

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

71627

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

RECEIVED

The Honorable Diane S. Goodstein
Circuit Court Judge

MAR 19 2014

SC Court of Appeals

Case No. 2012-CP-38-01108
Appellate Case No. 2013-001414

Laura T. Toney, Appellant.

v.

Deutsche Bank National Trust Company, as trustee for the holders of New Century Home Equity Loan Trust, series 2005-A, asset backed pass-through certificates; LaSalle Bank National Association, trustee for Lehman Brothers Structured Asset Investment Loan Trust Sail 2005-2; All persons unknown, claiming any legal or equitable right, title, estate, lien, or interest in the property described in the Complain, adverse to Plaintiff's Title thereto; referred to as Doe, Respondents,

Motion to Dismiss Appeal

Pursuant to Rules 240 and 208(a) of the South Carolina Appellate Court Rules, Respondent LaSalle Bank National Association, trustee for Lehman Brothers Structured Asset Investment Loan Trust Sail 2005-2 ("LaSalle Bank") moves to dismiss the appeal filed by Appellant Laura T. Toney ("Toney") because Toney has failed to file and serve her Initial Appellant's Brief and Designation of Matter within the time mandated by Rules 208(a)(1) and 209 of the South Carolina Appellate Court Rules ("SCACR"). This failure to comply with our appellate court rules warrants dismissal of the appeal.

Toney filed the Notice of Appeal in this matter on June 24, 2013. See Notice of Appeal. Rule 207(a)(1), SCACR, required Toney to order the transcript “within ten (10) days after the date of service of the notice of appeal.” Moreover, Toney was required to “contemporaneously furnish all counsel of record, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.” Rule 207(a)(1), SCACR. Toney failed to comply with these mandatory requirements.

As a result, on October 29, 2013, this Court directed Toney to advise when she received the transcript or to file her Initial Appellant’s Brief and Designation of Matter within thirty days, if the transcript was previously received. See Letter dated 10.29.13, attached hereto as Exhibit A. In response to the Court’s letter, Toney advised this Court that she “attempted several times to secure the **transcripts** from the court reporter” but had been unsuccessful. See Letter dated 11.01.13, attached hereto as Exhibit B (emphasis added but plural in original).

Because Toney was unable to comply with her obligation as Appellant to obtain the transcript, undersigned counsel for **Respondent** LaSalle Bank submitted an expedited request for the transcript from the proper court reporter.¹ See Letter dated 1.10.14, attached hereto as Exhibit C. The Court reporter completed the transcript in a timely manner and sent it to undersigned counsel for LaSalle Bank.

¹ As of January 15, 2014, Toney had still yet to obtain the transcript and, as a result, undersigned counsel for LaSalle Bank sent a letter to this Court to alleviate any confusion on the part of Toney regarding the transcript at issue. The letter advised the Court that only one transcript existed in this matter and that was for the November 14, 2012, hearing. See Letter dated 1.15.14, attached hereto as Exhibit D. At that time, Toney was 205 days delinquent on her obligations in regard to the transcript. Id. The letter also asked the Court to take the appropriate action because of this failure. Id.

Upon receipt of the transcript, counsel for LaSalle Bank provided Toney with a copy of the same, free of charge, on January 28, 2014. See Letter dated 1.28.14, attached hereto as Exhibit E. In that letter, counsel advised Toney that “[t]he deadline imposed in Rule 208(a)(1) of the South Carolina Appellate Court Rules now applies to your appeal.” Id. Counsel for LaSalle Bank copied the Clerk of Court to alert the Court that Toney was now in receipt of the transcripts. Id.


Even allowing five (5) days for Toney to receive the January 28, 2014 letter and transcript by mail, Toney has failed to timely file her Initial Appellant’s Brief and Designation of Matter. The deadline for filing the same was no later than March 4, 2014. As of the date of this motion, Toney has failed to file or serve her Initial Appellant’s Brief and Designation of Matter. As a result, this Court should dismiss the appeal.

