, 758 (2009) (quoting *Brockbank*, 341 S.C. at 378, 534 S.E.2d at 692).

The South Carolina Supreme Court has held that the non-moving party, in cases that do not involve a federal question, is required to submit only 'a mere scintilla' of evidence in order to withstand a summary judgment challenge. *Hancock v. Mid-South Management Co. Inc.*, 673 SE.

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2d 801, 381 S.C. 326. (1994). The defendant has met this burden; therefore, summary judgment must be denied. Here, Bank of America, N.A., U.S. Bank's predecessor in interest in the note and mortgage associated with the above entitled foreclosure action has claimed an interest in the note and mortgage via filings in a related case. (See: 2013-CP-40-2063). The filings before the Court by U.S. Bank suggests that Bank of America, N.A. transferred ownership of the note and mortgage via an assignment in April of 2014; however, the transfer was notarized a day later which does not comport with South Carolina law. That is, the transfer occurred on April 2, 2014 but was notarized on April 3, 2014. Even if the disparity is a scrivener's error, in over two years the Bank has not attempted to correct the error. Additionally, Bank of America, N.A. has submitted that the transfer occurred in 2013 which creates a material issue of fact as to who the proper party is for purposes of real party in interest and who has the right to foreclose if any such right exists.

Summary judgment is a drastic remedy and should be invoked cautiously so that no person will be improperly deprived of a trial. *Baughman v. American Tel. & Tel Co.*, 306 S.C. 101, 112, 410 S.E. 2d 537 543 (1991). This means that summary judgment must not be granted until the opposing party has had a full and fair opportunity to complete discovery. *Id. Doe Ex Rel. Doe v. Batson*, 548 S.E. 2d 854 (S.C. 2001).

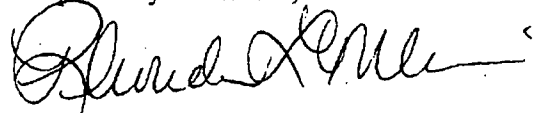
Here, just as in Doe, discovery is outstanding and a motion to compel has been filed against Bank of America, N.A. and therefore the grant of summary judgment is premature and precluded as to the cross claims against Bank of America, N.A. Bank of America, N.A. has also claimed an ownership interest in a loan that was previously paid in full but never satisfied. As such, the determination of whether the loan was satisfied requires the services of a fact finder. The South Carolina Supreme Court has made clear that a Bank's failure to enter satisfaction of a

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mortgage (even for a home equity line of credit) exposes the Bank to liability for its failure to satisfy the mortgage. *Regions Bank v. Strawn*, Opinion No. 27555 Heard Sept. 23, 2014 filed August 5, 2015. Here, because the liability of Bank of America, N.A. may exceed any claim Bank of America, N.A. has to monies owed, summary judgment is inappropriate. Violations of S.C. Code Ann. 29-3-310 creates liability for punitive damages under S.C. Code 29-3-320 pursuant to *Strawn. Id.*

The questions of material fact as to which entity owns the note and mortgage (U.S. Bank or Bank of America, N.A.) creates a material issue of fact and precludes summary judgment. The defendant further argues the motion for summary judgment should be stayed because the referral to the master in equity is under appeal based on the mode of trial. As such, it is possible that neither the Circuit Court or the Master in Equity has jurisdiction because the Order of referral would be moot should the Court of Appeals agree with the defendant that she is entitled to a jury trial. As such the defendant requests the case be stayed pending appeal of the mode of trial.

Respectfully Submitted,



Rhonda Meisner  
PO Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803)206-3402

June 1, 2016

284  
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417  
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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

AFFIDAVIT SUBMITTED UNDER  
PENALTY OF PERJURY IN OPPOSITION  
TO PLAINTIFF'S MOTION FOR  
SUMMARY JUDGMENT

RICHLAND COUNTY  
FILED  
2016 JUN -1 PM 1:00  
JEANNETTE W. MCNEEL  
C.C.P. & G.S.

1. My name is Rhonda Meisner and I am the defendant counterclaimant and cross claimant in the above entitled action. I certify that the facts submitted pursuant to this affidavit are true and understand that any false statement is subject to a penalty of perjury under South Carolina law. I submit the statements under penalty of perjury.
2. The plaintiff U.S. Bank took my deposition testimony earlier this year. During the proceeding, the plaintiff did not allow me to touch the note associated with the foreclosure action; however, the plaintiff showed me what was purported to be the original note.
3. The back of the note was endorsed in blank with no entity named as the endorsee of the instrument.
4. It is my understanding that for a note to be considered in "possession" of the holder of the note, the note must be endorsed to the actual person or entity possessing the note along with the date of the endorsement.
5. U.S. Bank has made representations that the transfer/assignment of the note and mortgage from Bank of America, N.A. unto itself occurred in April of 2014. Bank of America, N.A. has made representations that the transfer of the note and mortgage occurred in 2013. The date of the transfer is a material issue of fact that is in question.
6. Bank of America, N.A. has claimed ownership interests in both the note and mortgage U.S. Bank also claims interests as well as loans that have previously been paid in full.
7. The terms of the note/mortgage require that if a direct debit is elected by the mortgagor to pay the mortgage payment, the Bank will continue to debit the checking account of the mortgagor for the mortgage payment unless the mortgagor notifies the bank in writing to cease automatic debits. The defendant Rhonda Meisner represents that she never requested the Bank to cease debiting her account.

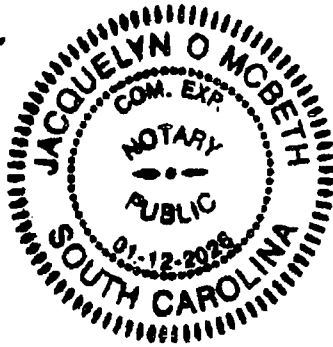
Further affiant sayeth not: signature block next page.

257 508 408 418

Rhonda Meisner  
Rhonda Meisner, Defendant

Sworn this 1<sup>st</sup> day of June, 2016 to

A notary for the state of South Carolina  
My commission expires 01/12/2026



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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

DOCKET NO. 2014-CP-40-2063

DEFENDANT'S MEMORANDUM  
OPPOSITION OF MOTION TO STRIKE  
JURY TRIAL AND FOR MANDATORY  
REFERRAL.

RICHLAND COUNTY  
FILED  
JENNIFER M. MCBRIDE  
CLERK, S.C.  
2015 AUG 16 PM 2:54

**TO: MAGALIE ARCURE, ESQ. ATTORNEY FOR THE PLAINTIFF AND TO THE  
PLAINTIFF ABOVE NAMED AND TO JONATHAN MILLING AND ED  
GRIMSLEY, ATTORNEY'S FOR THE DEFENDANT SCBT, N.A. NAMED  
ABOVE AND TO JAKE BARKER, ATTORNEY FOR THE DEFENDANT BANK  
OF AMERICA, N.A.**

**MEMORANDUM IN OPPOSITION TO MOTION TO STRIKE JURY DEMAND AND FOR  
MANDATORY REFERRAL**

As an initial matter, the pleadings in this case with the associated summons were  
amended on August 10, 2015 with service complete shortly thereafter. Both U.S. Bank and  
Bank of America, N.A. have outstanding discovery requests that have not been completed.  
Additionally, U. S. Bank and Bank of America, N.A. have submitted conflicting affidavits as to  
the owner of the note and mortgage in this case. SEE: affidavit from U.S. Bank employee's  
compare with Bank of America, N.A. employee's affidavit as EXHIBIT A.

**MOTION TO STRIKE JURY DEMAND**

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Compulsory counterclaims must be raised in current lawsuits or risk losing the opportunity to raise the issues later. Mortgage foreclosure proceedings is an action in equity; however, the question of "[w]hether a party is entitled to a jury trial is a question of law." *Verenes v. Alvanos*, 387 S.C. 11, 15, 690 S.E. 2d 771, 772 (2010). The South Carolina Supreme Court has explained the process for evaluating counterclaims in *Wachovia Bank v. Blackburn* and instructed as follows:

- (1) If both the complaint and the counterclaim are in equity, the entire matter is triable by the court.
- (2) If both are at law, the issues are triable by a jury.
- (3) If the complaint is equitable and the counterclaim is legal and permissive, the defendant waives his right to a jury trial.
- (4) If the complaint is equitable and the counterclaim is legal and compulsory, the plaintiff or the defendant has a right to a jury trial on the counterclaim unless a valid jury waiver encompasses the counterclaim. If such waiver does not exist, the proper procedure for handling the counterclaims is as follows:
  - (a) the trial judge may, pursuant to Rule 42 (b), order separate trial of the legal and equitable claims, or may order the claims tried in a single proceeding.
  - (b) if separate trial are ordered, the judge must determine which issues are to be tried first. If there are factual issues common to both claims, absent the most imperative circumstances, the at law claim must be tried first. If there are no common factual issues, it is within the trial judge's discretion which claims will be tried first.
  - (c) If the claims are to be tried in a single proceeding and there are factual issues common to both claims, the jury shall first determine the legal issues. The court may then determine the equitable claims, but the jury's determination of common factual issues shall be binding upon the court.

*Wachovia Bank, National Association v. William E. Blackburn.*

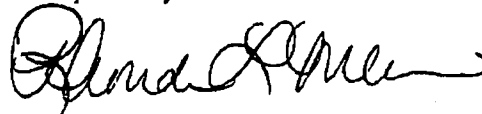
Here, the counter and cross claims for breach of contract and abuse of process are directly related to the foreclosure process and are compulsory and require a jury trial based on the demand in the complaint and the amended complaint. "By definition, a counterclaim is

compulsory only if it arises out of the same transaction or occurrence as the opposing party's claim." *Wells Fargo Bank, N.A. v. Smith*, 398 S.C. 487, 495, 730 S.E. 2d. 328, 332-33 (Ct. App. 2012)(quoting *First Citizens Bank & Trust Co. of S.C. v. Hucks*, 305 S.C. 296, 298, 408 S.E. 2d. 222, 223 (1991).

**ABUSE OF PROCESS**

For the reasons granted by this Court in the motion to amend the complaint, the defendant/plaintiff Rhonda Meisner respectfully requests the referral to the Master- in-Equity be denied due to the right to the jury trial on the abuse of process claims. The defendant respectfully requests the motions by the plaintiff be denied based on the above arguments.

Respectfully Submitted.



Rhonda Lewis Meisner  
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This 16TH DAY OF DECEMBER 2015

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as  
trustee for the Holders of the Banc of  
America Funding Corporation, 2008-FT1  
Trust, Mortgage Pass-Through  
Certificates, Series 2008-FT1,

Plaintiff,

v.

Rhonda Lewis Meisner, a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and  
SCBT,

Defendants.

IN THE COURT OF COMMON PLEAS

CASE NO. 2014-CP-40-2063

**MEMORANDUM IN OPPOSITION  
OF DEFENDANT RHONDA LEWIS  
MEISNER'S MOTION TO AMEND**

RICHLAND COUNTY  
FILED  
2015 JUL 27 AM 10:39  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

Defendant Bank of America ("BANA") respectfully submits this memorandum in opposition to Defendant Rhonda L. Meisner's ("Meisner") Motion to Amend filed July 13, 2015.

**BACKGROUND**

This is an action by Plaintiff for foreclosure of its mortgage ("US Bank Mortgage") secured by certain real property located in Richland County, South Carolina (the "Property") that is currently owned by Defendant Rhonda Lewis Meisner ("Meisner"). BANA was originally named in the suit by virtue of a junior mortgage on the Property from Meisner to BANA dated September 19, 2005 and recorded September 23, 2005 in Book 1101 at Page 2609 of the Richland County Register of Deeds ("BANA Mortgage"). Plaintiff in this action seeks a judgment of foreclosure against Meisner, a reformation of the US Bank Mortgage, and an Order to sell the Property at public auction.

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Mrs. Meisner has responded to the Complaint for Foreclosure and now seeks in the present Motion to Amend filed July 13, 2015 to amend that response ("Motion"). BANA received a copy of the Motion on July 20, 2015, and later learned that a hearing had been set in the matter for July 27, 2015. For the reasons set forth below, Defendant BANA opposes the Motion and asks that the Court deny same.

