

Filed: February 21, 2025

**UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

INFORMAL BRIEFING ORDER

No. 25-1169, US Bank National Association v. Tracie Green
3:22-cv-04215-SAL

This case has been placed on the court's docket under the above-referenced number, which should be used on papers subsequently filed in this court. The case shall proceed on an informal briefing schedule pursuant to Local Rule 34(b). The Informal Brief Form is attached. Informal briefs shall be served and filed within the time provided in the following schedule. **Only the original informal brief is required; no copies need be filed unless requested by the court.**

Informal opening brief due: 03/17/2025

Informal response brief permitted within 14 days after service of informal opening brief (filing of an informal response brief is not required).

Informal reply brief permitted within 10 days after service of informal response brief, if any.

If the informal opening brief is not served and filed within the scheduled time, the case will be subject to dismissal pursuant to Local Rule 45 for failure to prosecute. Extensions of briefing deadlines are not favored by the court and are granted only for good cause stated in writing.

The court will not consider issues that are not specifically raised in the informal opening brief. If a transcript is necessary for consideration of an issue, appellant must order the transcript within 14 days of filing the notice of appeal, using the court's Transcript Order Form. Parties who qualify to proceed without prepayment of fees and costs may apply for preparation of the transcript at government expense. In direct criminal appeals in which the appellant has waived the right to counsel and elected to proceed pro se, the motion for transcript at government expense is filed in the Court of Appeals and transcript is ordered by

FILED: March 11, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 25-1169
(3:22-cv-04215-SAL)

US BANK NATIONAL ASSOCIATION

Plaintiff - Appellee

v.

TRACIE L. GREEN, a/k/a Tracie Ledora Mitchem-Green

Defendant - Appellant

and

CARDINAL PINES HOMEOWNERS' ASSOCIATION, INC.; PALMETTO
CITIZENS FEDERAL CREDIT UNION

Defendants

ORDER

The court grants leave to proceed in forma pauperis.

For the Court--By Direction

/s/ Nwamaka Anowi, Clerk

APPENDIX C

February 11, 2025

Page 1 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Case No. _____

Jury trial: Yes

Against

Tracie L. Green;
Cardinal Pines Homeowners' Association, Inc;
Palmetto Citizens Federal Credit Union

Motion for Stay or Injunction Pending Appeal

Pursuant to Federal Rules of Civil Procedure 62, this ProSe Defendant moves for this Court to stay Lexington County Courthouse November 14, 2024 judgement order and January 29, 2025 denial to vacate judgment order to prevent further foreclosure and auctioning activities pending appeal completion. Copies of both orders were previously included with the Notice of Removal on file with this Court.

As discussed in the Notice of Appeal [Second Amendment] submitted to the South Carolina Court of Appeals on February 2, 2025 (2 pages; See **Appendix A**, which also includes Appellant Letter to the Court (9 pages)):

...Staying Judgement for Sale or Delivery of Land: Pursuant to SC Code 18-9-170 (2023), the below signed appellant, during the possession of such property, will not commit or suffer to be committed any waste thereon and if the judgment be affirmed, will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall prove that in case the judgment appealed from be affirmed and the land be final sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgement; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter, begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, or any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant

February 11, 2025

Page 2 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Case No. _____

Jury trial: Yes

Against

Tracie L. Green;
Cardinal Pines Homeowners' Association, Inc;
Palmetto Citizens Federal Credit Union

of the interest on the debt falling due during the pendency of such appeal. Due to the presence of criminal activity occurring and this Defendants informa pauperis status, this court is requested to utilize the pending \$3 million judgement in lieu of the requested two sureties.

The undersigned now understands that a stay is not automatic in this case. However, given the strong, compelling evidence of fraudulent activity detailed in the Notice of Removal, a stay is warranted in the interest of justice. Moreover, financial responsibility is evident, as the contested property, 123 Cardinal Pines Drive, Lexington, South Carolina 29073 (valued at approximately \$230,000, judgement order is for \$150,213.73), is occupied by the undersigned with a strong security system through CPI Security; while the undersigned remains a resident of New York (having left South Carolina for safety concerns). However, as discussed in the Notice of Removal, evidence shows that CPI Security may be involved with the fraud, thus law enforcement has been notified. Therefore, the judgement (i.e. acquisition of said property) is secure and not in danger of loss. Irreparable harm will be done if a stay is not granted halting the acutioning of this property, which has been a home of the undersigned for 18 years. Lastly, granting a stay or injunction is in the best interest of the public as noted in this January 31, 2025 500pm correspondence:

...If this court and plaintiff proceeds with sale despite notice of appeal, its considered theft. Thus danger to public as they would be encouraged to participate in fraudulent activity...

February 11, 2025

Page 3 of 3

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Case No. _____
Jury trial: Yes _____

Against

Tracie L. Green;
Cardinal Pines Homeowners' Association, Inc;
Palmetto Citizens Federal Credit Union

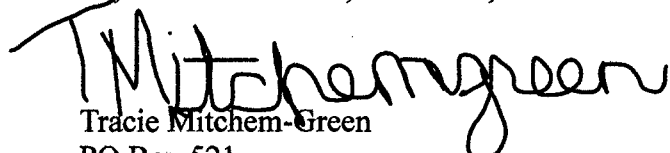
Again, the undersigned now understands that a stay is not automatic. However, despite the February 2, 2025 submission to the Court of Appeals addressing the stay, Lexington County Courthouse **still** proceeded with the auction on February 3, 2025, now labeling it a preliminary auction, while adding a final auction date for March 2025. It is the duty of this Court to determine if Lexington County Courthouse actions were proper or intended to cause harm and distress given that a stay request had been filed the day prior.

Conclusion

For the foregoing reasons, the United States District Court for the District of South Carolina should grant a stay or injunction to Lexington County Courthouse November 14, 2024 judgement order and January 29, 2025 denial to vacate judgment order to prevent further foreclosure and auctioning activities pending appeal completion.

Certificate of Service

I hereby certify that on this 11th day of February 2025, a copy of the foregoing Motion was mailed, postage prepaid, to Plaintiff US Bank National Association via Counsel Hutchen's Law Firm, PO Box 8237, Columbia, South Carolina 29202; and Co-Defendant Palmetto Citizens Federal Credit Union via Counsel Richardson Plowden, PO Drawer 7788, Columbia, SC 29202.



Tracie Mitchem-Green
PO Box 521
1585 Central Park Ave,
Yonkers, New York 10710
(803) 361-0602, drgreen@myyahoo.com
ProSe Appellant

IN THE UNITED STATES DISTRICT COURT;
DISTRICT OF SOUTH CAROLINA

US Bank National Association,

Plaintiff,

v.

Tracie L. Green, a/k/a Tracie Ledora
Mitchem-Green; Cardinal Pines
Homeowners' Association, Inc.; Palmetto
Citizens Federal Credit Union,

Defendants.

C/A No. 3:22-cv-4215-SAL

ORDER

This is a closed case. In November 2022, Defendant Tracie L. Green, proceeding pro se and in forma pauperis, filed a notice of removal that purported to remove a mortgage foreclosure action ("foreclosure action") filed in the Court of Common Pleas in Lexington County, South Carolina. In December 2022, the magistrate judge assigned to this matter issued a Report and Recommendation ("Report"), recommending this court remand the case to the Court of Common Pleas of Lexington County, South Carolina, for lack of subject matter jurisdiction and because Defendant had not complied with the procedure required for removal under 28 U.S.C. § 1446. [ECF No. 13.] Defendant filed a response to the Report, but she failed to raise any specific objections to the Report or to address the jurisdictional and procedural defects in her case. [ECF No. 24.] Accordingly, the court adopted the report and remanded this matter to the Lexington County Court of Common Pleas. *Id.*


Defendant then appealed this court's decision to the Fourth Circuit. In October 2023, the Fourth Circuit dismissed the appeal for lack of jurisdiction, noting this court had expressly determined it lacked subject matter jurisdiction. [ECF No. 38.]