Toney is an abuser of the court system and consistently files frivolous actions that waste judicial time and resources. This is one such action. In fact, the trial court sanctioned Toney due to her bad faith attempt to pursue yet another frivolous action against LaSalle Bank. See Order dated 1.06.13, attached hereto as Exhibit F.

This Court should not afford Toney any additional time to file her Initial Appellant’s Brief and Designation of Matter. This appeal has been pending since June 24, 2013, and, due to Toney’s failure to follow the clear directives imposed by our appellate court rules, this appeal has yet to even begin initial briefing. The appeal has now been pending for 264 days for a briefing process that could have been completed in as few as 30 days from the filing of the notice of appeal.

Toney's abject failure to comply with her obligations as appellant have caused LaSalle Bank to incur unnecessary costs (such as having to order the transcript even though not required to do so), delay in advancing the appeal, and continued efforts to defend this frivolous action. By choosing to pursue this appeal, our appellate court rules impose certain obligations on Toney. See, e.g., State v. Burton, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9 n. 5 (2003) ("A pro se litigant who knowingly elects to represent h[er]self assumes full responsibility for complying with substantive and procedural requirements of the law."). Toney simply refuses to comply with her obligations. Thus, LaSalle Bank requests that this Court not afford Toney any further time to complete her Initial Appellant's Brief and Designation of Matter and dismiss this appeal.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 
Michael I. Anzelmo
SC Bar No. 72933
E-Mail: michael.anzelmo@nelsonmullins.com
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Attorneys for LaSalle Bank National Association,
trustee for Lehman Brothers Structured Asset
Investment Loan Trust Sail 2005-2

Columbia, South Carolina

March 19, 2014



EXHIBIT

A

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 29, 2013

Laura T. Toney
PO Box 722
Bishopville SC 29010

Re: Laura Toney v. Deutsche Bank
Appellate Case No. 2013-001414

Dear Ms. Toney:

Please see the attached order regarding the above matter on appeal. Please advise the Court of the date the transcript is received from the court reporter so that timelines may be set accordingly. If the transcript has already been received, the appellant's initial brief and designation of matter must be served and filed no more than thirty (30) days from the date of this letter.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Henry Guyton Murrell
Michael J. Anzelmo

EXHIBIT

B

November 1, 2013

P.O. Box 722
Bishopville, SC 29010

South Carolina Court of Appeals
Jenny Abbot Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

Dear Madam:

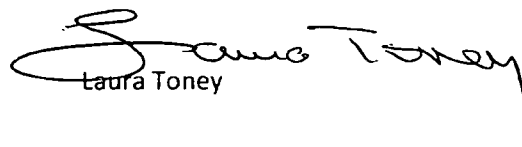
I am writing this letter in response to your letter dated October 29, 2013.

I have attempted several times to secure a transcript from the court reporter, but have not gotten a response from Ms. Hilda Johnson. This last attempt to secure a transcript was mailed by certified mail. I am enclosing a copy of the letters sent to Ms. Johnson. I have also mailed a copy of the letter to the Court Administration's office as well.

I need some direction from the Court on how to proceed. Ms. Johnson has refused to acknowledge my letters requesting the transcripts.

Thank you for your indulgence in this case.

Sincerely,


Laura Toney

CC: Korn Law Firm

RECEIVED

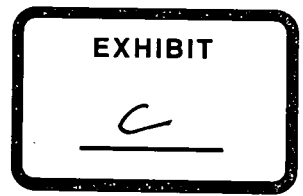
NOV 04 2013

SC Court of Appeals

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
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Tel: 803.255.9564
meredith.keane@nelsonmullins.com



January 10, 2014

Hilda M. Jordan
South Carolina Circuit Court Reporter
P.O. Box 435
Lexington, SC 29071

RE: Laura T. Toney a/k/a Laura Ann Toney v. Deutsche Bank National Trust Company As
Trustee For the Holders of New Century Home Equity Loan Trust, Series 2005-A,
Asset Backed Pass-Through Certificates; et al.
Civil Action No.: 2012-CP-38-01108
Our File No.: 11281/01670

EXPEDITED TRANSCRIPT REQUEST

Dear Ms. Jordan:

Along with Guyton Murrell, Korn Law Firm, Michael Anzelmo represents the Defendants in the above matter. Laura Toney has filed an appeal. This letter is to request an **expedited copy** of the hearing transcript before the Honorable Diane Goodstein which took place on November 14, 2012 in Orangeburg in this matter. If possible, please provide this transcript to me via email with a hard copy to follow via U.S. Mail.

