

STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
The Honorable D. Garrison Hill

Appellate No.: 2013 - 001488
Civil Action No.: 2012-CP-23- 6148

Suntrust Bank.....Respondent

vs.

Bilal and Latoya Abdullah.....Appellants

RESPONDENT'S MEMORANDUM IN OPPOSITION TO RECONSIDERATION

S. Nelson Weston, Esquire
Adam Tesh, Esquire
Sheila M. Bias, Esquire
RICHARDSON PLOWDEN & ROBINSON, P.A.
1900 Barnwell Street (29201)
P.O. Drawer 7788
Columbia, South Carolina 29202
803-771-4400

Counsel for Respondent Suntrust Bank

January 31, 2013

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SC Court of Appeals

INTRODUCTION/RELEVANT BACKGROUND

The underlying action is essentially a breach of contract action arising out of Appellants' failure to provide payments under a promissory note agreement. On June 16, 2005, Respondent, Suntrust Bank ("Suntrust" or "Respondent"), advanced funds to Appellant, at his request, in the amount of Sixty Thousand and 00/100 (\$60,000.00) Dollars. Memorializing that transaction was a Promissory Note Agreement wherein the Appellant contracted to repay Suntrust Sixty Thousand and 00/100 (\$60,000.00) Dollars, plus interest. When payment was not made, Suntrust initiated this action in the Greenville County Court of Common Pleas. Summary Judgment was granted in favor of Suntrust, and it is from this judgment that Appellant appeals.

After filing the Notice of Appeal, Appellant had numerous deficiencies, which led to his ultimately failing to perfect the appeal and Respondent moving to dismiss the appeal. See Memorandum in Support of Respondent's Motion to Dismiss and attachments thereto. On October 4, 2013, this Court issued an Order dismissing this appeal based on Appellant's failure to pay the required filing fee and Respondent's Motion to Dismiss. Appellant filed a Petition for Rehearing on what appears to be October 14, 2013. Respondent filed a timely Memorandum in Opposition on October 23, 2013. Appellant filed a response to Respondent's Memorandum in Opposition of Rehearing and a Motion to Allow for Late Filing. On January 10, 2014, this Court entered an Order granting the Motion to Allow for Late Filing and denied Appellant's Petition for Rehearing.

Appellant has now filed a Motion for Reconsideration which is essentially a successive Petition for Rehearing. Respondent files this brief reply.

ARGUMENT

This Court must deny the Motion for Reconsideration.

Appellant's motion for reconsideration is improper and should be rejected by this Court. Appellant's motion is nothing more than a second attempt at rehearing by this Court. This Court should deny Appellant's motion as it did with Appellant's Petition for Rehearing because Appellant has presented no new compelling reasons requiring reconsideration.

Appellant's arguments with regard to this Motion for Reconsideration are relatively the same as the arguments put forth in the Petition for Rehearing. Accordingly, for brevity purposes, Respondent incorporates and restates as if verbatim its arguments from its First Memorandum in Opposition to Appellant's Petition for Rehearing filed with this Court on October 23, 2013, were applicable.

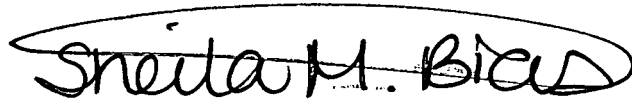
Additionally, this Court must deny Appellant's request for Judicial Notice under Rule 201, SCRE, because the facts stated in Appellant's Motion are not facts which may be judicially noticed. Under Rule 201(b), SCRE, a "judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." The "facts" submitted by Appellant are essentially his arguments as to why the lower court erred and are thus not generally known in this jurisdiction nor are they capable of ready determination by resort to sources whose accuracy cannot be reasonably questioned. Therefore, Appellant's arguments in support of his Motion are not judicially noticeable facts.

Finally, Respondent respectfully requests that this Court not address any matters related to the trial court's summary judgment order, including vacating said judgment, since this Court has dismissed this appeal and denied rehearing on the matter. Further, Respondent requests this Court deny any and all other relief requested by Appellant.

CONCLUSION

For the foregoing reasons, Respondent respectfully requests this Court deny Appellant's successive Motion for Reconsideration.

Respectfully submitted,



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Counsel for Respondent Suntrust Bank

January 31, 2014

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CERTIFICATE OF SERVICE

I, the undersigned, an employee of Richardson Plowden & Robinson, P.A., attorneys for Respondent SunTrust Bank, do hereby certify that I have this date served the foregoing Respondent's Memorandum in Opposition to Appellant's Petition for Reconsideration by personally depositing a copy of the same in a United States Postal Service mailbox, postage prepaid, addressed to the following:

Bilal and Latoya Abdullah
7 Landing Lane
Simpsonville, South Carolina 29681


Daisy F. Bonds

Dated: January 31, 2014

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January 31, 2014

VIA HAND DELIVERY

The Honorable Jenny A. Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

Re: *SunTrust Bank v. Bilal & LaToya Abdulla*
Appellate No.: 2013-001488
C/A No.: 2012-CP-6148

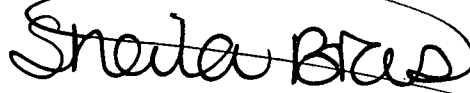
Dear Ms. Kitchings:

As counsel for the Respondent SunTrust Bank, I have enclosed for filing an original and seven copies of our Memorandum in Opposition to Reconsideration in the above referenced matter, along with our original Certificate of Service. I would request that the additional copy of our Memorandum be stamped filed and returned to our courier.

We are this day serving a copy of our Motion to Dismiss on the *pro se* Appellants.

Thank you for your assistance.

Sincerely,



Sheila M. Bias
SC Bar # 100005

SMB/dfb

Enclosures

cc: Bilal & LaToya Abdullah (w/enclosure)
Adam Tesh, Esquire (w/o enclosure)
S. Nelson Weston, Esquire (w/o enclosure)

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