ELECTRONICALLY FILED - 2025 Feb 24 10:51 AM - LEXINGTON - COMMON PLEAS - CASE#2022CP3200784

On February 12, 2025, Defendant filed a packet of documents that have been docketed as a motion for reconsideration (ECF Nos. 42, 45),¹ a motion to stay and for preliminary injunction (ECF No. 43), and a motion for leave to proceed in forma pauperis (ECF Nos. 44, 46). But, for the same reasons already identified by this court, this court lacks subject matter jurisdiction over this matter. It has been remanded, and this is a closed case. None of the information provided in Defendant's submissions to the court cures the jurisdictional and procedural defects in her case. Accordingly, Defendant's pending motions for reconsideration (ECF Nos. 42, 45) and her motion to stay and for a preliminary injunction (ECF No. 43) are **DENIED**. Her motion for leave to proceed in forma pauperis (ECF Nos. 44, 46) is **TERMINATED AS MOOT**.²

IT IS SO ORDERED.

February 18, 2025
Columbia, South Carolina


Sherri A. Lydon
United States District Judge

¹ These are styled as a notice of removal, but they concern the same state court foreclosure action that this court has already remanded to state court.

² The magistrate judge previously granted a motion to proceed in forma pauperis in this case. See ECF No. 10.

APPENDIX D

Form 1
NOTICE OF APPEAL IN A CIVIL CASE
[Second Amendment]

THE STATE OF SOUTH CAROLINA
In The Court of Appeals [In The Supreme Court]

APPEAL FROM LEXINGTON COUNTY

Court of Common Pleas
James O. Spence, Master-In-Equity

Case No. 2022-CP-32-00784

John Kay, et al as Personal
Representatives of the Estate of US Bank National,

Respondent

v.

Tracie L. Green;

Appellant

Cardinal Pines Homeowners' Association, Inc;
Nelson Weston, as Personal Representative of the
Estate of Palmetto Citizens Federal Credit Union

NOTICE OF APPEAL [Second Amendment]

Tracie L. Green [Mitchem-Green] appeals the order denying motion to vacate judgement order of the Honorable James O. Spence dated January 29, 2025. Appellant received written notice of entry of this order denying motion to vacate judgement order on January 30, 2025. Staying Judgement for Sale or Delivery of Land: Pursuant to SC Code 18-9-170 (2023), the below signed appellant, during the possession of such property, will not commit or suffer to be committed any waste thereon and if the judgment be affirmed, will pay the value of the use and occupation of the property from the time of the execution of the undertaking until the delivery of possession thereof pursuant to the judgment, not exceeding a sum to be fixed by a judge of the court by which judgment was rendered and which shall be specified in the undertaking. When the judgment directs the sale of land to satisfy a mortgage thereon or other lien, the undertaking shall prove that in case the judgment appealed from be affirmed and the land be final sold for less than the judgment debt and costs then the appellant shall pay for any waste committed or suffered to be committed on the land and shall pay a reasonable rental value for the use and occupation of the land from the time of the execution of the undertaking to the time of the sale, but not exceeding the amount of such deficiency, which sum shall be duly entered as a payment on the judgement; and in case the land shall be unimproved land, then in any action or proceedings now pending or hereafter begun in any of the courts of this State the undertaking shall further provide for the payment by appellant, if the judgment be affirmed, or any taxes due at the time of the appeal or already paid by the mortgagee, or becoming due during the pendency of the appeal, and also for the payment by appellant of the interest on the debt falling due during the pendency of such appeal. Due to the presence of criminal activity occurring and this Defendants informa pauperis status, this court is requested to utilize the pending \$3 million judgement in lieu of the requested two sureties.

[redacted Appendix letter and page number]

Appendix D



THIS DOCUMENT CONTAINS A TRADE SECRET/PAATENT - HOLD UP TO COURT TO YEARS

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MOBILE DEPOSIT PROHIBITED

PAY EXACTLY
 PAY TO THE ORDER OF
 size of SC Court of Appeals
 1535 Levee Bank Ave (PO box 52) Denver, CO 80202
 Mobile Deposit Protection

The South Carolina Court of Appeals

U.S. Bank National Association, Respondent,

v.

Tracie L. Green; Palmetto Citizens Federal Credit Union,
Defendants,

of which Tracie L. Green is the Appellant.

Appellate Case No. 2025-000179

The Honorable James O. Spence
Lexington County
Trial Court Case No. 2022CP3200784

ORDER

Appellant has failed to serve and file an amended notice of appeal in the correct format, as required by Rule 203 of the South Carolina Appellate Court Rules (SCACR) and this Court's letter dated February 18, 2025. Accordingly, this appeal is dismissed. The remittitur will be sent as provided by Rule 221(b), SCACR.

FOR THE COURT

BY

Catherine Harrison, deputy
CLERK

Columbia, South Carolina

cc:

Tracie L. Green

John Sanford Kay, Esquire

Sarah Oliver Leonard, Esquire

Ashley Zarrett Stanley, Esquire

Kenneth Gregory Wooten, III, Esquire

FILED
Mar 18 2025

APPENDIX E

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

U.S. Bank National Association,
PLAINTIFF,
vs.

Tracie L Green; Palmetto Citizens Federal
Credit Union,
DEFENDANT(S)

MASTER'S ORDER AND JUDGMENT OF
FORECLOSURE AND SALE
(NON-JURY MORTGAGE FORECLOSURE)

C/A NO: 2022-CP-32-00784

DEFICIENCY REQUESTED

TO:

Hutchens Law Firm LLP
Attorney for Plaintiff

Pursuant to Rule 53 SCRPC, the above-entitled matter was referred to the undersigned to make appropriate findings of fact and conclusions of law with authority to enter a final judgment in the case. Pursuant to the said Order of Reference a hearing was held on June 21, 2024 on the Plaintiff's motion for summary judgment, attended by John S. Kay, Esq., attorney for the Plaintiff. The Defendant, Tracie L. Green ("Green" or "Defendant") did not appear at the hearing, despite notice of the hearing having been sent to all parties on June 3, 2024

The Court Reporter present at the hearing was Kathryn Bostrom with Garber Reporting Services whose contact information is: 3200 Devine Street, Suite 103 Columbia, South Carolina 29205, email: info@garberreporting.com and phone number (803) 256-4500. Lexington County does not have a staff court reporter. The parties to each case must pay for a court reporter. Tracie L. Green can obtain a copy of the transcript of the June 21, 2024 hearing by contacting the court reporting service to arrange to pay the court reporter for the transcript.

Based upon the arguments of counsel, exhibits presented, review and consideration of the case record filings and a review and consideration of those matters raised and argued by Defendant, I find conclude and order as follows:

Ms. Green called the Court the morning of the hearing requesting to be allowed to appear virtually or by telephone. It is, and has been, this Court's policy to conduct contested matters in-

person with a court reporter. The request by Ms. Green has been made several times previously and it has been explained to her that while a status conference can be attended virtually since there is no swearing of witness, direct or cross examination etc., , this court's practice is that contested hearing must be conducted in-person.

Ms. Green has discussed in previous emails to the Court that she believes she cannot come to South Carolina for fear for her life. Ms. Green has indicated that the reasons for her belief extend from a racial component and a possibility of terrorist activity or something related to her previous work at a nursing home. The last reason she gave for not being able to appear in person was due to her limited finances. The subject of this foreclosure action is a parcel of real property located in Lexington County known as 123 Cardinal Pines Drive Lexington, South Carolina. This was the Defendant's address at the time of the filing of the action and is the location where she was served with the pleadings on March 8, 2022. The Defendant apparently moved to the state of New York at some point in the litigation and still maintains a residence in New York.

The court:

- (1) calls attention to and incorporates by reference Defendant's multitude of filings, motions or pleadings.
- (2) notes that court standard practice is to discuss court process that it is party's responsibility to argue any and all previously filed motions on the date of hearing. The Court takes notice that many motions are filed, then abandoned or resolved and not argued by the parties.
- (3) notes that the court notified parties by email that because it was a contested testimony hearing, then the hearing is in person, and
- (4) that the Court will address all motions raised and argued.
- (5) calls attention to the Summary Judgment hearing testimony where court questioned Plaintiff counsel about status of various filings.

