

70713

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM Horry COUNTY
Court of Common Pleas

The Honorable William H. Seals, Jr.

C/A No. 2011-CP-26-04018

RECEIVED
DEC 18 2013
SC Court of Appeals

TD Bank, National Association, successor by merger to
Carolina First Bank,

Respondent-Appellant,

vs.

Grande Crescent Corporation, Larry D. Silver, and Edward
O. Minniear, Jr.,

Appellants-Respondents.

MOTION TO REINSTATE APPEAL

Appellants- Respondents Grande Crescent Corporation, Larry D. Silver, and Edward
O. Minniear, Jr. and Respondent-Appellant TD Bank, National Association, successor by merger
to Carolina First Bank, hereby jointly move to reinstate the appeal and issue a briefing schedule.

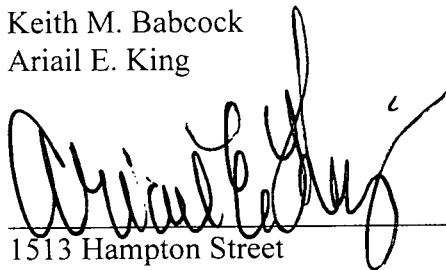
The grounds for this motion are as follows:

A third-party had offered to purchase the real property that is the subject of the litigation,

that, if accomplished, would moot the appeal.¹ On August 1, 2013, the parties moved to stay the appeal to try and settle this matter. On August 13, 2013, this Court dismissed the appeal on the grounds that the matter has been settled. As a settlement had not actually been accomplished, the parties filed a motion on September 23, 2013, to treat the appeal as reinstated and to stay for an additional 90 days, since the contract for the purchase of the property gave the seller 45 days to conduct due diligence and 30 days to close. The Court then issued an Order, dated October 4, 2013, in which it did not reinstate the appeal but delayed remittitur until “approval of the settlement or on December 19, 2013, unless good cause is shown why this case should not be remitted.”

Despite diligent efforts to sell the property at issue and resolve this matter, the third-party purchaser has decided not to go forward with the purchase of the property. Thus, there is no settlement and the appeal must be determined on the merits. The parties therefore jointly request that remittitur not be issued on December 19, 2013, and that this Court issue a briefing schedule so the appeal may proceed.

LEWIS, BABCOCK, & GRIFFIN, L.L.P.
A. Camden Lewis
Keith M. Babcock
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¹For additional background, see the Joint Motion for Further Continuance of Stay of Appeal, dated September 23, 2013.

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Attorneys for Appellants-Respondents

Columbia, South Carolina
December 18, 2013

WE AGREE AND JOIN IN THE MOTION:



J. Theodore Gentry
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44 East Camperdown Way
Greenville, South Carolina 29601
(864) 242-8200

Attorney for Respondent-Appellants

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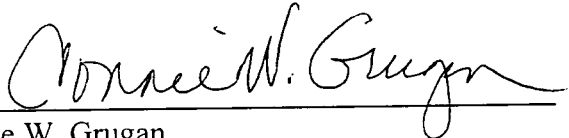
Grande Crescent Corporation, Larry D. Silver, and Edward
O. Minniear, Jr.,

Appellants-Respondents.

PROOF OF SERVICE

I, Connie W. Grugan, secretary to the law firm of Lewis, Babcock & Griffin, L.L.P.,
hereby certify that I have served a **Motion to Reinstate Appeal** upon opposing counsel, by
mailing a copy of same, postage prepaid and return address clearly indicated, to said opposing
counsel at the following address:

J. Theodore Gentry, Esquire
Wyche, P.A.
44 East Camperdown Way
Greenville, South Carolina 29601



Connie W. Grugan

This 18th day of December, 2013.

A. CAMDEN LEWIS
KEITH M. BABCOCK
JAMES M. GRIFFIN
ARIAIL E. KING
MARGARET N. FOX*

*ALSO ADMITTED IN N.C.

OF COUNSEL
J. RYAN HEISKELL
ALSO ADMITTED IN D.C.



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December 18, 2013

HAND DELIVERED
Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: TD Bank, N.A., successor-by-merger to Carolina First Bank v.
Grande Crescent Corporation; Larry D. Silver; Edward O. Minniear, Jr.
Civil Action No. 2011-CP-26-04018, Our File No. 08-170
Appellate Case No. 2012-213439

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of a Motion to Reinstate Appeal in regard to the above-referenced matter for filing with your office, along with our firm's check in the amount of \$25.00. Please return a clocked copy via our courier.

By copy of this letter, we are hereby serving a copy of same upon opposing counsel.

With best regards, I am

Very truly yours,

LEWIS, BABCOCK & GRIFFIN, L.L.P.

A handwritten signature in black ink, appearing to read 'Ariail E. King', is written over the typed name.

Ariail E. King

AEK:cg

Enclosure

cc: J. Theodore Gentry, Esquire
Michael W. Tighe, Esquire
Andrew Carl English, III, Esquire

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