

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**RECEIVED**

APPEAL FROM GREENVILLE COUNTY  
Court of Common Pleas

**Dec 28 2022**

**SC Court of Appeals**

Letitia H. Verdin, Circuit Court Judge

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Case No. 2022-CP-23-01995  
Appellate Case No. 2022-001389

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Lois Seaborn, Personal Representative of the Estate of Nathaniel J. Colbert,

Appellant,

v.

CPM Federal Credit Union,

Respondent.

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**RESPONDENT'S MOTION TO DISMISS APPELLANT'S APPEAL AND OBJECTION  
TO APPELLANT'S MOTION TO REINSTATE**

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COMES NOW, Respondent CPM Federal Credit Union, ("CPM"), by and through its undersigned counsel, hereby files this Motion to Dismiss the Appeal and Objection to Appellant The Estate of Nathaniel J. Colbert, Lois Seaborn, Personal Representative (Appellant")'s Motion to Reinstate.

**BACKGROUND**

1. CPM is a federal credit union with operations in Greenville, South Carolina. Mr. Colbert, the decedent, was a customer of CPM. As a customer of CPM, Mr. Colbert was bound by the applicable Membership Account Agreement and Disclosures ("Membership Agreement"), and

Appellant alleged in her Complaint that CPM “unlawfully and unjustly” withheld a “sum of money.”

2. Appellant filed an action in the Court of Common Pleas for Greenville County, South Carolina, asserting various causes of action relating to Mr. Colbert’s account with CPM. On or about June 10, 2022, Respondent filed a Motion to Dismiss and Compel Arbitration based on the express provisions of the Membership Agreement.

3. The Circuit Court held a hearing on or about September 19, 2022 and granted Appellant’s Motion on or about September 21, 2022, ordering Appellant to have the merits of her claim determined in the proper forum – arbitration.

4. Appellant filed a Notice of Appeal with the Court of Appeals. In her Notice of Appeal, Ms. Seaborn listed her address as “1901 Woodruff Road #123, Greenville, SC 29607.”

5. On October 5, 2022, the Clerk sent a deficiency letter stating Appellant had not filed the proper proof of service or the required filing fee, and providing Appellant ten (10) days to comply.

6. On or about, October 13, 2022, presumably following receipt of the initial deficiency letter, Mr. Christopher Jones,<sup>1</sup> allegedly on behalf of Appellant, submitted the filing fee.

7. On or about October 19, 2022, the Clerk sent a second deficiency letter notifying the Appellant that her time for ordering the transcript had expired and requiring her to file a copy of a letter showing a transcript had been ordered along with requesting permission to order the transcript outside of the filing deadlines set by Rule 207 of the South Carolina Appellate Court

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<sup>1</sup> It should be noted that Mr. Jones is not an attorney and cannot represent Appellant. As such, any correspondence from Mr. Jones to the Court of Appeals is improper and could be considered the unauthorized practice of law.

Rules. This letter notified the Appellant she had ten (10) days to comply or her appeal would be dismissed.

8. Appellant failed to order the transcript and request permission to order the transcript outside of the filing deadline within the ten day deadline.

9. On or about November 18, more than thirty days after the second deficiency letter, the Clerk issued a dismissal for failure to order the transcript. This dismissal was sent to the address Appellant provided, "1901 Woodruff Road #123, Greenville, SC 29607."

10. On or about November 23, 2022, Mr. Jones, not Appellant and not her attorney, again after receipt of the dismissal, contacted the Court allegedly filing a motion for extension of time. In this motion, Appellant stated that she provided the incorrect address, thus the second deficiency letter was delayed.

11. On or about November 29, 2022, the Clerk provided Appellant with a third deficiency letter requesting Appellant provide the filing fee and a proof of service. This was again sent to "1901 Woodruff Road #123, Greenville, SC 29607," the allegedly incorrect address

12. On December 20, 2022, counsel for Respondent contacted the Clerk to inquire whether Appellant had corrected the deficiencies stated in the third deficiency letter. Counsel was informed that the corrections were submitted on or about December 16, 2022, however counsel still has not received any filing or submission from Appellant regarding the corrections to the third deficiency letter.

### **ARGUMENT**

Respondent objects to the Appellant's Motion for Reinstatement and respectfully requests the Court deny the Motion and dismiss the Appeal. Under Rule 260 of the South Carolina Appellate Court Rules, a case shall be reinstated only upon good cause shown after notice to all parties. First, as of the date of submission of this Response, Respondent has not received the proof

of service or proof of filing fee from Appellant. Second, it is improper for Mr. Jones to allegedly represent Appellant as he is not an attorney. Third, Appellant has not established good cause. Appellant was responsible for providing the proper address and, in fact, did receive correspondence from the Court of Appeals to the address originally provided – specifically both the first deficiency letter and the third deficiency letter. Moreover, “[a] *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” *State v. Burton*, 356 S.C. 259, 265, 589 S.E.2d 6, 9 (2003).

Appellant provided her address to the Court of Appeals, and she is responsible for ensuring all of her information is correct. Appellant clearly received the first deficiency letter from the Clerk, even if the address she provided was incorrect, as Appellant responded within the timeframe requested. Furthermore, Appellant’s appeal was not dismissed until more than thirty days after the second deficiency letter, more than enough time for the letter to have been received by her or returned to the Clerk’s office if there was a failure for it to be received. Finally, Appellant received the Dismissal to the same allegedly incorrect address given that she responded within fifteen (15) days of the date on the letter. Good cause cannot be established based on Appellant’s inconsistent representations regarding her address as well as her own dilatory actions.

Finally, to the extent Appellant has proper claims, she has a recourse for her claims to be heard on the merits – arbitration. The dismissal of this appeal and the underlying lawsuit do not deny her the opportunity to have any proper claims heard. Rather, Appellant has simply been ordered to pursue these claims in arbitration, the proper forum.

**CONCLUSION**

Therefore, Respondent respectfully requests this Court deny Appellant's Motion for Reinstatement and affirm the Dismissal of her appeal, permitting her to pursue any claims in arbitration.

Respectfully submitted,

s/Emily I. Bridges

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ATTORNEYS FOR RESPONDENT

December 28, 2022  
Greenville, South Carolina

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**CERTIFICATE OF SERVICE**

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This is to certify that a copy of **RESPONDENT'S MOTION TO DISMISS APPELLANT'S APPEAL AND OBJECTION TO APPELLANT'S MOTION TO REINSTATE** has been served upon the following pro se Plaintiff by placing the same in the United States mail, certified first class postage prepaid, addressed to the following as shown below this 28th day of December, 2022.

Lois Seaborn, Personal Representative  
For Nathaniel J. Colbert  
1901 Woodruff Rd., Apt 123  
Greenville, SC 29607

Lois Seaborn, Personal Representative  
For Nathaniel J. Colbert  
1901 Woodruff Rd., Apt 1234  
Greenville, SC 29607

This is to further certify that a copy of **RESPONDENT'S MOTION TO DISMISS APPELLANT'S APPEAL AND OBJECTION TO APPELLANT'S MOTION TO REINSTATE** has been served upon the Court of Appeals via electronic means to the address [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org) on this 28th day of December, 2022.

s/Emily I. Bridges  
Emily I. Bridges  
Parker Poe Adams & Bernstein LLP