### LEGAL STANDARD

In South Carolina, thirty days after a responsive pleading has been filed, "a party may amend his pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires *and does not prejudice any other party.*" S.C. RULE CIV. PROC. 15(a) (emphasis added). Courts in South Carolina "ha[ve] held that it may be denied where the proposed amendment would be futile." Jennings v. Jennings, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010). A motion to amend is addressed to the sound discretion of the trial judge. Foggie v. CSX Transportation, Inc., 313 S.C. 98, 102, 431 S.E.2d 587, 590 (1993).

### ARGUMENT

The Motion was not timely served on BANA in advance of the hearing.

In South Carolina, "a written motion ... and notice of the hearing thereof, shall be served *not later than ten days* before the time specified for the hearing." S.C. RULE CIV. PROC. 6(d) (emphasis added). The Motion was filed on July 13, 2015. Subsequent to that, Mrs. Meisner made a request to the Clerk of Court for Richland County to have the Motion heard on July 27, 2015. Mrs. Meisner did not at any time consult with the undersigned regarding this request, and had not served the undersigned or BANA with a copy of the Motion at that point. Despite this, it appears that this request was granted, and that the Motion is set to be heard on July 27, 2015.

BANA was finally served with a copy of the Motion on July 20, 2015, which is less than ten (10) days prior to the hearing date, and therefore a direct violation of Rule 6(d). The rules "provide notice of a hearing 'shall be served not later than ten days before the time of the hearing.'" Jackson v. Speed, 326 S.C. 289, 310, 486 S.E.2d 750, 760 (1997) (citing S.C. RULE CIV. PROC. 6(d)). In the present case, BANA received neither a Notice of Hearing nor the Motion itself until July 20, 2015 at the earliest, which is clearly less than the ten days required under Rule 6(d). Without proper notice of the Motion, let alone any receipt of the Motion itself, BANA cannot be expected to adequately address the arguments raised therein, and the Court should not grant the Motion. Allowing a hearing to go forward on the Motion would greatly prejudice BANA since there has not been adequate time to respond to the Motion.

Any amendment would prejudice the other parties under Rule 15(a).

While leave to amend is "freely given" in many cases in South Carolina, a Court should not allow a party to amend its pleading if doing so would "prejudice any other party." Sullivan v. Hawker Beechcraft Corp., 397 S.C. 143, 723 S.E.2d 835 (Ct. App. 2012). The "prejudice Rule 15 envisions is a lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it." Parker v. Spartanburg Sanitary Sewer Dist., 362 S.C. 276, 286, 607 S.C.2d 711, 716-17 (Ct. App. 2005). Courts in South Carolina "ha[ve] held that it may be denied where the proposed amendment would be futile." Jennings v. Jennings, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010). In the present case, any amendment would greatly prejudice BANA, if for no other reason than granting leave to amend would be a direct violation of Rule 6(d)'s notice requirement. Further, as Jennings makes clear, any proposed amendment that is futile may be denied. Jennings, 389 S.C. at 209. As further outlined below, BANA, after a limited opportunity



to review the Motion, believes the amendment is indeed futile. However, because Mrs. Meisner violated Rule 6(d) by not properly serving the Motion and Notice of Hearing, BANA is being unfairly prevented from fully exploring and investigating the futility of the proposed Amendment. This is precisely the reasoning behind the ten day requirement for Rule 6(d). In the present case, there exists a "lack of notice that the new issue is going to be tried, and a lack of opportunity to refute it." Parker v. Spartanburg Sanitary Sewer Dist., 362 S.C. 276, 286, 607 S.C.2d 711, 716-17 (Ct. App. 2005). While BANA believes that the amendment is likely futile, it has not had an opportunity to fully explore this issue, and granting Mrs. Meisner leave to Amend without giving BANA proper notice and opportunity to investigate and respond to the Motion would be premature and highly prejudicial to BANA. Therefore, Mrs. Meisner's motion should not be allowed by the Court.

Meisner is not entitled to Amend under Rule 15(a), SCRPC as any amendment would be futile

Despite the limitations regarding notice set forth above, BANA has attempted to at least review the Motion. In it, it appears that Mrs. Meisner seeks to amend her response in this action to add a claim against BANA for "Slander of Title" whereby she alleges that BANA failed to timely satisfy a Mortgage sometime in 2008. Without getting into the accuracy of Mrs. Meisner's proposed amended claim - which BANA specifically denies, even taking the facts as set forth as completely true, Mrs. Meisner's proposed amendment is completely futile and therefore should be denied.

Any such claim for a slander of title, even if true, would be subject to the statute of limitations in South Carolina. In her proposed pleading, Mrs. Meisner admits that she was aware of the alleged wrongdoing by BANA in 2008. [Motion, Exhibit A, ¶ 68] [Affidavit of Rhonda L.

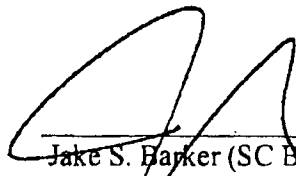
Meisner, ¶ 5]. In South Carolina, a claimant seeking relief via “an action for trespass or damage to real property” must do so “within three years” of the alleged wrongdoing. S.C. CODE ANN. § 15-3-530(3) (1976). Mrs. Meisner’s proposed claim against BANA is that her property was somehow damaged by an alleged failure to satisfy a mortgage. [Motion, Exhibit A, ¶¶ 64-72]. Clearly, as it is now 2015, the statute of limitations on Mrs. Meisner’s claim has run, and any amendment to allow her to assert this stale cause of action would be futile. Therefore, the Court should not grant Mrs. Meisner’s Motion.

### CONCLUSION

For the foregoing reasons, Rhonda L. Meisner’s Motion to Amend should be denied.

Respectfully submitted,

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Attorneys for Defendant Bank of America, N.A.

Charleston, South Carolina  
July 24, 2015

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MEMORANDUM IN OPPOSITION OF  
BANK OF AMERICA, N.A.'S MOTION TO  
STRIKE CROSS CLAIMS AND IN  
SUPPORT OF DEFENDANT'S MOTION  
FOR A DEFAULT JUDGMENT AND  
MOTION TO STRIKE ANSWER OF BANK  
OF AMERICA, N.A. AS DEFECTIVE  
PLEADING

RICHLAND COUNTY  
FILED  
2015 JUL 22 4 39 PM  
JEANNETTE W. BRIDGES  
C.C.P. & U.S.

The Defendant Rhonda Meisner respectfully submits her memorandum in support for her motion for default against Bank of America, N.A. for the hearing on the motion to Strike Bank of America, N.A.'s answer to Defendant Meisner's cross claims and for a default judgment against Bank of America, N.A.

### **BACKGROUND**

This is the second lawsuit based on the same two Bank of America, N.A. notes and mortgages, the "2005 note and mortgage" and the "2003 note and mortgage". One note and mortgage was paid off but Bank of America, N.A. failed to file a satisfaction of the mortgage lien in the public records (hereinafter referred to as "2005 Note and Mortgage") and the other loan is the note and mortgage that was subsequently assigned on April 2, 2014 to U.S. Bank (hereinafter referred to "2003 Note and Mortgage"). Both the "2005 Note and Mortgage" and the "2003 note and mortgage" are implicated in the declaratory judgment action requested in

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Rhonda Meisner's answer and as a cause of action in both 2013-CP-40-7144 and 2014-CP-40-2063.

The declaratory judgment action specifically requested a declaration "between and among the *parties* as to their respective rights and liabilities under a note and mortgage [ ] and to determine the *respective rights and obligations of the parties* with respect to the amount of any deficiency judgment due and owing and to determine the appraisal rights of the defendant". The rights between and among the parties is a counterclaim as well as a cross claim via a request for a declaratory judgment action referencing both Bank of America, N.A. loans referenced in both the complaint by SCBT and in the complaint by US Bank. The "2005 note and mortgage" is therefore referenced in the cross claims by Rhonda Meisner against Bank of America, N.A. as well as the subject of the motion to amend the complaint to assert the additional cross claims of failure to file a satisfaction of mortgage after notice and slander of title against Bank of America, N.A.<sup>1</sup>

The previously filed lawsuit was initiated by SCBT, 2013-CP-40-7144 demanded a deficiency judgment and Meisner answered requesting a declaratory judgment as well as preservation of appraisal rights and a jury trial. The reason for the duplicitous lawsuits is due to the fact Bank of America, N.A. was the mortgagee of record in November of 2013 when 2013-CP-40-7144 was filed as well as on February 7, 2014 when SCBT filed an amended summons and complaint naming Bank of America, N.A. as a defendant due to the public records reflecting Bank of America, N.A. as the owner of the two mortgages that are referenced in both complaints and not US Bank. Indeed, US Bank did not acquire the assignment of the mortgage until April 2nd or 3rd of 2014.

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<sup>1</sup> Motion to Amend the Complaint filed by the Defendant Rhonda Meisner.

On the very same day ( April 2, 2014) that the assignment occurred, US Bank effected service on Bank of America, N.A. via their registered agent Amy Routh as attested to by process server Zachary Cox. **[EXHIBIT A AFFIDAVIT OF SERVICE]** Based on this service date Bank of America, N.A. was required to answer US Bank's lawsuit or enter an appearance or request an extension by March 5, 2014. Here, either US Bank did not own the note and mortgage and is evidence of the lack of standing of US Bank or Bank of America, N.A. is in default.

SCBT summoned Bank of America, N.A. to respond to the amended lawsuit on February 7th of 2014. Therefore, Bank of America, N.A. should have entered an appearance or answered the lawsuit on or before March 13, 2014. Bank of America, N.A. entered an appearance based on their late answer to the lawsuit on April 4, 2014; however their answer pursuant to S.C. R. Civ. P. was due on March 13, 2014. Bank of America, N.A. did not file a written request for extension in the public records but reportedly received an extension within the 30 timeframe for reply from SCBT to file a late reply; however, defendant Meisner was not copied on said request. Meisner requests the Court to confirm the extension prior to the expiration of the time to answer by Bank of America, N.A. Meisner timely answered her amended complaint on March 27, 2014 which contained the declaratory judgment action referencing the "rights and obligations of the parties" and included Bank of America, N.A. This request for declaratory judgment action was *before* Bank of America's answer and appearance but was filed in the Court's records and specifically requested a declaratory judgment "between and among the parties as to their respective rights and liabilities under a note and mortgage [ ] and to determine the *respective rights and obligations of the parties* with respect to the amount of any deficiency judgment due and owing and to determine the appraisal rights of the

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defendant".<sup>2</sup> within the 30 days of service as required by the S.C. Rules of Civ. procedure.

Significantly, Bank of America N.A.'s loan was a first mortgage loan so when SCBT filed the action for foreclosure, the suit implicated Bank of America N.A.'s previously filed first mortgage liens. While SCBT can change their action from a suit on a note and dismiss Bank of America, N.A. , subsequent to the change in the type of action against defendant Meisner; SCBT's dismissal of Bank of America, N.A. did not dismiss Bank of America, N.A.'s involvement in the case as Meisner's answer and counter/cross claim implicated Bank of America, N.A and Ms. Meisner did not dismiss Bank of America, N.A. from the actions. Nor did the change to a suit on the note affect her right to an appraisal pursuant to the deficiency statutes.

Importantly, in Bank of America, N.A.'s late April 4th, 2014 answer Bank of America, N.A. claimed an ownership interest in both the " 2003 and the 2005 notes and mortgages "which included the " 2005 note and mortgage currently claimed by US Bank".

Based on the affidavit of mortgage assignment the assignment was assigned to US Bank of April 2 or 3, 2014. Subsequently, SCBT changed their lawsuit from a mortgage foreclosure action to a suit on a note and then voluntarily dismissed Bank of America, N.A. as a defendant without prejudice and abandoned foreclosure proceedings on April 10, 2014 which was after Meisner's March 27, 2014 answer and counter/cross claim requesting a declaratory judgment action .

