

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

69261

APPELLATE CASE NO. 2013-001185

DEUTSHE BANK NATIONAL TRUST COMPANY AS TRUSTEE FOR THE MLM1 TRUST
SERIES 2007 – MLN1 ... RESPONDENT

VS

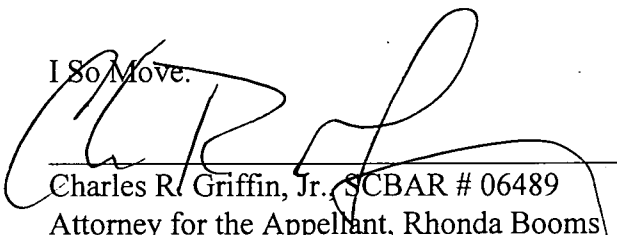
RHONDA BOOMS ... APPELLANT

MOTION TO REINSTATE APPEAL AND EXTEND TIME TO OBTAIN TRANSCRIPT

The undersigned, attorney for the Appellant, pursuant to Rule 260, SCACR, hereby moves to reinstate the Appellant's Appeal which was administratively dismissed by Order of the Clerk of the Court of Appeals on July 12, 2013 and pursuant to Rule 263, SCACR to obtain additional time to obtain trial transcript .

The grounds for the dismissal stated in the Order include the Appellant failed to provide information regarding the transcript and/or has failed to serve and file Appellant's initial brief and designation of matter.

I So Move.



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MEMO IN SUPPORT OF MOTION TO REINSTATE APPEAL AND EXTEND TIME

BACKGROUND

This appeal was commenced by the filing and service of a Notice of Intent to Appeal the Order dated May 7, 2013 denying Appellant Rhonda Booms' Motion to Reconsider and/or for a New Trial and Ordering that the foreclosure sale be held on the next available sale date.

In this case a trial was held in 2011 and a hearing was held on April 18, 2013 from which the Order dated May 7, 2013 was issued.

Appellant's attorney requested the transcript from the hearing held on April 18, 2013 from Jo Rice. Appellant's attorney received a letter from Jo Rice dated June 22, 2013 stating that she would get the transcript to Appellant's attorney as soon as she could. A copy of said letter is attached hereto and made a part hereof by reference.

Appellant's attorney requested the trial transcript Renee Tollison, but was subsequently informed that by Ms. Tollison that she did was not the Court Reporter in the Trial. Ms. Tollison informed appellant's attorney that Margaret Woods was the Court reporter for that term of Court and appellant's attorney has subsequently requested the transcript from Ms. Woods. A copy of

that letter is attached hereto and made a part hereof by reference.

Since the trial was held in 2011, appellant's attorney has had to downsize his law office and eliminate staff due the recent economic recession and the fact that appellant's attorney had been under the care of physician since being diagnosed and treated for a life threatening illness (Cancer) in 2009. This case started well before appellant's attorney was diagnosed and treated for this life threatening illness.

Appellant's attorney changed his calendaring system and unfortunately some data, i.e., the trial date regarding this case was lost, and appellant's attorney inadvertently requested the trial transcript from Ms. Tollison.

ARGUMENT

Whenever it appears that an appellant or a petitioner has failed to comply with the requirements of these Rules, the clerk shall issue an order of dismissal, which shall have the same force and effect as an order of the appellate court. A case shall not be reinstated except by leave of the court, upon good cause shown, after notice to all parties. The clerk shall remit the case to the lower court or administrative tribunal in accordance with Rule 221 unless a motion to reinstate the appeal has been actually received by the court within fifteen (15) days of filing of the order of dismissal (the day of filing being excluded). *Rule 260, SCACR.*

The time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof. *Rule 263, SCAC*

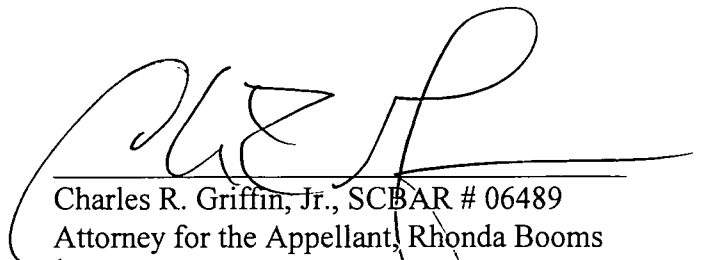
The standard for reinstating an appeal pursuant to *Rule 260, SCACR* is a mere "good cause" standard. The "good cause" standard is also found in the context of Rule 55(c) SCRCF. Rule 55(c) permits a party to move to set aside the entry of default, and the standard for granting

relief from an entry of default under Rule 55(c) is good cause. This standard requires a party seeking relief from an entry of default under Rule 55(c) to provide an explanation for the default and give reasons why vacation of the default entry would serve the interests of justice. *Regions Bank v. Owens*, 402 S.C. 642 (S.C. Ct. App. 2013).

As stated earlier this case was dismissed administratively. Appellant's attorney has set forth reasons as to the events prior to this case being administratively dismissed.

CONCLUSION

Appellant has satisfied the mere good cause standard for the appeal to be reinstated and requests that this appeal be reinstated and that appellant be granted additionally time to obtain the necessary transcripts.



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Dated: July 25, 2013

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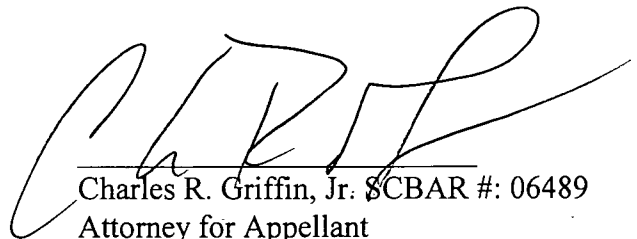
PROOF OF SERVICE

I hereby certify that on July 25, 2013 a copy of the Motion to Reinstate Appeal and Extend Time along with Memo in Support was served by regular United States Mail to:

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Dated: July 25, 2013

JUL 26 2013

SC Court of Appeals