
**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

APPEAL FROM BEAUFORT COUNTY

Marvin H. Dukes, III, Master in Equity

Appellate Case No. 2023-000421

Southern First Bank..... Appellant,

v.

Kenneth J. Vilcheck, Renee M. Vilcheck, Portfolio Recovery Associates, LLC, The Federal Housing Commissioner, The Department of the Treasury – Internal Revenue Service, and The South Carolina Department of Revenue..... Respondents.

RETURN TO MOTION TO MOTION TO REQUIRE SERVICE OF RECORD ON APPEAL

Appellant, Southern First Bank, hereby files this Return to Respondents’, Kenneth J. Vilcheck and Renee M. Vilcheck (“Respondents” or “Vilchecks”) Motion to Require Service of the Record on Appeal (the “Motion”). The Motion is moot and should be dismissed as detailed below.

1. Appellant served its Initial Brief and Designation of Matters (“DOM”) on January 4, 2024.
2. Respondents served their Initial Brief and a document labeled Designation of Matters on December 4, 2023.
3. Respondents’ DOM did not comply with SCARC 209 because it contained mostly general categories of documents and not specific items as required under the Rule, most notably subpart (a) which requires the DOM to “set forth with specificity those parts of the

transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal.” And subpart (b) which states in part that “The Designation must clearly identify what the party desires to have included in the Record on appeal....” ...

4. Appellant counsel emailed Respondents’ counsel, noted their DOM was not compliant with SCACR 209 and asked that a Rule compliant DOM be served. Respondents’ counsel refused.
5. Regardless, Appellant counsel attempted to work with Respondents’ counsel to address the issue and include everything that the parties wished to be included in the Record on Appeal (“ROA”).
6. The ROA was compiled and served on February 2, 2024.
7. A few days before Final Briefs were due, it became clear there had been a miscommunication between counsel, and Respondents’ counsel wanted additional documents included in the ROA.
8. Again, Appellant counsel requested Respondents’ counsel provide a compliant DOM so they could ensure everything was included in a supplemental ROA.
9. Respondents’ counsel again refused.
10. Regardless, Appellant counsel undertook compiling a Supplemental ROA which has now been served prior to this filing.
11. Respondents’ counsel filed the instant Motion the day he knew Appellant counsel was undergoing surgery.
12. The Motion was unnecessary and now rendered moot by the refile of the original ROA¹

¹ It appears from review of Appellant’s file that the stamped ROA filed on February 2, 2024, did not contain the cover page, index, certification of counsel, and certificate of service. Therefore, Appellant has refiled that original ROA.

and filing of the supplemental ROA today.

13. Accordingly, Respondents' Motion should be dismissed.

Respectfully Submitted,

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Greenville, South Carolina