Please contact me at your earliest convenience concerning payment arrangements for this transcript request. Thank you for your cooperation and I look forward to hearing from you.

Very truly yours,

A handwritten signature in black ink that reads "Meredith S. Keane". The signature is written in a cursive style.

Meredith S. Keane
Senior Paralegal to
Michael Anzelmo

MSK:mws

cc: SC Court of Appeals
SC Court Administration

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
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Michael J. Anzelmo
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Fax: 803.255.9024
michael.anzelmo@nelsonmullins.com



January 15, 2014

Hand Delivered

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

RECEIVED
JAN 15 2014
SC Court of Appeals

RE: Laura T. Toney a/k/a Laura Ann Toney v. Deutsche Bank National Trust Company As Trustee For the Holders of New Century Home Equity Loan Trust, Series 2005-A, Asset Backed Pass-Through Certificates; LaSalle Bank, N.A., et al.
Civil Action No.: 2012-CP-38-01108
Our File No.: 11281/01670

Dear Ms. Kitchings:

I wanted to follow-up on the Court's letter to Ms. Toney regarding the status of the transcripts in the above appeal and offer clarification as to the transcripts in this matter. In her letter dated November 1, 2013, to this Court, Ms. Toney advised that she awaits two (2) transcripts from the court reporter. This is incorrect. The only hearing transcribed was the November 14, 2012, hearing.

Ms. Hilda Johnson was the court reporter for the hearing on November 14, 2012. Ms. Rose Walker, whom Ms. Toney has **never** contacted or requested a transcript, was the court reporter for the motion to reconsider hearing on May 20, 2013.

We contacted, via letter and email, both Ms. Johnson and Ms. Walker requesting copies of any transcripts from the lower court hearings in this case on November 14, 2012 and May 20, 2013. Ms. Walker responded to our request and advised that she has reviewed her records and there were no formal proceedings transcribed at the May 20, 2013, hearing. Thus, there is **only one transcript to obtain by Ms. Toney.**

The Honorable Jenny Abbott Kitchings

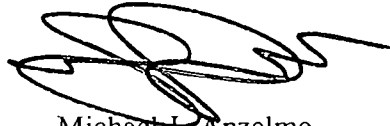
January 15, 2014

Page 2

Ms. Toney filed this appeal on June 24, 2013, but she has yet to comply with the requirements of Rule 207(a)(5), SCACR. As such, Ms. Toney has failed to comply with our court rules for 205 days. I ask the Court to take the appropriate action.

Should this appeal continue, counsel further requests that this Court instruct Ms. Toney to copy all counsel of record on any correspondence with the Court as to this appeal. Ms. Toney failed to copy undersigned counsel on any communications to this Court, including Ms Toney's status letter of November 1, 2013 to the court.

Very truly yours,

A handwritten signature in black ink, appearing to read "Michael J. Anzelmo", with a stylized flourish at the end.

Michael J. Anzelmo

Counsel for Respondent LaSalle Bank, N.A.

MJA:mws
Enclosures

cc: Laura Toney
Chris S. Truluck, Esq.

