

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master In Equity

Appellate Case No.: 2012-213632

HSBC Bank USA, National Association as
Trustee for Wells Fargo Asset Securities
Corporation, Mortgage Pass-Through
Certificates Series 2006-AR18,Respondent,

v.

Kenneth C. Feagin,Appellant.

APPELLANT'S RETURN TO RESPONDENT'S MOTION TO DISMISS

Appellant Kenneth C. Feagin ("Feagin") respectfully requests the Motion to Dismiss filed by Respondent ("Wells Fargo") be denied for the following reasons:

1. Appellant is appealing two orders, an Order and Decree of Foreclosure dated and filed August 10, 2012, and an Order Denying Plaintiff's [sic] Motion to Reconsider dated and filed November 15, 2012.

2. As correctly indicated on Page 4 of Feagin's motion for reconsideration that was filed in the lower court on August 24, 2012 and attached by Wells Fargo to its Motion to Dismiss, Feagin received the Order and Decree of Foreclosure on August 15, 2012 (not August 11, 2012).

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SC Court of Appeals

3. Feagin's Initial Brief also correctly indicates that the date Appellant received the Order and Decree of Foreclosure was August 15, 2012 (not August 11, 2012).

4. Michael S. Cashman, an attorney for Wells Fargo, served a copy of the Order and Decree of Foreclosure on August 17, 2012 as evidenced by a cover letter and Certificate of Service attached as **Exhibit 1**.

5. The date of "August 11, 2012" listed in the Notice of Appeal constitutes a clerical error. The Order and Decree of Foreclosure was clocked in the Spartanburg County Clerk of Court at 4:00 p.m. on August 10, 2012.

6. Feagin received written notice of entry of the Order and Decree of Foreclosure on Wednesday, August 15, 2013, when his attorney, Max T. Hyde, Jr., received a copy of the order. See Affidavit of Max T. Hyde, Jr. attached as **Exhibit 2**. The reverse side of the last page of this order was stamped by the office of Feagin's attorney to reflect that the order was received on August 15, 2013. A two-sided copy of this last page is attached as **Exhibit 3**. Also, the client's file contains two privileged e-mails substantiating that Max T. Hyde, Jr. received written notice of entry of the Order and Decree of Foreclosure on August 15, 2013. Redacted versions of these e-mails have been marked as **Exhibit 4** and **Exhibit 5**.

7. Clerical errors in a notice of appeal do not destroy the appeal. Charleston Lumber Co. v. Miller Housing Corp., 318 S.C. 471 (Ct. App. 1995).

8. Wells Fargo never raised to the lower court any issue relating to the timeliness of Feagin's motion for reconsideration.

9. The deadline for filing and serving Feagin's motion for reconsideration was Monday, August 27, 2012. Since Feagin's motion for reconsideration was filed and served on August 24, 2012—nine (9) days after Feagin received written notice of entry of the Order and

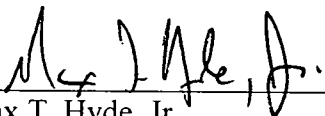
Decree of Foreclosure--the time for appeal was stayed and ran from receipt of written notice of entry of the order denying the motion for reconsideration. Rule 203(b)(1), SCACR; Rule 59(f), SCRCP. Accordingly, the time for appeal ran from November 15, 2012, the date that Feagin received written notice of entry of the order denying Feagin's motion for reconsideration.

10. Appellant timely served its Notice of Appeal on December 12, 2012, within thirty (30) days after receipt of written notice of entry of the order denying Feagin's motion for reconsideration.

11. While the Notice of Appeal contained a clerical error stating "August 11, 2012" instead of August 15, 2012, the appeal remains timely. Wells Fargo's Motion to Dismiss should be denied.

Respectfully submitted,

June 21, 2013



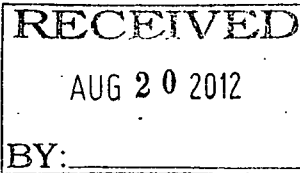
Max T. Hyde, Jr.
HYDE LAW FIRM, P.A.
753 East Main Street, Suite One
Spartanburg, South Carolina 29302
(864) 804-6330
ATTORNEY FOR APPELLANT

EXHIBIT 1

WOMBLE
CARLYLE
SANDRIDGE
& RICE
A LIMITED LIABILITY
PARTNERSHIP

550 South Main Street
Suite 400
Greenville, SC 29601

Mailing Address:
Post Office Box 10208
Greenville, SC 29603
Telephone: (864) 255-5400
Fax: (864) 255-5440
www.wcsr.com



Michael S. Cashman
Direct Dial: (864) 255-5430
Direct Fax: (864) 239-5880
E-mail: mcashman@wcsr.com

August 17, 2012

Travis S. Greene, Esq.
Law Offices of Travis S. Greene, PC
104 N. Daniel Morgan Ave., Ste. 108
Spartanburg, SC 29306

Mountain 1st Bank & Trust Co.
101 Jack St.
Hendersonville, NC 28792

Max T. Hyde, Esq.
Max Hyde Law Firm
517 E. St. John St.
Spartanburg, SC 29302

**Re: HSBC Bank USA, National Association as Trustee for Wells Fargo Asset
Securities Corporation, Mortgage Pass-Through Certificates Series 2006-AR18
v. Kenneth C. Feagin and Mountain 1st Bank & Trust Co.
C.A. No. 2011-CP-42-1284 (Consolidated with 2010-CP-42-1689)**

Gentlemen:

Enclosed and served upon is a Notice of Sale and Order and Decree of Foreclosure
signed by Judge Gordon G. Cooper.