The Court further notes that since Defendant did not appear to argue the below filings/ or motions, since Defendant did not appear to argue these matters, the court deems these motions abandoned:

(1)GAL. The Defendant had previously filed a motion requesting that a Guardian ad Litem be appointed for her. A Guardian ad Litem was not appointed in this case as the Defendant is not under a disability as would allow for the appointment of a GAL pursuant to the South Carolina Rules of Civil Procedure.

(2) APPOINTED ATTORNEY. The Defendant also appeared to argue that since she could not afford or obtain an attorney, then the court should appoint an attorney for her. While the landmark 1963 Supreme Court case *Gideon v. Wainright* established that indigent defendants have a right to counsel in criminal cases, the extension of this right to a "Civil Gideon" in civil court cases has never been established. South Carolina has not adopted or established a right to a Civil Gideon (other than certain Family Court type cases etc.), so the Defendant does not have the legal right to have counsel appointed for her in this case.

(3)CONTINUANCE. This case has been continued numerous times at the request for the Defendant; however, there is no provision for a continuance to an indefinite date in the future when the Defendant might have funds to travel to South Carolina for a hearing.

(4) SAFETY. With regards to the concerns the Defendant has about her safety at a hearing, the Court had advised the Defendant that a member of the Lexington County Sheriff's Department would meet the Defendant at her car in the courthouse parking lot and escort her safely to and from the courtroom to allay any fears she might have in appearing in court.

(5)LOSS MITIGATION. With regards to loss mitigation activities during the course of the foreclosure action, Plaintiff filed a Notice of Denial Loss Mitigation on May 20, 2022, pursuant to the requirements of the South Carolina Supreme Court Administrative Order for 2011.

(6) JURY TRIAL DEMAND. The Defendant was served with the summons and complaint in this case on March 8, 2022, but did not attempt to request a jury trial until May 23, 2022. (The Court again calls attention to and incorporates by reference the various matters filed and submitted in this case during the rime period under discussion).

The Defendant also filed a second request for a jury trial on July 6, 2022. The pleadings filed by Defendant did not include any compulsory counterclaims.

Rule 38, South Carolina Rules of Civil Procedure provides that a party may demand a jury trial not later than 10 days after the service of the last pleading directed to such issue. I find that the Defendant did not request a jury trial in this case in a timely fashion.

The Plaintiff's case is one for foreclosure of a mortgage and was properly referred to this court by Order dated July 5, 2022.

(7) VENUE. On July 15, 2022, Defendant filed a motion for change of venue in what appears to be an attempt to move the case to federal court from state court. The property in question is located in Lexington County and the Plaintiff's cause of action is for foreclosure of a mortgage on this property. Therefore, the proper venue for the case is the Court of Common Pleas for Lexington County, South Carolina.

(8) NOTICE OF REMOVAL. On November 28, 2022, Tracie L. Green filed a Notice of Removal with the United States District Court for the District of South Carolina seeking to remove the within case to federal court. On December 2, 2022, United States Magistrate Judge, Shiva V. Hodges, issued a Report and Recommendation wherein the Court recommended the matter be remanded to state court for lack of subject matter jurisdiction and failure to follow the removal procedures in 28 U.S.C. § 1446. United States District Court Judge, Sherri A. Lydon, adopted the Report of the Magistrate Judge in its entirety and issued an Order on January 23, 2023 remanding the case to the Lexington County Court of Common Pleas.

(9) FEDERAL COURT NOTICE OF APPEAL. On February 14, 2023 Tracie L. Green filed a Notice of Appeal to appeal the Order of Remand to the United States Court of Appeals for the Fourth Circuit. On October 2, 2023, the appeal was dismissed by the United States Court of Appeals for the Fourth Circuit. Thereafter, Green petitioned the United States Supreme Court for a writ of certiorari. The petition was denied by the United States Supreme Court by Order dated May 20, 2024.

PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

As there are no pending matters in federal court, this case is properly before this Court for final disposition.

"The purpose of summary judgment is to expedite dispositions of cases which do not require the services of a fact finder." *George v. Fabri*, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). A motion for summary judgment must be granted "if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law." *Standard Fire v. Marine Contracting*, 301 S.C. 418, 421, 392 S.E.2d 460, 462; Rule 56(c), SCRCP. If the non-moving party has not shown a genuine issue of material fact, "summary judgment, if appropriate, shall be entered against him." Rule 56(e), SCRCP.

"Once the party moving for summary judgment meets the initial burden of showing an absence of evidentiary support for the opponent's case, the opponent cannot simply rest on mere allegations or denials contained in the pleadings." *Regions Bank v. Schmauch*, 354 S.C. 648, 660, 582 S.E.2d 432, 438, (Ct. App. 2003) (citing Rule 56(c), SCRCP; *SSI Med. Servs., Inc. v. Cox*, 301 S.C. 493, 497, 392 S.E.2d 789, 792 (1990); *Peterson v. W. Am. Ins. Co.*, 336 S.C. 89, 94, 518 S.E.2d 608, 610 (Ct. App. 1999)). "Rather, the nonmoving party must come forward with specific facts showing there is a genuine issue for trial." *Id.* To avoid the granting of a Motion for Summary Judgment by Plaintiff, "[i]t is not sufficient that one create an inference which is not reasonable. Similarly, it is not sufficient that one create an issue of fact that is not genuine." *Main v. Corley*, 281 S.C. 525, 527, 316 S.E.2d 406, 407, (1984). "The trial court should grant summary judgment against a party who has failed to make a showing sufficient to establish the existence of an essential element of that party's case." *Harris v. Rose's Stores*, 315 S.C. 344, 346, 433 S.E.2d 905, 906, (Ct. App. 1993) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986)).

The Lis Pendens, Summon, Complaint, Notice of Foreclosure Intervention were filed on March 4, 2022. Service was accomplished on the Defendant, Tracie L. Green on March 8, 2022 at the property address of 123 Cardinal Pines Drive South Carolina 29073.

The Defendant has not denied signing the Note and the Mortgage in this case and did not file any affidavit in opposition to the Plaintiff's motion for summary judgment or the Plaintiff's affidavit in support of the motion for summary judgment. Plaintiff is entitled to foreclose the property because Defendant has breached the terms of the Note and Mortgage. An action for foreclosure of a mortgage is, in essence, that of breach of contract. "The elements for a breach of contract are the existence of the contract, its breach, and the damages caused by such breach." *South Glass & Plastics Co. v. Kemper*, 399 S.C. 483, 491-92, 732 S.E.2d 205, 209 (Ct. App. 2012) (citing *Fuller v. Eastern Fire & Casualty Ins. Co.*, 240 S.C. 75, 89, 124 S.E.2d 602, 610 (1962)). Plaintiff has shown the existence of the contract – the Note and Mortgage executed by the Defendant. The Plaintiff has also shown that the contract was breached by the Defendant's failure to make the monthly payments on the Note and Mortgage. Lastly, the Plaintiff's affidavit lists the amount of damages suffered by the Plaintiff as a result of the Defendant's breach.

Plaintiff's Counsel also submitted an affidavit of attorney fees in this matter for the sum of \$6,345.00. I find that this sum is reasonable considering the pleadings and issues involved in the matter. In addition, plaintiff's counsel represented the Plaintiff in the federal court action during this case and appeals to both the Fourth Circuit Court of Appeals and the United States Supreme Court.

Additional Findings of Fact and Conclusions of Law

1. The Defendant, Tracie L Green, executed a Promissory Note dated June 9, 2014, promising thereby to pay to the order of U.S. Bank N.A. the sum of One Hundred Twenty Thousand Nine Hundred Fifty-Seven And 00/100 (\$120,957.00) with interest at 4.75 percent per annum. The Defendant also executed a mortgage in favor of U.S. Bank, N.A., dated June 9, 2014, covering real property in Lexington County, known as 125 Cardinal Pines Drive, Lexington, South Carolina. The mortgage was filed on June 19, 2014, and is of record in the Office of the Register

of Deeds - Lexington County in Mortgage Book No. 17023, at Page 139. The mortgage constitutes a first mortgage on the subject property.

2. Payment due on the Note has not been made as shown by the Plaintiff's Affidavit of Debt, and the Plaintiff, as the holder thereof, has elected to require immediate payment of the entire amount due thereon and filed this action to do so.

