

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas/then/Replacement Master of Equity  
Judge Maite D. Murphy

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

RECEIVED

MAR 31 2014

SC Court of Appeals

Roger L. Whaley .....

vs.

South Carolina FEDERAL CREDIT UNION and BANK OF AMERICA.....Respondents.

Appellant/Whaley's in Compliance to RESPONDENT/SCFCU's "March 20, 2014" Claims! written in SCFCU's MEMORANDUM IN OPPOSITION TO THE MOTION FOR RECONSIDERATION ON BEHALF OF RESPONDENT SOUTH CAROLINA FEDERAL CREDIT UNION; whose-Memor! also! ADMITS!! this APPEALS COURT'S 2-27-2014 Ordered Case Law "...Hennings DID NOT DISMISS the APPEAL...",<sup>1</sup> and "Hennings..." DENIED!! RESPONDENTS' MOTION to DISMISS

and Filing

APPELLANT/Whaley IN RESPONSE!! to RESPONDENT/BOA's LETTER! dated "March 20, 2014" (which is against! SCACR Rule 267<sup>2</sup>) filed by Respondent/BOA's & Appellant/Whaley's (SAME Paid/or State! APPOINTED) LAW FIRM's ATTORNEYS, NELSON, MULLINS, RILEY, & SCARBOROUGH LLP - doing UNDISPUTED/Conflict of Interest pursuant with ROPC 1.7(a)(1) -(been IGNORED by this said APPEALS Court Order 2-27-2014 & by the said Lower Trial Court's said Final Order-CONFIRMED! in Lower Trial Court's TRANSCRIPT[S])! involving Respondent/BOA's Same Attorneys' most recent filed IMPROPER/and Intentional! in Non-Compliance!! WITH the SOUTH CAROLINA's APPELLATE Court's RULES and PROCEDURES Rule 240/and/or Rule 240(e)

NOW COMES "...for brevity purposes..." this pro se Appellant/Whaley is filing in Compliance to both Respondents! filed above said pleadings, as Appellant's prior filed produced documents with claims filed in his Motion for Rehearing/and/or Reconsideration, speaks/and Confirms for themselves, whereas Respondent/SCFCU'S own! above Memorandum page 2 admits! -

1. that "...the entire...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...on February 27, 2014 this Court granted Respondents' MotionS to Dismiss based on Appellant's failure! to comply! with South Carolina Appellate Court Rules."<sup>3</sup> (Just!

<sup>1</sup> RESPONDENT/SCFCU's STATE!!!! COURT's!!! filed Memorandum dated March 20, 2014 on page 2, ADMITS that "Appellant has filed a Motion for Reconsideration ASSIGNING ERROR to THIS COURT's USE of Henning v. Key, 307 S.C. 436, 415 S.E.2d 794 (1992)..."; As the said Case Law Speaks for itself which actually! written that "...THIS COURT would be completely JUSTIFIED in DISMISSING this Appeal based on Appellant's numerous VIOLATIONS of the Rules, WE DECLINE to DO SO and DENY!!!! the [Respondents'] MOTION TO DISMISS...as to the HENNINGS..."; Just as Respondent/SCFCU's continue! to MISQUOTE SCFCU's provided TWO Criminal!! CASE LAWS, State v. Burton & State v. Holman, -which ADMITS that "...It is true that where one has conducted his defense in person technical rules are to be applied with much less stringency than where he has been represented by counsel." and states that "...But established Rules of Procedure ARE NOT to be DISCARDED, EITHER in the TRIAL COURT or: ON APPEAL, merely because the Defendant has been his own lawyer, Our custom of long standing requires that we relax them in capital cases even when the defendant has been represented by counsel...but in cases not capital our power to do so SHOULD BE EXERCISED only when necessary to PREVENT A MANIFEST MISCARRIAGE of JUSTICE"; As Respondent/SCFCU & BOA, continues! to be untruthful/deceitful, and INTENTIONAL non-compliance with this Appellate Rules.

<sup>2</sup> SCACR Rule 267(a) Captions. "...ALL! DOCUMENTS!! filed in the Appellate Court SHALL be headed by a CAPTION." - As the Respondent/BOA and its hired Licensed Attorney(s) LAW FIRM, "Nelson, Mullins, Riley & Scarborough LLP" LETTER of "MARCH 20, 2014" - PERSONALLY! WROTE! - (AND Continued to asks SPECIAL FAVORS) from this Appeals Court's CLERK "Ms. Kitchings" to "...PLEASE ALLOW THIS!! LETTER!!! to SERVE!! as OUR RETURN!! to Whaley's MOTION for Rehearing/or Reconsideration Pursuant with RULE SCACR 221(a)..."; Which is goes against!!! the South Carolina Appellate Rule 240(e) Return to Motion...which states - "...Any PARTY OPPOSING a MOTION or petition shall have ten (10) days from the date of service thereof TO FILE an original and SIX (6) COPIES of his RETURN!! WITH the CLERK and Serve on ALL Parties a COPY of the RETURN"; - This said (Six pages WERE NEVER! FILED by the said Respondent/BOA-yet! receiving SPECIAL FAVORS -Just! as BOA/NEVER filed this Court Ordered "Initial BRIEF" by "OCTOBER 4, 2013" (See Exh. B); Therefore, Although Appellant/Whaley is PRO SE, only! the said named ATTORNEYS in this matter- IS NOT in COMPLIANCE with this said Appeals Court's Rules and Procedures, and required Laws. Pursuant with Rules of Canon B.(2)&(5), C. (2), & E.(1)

