THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Edward B. Cottingham, retired judge from the Fourth Judicial Circuit
James O. Spence, master in equity for the Eleventh Judicial Circuit

---

Case No. 2011-197766
(Case No. C/A 2009-CP-32-05140 from Lexington County)

Deutsche Bank Trust Company Americas
As Trustee for RALI2007QS8, Respondent,

H. Guy Gantt, Intervenor, Respondent,

v.

Janice Cross, South Carolina National Bank, N.A., Defendants,

Of Whom Janice Cross is, Appellant.

RETURN TO THE MOTION TO DISMISS THIS APPEAL
AND A MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION

NOTICE REGARDING APPEAL

Appellant herein serves notice of her intent to file an interlocutory or other appeal pursuant to: (1) her RETURN TO THE MOTION filed on April 05, 2013 and April 23, 2013 (2) the Court's order of July 18, 2013 stating in error "This court did not receive an actual return" (3) Appellant's MOTION FOR RECONSIDERATION, and (4) the Court's letter of September 03, 2013 that the MOTION FOR RECONSIDERATION "cannot be addressed by the Court pursuant to Rule 240(i), SCACR."

THE BASIC FACTS

Respondent Deutsche Bank's misguided motion to dismiss this appeal is due to be stricken and denied by this Court, which previously and incorrectly denied Appellant her procedural and substantive due process of law right to be heard with respect to her April 23, 2013 RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS MOTION TO STRIKE THE ALLEGED 'APPENDIX' TO THE RECORD ON APPEAL.

On April 05, 2013, Appellant filed a RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS' MOTION TO STRIKE THE RECORD ON APPEAL.

In its order of July 18, 2013, the Court granted all of the elements of Respondent Deutsche Bank's MOTION TO STRIKE THE APPENDIX, but stated in error regarding this Appellant's timely filed RETURN TO THE MOTION, "This court did not receive an actual return." The attachments to this Return to the Motion to Dismiss prove otherwise.

Appellant can only surmise in good faith that the Court somehow overlooked or may have misplaced her timely filed RETURN TO THE MOTION TO STRIKE, since Appellant did in-fact file the return with the Court and did serve the parties.

This Court has the power and Constitutional obligation to hear Appellant's duly filed Return to the Motion to Strike for the first time and to construe it as a valid return.

As a result of the above error, the Court's order merely repeats the errors of Deutsche Bank in its misguided motions, first to strike the entire Record on Appeal, then to strike the so-called Appendix and other documents that do in fact appear in the lower court case file or otherwise were filed timely prior to the execution on September 1, 2011 of the eviction order of Edward B. Cottingham, which order is the subject of this appeal..

There are various reasons why the Court should deny the motion to dismiss.

REASONS TO DENY THE MOTION TO DISMISS

First: the order and the motion violate substantive and procedural due process rights. First, the Court's order and the motion to dismiss deny Appellant's right to be heard. Second, the documents the Court ordered Appellant to produce do not exist.

Therefore, the order itself should be reversed by this Court *sua sponte* in favor of Appellant's Return to the Motion to Strike, and the motion to dismiss should be denied.

In Deutsche Bank's misguided motion and in the subsequent order, Appellant is ordered by the Court in error to produce documents that simply do not exist in the lower court case file as Appellant clearly showed in her April 23 and April 05 Returns to the Motion to Strike and as cited in her timely filed MOTION FOR RECONSIDERATION.

The Court has ordered Appellant to do the impossible, and the law does not admit of impossibilities. The items the Court ordered that do not exist include the documents found in the Court's footnote of the order known as items 2, 3, 4 and 5.

1. First, there IS no "(2) *Notice* Regarding the Memorandum of Law in Support of the Motion to Dismiss." Is proof of service perhaps the Court's meaning, despite the rule?

2. Second. There IS no "(4) January 11, 2011 record of hearing."

3. Third, there IS no "(5) January 18, 2011 order denying motion to dismiss."

These items do not exist. This is a phantom hearing, and a phantom order. There WAS no hearing, and there WAS no such order. **Appellant has stated this repeatedly**.

4. Fourth, as to item 3 found in the footnotes of the Court's July 18, 2013 order, Appellant did not order the trial transcript – Respondent Deutsche Bank did.