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
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michael.anzelmo@nelsonmullins.com

January ~~27~~, 2014
28

Via U.S. Mail

Laura Toney
Post Office Box 722
Bishopville, South Carolina 29010

RE: Laura T. Toney a/k/a Laura Ann Toney v. Deutsche Bank National Trust
Company, LaSalle Bank National Association, et al.
Civil Action No.: 2012-CP-38-01108
Our File No.: 11281/01670

Ms. Toney:

Enclosed please find a copy of the hearing transcript dated November 14, 2012, provide to us by Hilda Jordan, the court reporter for the November 14, 2012 hearing in the above-referenced matter. Additionally, pursuant to our letter to the Court dated January 15, 2014, no formal transcript was transcribed for the May 20, 2013, hearing. The deadline imposed in Rule 208(a)(1) of the South Carolina Appellate Court Rules now apply to your appeal.

Please note—a typographical error exists on the cover page of the transcript. That page states that I represent you in this matter. As you know, that is not the case. Also, I clarified that fact to the court as set forth on page 4, line 21 through page 5, line 2 of the transcript. I have alerted the court reporter of this error and requested correction of same.

By copy of this letter to the Honorable Jenny Kitchings, Clerk South Carolina Court of Appeals, we are advising the Court of your receipt of the transcript in this matter.

Very truly yours,



Michael J. Anzelmo

RECEIVED

JAN 30 2014

SC Court of Appeals



STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF ORANGEBURG

C/A NO:2012-CP-38-1108

Laura T. Toney a/k/a Laura Ann Toney,

ORDER OF DISMISSAL

PLAINTIFF,

vs.

Deutsche Bank National Trust Company as Trustee for the Holders of New Century Home Equity Loan Trust, Series 2005-A, Asset Backed Pass-Through Certificates, LaSalle Bank National Association, as Trustee for the registered holders of Structured Asset Investment Loan Trust, Mortgage Pass-Through Certificates, Series 2004-11 and LaSalle Bank National Association, Trustee for Lehman Brothers Structured Asset Investment Loan Trust Sail 2005-2 and all persons unknown claiming any legal or equitable right, title, estate, lien or interest in the property described in the complaint adverse to plaintiff's title thereto referred to as Doe,

DEFENDANT(S).

F27-02370

FILED FOR RECORD
MINNIE B. CLARK
CLERK OF COURT
ORANGEBURG, SC
2013 JAN 18 AM 11:30

This is an action as to certain real property located in Orangeburg County. The property was the subject of a prior foreclosure action, Deutsche Bank v. Laura T. Toney, et al, Case No. 2007-CP-38-807. The Plaintiff is the former owner of the subject real property and has filed the current action alleging that the prior foreclosure action was invalid. The complaint alleges causes of action for negligence, mortgage fraud, actions to set aside the deed, wrongful foreclosure, quiet title and slander of title. The Defendant Deutsche Bank (Deutsche) was the mortgage holder in the prior foreclosure action and LaSalle Bank (LaSalle) held a second mortgage encumbering the subject real property.

ATTEST: TRUE COPY
Minnie B. Clark
CLERK OF COURT
ORANGEBURG COUNTY, SC

The action was commenced with the filing of the lis pendens, summons and complaint on August 10, 2012. The Defendant Deutsche filed a motion to dismiss on August 29, 2012. Plaintiff filed an amended lis pendens, summons and complaint on September 12, 2012. Defendant LaSalle filed a motion to dismiss on October 10, 2012.

The motion to dismiss was scheduled for hearing on November 14, 2012. Notice of hearing was sent to all parties on November 8, 2012 and the notice of hearing was filed with the court on November 13, 2011. The court received a letter from the Plaintiff immediately prior to the scheduled motion hearing requesting a continuance.

Appearing at the hearing was H. Guyton Murrell as counsel for Defendant Deutsche and Michael Anzelmo as attorney for Defendant LaSalle. The Plaintiff Laura Toney did not appear. Based upon the hearing notice filed of record as well as the letter received from the Plaintiff, the court finds that all parties were provided due and adequate notice of the motion hearing. The court further finds that no adequate grounds for a continuance were offered by the Plaintiff and her request for a continuance is denied. The grant or denial of a continuance lies with the sound discretion of the trial court. *M & M Group, Inc. v. Holmes*, 379 S.C. 468, 666 S.E.2d 262 (S.C. App. 2008) citing *State v. Tanner*, 299 S.C. 459, 385 S.E.2d 832 (1989).