<sup>3</sup> Respondent/SCFCU ADMITS! claims Differently! in its MOTION TO DISMISS that "...Appellant filed MOTIONS!! for JUDGMENT against BOTH RESPONDENTS...by Order filed November 27, 2013, this Court DENIED Appellant's Motion for Judgment as to Both Respondents...The Court further granted BOA's Motion to Strike and ORDERED Appellant to serve and file an Amended DESIGNATION of Matter ...EXCLUDING!!! the OFFENDING!!! PORTIONS!!!"; OTHERWISE SCFCU ADMITS that this Appeals Court did not state that "...Appellant's failure! to comply! with South Carolina Appellate Court Rules..."; but, instead this Appeals Court/JUST LIKE the Lower Trial Court - IGNORED!/or OVERLOOKED - the provided DOCUMENTED TRUTH of

as this Appeals Court 2-27-14 Order Continues to Overlook, this Appeals Court's own Board Member Mr. B.B. Ashmore's ACTUAL PARTICIPATION within this Appellant/Whaley's Case matter involving his said Cashier's Checks named PAYEE/CCG and CCG's Subsidiaries, and Affiliates- BUSINESSES, name titles, 3-HEBREW BOYS, & Daniel Development Group, along with the said Businesses, Agents, Tony Pough; Minister, Timothy McQueen; and Pastor, Joseph Brunson whom ALL were brought ONLY into this said CIVIL STATE COURT Case matter, by BOTH said named Respondents, BANK OF AMERICA, and SOUTH CAROLINA FEDERAL CREDIT UNION, along with the SUPPORT of this said Appeals Court prior granted ORDER(s) to the said Respondents, to allow a ONGOING STATE COURT MATTER, to be intervened by a Closed/and found to FRAUDULENT FEDERAL Case number 3:2007-MC-00135-MBS, involving BOTH said RESPONDENTS own Volunteered PRODUCED document [filed within the said Lower Trial Court, and WRITTEN within this said APPEALS COURT Records] dated OCTOBER 10, 2008, which ALSO shows/and has the NAME of this said APPEALS & SUPREME COURT'S BOARD MEMBER, Mr. Beattie B. Ashmore, as an alleged FEDERAL RECEIVER [allegedly] involving Appellant/Whaley's said STATE COURT produced CASHIER'S CHECKS, and Whaley's said Cashier's Checks named PAYEE/CCG.)

**RESPONSE TO RESPONDENT/BOA's IMPROPER written LETTER 3/20/2014; and NON-COMPLIANCE WITH SCACR Rules 267(a)-(See Exh. J), & 208(a)(2)&(b); and SHOWS CONTINUE! ERRORS overlooked by Appeal Court**

2. Respondent/BOA's most Recent IMPROPER FILED Letter \*(See Exh. G; Exh. AA; Exhibits. B, & B-1), is shown the continued<sup>5</sup> requests/or allowed SPECIAL FAVORS -by this said Appeals Court's Officials - when this said Appeals Court OVERLOOKED/and or in ERROR - allowed the said Respondent(s) not to COMPLY to this said Appeals Court's written ORDER(s)/or signed LETTERS, such as (See Exh. D- BOA's LETTER/dated "Oct. 24, 2013" supports) Respondent/BOA's UNTIMELY! filed "MOTION TO DISMISS", received SPECIAL FAVORS, and/or was a GREAT!!! ERROR/ OVERLOOKED, by this said Appeals Court, when Respondent/BOA's said filed UNTIMELY filed MOTION to DISMISSED Dated Oct. 24, 2013 -Upheld - in ERROR by this said APPEALS Court's ORDER dated - "February 27, 2014" -is shown to have NEVER COMPLIED with this Appeals Court's own ORDER/or Clerk's Instructions \*(See attach Exh. B)\* dated "SEPTEMBER 25, 2013" which ordered/or instructed BOTH said RESPONDENTS/which included! Respondent/BOA to have filed its "INITIAL BRIEF and DESIGNATION of MATTER ARE! DUE! on!!! OCTOBER 4, 2013." <sup>6</sup> Which Respondent/BOA NEVER! COMPLIED (and filed its INITIAL BRIEF, as is REQUIRED! pursuant with SCACR Rule 208[b] but! instead! this appeals court-in error allowed BOA's Untimely filed Motion to Dismiss dated "OCTOBER 24, 2014", which filed AFTER!not! before! the Required time which Respondent/BOA was to file its Initial Brief.

3. This APPEALS COURT'S/ERROR/and! OVERLOOKED! even! the RESPONDENT/SCFCU - always KNOWN! KNOWLEDGE!! of Appellant/Whaley's filed TRANSCRIPT! that was being (in ERROR/or overlooked) HELD! within this STATE! SUPREME!! Court-resulted in This Appeals Court Officials CONTINUED Threats! of DISMISSAL! of this Appellant/Whaley's NOTICE OF APPEAL:

4. RESPONDENT/SCFCU's most! RECENT filed "MEMORANDUM in Support of MOTION TO DISMISS..." dated "February 5, 2014" - wrote/and/ADMIT! that "...APPELLANT filed a MOTION for Reconsideration on JUNE 28, 2012...a HEARING...Held! on August 29, 2012. ON September! 17, 2012, the TRIAL!!!! COURT!! entered an ORDER Denying Appellant's Motion for

Appellant/Whaley actually SPOKEN in the OPEN Trial COURT TRANSCRIPT[s] that was PRODUCED, but! RETURNED by this said APPEALS Court's CLERK. \*(See Exh. B).