As such, Appellant has no copy of a full transcript. **None exists in the case file for Appellant to produce, and none was provided by the lower court.**

Appellant addresses this issue on pages 5 and 6 of her April 05, 2013 RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS' MOTION TO STRIKE THE RECORD ON APPEAL that is clearly on file with the Court.

Deutsche Bank misleads this Court to compel Appellant to produce documents it well knows do not exist, and the Court should well know by now they do not exist.

Appellant did not receive a full transcript of the trial. None is in the case file. Respondent Deutsche Bank hired WILLIAM ROBERTS, JR. & ASSOCIATES as transcriptionist. Appellant did not.

Neither Deutsche Bank nor the lower court has ever provided a full transcript, only a condensed transcript. Appellant has been told by Court personnel that the Court will not accept condensed transcripts in the Record on Appeal, and would reject it on Appeal on that basis alone. Appellant has explained this repeatedly in the unread files.

Moreover, the issues raised at trial are far fewer than those addressed in the motion hearing that immediately preceded it, and are already thoroughly addressed in the 41 pages from the motion hearing transcript that Appellant has already generously provided (**R. pp. 241-282**) and must pay to reproduce.

Had the Court actually considered Appellant's RETURN TO THE MOTION TO STRIKE THE ALLEGED "APPENDIX" or the RETURN TO THE MOTION TO STRIKE THE RECORD, or had the Court called up the case file from the civil court as expressly provided for by the appellate rules when there is a controversy on its contents, it would have known that the three above-cited documents as ordered do not exist.

As to item 7, the April 12, 2011 stipulation and consent to the issuance of a consent order and accompanying consent order already appear in the Record and in Deutsche Bank's reply brief as an exhibit.

With all due respect, the Court is merely repeating the errors of Respondent Deutsche Bank's counsel, a man who was not present during the lower court proceedings, and who has no firsthand knowledge of what actually took place.

Accordingly, the Court has denied to this Appellant a hearing on her RETURN TO THE MOTION TO STRIKE THE "APPENDIX." Appellant's return rebuts the errors of Respondent Deutsche Bank Americas as Trustee point-by-point, as does her April 05, 2013 RETURN TO THE MOTION TO STRIKE THE RECORD ON APPEAL.

But her Return to the Motion(s) was (were) never heard or considered.

.As a result, the Court's order has denied to this Appellant the fundamental right to full due process of law guaranteed to her under the Fifth and Fourteenth Articles of Amendment to the Constitution for the United States of America, and Article 1 Section 3 of the South Carolina Constitution.

Accordingly, the September 03, 2013 letter signed by Deputy Clerk V. Claire Allen, in which it was determined that this Appellant's "motion (for reconsideration) cannot be addressed by the Court pursuant to Rule 240(i), SCACR," appears to beg the question of a "re-hearing," because no initial hearing ever took place to begin with.

With all due respect, Appellant avers that Rule 240(i) is being misconstrued, for the Court is to entertain petitions for a "rehearing" on a motion or petition "if ('unless') the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal," which in this case, it would.

The Court's order of July 18, 2013 would so impair this Appellant's Final Brief and Record on Appeal as submitted that it would have the practical effect of eviscerating and destroying this appeal altogether and totally without cause.

In actuality, Appellant's MOTION FOR RECONSIDERATION is not a request

for a "re-hearing" at all, because no hearing ever took place per the Court's order, but as it turns out, the MOTION FOR RECONSIDERATION is a request for a hearing on the original RETURN TO THE MOTION itself which the Court stated it did not receive, when the facts of record show that the return was duly filed and served by Appellant.

Perhaps above all else, a Tribunal is expected to be fair. This Court has the power to hear Appellant's Return(s) in simple fairness and to construe them accordingly.

Secondly: the order is *ex parte*. The motion to dismiss should also be denied, because the Court has acted in an *ex parte* capacity and granted to the wrong Respondent the motion to strike the proofs of insufficiency of process and insufficiency of service of process that deal with an actual summons and complaint filed into the record by Respondent and "movant" H. Guy Gantt, a man who is represented by separate counsel altogether, and not by Respondent Deutsche Bank Americas as Trustee.

In fact, the record shows that Respondent H. Guy Gantt has never responded AT ALL to this appeal. He did not ask that the proofs of insufficiency of process and insufficiency of service of process be expunged.