SCBT did not file to remove the lis pendens associated with the original lawsuit when they changed their action to a suit on a note that referenced (1) both Bank of America, N.A. loans and (2) improper liens by SCBT . Meisner made a motion to remove the lis pendens from the property in 2013-40-CP-7144 because a lis pendens is not appropriate with a action for a suit

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<sup>2</sup> EXHIBIT A Answer and Counterclaim jury trial demanded filed March 27, 2014 in case # 2013-CP-40-7144 ¶30-40

on a note or a declaratory judgment action. The Honorable Alison Lee agreed with Ms. Meisner and granted Meisner's motion and vacated the lis pendens associated with 2013-40-CP-7144. The vacated lis pendens also did not remove Bank of America, N.A. from the lawsuit because a lis pendens was not filed by Bank of America, N.A. nor would a lis pendens be proper in a declaratory judgment action.

### ARGUMENT

The South Carolina Rules of Civil Procedure allows for an extension of the time to answer the complaint against a defendant (1) if requested in writing and with agreement of the parties prior to the expiration of the time to respond. (2) with leave of Court after the time to respond has elapsed via motion and with good cause. Once the time to file an answer has elapsed, a plaintiff cannot "cure" the default of another party with an extension of time granted. *Thynes v. Lloyd*, 294 S.C. 152, 153-154, 363 S.E. 2d 122, 123 (Ct. App. 1987)(holding "whether default was actually entered is of no consequence since the entry of default is purely ministerial act which the clerk was required to perform once the default was made to appear by the affidavit of the moving party).

The South Carolina Court of Appeals rejected the argument that an order of default was improper if a party made an appearance after default but prior to entry of default. *Stark Truss Co. v. SUPERIOR CONST. CORP.*, 602 S.E. 2d 99, 360 S.C. 503. The resulting ministerial function of entering a default judgment is not "cured" after a late appearance.

The Court of Appeals further noted in *Stark* pursuant to Rule 55(b)(2) that a party the has "appeared" is entitled to notice and a hearing on the default where the Court can evaluate the propriety of the reason the party did not answer the lawsuit pursuant to the S.C. Rules of Civil Procedure.

Here, the defendant Bank of America, N.A. did not answer or otherwise appear until July of 2014 when Mr. Barker sent an email to Ms. Arcure asking for permission to file an answer almost 4 months after Bank of America, N.A.'s deadline. **(EXHIBIT B July email from Mr. Barker to Ms. Arcure requesting extension)**. After the time for Bank of America, N.A. to respond to the lawsuit has elapsed, Ms. Arcure did not have the authority or permission to grant an extension only the Court possesses this ability. Bank of America, N.A. was required to file a motion requesting permission for the extension from the Court which they still have not done as of this filing.

#### **BANK OF AMERICA'S DEFAULT ON MEISNER'S CLAIMS**

On April 2, 2014 Bank of America, N.A. was served a summons on their agent of record Amy Routh. Bank of America, N.A. did not answer, request an extension or otherwise appear prior to their March 13, 2014 deadline. Meisner filed counter claims against US Bank which also implicated Bank of America, N.A. and as such was a cross claim against Bank of America, N.A. Meisner filed her counterclaims and cross claims and answer with the Court and also sent via regular and certified mail a copy to Jake Barker, the attorney of record for the prior lawsuit 2013-CP-40-7144 for the exact same note and the exact same mortgage on June 12, 2015. On July 17, 2015 only 8 days after requesting permission from Ms. Arcure to file a late response, Mr. Barker sent a letter stating to Ms. Meisner stating the service on him for Bank of America, N.A. was defective because he had not yet been retained, but he did not file a motion under Rule 55 for defective service. [EXHIBIT C letter from Mr. Barker].

The required answer and responsive pleading via Meisner's answer to the lawsuit implicating Bank of America, N.A. (as the previous owner of the note and mortgage ) as well as Meisner's request for a declaratory judgment action gave notice to Bank of America, N.A. upon



the filing in the Circuit Court. Had Bank of America, N.A. entered an appearance or answered as required in the 30 day time limit they would have received direct notice Meisner's answer.

However, Bank of America, N.A. did in fact receive notice of the answer because Meisner sent a copy to Mr. Barker even though Bank of America, N.A. did not answer or enter an appearance.

The rules of civil procedure are in place for just this sort of situation. While, Bank of America, N.A. did not think it was necessary for them to file an answer to US Bank's lawsuit, Bank of America, N.A. is nevertheless required to enter an appearance in the case after being summoned or be in default if they do not request an extension during the 30 day period to answer.

For the above reasons and all references to the record, the defendant Rhonda Meisner opposes the Bank of America, N.A. motion to strike counterclaims and request to enter judgment that the Bank of America, N.A. did not answer or otherwise timely appear and as a result is in default making their late reply a defective pleading which should be stricken as a matter of course.

Respectfully Submitted,



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July 22, 2015

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MOTION TO AMEND THE COMPLAINT  
and MEMORANDUM IN SUPPORT OF  
MOTION

**To: The Plaintiff U.S. Bank and the co -Defendants, Bank of America and SCBT listed above** please take notice the Defendant, Rhonda Meisner will move within 10 days or as soon as can be heard for a motion to amend her answer, the counterclaims and the cross claims in the above entitled case before the Richland County Circuit Court Judge or his/her designee. The Defendant will so move pursuant to Rule 15 (a) for a motion to amend her answer and the counter and cross claims in the above referenced complaint. The motion to amend adequately addresses the issues in the motion so a separate memorandum is not included in this filing.

### INTRODUCTION

The defendant Rhonda Meisner, having partially completed discovery, respectfully requests to amend her answer and the counter and cross claims against the Plaintiff and co-defendants allowed pursuant to Rule 15(a) of the South Carolina Rules of Civil Procedure. Rule 15 provides leave to amend the complaint (which also includes cross claims and counterclaims) and can be utilized as late as during the trial, if the Court so allows, to conform the pleadings to the facts of the case. Leave to amend the complaint "shall be freely given when justice so

requires." *Parker v. Spartanburg Sanitary Sewer District*, 362 S.C. 276, 286 607 S.E. 2d 711, 716 (Ct. App. 2005)

Here, in addition to the Plaintiff, US Bank creating new claims during the litigation, via their abuses of processes; further inquiry into the original complaint has unearthed additional

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defenses, counterclaims and cross claims. The additional amendments with respect to the co-defendants will not prejudice the co-defendant as discovery is not over and currently Bank of America, N.A. has not answered the original complaint timely and the defendant, Rhonda Meisner argues Bank of America, NA is a default defendant.

The amendment to the complaint, if approved by the Court, would allow Bank of America, N.A. to file an answer and mount a defense to the requested amendments to the complaint. The defendant, Rhonda Meisner for the above reasons requests the Court to authorize an amendment to the answer of the complaint, to add counterclaims and cross claims as elucidated in the attached proposed amended answer, counter claim and cross claim. **(EXHIBIT A proposed amended answer, counter claim and cross claim)**

The defendant, Rhonda Meisner requests the complaint be amended to include a claim for 1) abuse of process against the Plaintiff, (US Bank,) (II.) amendment to the cross claim against Bank of America for failure to satisfy a mortgage after notification. (Bank of America ) pursuant to S.C. Code Ann. § 29-3-330(B) and for damages pursuant to S.C. Code Ann. 29-3-320 for failure to satisfy the mortgage within 90 days (III.) amendment to the cross claim against Bank of America for slander of title.(Bank of America)(4) amendment to eliminate the judgments attached to the lis pendens by SCBT noted in the above entitled action.

Defendant Rhonda Meisner respectfully submits her memorandum as part of the motion in support of the request to amend the complaints regarding the above causes of action.

#### **BACKGROUND**

The Plaintiff U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FT1, (hereinafter "US Bank") initiated a foreclosure action based on an assignment of the note and mortgage from Bank of America, N.A., the co-defendant

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in this action, that was notarized on a day *later* than the assignment and *after* Bank of America, N.A. declared the loan in default. The pleadings by the Plaintiff US Bank admit to acquiring the mortgage by assignment on April 2 (notarized on April 3) of 2014.<sup>1</sup> Further the plaintiff US Bank argues the loan was in default as of July 12, 2013. In the Lis Pendens filed with this action, US Bank lists several liens that should not be attached to the Lis Pendens associated with this property including a judgment by SCBT and a mortgage which Bank of America, N.A. has not satisfied but was paid off in 2007.

On July 12, 2013 by the Plaintiff US Bank's own pleadings and the April 2014 assignment of the mortgage, the note and mortgage was still owned by Bank of America, N.A. The Plaintiff, US Bank has not provided any evidence of the default and therefore injury to US Bank attached to lawsuit. US Bank relies on the reports of the default by Bank of America, N.A. without attaching evidence of the default from Bank of America, N.A. As such it is unclear who the real party in interest is in this litigation because they also did not attach any evidence of payment or endorsement for the assignment of the note and mortgage in this case until April of 2014 which was after the "reported" default and after the "reported" damage.

As a result of the assignment after the "alleged" default, US Bank is considered a third party debt collector pursuant to South Carolina's adoption of the Uniform Commercial Code as delineated by the Uniform Commercial Code ( UCC ) article 3 and article 9. Additionally, the only rights the US Bank possesses are the rights acquired by the assignment of the note and mortgage pursuant to S.C. Code Ann. §36-3-203(b). see also : *Twelfth RMA partners, L.P. v. Nat'l Safe Corp.* 335 S.C. 635, 639, 518 S.E. 2d 44, 46 (Ct. App. 1999).

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<sup>1</sup> US Bank initial pleadings attaching the mortgage assignments to the complaint.

Additionally, the pleadings in the case reference via the Lis pendens a mortgage given to Bank of America, N.A. by defendant Rhonda Meisner that was initiated in (2005) that has been satisfied and Bank of America, N.A. , after notice of the satisfactions has failed to file the satisfaction of the mortgage pursuant to S. C. Code Ann. §29-3-320

### **ARGUMENT**

The Defendant Rhonda Meisner asserts the following arguments for each and every request for amendment to the answer, counterclaims and cross claims against the Plaintiff, US Bank, and the co-defendants Bank of America, N.A. and SCBT.

#### **I. ABUSE OF PROCESS (BY PLAINTIFF US BANK)**

While a motion for reconsideration was still under the advisement of the Court, US Bank intentionally and impermissibly presented a "Proposed Order" for mandatory referral the Master in Equity Judge for the Clerk of Court to sign. The "Proposed Order" contained findings of fact and conclusions of law that *far exceeded* the authority of the Clerk to sign and is referenced by the Master in Equity's Order vacating the referral. US Bank knew, prior to submission of the "Proposed Order" the Bank requested the Clerk to sign far exceeded the authority of the Clerk of Court and under the laws of South Carolina the Bank knew that the Clerk of Court could not legally sign the Order.

This was far more than a mistake by the Plaintiff Bank. Indeed, US Bank hired South Carolina attorneys to represent the Bank in the proceedings and therefore US Bank absolutely knew prior to the submission of the "Proposed Order" that only Judges or Juries are authorized under the laws of South Carolina to make findings of fact and conclusions of law. The Plaintiff's manipulation of the Courts processes by submitting a "Proposed Order" directly to the Clerk of

Court for signature and circumventing Judicial review of the "proposed Order" amounts to an abuse of process.

This perversion of the Court's system was an intentional act by Bank because (1) The Bank drafted and created the "Proposed Order" indicating a signature provision for the Clerk of Court to sign *or* for a Judge's signature placing each on par with the other (2) Circumvented the normal processes by impermissibly requesting the Clerk of Court to sign the "Proposed Order" that she was legally unable to sign (3) Requesting the Clerk of Court to file the "Proposed Order" after signature and presenting payment for the referral to the Master in Equity. (4) Proceeding with requesting a hearing from the Master in Equity knowing the referral was "illegal". (5) Sending an associate to the motion to compel hearing and being informed by the Master in Equity the referral was faulty and that he did not have jurisdiction over the referral (6) Arguing to the Circuit Court that the Master in Equity "sua sponte" vacated the Order of Referral when the Master in Equity had a full evidentiary hearing on the merits regarding the referral his jurisdiction and requested the attorneys "Re-refer" the matter for a Circuit Court Judge to hear.