<sup>4</sup> As BOTH said named RESPONDENTS, BOA and SCFCU's Lower Trial Court, and filed also within this said Appeals Court's filed pleadings \*(are pursuant with SCACR - Rule 210)- also shows that this Appeals Court's BOARD MEMBER, Mr. BEATTIE B. ASHMORE, was APPOINTED as an alleged FEDERAL RECEIVER-Appointed by the INDIVIDUAL/a/k/a/U.S. District Court JUDGE, MARGARET B. SEYMOUR - whom BOTH said FEDERAL PARTIES, were introduced! in this said STATE!! COURT matter(s) and -LAWS, Rules and PROCEDURES, to be GOVERNED by [interfered!!!!] FEDERAL COURT LAWS, RULES, and PROCEDURES - [which is pursuant with SCRCP 203(d)(1)(A)(ii); and AGAINST the Federal LAWS "ROOKER/FELDMAN DOCTRINES"- which are issues Only!! the Respondents!! both! own! written Pleadings PRODUCED/provided DOCUMENTS! that were filed within these! said STATE!! COURTS! Proceedings (in the said Lower Trial Court & this said Appeals Court's) CIVIL!! case matter(s), which also involves the RESPONDENT-BOA's PAID/LAW FIRM, Nelson, Mullins, Riley, & Scarborough LLP, - which Appellant/Whaley's PRODUCED DOCUMENTS (within the said LOWER TRIAL COURT, and within this said APPEALS COURT) shows/and SUPPORTS that RESPONDENT/BOA's hired SAME! said LAW FIRM is doing an INTENTIONAL! CONFLICT!! of INTEREST, pursuant with the RULES of PROFESSIONAL CONDUCT Rule 1.7(a)(1).

<sup>5</sup> As the Respondent/SCFCU's IMPROPER filed attach LETTER \*(See Exh. E)\* dated "OCTOBER 31, 2013" shows RESPONDENT/SCFCU's also in INTENTIONAL! NON-COMPLIANCE with this Appeals Court's LAWS, and RULES and PROCEDURES under Rule 240(d),(e), and!! requested SPECIAL FAVORS; Confirmed by this said Appeals Court's own! continued ERRED ORDERS and or LETTERS/WHICH are provided DOCUMENTED EVIDENCE, produced, in this Appeals court's Present! and past! ERRED! ORDERS, such as \*(See again! Exh. B-1 & Exh. AA, AAA, & See Exh. AA-1 confirms! Appellant/Whaley's always COMPLIANCE with CORRECTION of this Appeals Court's ORDERED AMENDMENT[s]-and/or any filed Alternative-that may have filed under Rule 240[a][b])\* RECEIVED Special Favors from this said APPEALS court's CLERK[s]!"

<sup>6</sup> As attached Exh. C, from this Appeals Court's ORDER dated 9/27/2013/or SEPTEMBER 27, 2013, shows this Appeals Court's ORDER ONLY! ordered (ONE) "RESPONDENT's" INITIAL BRIEF and DESIGNATION of MATTER is hereby EXTENDED UNTIL November 4, 2013." Which was Granted an Extension ONLY! to ONE! Respondent!!/SCFCU - who ONLY!! written! for such an alleged Requested EXTENSION to file SCFCU's INITIAL BRIEF on NOVEMBER 4, 2013 - which RESPONDENT/SCFCU also NEVER! COMPLIED! with this said Appeals Court's ORDER of "9/27/2013" - WHEN!! this said Appeals Court IN ERROR/or otherwise, due to known BIAS Conduct (pursuant under the RULES of CANON) - never! CANCELED! Neither! RESPONDENTS! prior! written ORDER(s)/or Clerk's Instruction filed since the date "SEPTEMBER 25, 2013".

**Reconsideration. The NOTICE!!! of APPEAL was filed...in 2012. DUE to Various ISSUES with!!!! the TRANSCRIPT!!!!..."** (See Exh. B-)

5. RESPONDENT/SCFCU's most recent filed pleading dated "FEBRUARY 5, 2014" – was FILED!! BEFORE!! this said Appeals Court's ERRED!! final ORDER dated "FEBRUARY 27, 2014" - is ADMITTED!! by the RESPONDENT/SCFCU that indeed!! this said APPELLANT/Whaley filed and or CORRECTED his Ordered "DEFICIENCIES" involving Appellant/Whaley's "INITIAL BRIEF" which RESPONDENT/SCFCU ADMITS!!and or SHOWS that Appellant/Whaley INDEED properly! and CORRECTED his said INITIAL BRIEF filed since!! "AUGUST of 2013"!! and after!! Appellant/Whaley! received!! his LAST KNOWN!! DELIVERY!! to ALL PARTIES!! the said LOWER TRIAL COURT'S TRANSCRIPT(s)!! – which indeed showed! and SUPPORTED!! Appellant/Whaley's ALWAYS made known Claims involving the RESPONDENT/BOA's said CONFLICT of INTEREST Attorneys/NELSON, Mullins, Riley, & Scarbrough – LLP's LAW FIRM- (which this said Appeals Court's officials by bias conduct/OVERLOOKED/and/or otherwise by ERROR did not review the UNDISPUTED FACTS always known in the said LOWER TRIAL COURT'S TRANSCRIPT(s) that – RESPONDENT/BOA's said law firm – were! the ONLY APPOINTED RECEIVER – in the STATE!! COURT! – and not! as in ERROR ordered by the said lower trial court, and! in ERROR upheld BOTH said RESPONDENTS! always known FRAUD CLAIMS – supported in the Orders/or Letters from this said Appeals Court's –in ERROR, granting of BOTH said named RESPONDENTS' Untimely filed MOTIONS to Dismiss, in this said Appeal Court's Order dated "February 27, 2014".