Accordingly, by granting to the wrong party the MOTION TO STRIKE these proofs, this Court is acting in an *ex parte* capacity with respect to the summons and complaint of Respondent H. Guy Gantt along with Appellant's motion in reply titled, NOTICE AND DEMAND FOR ABATEMENT OF THE PROCEEDINGS (**R., pp. 38-44**). This is but one of SEVERAL motions that are the subject of this appeal.

Yet, Respondent Deutsche Bank Americas as Trustee persists in misleading this Honorable Court that Appellant has only one "routine" motion that is under appeal.

Moreover, for the Court to act *ex parte* on behalf of a party that has no standing in the matter and to order this Appellant to expunge the proofs of insufficiency of process

and insufficiency of service of process (Exhibit 3 - **R., pp. 314-328**), is to deny the related motion itself without a hearing. If the proofs are denied, the motion itself is stripped without cause of its proofs in support, and is effectively denied without cause.

In effect, the Court would yet again deny a motion that is the subject of this appeal without so much as a hearing and would compound the error of the lower court.

The fact is that this Appellant received a mere 5 days' notice between the time she was served process on a duly filed but not duly served summons and complaint of H. Guy Gantt and the time the lower court set a hearing. Respondent Gantt withheld service of process for three full weeks from the time the summons and complaint were clocked into the case file and the time Appellant was served. This judicial misconduct violated Appellant's procedural and substantive rights to due process of law.

She was deliberately denied the opportunity guaranteed to her under the state and federal constitutions, under the statutes, and under the rules of court to answer the summons and complaint of Respondent H. Guy Gantt.

Appellant would have to expunge the entirety of the **Second Issue on Appeal** as found in her Initial and Final Briefs alike, since it addresses the NOTICE AND DEMAND FOR ABATEMENT OF THE PROCEEDINGS and the manifest proofs of insufficiency of process and insufficiency of service of process that motion is based on.

That motion is one of several motions under appeal, and yet the Court would deny the motion and the proofs before it even hears them, all predicated on a motion by a party that does not have standing to move the Court on this point *ex parte* to begin with.

Respondent Deutsche Bank's behavior, therefore, is nothing short of misconduct.

Third, the order and the motion are unfair and against the rules. In effect the order mandates a rewrite of Appellant's Final Brief. The rules of appellate procedure,

however, explicitly require that except for pagination, the **Final Brief much match the Initial Brief exactly**. Appellant has asked the Court to examine the two briefs and the existing 500-page Record on Appeal and to verify that all three of these documents do in fact match the other, but the Court has not done so. The so-called "appendix" is not an appendix. **It is not an afterthought, but is part-and-parcel with the actual record**. Appellant asked proper leave of the Court to include it, for cause, the record shows.

Rule 211(b) of the South Carolina Rules of Appellate Procedure expressly prohibits changes to the Initial or Final Briefs as this Court is inherently ordering, except for pagination and "obvious typographical errors and misspellings which were contained in the initial brief. **No other changes may be made**." The Final Brief will make no sense if so many of the proofs referred to in the Initial Brief are now suddenly expunged.

The Court's order of July 18, 2013 would require an entire re-write of the Final Brief and actual expungement of several of Appellant's 13 Issues on Appeal, including but not limited to the First issue on Appeal and the Second Issue on Appeal.

In addition, the Court previously let stand the Initial Brief when it expressly denied Respondent Deutsche Bank's motion to strike Appellant's Initial Brief. The Court is in effect, now reversing its own order *ex post facto* which previously fixed and established the content of the Initial and Final briefs alike at that time *stare decisis*.

Instead of defending its own weak case, Respondent Deutsche Bank has launched repeated attacks upon Appellant's briefs and the Record on Appeal.

Fourth reason to deny motion to dismiss: The so-called "Appendix" pages pre-exist in the lower court case files as **Exhibits EE, HH and II**. Thus, Deutsche Bank is in error to deny they are of record and is itself responsible for delaying the process.

Accordingly, both the Initial Brief and the Final Brief contain numerous

references to the 80 or so pages that constitute the so-called "Appendix," including the **sworn deposition** testimony of GMAC low-level "signing dummy" Jeffrey Stephan, a man who violated U.S. securities' laws and who impersonated a vice president of Mortgage Electronic Registration Systems (MERS) when he made a bogus assignment of the mortgage and underlying note **in this case** on the day AFTER the lawsuit was filed.

