

IN THE SUPREME COURT OF THE STATE OF DELAWARE

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|-----------------------------------|------------------------------|
| JOSEPH A. CUNNINGHAM, JR., | § |
| Personal Representative and Heir, | § No. 49, 2018 |
| | § |
| Defendant Below, | § Court Below—Superior Court |
| Appellant, | § of the State of Delaware |
| | § |
| v. | § |
| | § C.A. No. N12L-11-093 |
| PROF-2013-S3 LEGAL TITLE | § |
| TRUST II, by U.S. BANK | § |
| NATIONAL ASSOCIATION, as | § |
| Legal Title Trustee, | § |
| | § |
| Plaintiff Below, | § |
| Appellee. | § |

Submitted: August 10, 2018
Decided: October 12, 2018

Before **STRINE**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

After careful consideration of the parties' briefs and the record on appeal, we conclude that the judgment below should be affirmed on the basis of the Superior Court order, dated January 19, 2018, granting summary judgment. The defendant below-appellant failed to assert any of the defenses available in a *scire facias sur* mortgage action and failed to raise any genuine issue of material fact.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Karen L. Valihura
Justice