5a): As RESPONDENT/BOA's same! paid Attorneys/Nelson, Mullins...LAW FIRM, was also! STATE!! COURT! APPOINTED ONLY! to be the STATE!! COURT! appointed RECEIVER for Appellant/Whaley's said Cashier's Checks and named Payee CCG, and ALL its said named subsidiaries/and/or affiliates – MONEY FUNDS/and PERSONAL PROPERTYs that were!! being HELD ONLY!! within the said FIRST! CITIZEN! BANK! – during the SAME Relevant time period "OCTOBER 10, 2008" involving a FEDERAL CASE NO. 3:2007-MC-00135-MBS (pursuant with SCACR Rule 10(c)), provided by BOTH said RESPONDENTS/BOA and SCFCU –made intentional FRAUD/and or GREAT!! Erred Claims that an alleged FEDERAL!! RECEIVER- Mr. Beattie B. Ashmore was alleged PROPER RECEIVER in which Appellant/Whaley's said MONEY FUNDS were allegedly in Control. But! this said Appeals Court on the date "JANUARY 3, 2014", supported by the RESPONDENT/SCFCU's MEMO, Feb. 5, 2014, ADMITS! THAT ! the ONLY REASONS, this Appeals Court GRANTED its ORDER of FEBRUARY 27, 2014 , so to AMEND Appellant/Whaley's INITIAL BRIEF and DESIGNATION of MATTER was to "...EXCLUDING!! the OFFENDING!! PORTIONS!!..." – which RESPONDENT/SCFCU's ADMITS!!and or shows - Appellant/Whaley's PROPERLY, and timely FILED his "MOTION TO RELIEVE COUNSEL of RESPONDENT/Bank of America, seeking the PROTECTION of RULE 240(b), SCACR...ATTEMPTING to STAY!! the PERFECTION of the APPEAL." -

5b): UNDISPUTED PROVIDED DOCUMENTED EVIDENCE PRODUCED, and FACTS SHOWS, ! instead! this Appeals Court (due to said bias Interest/or due to continued ERRORS) – OVERLOOKED the UNDISPUTED FACTS, that the S.C. APPELLATE COURT RULES and PROCEDURES, Rule 240(e), DID! NOT! provide! any! grounds! for this said APPEALS Court's Officials! to have INTERVENED!! this Appeals Court's personal!! written ORDER dated "JANUARY 3, 2014", which RESPONDENT/SCFCU's own! "MEMO" on page3, dated "February 5, 2014" (See Exh. H-3) admits! ONLY!!!! this said APPEALS COURT's OFFICIALS "DENIED" on "JANUARY 3, 2014" - WITHOUT!! ANY!! named RESPONDENTS/BOA nor SCFCU – NEVER!! FILED (Pursuant with Rule 240(e)) <sup>7</sup>any! "...OPPOSITION..." /a/k/a/ Response(s) to Appellant/Whaley's TIMELY FILED "MOTION to RELIEVE COUNSEL, of RESPONDENT Bank of America..." – which is WHERE! Appellant/Whaley COMPLIED!! with this said Appeals Court's ORDER to AMEND – Appellant's DESIGNATION of MATTERS - /and or to Clarify, and PRODUCE!! (again! ) DOCUMENTATION!!/and lower Trial Court's TRANSCRIPT(s) – that showed and supported! ALL, of Appellant/Whaley's CLAIMS written in his INITIAL BRIEF and DESIGNATION of MATTER, were indeed Claims/ or issues that were either actually DISCUSSED in OPEN COURT, and written with ALL proper parties KNOWN KNOWLEDGE of all claims.

<sup>7</sup> SCACR Rule 240.(e) Return to Motion. "...Any party opposing a motion or petition shall have ten (10) days from the date of service thereof to file an original and six (6) copies of his return with the clerk and serve on all parties a copy of the return; provided, however, a return to a petition or motion for rehearing under Rule 221 need not be filed unless requested by the court. The court may in its discretion enlarge or limit the time for filing the return. The provisions of Rule 240(c) shall apply to a return. FAILURE!! OF a PARTY to timely file a RETURN may be DEEMED a CONSENT BY that PARTY!! to the RELIEF!! SOUGHT!! in the MOTION or petition."

