

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr, Circuit Court Judge

Case No. 2009-CP-10-2433

Floyd E. Jernigan Respondent,

v.

Suzanne Boone Katz and Bank of America, N.A. Defendants,

Of Whom Suzanne Boone Katz is Respondent,

And Bank of America, N.A. is Appellant.

**APPELLANT'S DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL**

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Attorneys for Appellant, Bank of America, N.A.

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Pursuant to Rule 209, SCACR, Appellant Bank of America, N.A. ("Bank of America") hereby designates the following to be included in the record on appeal:

1. Complaint dated April 17, 2009;
2. Answer, Counterclaim, and Crossclaim of Defendant Suzanne Boone Katz dated June 5, 2009;
3. Amended Answer of Defendant Bank of America, N.A. to the Complaint dated December 21, 2009;
4. Amended Answer of Defendant Bank of America, N.A. to the Crossclaim of Defendant Suzanne Boone Katz dated December 21, 2009;
5. Bank of America's Pre-Trial Brief dated September 12, 2011;
6. Trial Transcript dated September 13-15, 2011;
7. Transcript of Deposition with exhibits of Lucy W. Preyer, M.D. taken August 31, 2010;
8. Bank of America's Trial Exhibit No. 1 (BOA_3, Signature Card – 8854 Account);
9. Bank of America's Trial Exhibit No. 2 (BOA_262-266, Account Statement of Boone for the period 12.27.06- 1.26.07);
10. Bank of America's Trial Exhibit No. 3 (BOA_352-355, Account Statement of Jernigan for the period 1.06.07- 2.02.07);
11. Bank of America's Trial Exhibit No. 4 (BOA_373-378, BOA Complaint Tracker Notes);
12. Bank of America's Trial Exhibit No. 5 (BOA_379-382, Boone Letter to BOA dated 7.23.07);
13. Bank of America's Trial Exhibit No. 6 (BOA_402-403, Nevarez Letter to Boone dated 8.3.07);
14. Bank of America's Trial Exhibit No. 7 (BOA_404-414, Boone Letter to BOA dated 9.2.07);
15. Bank of America's Trial Exhibit No. 8 (BOA_415-416, Nevarez Letter to Boone dated 9.10.07);

16. Bank of America's Trial Exhibit No. 9 (BOA_383-384, BOSS Screens – 8854 Account);
17. Bank of America's Trial Exhibit No. 10 (BOA_438-439, BOSS Customer Profile Screen – Jernigan);
18. Bank of America's Trial Exhibit No. 11 (BOA_598-600, BOSS Screen – 4502 Account);
19. Bank of America's Trial Exhibit No. 12 (Online Banking and Transfers Service Agreement and Disclosures);
20. Bank of America's Trial Exhibit No. 13 (BOA_609, Jernigan Signature Card);
21. Bank of America's Trial Exhibit No. 14 (BOA_610-630, BOA Deposit Account Agreement, effective 7.1.06);
22. Bank of America's Trial Exhibit No. 15 (BOA_631-670, BOA Deposit Account Agreement, effective 9.1.03);
23. Bank of America's Trial Exhibit No. 16 (BOA_671-674, BOA Outgoing Payments Module, effective 12.3.06);
24. Bank of America's Trial Exhibit No. 17 (BOA_675-683, IMPACS Status Codes);
25. Bank of America's Trial Exhibit No. 21 (Jernigan 62, Expungement Order dated 5.22.08);
26. Bank of America's Trial Exhibit No. 29 (CPD 0001-0024, Charleston Police Department File – Case # 0701386);
27. Bank of America's Trial Exhibit No. 30 (SOLICITOR_0001-0107, Charleston County Solicitor's Office File – State v. Jernigan);
28. Bank of America's Trial Exhibit No. 31 (Plaintiff's Response to Defendant Katz's Requests for Admission of Facts dated 8.4.10);
29. Bank of America's Trial Exhibit No. 32 (Plaintiff's Response to Defendant Bank of America, N.A.'s First Requests for Admission to Plaintiff 9.16.10);
30. Bank of America's Trial Exhibit No. 33 (Defendant Katz's Responses to Plaintiff's Request for Admission dated 07.17.09);

31. Bank of America's Trial Exhibit No. 34 (Defendant Katz's Responses to Plaintiff's Supplemental Requests for Admission of Facts dated 2.12.10);
32. Bank of America's Trial Exhibit No. 35 (Defendant Katz's Responses to Defendant Bank of America, N.A.'s First Request for Admission dated 9.23.10);
33. Bank of America's Trial Exhibit No. 36 (Defendant Katz's Supplemental Responses to Defendant Bank of America, N.A.'s First Request for Admission dated 9.24.10);
34. Bank of America's Trial Exhibit No. 37 (Defendant Katz's Responses to Defendant Bank of America, N.A.'s Second Request for Admission dated 9.30.10);
35. Bank of America's Trial Exhibit No. 39 (Rule 30(b)(6) Deposition Notice of Bank of America, N.A.);
36. Plaintiff's Trial Exhibit No. 1 (BOA 2-3: Customer Removal/Signature card 8854 Account);
37. Plaintiff's Trial Exhibit No. 5 (Jernigan 50: Affidavit/Arrest Warrant);
38. Defendant Bank of America, N.A.'s Motion to Strike the Jury Demand or, in the Alternative, to Stay the Case and Compel Arbitration dated July 29, 2010, and Affidavit of Donna Hoskins Poitevien filed in support thereof;
39. Plaintiff's Memorandum in Opposition to Defendant Bank of America, N.A.'s Motion to Compel Arbitration dated September 17, 2010;
40. Order of Judgment entered December 12, 2011 (Katz);
41. Order of Judgment entered December 12, 2011 (Jernigan);
42. Defendant Bank of America, N.A.'s Motion to Alter or Amend Judgment dated December 22, 2011;
43. Transcript from Post-Trial Evidentiary Hearing held October 24, 2011;
44. Transcript from Hearing on Motion to Alter or Amend held February 15, 2012;
45. Form 4 Order denying Motion to Alter or Amend Judgment entered February 21, 2012;

46. Order Denying Defendant Bank of America's Motion to Alter or Amend Judgment entered March 22, 2012 (Katz);
47. Order Denying Defendant Bank of America's Motion to Alter or Amend Judgment entered March 22, 2012 (Jernigan); and
48. Notice of Appeal filed April 3, 2012.

I certify that this Designation contains no matter which is irrelevant to this appeal.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

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October 3, 2012

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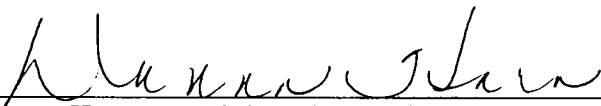
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Appellant, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: **Appellant's Designation of Matter to be Included in the Record on Appeal**

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Donna Horn, Administrative Assistant

October 3, 2012