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SC Court of Appeals

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THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

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Appeal from the United States District Court for the District of South Carolina, at Columbia. Joseph F. Anderson, Jr., Senior District Judge. Case No: 3:21-cv-02161-JFA-PJG)

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Submitted: Aug 31, 2021

Decided: Sept 21, 2021

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JOHN C. NELUMS AND DELMARSHI H NELUMS  
**Petitioner - Appellant,**

v.

Hutchens Law Firm, LLC, John B. Kelchner an individual, Lender processing services, Inc. Lps default solutions, Lps default solutions Network, Fidelity National Title Insurance Company Deutsche Bank National Trust Company for Residential Assets securitization Though Certificates series 2005-H, Ocwen loan Servicing LLC, Mortgage Electronic Registration System AKA MERS, Phh Mortgage Servicing, and John Doe,

**Defendants-Appellants.**

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**Petition for Writ of Certiorari to the  
United States Court of Appeals for the 4th Circuit and  
United States Supreme Court for South Carolina**

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**NELUM'S MOTION TO BYPASS COURT OF APPEALS,  
PETITION FOR WRIT OF SUPERSEDEAS, AND  
MOTION FOR TEMPORARY STAY**

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**Other Counsel of Record:**  
Hutchens Law Firm  
240 Stoneridge Dr  
Ste 400  
Columbia, SC 29210  
(803) 726-2700

**John C. Nelums Delmarshi Nelums**  
315 Bentwood Ln  
803-513-9903  
Columbia, SC 29229-8981  
Petitioner

Attorneys for Defendants-Appellants John B. Kelchner, Sarah o.

Leonard

### **QUESTIONS PRESENTED**

The Defendants-Appellants of this Instant Case Deutsch Bank National Trust Company is in fact not a lawful Trust Company but a fiction being used by a conspiracy of attorneys as tool in a scheme or artifice to defraud Petitioners herein (as well as the American People). said conspiracy of attorneys has also served it into this instant case a verified fraudulent assignment of mortgage. does South Carolina Courts are aware of these issues and more and have chosen to rule in favor of said conspiracy of attorneys. therefore, petitioner herein ask

1. Whether U.S. Government's unconstitutional involvement in millions of foreclosures through FHFA and de facto and entwined State-actor Fannie Mae subject it to federal Court jurisdiction and the property "takings" clause of the U.S. Constitution?
2. Whether securitization and rehypothecation of mortgage notes utilizing and "selling" and/or "pledging" homeowners' property as collateral without consent or knowledge is unlawful, unconstitutional and violate the basic legal principle of NEMO DAT QUOD NON HABET? and whether this non-disclosure, participation and collection of financial benefits not applied to and well in excess of mortgage note debt owed is unlawful, unconstitutional and violate SEC securities laws?
3. Whether pro se litigants should be held to unfair pleading standards not regularly enforced upon attorneys or utilized in the same manner by other federal Courts? and whether forcing a pro se litigant to remove claims that are not barred by Void state Court judgements violates the guarantee of a Fair Legal Process and fosters manifest injustice in defiance of the Constitution and this Court's direction?
4. Whether recusal or disqualification under 28 U.S.C. § 455 is warranted to satisfy the Constitutional guarantee of a Fair Legal Process, when a district judge has a relationship with a litigant, and

his impartiality through his actions and non-action are reasonably questioned by some citizens and legal professionals?