The facts associated with the "faux referral" amounts to an abuse of process in order to gain a collateral advantage and harm the Defendant Rhonda Meisner.

As the Court of Appeals noted, in *Food Lion, Inc. v. United Food & Commercial Workers*

*International Union* Opinion No. 3533 Heard Oct. 11, 2000- Filed July 8, 2002

"[A]n abuse of process is the employment of legal process for some purpose other than that which is was intended by the law to effect- the improper use of a regularly used process." [ ] "The purpose itself, though ulterior, need not be illegitimate; rather, the abuse occurs when the purpose is accomplished by using the process in a manner in which it was not intended to be used.[ ] In our view, "process" as it pertains to the abuse of process tort, embraces the full range of activities and procedures attendant to litigation.

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See Fowler W. Harper et al., The Law of Torts § 4.9 (3d ed. 1996) See also: *Hart v. O'Malley*, 647 A.2d 542, 551 (Pa. Super. Ct. 1994) ("the word 'process' has been interpreted broadly and encompasses the entire range of procedures incident to the litigation process.") (citation omitted)

The Plaintiff US Bank manipulated the processes of the Court in order to facilitate a faster foreclosure proceeding, to deny the defendant Meisner of her right to trial by a jury, increasing the costs associated with the litigation, requiring additional time, effort and expense for hearings associated with the " inappropriate and illegal referral order". The Clerk of Courts office while performing ministerial duties assigned by the Judges of the Court or by statute has never been intended to function as a "fact finder" or given the authority to make "conclusions of law", these actions are reserved for a judge and jury, particularly when the Clerk is not a licensed attorney.

The tort of abuse of process was implemented to protect citizens from perversion of the legal systems in place. The complications associated with the " Proposed Order" ( until the tort was discovered) was extremely stressful and incrementally emotionally damaging to defendant Meisner as she initially believed the "Proposed Order" and referral to be legitimate and legal and that she had lost her right to trial by jury.

First, as the plaintiff US Bank is well aware, the " Proposed Order " that was drafted by the Bank, presented for execution by the Clerk of Court, contained multiple findings of facts and conclusions of law which far exceeds the duties of the Clerk's office. While the Clerk can refer cases to the Master in Equity Judge via S.C. Rules of Civil Procedure Rule 53(b) which do not contain a jury demand, counterclaims, other cross claims, findings of fact and conclusions of law this is not the kind and type of "Proposed Order" that was presented to the Clerk for processing and a judge should sign the referral prior to the Clerk of Court effecting the referral.

233 4/30/40

US Bank impermissibly presented an Order to the Clerk to sign to further US Bank's efforts to deny the Defendant Rhonda Meisner a jury trial for which she is entitled based the request for attorneys fees based on a contract, on the compulsory counterclaims as well as the compulsory cross claims. Instead of submitting the referral to the Court for a hearing that could properly be ruled on or submitting a "proposed order " to the Court for a Judge to sign that included their arguments , US Bank tried to effect an "end run" by submitting the " proposed Order" to the Clerk and effectively putting a Court official in the impermissible position of practicing law or becoming a witness and or party to a case. Even if the Clerk of Court , Ms. Jeanette McBride is an attorney, which she has stated she is not, State law prohibits Court officials from practicing law, including the Master in Equity.

The actions by US Bank represent an abuse of process and their actions have harmed the Defendant Meisner by causing actual damages, as well as emotional damages. The money paid for motions, the time spent defending the "illegal referral" and other expenses including payment for copies, parking and other resources amount to special damages. *Peter's Well Drilling Co. V. Hanzula*, 242 N.J. Super. 16,575 Ad 1375, 1379-81 (Ct. App. Div. 1990) The actions of US Bank have been willful and purposeful and represent a practice and pattern that could harm multiple citizens in the State of South Carolina going through foreclosure proceedings if the practices are replicated. Most notably if the defendants or the attorneys representing them do not challenge the " proposed Order" and the referral, the abuse of process succeeds and the tortfeasor whether US Bank or another plaintiff *gains the benefits from their unlawful use of a lawful procedure*, which is the exact reason the tort of abuse of process exists.

## II. FAILURE TO SATISFY MORTGAGE BY BANK OF AMERICA, N.A.

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Bank of America, N.A. failed to enter satisfaction of Mortgage Pursuant to S.C. Code Ann. §29-3-310 making them subject to damages pursuant to S.C. Code § 29-3-320 by Bank of America, N.A.

US Bank listed in the Lis Pendens associated with a loan that originated in 2005 between the defendant Rhonda Meisner and Bank of America, N.A. a loan that was previously paid off and Bank of America, N.A. did not enter a satisfaction of mortgage properly. The loan was paid off online and was found by Rhonda Meisner to be reported as "a foreclosure" by the bank in August of 2008. In August/ September of 2008, defendant Meisner was informed that Bank of America, N.A. did not enter a satisfaction of Mortgage based on Bank of America's report to credit bureaus that the mortgage was in foreclosure. The bank investigated and found the mortgage to be paid in full and removed the erroneous entry in the credit reporting agencies files and should have entered satisfaction of the Mortgage after having been told of the error.

The Bank of America, N.A. investigated the error in reporting the foreclosure action and the status of the loan with the credit bureaus, the Bank of America, N.A. corrected the error in the credit bureaus but the Bank of America, N.A failed to enter the satisfaction of the mortgage in the Richland County register of deeds office in 2008 as directed by defendant Meisner.

Defendant Meisner paid the full amount due and owing to Bank of America, N.A. for the approximately \$30,000 debt, requested the erroneous information be removed from her credit report and enter the mortgage satisfied in order to purchase another home, paid the fees associated with the satisfaction and Bank of America, N.A. while they removed the erroneous information from the credit bureau they failed to enter the satisfaction of the mortgage as promised within 3 months subjecting them to the damages available under S.C. Code Ann. §29-3-320 which provides that the Bank of America, N.A. is responsible for compensating Meisner

for one half of the amount of the loan or (\$15,000) plus costs and attorney's fees. **(EXHIBIT B Affidavit of Rhonda Meisner)** *Dykeman v. Wells Fargo Home Mortg., Inc.* 381 S.C. 333, 340, 673 S.E. 2d 804, 807 (2009) Meisner made the appropriate request for satisfaction along with her request for her credit report to be corrected. *Id.* at 339, 673 S.E. 2d at 807 (alterations by court) (quoting *Bostic v. Am. Home Mortg. Servicing, Inc.*, 375 S.C. 143, 154, 650 S.E. 2d 479, 485 (Ct. Appl. 2007))

S.C. Code Ann. §29-3-310 does not mandate a written request. *Bostic*, 375 S.C. at 155, 650 S.E. 2d at 485. The statute is satisfied if the aggrieved party (1) makes a verbal or written request and (2) demonstrates the mortgagee has received or agreed to this request. *Id.* Here, evidence the Bank of America, N.A. agreed with Ms. Meisner's request is evidenced by the Bank of America, N.A. correction of her credit report to indicate the mortgage was paid in full; however, they did not correct the information in the Richland County register of deeds as promised.<sup>2</sup>

#### **SLANDER OF TITLE BY BANK OF AMERICA, N.A.**

Slander of title has been defined as " a false and malicious statement made in disparagement of a person's title to real or personal property, causing him injury." *Pond Place Partners, Inc. v. Poole*, 351 S.C. 1, 18-19, 567 S.E. 2d 881, 890 (Ct. App. 2002). The Bank of America, N.A. was informed of their erroneous reporting of a foreclosure (of Meisner's 2005 loan referenced by US Bank in the Lis Pendens) in 2008 when it was discovered as part of an application for a new loan. The Bank of America, N.A. removed the foreclosure from Ms. Meisner's credit report as well as promised satisfaction of the mortgage documents ; however this was not done within 90 days of the request and resulted in slander of title. The Bank of America, N.A. by not removing the mortgage from the public records, publicized a debt that had

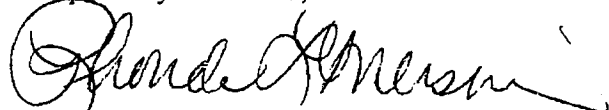
<sup>2</sup>Lis pendens filed with the current action

been paid. The publication via the non removal of the lien was a false statement in that the Bank of America, N.A. was on notice the debt was paid and failed to remove the debt from the public records. The failure of the Bank of America, N.A. to remove the liens was with reckless disregard to and with malice directed at harming the rights of Ms. Meisner to the quiet enjoyment of her property without a cloud being placed on the title of her property.

The resulting "cloud of title" caused the special damages in that it played a role in SCBT initiating a separate action for suit on the note instead of the mortgage foreclosure action initially instituted by SCBT causing defendant Meisner of the special damages of having to defend two separate and distinct suits with two separate sets of defense expenses including all of the expenses previously mentioned. The co- defendant's actions specially harmed defendant Meisner by making her double her time and efforts associated with the defense of two lawsuits as opposed to one lawsuit.

For the above reasons and all references to the record the defendant Rhonda Meisner respectfully requests the Court to enter an Order allowing her to amend her answer, her counter claims, and her cross claims.

Respectfully Submitted,



Rhonda Meisner  
PO Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803)212-5407

July 13, 2015

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

EXHIBIT B

Affidavit of Rhonda Meisner  
Attached to Motion to Amend the Complaint

2015 JUL 13 PM 4:44  
600-441-1111

I, Rhonda Meisner being of sound mind and over the age of 21 years old submit under penalty of perjury the following facts and I authorize the use of this affidavit in the above captioned lawsuit.

1. I, Rhonda Meisner am the sole owner of 406 Koon Store Road Columbia, SC 29203 and have the property titled in my personal name which has always been the case since the acquisition of the property.
2. I took out a second mortgage line of credit from Bank of America, N.A. referenced in this litigation as the Bank of America, N.A. "2005" loan.
3. This loan was paid off completely via a transfer of funds over my internet banking service later in the year of 2005 or 2006.
4. Bank of America, N.A. improperly applied the payoff resulting in a balance of less than \$5.00 but removed the loan from view on the computer screen terminal.
5. Bank of America, N.A. subsequently reported this loan as going into foreclosure erroneously due to their mistake which was discovered until late 2007 or 2008 when I applied for another loan and the foreclosure was noted in my credit report.
6. I immediately contacted Bank of America, N.A. and requested the erroneous information be removed from my credit report and the lien be removed from my property so that I could get the loan for which I was applying.
7. I was subsequently approved for the loan based on Bank of America, N.A. reportedly correcting the erroneous credit report information and processing the filing of a ~~satisfaction of mortgage with the Richland County Register of Deeds office.~~
8. The credit report was in fact removed; however, by nature of the fact the mortgage has been referenced in the Lis pendens in this action Bank of America, N.A. has not properly satisfied the 2005 mortgage after notice.

I declare under penalty of perjury the facts associated with the above referenced "2005" are true and accurate as described above.

SIGNATURE LINE NEXT PAGE RHONDA L. MEISNER AFFIDAVIT

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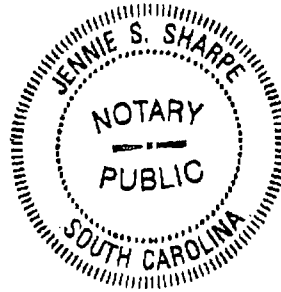
*Rhonda L. Meisner*

Rhonda L. Meisner  
July 13, 2015  
signature for affidavit

notarized this 13 day of July, 2015

by Jennie S. Sharpe  
notary expires on:

7/23/2017



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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MEMORANDUM OF LAW IN OPPOSITION  
OF BANK OF AMERICA'S MOTION TO  
STRIKE CROSS CLAIMS AND IN  
SUPPORT OF MOTION TO STRIKE BANK  
OF AMERICA'S REPLY AND FOR A  
DEFAULT JUDGMENT AGAINST BANK  
OF AMERICA

RICHLAND COUNTY  
FILED  
2015 MAY 20 PM 3:11  
JAMETIE  
C.C.P. & G.