3. I find that since the inception of this action, plaintiff's attorney has assumed responsibility for the institution of this action and has searched and updated the title on the subject property from the date the current owner received the property or the date the mortgage was executed to the date of the filing of the Lis Pendens.

The Firm has been responsible for the preparation of the following pleadings.

1. Notice of Foreclosure Intervention
2. Lis Pendens
3. Summons and Complaint
4. Order of Reference
5. Notice of Hearing
6. Proposed Master's Order and Judgment of Foreclosure and Sale
7. Notice of Sale
8. Record of Hearing
9. Other documents as applicable pertaining to service, foreclosure intervention and prosecution of the action.
10. The preparation of pleadings in the federal court matter where the Defendant sought to remove the state court foreclosure case to federal court, including appeals to the Fourth Circuit Court of Appeals and the Supreme Court of the United States of America.

Additionally, the Firm has arranged for service of process on the Defendant(s), and has scheduled and attended the hearings and status conferences in the matter, and reviewed numerous documents emailed and filed in the case by the Defendant. Future duties include forwarding copies of the Master's Order and Judgment of Foreclosure and Sale to the Defendant(s), advising the Defendant(s) of the date that the property will be sold, arranging and coordinating the amount to be bid by Plaintiff, representation of Plaintiff at sale and preparation of after sale documentation as required. The Court is required to examine the Plaintiff's request for attorney's fees in view of six factors:

1. The nature, extent, and difficulty of the case.
2. The time necessarily devoted to the case and labor involved in the case.
3. The beneficial results to the client of the representation.
4. The reasonableness of the fee.
5. The professional standing of counsel.
6. The contingency of compensation.

Plaintiff's counsel has in excess of 34 years of experience in handling default and contested foreclosure litigation matters in South Carolina. Plaintiff's counsel's normally hourly rate for \$300.00 per hour. In light of the nature, extent and difficulty of this case, including the removal of the case to federal court and the subsequent appeals to the Fourth Circuit Court of Appeals and the United States Supreme Court, the extremely large volume of documents filed in the case, the potential liabilities inherent in a foreclosure matter, the attendant responsibilities and the outcome obtained for the Plaintiff, I find that the attorneys' fees in the amount of Six Thousand Three Hundred forty-Five And 00/100 (\$6,345.00) are reasonable.

4. 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 attorneys' fees, secured by the Note and Mortgage, is as follows:

a)	Principal Balance due as of 4/1/2020	\$109,060.11
b)	Interest Due from 3/1/2020 to 7/1/2024 at 4.750%	\$22,448.40
c)	Escrow Advances	\$10,573.50
	Hazard Insurance	\$5,696.00
	MIP/PMI Payments	\$1,980.30
	Last Positive Balance	-\$230.95
	Taxes	\$3,128.15
d)	Foreclosure Costs	\$1,786.72
e)	Attorney Fees	\$6,345.00
	TOTAL DEBT	\$150,213.73

Interest for the period from the date shown above, through the date of this Judgment at the above stated rate to be added to the above stated "Total Debt" to comprise the amount of the judgment debt entered herein and interest after the date of judgment at the current rate of 4.75% per annum (pursuant to the terms of the Note and Mortgage) on the judgment debt should be added to such judgment debt to comprise the amount of Plaintiff's debt secured by the mortgage through the date to which such interest is computed.

5. That the Defendant, Palmetto Citizens Federal Credit Union, is made a party by virtue of a mortgage given by Tracie Ledora Green in the amount of Twelve Thousand And 00/100 (\$12,000.00) dated February 23, 2010 and recorded March 4, 2010, in Book No. 14125, at Page 135 in the Office of the Register of Deeds for Lexington County; thereafter, Palmetto Citizens Federal Credit Union subordinated its mortgage lien to the Plaintiff's mortgage lien by virtue of a Subordination of Mortgage dated May 7, 2014 and recorded June 19, 2014 in Book 17023 at Page 152 in said records. Said lien is junior in priority to the Plaintiff's first mortgage lien.

6. That the Plaintiff does not waive but specifically demands judgment against the Defendant(s), Tracie L Green, for the full amount found to be due to Plaintiff on the note and mortgage held by plaintiff, with the right to enter personal judgment against the Defendant(s), Tracie L Green for any deficiency in this action remaining after sale of the mortgaged premises.

7. As a personal or deficiency judgment is demanded, the bidding will remain open for a period of thirty (30) days pursuant to S.C. Code Ann. Section 15-39-720 (1976).

8. The loan is not applicable for the Home Affordable Modification Program as that program sunset on December 31, 2016.

CONCLUSION OF LAW

I, therefore, conclude as follows:

1. The Plaintiff should have judgment of foreclosure of the mortgage and the mortgaged property should be ordered sold at public auction after due advertisement.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED:

1. There is due to the Plaintiff on the obligation and mortgage set forth in the Complaint the sum of One Hundred Fifty Thousand Two Hundred Thirteen And 73/100 Dollars (\$150,213.73) representing the "Total Debt" due Plaintiff as set forth supra, together with interest at the rate provided therein on the balance of principal from the date aforesaid to the date hereof.

2. The amount due in the preceding paragraph (the "Total Debt" as set forth supra and later accrued interest on the principal) shall constitute the total judgment debt due the Plaintiff and shall bear interest hereafter at the current rate of 4.75% percent per annum.

3. That the Defendants liable for the aforesaid mortgage debt shall, on or before the date of sale of the property hereinafter described, pay to the Plaintiff, or Plaintiff's attorney the amount of Plaintiff's debt as aforesaid, together with the costs and disbursements of this action.

4. That on default of payment at or before the time herein indicated, the mortgaged premises described in the Complaint, as hereinafter set forth, be sold by the Master-in-Equity at public auction at The Lexington County Judicial Center 205 East Main Street, Courtroom 3-A, Lexington County Courthouse, Lexington County, South Carolina, on some convenient sales day hereafter, on the following terms; that is to say:

A. **FOR CASH:** The Master-in-Equity will require a deposit of Five percent (5%) on the amount of the bid (in cash or equivalent) at the time of the sale, same to be applied on the purchase price only upon compliance with the bid, but in case of non-compliance within Thirty (30) days same to be forfeited 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 current rate of 4.75% percent.

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

D. The above referenced instrument constitutes a first lien priority mortgage on the subject property.

E. The Purchaser is to pay for the deed preparation, for Deed Stamps and costs of recording the Deed.

F. If the successful bidder is a third-party other than the Plaintiff, interest on the balance of the bid shall be paid to the date of compliance at the rate listed in the figures above.

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

6. The Plaintiff has judgment against the Defendant(s), Tracie L Green, for the full amount found to be due the Plaintiff on the note and mortgage, with right to enter a personal judgment against the Defendant(s), Tracie L Green, for any deficiency in this action remaining after sale of the mortgaged premises.

7. As a personal or deficiency judgment is demanded, the bidding will remain open for a period of thirty (30) days pursuant to S.C. Code Ann. Section 15-39-720 (1976).

8. That the Master-in-Equity will, by advertisement according to law, give notice of the time, and place of sale, and the terms thereof; and will execute to the Purchaser, or Purchasers, a deed to the premises sold. The 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 Thirty (30) 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.

9. 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 to the 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 will be held pending further order of the court.

10. It is further ORDERED, ADJUDGED AND DECREED if the named defendant(s) continues in possession of the property after a deed has been issued to the purchaser, then the Sheriff of Lexington County is directed to eject and remove named defendant(s) from the property sold, together with all personal property located thereon, and put the successful bidder to whom the deed of conveyance has been issued 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.

11. It is further ORDERED, ADJUDGED AND DECREED if the person(s) occupying the property after the deed has been issued to the purchaser is other than the named defendant(s), the purchaser shall serve the occupants with a Summons and Rule to Show Cause to determine why the occupant(s) should not be removed from the property.

12. And it is further ORDERED, ADJUDGED AND DECREED that each Defendant and all persons whomsoever claiming under him, her or them, 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.

13. And it is further ORDERED, ADJUDGED AND DECREED that any prior lien that has been paid in full is hereby satisfied and canceled of record.