5. Whether based upon defendant's failure to "plead or otherwise defend" against plaintiff's first motion for default judgment on or before April 3, 2020 plaintiff filed his 2nd Partial Motion for Declaratory Judgment-Default, and according to the merits panel opinion the clerk was to entered a default RCFC 55(a), or the alternate Magistrate Judge Paige J. Gossett [first judge] the court to enter default RCFC 55(b)(2)?
6. Whether "Claims Court Rule 55(a) provides that the clerk must enter default if the party "has failed to plead or otherwise defend?
7. Whether the Petitioners Presented Sufficient Evidence Which Was Ignored by The District Court to Warrant A Preliminary Injunction Where The Proffered Evidence Established Like hood Of Success On The Merits, That The Petitioners Would Suffer Irreparable Harm In The Absence Of Preliminary Relief And That The Balance Of Equities Tips In Their Favor And That An Injunction Is In The Public Interest?
8. Whether the Court issue a permanent injunction, pursuant to 18 U.S.C. § 1345, ordering that **Defendants-Appellants** is restrained from engaging, participating, or assisting in any lottery scam or money transmitting business; and **Defendants-Appellants.** for Concealment of Default Insurance Payment that was paid out from the Plaintiffs Property And using Plaintiffs Names to secure Insurance Payments from a Fraudulent Insurance Kickback-scheme Invoice settlement services for payment?
9. Whether Hutchens Law Firm, **LLP** agrees to maintain in full force and effect. A professional Liability Policy. The minimum amount of Coverage shall not be less than one Million Dollars (\$1,000,000.000) Default Invoice settlement services for payment concealment of (\$270,900.00), Kickback to HUTCHENS LAW FIRM LLP, South Carolina Law Prohibits the kickback fee agreement between LPS?
10. Whether 28 U.S. Code § 2284 (2) If the action is against a State, or officer or agency thereof, at least five days' The Honorable R. Bryan Harwell Chief U.S. District Judge, The

Honorable Joseph F. Anderson, Jr. Senior U.S. District Judge,  
The Honorable Paige Jones Gossett U.S. Magistrate Judge fail  
To notice of hearing of the action shall be given by registered or  
Certified mail to the Governor and attorney general of the  
State.?

11. Whether The attorney general for South Carolina may enforce the MARS Rule and obtain injunctive relief under Section 626(b) of the 2009 Omnibus Appropriations Act. 16 C.F.R. § 322.10. Under Section 626(b) a state attorney general who —has reason to believe that an interest of the residents of the State have been or is threatened or adversely affected by the engagement of any person . . . in practices that violatell the MARS Rule may bring a civil action to enjoin that practice.
12. Whether **LPS represents that 39 of the 50 largest banks in the United States** based on 2007 ratings Use its services. Its teclu1ology solutions include its mortgage processing system (the "**MSP**") which Processes over 50% of all residential mortgage loans by dollar volume. Its outsourcing services Include "**the default management services**, which are used by mortgage **lenders** and **servicers to attorneys, trustees** and **real estate professionals.**"<sup>5</sup> Reduce the expense of managing defaulted loans?
13. Whether **PAYOFF EXPRESS IN DEFAULT: Working with FIS MSP, Process Management will provide real-time payoff quotes for loans serviced using the FIS-MSP platform. A Process Management user will be able to request a payoff quote directly from Process Management. This feature will be coupled with the Fees and Costs capability in Process Management to return not only a payoff quote from MSP, but also the latest fees and costs from any attorney working the default action, U.S. Code § 1345—Injunctions against fraud?**
14. Whether **Section 2. Referrals**. The Firm Acknowledges that

Fidelity has the right to enter into Network Agreement. With other law firms at any time, Fidelity may decide which default matters are to be referred to the Firm ("Referral") and is not obligated to make a Minimum number of Referrals to the Firm. By accepting Referrals, the Firm Agrees to the terms of this Agreement and waives any right to assert. Attorney liens are similar charging liens for payment of services or Otherwise against such files. However, the Firm shall be entitled to invoice. For the services rendered to date on the file(s) and costs. if Fidelity and /or The Clients subsequently terminates an individual referral, the transfer. Provisions of Section 15 below Shall?