With kind regards, I remain

Very truly yours,

WOMBLE CARLYLE SANDRIDGE & RICE
A Professional Limited Liability Company

Michael S. Cashman

Michael S. Cashman

MSC:scc
Enclosure

cc: Hope Blackwell, Clerk of Court
(without enclosures)

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
SEVENTH JUDICIAL CIRCUIT

HSBC BANK USA, NATIONAL)
ASSOCIATION as Trustee for Wells)
 Fargo Asset Securities Corporation,)
 Mortgage Pass-Through Certificates)
 Series 2006-AR18,)

Civil Action No. 2011-CP-42-1284
(Consolidated with 2010-CP-42-1689)

CERTIFICATE OF SERVICE

Plaintiff,

vs.

KENNETH C. FEAGIN;)
MOUNTAIN 1ST BANK & TRUST)
CO.,)

Defendants.

The undersigned hereby certifies that, on this 17th day of August, 2011, she mailed a copy of the attached **NOTICE OF SALE AND ORDER AND DECREE OF FORECLOSURE** United States First Class Mail, proper postage affixed, addressed to the person(s) hereinafter named, at the place(s) and address(es) stated below, which is/are the last known address(es):

Travis S. Greene, Esq.
Law Offices of Travis S. Greene, PC
104 N. Daniel Morgan Ave., Ste. 108
Spartanburg, SC 29306

Mountain First Bank & Trust Co.
101 Jack St.
Hendersonville, NC 28792

Max T. Hyde, Esq.
Max Hyde Law Firm
517 E. St. John St.
Spartanburg, SC 29302



Susan Church, Legal Assistant

EXHIBIT 2

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

Gordon G. Cooper, Master In Equity

Appellate Case No.: 2012-213632

HSBC Bank USA, National Association as
Trustee for Wells Fargo Asset Securities
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Certificates Series 2006-AR18,Respondent,

v.

Kenneth C. Feagin,Appellant.

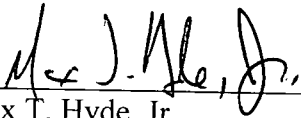
AFFIDAVIT OF MAX T. HYDE, JR.

PERSONALLY APPEARED BEFORE ME, Max T. Hyde, Jr., Attorney at Law, who
being first duly sworn, does state as follows:

I received written notice of entry of the Order and Decree of Foreclosure on Wednesday,
August 15, 2013. The reverse side of the last page of the order I received on August 15, 2013
was stamped by my office to reflect that the order was received on August 15, 2013. **Exhibit 2** is
a two-sided copy of that page. Also, the client's file contains two privileged e-mails

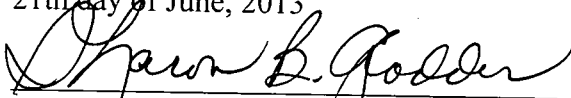
substantiating that I received written notice of entry of the Order and Decree of Foreclosure on August 15, 2013. Redacted versions of these e-mails have been marked as **Exhibit 4** and **Exhibit 5**.

FURTHER AFFIANT SAYETH NOT.



Max T. Hyde, Jr.

Sworn to and subscribed before me this
21th day of June, 2013



Notary Public for South Carolina
My Commission Expires: 5-12-2020

EXHIBIT 3

RECEIVED
AUG 15 2012
BY: _____

S

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EXCEPTING ALL of the property located in Polk County, North Carolina, as described in Deed Book 255 at Page 1621, in the Polk County Registry.

ALSO EXCEPTING a 30 foot right of way, beginning at the terminus of the 2nd call in the abovescribed tract, thence from said point in the center of an existing 30' right of way, as follows: North 18 degrees 29' 01" East 5.06'; North 49 degrees 11' 16" East 30.29'; North 09 degrees 15' 24" East 25.99'; North 08 degrees 12' 32" West 27.09'; North 22 degrees 39' 59" West 22.29'; North 49 degrees 48' 46" West 72.48" North 32 degrees 37' 21" West 57.88'; North 28 degrees 38' 39" West 70.74'; North 28 degrees 30' 09" West 41. 23' and North 60 degrees 16' 07" West 18.96' to a point in the NC-SC State Boundary line.

This being the same property conveyed to Kenneth C. Feagin by deed of Franc R. Myers and Catherine E. Myers dated June 18, 1999 and recorded on June 22, 1999 in Book 70-C at Page 308 in the Office of the ROD for Spartanburg County, South Carolina.

Property Address: 0 North Pacolet Rd a/k/a 1294 Jackson Grove Road
Landrum, SC 29356

TMS# 1-03-00-004.07

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2012 AUG 10 PM 4: 01
M. HOPE BLANKLEY

EXHIBIT 4

Max Hyde

From: Max Hyde
Sent: Wednesday, August 15, 2012 4:39 PM
To: [REDACTED]
Subject: HSBC Bank USA v. Feagin (2011-CP-42-1284)/Order
Attachments: Order.pdf

Importance: High

Please find attached a copy of the Order and Decree of Foreclosure, which I received today (Wednesday, August 15, 2012).

[REDACTED]

Max T. Hyde, Jr.
HYDE LAW FIRM, P.A.
517 East Saint John Street
Spartanburg, SC 29302
p 864-804-6330
max@maxhydelawfirm.com
www.maxhydelawfirm.com

EXHIBIT 5

Max Hyde

From: Max Hyde
Sent: Thursday, August 16, 2012 9:11 AM
To: [REDACTED]
Subject: Feagin/Rule 59 motions

Importance: High

[REDACTED]

[REDACTED]

[REDACTED]

I received the order yesterday, [REDACTED]

[REDACTED]

[REDACTED]

Max T. Hyde, Jr.

HYDE LAW FIRM, P.A.

517 East Saint John Street
Spartanburg, SC 29302

p 864-804-6330

max@maxhydelawfirm.com

www.maxhydelawfirm.com