His sworn admission at deposition that he is a GMAC employee and not a MERS vice president after all (pages 5 and 41) is critical to this appeal, and Appellant has referred to it repeatedly throughout the lower case filings and in her Briefs. It was not added after-the-fact, but appears in the Initial Brief. It is a vital part of the record.

Mr. Stephan's "assignment" of the mortgage and underlying note, therefore, is fraudulent to this day. Consequently, the entire process on the part of Respondent Deutsche Bank has been based upon this fraud. Since Deutsche Bank had no standing to sue, it never could acquire standing to sell the property or to evict Appellant.

Appellant argued this in her MOTION TO VACATE A VOID JUDGMENT, but the Cottingham court refused to hear her motion on this reversible error or on the newly discovered evidence of fraud by MERS and GMAC Mortgage pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure. The motion was timely brought.

To expunge the actual record now is to impair Appellant's MOTION TO VACATE A VOID JUDGMENT, which is the subject of this appeal.

With the exception of the 1099-A as explained in Appellant's RETURN TO THE MOTION TO STRIKE THE ALLEGED "APPENDIX" as well as her MOTION FOR RECONSIDERATION, all of those "appendix" pages do in-fact appear in the lower court case file and Appellant has quoted from those pages repeatedly in documents filed in the lower court that appear throughout the record on appeal.

Those 80 or so pages are not an afterthought. Omitting them was simply an honest mistake this Appellant made and has thoroughly explained in her two RETURN(S) TO THE MOTION TO STRIKE and in her MOTION FOR RECONSIDERATION, none of which this Honorable Court has ever seen or read, it now appears.

Accordingly, those 80 or so pages consist 99 percent of the following:

(1) **Exhibit EE**. This consists of sworn depositions of GMAC low-level "signing dummy" Jeffrey Stephan, who impersonated a vice president of Mortgage Electronic Registration Systems (MERS) and whose name appears in fraud upon the assignment of mortgage and the underlying note that he executed on the day AFTER the foreclosure lawsuit was filed! MERS and GMAC alike have since confessed fraud [SCRCP 60(b)].

Respondent Deutsche Bank Americas as Trustee for the securitized loan trust known as RALI2007QS8 ("Residential Accredit Loans Inc." – a GMAC company) is in gross violation of federal securities laws, particularly Section 860 of the Internal Revenue Code which gave them 90 days to physically transfer the original note and mortgage to the Custodian, not the two years or more that it actually took them, if the fraudulent assignment of imposter Jeffrey R. Stephan is to believed.

Therefore, this matter falls under federal jurisdiction as well.

(2) **Exhibit II**. This consists of newspaper articles in the public domain that Appellant has referenced repeatedly and that do in-fact appear in the lower court case files, despite the repeated false statements by Respondent Deutsche Bank. **The names of "robo-signer" Jeffrey R. Stephan and GMAC Mortgage and Judy Faber appear throughout those news accounts**. They are the same cast of characters in this very case.

(3) **Exhibit HH**. **This four-year-old exhibit consists of case law that is critical to this case, including suit brought by the U.S. attorney against Deutsche Bank and**

a case brought by the Ohio Attorney General against Jeffrey R. Stephan and GMAC Mortgage for the exact same frauds that have occurred in this case.

The exhibit has been in the case file for a long time and Appellant cites them repeatedly her Final Brief and filings as it will inform the reasoning of this Honorable Court. It is part-and-parcel of the record, despite the false statements by opposing counsel to the contrary. Why would opposing counsel possibly be opposed to relevant case law?

Fraud: Fifth reason to reverse the order and to deny the motion to dismiss: Appellant's inclusion of the $25 billion National Mortgage Settlement pertains to the element of fraud under Rule 60 of the South Carolina Rules of Appellate Procedure as Appellant has argued in her Brief and in her MOTION TO VACATE A VOID JUDGMENT which is one of SEVERAL motions that are the subject of this appeal.

GMAC alone pledged $547 million toward settling their portion of the frauds as ordered by the Office of the Comptroller of the Currency, a federal agency. This is *prima facie* admission of guilt. The National Mortgage Settlement, however, in no way limits the additional remedies available to this Appellant, particularly once she orders a forensic audit of the loan trust within the next 60-90 days.