15. Whether **Section 3. Attorneys Network Agreement Fees.** The fees for Services performed are set Forth in Exhibit B, Exhibit C, and Exhibit D (the Fees"). These Fees are Based upon Governmental, agency-or contractual guidelines as of September 1, 2001, the parties may mutually agree in writing to amend. Exhibits B, C and D. Except as specifically provided in Exhibits B, C and D, All Services shall be performed for flat Fees. If F'NMA, FHWC, FHA, and /or the VA revise their fee guidelines, or a contract is revised, the revised. Fee guidelines shall become "fees" for purposes of this Agreement and Shall apply to all Referrals on or after the effective date of the revised fee. Guidelines. (b) If Exhibits B, C, or D provide for the conversion to any hourly fee, with the exception Noted in 3(c) below, such conversion may. occur only after Fidelity or the client has given prior written approval. (c) The Firm may convert to an hourly fee when, in its discretion, it determines that there is a strong likelihood that Fidelity and/or the Client. 'Will suffer in irreversible loss if immediate action is not taken. If the Firm Makes such a determination, it shall seek Fidelity's approval for the conversion within one business day. If fidelity does not respond in a timely manner, the Firm may contact the client. If Fidelity denies approval, the Firm is nevertheless entitled to bill the emergency work completed to that. point on

an hourly fee basis. (d) The Firm recognizes that interest and Expenses accrue daily on each Referral Any reasonable penalties. Assessed by the Client pursuant to governmental penalties for delays. Resulting solely from the Firm's actions or inaction will be paid by the Firm. Without limiting any other provisions of the Agreement of this provision, together with Section 15 below, shall survive termination of the Agreement by either Party?

16. **Section 4. Attorneys Network Agreement. Expenses.** The Firm agrees to advance all fees necessary. To meet the costs and expenses required in handling the matters assigned. The Firm Agrees that expenses for telephone calls, express or certified. Mail, postage, Copying, faxing. courier charges, electronic research (lexis, Westlaw, etc.), PACER and/or Bank charges, travel time and related Expense. and mileage are Reimbursable unless required by law, case law. Or approved by Client. If any of These, charges are required by statute, the Firm shall so, indicate?
17. **Section 5. SEE Attorneys Network Agreement . payment for Services.** All invoices for services Around costs are to be submitted electronically by the Firm via the NewInvoice Invoice processing system, or such other electronic invoice processing System Required by **Client**: The Firm will be paid on its invoices directly by the Client. In no event shall Fidelity be deemed to be a guarantor of, or otherwise responsible for, any obligation of the Client. Within the thirty (30) days following each Referral, The Firm will be. Invoiced. separately by Fidelity for the administrative fees set forth. in Exhibits B, C and D. Said invoices shall be due and *payable with in thirty. (30) clays of* receipt by the Firm In the event the **Client** does not pay an invoice generated by rho Firth due to a *negligence* or an error of Fidelity, the Firm: shall not be required to pay Fidelity on its invoice on that referral?

18. **Section 6. SEE: Attorneys Network Agreement Insurance.**  
The Firm agrees to maintain in full force and effect, a professional Liability Policy. The minimum amount of Coverage shall not be less than one Million Dollars (\$1,000,000.000); per Occurrence. The Firm shall provide proof of Insurance to Fidelity on an Annual basis and at Such other times as may reasonably be requested. The Firm shall Immediately notify Fidelity in writing of any changes in coverage, or Impending termination, expiration, or lapse of insurance?
19. **Section 7. SEE: Attorneys Network Agreement Representation of Client.** For purposes of this Agreement, Fidelity's *servicer's/investor clients (the "Client") shall be considered the mutual Clients of both fidelity and the Firm. Fidelity shall be. Considered the agent of each Servicer's/investor Client.* The Firm, will never be prohibited from directly contacting any Client were, *in the professional opinion of the Firm, such contact is necessary, whenever possible, the Firm shall order title. {from Fidelity National Title Chicago Title Alamo Title/Tico Title Security Union Title*
20. **SEE Section (a) Attorneys Network Agreement outside Counsel.** The Firm area all responsibility for the acts and omissions of any outside counsel or "of counsel" retained by the Firm (for example, counsel, retained to assist in litigation or counsel retained to Make a Court appearances in remote counties). The Firm assumes all responsibility for any. Subcontractor or independent contractor engaged directly by the Firm?
21. **SEE Section 11 Attorneys Network Agreement Confidentiality.** Privileged information supplied To the Firm. By Fidelity shall be kept confidential in accordance: with applicable rules of professional conduct. Notwithstanding anything in this Agreement to the contrary, the Firm shall comply with all privacy and data. protection laws, rules, and regulations which are, or which may in the future. be applicable to the Services. The Firm agrees that it will keep. confidential. and will not use nor disclose to any other party any nonpublic personal, information which it receives from or on behalf of the

Client in connection with providing Services under this Agreement, except to perform Services under this Agreement. The term "nonpublic personal information shall have the meanings set forth in Section 509 of the Gramm-Leach Bliley Act (PJ, 106-102X | 5 U.S.C Section 6809) and implementing Regulations thereof These obligations shall survive termination of this. Agreement?