The motion to dismiss filed by Defendant Deutsche alleges several grounds why the current action should be dismissed. Counsel for Defendant Deutsch presented evidence to the court that the prior foreclosure action referenced by the Plaintiff in her pleadings is currently on appeal and the South Carolina Court of Appeals has exclusive jurisdiction of matters related to or affected by the appeal under Rule 205 SCACR. The findings and rulings by the trial court in the previous case would also bar the Plaintiff

from attempting to relitigate those issues in the current action under the doctrine of res judicata.

Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. Under the doctrine of res judicata, "a litigant is barred from raising any issues which were adjudicated in the former suit and any issues which might have been raised in the former suit. *Judy v. Judy*, 393 S.C. 160, 712 S.E.2d 408 (2011) citing *Plum Creek Dev. Co. v. City of Conway*, 334 S.C. 30, 512 S.E.2d 106 (1999). Res judicata requires the following elements to be proven: (1) identity of the parties; (2) identity of the subject matter; and (3) adjudication of the issue in a former suit. *Riedman Corp. v. Greenville Steel Structures, Inc.*, 308 S.C. 467, 419 S.E.2d 217 (1992).

In the present case, all of the elements for res judicata are present. The parties are identical in that both the mortgagor and mortgagee in the prior foreclosure action are the parties in this action. The identity of the subject matter is also the same. The final elements of res judicata are also met in that the trial court in the prior case adjudicated the issue of whether Deutsche had a valid mortgage lien and was entitled to foreclosure. The record in the prior case reflects that Plaintiff herein was personally served with the foreclosure pleadings and failed to file and serve a responsive pleading.

Counsel for Defendant Deutsche Bank further argued judicial estoppel would bar the current action based on Plaintiff's statements in her previously filed bankruptcy cases. Specifically, Plaintiff filed schedules in her bankruptcy with the subject mortgage listed as a valid lien to be cured under the terms of the proposed plan as well as stating that she had no counterclaims or setoffs to declare as assets.

A review of the pleadings in this action show the current action filed by Plaintiff is inextricably linked and related to the prior foreclosure action and the previous litigation related to that case. Even if the pending appeal did not bar the current action, the causes of action raised by the Plaintiff in this matter would clearly constitute compulsory counterclaims that should have been raised in the prior litigation. The causes of action to quiet title and slander of title are dependent upon Plaintiff having a current title interest. The prior foreclosure action divested Plaintiff of her interest in the property. Therefore, the court finds that the Defendant Deutsche's motion to dismiss the current action with prejudice is granted. As the case is being dismissed in its entirety, the pending motion to dismiss filed by Defendant LaSalle is moot.

Defendant Deutsche also moved for sanctions including a bar against Plaintiff filing any further new actions in this matter. The current action was filed by Plaintiff as a self represented litigant. The Plaintiff in this action has been repeatedly sanctioned as a bad faith litigant in prior litigation by the United States Bankruptcy Court and the state civil courts of South Carolina. The prior bad faith litigation by Plaintiff is set forth in detail in the order filed September 4, 2008 in the related foreclosure case currently under appeal. Although the court finds that the current action is barred and grants the motion by Defendant Deutsche to dismiss the current action with prejudice, the court declines to impose the sanction requested.

