

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

JUDGMENT IN A CIVIL CASE

CASE NO. 2020CP2301663

Nationstar Mortgage LLC
PLAINTIFF(S)

Louise M Doyle et al
DEFENDANT(S)

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), SCRCP; Rule 41(a), SCRCP (Vol. Nonsuit); Rule 43(k), SCRCP (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRCP; 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:

See page 2

RECEIVED
MAR 26 2021
SC Court of Appeals

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 02/23/2021 .

Dorothy M Rabon
Bank Of America NA

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

This matter came before the Court pursuant to Plaintiff's Motion to Refer to Master-In-Equity and Motion for Summary Judgment. A hearing was held on February 23, 2021 via WebEx Virtual Courtroom. Present at the hearing were Amanda Cutler, counsel for Plaintiff; and Wes Meetze, counsel for Defendants. Plaintiff's Motion for Summary Judgment shall be held in abeyance based on consent of both parties.

"The relevant question in determining the right to trial by jury is whether an action is legal or equitable; there is no right to trial by jury for equitable actions." Wells Fargo Bank, NA v. Smith, 398 S.C. 487, 494, 730 S.E.2d 328, 333 (Ct. App. 2012). A foreclosure is considered an equitable action. *Id.* Pursuant to Rule 53(b) of the South Carolina Rules of Civil Procedure, foreclosure actions may be referred to the master-in-equity. Rule 53(b), SCRPC. "A party does not waive its right to a jury trial on a counterclaim asserted in an equity action if the counterclaim is legal and compulsory in nature." North Carolina Federal S&L v. DAV Corp., 298 S.C. 514, 517, 381 S.E. 2d 903, 905 (1989). "A counterclaim is compulsory if it arises out of the same transaction or occurrence as the [plaintiff]'s claim." Carolina First Bank v. BADD L.L.C., 414 S.C. 289, 295, 778 S.E.2d 106, 109 (2015).

Defendants raised four counterclaims: violation of 12 U.S.C. §2605, negligence, breach of contract, and violation of the South Carolina Unfair Trade Practices Act. After review of the file and consideration of arguments by counsel, it appears the counterclaims are legal and intertwined with the original claim for foreclosure. Therefore, they are compulsory and Defendants are entitled to a jury trial.

Therefore, Plaintiff's Motion to Refer to Master-In-Equity is DENIED.

It is so Ordered.



Greenville Common Pleas

Case Caption: Nationstar Mortgage LLC vs. Louise M Doyle , defendant, et al
Case Number: 2020CP2301663
Type: Order/Electronic Form 4

So Ordered

s/Letitia H. Verdin, SC Judge 2162