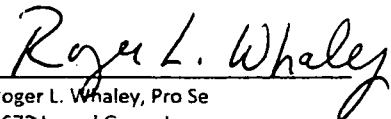
6. UNDISPUTED provided documented evidence, produced either by this Appellant/Whaley, or by both said named RESPONDENTS, always showed this said Appeals Court, that ONLY! BOTH! RESPONDENTS/BOA and SCFCU – FIRST!! INTRODUCED within this said STATE!! COURT! CIVIL! CASE matters, ALL the said named INDIVIDUALS – Beattie B. Ashmore, and Margaret B. Ashmore, together! with the RESPONDENTS/BOA and SCFCU's alleged involvements with EACH OTHER KNOWN KNOWLEDGE! which allegedly involved also! this said (Supreme Court and/or) Appeal Court's BOARD MEMBER-Mr. BEATTIE B. ASHMORE – who was allegedly APPOINTED FEDERAL!! RECEIVER – named in BOTH RESPONDENTS/BOA and SCFCU's filed STATE!! COURT! CIVIL!! pleadings (involving the FEDERAL CASE NO. 3:2007-MC-00135-MBS/ dated 10-10-2008) placed in this said Appeals Court, and within the Lower Trial Court - with! the said RESPONDENTS!! always making claims that ONLY! FEDERAL!! alleged RECEIVER, allegedly controlled Appellant/Whaley's said (UNDISPUTED!!) STOLEN!! said MONEY FUNDS – which are ADMITTED!! CLAIMS by BOTH said RESPONDENTS/BOA and SCFCU, which was indeed in ERROR and/or otherwise OVERLOOKED by this said Appeals Court's ORDER(s), including February 27, 2014 Order.

“(which RESPONDENT/SCFCU-admits!! this Appeals Court TRUE!! ORDERS! apparently FELT! that Appellant/Whaley's RESPONSIVE CLAIMS were “...OFFENDING PORTIONS...” filed in Appellant/Whaley's TIMELY and PROPER! filed Initial Brief/and DESIGNATION of MATTERS, which involved the FEDERAL COURT (INDIVIDUAL!!- person- Margaret B. Seymour!- whose name is written in the said Case no. 3:2007-MC-00135-MBS – and! that!!! said FEDERAL CASE Number was found to be a INTENTIONAL FILED FRAUD!! Case number-where ABSOLUTELY!! NO! written COMPLAINT! was NEVER!! FILED- against NO! PARTY –including Appellant/Whaley's Cashier's Checks named PAYEE/CCG - [which made that! said Federal!! Case number/for ANY! Case number-filed WITHOUT A written COMPLAINT-in said COURT - to have been an ILLEGAL! said Case Number-therefore, SHOWS the INDIVIDUAL-Margaret B. Seymour- WAS NOT! ACTING! as a actual JUDGE, in the case no. 3:2007-MC-00135-MBS, who can be Subpoenaed! ALSO! as a MATERIAL!! WITNESS! concerning this said Civil Case matter – in which ONLY! the said RESPONDENTS/BOA and SCFCU and its said Legal Counselors ADMITS! is a PARTY named involving Appellant/Whaley's in this said case matter)!”

7. As RESPONDENTS/BOA and SCFCU's own filed motions to Dismiss, Granted in ERROR by this said Appeals Court on February 27, 2014, OVERLOOKED both! said RESPONDENTS/BOA and SCFCU's ADMITTANCE acknowledged in Respondent/BOA's own! filed motion to Dismiss that Appellant/Whaley's CLAIMS of CONSPIRACY and THEFT!! of his MONEY FUNDS, by the BANKS SCFCU and BOA, found in RESPONDENT/BOA's filed MOTION to DISMISS (Exh. I-1) – ADMITS! “...Appellant Commenced...a COMPLAINT against RESPONDENTS!!...the allegations in the COMPLAINT...contains...of CIVIL CONSPIRACY, FRAUD, THEFT!! of MONEY, and Breach of Contract with RESPECT to CASHIER'S CHECKS issued!! by!!!! RESPONDENT!! SOUTH CAROLINA FEDERAL CREDIT UNION ('SCFCU')...”, which can be CONFIRMED!! by RESPONDENT/BOA's ATTORNEYS/Nelson, Mullins...who indeed ARE the ONLY!! STATE!! COURT! named RECEIVER, involving Appellant/Whaley's said SAME Cashier's Checks, since! that! said LAW FIRM was the ONLY!! APPOINTED!! STATE!! COURT! ATTORNEY(s) LAW FIRM – shows, who was always aware!! as to WHAT!! BANK! and WHAT!! COURT! actually had the CONTROL of Appellant/Whaley's said MONEY FUNDS/involving the said PAYEE/CCG, in the YEAR 2007 – before! or in the MONTH of JULY, before! any! alleged FEDERAL Case no. 3:2007-MC-00135-MBS – existed – according to Federal Case number, provided ONLY by BOTH said named RESPONDENTS.

WHEREFORE, Appellant/Whaley is filing his said compliance, pursuant with SCACR Rule 240(e), which has (10) days to filed this said compliance/a/k/a/ “OPPOSITION”. \*\*Supported by ALL ATTACHED - 27 –EXHIBITS A through – J.\*\*

MARCH 27, 2014

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

CERTIFICATE OF SERVICE

I, declare that all the proper parties has been served by MAIL, Fax, and or Hand-delivered. As Appellant/Whaley declare, as well as ALL the attached provided documented EXHIBITS supports that ALL that is stated above is True and Believable.

cc: Jody A. Bedenbaugh, Esquire, Erick Tison Norton, Esquire  
1320 Main Street, 17<sup>th</sup> Floor –Columbia, S.C. 29201

Drew Hamilton, Esquire, Shelia M. Bias  
1900 Barnwell St. – Columbia, S.C. 29202