The court does find that the Plaintiff Laura T. Toney a/k/a Laura Ann Toney should be sanctioned by being required to pay the attorney fees and costs incurred by respective counsel for Defendant Deutsche and Defendant LaSalle in this matter. Pursuant to Rule 11 of the South Carolina Rules of Civil Procedure, the signature of an attorney or

a party to a pleading constitutes a certification that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for the purpose of delay. If a pleading, motion, or other paper is signed in violation of this Rule, the court, upon motion or its own initiative, may impose upon the person who signed it ... the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee. *Russell v. Wachovia Bank, N.A.*, 370 S.C. 5, 19, 633 S.E.2d 722, 729 (2006). The court has reviewed the attorney fees affidavits submitted by respective counsel and applied the factors set forth in *Baron Data Sys., Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989) and related cases. The court finds that Plaintiff Laura Toney shall pay attorney fees and costs incurred by Defendant Deutsche Bank in the amount of \$ 1479.00 to attorney H. Guyton Murrell at his office address of Post Office Box 11264, Columbia South Carolina 29211 within 90 days of this order being served by mail upon Plaintiff at the address listed with the Orangeburg County Clerk of Court. The court further finds that Plaintiff Laura Toney shall pay attorney fees and costs incurred by Defendant LaSalle Bank in the amount of \$ 1,125.20 to attorney Michael Anzelmo at his office address of Post Office Box 11070, Columbia, South Carolina 29211 within 90 days of this order being served by mail upon Plaintiff at the address listed with the Orangeburg County Clerk of Court.


THEREFORE, IT IS ORDERED that this case is dismissed with prejudice.


IT IS FURTHER ORDERED that Plaintiff Laura T. Toney a/k/a Laura Ann Toney shall pay attorney fees and costs incurred by Defendant Deutsche Bank in the

amount of \$ 1479.⁰⁰ to attorney H. Guyton Murrell at his office address of Post Office Box 11264, Columbia South Carolina 29211 within 90 days of this order being served by mail upon Plaintiff at the address listed with the Orangeburg County Clerk of Court.

IT IS FURTHER ORDERED that Plaintiff Laura Toney shall pay attorney fees and costs incurred by Defendant LaSalle Bank in the amount of \$ 1,125.⁰⁰ to attorney Michael Anzelmo at his office address of Post Office Box 11070, Columbia, South Carolina 29211 within 90 days of this order being served by mail upon Plaintiff at the address listed with the Orangeburg County Clerk of Court.

IT IS SO ORDERED.


The Honorable Diane Goodstein
Presiding Judge 1st Judicial Circuit

 Jan 6 2013
December 6, 2012
Sumner, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Diane S. Goodstein, Circuit Court Judge

Case No. 2012-CP-38-01108
Appellate Case No. 2013-001414

Laura T. Toney, Appellant.

v.

Deutsche Bank National Trust Company, as trustee for the holders of New Century Home Equity Loan Trust, series 2005-A, asset backed pass-through certificates; LaSalle Bank National Association, trustee for Lehman Brothers Structured Asset Investment Loan Trust Sail 2005-2; All persons unknown, claiming any legal or equitable right, title, estate, lien, or interest in the property described in the Complain, adverse to Plaintiff's Title thereto; referred to as Doe, Respondents,

PROOF OF SERVICE

I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for LaSalle Bank National Association, trustee for Lehman Brothers Structured Asset Investment Loan Trust Sail 2005-2, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings: Motion to Dismiss Appeal

Counsel Served:
Laura Toney
Post Office Box 722
Bishopville SC 29010

RECEIVED

MAR 19 2014

SC Court of Appeals

Chris S. Truluck
Korn Law Firm, P.A.
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211

Lisa P. Whitehurst

Lisa P. Whitehurst
Administrative Assistant

March 19, 2014

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law
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Michael J. Anzelmo
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michael.anzelmo@nelsonmullins.com

March 19, 2014

Hand Delivered

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: Laura T. Toney a/k/a Laura Ann Toney v. Deutsche Bank National Trust
Company As Trustee For the Holders of New Century Home Equity Loan
Trust, Series 2005-A, Asset Backed Pass-Through Certificates; et al.
Civil Action No.: 2012-CP-38-01108
Our File No.: 11281/01670

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of a Motion to Dismiss Appeal in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$25.00 as the required filing fee.

Very truly yours,



Michael J. Anzelmo

MJA:lpw

Enclosure

cc: Laura Toney (w/enc.)
Chris S. Truluck, Esquire (w/enc.)