### **CORPORATE DISCLOSURE STATEMENT**

22. Pursuant to FRAP 26.1, Defendants-Appellants. Hutchens Law Firm, LLC, John B. Kelchner, Sarah o. Leonard, Gossett- Paige Jones, Joseph F. Anderson, Jr. Senior U.S. District Judge, R. Bryan Harwell Chief U.S. District Judge, ("Rule 1.7 Conflict of Interest") (Together, the "Defendants") are subsidiaries or affiliates of a publicly owned corporation, shareholders of FIS's received one-half share of the Common Stock for every share of FIS common stock held as of the close of business on June 24, 2008. FIS's shareholders collectively received 100% of the Common Stock of the Registrant, who is now stand-alone public company trading under the symbol "LPS" making Defendants Owners) There is A publicly owned corporation, is a party to the Appeal, which has a financial interest in the outcome.

### **JURISDICTION**

23. This Court's jurisdiction continues to be invoked under 28 U.S.C. S 1251, 28 S 2101(e), and Article III, sec. 2.

## CONSTITUTION

24. FIFTH AMENDMENT in pertinent part: "No person shall be—  
Deprived of life, liberty or property, without due process."

25. SEVENTH AMENDMENT in pertinent part: "In suit at common  
law, where the value in controversy shall exceed twenty dollars, the right of  
trial by jury shall be preserved—in any court of the United States ...  
according to the rules of the common law."

26. Judiciary Act of 1789, sec. 15, in pertinent part: "And be it  
further enacted, that all the said courts of the United States, shall have  
power in the trial of actions at law—to give judgment against him or her by  
default."

## STATUTES

27. 28 U.S.C. 5 1915 states in pertinent part: sec. (d) "The officers  
of the court shall issue and serve all process, and perform all duties in such  
cases—and the same remedies shall be available as are provided for law  
in other cases."

28. 42 U.S.C. 5 1491 in pertinent part: sec. (a)(1) "United States  
Court of Federal Claims has jurisdiction upon any claim against the United  
States—Constitution, or Act of Congress, or agency regulation."

29. 28 U.S. Code § 2284 in pertinent part: sec. (a) **(b) (1) (2) (3)**  
Three-judge court; when required; composition; procedure

30. 28 U.S.C. S 2702 in pertinent part: "Such rules shall not abridge—or modify any substantive right."

31. 28 U.S. Code § 1253. in pertinent part: Direct appeals from Decisions of three-judge courts

**TO THE HONORABLE JUDGES OF THE SOUTH CAROLINA COURT OF APPEALS:**

JOHN C. NELUMS AND DELMARSHI H NELUMS., proceeding pro se, by and through the undersigned Pursuant to Rule 62 of the South Carolina Rules of Civil Procedure and Rule 23 of the Rules South Carolina Appellate Procedure, and move this Court to issue a temporary stay of the Attached Judgment Order IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA, the Honorable Joseph F. Anderson, Jr. Senior U.S. District Judge, presiding Date 09-21-21, JOHN C. NELUMS AND DELMARSHI H NELUMS Plaintiffs CIVIL ACTION C/A No: 3:21-2161-JFA-PJG and C/A No: 3:20-2932 VS. HUTCHENS LAW FIRM, LLP JOHN B. KELCHNER an individual; Lender Processing Services, Inc. LPS Default Solutions, LPS Default Solutions Network FIDELITY NATIONAL TITLE INSURANCE COMPANY DEUTSCHE BANK NATIONAL TRUST DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR RESIDENTAIL ASSET SECURITIZATION THOUGH