**MR. ROGER WHALEY'S COMPLIANCE/OR "OPPOSITION"  
TO SCFCU and BOA's improper filed LETTER – BOTH dated  
MARCH 20, 2014**

**ATTACHEMENTS – 7**

**Part -1 of 4**

**TOTAL EXHIBITS - 27**

Exh. A

RICHARDSON  
PLOWDEN  
ATTORNEYS AT LAW

COLUMBIA: P.O. Drawer 7785 • Columbia, SC 29202  
1900 Barnwell St., Columbia, SC 29201 P 803.771.4400 F 803.779.0016

MYRTLE BEACH: P.O. Box 3646 • Myrtle Beach, SC 29576  
2103 Farrow St., Myrtle Beach, SC 29577 P 843.448.1098 F 843.448.1532

CHARLESTON: 40 Calhoun St., Suite 220 • Charleston, SC 29401  
P 843.805.8550 F 843.805.6596

www.richardsonplowden.com

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

see Exh. B & Exh. C

Respondent's

SCFCU

Not

BOA

Complied  
with this  
Appellate Court's  
Orders in it  
Clerk's Letter

Dated Sept  
25, 2013 - for

Both Respondent's  
to file their  
Initial Brief and  
Designation of Matter  
w/ SCFCU

Paid for

only

(1)  
Respondent

Filing  
Fee

Request  
for  
Extension

September 10, 2013

Via Hand Delivery

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

Re: Roger Whaley v. SC Federal Credit Union  
Appellate Case No.: 2012-213208

Dear Ms. Kitchings:

As counsel for Respondent SC Federal Credit Union, in the above-referenced case, we respectfully request a 30-day extension of time in which to serve and file our Initial Respondent's Brief and Designation of Matter to be included in the Record on Appeal.

Mr. Whaley, *pro se* Appellant, filed and served his Designation of Matter on what appears to be September 4, 2013; therefore, pursuant to this court's August 23, 2013 letter, our Initial Respondent's Brief and Designation are currently due by Friday, October 4, 2013. However, with a 30-day extension of time, by my calculations, our Initial Brief and Designations would be due on or before November 4, 2013.

We find it necessary to request this extension due to our current heavy workload. This is our first request for an extension of time to serve and file the Initial Respondent's Brief and Designation of Matter.

I am enclosing the \$25.00 filing fee and thank you for your consideration of this request. By copy of this letter, I am notifying Roger Whaley, *pro se* Appellant, of record of this correspondence.

Thank you for your assistance in this matter.

Sincerely,

Sheila M. Bias

Sheila M. Bias  
SC Bar # 100005

SMB/dfb  
Enclosure

cc: Roger Whaley, *pro se* (w/o enclosure)

\* Appeals Court's own! Below  
 CASE - Henning v. Kaye  
 Kaye - supporting  
 Appellant's Appeal  
 Whaley's Appeal  
 must not be  
 dismissed - alleged  
 error was alleged  
 deficiencies were indeed  
 which were indeed  
 corrected - by  
 Appellant - Whaley  
 see Attachments  
 A - thru - 5-b-2  
 or see Attach  
 Exh. AA

\* Neither Respondent's compliance with Appeals  
 Court Order for Exhibits See Exh. AA + SA  
 Research Shows...  
 See Attached  
 Exhibit AA  
 shows the  
 Appeals Court  
 in Error for  
 otherwise due to  
 Bias and Interest  
 Intentionally Returned Appellant  
 Whaley's Attached Documents  
 Evidence - that was  
 Attached with the  
 Requirements of Rule  
 210(C) SCACR - Attached  
 with Appellant's  
 Designation  
 and/or  
 his  
 Initial  
 Brief  
 Along  
 with  
 his  
 mt  
 +  
 Dismissed  
 instead  
 of  
 an  
 Answer  
 to  
 Appellant's  
 Court  
 order  
 Requesting  
 to  
 correct  
 or  
 Change  
 Appellant's  
 Designation  
 of  
 Matter  
 Class  
 where as  
 Appellant Whaley  
 was always in  
 compliance with S.C.  
 Appellate Court Rules...

The South Carolina Court of Appeals

Exh. AA

Roger L. Whaley, Appellant,

South Carolina Federal Credit Union and Bank of  
 America, Respondents.

Appellate Case No. 2012-213208

ORDER

Respondents South Carolina Federal Credit Union and Bank of America have each filed motions to dismiss this appeal. After careful consideration, this appeal is dismissed because Appellant has failed to comply with the South Carolina Appellate Court Rules. See *Henning v. Kaye*, 307 S.C. 436, 437, 415 S.E.2d 794, 794 (1992) (noting an appellate court is justified in dismissing an appeal based on an appellant's failure to comply with the South Carolina Appellate Court Rules).

*[Signature]*  
 FOR THE COURT

Columbia, South Carolina

- cc: Roger L. Whaley
- Drew Hamilton Butler
- Erik Tison Norton
- Jody Alan Bedenbaugh
- Sheila Marlouvon Bias

Exh. AA

2/27/14

pursuant to  
 rule 210  
 (a)(b)  
 +  
 (c)  
 which  
 shows  
 Appellant  
 ATSAID  
 error  
 Order  
 Requesting  
 to  
 correct  
 or  
 Change  
 Appellant's  
 Designation  
 of  
 Matter  
 Class  
 where as  
 Appellant Whaley  
 was always in  
 compliance with S.C.  
 Appellate Court Rules...

