

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

The Honorable Edward B. Cottingham
Lexington County

Case No. 2011-197766

69653

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SEP 05 2013

SC Court of Appeals

Deutsche Bank Trust Company Americas
As Trustee for RALI2007QS8,
H. Guy Gantt, Intervener,

Respondents,

v.

Janice Cross, South Carolina National Bank, N.A.,
Of Whom Janice Cross is

Defendants,

Appellant.

MOTION TO DISMISS APPEAL

Appellee Deutsche Bank Trust Company Americas As Trustee for RALI2007QS8 (“Deutsche Bank Trust”) hereby moves to dismiss the Appeal filed by Appellant Janice Cross. In support of its motion, Deutsche Bank Trust states as follows:

1. Appellant Cross is appealing *pro se* the denial of her Rule 60(b) Motion to Vacate a Void Judgment in a routine foreclosure action. Appellant Cross filed a Notice of Appeal to this Court on August 26, 2011.

2. Appellant Cross then filed a motion to extend the time to file her initial brief on September 23, 2011. Appellant's motion to extend was granted. Appellant also filed a motion to exceed the page limit imposed by this Court's rules, stating that her brief would be approximately 60 pages.

3. Appellant filed her initial brief on October 31, 2011. This Court subsequently denied the motion to exceed the page limit on November 21, 2011.

4. Appellant also filed a motion to order the transcript out of time, which was granted by this Court on November 21, 2011. Appellant was ordered to serve and file an amended initial brief within thirty (30) days of receiving the transcript.

5. Appellant filed her amended initial brief on December 21, 2011. This brief consisted of fifty (50) pages of single-space text in less than 12 point font. Accordingly, Deutsche Bank Trust filed a motion to strike the amended brief on January 5, 2012.

6. This Court granted Deutsche Bank Trust's motion to strike the amended brief on February 9, 2012, giving Appellant twenty (20) days to file the amended initial brief. Appellant filed her brief on February 29, 2012.

7. Deutsche Bank Trust filed its Designation of Matter on April 24, 2012 and served it on Appellant Cross on April 23, 2012.

8. Appellant Cross made four (4) requests to serve and file the Record on Appeal. This Court granted her requests and, on February 4, 2013, ordered her to serve the Record on Appeal by March 4, 2013.

9. Appellant Cross served the Record on Appeal on Deutsche Bank Trust on March 8, 2013.

10. Deutsche Bank Trust filed two motions to strike the Record on Appeal and a supplemental "Appendix," based on Appellant's failure to include several matters designated by

Deutsche Bank Trust and her inclusion of matters not presented to the lower court. On July 18, 2013, this Court granted Deutsche Bank Trust's motions, in part, and ordered Appellant Cross to serve and file an amended Record on Appeal by August 7, 2013.

11. On August 6, 2013, Appellant Cross filed a motion for reconsideration and "for instructions on how to file an interlocutory appeal." Appellant has not complied with this Court's order to serve and file an amended Record on Appeal.


12. It has now been over two (2) years since the initiation of this appeal and there is no Record on Appeal that complies with the South Carolina Rules of Appellate Procedure. Appellant Cross has continued to request numerous extensions and to file motions brought in an apparent attempt to delay the appeal.

13. South Carolina Rule of Appellate Procedure 269 provides that the Court may impose "such sanctions as the circumstances of the case and discouragement of like conduct in the future may require."

14. The South Carolina Court of Appeals' website states "[i]f you pursue your appeal without the assistance of a lawyer, you nevertheless are required to comply with the South Carolina Appellate Court Rules." South Carolina Court of Appeals, <http://www.sccourts.org/appeals/FAQ.cfm#needLawyer> (last visited September 3, 2013). Undersigned counsel recognizes that Appellant is *pro se*, and as such, she should not be unjustly penalized for violating the rules of procedure. However, Appellant's continued abuse of the rules in this case amounts to a substantive violation that has prejudiced Deutsche Bank Trust.

15. In light of these issues, Deutsche Bank Trust submits that the interests of justice would best be served if the Court dismissed the Appeal filed by Appellant Cross.

WHEREFORE, Appellee Deutsche Bank Trust respectfully requests that this Court dismiss the Appeal filed by Appellant Cross.



Mark Wierman (SC Bar No. 78537)
BRADLEY ARANT BOULT CUMMINGS LLP
100 North Tryon Street, Suite 2690
Charlotte, North Carolina 28202
(704) 388-6015 (T)
(704) 332-8858 (F)
mwierman@babbc.com

Attorney for Defendant Deutsche Bank Trust


CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Dismiss Appeal was deposited in the United States Mail, postage prepaid, and addressed as follows:

Janice M. Cross
P.O. Box 2453
West Columbia, South Carolina 29171
Pro Se

Henry H. Taylor, Esq.
3618 Sunset Blvd., Suite D
West Columbia, South Carolina 29169
Attorney for Defendant
H. Guy Gantt

This the 4th day of September 2013.



OF COUNSEL

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BRADLEY ARANT
BOULT CUMMINGS
LLP

Jade D. Robey

Direct Dial: (704) 338-6011
Direct Fax: (704) 332-8858
jrobey@bab.com

September 4, 2013

VIA FEDERAL EXPRESS

South Carolina Appeals Clerk of Court
1015 Sumter Street
Columbia, SC 29201

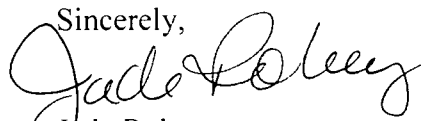
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Re: Deutsche Bank Trust Company Americas as Trustee for RALI 2007QS8, et al. v.
Janice Marie Cross
South Carolina Court of Appeals Case 2011-197766

Dear Sir or Madam:

Enclosed please find one original and six (6) copies of the Motion to Dismiss Appeal with a \$25.00 check for the Motion fee. Please file accordingly and return the file-stamped copy to our office in the enclosed self-addressed, stamped envelope provided for your convenience.

Please do not hesitate to call our office if you have any questions regarding this matter.

Sincerely,

Jade Robey

Enclosures

cc: Janice Cross
Henry H. Taylor