CERTIFICATES SERIES 2005-H OCWEN LOAN SERVICING, LLC  
MORTGAGE ELECTRONIC REGISTRATION SYSTEM, AKA "MERS;"  
PHH MORTGAGE SERVICES, and MOTION FOR AN EX-PARTE  
TEMPORARY RESTRAINING ORDER, SHOW CAUSE ORDER, AND  
PERMANENT INJUNCTION WITH ASSET FREEZE COMPLAINT FOR  
PERMANENT INJUNCTION, 18 U.S. Code § 1345 – Injunctions against  
Fraud and PLAINTIFFS'OBJECTION TO MAGISTRATE JUDGES  
REPORT AND RECOMMENDATION AND EMERGENCY MOTIONTO  
RECUSE AND DISQUALIFICATIONS JUDGE PAIGE J. GOSSETT  
Defendants. § ORDER ADOPTING THE REPORT AND  
RECOMMENDATION OF THE MAGISTRATE JUDGE AND GRANTING  
DEFENDANTS' MOTION TO DISMISS, Presiding, date 09-21-21[ Exhibit  
1, Counterclaim] and the 09-2121 [ Exhibit 2, PLAINTIFFS'OBJECTION TO  
MAGISTRATE JUDGES REPORT AND RECOMMENDATION AND  
EMERGENCY MOTIONTO RECUSE AND DISQUALIFICATIONS JUDGE  
PAIGE J. GOSSETT 09-21-21[ Exhibit 3, MOTION FOR AN EX-PARTE  
TEMPORARY RESTRAINING ORDER, SHOW CAUSE ORDER, AND  
PERMANENT INJUNCTION WITH ASSET FREEZE COMPLAINT FOR  
PERMANENT INJUNCTION Order] of said Court and judge denying  
Plaintiffs, and which measure will irreparably alter the status quo before a

Determination can be made of the merit of this action, by issuing a Temporary stay Pursuant to Rule 23 (c) this Court Will preserve the statue quo and prevent enforcement of the Order to vacate pending this Court's review of the petition for a writ of Supersedeas, In further support of this petition and Motion, Plaintiffs shows the following: appeals the district court's order

### **INTRODUCTION**

JOHN C. NELUMS AND DELMARSHI H NELUMS comes to the Court with an urgent request – that the Court suspend the Rules of Appellate procedure to the extent necessary to prevent manifest injustice to the Constitution of the State of South Carolina and to the citizens of this state. See S.C. R. App. P. 2

Pursuant to an expedited schedule, this Court heard arguments on Defendants 'Motion to Dismiss on September 19, 2021, and conducted a non-jury trial on September 23, 2021, through September 26, 2021. On September 27, the ruling attached hereto and incorporated herein as Exhibit 1. On September 21, 2021, the Court issued its final judgment ("Order"), finding, inter alia, that Executive Order 21-21("Executive Order") is unconstitutional and was executed without legal authority. See Order attached hereto as Exhibit 2.C/A No: 3:21-2161-JFA-PJG and C/A



States v. Thomas, 9th Cir., No. 11-30120). The court relied upon its supervisory authority to extend the new-hearing requirement it had previously recognized only as a matter of due process in cases in which the defense prevailed before the magistrate

Judge Gossett- Paige Jones, Joseph F. Anderson, Jr. Senior U.S. District is violation of the Due Process Clause of the U.S. Constitution. United States v. Sciuto, 521 F.2d 842, 845 (7th Cir. 1996) ("The right to a tribunal free from bias or prejudice is based, not on section 144, but on the Due Process Clause."). Accordingly, JOHN C. NELUMS AND DELMARSHI H NELUMS respectfully requests that this Court issue a writ of supersedeas pursuant to Rule 23 to prevent manifest injustice, and to exercise its inherent authority over the lower courts of South Carolina pursuant to the South Carolina Constitution and Rule 2b by bypassing the Court of Appeals and reviewing the three-judge panel's denial of injunctive relief regarding Due Process Clause of the U.S. Constitution S.C. Const. FIFTH AMENDMENT art. S.C. Gen. Stat. § ). JOHN C. NELUMS AND DELMARSHI H NELUMS, further requests that the Court temporarily enjoin the HUTCHENS LAW FIRM, LLP JOHN B. KELCHNER an individual; Lender Processing Services, Inc. LPS Default Solutions, LPS Default Solutions Network FIDELITY NATIONAL TITLE INSURANCE COMPANY