14. IT IS FURTHER ORDERED that the Deed of conveyance made pursuant to said sale shall contain the names of only the first named Plaintiff and the first named Defendant and the Defendant who was the titleholder 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 Master-in-Equity is authorized to omit from the indices pertaining to such conveyance the names of all parties not contained in said Deed.

15. The Master-in-Equity will retain jurisdiction to do all necessary acts incident to this foreclosure including, but not limited to, the issuance of a Writ of Assistance.

16. Upon issuance of a Master-in-Equity Report on Sale and Disbursements, the Register of Deeds - Lexington County is directed to release of record the mortgage lien being foreclosed, which mortgage lien is described as follows:

That Mortgage originally given to U.S. Bank N.A. by Tracie L Green, dated June 19, 2014 and recorded Book No. 17023, at Page 139.

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

All that certain piece, parcel or lot of land, together with improvements thereon, situate, lying and being in the County of Lexington, State of South Carolina, being shown and designated as Lot 6 on a Bonded plat of Cardinal Pines Subdivision prepared by Anderson and Associates Land Surveying, Inc., dated June 26, 2006, revised March 12, 2007 and recorded in the office of the Register of Deeds for Lexington County in Plat Slide 943 at Page 5. This further being shown on a plat prepared for Tracie L. Green by Anderson and Associates Land Surveying, Inc., dated June 12, 2007 to be recorded simultaneously herewith in Record Book 12135 at Page 7. reference to said plat is made for a more complete and accurate description, Be all measurements a little more or less.

Being the same parcel conveyed to Tracie L. Green from Hurricane Construction, Inc. by virtue of a deed dated June 29, 2007 and recorded July 3, 2007 in Deed Book 12135 at Page 8, in the Office of the Register of Deeds for Lexington County, South Carolina.

Assessor's Parcel No: 006614-01-006

123 Cardinal Pines Drive
Lexington, SC 29073
TMS# 006614-01-006

18. IT IS FURTHER ORDERED that if the Plaintiff or the Plaintiff's representative does not appear at the scheduled sale of the above-described property, then the sale of the property will be null, void and of no force and effect. In such event, the sale will be rescheduled for the next available sales day: to be determined by the Clerk of Court. **JUDGE'S SIGNATURE PAGE TO FOLLOW**

IT IS ORDERED that the Plaintiff shall pay the costs of this proceeding, including the costs of the sale of the property, within 30 days of the date of the entry of this Order. If the Plaintiff fails to pay the costs of this proceeding, the property shall be sold to satisfy the costs of this proceeding. The Plaintiff shall also be responsible for the costs of the sale of the property. The Plaintiff shall also be responsible for the costs of the sale of the property. The Plaintiff shall also be responsible for the costs of the sale of the property.

IT IS ORDERED that the Plaintiff shall pay the costs of this proceeding, including the costs of the sale of the property, within 30 days of the date of the entry of this Order. If the Plaintiff fails to pay the costs of this proceeding, the property shall be sold to satisfy the costs of this proceeding. The Plaintiff shall also be responsible for the costs of the sale of the property. The Plaintiff shall also be responsible for the costs of the sale of the property. The Plaintiff shall also be responsible for the costs of the sale of the property.

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON
IN THE COURT OF COMMON PLEASJUDGMENT IN A CIVIL CASE
CASE NO: 2022-CP-32-00784U.S. Bank National Association,
PLAINTIFF(S)Tracie L Green; Palmetto Citizens Federal Credit
Union
DEFENDANT(S)

Submitted by: John S. Kay (SC Bar #: 7914); Ashley Z. Stanley (SC Bar #: 74854); Alan M. Stewart (SC Bar #: 15576); Sarah O. Leonard (S.C. Bar #: 80165); Gregory Wooten (S.C. Bar #: 73586); Louise M. Johnson (S.C. Bar #: 16586);

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. ☐ See Page 2 for additional information.
- ☐ **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 :

Foreclosure Action

INFORMATION FOR THE JUDGMENT 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 (List amount(s) below)
U.S. Bank National Association	Tracie L Green	\$N/A
If applicable, describe the property, including tax map information and address, referenced in the order: 123 Cardinal Pines Drive, Lexington, SC 29073 / TMS# 006614-01-006		

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.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

James O. Spence Master-in-Equity

3068
Judge Code

Date

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 _____ day of _____, 20____ to attorneys of record or to
parties (when appearing pro se) as follows:

John S. Kay (SC Bar #: 7914); Ashley Z. Stanley
(SC Bar #: 74854); Alan M. Stewart (SC Bar #:
15576); Sarah O. Leonard (S.C. Bar #: 80165);
Gregory Wooten (S.C. Bar #: 73586); Louise M.
Johnson (S.C. Bar #: 16586);

Tracie L. Green PRO SE/SRL (see below for address)

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)

CLERK OF COURT

Court Reporter:

E-Filing Note: In E-Filing counties, 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 judgement to parties who are not E-Fileers or who are appearing pro se. See Rule 77(d),
SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

FORM 4 ATTACHMENT

Tracie L Green
123 Cardinal Pines Dr
Lexington, SC 29073

Tracie L Green
P.O. Box 521
Yonkers, N.Y. 10710

Palmetto Citizens Federal Credit Union
c/o Nelson Weston, Esq.
1900 Barnwell Street
Columbia, SC 29201

ELECTRONICALLY FILED - 2024 Nov 14 11:59 AM - LEXINGTON - COMMON PLEAS - CASE#2022CP3200784



Lexington Common Pleas

Case Caption: Us Bank National Association VS Tracie L Green , defendant, et al
Case Number: 2022CP3200784
Type: Master/Order/Foreclosure & Sale and Form 4

AND IT IS SO ORDERED.

S/JUDGE JAMES O. SPENCE-3068

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF LEXINGTON

U.S. Bank National Association,
PLAINTIFF,

vs.

Tracie L Green; Palmetto Citizens Federal
Credit Union,
DEFENDANT(S)

ORDER DENYING MOTION TO VACATE
C/A NO: 2022-CP-32-00784

MORTGAGE FORECLOSURE
DEFICIENCY REQUESTED

Plaintiff and Defendant argued Defendant's motion to vacate by Zoom Virtual hearing on January 25, 2025 attended by John S. Kay, Esq., attorney for the Plaintiff and Defendant, Tracie L. Green.

Lexington County does not have a staff court reporter. The parties to each case must pay for a court reporter. Plaintiff or Defendant may obtain a copy of the transcript of the hearing by contacting Garber Reporting Services, 3200 Devine Street, Suite 103 Columbia, South Carolina 29205, email: info@garberreporting.com and phone number (803) 256-4500 to arrange to pay the court reporter for the transcript.

Based upon the parties' arguments, exhibits presented, review and consideration of the case record filings and a review and consideration of those matters raised and argued by the parties, I find, rule, and order as follows:

1. The Court granted Plaintiff's Motion for Summary Judgement by November 14, 2024 e-filed Order. The Court has not received notice of any state court appeal.
2. Defendant's "Motion to Vacate Judgement for Foreclosure" was heard by this court, despite Defendant's argument that the motion did not comply with South Carolina Rules of Procedure.
- 3 This Court notes that while it considered all arguments raised by Defendant, all arguments were evaluated against what Defendant actually filed in her Motion to Vacate and analysis of motions to vacate case law and procedure.