Accordingly, Rule 60 of the SCRCP provides for Appellant's inclusion of newly discovered evidence relating to the various and sundry frauds that have been committed by MERS, GMAC and Deutsche Bank, as Appellant has argued in her several motions and in her Brief, including but not limited to the MOTION TO VACATE A VOID JUDGMENT, which is only one of several motions which is the subject of this appeal.

Sixth reason to reverse the July 18, 2013 order and to deny the motion to dismiss: Presiding judge wasn't qualified to sit in judgment. This is a threshold issue of due process of law under the state and federal constitutions as thoroughly argued in the

First Issue of the 13 Issues on Appeal that are now before this Honorable Court.

The person who sat in judgment at the eviction hearing and who signed the order for eviction that is the subject of this appeal had no oath of office, and was not qualified to sit in judgment on this case. This is not only a state issue, but a federal issue Failure by this Honorable Court to address this threshold issue may constitute grounds for appeal to the South Carolina Supreme Court and the Fourth Circuit Court of Appeals.

The lack of an oath of office antedated the August 1, 2011 hearing by more than 11 years. Thus, the sworn testimony of an eyewitness that appears as a vital part of this case was made **before** the September 1, 2011 execution of the eviction order that is the subject of this appeal. As such, it is well within the due process scope of this appeal.

Appellant has appealed the lower court order. Is she now to be denied those proofs by a superior court showing that the order has violated her substantive and procedural due process rights guaranteed to her under the state and federal constitutions?

Appellant has produced unrebutted evidence in several places in the Record on Appeal that the presiding officer was not qualified to sit in judgment on this case, supported by sworn testimony the Court would exclude from the record (**R. pp. 29-37**).

Appellant has argued this point thoroughly in the First Issue on Appeal as a threshold issue. It is an issue addressed not only by the Constitution of South Carolina at Article V at Sections 13, 19 and 27, and Article IV at Sections 4, 13, 19 and 27 as already argued in Appellant's Final Brief, but is also required by the Constitution for the United States of America at Article VI Section 3. As such, this is a federal issue.

To expunge sworn testimony that is timely and directly relevant to the order that is the subject of this appeal is to deny this Appellant due process of law under the state and federal constitutions.

With all due respect, it also creates the appearance of a conflict of interest on the part of this Honorable Court, which is sworn to uphold the state and federal constitutions.

Seventh reason to reverse order and to deny motion: The sworn testimony supports other proofs in this appeal The pages of sworn testimony the Court has ordered expunged deals with two other key issues Appellant already argued in her Brief.

First is the sworn testimony of John David Cross in which he denied that the color copy of a doctored note of some kind that he witnessed at the deposition of GMAC's Juan Antonio Aguierre is his original instrument. His sworn testimony supports Appellant's proofs that fraud is at the heart of this case on the part of Respondent Deutsche Bank, MERS and GMAC Mortgage.

Second, the sworn testimony the Court has ordered expunged also deals with the deposition transcript of Mr. Aguierre. Mr. Cross witnessed the said transcript at the time of his oath still in its cellophane packaging in the case file with the seal unbroken.

It is that very transcript which Lexington County Master in Equity James O. Spence said at trial that he was "unfamiliar with," although he had charged Respondent Deutsche Bank on the record with bringing the said deposition to trial, which it never did. This is a reversible error in this case, as already argued in Appellant's Final Brief.

Accordingly, this appeal will be severely truncated and prejudiced beyond reclamation unless the Court reverses its order of July 18, 2013 in favor of Appellant's arguments that the Final Brief and Record on Appeal should stand as submitted, and that any additional pages ordered by the Court shall be included in a Supplement to the Record on Appeal, excepting for those items that either do not exist or that are not available to Appellant of record.

Appellant cannot produce that which does not exist.

MORE REBUTTAL TO THE MOTION TO DISMISS

Accordingly, for the above reasons and for the following reasons, Respondent Deutsche Bank's Motion to Dismiss this appeal should be denied by this Honorable Court and the Final Brief and Record on Appeal be ordered to stand as submitted.

To dismiss this appeal would be to deny Appellant the fundamental right to be heard and would violate her procedural and substantive rights to full due process of law.

As one who is unschooled in law, Appellant simply does not know how to get these filings heard absent an appeal of some kind, given the Court's order of July 18, 2013 and the Deputy Clerk's determination of September 03, 2013.