DEUTSCHE BANK NATIONAL TRUST DEUTSCHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR RESIDENTIAL ASSET SECURITIZATION THROUGH CERTIFICATES SERIES 2005-H OCWEN LOAN SERVICING, LLC MORTGAGE ELECTRONIC REGISTRATION SYSTEM, AKA "MERS;" PHH MORTGAGE SERVICES, and MOTION FOR AN EX-PARTE TEMPORARY RESTRAINING ORDER, SHOW CAUSE ORDER, AND PERMANENT INJUNCTION WITH ASSET FREEZE COMPLAINT FOR PERMANENT INJUNCTION, 18 U.S. Code § 1345 – Injunctions against

Rule 23 does not set forth a specific standard for issuing a temporary stay and writ of supersedeas, but rather provides broad discretion to the appellate courts, asking only that "the writ should issue in justice to the applicant." S.C. R. App. P. 23(c). In this case, stay is necessary: (1) because JOHN C. NELUMS AND DELMARSHI H NELUMS is likely to succeed on the merits, (2) to prevent irreparable harm to JOHN C. NELUMS AND DELMARSHI H NELUMS; and (3) it is in the public interest to avoid the chaos and confusion of trying to undo amendments to the state constitution that was illegally placed on Due Process Clause.

### **REASONS FOR GRANTING RELIEF**

The Supreme Court also recognizing non-contractual basis of Tucker Act jurisdiction which includes those claims "founded either upon the

Constitution, or any Act of Congress, or any regulation of a department";

Testan, 424 U.S. at 398, 96 S.Ct. 9,48.

## CONCLUSION

For all these reasons, Applicants respectfully ask this Court to Stay the preliminary injunction pending disposition of Applicants' appeal in the Fourth Circuit and petition for a writ of certiorari in this Court.

following.

Chief Justice Donald W. Beatty  
Supreme Court  
1231 Gervais Street  
Columbia, SC 29201  
(803) 734-1080

**JOHN C. NELUMS AND DELMARSHI H NELUMS DEMANDS A TRIAL BY JURY OF ANY AND ALL ISSUES BEFORE THE COURT AND TRIABLE BY A JURY**

Respectfully submitted on this 14 day of October 2021

A handwritten signature in cursive script that reads "John C. Nelums" and "Delmarshi Nelums". The signature is written in black ink and is positioned above a horizontal line.

**John C. Nelums  
Delmarshi Nelums  
315 Bentwood Ln  
803-513-9903  
Columbia, SC 29229-8981**

**CERTIFICATE OF SERVICES**

**I HEREBY CERTIFY** that a copy of the foregoing **PLAINTIFFS NELUM'S MOTION TO BYPASS COURT OF APPEALS, PETITION FOR WRIT OF SUPERSEDEAS, AND MOTION FOR TEMPORARY STAY** of Defendants **ON Thursday, October 14, 2021**, was served by Certified Registered Letter on October 14, 2021 to the below listed parties:

**Hutchens Law Firm  
240 Stoneridge Dr  
Ste 400,  
Columbia, SC 29210  
(803) 726-2700**

**The Honorable R. Bryan Harwell  
Chief U.S. District Judge  
401 West Evans Street  
Florence, SC 29501  
(843) 676-3800**

**The Honorable Joseph F. Anderson, Jr.  
Senior U.S. District Judge  
U.S. District Court  
901 Richland Street  
Columbia, SC 29201  
(803)765-5136**

**The Honorable Paige Jones Gossett  
U.S. Magistrate Judge  
901 Richland Street  
Columbia, SC 29201  
(803) 765-5498**

Respectfully submitted,



**John C. Nelums  
Delmarshi Nelums  
315 Bentwood Ln  
803-513-9903  
Columbia, SC 29229-8981**