4. **Rule 60, SCRCPP provides typical motion to vacate fact and legal patterns.** Fraud, Mistake, Inadvertence or excusable neglect are reasons to grant, as is lack of subject matter jurisdiction. The court note that "Relief is granted for extrinsic fraud because it prevents full litigation of the case. Intrinsic fraud does not invalidate the judgment because that type of deception should have been discovered during the litigation itself, and granting relief whenever a witness's testimony might have been misleading undermines the stability of all judgments. The fraud must be established by clear and convincing evidence and the movant must also show a meritorious defense." South Carolina Civil Procedure Second Edition by Professor James F. Flanagan University of South Carolina School of Law, Page 486. (1996)
5. **Federal v State Jurisdiction.** Defendant argues this court has no jurisdiction to proceed while her federal court appeal (and any other agency type appeal) is proceeding. Defendant's conclusion under these case facts is erroneous. Rule 41 (d) Federal Rules of Appellate Procedure, 28 USC App Fed. Procedure and Federal Local Rule 41 provides proper process/procedure to obtain a stay, noting that the motion should be denied without an articulated showing that the motion is not frivolous or merely filed for delay.
6. Defendant's federal court action was dismissed and remanded back to the state court. It is important to note that there is no specific federal court order staying state court action.
7. **State Jurisdiction.** This case is a mortgage foreclosure. The Defendant was served with the summons and complaint in this case on March 8, 2022, but did not attempt to request a jury trial until May 23, 2022. (The Court again calls attention to and incorporates by reference the various matters filed and submitted in this case during the period under discussion). The Defendant also filed a second request for a jury trial on July 6, 2022. The pleadings filed by Defendant did not include any compulsory counterclaims.
 Rule 38, South Carolina Rules of Civil Procedure provides that a party may demand a jury trial no later than 10 days after the service of the last pleading directed to such issue. I find that the Defendant did not request a jury trial in this case in a timely fashion. The Plaintiff's case is one for foreclosure of a mortgage and was properly referred to this court by Order dated July 5, 2022. The Defendant was in default and there was no filed jury counterclaim. The Court also notes that after the matter was referred to Equity Court, the court set a September 13, 2022 hearing date. Once court determined the matter was

not uncontested, the court changed this hearing to a status conference. Defendant never told the court of a jury trial demand.

8. **Fraud.** While this court notes that Defendant has filed multitudes of documents, pleadings, motions etc., there is no persuasive claim or proof of fraud sufficient to grant a motion to vacate.
9. **Bank Fraud/ Acquiring Home.** Defendant's claim that Plaintiff committed fraud when Plaintiff sent the required federal notice of foreclosure process (generically referred to as "**Home Acquisition claim**") is a misunderstanding of both process and law. This form is a required form sent out to notify parties that the foreclosure process has started possible time parameters, and loss mitigation information. Some states are writ foreclosure states and the process is much quicker. South Carolina is a judicial foreclosure state that requires four (4) basic steps: (a) lawsuit filed (b) dispositive hearing held (c) property sold at public auction (d) Court delivers deed to purchaser after compliance. The Court explained this process at hearing to Defendant. Defendant still owns her home since the 4- step process has not occurred.
10. **Allegations of Clerk of Court Fraud.** Defendant argues that the Lexington County Clerk of Court has improperly filed, mislabeled or not filed certain un- specified documents, while filing all of Plaintiff's documents as submitted. The Court explained and finds, that (a) this court, without specific authority, does not have jurisdiction to tell Clerk of Court how to file documents. (b) this court explained, at hearing, that Lexington is in the state e-filing system. That system has a set number of Nature of Action (case subtypes) and Initiating actions when matters are e-filed. The Court notes that it is not uncommon to see entries submitted by attorneys and judges labeled "Order/Other" or "Filing/Other" presumably because Clerk staff is unable to determine the complete nature of the filing. The court finds no persuasive evidence that indicates Clerk of Court fraud or any other improper activity.
11. **Court Fraud/ requiring personal appearance at Summary Judgment / All outstanding hearing versus virtual appearance.**

The summary judgment motion was set as an all-day in person proceeding. This process had been discussed at status conference. Defendant's claim that she was barred from the hearing is completely false and without merit.

To the contrary, because of the nature of the matters e-mailed and filed, the court required her physical presence so that the court could listen, watch, evaluate all matters raised by Defendant in person, rather than to do so by a virtual hearing.

There is no absolute right to a virtual hearing for this type hearing. An in- person hearing also guaranteed that all parties, Plaintiff, Defendant and Judge, could see who else might be in the hearing. South Carolina has open courtrooms and any one can attend a hearing virtually or in person, but if they attend virtually, parties cannot always see and hear all activity as clearly as they could in person.

The Court would not separately schedule a motion every time Defendant filed such documents that were labeled motions or could be argued to be motions. This process is standard for the Equity Court. General practice is for Equity Court to set a single day/time to argue all outstanding motions.

The reason the Summary judgment motions was set for an all-day hearing was because the court allocated time not only for Plaintiff to present its motion, but to allow the remainder of the day for Defendant to argue any of the many motions, filing etc. on record, since this was motion hearing day on any and all motions to be argued.

Those motions not argued are deemed abandoned.

12. Defendant called the Court the morning of the hearing requesting to be allowed to appear virtually or by telephone. It is, and has been, this Court's policy to conduct contested matters in-person with a court reporter. The request by Ms. Green has been made several times previously and it has been explained to her that while a status conference can be

attended virtually since there is no swearing of witness, direct or cross examination etc., , this court's practice is that contested hearing must be conducted in-person.

13. Ms. Green has discussed in previous emails to the Court that she believes she cannot come to South Carolina for fear for her life. Ms. Green has indicated that the reasons for her belief extend from a racial component and a possibility of terrorist activity or something related to her previous work at a nursing home. The last reason she gave for not being able to appear in person was due to her limited finances. The subject of this foreclosure action is a parcel of real property located in Lexington County known as 123 Cardinal Pines Drive Lexington, South Carolina. This was the Defendant's address at the time of the filing of the action and is the location where she was served with the pleadings on March 8, 2022. The Defendant apparently moved to the state of New York at some point in the litigation and still maintains a residence in New York.

14. The Court now includes portions of the filed Summary Judgment Order for reference:

- The Court calls attention to and incorporates by reference Defendant's multitude of filings, motions or pleadings.
- notes that court standard practice is to discuss court process that it is party's responsibility to argue any and all previously filed motions on the date of hearing. The Court takes notice that many motions are filed, then abandoned or resolved and not argued by the parties.
- notes that the court notified parties by email that because it was a contested testimony hearing, then the hearing is in person, and
- that the Court will address all motions raised and argued.
- calls attention to the Summary Judgment hearing testimony where court questioned Plaintiff counsel about status of various filings.
- The Court further notes that since Defendant did not appear to argue the below filings/ or motions, since Defendant did not appear to argue these matters, the court deems these motions abandoned:

--GAL. The Defendant had previously filed a motion requesting that a Guardian ad Litem be appointed for her. A Guardian ad Litem was not appointed in this case, as the Defendant is not under a disability as would allow for the appointment of a GAL pursuant to the South Carolina Rules of Civil Procedure.

--APPOINTED ATTORNEY. The Defendant also appeared to argue that since she could not afford or obtain an attorney, then the court should appoint an attorney for her. While the landmark 1963 Supreme Court case *Gideon v. Wainwright* established that indigent defendants have a right to counsel in criminal cases, the extension of this right to a "Civil Gideon" in civil court cases has never been established. South Carolina has not adopted or established a right to a Civil Gideon (other than certain Family Court type cases etc.), so the Defendant does not have the legal right to have counsel appointed for her in this case.

--CONTINUANCE. This case has been continued numerous times at the request for the Defendant; however, there is no provision for a continuance to an indefinite date in the future when the Defendant might have funds to travel to South Carolina for a hearing.

-- SAFETY. With regards to the concerns the Defendant has about her safety at a hearing, the Court had advised the Defendant that a member of the Lexington County Sheriff's Department would meet the Defendant at her car in the courthouse parking lot and escort her safely to and from the courtroom to allay any fears she might have in appearing in court.

--LOSS MITIGATION. With regards to loss mitigation activities during the course of the foreclosure action, Plaintiff filed a Notice of Denial Loss Mitigation on May 20, 2022, pursuant to the requirements of the South Carolina Supreme Court Administrative Order for 2011. (Further note: During Motion to Vacate Plaintiff argued that Defendant did not complete all loss mitigation package(s) and further noted that some of Loss Mitigation was available only if property was owner occupied. Defendant acknowledges property has not been owner occupied since she moved to New York.)