Exh. AA-1

\* See Appellant Whaley's Compliance with Appeals Order Confirmed in attached Exh. 5-b-1 and Exh. 5; as well as see Exh. AA Confirmed by S.C. Appeals Court - Letter 9-25-2013 - that Appellant Whaley's proper designation of matter - WAS RECEIVED.



The South Carolina Court of Appeals

STATE OF SOUTH CAROLINA

COURT OF APPEALS

November 13, 2013

↑ ↑

Roger L. Whaley  
8673 Farnel Grove Lane  
North Charleston SC 29420

Re: Roger Whaley v. SC Federal Credit Union  
Appellate Case No. 2012-217208

Dear Counsel:

Upon reviewing your amended notice of appeal, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

- The accompanying proof of service is not in compliance with the SCACR. Your proof of service should be substantially in the format shown by Form 7 in Appendix C to part II of the SCACR.
- The caption title does not comply with Rule 267(a), SCACR. Specifically, it should appear substantially in the format shown by Form 1 in Appendix C to part II of the SCACR.
- Please include the names of all attorneys of record and the names of the party or parties represented by each in compliance with Rule 202 of the SCACR.

~~Exh. 2~~

Appellant Whaley's proper designation of matter - WAS RECEIVED.  
by the Appeals Court's S.C. Appellate Court Rules After Deficiencies were properly corrected. Every Time Appeals Court found any said deficiency...  
Therefore defects or shows errors in Appeals order 2-27-2014

Whereas Appellant Whaley Always Complied with S.C. Appellate Rules - when he corrected

All Appellate Deficiencies which is pursuant with Appeals Order - 2-27-14

EXH. AA-16

Very truly yours,

*James B. Clark*  
CLERK

cc: Drew Hamilton Butler  
Jody Van Breda Inaugh

EXH. 3

Respondent SCFCU

Research show  
Respondent SCFCU - Admits!  
It only filed for extension for SCFCU

October 22, 2013

7 9 7

and Not! Respondent  
BGA - who never!  
Complied with his  
Columbia Appeals  
Court  
Direct Dial: (803) 576-3718  
sbias@RichardsonPlowden.com

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  
C/A No.: 2012-CP-1800539  
Appellate Case # 2012-213208  
Our File No. 7130-36

Dear Ms. Kitchings:

Respondent South Carolina Federal Credit Union is in receipt of Mr. Whaley's "Letter to Clerk a/k/a Motion for Judgment against Respondent Bank of America/Request to Remain [sic] That said Respondent Matter Back to Lower Trial Court with Instruction, to Enter Direct Judgment in Favor of Plaintiff/Appellant Roger Whaley Pursuant with SCRAP [sic] 208(a)(2), (4) & (7)." (hereinafter "Motion"). It appears this Motion is directed at another party. However, to the extent Mr. Whaley intended the Motion be directed towards Respondent South Carolina Federal Credit Union, please accept this letter as our brief Return to the Motion. This Motion is not proper as against Respondent South Carolina Federal Credit Union. Respondent South Carolina Federal Credit Union moved this honorable court for an extension of time in which to file our initial brief. This Court granted the Motion by Order filed September 27, 2013. Accordingly, Respondent South Carolina Federal Credit Union's Initial Brief is not due until November 4, 2013 - 13 days from today. Consequently, to the extent Appellant's motion is directed toward Respondent South Carolina Federal Credit Union the motion is premature, without merit, and should be denied as against us.

By copy of this letter we are serving pro se Appellant with this response.

Thank you for taking the time to review this letter and with kind regards, I am

Sincerely,

Sheila M. Bias

Sheila M. Bias  
SC Bar # 100005

SMB/dfb

Appeals  
Court  
Order(s)  
Letters  
Dated  
9-25-2013  
Exh. AA  
8-23-2013  
Exh. S-C  
Nov  
9-27-2013  
Exh. S  
aaa  
↓  
Appellant  
Whaley  
Complied  
with Appeals  
Court request  
of parties  
↓  
which  
shows  
Also  
Compliance  
with  
Appellate  
order  
2-27-2014  
↓  
Therefore  
Shows  
Appellate  
order  
2-27-2014  
is Most-  
or/ Bias  
Written  
When it  
own! p. 10  
re: lingo.  
↓  
Appellant's Compliance  
with S.C. Appellate Rules.

\* Shows Appellate Court's Error possible Bias  
\* Respondent BGA - Did not  
file its untimely filed  
Motion to Dismiss until 10/1/13  
The Date 10-22-2013 - when Appellate  
ordered its Initial Brief + Dismissal  
to be filed by 10-4-13

5rd Interest  
of Appeals  
Court's Board  
member - Mr.  
BB Ashman

EXH. B



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK  
V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11626  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMNER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1830  
FAX: (803) 734-1839  
WWW.SC00075.ORG

September 25, 2013

Roger L. Whaley  
8673 Laurel Grove Lane  
North Charleston SC 29420

Re: Roger Whaley v. SC Federal Credit Union  
Appellate Case No. 2012-213208

Dear Mr. Whaley:

We received your designation of matter on September 9, 2013. We are returning the documents you included, as this is not the appropriate time to file these documents with the Court. Please see Rule 210 of the South Carolina Appellate Court Rules for further guidance.

Our records reflect the respondents' initial brief and designation of matter are due on October 4, 2013.