To: the Plaintiff U.S. Bank and their attorneys Finkel law firm and the Co-defendant Bank of America and their attorneys Graybill, Lansche and Vinzani as listed above. You will please take notice having filed a motion to strike the reply of Bank of America, N.A. and for default judgment against Bank of America, N.A. for the cross claim asserted, Defendant Meisner hereby submits this memorandum of law.

The Defendant Rhonda Meisner respectfully submits this opposition to the Motion to Strike her counterclaims and in support of her motion to strike Bank of America's reply and for default judgment.

#### BACKGROUND

As an initial matter this lawsuit is the second lawsuit involving the exact same note and the exact same mortgage that has been untimely answered by Bank of America, N.A. (hereinafter "BANA"). In the previous lawsuit, which is currently stayed (pending a decision on appeal) Docket No. 2013-CP-40-7144 BANA untimely answered and claimed an ownership interest in the note and mortgage. (EXHIBIT A Answer of Bank of America, N.A. to Docket No. 2013 CP-40-7144). Therefore, BANA is collaterally estopped from arguing it does not maintain an ownership interest in the subject note and mortgage and a question

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of fact is before the Court of which entity is the legal and proper owner of the note and mortgage given the Plaintiff is a Trust.

#### ARGUMENT

BANA has also filed an untimely answer/reply in this lawsuit and therefore their motion to strike the Defendants cross-claims should not be granted. The Plaintiff, U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FT1 acknowledged proper service of process to BANA's registered agents in their complaint at No. 5 and attached proof that service was affected and proper. (EXHIBIT B Proof of service on BANA). BANA did not reply, respond or otherwise appear.

#### Timeliness of BANA's answer to the Cross claims

BANA claims that it received permission to file a late answer from the Plaintiff and submitted as proof an email from Ms. Magalie Arcure, attorney for the Plaintiff U.S. Bank granting permission to file a late answer in July of 2014; however this grant was not only improper as it did not excuse the late answer to the cross claims but it too was untimely and failed to cure the default for the compulsory counterclaims and cross claims. The original lawsuit was filed on March 31, 2014 and the answer and counterclaim for breach of contract and declaratory judgment action was filed by Ms. Meisner on May 15, 2014 which was within 30 days of service of process. She then served via registered mail to Graybill, Lancshe and Vinzani the attorneys representing BANA in Docket No. 2014-CP-40-7144 as well as filed her counterclaims and cross claims with the Court.

BANA failed to answer, plead, reply or otherwise defend the original lawsuit filed by U.S. Bank or the counterclaims and cross claims filed by Ms. Meisner within 30 days of service, plus 5 days of service by mail as required by Rules 6 and 12(a) of the South Carolina Rules of

Civil Procedure. Defendant BANA never requested a written 30 day extension of time from the Plaintiff or the co-defendant within the 30 days as provided by Rule 6 (b)(2) of the South Carolina Rules of Civil Procedure, nor did BANA make a motion to the Court for an expansion of time to reply to the Complaint and counterclaims or cross claims prior to a motion for a default judgment being filed; instead BANA seeks to strike the cross claims of co-defendant Meisner.

BANA filed an answer to the cross claims but not until July of 2014 which is too late. Co-defendant's BANA's untimely reply is a "defective pleading" which should be struck pursuant to Rule 12 (f) of the South Carolina Rules of Civil Procedure. The Court of Appeals specifically addressed an untimely reply and noted that in this state an untimely reply prior to the entry of default does not cure the procedural defect *Stark Truss Co., Inc. v. Superior Const. Corp.*, 360 S.C. 503, 509, 602 S.E. 2d 99, 102 (Cl. App. 2004) (disregarding contrary North Carolina opinion and upholding similar motion where answer was untimely filed prior to entry of default.)

As plainly stated by Rule 55(a) if a party has failed to "plead or otherwise defend as provided by the South Carolina rules of Civil procedure and that fact is made known by affidavit or otherwise (such as this motion for default judgment) the clerk of court will issue a default notice. Stark at 102. When a party has been duly served with the summons and complaint, it was his duty to answer the complaint. Therefore, he must suffer the consequences of this failure to answer. *Hill v. Dotts*, 345 S.C. 304, 310, 547 S.E. 2d 894, 897 (2001) (internal citations omitted).

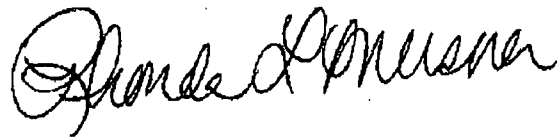
For the above reasons and all references to the record the co-defendant requests the Court strike the reply of Bank of America, N.A and enter a judgment of default for the cross claims in the amount of the claims against Defendant Meisner by the Plaintiff. The plaintiff in this case

*Handwritten:* 219 4/29 4/19



only has the rights received from BANA e.g. the breached contract terms of the note and mortgage.

Respectfully Submitted,



Rhonda Lewis Meisner  
Post Office Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803)212-5407

May 20, 2015

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**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

**U.S. Bank, National Association, as trustee  
for the Holders of the Banc of America  
Funding Corporation, 2008-FTI,**

**Plaintiff,**

**v.**

**Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT**

**IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT**

**DOCKET NO. 2014-CP-40-2063**

**DEFENDANT'S RHONDA MEISNER  
RESPONSE TO BANK OF AMERICA'S  
MOTION TO DISMISS CROSS CLAIMS**

RICHLAND COUNTY  
FILED  
2015 APR 22 PM 3:50  
JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

As an initial matter, the defendant Rhonda Meisner does not believe court has jurisdiction over the case based on the defective filing of the Plaintiff U.S. Bank, National Association, as trustee for the Holders of the Banc of America Funding Corporation, 2008-FTI, and the appeal of the denial of the motion to dismiss to the Court of Appeals. Additionally, if the Court is determined to have jurisdiction even with the defective filings then the co-defendant Bank of America, N.A.'s motion should not be considered as they are a default defendant to the initial suit and a default defendant to Meisner's cross claims.<sup>12</sup>

Further the Master in Equity vacated the referral of the case which was erroneously signed by the clerk of court. The determination of lack of jurisdiction of the Master in Equity was fully briefed and argued during the previous motion to compel hearing. A motion to stay was not heard at that time due to the lack of jurisdiction of the Court which is still pending. Additionally, because the Court of Appeals has yet to rule on the motion for reinstatement, the

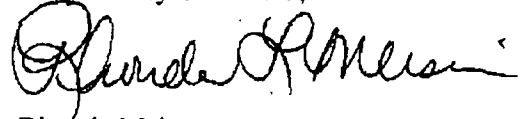
<sup>1</sup> Motion to reconsider dismissal of appeal from the Court of Appeals (this motion has not been ruled on and therefore the remittur has not been sent to the Circuit Court.

<sup>2</sup> Motion to strike reply and enter a default judgment against Bank of America, N.A.

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case has not been returned to the jurisdiction of the Circuit Court.<sup>3</sup> Standing is a pre-requisite to filing suit and both Bank of America, NA and U.S. Bank have claimed ownership of the note and mortgage with a defective assignment being filed by US Bank. As such as the primary Plaintiff, a challenge of standing must be resolved prior to continuing the case so as not to prejudice the Defendant, Rhonda Meisner with duplicitous discovery. For the above mentioned reasons all references to the record and oral argument of the issues the Defendant Rhonda Meisner requests the Court stay the inquiry pending the resolution of the issue of standing in the Court of Appeals.

Respectfully Submitted,



Rhonda Meisner  
PO box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
(803)212-5407

April 22, 2015

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<sup>3</sup> Meisner's motion to reinstate appeal.

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RICHLAND COUNTY  
FILED

2014 NOV -4 AM 11:55

JEANNETTE W. MCBRIDE  
C.C.P. & G.S.

*Rhonda Lewis Weisner*  
Post Office Box 689  
Blythewood, South Carolina 29016  
pegasus333@icloud.com  
(803)960-3696

The Honorable Casey L. Manning  
P.O. Box 192  
1701 Main Street Room 214  
Columbia, SC 29202-0192

2014-40-2063

November 3, 2014

Dear Judge Manning,

I am writing to inform you of a situation regarding the Clerk of Court, Ms. Jeanette W. McBride of Richland County. The Clerk of Court signed and filed an Order of reference to the Master-in-Equity re case # 2014-40-2063. At the time of the referral, not only did I submit a memorandum in opposition to the referral most importantly noting a S.C. Rules of Civ. P. Rule 59(e) pending motion regarding a question of the standing of the Plaintiff( based on a defective assignment of the mortgage and the fact that two Plaintiffs were claiming ownership of the same note and mortgage) . Lack of standing deprives the Court of subject matter jurisdiction and this motion was under consideration by the Honorable De Andrea Benjamin at the time of the referral. This motion aside, the answer to the lawsuit requested a jury trial and noted compulsory counter claims which in my opinion warranted a hearing. The South Carolina Supreme Court has ruled that a Master in Equity Order striking a jury demand prior to the close of discovery was prejudicial and reversed the case based on this ruling as was argued in the memorandum in opposition to the referral, as such the Order by a Clerk of Court striking the jury demand is also prejudicial prior to the close of discovery.

The most disturbing part of the Order by the Clerk of Court was her "full adoption" of the Plaintiff's suggested Order without the supervision of a Judge or the authority of a Judge. This is troublesome for many reasons the least of which is that a defective Order of Reference could deprive the Master-in-Equity of jurisdiction. Most importantly, some Defendant's who did not catch the defective referral could lose their private property without due process. While the Clerk of Court completes but important role as an officer of the Court, in this situation, it is my opinion her Order exceeded her authority and her Order indicated an authority on par with a Circuit Court Judge.

I respectfully request your review of this matter and if necessary respectfully request a hearing on the issue.

Signature next page

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Warm Regards,

*Rhonda Meisner*

Rhonda Meisner  
Post Office Box 689  
Blythewood, SC 29016  
(803) 960-3696

CC.

Magaliè Arcure  
Finkel law firm

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

**MOTION TO STRIKE  
JURY TRIAL DEMAND  
AND FOR  
MANDATORY ORDER OF REFERENCE**

RICHLAND COUNTY  
FILED  
2014 JUL 24 AM 8:58  
JEANNETTE W. McBRIDE  
C.C.P. & G.S.

The undersigned attorneys for Plaintiff and pursuant to Rule 53 SCRPC, as amended, effective September 1, 2002, move before this Honorable Court to strike the Defendant's demand for a jury trial and for the foreclosure action herein to be referred to the Honorable Joseph M. Strickland, Master in Equity for Richland County, with authority to enter a final judgment in the case pursuant to Rule 53 (b) SCRPC. Pursuant to Rule 53(e) SCRPC, any appeal therefrom shall be to the Supreme Court or the Court of Appeals, as provided by the South Carolina Appellate Court Rules. As further set forth herein, Defendant has waived the right to a jury trial on her legal counterclaim for breach of contract because it is permissive and was raised in response to Plaintiff's equitable foreclosure action.

**JURY TRIAL**

It is a caveat of black letter law that an action to foreclose a real estate mortgage is in equity. The Smith Companies of Greenville, Inc. v. Hayes, 311 S.C. 358, 428 S.E.2d 900 (Ct. App. 1993); First Fed. Sav. Bank v. Knauss, 296 S.C. 136, 370 S.E.2d 906 (Ct. App. 1988); Dockside Assoc., Inc. v. Detyens, 294 S.E. 86, 362 S.E.2d 874 (1987); Collier v. Green, 244 S.C. 367, 137 S.E.2d 277 (1964). If any action is one in equity, it is to be tried by the court and the defendant is not entitled to a jury trial. Loyola Fed. Sav. Bank v. Thomasson Properties, 456

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S.E.2d. 423 (S.C., Ct. App. 1995); C & S Real Estate Services, Inc. v. Massengal, 290 S.C. 299, 350 S.E.2d 191 (1986); Pelfrey v. Bank of Greer, 270 S.C. 691, 244 S.E.2d 315 (1978); Collier v. Green, 244 S.C. 367, 137 S.E.2d 277 (1964). In equity, the parties are not entitled, as a matter of right, to a trial by jury. Williford v. Downs, 265 S.C. 319, 321 218 S.E.2d 242, 243 (1975).