-- **JURY TRIAL DEMAND.** The Defendant was served with the summons and complaint in this case on March 8, 2022, but did not attempt to request a jury trial until May 23, 2022. (The Court again calls attention to and incorporates by reference the various matters filed and submitted in this case during the time period under discussion). The Defendant also filed a second request for a jury trial on July 6, 2022. The pleadings filed by Defendant did not include any compulsory counterclaims. Rule 38, South Carolina Rules of Civil Procedure provides that a party may demand a jury trial not later than 10 days after the service of the last pleading directed to such issue. I find that the Defendant did not request a jury trial in this case in a timely fashion. The Plaintiff's case is one for foreclosure of a mortgage and was properly referred to this court by Order dated July 5, 2022. Defendant did not appear on motion hearing date to argue this motion, so this motion was deemed abandoned.

-- **VENUE.** On July 15, 2022, Defendant filed a motion for change of venue in what appears to be an attempt to move the case to federal court from state court. The property in question is located in Lexington County and the Plaintiff's cause of action is for foreclosure of a mortgage on this property. Therefore, the proper venue for the case is the Court of Common Pleas for Lexington County, South Carolina.

-- **NOTICE OF REMOVAL.** On November 28, 2022, Tracie L. Green filed a Notice of Removal with the United States District Court for the District of South Carolina seeking to remove the within case to federal court. On December 2, 2022, United States Magistrate Judge, Shiva V. Hodges, issued a Report and Recommendation wherein the Court recommended the matter be remanded to state court for lack of subject matter jurisdiction and failure to follow the removal procedures in 28 U.S.C. § 1446. United States District Court Judge, Sherri A. Lydon, adopted the Report of the Magistrate Judge in its entirety and issued an Order on January 23, 2023 remanding the case to the Lexington County Court of Common Pleas.

-- **FEDERAL COURT NOTICE OF APPEAL.** On February 14, 2023, Tracie L. Green filed a Notice of Appeal to appeal the Order of Remand to the United States Court of Appeals for the Fourth Circuit. On October 2, 2023, the appeal was dismissed by the United States Court of Appeals for the Fourth Circuit. Thereafter, Green petitioned the United States Supreme Court for a writ of certiorari. The petition was denied by the United States Supreme Court by Order dated May 20, 2024."

15. Why Court allowed virtual hearing rather than in person for Defendant's Motion to Vacate?

The Court's standard practice for virtual hearings is for the hearings to be virtual with in person option. Defendant's motion to vacate was set for a one (1) hour period 4:00 p.m. -5:00 p.m. based upon court's examination of the filed motion and belief that the argument should take an hour or less.

The hearing lasted until after 6:00 p.m. The court requested Defendant to summarize each reason to vacate to ensure the Court could consider all proper arguments. Instead, Defendant requested to read all or part of previous filings. The Court explained that it had read all the pleading, that the pleading were on file, and that Defendant did not need to read to Court this same information. Defendant then read all or a portion of filed pleadings. The Court then would summarize what court believed to be the focus of the reading. Then Defendant would ask to be able to further explain what she meant by what she wrote. The Court allowed some, but not all of these requests because the court had been copied with the previous filings, and some of the matters raised had already been raised and discussed previously.

The Court then directed Plaintiff—on or before end of day Monday the 27th-- to send Court and Defendant a confirmation list of matters raised by Defendant. Defendant would then have until end of day Tuesday the 28th to reply with any other Rule 60 s valid reasons to vacate.

Defendant requested additional time by email. The Court declined to grant, noting that this hearing was Defendant's Motion. Defendant had obligation to be prepared to present her arguments in an orderly fashion, not simply reading and then explain various filings. In addition, the court notified both Plaintiff and Defendant that they had the above-described time line, which gave them 2-3 days additional time to summarize information that should have been presented at the hearing.

16. Post hearing requested Issue Identification Compliance.

The parties responded as follows. The Court notes that while many issues were raised, the court evaluated the issues against (i) what Defendant filed in her Motion to Vacate (ii) Matters raised and resolved by Summary Judgement Order. (iii) Proper Legal Motion to Vacate Matters (iv) Matters barred by Defendant's failure to appeal in State court.

As directed, Plaintiff responded as follows:

Pursuant to the Court's instructions from Friday's hearing, I have listed the issues raised by Dr. Green in arguing her motion to vacate and I have listed those below:

1. Federal court vs. state court jurisdiction in the case and whether there is a stay of state court proceedings.
2. Notice of Pending Acquisition (NOPA) letter that Defendant received and whether there is a lack of due process.
3. Defendant claims she was barred from attending the summary judgment hearing.
4. Covid relief and loss mitigation issues.
5. Unknown hearing issue
6. Documents moved or removed online (public index)
7. Order of Reference issue
8. Order restoring the case issue
9. Unaddressed issues (motions or questions not addressed in previous hearings)
10. Notice filed by Defendant seeking Restraining Order
11. Defendant claims U.S. Supreme Court had jurisdiction and Plaintiff was barred from filing its motion for summary judgment

As directed, Defendant responded as follows:

1 28 25

RECEIVED:

1/27/25 1020am email from Judge Spence requesting Plaintiff and Defense resend documents to Joy Davidson and Equity Court; and Plaintiff [Bridgette Dull] 1049am email indicating all of Plaintiff documents are filed and indexed; if disagree, advise of titles of documents not indexed.

Sent to only 5 recipients, Plaintiff (Attorney John Kay's) 1/27/25 432pm correspondence recalled list of issues allegedly raised by this Defense during this case second Motion Hearing [known by Defense], held 1/24/25 are as follows:

1. Federal court vs state court jurisdiction, whether there is a stay of state court proceedings.
2. Notice of Pending Acquisition (NOPA) letter received by Defense, whether lack of due process.
3. Defense claim barred from attending summary judgement hearing.
4. COVID relief and loss mitigation issues.
5. Unknown hearing issue
6. Documents moved or removed online public index
7. Order of Reference
8. Order restoring the case
9. Unaddressed motions/questions not addressed during first motion hearing.
10. Defense Restraining Order notice
11. Defense claim US Supreme Court had jurisdiction and Plaintiff barred from filing its motion for summary judgement.

Again, only sent to 5 recipients, Judge Spence 1/27/25 439pm correspondence acknowledged receipt of Attorney Kay's list requested at 1/24/25 hearing. Reiterated Defendant has until end of business day to provide additional issues, as time extension not permitted.

DEFENSE RESPONSE:

Since Defense is having trouble following or understanding all Plaintiff has listed, to ensure completeness, Defense list of issues are as follows (with associated documents submitted for filing listed):

1 22 25 CD3. PDF, CEASE AND DESIST No. 3 [UPDATED Criminal Complaint, Charges Requested with Certificate of Service] (4 pages)

1. Discrimination, made to provide court reporter though informa pauperis status.
2. Fraud, missing/alterd documents; printing e-filed documents.
3. Fraud, suspected association to Federal Case 3:20cv00054 BJDpdb.

1 14 25 Response.pdf, DEFENDANT'S REBUTTAL, Motion for Dismissal with Prejudice and Certificate of Service (75 pages)

5. Fraud, Plaintiff did not provide Defense with copy of PLANTIFF'S OBJECTION TO THE DEFENDANT'S MOTION TO VACATE JUDGEMENT, FILED JANUARY 13, 2025 1251PM
6. Fraud, Supreme Court jurisdiction active February 2023 -August 19, 2024. (detailed below)
7. Fraud, blatant illegal, unlawful activity ignored. (detailed below)

8. Fraud, concurrent jurisdiction proper procedure violated as per 15 U.S. Code 3612 and 45 U.S. Code 56.(detailed below)

9. Fraud, court activity ceased while case at District Court and Court of appeals; inconsistent with activity that occurred while at Supreme Court of the United States.

[11 3 24 Defendants' Proposed Order, entitled MASTER'S ORDER AND JUDGEMENT FOR DEFENDANT, (8 pages) based on SC Code 15-36-10 was rejected by Judge Spence]

10. Fraud, US Bank National intentionally offered COVID-19 Recover Standalone Partial Claim instead of COVID-19 Loan Modification as per July 23, 2021, HUD 21-115 Public Release Notice Federal Housing Administration Announces Additional COVID-19 Recovery Options for Homeowners. US Bank National ignored Defendants' multiple notices of the same.