If she is unable to get a hearing in the matter, then Rule 240(i) will have the practical effect of destroying and of dismissing this appeal, which, ironically, would be a a misapplication of the rule itself as argued by deputy court personnel.

As to Respondent Deutsche Bank's Motion to Dismiss the Appeal, Appellant makes these additional points in rebuttal:

1. Respondent Deutsche Bank leaves out the fact that this Court denied Respondent's previous motion to strike Appellant's Initial Brief, and when it did, the Court let that Brief stand intact by Rule as submitted in which except for pagination, the Final Brief must match the Initial Brief, which in this case, it does. If the Court will merely compare the Initial Brief with the Final Brief and the Record on Appeal as submitted, it will find this to be the case.

2. Respondent Deutsche Bank has spent more time filing motions to strike and motions to dismiss than it has spent actually defending its position, and so appears bent on winning the case based on mere procedure if it can, and cares little for fairness, it

appears. As one who is unschooled in law, Appellant has done all in her power to follow procedure, and to preserve her right to procedural and substantive due process.

3. Respondent's point number 5 is in error. Appellant has never submitted a Brief that was "single-pace text in less than 12 point font."

4. Respondent is in gross error on points 8 and 9 as to service and seems to be unable to account for the shortened number of days that comprise the month of February on the Julian calendar. Appellant filed the Record on Appeal timely on March 6, 2013 as ordered by the Court, and Respondent Deutsche Bank received it timely on March 8. Respondent's claim is totally without merit.

5. Respondent is in gross error regarding point number 10 by again alleging that Appellant has included matters not presented to the lower court as Appellant has repeatedly shown. With the exception of the 1099-A, as Appellant has explained regarding THAT fraud as well, all of the 80 pages in the so-called Appendix do in-fact appear in the lower court case filings or otherwise relate directly to the August 1, 2011 order of Edward B. Cottingham, which is the subject of this appeal.

By expunging the actual record, this Court acting at the behest of Respondent Deutsche Bank would deny this Appellant due process of law and would effectively destroy this appeal, including the well-written and well-reasoned Final Brief, and would completely destroy several of the 13 Issues on Appeal.

6. Respondent is in gross error as to its point number 11 regarding the delay in filing an amended Record on Appeal, as Appellant has clearly explained in this RETURN TO THE MOTION TO DISMISS.

7. Respondent resorts to slander in its point number 12. First, Appellant denies that the Record on Appeal as submitted fails to comply with the South Carolina Rules of

Appellate Procedure. Moreover, Respondent Deutsche Bank is acting in an arbitrary and discourteous fashion, if not a dishonorable fashion, by disregarding Appellant's proposed Supplement to the Record on Appeal, when the esquires routinely cooperate with each when producing same.

Appellant finds Respondent Deutsche Bank's accusation repugnant and disingenuous that she is merely attempting to delay the appeal. For one who is unschooled in law to compile and submit a well-argued 50-page Final Brief and a comprehensive 500-page Record on Appeal while working a day job and taking care of a household has been a truly gargantuan task. All of the 13 Issues on Appeal are very serious issues that merit a hearing as already presented to the Court.

Moreover, Appellant has explained to the Court and to her opponent openly that she does in-fact need more time to come up with the $1,000 or so it will take her to publish multiple copies of the Final Brief and the Record on Appeal and has in fact requested extensions of time, all the while working on her documents in good faith.

Appellant assures the Court, however, that she is within a matter of weeks of having the additional funds to produce multiple copies as required.

Meanwhile, if Appellant is compelled to produce documents that do not exist and to rewrite her Final Brief and remove several of the 13 Issues on Appeal, this not only will violate the rules – it will destroy this appeal and will have the effect of final adjudication, which, ironically, Rule 240(i) prohibits without a hearing.

8. In item 13 Respondent raises the prospect of sanctions against a woman who to-date has been unable to afford the $1000 or so to produce the above-cited multiple copies, while the same counsel has repeatedly misled this Honorable Court by demanding documents that do not exist, on the one hand, and denying documents that do exist of

record, on the other hand.

The lower court never even opened the deposition transcript of GMAC's Juan Antonio Aguierre, per the sworn testimony that Respondent Deutsche Bank wants expunged from the record and that this Court in error has ordered expunged (**R. pp. 29-37**). And yet the lower court ordered Respondent Deutsche Bank to bring the deposition to trial, which it never did, and which it is now trying to cover up for. See Final Brief.