"By definition, a counterclaim is compulsory only if it arises out of the same transaction or occurrence as the opposing party's claim." Wells Fargo Bank, N.A. v. Smith, 398 S.C. 487, 495, 730 S.E.2d 328, 332-33 (Ct. App. 2012); see also Rule 13(a), SCRPC. Claims that arise out of separate transactions or occurrences than the subject matter of the opposing party's claims are, instead, permissive. Rule 13(b), SCRPC. The South Carolina Supreme Court has adopted the logical relationship test to determine whether a counterclaim is compulsory. See N.C. Fed. Sav. & Loan Ass'n v. DAV Corp., 298 S.C. 514, 517, 381 S.E.2d 903, 905 (1989). Specifically within the context of an action for foreclosure, the determination of whether a counterclaim is compulsory is made by asking whether the counterclaim would affect the lender's right to enforce the note and foreclose the mortgage. See Wells Fargo Bank, 398 S.C. at 496, 730 S.E.2d at 333; see also N.C. Fed. Sav. & Loan Ass'n, 298 S.C. 518-19, 381 S.E.2d at 905.

In the present case, the defendant mortgagor Rhonda Lewis Meisner a/k/a Rhonda L. Meisner ("Defendant") served an answer on May 15, 2013 which contains a demand for a jury trial. The answer raises counterclaims for breach of contract and a declaratory judgment that Defendant is entitled to statutory appraisal rights pursuant to S.C. Code 29-3-680, in addition to affirmative defenses.

As a threshold matter, the counterclaim for a declaratory judgment has no bearing on the lender's right to enforce the note and foreclose the mortgage and is not legal in nature. A suit for declaratory judgment is neither legal nor equitable, but is determined by the nature of the underlying issue. Felts v. Richland County, 303 S.C. 354, 356, 400 S.E.2d 781, 782 (1991). While this counterclaim potentially may require the Court to construe the terms of the note and mortgage, it relates exclusively to the determination of Defendant's rights after the sale of the

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foreclosed premises under those same agreements and because the underlying action is a foreclosure which sounds in equity, this counterclaim necessarily flows from this same underlying issue. See Hardy v. Aiken, 369 S.C. 160, 631 S.E.2d 539 (2006) (holding that underlying issue in declaratory judgment action to enforce restrictive covenants is equitable and not legal action to construe a contract). Moreover, this counterclaim is moot in that it prematurely seeks a declaration that Defendant is entitled to statutory appraisal rights pursuant to S.C. Code §29-3-680. Pursuant to that statute, a mortgagor defendant in a foreclosure action upon which a deficiency judgment is rendered may within thirty days after the sale of the mortgage property apply by petition to the Clerk of Court for an appraisal. See S.C. Code §29-3-680(a) ("In any real estate foreclosure proceeding a defendant against whom a personal judgment is taken or asked, whether he has theretofore appeared in the action or not, may within thirty days *after the sale of the mortgaged property* apply by verified petition to the clerk of court in which the decree or order of sale was taken for an order of appraisal.") (emphasis added). The property that is the subject of this action has not been sold at foreclosure sale, and does not provide a basis for Defendant to request a jury trial.

The sole legal counterclaim raised in the Answer is for breach of contract, and the thrust of Defendant claims with regard to that cause of action is that the prior servicer and Plaintiff's predecessor in interest improperly applied escrow payments to the loan account. Defendant does not allege that the alleged misapplication is the reason for the default in monthly mortgage payment. In fact, the Answer does provide contain any allegation that the alleged conduct which Defendant contend gives rise to her counterclaim for breach of contract is related in any manner to the default in payments; since Plaintiff's foreclosure action is centered entirely on the obligations created by the note and mortgage and the Defendants' default thereunder, Defendants' legal counterclaim does not arise from the same transaction or occurrence as Plaintiff's foreclosure action and is necessarily permissive.

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By asserting this permissive legal claim in the instant foreclosure action, Defendant has waived their right to a jury trial. See Wachovia Bank, National Association v. Blackburn, No. 27359, 2014 WL 766311 at \*4 (February 26, 2014) (finding that where the complaint is equitable and the counterclaim is legal and permissive, the defendant waives his right to a jury trial). Furthermore, affirmative defenses raised in response to an equitable cause of action are inherently equitable in nature, and not triable by a jury. See Farley v. Matthews, 186 S.C. 294, 167 S.E. 502 (1933). This being an action for foreclosure of a mortgage and, as such, an action in equity, it is an appropriate matter to be referred to the Master in Equity. See Collier v. Green, 244 S.C. 346, 137 S.E.2d 277 (1964). Based on the foregoing, it would be improper not to strike the jury demand and refer the case. See Pelfrey, 270 S.C. at 695, 244 S.E.2d at 317 ( "[t]he lower court was therefore *in error in refusing the motion of appellant for an order of reference* and in refusing to strike from the amended complaint the phrase 'the plaintiff demands a jury trial.'" ) (emphasis added).

Because Defendant's claim bears no logical relationship to the Plaintiff's enforcement of the note and mortgage in this foreclosure action, it is permissive in nature. Accordingly, the Defendant is not entitled to a jury trial in this foreclosure action.

#### REFERENCE TO MASTER IN EQUITY

The Plaintiff's action is for foreclosure of a mortgage and, as such, is an action in equity and is an appropriate matter to refer to the Master in Equity. Collier v. Green, 244 S.C. 346, 137 S.E.2d 277 (1964). Further, pursuant to Rule 53(b), SCRCP, this Court may, upon application of any party, direct a reference in this action of all or any of the issues, whether of fact or law.

#### CONCLUSION

The Plaintiff moves this Court to strike the Defendant's request for a jury trial and refer this action to the Honorable Joseph M. Strickland, Master in Equity for Richland County to direct entry of final judgment in this action under Rule 53(e)(1), SCRCP, with any appeal therefrom to

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be to the Supreme Court or the Court of Appeals, as provided by the South Carolina Appellate Court Rules.

Respectfully submitted,

FINKEL LAW FIRM LLC

  
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*Attorneys for Plaintiff*

Dated: June 23, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

RESPONSE TO MOTION TO STRIKE JURY  
DEMAND AND MOTION FOR REFERRAL  
TO MAGISTRATE

2014 JUL -3 PM 2:05  
JEANNE L. MEISNER  
CCP & GS  
RICHLAND COUNTY

The Defendant, Rhonda L. Meisner respectfully submits this memorandum in response to Plaintiff's Motion to Strike the Defendants Jury Demand and motion for an Order of Reference to the Magistrate. As an initial matter, a S.C. Rule of Civ. P. Rule 59-e motion in under advisement to the Honorable DeAndrea Benjamin as the Defendant has alleged the Plaintiff's lack standing to sue based on a faulty assignment of the mortgage and therefore the Circuit Court does not have jurisdiction over the controversy. This argument aside, the Plaintiff is requesting to strike the Jury Demand without the benefit of discovery or other evidence that this is proper. The South Carolina Court of Appeals has already ruled that a Motion to Strike the jury demand was an improper motion prior to conducting discovery in the case. Wells Fargo Bank, N.A. v. Michael Smith decided June 13, 2012 No. 4988. The other confounding fact that requires the services of a fact finder is that another proceeding was initiated (2013-CP-40-7144) where the predecessor in servicing Bank of America, N.A. defaulted and therefore the Plaintiff in the above entitled action assumed the default status of Bank of America, N.A.

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Additionally, since the Counterclaims are compulsory and are specifically related to the amount owed as well as the terms of the note and mortgage in the case; a jury demand is properly before the Court. Under South Carolina law, the amount owed is required prior to a foreclosure hearing. Since legal claims must be resolved prior to equitable claims, referral to the Magistrate would be improper in the instant case. The Defendant requests a hearing on the merits of the referral. For the reasons stated above and all references to the record, the Defendant Prays that the Court will deny the referral to the magistrate and deny the motion to strike the jury trial.

Respectfully Submitted,



Rhonda Meisner  
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Blythewood, SC 29016  
pegasus333@icloud.com  
(803)960-3696

July 3, 2014

~~2014~~  
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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI Trust, Mortgage pass  
Through Certificates, Series 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT

Defendants

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2014-CP-40-2063

Motion to Alter and Amend Pursuant to  
SCRCP Rule 59-e and Motion for Relief of  
Judgment pursuant to SCRCP Rule 60(b)

FILED  
JAN 30 PM 4:36  
CLERK OF COURT  
J. P. B. 2014

**TO: TERESA D. VAN VLAKE ESQ., MAGALIE ARCURE ATTORNEYS FOR U.S. BANK, TRUSTEE (CAPTIONED ABOVE); JAKE S. BARKER AND JACKIE BROWN OF GRAYBILL, LANSCH AND VINZANI, LLC ATTORNEYS FOR DEFENDANT BANK OF AMERICA, N.A. EDWARD GRIMSLEY OF GRIMSLEY LAW FIRM FOR SCBT.**

Defendant, Rhonda Meisner, respectfully submits this motion to alter and amend the Judgment of the Honorable DeAndrea G. Benjamin in the above mentioned case from the Motion to Dismiss hearing of June 10, 2014. *Attached Exhibit A - Order*

(1) The Court did not rule on the oral motion made by the Plaintiff that the Court did not have subject matter or personal jurisdiction pursuant to the defects in the assignments from co-Defendant Bank of America, NA to the purported Plaintiff as named above.

(2) The Plaintiff respectfully requests a review of the decision that pursuant to SCRCP Rule 12(b)(8) the above mentioned predecessor in title and servicing Bank of America, NA had already defaulted in a previous action and therefore, the above suit was inappropriately filed. because both suits were attempting to foreclose on the same property.

(3) The SCRCP specifically allows for equitable payment of the first mortgage and that therefore once the filing by SCBT was initiated, the above named Plaintiff stood in the shoes of Bank of America, NA as a "assumer of " the mortgage and note.

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## BACKGROUND

The Plaintiff, U.S. Bank as trustee (full caption above) (hereinafter "Trustee") is the purported trustee of the owner of the note and mortgage that Rhonda Meisner ("hereinafter Meisner") originally given to Bank of America, N.A. (hereinafter "Bank of America") for the premises located at 406 Koon Store Road. The co-Defendant, Meisner was in dispute with Bank of America regarding the 2012 requirement of opening an escrow account associated with the mortgage and the payment of Richland County Taxes by both Bank of America and Meisner. Bank of America refused to request a refund from Richland County and "re-fund" the newly imposed escrow account. Prior to the resolution of the dispute; Bank of America sold and or transferred the servicing rights to Nationstar Bank (hereinafter "Nationstar").

In the instant case, 2014-CP-40-2063 the Trustee, the presumed manager for the owner and holder of the note and first mortgage has initiated a lawsuit when the former originator and servicer, Bank of America has already defaulted by not answering timely in a previously filed suit no 2013-CP-40-7144 that was initiated by SCBT (hereinafter "SCBT"). Meisner timely responded to 2013-CP-40-7144 and specifically made affirmative counterclaims to the Plaintiff (SCBT) and the co-defendants (See Record of Case for 2013-40-CP-7144 Meisners' answer to amended complaint) and repeated below:

[a] declaratory judgment pursuant to S.C.R.C.P 57 and S.C. Code Ann. §§15-53-10 through 15-15-140 to determine a question in actual controversy between or among the parties as to their respective rights and liabilities under a Note AND Mortgage pertaining to real property located at 406 Koon Store Road and more particularly described in the Plaintiff's Complaint, which is incorporated by reference and to determine the respective rights and obligations of the parties with respect to the amount of any deficiency judgment due and owing, and to determine the appraisal rights of the Defendant, Rhonda Meisner.

Additionally, Meisner pled her Statutory appraisal rights pursuant to S.C. Code Ann. § 29-3-680 because SCBT had demanded a deficiency in the previously filed suit and attempted to add

additional liens to the suit not available by law. SCBT subsequently changed their position to a suit on a note; however Bank of America, NA still maintains it has an ownership interest in the note and mortgage of the present action via filings with this Court.

