

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Branch Bank and Trust Company,

Plaintiff,

vs.

Cathy G. Lanier and Randy D. Lanier,

Defendants.

C/A No. 3:13-cv-01318-JFA

ORDER

In this foreclosure case, the plaintiff, Branch Bank and Trust Company (“Plaintiff”), and the *pro se* defendants, Cathy G. Lanier and Randy D. Lanier (“Defendants”), have moved for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure. ECF Nos. 24, 28, and 90.¹ Specifically, Plaintiff seeks to foreclose on two mortgages covering property in Chester and Lexington counties in South Carolina. ECF No. 28. Defendants oppose BB&T’s motion and have moved for summary judgment on the complaint and on the affirmative defenses raised by BB&T against Defendants’ counterclaims. ECF Nos. 24, 60, and 90. This court held a motions hearing on October 7, 2013. After considering the parties’ arguments as well as their motions, this court finds that a genuine dispute of material fact exists. Accordingly, the court denies Plaintiff’s and Defendants’ motions for summary judgment. This case will go to trial during the two-month term of court beginning on January 7, 2014.²

IT IS SO ORDERED.



¹ On November 7, 2013, Defendants filed what they labeled a “Motion to Dismiss.” ECF No. 90. Rule 12(d) of the Federal Rules of Civil Procedure allows this court to convert a Rule 12(b)(6) motion to dismiss to a Rule 56 motion for summary judgment. *See* Fed. R. Civ. P. 12(d) (“If, on a motion under Rule 12(b)(6) or 12(c), matters outside the pleading are presented to and not excluded by the court, the motion must be treated as one for summary judgment under Rule 56. All parties must be given a reasonable opportunity to present all the material that is pertinent to the motion.”).

² This order supersedes the formal scheduling order entered on August 21, 2013. Discovery deadline remains December 23, 2013.

November 13, 2013,
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge