

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

Branch Banking and Trust Company,)	C/A: 3:13-1318-JFA
)	
Plaintiff,)	
vs.)	ORDER
)	
Technology Solutions, Inc.; Cathy G.)	
Lanier; and Randy D. Lanier,)	
)	
Defendants.)	

This matter comes before the court upon motion of the defendants to stay the upcoming foreclosure sale of the property at issue in this case. ECF No. 222. The plaintiff has responded in opposition of a stay. ECF No. 225. For the reasons set out below, the court denies the motion.

As the plaintiff points out, ordinarily, a party appealing a foreclosure judgment must post a bond or other security during the pendency of the appeal. Here, the defendants have neither tendered a bond or other security, nor have they suggested an ability to do so. In fact, throughout this litigation, the defendants have contended that they are impecunious.

To the extent this court has the authority to issue a stay without issuance of a bond, the court will exercise its discretion to deny the request. As the court has stated on more than one occasion, all the defenses asserted in this case thus far have proven to be frivolous. Substantial prejudice would inure to the plaintiff if the court were to stay the sale and the Fourth Circuit Court of Appeals subsequently affirmed this court’s decision on the

foreclosure question. For example, a foreclosure action proceeding is currently pending on the first mortgage, held by Suntrust Mortgage, Inc., and the plaintiff in this action (or other purchaser at the sale) will be obligated to pay the full amount due under the first mortgage to protect its interest (thereby reducing on a daily basis the net dollars available to apply to the plaintiff's secured indebtedness).

Because the defendants have failed to come forward with a plan that will provide adequate security to the plaintiff in this case, the motion is respectfully denied.

IT IS SO ORDERED.

July 29, 2014
Columbia, South Carolina



Joseph F. Anderson, Jr.
United States District Judge