

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY
Court of Common Pleas

The Honorable J. Michael Baxley, Circuit Court Judge

Case No. 2010-CP-13-0064

RECEIVED
DEC 13 2013
SC Court of Appeals

American Community Bank, a division of Yadkin Valley
Bank and Trust, Respondent,

vs.

Michael R. Brown, C.W. Horne, Shortt Auction & Realty Co., Inc.,
Bank of America, N.A. and Jaguar Portfolio, LLC, Defendants,

Of which Michael R. Brown is the Appellant.

RESPONSE TO MOTION FOR EXTENSION OF TIME

Pursuant to Rule 240(e), SCACR, Respondent hereby submits the within response to motion for extension of time filed by Appellant (Response).

“Rule 207, SCACR, requires the appellant to make satisfactory arrangements in writing with the court reporter for furnishing the transcript and to order the transcript within ten days after the date of service of the notice of appeal.” *Laser Supply and Services, Inc. v. Orchard Park Associates*, 382 S.C. 326, 332, 676 S.E.2d 139, 143 n.1 (Ct. App. 2009) (Court of Appeals dismissed the appeal because of appellant’s failure to comply with Rule 207, SCACR.). Regardless of whether Appellant “saw no need for the Transcript in

preparing this Appeal,” (Motion for Extension of Time, p.2, ¶3.), the South Carolina Rules of Appellate Procedure mandate the preparation and filing of the transcript *by Appellant*. This Court recognized the Rule 207, SCACR, requirement in its February 4, 2013 Order dismissing the appeal in part based on Appellant’s failure “to provide information regarding the transcript”. (Order, February 4, 2013.)

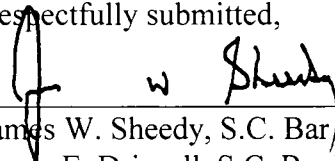
Appellant filed the Notice of Appeal on December 11, 2012, almost a year ago. Under Rule 207, SCACR, Appellant had an obligation on or before December 21, 2012 to contact the court reporter and request the preparation of a transcript. He did not do so. There is no obligation under the SCACR for Respondent to contact the court reporter or order the transcript. The SCACR place that obligation on Appellant, inasmuch as he is the party seeking relief from the order of the trial court. Appellant’s claim that “the preparation of the said Transcript is the duty of Respondent,” (Motion for Extension of Time, p.2, ¶5.), is wholly without merit under either the SCACR, prior South Carolina decisional law and the prior order of this Court.

While Respondent has been and prefers to continue to be flexible and accommodating of Appellant as to time limits (especially during the Holidays), Respondent takes strong exception to Appellant’s self-serving assertion that Respondent had any duty to order the Transcript.

WHEREFORE, Respondent takes no position on Appellant’s request for more time but asks that the Court place the obligation for ordering the Transcript on Appellant where such obligation belongs.

Date: 12 | 10 | 13

Respectfully submitted,



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Attorneys for Respondent

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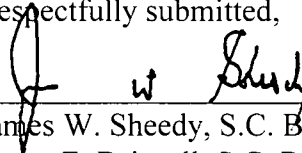
CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date indicated below he served counsel for Appellant with a copy of the *Response to Motion for Extension of Time* by mailing a copy of the same via First Class, U.S. Mail, postage-paid on the date set forth below.

John Martin Foster, Esq.
The Guardian Building
223 East Main Street, Suite 520
Rock Hill, SC 29730

Date: 12/10/13

Respectfully submitted,



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December 10, 2013

Honorable Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, S.C. 29201

RECEIVED
DEC 13 2013
SC Court of Appeals

**Re: American Community Bank, a division of Yadkin Valley Bank & Trust v.
Michael R. Brown, et al.
C.A. No.: 10-CP-13-164**

Dear Ms. Kitchings:

Enclosed please find the original and seven (7) copies of the Response to Motion for Extension of Time and a Certificate of Service in the above referenced matter. Please file the original and six copies with the records of your office and return a clocked copy to me in the enclosed envelope.

By copy of this letter, I am serving copies of the above referenced documents on counsel for Appellant.

With kindest regards, I remain

Respectfully,

DRISCOLL SHEEDY, P.A.


James W. Sheedy

cc: William Clewis
J. Martin Foster, Esq.