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September 23, 2013

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: *Bank of America, N.A. vs. Frank Cook a/k/a Frank W. Cook,
Judith Cook and Ian Blake
Case No. 2012-CP-10-2651
Hampton Green File No. F12-01801*

Dear Madam Clerk:

I am in receipt of opposing counsel's correspondence dated September 20, 2013 inquiring as to the date my office received notice of the filed Order we are appealing in this matter. Please note that the judgment was mailed to us on August 5, 2013 according to the attached Notice from the Charleston County Clerk of Court. South Carolina rules of Civil Procedure allow five days for mailing when legal notices are mailed in this fashion, Please accept this letter as confirmation that I received the written notice from the Clerk on August 9th.

By my calculation, our notice of appeal was timely since the appellate rules allow the matter to be properly appealed within thirty days of receipt of the filed Order which is to be appealed.

If your office needs anything further or an affidavit verifying the information above, please do not hesitate to give me a call.

With kind regards, I remain

Yours very truly,
HAMPTON GREEN, LLC


Dwayne M. Green

DMG/lg
cc: H. Guyton Murrell, Esquire
Mr. Frank Cook

RECEIVED

SEP 24 2013

SC Court of Appeals

JULIE J. ARMSTRONG
CLERK OF COURT, C.P. & G.S.
100 BROAD STREET, SUITE 106
CHARLESTON, SC 29401-2258
RETURN SERVICE REQUESTED



www3.charlestoncounty.org



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DWAYNE MARVIN GREEN
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NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRPC

Master/Master's Order Granting Plntff's mot for sum judg

CASE NO: 2012CP1002651

Bank of America N.A. VS Frank Cook , defendant, et al

This judgment was entered on the 02th day of August, 2013, and a copy mailed first class on Monday, August 05, 2013, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at www3.charlestoncounty.org.

RECEIVED

SEP 24 2013

SC Court of Appeals

act or take any proceeding in any civil action which has been pending before it.

(d) **For Motions—Affidavits.** A written motion other than one which may be heard ex parte, and notice of the hearing thereof, shall be served not later than ten days before the time specified for the hearing, unless a different period is fixed by these rules or by an order of the court. Such an order may for cause shown be made on ex parte application. When a motion is to be supported by affidavit, the affidavit shall be served with the motion; and, except as otherwise provided in Rule 59(c), additional or opposing affidavits may be served not later than two days before the hearing, unless the court permits them to be served at some other time. The moving party may serve reply affidavits at any time before the hearing commences. In all cases where a motion shall be granted on payment of costs or on the performance of any condition, or where an order shall require such payment or performance, the party whose duty it shall be to comply therewith shall have 20 days for that purpose, unless otherwise directed in the order.

(e) **Additional Time After Service by Mail or Upon Statutory Agent.** Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail or upon a person designated by statute to accept service, five days shall be added to the prescribed period.

[Amended effective May 1, 1986.]

III. PLEADINGS AND MOTIONS

RULE 7. PLEADINGS ALLOWED; FORM OF MOTIONS

(a) **Pleadings.** There shall be a complaint and an answer; and a reply to a counterclaim denominated as such; an answer to a cross-claim, if the answer contains a cross-claim; a third-party complaint, if a person who was not an original party is summoned under Rule 14, and there shall be a third-party answer, if a third-party complaint is served. No other pleadings shall be allowed, except that the court may order a reply to an answer or a third-party answer, and there may be a reply to affirmative defenses as provided in Rule 8(c).

(b) **Motions and Other Papers.**

(1) An application to the court for an order shall be by motion which, unless made during a hearing or trial in open court with a court reporter present, shall be made in writing, shall state with particularity the grounds therefor, and shall set forth the relief or order sought. The requirement of writing is fulfilled if the motion is stated in a written notice of the hearing of the motion.

Notes

This Rule 6(a) replaces and considerably clarifies Code § 15-1-20; particularly as to computing time when there are consecutive holidays.

This Rule 6(b) is the same as the Federal Rule, which in turn a more concise statement of Code §§ 15-13-90 and 15-27-120 and Circuit Rule 62, except that the Rule continues the present State practice of allowing one limited extension of time by agreement of counsel.

This Rule 6(c) was deleted from the Federal Rule in 1966, but was retained here as a much-needed clarification of State practice. The confusion as to the powers of the court with the modern advent of many "special terms" is eliminated. Time limits on such matters are now stated in the applicable rule; i.e., Rule 59 as to time for motions for new trial.

This Rule 6(d) is the same as the Federal Rule, except that the Rule has enlarged notice time from 5 to 10 days. The last sentence is added to preserve Circuit Rule 62.

This Rule 6(e) is the same as the Federal Rule except that the additional time to take an act after service is by mail is increased from 3 to 5 days. This replaces the very unclear meaning of Code § 15-9-950.

Notes to 1986 Amendments

This amendment [to Rule 6(b)] authorizes the court to permit an act to be done after the expiration of time upon a showing of good cause. This is the standard applied by courts in practice and is found in Rule 55(c) for relief from entry of default. The change distinguishes the test under Rule 6(b) which is applicable when filings are untimely, from that used when a party has obtained a judgment. Post-judgment relief under Rule 60(b) remains governed by the stricter standard of excusable neglect which has a precise meaning under state precedents. See also Rule 55(c).

(2) The rules applicable to captions, signing, and other matters of form of pleadings apply to all motions and other papers provided for by these rules.

(c) **Demurrers, Pleas, etc. Abolished.** Demurrers, pleas, and exceptions for insufficiency of a pleading shall not be used.

Notes

This Rule 7(a) is identical to the Federal Rule, and the provisions of Code §§ 15-13-10, 15-13-210, 15-13-310 and 15-13-610. There is no change to State practice, except the references to third-party pleadings.

This Rule 7(b) is identical to the Federal Rule and preserves the pertinent parts of Circuit Rules 56 and 65. The Rule also requires that motions must also be reduced to writing if made in open court with no court reporter or recorder present. "Petitions" for special relief are simply stated as motions. For example, under Rule 65, a motion for a temporary restraining order accompanies the summons and complaint rather than characterizing it as a separate petition.

This Rule 7(c) is the same as the Federal Rule. Since common law pleas, and exceptions for insufficiency of a pleading have been abolished since 1870, this last step abolishes the outmoded demurrer. The defenses now raised by demurrer are raised by motion under Rule 12.