

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
The Honorable Maite D. Murphy

MAR 20 2014

SC Court of Appeals

Appellate Case No.: 2012-213208
Civil Action No.: 2012-CP-18-539

Roger L. WhaleyAppellant,

vs.

South Carolina Federal Credit Union and Bank of AmericaRespondents.

MEMORANDUM IN OPPOSITION TO THE MOTION FOR RECONSIDERATION ON
BEHALF OF RESPONDENT SOUTH CAROLINA FEDERAL CREDIT UNION

Drew H. Butler, Esquire
Caleb M. Riser, 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 South Carolina Federal
Credit Union*

March 20, 2014

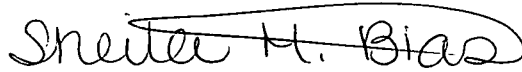
For brevity purposes, Respondent South Carolina Federal Credit Union (“SCFCU”) will not elucidate the entire background and procedural history of this matter as a full recital of the relevant facts and circumstances can be found in Respondent SCFCU and Respondent Bank of America’s respective Motions to Dismiss. Since the filing of the Motions to Dismiss, on February 27, 2014, this Court granted Respondents’ Motions to Dismiss based on Appellant’s failure to comply with the South Carolina Appellate Court Rules. Appellant has filed a Motion for Reconsideration assigning error to this Court’s use of Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992) to support its grant of dismissal. Appellant also contends he has complied with all South Carolina Appellate Court Rules and that it is Respondents who have not complied with the Appellate Court Rules.

This Court’s order dismissing the appeal correctly applied the law to the facts of this case. Appellant, although appearing *pro se*, has repeatedly failed—in more aspects of the appeal than he has identified in his motion for reconsideration—to comply with the South Carolina Appellate Court Rules and the Orders of this Court. “A *pro se* litigant who knowingly elects to represent himself assumes full responsibility for complying with substantive and procedural requirements of the law.” State v. Burton, 356 S.C. 259, 265, n.5, 598 S.E.2d 6, 9, n.5 (2003). See State v. Holman, 323 S.C. 489, 498, 102 S.E.2d 873, 877 (1958) (stating the established rules of procedures are not to be discarded on appeal merely because a party has appeared *pro se*). As the Supreme Court held in Henning, an appellate court is justified in dismissing an appeal for the appellant’s failure to comply with the appellate court rules. That the Henning court ultimately did not dismiss the appeal before it is of no moment in this matter. This Court has reviewed the

history of this case and the filings and has, in its discretion, determined the correct and appropriate disposition of this matter—dismissal.

Based on the foregoing, Respondent SCFCU respectfully submits that this Court's February 27, 2014, Order was a clear, cogent, and correct statement of the facts and correctly applies the law in this matter. Respondent SCFCU requests this Court reaffirm its Order dated February 27, 2014, dismissing this appeal.

Respectfully submitted,



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*Counsel for Respondent South Carolina Federal
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Roger L. Whaley.....Appellant,

v.

South Carolina Federal Credit Union and
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CERTIFICATE OF SERVICE

I, the undersigned, an employee of Richardson Plowden & Robinson, P.A., attorneys for Respondent South Carolina Federal Credit Union, do hereby certify that I have this date served the foregoing Memorandum in Opposition to Reconsideration on behalf of Respondent South Carolina Federal Credit Union by personally depositing a copy of the same in a United States Postal Service mailbox, postage prepaid, addressed to the following:

Roger L. Whaley
8673 Laurel Grove Lane
North Charleston, South Carolina 29420

Tara C. Sullivan, Esquire
Erik T. Norton, Esquire
Jody A. Bedenbaugh, Esquire
Nelson Mullins Riley & Scarborough, LLP
Post Office Box 11070
Columbia, South Carolina 29211


Daisy F. Bonds

Dated: March 20, 2014

March 20, 2014

Columbia
Direct Dial: (803) 576-3718
sbias@RichardsonPlowden.com

VIA HAND DELIVERY

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

Re: Roger L. Whaley v. South Carolina Federal Credit Union and Bank of America
C/A No.: 2012-CP-18-539
Appellate Case # 2012-213208
Our File No. 7130-36

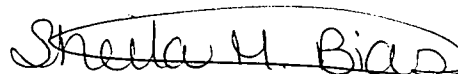
Dear Ms. Kitchings:

As counsel for the Respondent South Carolina Federal Credit Union, I have enclosed for filing an original and six copies of our Memorandum in Opposition to the Motion for Reconsideration in the above referenced matter, along with our original Certificate of Service. I have also enclosed one additional copy of our Memorandum and would request that it be file stamped and returned to our courier.

We are this day serving a copy of our Memorandum on *pro se* Appellant Roger Whaley and all counsel of record.

Thank you for your assistance and with kind regards, I am

Sincerely,



Sheila M. Bias
SC Bar # 100005

SMB/

cc: Roger Whaley, *Pro se*
Jody Alan Bedenbaugh, Esquire
Erik Tison Norton, Esquire
Drew Hamilton Butler, Esquire
Tara C. Sullivan, Esquire

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