11. Fraud, lawsuit is malicious in intent, filed 14 days after Defense contacted FHA/HUD to assist in conflict resolution.

12. Fraud, 7/13/22 Motion to Change Venue to Federal Jurisdiction; 8/22/22 allegations of perjury, mockery of judicial process, state law, and federal law; intentional non-adherence to federal guidelines; predatory lending; targeting/malicious intent; federal tampering never addressed by Court/Judge Spence.

13. Multiple Frauds* ["First Summary Judgement Attempt" (just 5 months after filing foreclosure lawsuit)]:

a. * 8/3/22, Defendant received US Bank National's certified Notice of Home Acquisition in 60 to 90 days, dated July 28, 2022.

b. 8/3/22, Defendant submitted concern in filing Response to U.S. Bank National Certified Mail Letters, Dated July 28, 2022 (1 page).

c. *8/20/22, Defendant received a Notice of Foreclosure Hearing before Judge Spence for 9/13/22, with the said notice being filed 2 days earlier (on August 18, 2022).

d. 8/22/22, Defendant submitted 95-page "Notice of Home Acquisition" detailing unlawful activity.

e. * 9/1/22, Clerk of Court filed Defendant's 8/22/22 document (10 days after submitted). On same day, US Bank National via Attorney Kay filed a NOTARIZED Attorney Affidavit of Fees stating "A hearing was held by the Master, who requires an order to be proposed by Plaintiff Counsel." DEFENDANT WAS NEVER NOTIFIED OF THIS HEARING AND NEVER RECEIVED PLAINTIFF PROPOSED ORDER, but did receive Plaintiff's 7/28/22 Notice of Pending Acquisition earlier. This indicates said meeting likely occurred in July 2022, without Defense knowledge or lawful participation.

f. * 9/13/22 Foreclosure Hearing cancelled, Status Conference held in its place.

g. *Less than 48 hours later, 9/14/22 1043pm, Judge McLeod struck case from active roster, causing direct conflict with Judge Spence directives.

i. Order for dismissal if not restored to active roster in 180 days due to non-compliance.

h. *Case restored to active docket February 2, 2024 (past the 180-day timeframe), with the Order restoring to active roster being dated February 28, 2023.

i. After Defense raised concern, the following occurred:

i. * 2/25/24, Clerk of Court removed all documents indexed online (i.e. not downloadable).

ii. *Clerk of Court changed name of Defendant's indexed documents to generic labeling, while name of Plaintiff's documents remained unchanged with detailed labeling.

iii. *Court ignored Defendants' 3/15/24 Motion to Dismissal with Prejudice due to Judge McLeod's order and simultaneous, concurrency with Federal jurisdictional proceedings. Motion

hearing's were not held for Defense motions, only Plaintiff's initiated motions, as 1/24/25 Motion hearing is the second hearing Defendant is aware of since the 3/4/22 filing of this case.

j. *Referral to Master-In-Equity Judge Spence occurred with agreement between Plaintiff and Clerk of Court Mona Huggins. Defense never consented to case transfer. *Court never addressed this concern, though requested by Defense.

14. Fraud, Clerk of Court filed Defendant's Motion to Move to Inactive Roster, dated 2/6/24, six days later, on 2/12/24; whereas Plaintiff's Motion for Summary Judgement was filed and indexed on 2/7/24.

15. Fraud, Judge Spence reminded of pending Federal proceedings (RICO case, Supreme Court Notice of Removal); Plaintiff breaching FHA/HUD COVID-19 guidelines, multiple "Summary Judgement" attempts; partial treatment with Clerk of Court (missing documents; altered documents; electronically filed documents not electronically filed).

16. Fraud, 1 14 25 Defendants Motion for Dismissal with prejudice ignored by Court.

[11 18 24 Response email correspondence, entitled Notice to Cease and Desist/Motion to Reconsider [detailing errors noted in Judge Spence 11 14 24 Judgement Order for Foreclosure], requesting correction ignored.

17. Multiple Frauds*, Judge Spence Judgement Order document continued to be profiled publicly until January 24, 2025, despite Defendant's notifications.

a. *Page 2 of Judge Spence Judgement Order states Defendant failed to show up for Summary Judgment Hearing, but fails to mention Defense present via phone(even speaking with Judge Spence directly) due to Court refusal to acknowledge the notice of restraining order issued by Defense, limiting ability to be in person because of safety concerns.

i. Defendant details barring by Judge Spence in the Notice to Cease and Desist/Motion to Reconsider document, though Defense still attempted to attend due to Judge Spence not honoring the notice of restraining order.

ii. *Court ignores and fails to intervene in Defense report of persistent filing issues with Clerk of Court, fraudulently filed Summary Judgement by Plaintiff, mail fraud concerns, motion to reconsider judgement. Motion hearing was not scheduled.

[1 6 25 CEASE AND DESIST No. 2 [Criminal Complaint, Charges Requested with Certificate of Service]

18. Fraud, details Judge Spence operating on case actively being evaluated by Federal court despite repeated notifications from Defense (as discussed above)

19. Fraud, details Judge Spence 3/29/24 permitting Zoom attendance to Summary Judgement Hearing then changing his mind, knowing it would bar Defendant's attendance, due to out-of-state residency, safety concerns, and financial limitation.

a. Fraud, this was doubled as Judge Spence stated all outstanding motions would be heard. Thus, Judge Spence knowing majority of the motions were Defendant-derived, gives rise to possible reason Defendant was barred from 6.21.24 Summary Judgement Hearing by Judge Spence.

20. Fraud, court documents do not indicate that anyone, including Judge Spence, ever contacted law enforcement given the multiple reports of targeting, criminal activity, and harm reported by the Defense.

21. Fraud, Defense request for Judge Spence to assist in getting June 14, 2024 submitted document filed and indexed online by Clerk of Court never addressed to Defense's knowledge.

In Summary, Pursuant to SC Code Title 14 Chapter 11 and Rule 60 of the SC Rules of Civil Procedure, Defense again motions this Court to vacate the November 14, 2024 judgement for foreclosure with prejudice due to fraud, misrepresentation or other misconduct of listed and unlisted adverse parties in this case as detailed above; and grant Defendant the \$3 million dollar judgement as requested in the November 3, 2024 Proposed Order.

Attached are the following documents previously submitted for filing:

- 8 22 22 FINAL Response.pdf [Notice of Home Acquisition] (95 pages)-see email #2
- 6 14 24 Response.pdf [Case Status Update: Response] (10 pages)
- 11 3 24 Appendix to RSJ (35 pg)FINAL.pdf
- 11 3 24 RSJ FINAL.pdf [Defendants Rebuttal to Plaintiffs Second Summary Judgement Attempt] (15 pages)
- 11 3 24 Proposed Order FINAL (8pgs).docx
- 11 3 24 Proposed Order Judge Signature Pages.pdf (6 pgs)
- Nov 11 Response to Judge Request.pdf (16 pages)
- 1 6 25 CCCR.pdf (48 pages)
- 1 22 25 CD3.pdf (4 pages)

28 25 (Second Email)

Attachment:

8 22 22 FINAL Response.zip [contains 8 22 22 FINAL Response.pdf, Notice of Home Acquisition] (95 pages)

The Court notes that it has not printed all e-filed attached documents because they appear to be matters previously emailed, filed or argued.

CONCLUSION

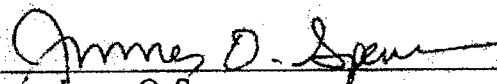
Defendant argued here in the post hearing submission, and by previous emails et. al., that virtually every action taken by this Court, Circuit Court, State Court, Clerk of Court etc. are all fraud based actions directed against her. This court finds no legally sufficient proof or persuasive evidence or argument that the described actions were legally fraudulent as required by law.

The court has reviewed proper legal standards for this and other motions and appeals, as well as examined the vast amount of emails, copied papers, self-described filings sent to Court and Clerk Office to be e- filed, to the best of our ability.

This trial court finds, reasons, and rules that Defendant's Motion to Vacate is denied factually, procedurally and legally.

AND IT IS SO ORDERED.

January 29, 2025


James O. Spence
Lexington Master-in-Equity

**Additional material
from this filing is
available in the
Clerk's Office.**