The Court could easily counter these repeated falsehoods by Respondent Deutsche Bank by bringing up the case file. Perhaps Respondent Deutsche Bank's actions should be subject to the very sanctions he would have the Court impose upon a woman who doesn't have the money and would add insult to injury given the manifest forgery, securities law violations, and other frauds that populate this case. The pending forensic audit will show it to be even worse.

9. Appellant denies Respondent Deutsche Bank's contention that she has abused the rules or that she has done so in any substantive way. Accordingly, Appellant denies that the **foreign principal** known as Deutsche Bank ("German Bank") and who was sued by the U.S. Attorney in Southern New York for fraud has in any way been prejudiced.

CONCLUSION

The motion by Respondent Deutsche Bank Americas as Trustee for RALI2007QS8 to dismiss this appeal is due to be denied by this Honorable Court, and a hearing by the Court set immediately and *sua sponte* in favor of Appellant's RETURN TO THE MOTION TO STRIKE THE ALLEGED "APPENDIX" and MOTION FOR RECONSIDERATION in which the Final Brief and Record on Appeal will remain intact.

Appellant agrees to produce a Supplemental of those pages otherwise ordered by the Court that are actually of record.

In addition, Appellant has asked the Court to decide an important constitutional question in this case – Is it constitutional for a foreign principal to sue a citizen of South Carolina, while at the same time that citizen is barred by the court from compelling that foreign principal to appear in the venue in which it filed suit for examination under oath.

In the alternative, Appellant knows of no other way to preserve her right to due process but to appeal the matter in one form or another to the South Carolina Supreme Court and, if necessary, to the Fourth Circuit Court of Appeals.

If Appellant cannot be heard in this matter, just as she was denied hearing by the lower court, then what else can she do in good faith to obtain due process as guaranteed to her under the state and federal constitutions?

The motion to dismiss this appeal is due to be denied by this Honorable Court, and a hearing set immediately on Appellant's RETURN TO THE MOTION TO STRIKE THE ALLEGED "APPENDIX," which Return should be decided in favor of Appellant for leaving the Final Brief and Record on Appeal intact as submitted and a Supplemental to the Record on Appeal ordered to include those pages as ordered that are of record.

Appellant greatly appreciates the Court's patience and consideration.

Respectfully submitted on this 13th day of September, 2013

by: _____
Janice Cross, Appellant

Enclosures (2) and Attachments (5):
1. This 18-page Return to the Motion to Dismiss and Memorandum of Law in Opposition
2. Proof of Service – 1 page
3. Cover of Appellant's April 23, 2013 Return to the Motion to Strike "Appendix" to the Record on Appeal – 1 page
4. Cover of Appellant's Motion for Reconsideration – 1 page
5. Cover of Appellant's April 05, 2013 Return to the Motion to Strike Record on Appeal
6. Copy of settlement check in the amount of $1,484 – 1 page
7. Cover page of proposed Supplemental Record on Appeal – 1 page

PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY
Court of Common Pleas

Edward B. Cottingham, retired judge from the Fourth Judicial Circuit
James O. Spence, master in equity for the Eleventh Judicial Circuit

---

Case No. 2011-197766
(Case No. C/A 2009-CP-32-05140 from Lexington County)

Deutsche Bank Trust Company Americas
As Trustee for RALI2007QS8, Respondent,

H. Guy Gantt, Intervenor, Respondent,

v.

Janice Cross, South Carolina National Bank, N.A., Defendants,

Of Whom Janice Cross is, Appellant.

PROOF OF SERVICE FOR RETURN TO THE MOTION TO DISMISS THIS APPEAL AND A MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION

I certify that on this day I served a copy of the 18-page RETURN TO THE MOTION TO DISMISS THIS APPEAL AND A MEMORANDUM OF LAW IN OPPOSITION TO THE MOTION plus proof of service by regular mail to the following – (1) Deutsche Bank Trust Company Americas as Trustee for RALI2007QS8, in care of Mark Wierman, BRADLEY ARANT BOULT CUMMINGS LLP, 100 Tryon St., Suite 2690, Charlotte, NC 28202 (2) H. Guy Gantt, c/o Henry Taylor, 3618 Sunset Blvd., Suite D, West Columbia, SC 29169.

Executed on September 13, 2013 by: _____
John David Cross, Mailer and Server