**Hearing held on June 10, 2014 before the Honorable DeAndrea Benjamin**

During the hearing on June 10, Ms. Meisner made an oral motion pursuant to SCRCP Rule 30(b)(1)(2) that the Plaintiff lacked standing due to improper mortgage assignments and therefore the Court lacked jurisdiction over the subject matter and the Defendant, Rhonda Meisner due to the irregularities in the transfers of the mortgage and note; the Court did not rule on this oral motion. The assignments of the note and mortgage were made as EXHIBITS during the hearing. The lack of standing, as a matter of law requires dismissal without prejudice of the action. Specifically, the affidavit notarizing the transfer conflicted with the actual date of the assignment making the notarization of assignment void under South Carolina law. (Both the mortgage assignment and note was entered into evidence. As a matter of law, Bank of America, NA still maintains ownership of the note and mortgage without correction of the faulty assignment. Logically speaking, if the assignment was "notarized" for an **individual** on a date different than the transfer; this assignment would no doubt be fraudulent under the Statute of Frauds. This interpretation of a different standard of proof elicits an equal protection analysis of the 14th amendment to the United States Constitution. Additionally, the allowance of a transfer of property without standing to pursue the action would be a deprivation of private property without due process. Quite obviously, South Carolina law does not allow notarization of a previous assignment occurring on a different day than the notarization of the event. (See the actual documents submitted as EXHIBIT #1 AND EXHIBIT #2 ) into evidence at the June 10, 2014 hearing.) Importantly, in Bank of America, NA responses the previously filed lawsuit, they

claimed an ownership interest. At the hearing, representative of the Plaintiff acknowledged receipt of the answer by Ms. Meisner to the lawsuit which according to Court documents also alleged a lack of standing.

Previous arguments are referenced below:

**Notice of U.S. Bank via Lis Pendens filed by SCBT**

The Plaintiff (SCBT) in 2013-40-CP-7144 filed a Lis Pendens in November of 2013 and referenced the specific address (406 Koon Store Road Columbia, SC ) along with the tax map number TMS# 12100-04-23. While the attorneys representing U.S. Bank is located in North Charleston, the Lis Pendens associated with Richland County properties are online and can be accessed through the internet. While the predecessor in servicing rights and the original creditor Bank of America, N.A. was not noticed in the November 26, 2013 filing, prior to initiating the filing in March of 2014, the attorneys representing U.S. Bank were on notice via the public records. Additionally, on February 19, 2014 the Grimsley law firm filed an amended Lis pendens and named U.S. Bank's predecessor in servicing and original creditor Bank of America, N.A. and again specifically noted the address of the property and the associated Tax Map # of TMS #12100-04-23, so the attorneys were further notified of the litigation and could have contacted the Grimsley law firm or their colleagues at Bank of America, N.A. and apparently did so in reviewing the transfers in and out of Bank of America, N.A.

**Default Status of Bank of America, N.A.**

The Co-Defendant Bank of America was served via its agent of SCBT's amended Complaint in February of 2014. Bank of America, N.A. did not respond to SCBT's lawsuit captioned 2013-40-CP-7144 until April 4, 2014 which was not within the 30 days allowed by the South Carolina Rules of Civil Procedure and as such is a default Defendant. Ms. Meisner timely responded to the lawsuit and



specifically requested a Declaratory Judgment involving **all of the parties** associated with the case and their respective rights and obligations.

Bank of America, N.A. in their late answer of the Amended Complaint, **specifically asserts that it has an interest in the subject property at ¶8 of their answer and filed a certificate of service for the amended complaint on the same day as the assignment was notarized for the transfer in assignment which purportedly happened the day before in Nevada and California;** therefore making the Plaintiff U.S. Bank's lawsuit captioned 2014-CP-40-2063 duplicate and not allowed under the South Carolina Rules of Civil Procedure and the Defendant Rhonda Meisner requests the Court issue an order dismissing 2014-CP-40-2063 as duplicative and awarding Ms. Meisner fees and costs and crediting any attorney fees submitted by Finkel law firm to Ms. Meisner's verified debt as a sanction for the filing of duplicative suits when they were on notice of the filings via the public records. **EXHIBIT #1** Corporate Assignment of Mortgage (assignee U.S. Bank assignor Bank of America dated April 2, 2014 but witnessed April 3, 2014) **EXHIBIT #2** Assignment of mortgage dated March 14, 2014 **EXHIBIT #3** Original mortgage given to Bank of America, N.A. dated 2003 (which was not satisfied properly) **EXHIBIT #4** Mortgage dated September 19, 2005.

Importantly, Bank of America, N.A. was the owner of the mortgage in February when SCBT first noticed their amended Complaint and during the time Bank of America, N.A. did not timely respond pursuant to the South Carolina Rules of Civil Procedure. While SCBT can voluntarily dismiss their claims against Bank of America, N.A. in Case # 2013-7144, SCBT cannot dismiss the timely counter claims against Bank of America, N.A. in the form a Declaratory judgment request. The Supreme Court discussed the importance of proper recording practices in *National Bank of Newberry v. Livingston*. 155 S.C. 264 284, 152 S.E. 410, 417-419 (1930).

Additionally, because SCBT has requested to amend their Complaint and change from a foreclosure action to the legal action of a suit on the note and triable by jury it would be manifestly unfair to have two separate actions pending with the same entities as contemplated by the rules.

Judicial economy also favors dismissing this suit as untimely and duplicative and requiring U.S. Bank to be held liable as the assumer of Bank of America's default with regard to the earlier filed suit.

Currently, both U.S. Bank and Bank of America, N.A. claim ownership of the same mortgage and note an issue that has recently gained nationwide focus with regard to securitized trusts.

Because affirmative counter claims have been raised and Bank of America, N.A. is in default their untimely counterclaims and defenses are also outside of the Court's jurisdiction according to case law and the S.C. rules of Civil procedure. By law it's successor U.S. Bank is also in default of the previously filed action and it would be extremely prejudicial to allow U.S. Bank to attempt to circumvent the Judicial process to redeem or cure Bank of America, N.A.'s default status simply by filing a new lawsuit. For this and all of the above reasons including the oral argument of lack of standing and as a result lack of subject matter jurisdiction over the subject and the Defendant; the Defendant and Cross Plaintiff respectfully requests the Court to enter an order of dismissal pursuant to 12 (b)(1),(2),(8) of 2014-CP-40-2063 and award Ms. Meisner costs, expenses and all other such remedies as the Court finds appropriate under the frivolous proceedings statute.

Respectfully submitted:



Rhonda Meisner, Defendant  
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pegasus@nuvox.net

June 30, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for the  
Holders of The Banc of America Funding  
Corporation, 2008-FT1 Trust, Mortgage Pass-  
Through Certificates, Series 2008-FT1,

PLAINTIFF,

vs.

Rhonda Lewis Meisner a/k/a Rhonda L. Meisner;  
Bank of America, N.A.; and SCBT,

DEFENDANTS.

IN THE COURT OF COMMON PLEAS

CASE NO.: 2014-CP-40-2063

PLAINTIFF'S RETURN TO DEFENDANT'S  
MOTION TO DISMISS

RICHLAND COUNTY  
FILED  
2014 JUN 10 AM 9:12  
JEANNETTE M. MCBRIDE  
C.C.P. & G.S.

U.S. Bank, National Association, as trustee for the Holders of The Banc of America Funding Corporation, 2008-FT1 Trust, Mortgage Pass-Through Certificates, Series 2008-FT1, by and through its undersigned counsel, hereby responds to Rhonda Lewis Meisner a/k/a Rhonda L. Meisner's ("Defendant") Motion to Dismiss Plaintiff's Complaint ("Motion") made pursuant to Rule 12(b)(8), SCRPC. Plaintiff alleges as follows.

1. Unless expressly admitted herein, Plaintiff denies each and every allegation in the Motion.
2. Each allegation of the Complaint in this matter is hereby incorporated by reference. Plaintiff denies any factual allegation in the Motion inconsistent therewith and demands strict proof.
3. Plaintiff craves reference to the public records of Richland County, South Carolina, for the subject documents of Plaintiff's action, and denies anything inconsistent therewith.
4. Plaintiff brings the instant action for foreclosure of real property located in Horry County, pursuant to S.C. Code 15-7-10(3). Therefore jurisdiction and venue is proper.
5. The Motion alleges that Plaintiff's predecessor in interest, Bank of America N.A. failed to answer an action commenced by Defendant South Carolina Bank & Trust ("SCBT") to foreclose its second mortgage lien on the property that is the subject of this action. For this reason, Defendant seeks a dismissal of Plaintiff's foreclosure action pursuant to Rule 12(b)(8).

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6. In South Carolina, dismissal under Rule 12(b)(8) may be proper when there is (1) another action pending, (2) between the same parties, (3) for the same claim. See Rule 12(b)(8), SCRCPP.

7. South Carolina narrowly interprets Rule 12(b)(8), such that the claim must be precisely or substantially the same in both proceedings in order for the drastic remedy of dismissal to be appropriate under this Rule. See Capital City Ins. Co. v. BP Staff, Inc., 382 S.C. 92, 674 S.E.2d 524; quoting Beatty v. Liberty Mut. Ins. Group, 893 N.E.2d 1079, 1084 (Ind. App. Ct. 2008) (applying 12(b)(8) dismissal "where the parties, subject matter, and remedies are precisely the same, and it also applies when they are only substantially the same.")

8. Plaintiff holds a first lien, purchase money mortgage on the subject property. See Compl. ¶ 9. The foreclosure of SCBT's second lien would have no effect upon the validity or existence of Plaintiff's lien, and therefore Plaintiff is not a necessary party to the SCBT foreclosure. In fact, Plaintiff's predecessor in interest was voluntarily dismissed as a party to that action on April 24, 2014. As a result, Plaintiff's failure to respond to the SCBT foreclosure action is simply not basis for dismissal of this action under Rule 12(b)(8).

9. Moreover, even if Plaintiff were a necessary party to SCBT's foreclosure, it would not be required to assert its cause of action foreclosure as a crossclaim because it does not arise from the same transaction giving rise to SCBT's claims.

10. "By definition, a counterclaim is compulsory only if it arises out of the same transaction or occurrence as the opposing party's claim." Wells Fargo Bank, N.A. v. Smith, 398 S.C. 487, 495, 730 S.E.2d 328, 332-33 (Ct. App. 2012); see also Rule 13(a), SCRCPP. Claims that arise out of separate transactions or occurrences than the subject matter of the opposing party's claims are, instead, permissive.

Rule 13(b), SCRCPP. The South Carolina Supreme Court has adopted the logical relationship test to determine whether a counterclaim is compulsory. See N.C. Fed. Sav. & Loan Ass'n v. DAV Corp., 298 S.C. 514, 517, 381 S.E.2d 903, 905 (1989). Specifically within the context of an action for foreclosure, the determination of whether a counterclaim is compulsory is made by asking whether the counterclaim would affect the lender's right to enforce the note and foreclose the mortgage. See Wells Fargo Bank,

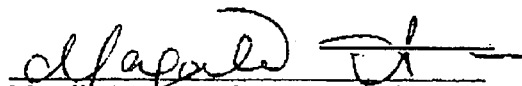
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398 S.C. at 496, 730 S.E.2d at 333; see also N.C. Fed. Sav. & Loan Ass'n, 298 S.C. 518-19, 381 S.E.2d at 905.

11. Defendant's default under the terms of the note and mortgage assigned to Plaintiff is utterly unrelated to her performance under the terms of the Defendant's loan agreement with SCBT. Because the loan agreements between Plaintiff and Defendant, and SCBT and Defendant are wholly independent and distinct from one another, Plaintiff's Motion must be denied.

**WHEREFORE**, Plaintiff requests that the Defendant's Motion be stricken or denied, and that the Plaintiff be granted attorneys fees and sanctions as appropriate.

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*Attorneys for the Plaintiff*

Dated: June 6, 2014

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STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI Trust, Mortgage pass  
Through Certificates, Series 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner; Bank of America, N.A.; and SCBT

Defendants

IN THE COURT OF COMMON PLEAS

DOCKET NO. 2014-CP-40-2063

MEMORANDUM IN SUPPORT OF  
MOTION TO DISMISS ABOVE ENTITLED  
ACTION PURSUANT TO S.C.RULES. OF  
CIV. P. 12(b)(8)(9).

