

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

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.

BRIEF IN OPPOSITION TO APPELLANT'S PETITION FOR REHEARING

Appellee Deutsche Bank Trust Company Americas as Trustee for RALI2007QS8 ("Deutsche Bank Trust") hereby submits this Brief in Opposition to the Petition for Rehearing filed by Appellant Janice Cross. 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.

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2. Deutsche Bank Trust filed a Motion to Dismiss Appeal on September 5, 2013, based on numerous and significant errors in the Record on Appeal and other pleadings filed by Appellant Cross.
3. This Court granted and filed Deutsche Bank Trust's Motion to Dismiss Appeal on October 4, 2013.
4. Appellant Cross filed her Petition for Rehearing on October 21, 2013.
5. South Carolina Rule of Appellate Procedure 221 provides that a petition for rehearing must be "actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court." Appellant Cross's Petition for Rehearing was received by this Court seventeen (17) days after the Court filed the order granting Deutsche Bank Trust's Motion to Dismiss Appeal. Accordingly, Appellant Cross's Petition for Rehearing should be denied as it is untimely.
6. A petition for rehearing should direct the Court to issues purportedly overlooked or misapprehended by the Court. "The purpose of a petition for rehearing is not just to have the case tried in this court a second time." *Arnold v. Carolina Power & Light Co.*, 168 S.C. 163, 163; 167 S.E. 234, 238 (S.C. 1933).
7. Appellant Cross's Petition for Rehearing offers no new insight on issues purportedly overlooked by the Court. Appellant first argues that the Court ignored her return brief, but does not provide any details on the Court's errors. The remainder of the errors simply restates the arguments Appellant made in previous motions.
8. Deutsche Bank Trust's Motion to Dismiss provides an extensive history of the tactics Appellant has used to delay the appeals process. Appellant has routinely ignored this Court's procedural rules and orders, and has notably failed to produce a compliant Record on Appeal.

9. 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.

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

11. 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.

12. 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.


13. 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. Accordingly, Deutsche Bank Trust moved to dismiss the appeal.

14. Appellant Cross has now asked this Court to reconsider its ruling on Deutsche Bank Trust’s Motion to Dismiss, providing only a restatement of her previous arguments.

15. 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 October 23, 2013). Undersigned counsel acknowledges that Appellant is *pro se*, and as such, she should not be unjustly penalized for violating the rules of procedure. However, Appellant’s prolonged abuse

of the rules in this case amounts to a substantive violation that has continued to prejudice Deutsche Bank Trust.

WHEREFORE, Appellee Deutsche Bank Trust respectfully requests that this Court deny the Petition for Rehearing filed by Appellant Cross.



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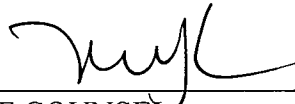
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief in Opposition to the Petition for Rehearing was deposited in the United States Mail, postage prepaid, and addressed as follows:

Janice M. Cross
P.O. Box 2453
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Pro Se

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Attorney for Defendant
H. Guy Gantt

This the 24th day of October 2013.



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October 24, 2013

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

**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 Brief in Opposition to Appellant's Petition for Rehearing in connection with the action above. 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,

A handwritten signature in cursive script that reads "Donna C. Holdren".

Donna C. Holdren
Assistant to Michael C. Griffin

dch
Enclosures
cc: Janice Cross
Henry H. Taylor

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