

IN THE SUPREME COURT OF FLORIDA

MARIE ANN GLASS)	
)	
Petitioner,)	SC Case No.: SC17-1387
)	
v.)	DCA Case No.: 4D15-4561
)	
NATIONSTAR MORTGAGE, LLC)	LT Case No.:
)	CACE-12-027304 (11)
Respondent.)	

**RESPONDENT’S RESPONSE TO MOTION TO VACATE ORDER
RECALLING MANDATE AND GRANTING REHEARING**

Respondent Nationstar Mortgage, LLC (“Nationstar”) respectfully submits the following Response to the Motion to Vacate Order Recalling Mandate and Granting Rehearing filed by Petitioner Marie Ann Glass.

Glass’s Motion is due to be denied. This Court has, and has always had, the authority to recall a mandate at its discretion, *see* § 43.44, Fla. Stat. (2018); Fla. R. App. P. 9.340, and to rehear a matter *ex mero motu*, *see, e.g., A-1 Merch. Corp. v. Tankersley*, 191 So. 2d 554 (Fla. 1966) (granting rehearing *ex mero motu*). Such action is particularly appropriate when the question is whether this Court truly has jurisdiction over a matter, as was the issue here. *See* Art. V, § 3(b), Fla. Const.

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(listing the limited bases for this Court’s jurisdiction). Glass’s somewhat convoluted arguments to the contrary are simply without merit.¹

As for the substance of this Court’s April 18, 2019, decision, that decision was clearly correct. As was discussed at length in Nationstar’s Motion to Recall Mandate, there was simply never any conflict between the district court’s decision and the established *Thornber* principle that a voluntary dismissal can create a “prevailing party.” Again, the district court’s decision was premised on the assumption that Glass *was* a prevailing party following the voluntary dismissal, as were the arguments asserted by Nationstar both before the district court and before this Court.² By discharging jurisdiction, this Court upheld the rule of law.

In short, contrary to Glass’s accusations, this Court did nothing remotely sinister in reconsidering the earlier erroneous acceptance of jurisdiction. Indeed, there is no shortage of examples wherein this Court has reconsidered and discharged an initial acceptance of jurisdiction. Accordingly, Glass’s Motion to Vacate is without merit and is due to be denied.

¹ As a procedural matter, Glass should have, but did not, ask this Court to recall its Mandate, which was issued 1.5 hours prior to the filing of Glass’s Motion to Vacate. For courtesy’s sake (given the timeframe), Nationstar assumes that Glass’s Motion implicitly requests such relief.

² Nationstar also takes issue with Glass’s assertion that the now-withdrawn January 4, 2019, Opinion provided the bench and bar with a “clear directive.” Mot. to Vacate at 10. As was discussed in its Motion for Clarification – as well as in its Notice of Supplemental Authority demonstrating how that Opinion had already created substantial confusion in the lower courts – in Nationstar’s view the reality was quite the opposite.

Respectfully submitted,

May 3, 2019

/s/ Marc James Ayers

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2019, a copy of the foregoing was served via electronic mail upon the following:

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