RICHLAND COUNTY  
FILED  
2014 JUN -14 PM  
JEANETTE M. BROWN  
CLERK

**TO: TERESA D. VAN VLAKE ESQ., MAGALIE ARCURE ATTORNEYS FOR U.S. BANK  
TRUSTEE (CAPTIONED ABOVE); JAKE S. BARKER AND JACKIE BROWN OF  
GRAYBILL, LANSCH AND VINZANI, LLC ATTORNEYS FOR DEFENDANT  
BANK OF AMERICA, N.A. EDWARD GRIMSLEY OF GRIMSLEY LAW FIRM  
FOR SCBT.**

Defendant, Rhonda Meisner, respectfully submits this memorandum with attachments pursuant to the  
Court's order in advance of the motion to dismiss hearing scheduled for June 10, 2014 to be held  
before the Honorable DeAndrea G. Benjamin.

### **BACKGROUND**

The Plaintiff, U.S. Bank as trustee (full caption above) (hereinafter "Trustee") is the purported  
trustee of the owner of the note and mortgage that Rhonda Meisner ("hereinafter Meisner") originally  
gave to Bank of America, N.A. (hereinafter "Bank of America") for the premises located at 406 Koon  
Store Road. The co-Defendant, Meisner was in dispute with Bank of America regarding the 2012  
requirement of opening an escrow account associated with the mortgage and the payment of Richland  
County Taxes by both Bank of America and Meisner. Bank of America refused to request a refund  
from Richland County and "re-fund" the newly imposed escrow account. Prior to the resolution of the  
dispute; Bank of America sold and or transferred the servicing rights to Nationstar Bank (hereinafter  
"Nationstar"). In early 2010, the Dodd-Frank Consumer Financial Protection Act of 2010 (subtitle E

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sect. 1462 and sect. 1465.) was implemented which in part created obligations for the transfer and notice requirements when a loan is "owned" or "securitized" and the servicer of that loan changes. It also provides requirements for notice and funding requirements for escrow accounts. This Act was created in part to protect consumers and to make transparent the party with whom the consumer should be dealing.

In the instant case, 2014-CP-40-2063 the Trustee, the presumed manager for the owner and holder of the note and first mortgage has initiated a lawsuit when the former originator and servicer, Bank of America has already defaulted by not answering timely in a previously filed suit no 2013-CP-40-7144 that was initiated by SCBT (hereinafter "SCBT"). Meisner timely responded to 2013-CP-40-7144 and specifically made affirmative counterclaims to the Plaintiff (SCBT) and the co-defendants (See Record of Case for 2013-40-CP-7144 Meisners' answer to amended complaint) and repeated below:

[a] declaratory judgment pursuant to S.C.R.C.P. 57 and S.C. Code Ann. §§15-53-10 through 15-15-140 to determine a question in actual controversy between or among the parties as to their respective rights and liabilities under a Note AND Mortgage pertaining to real property located at 406 Koon Store Road and more particularly described in the Plaintiff's Complaint, which is incorporated by reference and to determine the respective rights and obligations of the parties with respect to the amount of any deficiency judgment due and owing, and to determine the appraisal rights of the Defendant, Rhonda Meisner.

Additionally, Meisner pled her Statutory appraisal rights pursuant to S.C. Code Ann. § 29-3-680 because SCBT had demanded a deficiency and attempted to add additional liens to the suit not available by law.

**Notice of U.S. Bank via Lis Pendens filed by SCBT**

The Plaintiff (SCBT) in 2013-40-CP-7144 filed a Lis Pendens in November of 2013 and referenced the specific address (406 Koon Store Road Columbia, SC ) along with the tax map number TMS# 12100-04-23. While the attorneys representing U.S. Bank is located in North Charleston, the Lis Pendens associated with Richland County properties are online and can be accessed through the

internet. While the predecessor in servicing rights and the original creditor Bank of America, N.A. was not noticed in the November 26, 2013 filing, prior to initiating the filing in March of 2014, the attorneys representing U.S. Bank were on notice via the public records. Additionally, on February 19, 2014 the Grimsley law firm filed an amended Lis pendens and named U.S. Bank's predecessor in servicing and original creditor Bank of America, N.A. and again specifically noted the address of the property and the associated Tax Map # of TMS #12100-04-23, so the attorneys were further notified of the litigation and could have contacted the Grimsley law firm or their colleagues at Bank of America, N.A. and apparently did so in reviewing the transfers in and out of Bank of America, N.A.

**Default Status of Bank of America, N.A.**

The Co-Defendant Bank of America was served via its agent of SCBT's amended Complaint in February of 2014. Bank of America, N.A. did not respond to SCBT's lawsuit captioned 2013-40-CP-7144 until April 4, 2014 which was not within the 30 days allowed by the South Carolina Rules of Civil Procedure and as such is a default Defendant. Ms. Meisner timely responded to the lawsuit and specifically requested a Declaratory Judgment involving **all of the parties** associated with the case and their respective rights and obligations.

Bank of America, N.A. in their late answer of the Amended Complaint, **specifically asserts that it has an interest in the subject property at ¶8 of their answer and filed a certificate of service for the amended complaint on the same day as the assignment was notarized for the transfer in assignment which purportedly happened the day before in Nevada and California;**

therefore making the Plaintiff U.S. Bank's lawsuit captioned 2014-CP-40-2063 duplicative and not allowed under the South Carolina Rules of Civil Procedure and the Defendant Rhonda Meisner requests the Court issue an order dismissing 2014-CP-40-2063 as duplicative and awarding Ms. Meisner fees and costs and crediting any attorney fees submitted by Finkel law firm to Ms. Meisner's verified debt as a sanction for the filing of duplicative suits when they were on notice of the filings via



the public records. **EXHIBIT #1** Corporate Assignment of Mortgage (assignee U.S. Bank assignor Bank of America dated April 2, 2014 but witnessed April 3, 2014) **EXHIBIT #2** Assignment of mortgage dated March 14, 2014 **EXHIBIT #3** Original mortgage given to Bank of America, N.A. dated 2013 (which was not satisfied properly) **EXHIBIT #4** Mortgage dated September 19, 2005.

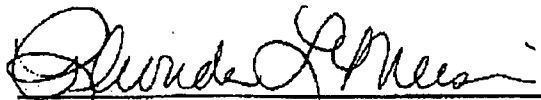
Importantly, Bank of America, N.A. was the owner of the mortgage in February when SCBT first noticed their amended Complaint and during the time Bank of America, N.A. did not timely respond pursuant to the South Carolina Rules of Civil Procedure. While SCBT can voluntarily dismiss their claims against Bank of America, N.A. in Case #2013-7144, SCBT cannot dismiss the timely counter claims against Bank of America, N.A. in the form a Declaratory judgment request. The Supreme Court discussed the importance of proper recording practices in *National Bank of Newberry v. Livingston*. 155 S.C. 264 284, 152 S.E. 410, 417-419 (1930).

Additionally, because SCBT has requested to amend their Complaint and change from a foreclosure action to the legal action of a suit on the note and triable by jury it would be manifestly unfair to have two separate actions pending with the same entities as contemplated by the rules. Judicial economy also favors dismissing this suit as untimely and duplicative and requiring U.S. Bank to be held liable as the assumer of Bank of America's default with regard to the earlier filed suit. Currently, both U.S. Bank and Bank of America, N.A. claim ownership of the same mortgage and note an issue that has recently gained nationwide focus with regard to securitized trusts.

Because affirmative counter claims have been raised and Bank of America, N.A. is in default their untimely counterclaims and defenses are also outside of the Court's jurisdiction according to case law and the S.C. rules of Civil procedure. By law it's successor U.S. Bank is also in default of the previously filed action and it would be extremely prejudicial to allow U.S. Bank to attempt to circumvent the Judicial process to redeem or cure Bank of America, N.A.'s default status simply by filing a new lawsuit. For this and all of the above reasons, the Defendant and Cross Plaintiff respectfully requests the Court to enter an order of dismissal pursuant to 12 (b) (8)(9) of 2014-CP-40-

2063 and award Ms. Meisner costs, expenses and all other such remedies as the Court finds appropriate under the frivolous proceedings statute.

Respectfully submitted:



Rhonda Meisner, Defendant  
P.O. Box 689  
Blythewood, S.C. 29016  
(803) 960-3696  
pegasus333@icloud.com  
pegasus@nuvox.net

June 4, 2014

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

U.S. Bank, National Association, as trustee for  
the Holders of the Banc of America Funding  
Corporation, 2008-FTI,

Plaintiff,

v.

Rhonda Lewis Meisner a/k/a Rhonda L.  
Meisner, Bank of America, N.A. and SCBT

IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

DOCKET NO. 2014-CP-40-2063

MOTION TO DISMISS PURSUANT  
S.C. RULES OF CIV. P. RULE 12(b)(8) and  
Rule 12(b)(9)

RICHLAND COUNTY  
FILED  
MAY - 6 AM 10:14  
JANETTE W. MCBRIDE  
C.C.P. & G.S.

The Defendant Rhonda Lewis Meisner moves for dismissal of the above referenced case Docket No. 2014-CP-40-2063 pursuant to S.C. Code Ann. Rule 12(b)(8)(9). The Plaintiff's were on notice of the pending litigation via the filing of the lis pendens and the summons and complaint via Court filings and acknowledged the existence of SCBT's loans by naming them as a co-defendant. Additionally, Bank of America, the previous servicer of the loan was notified by SCBT that an action was initiated and assigned a case # of C.A. 2013-CP-40-7144 according to SCBT Court filings and certificates of service of the action initiated and should have responded to the Summons and Complaint initiated by SCBT in a timely fashion. The Plaintiff's did not reply/respond to the Summons and Complaint issued by SCBT in a timely way; therefore, the above referenced suit should be dismissed as it is an attempt to circumvent process.

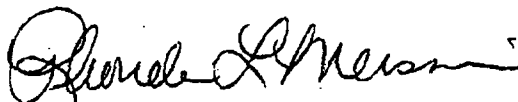
The Plaintiff's in the instant suit had notice and did not respond to the summons and complaint initiated by SCBT. The Plaintiff's have caused additional costs to Defendant due to their negligence in attempting to prosecute the new claims submitted in this filing instead of responding to the previously filed suit and as a result has harmed Defendant. Instead of responding to the lawsuit that named the previous servicer on file, the Plaintiff's are attempting

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to circumvent their lack of response to the original litigation and garner additional benefits by initiating this action. Plaintiffs would have been aware of the litigation had they been diligent in their review of the lis pendens and property search prior to filing this original action as it involves the same property.

In support of the motion the Defendant Rhonda Meisner will rely on the Court filings, applicable statutory and case law and a memorandum of law that will be filed with the Court prior to a hearing on this motion.

Respectfully Submitted,



Rhonda Lewis Meisner  
Post office Box 689  
Blythewood, SC 29016  
pegasus333@icloud.com  
pegasus@nuvox.net  
(803)960-3696

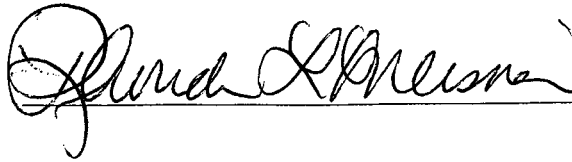
May 6, 2014

570-467  
188-477

## CERTIFICATE OF COMPLIANCE

I certify that I have placed all documents requested by any party in the Record on Appeal and no other documents except the Respondents "Bank of America, N.A.'s Verified Responses to Meisner's First Set of Requests for Production, dated May 9, 2016" which was removed from the designation by the Respondents, with agreement of the Appellant, as not presented to the lower court. Additionally, one document had a scrivener's error for Bank of America's memorandum in opposition to motion to amend filed July 27, 2015 but noted as 2014.

December 1, 2020

A handwritten signature in cursive script, appearing to read "David L. Meisner", written over a horizontal line.

**RECEIVED**

DEC 02 2020

**SC Court of Appeals**