

THE STATE OF SOUTH CAROLINA
In The Court of Appeal

Ziraili M. Elbey, a/k/a Zirail Mohassan El Bey.,

Appellant, *In Propria Persona*'

v.

H & R BLOCK BANK, FSB,
Respondent

Appellee - Respondent

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NOV 15 2013

SC Court of Appeals

Appellate Case No. 2013-002-373

Appeal From Lancaster County
Philip E. Wright, Special Referee

November 12, 2013

MOTION FOR LEAVE TO PROCEED In Forma Pauperis and **AFFIDAVIT** together with **COMPLAINT** pursuant to Rule 3(b).

On January 14, 2011, lawyers for Appellee/Respondent, H & R BLOCK BANK, FBS,(a servicer), executed a foreclosure summons, notices and initial complaint against Appellant. Appellant argues that Appellee/Respondent lacks legal standing to bring this action and fail to qualify under Section 33-23-140(B) after commencement of the suit; that Appellee/Respondent lacks "business certificate of authority to bring this foreclosure action as required by [S.C. Code Ann.] §33-15-101 and § 33-15-102 and the [S.C. Code Ann.] § 33-23-140 (B) (Supp. 36*36 1986). And, Appellant argues that Appellee/Respondent lacks jurisdiction under **SCRCP** 12(b)(6). Appellee/Respondent claims to be the holder in due course and the real party in interest under **SCRCP** and **Fed Rule 17(a)**. Appellant argues, that Ratification of Commencement and Real Party of Interest, (the original lender has to appear in court and grant power of attorney to a

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servicer in order for a servicer to commence a foreclosure action in court. Appellee/Respondent claims to be the owner of the original mortgage and Note. Appellant argues that the original mortgage and note were separated and securitized, meaning original lender sold original mortgage and Note and now owned by multiple investors. Appellant argues that as of February 19, 2013, is holder and owner of current Mortgage Satisfaction with the Lancaster Register of Deeds and Lancaster Court of Common Pleas. Further, Appellee/Respondent placed a copy of altered, fraudulent Assignment, and altered, forged, fraudulent mortgage and NOTE securitized instruments within the summary judgment claim. Appellant argues "unclean hands" throughout the entire suit process, that not having or being the holder in due course as required under the South Carolina statutes (SCCC) UCC's that violates Title 18 sections 470 to 473 and 474 and the Counterfeit Detection Act of 1992, Public Law 102-550, in Section 411 of Title 31 of the Code of Federal Regulations. Appellee/Respondent motioned the Lancaster Court of Common Pleas in July 22, 2013 to restore the original foreclosure complaint case no. 2011-CP-29-00035 under SC Supreme Court Administrative Order of June 5, 1992 to initiate foreclosure sale with Special Referee's signing said order. Appellant argues that the Appellee/Respondent violated **SCRPC** Rule 12(b)(c) and **SCRPC** Rule 11 (c) and allege "unclean hands".

WEREFOR: Appellant request that this court to accept her Notice of Appeal and grants the Motion for Leave to proceed *In forma pauperis* and Affidavit pursuant to SCRCP Rule 3(b) together with the Complaint.

This 12th day of November 20 13

By Zirali M Elbey
Zirali M Elbey, Appellant
In Propria Persona

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MOTION for LEAVE TO PROCEED *In Forma Pauperis* & AFFIDAVIT pursuant to Rule 3(b) SCRPC

The Appellant asks leave to file the attached Complaint and Affidavit without repayment of costs and to proceed *in forma pauperis*.

[x] Appellant has previously been granted leave to proceed *in forma pauperis* in the following court:

United States District Court – District of South Carolina

[] Appellant has not previously been granted leave to proceed *in forma pauperis* in any other court. Appellant's affidavit or declaration in support of this motion is attached hereto.

AFFIDAVIT

Are you presently employed? Yes [] No [x]

If the answer is "Yes," state the amount of your salary or wages per month, and give the name and address of your employer: N/A

Have you received within the past twelve months any money from any of the following sources?

❖ Business, profession, or form of self-employment? Yes [] No [x]

❖ Pensions, annuities, or life insurance payments?

Pension less than \$833.00 per month. [x] Yes No

❖ Rent payments, interest or dividends? [x] Yes No

REQUEST TO PROCEED IN FORMA PAUPERIS Administrative Office of the Courts

❖ Gifts, inheritances,? [x] Yes Rent Gifted by Landlord No

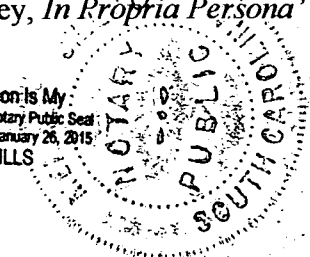
❖ Any other sources? Yes [] No [x]

This 12th day of November 2013

By: Ziraili M. Elbey
Ziraili M. Elbey, *In Propria Persona*

Sworn to and subscribed before me this
12 day of November, 2013.
Melanie Sills
Notary Public

Embossed Hereon is My
State of South Carolina Notary Public Seal
My Commission Expires January 26, 2015
MELANIE SILLS



The Appellant's request is hereby [] granted and/or [] denied

Date: _____

Judge/Clerk or Deputy Clerk

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