Very truly yours,

Jenny A. Kitching

CLERK

cc: Drew Hamilton Butler  
Erik Tison Norton  
Jody Alan Bedenbaugh  
Sheila Marlouvon Bias



Exh. B-1

# 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) 734-1859  
www.sccourts.org

May 21, 2013  
↑ ↑

Roger L. Whaley  
8673 Laurel Grove Lane  
North Charleston SC 29420

Re: Roger Whaley v. SC Federal Credit Union  
Appellate Case No. 2012-213208

Dear Mr. Whaley:

The Clerk of the South Carolina Supreme Court transferred your notice of appeal to the Court of Appeals after it was filed at the Supreme Court. Your case will remain in the South Carolina Court of Appeals. ↑ ↑

Please advise as to the status of the transcript request. Pursuant to Rule 207(a) of the South Carolina Appellate Court Rules, the transcript must be ordered within ten days after the date of service of the notice of appeal. Failure to timely request the transcript may result in dismissal of your appeal.

Very truly yours,  
V. Claire Allen, Deputy

CLERK

cc: Drew Hamilton Butler  
Erik Tison Norton  
Jody Alan Bedenbaugh

\* Documents found Whaley properly contacted the Lower Trial Court Reports within the 30 day time period in year 2012 - could one Reporter write and knowledges Whaley's Request and Payment in year 2012. Defects or shows continued to show on this Appellate Court's officials

~~Exh. 4-a~~

**MR. ROGER WHALEY'S COMPLIANCE/OR "OPPOSITION"  
TO SCFCU and BOA's improper filed LETTER – BOTH dated  
MARCH 20, 2014**

**ATTACHEMENTS – 7**

**Part -2 of 4**

**TOTAL EXHIBITS - 27**

Exh. E

RICHARDSON  
PLOWDEN

COLUMBIA COUNTY CLERK  
COURT OF APPEALS  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TEL: (803) 576-3718  
FAX: (803) 576-3719  
WWW.SOUTH-CAROLINA-COURTS.GOV

October 31, 2013

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**  
C/A No.: 2012-CP-1800539  
Appellate Case # 2012-213208  
Our File No. 7130-36

Dear Ms. Kitchings:

I am writing to follow up on our conversation of October 29, 2013 regarding Respondent Bank of America's Motion to Dismiss staying the perfection of the appeal under Rule 240(b), SCACR. Therefore, it is my understanding that Respondent South Carolina Federal Credit Union's Initial Brief, which has a due date of November 4, 2013, is effectively stayed until the Court issues a decision with regard to the Motion to Dismiss the appeal. Therefore, Respondent South Carolina Federal Credit Union will await this Court's decision on the Motion and further instruction before filing its Initial Brief in this appeal. If my understanding is incorrect, please notify my office so that we may act accordingly.

By copy of this letter we are serving pro se Appellant and all opposing counsel with this response.

Thank you for taking the time to review this letter and with kind regards, I am

Sincerely,

Sheila M. Bias

Sheila M. Bias  
SC Bar # 100005

SMB/dfb

cc: Roger Whaley, Pro se

Exh. F

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

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

RECEIVED  
MAR 20 2014  
SC Court of Appeals

Roger L. Whaley.....Appellant,

vs.

South Carolina Federal Credit Union and Bank of America.....Respondents.

**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

Exh. F-1

Respondent SCFCU <sup>Both</sup> sponsored Case Laws + merits and  
state v. Burton and state v. Holman <sup>is moot and without only</sup>  
has Absolutely! No! Reliance to Appellate Whaley's  
Civil Complaint - which Both Respondents Admitted  
and Do Not Deny that Appellant <sup>was a victim</sup> was a victim  
of Theft - <sup>for</sup> ~~for~~ <sup>pleadings</sup> ~~pleadings~~ <sup>Never</sup> ~~Never~~ <sup>Admits</sup> ~~Admits~~ <sup>No!</sup> ~~No!~~

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 procedure 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

Respondent  
SCFCU  
Admits!  
Appellant's  
always made  
claims that  
he complied with  
the Appellate  
Court Rules.

AS SCFCU  
Admits!  
above that  
Appellant Whaley  
Did! Comply!  
The Appellate Court Rules...  
and only! made unsupported  
and more! produced evidence that Appellant Whaley  
failed - in more aspects of the appeal than  
he has identified in his motion for reconsideration.

SCFCU - Also Admits! This Appellate Court's  
Only! Case Law did miss Whaley's Appeal -  
was No! value or No! merit  
in his case.  
SINE  
alleged Record shows repeated  
Appellant Whaley's Appeal -  
repeatedly failed - in more aspects of the appeal than  
he has identified in his motion for reconsideration.

Produced  
No!  
Evidence  
of a  
Transcript  
No!  
Key  
Record  
that  
could  
Dispute  
Appellate  
Whaley  
Attached  
Documents  
Evidence  
Attached  
with  
Whaley's  
Complaint,  
and  
to this  
Appellate  
Court's  
Order  
Instead  
Brief  
&  
Designation  
of  
matter

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,

Sheila M. Bias

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

SCFCU's  
page 2  
Admits! this  
Appellate  
Court's  
Applied LAW  
Hemings Court  
ultimately Did Not  
Dismiss the Appeal!  
it is of NO moment!  
in this matter!  
which contradicted  
and show SCFCU's  
that this Appellate  
Court's  
correct statement  
of facts and  
correctly applied  
the LAW in this  
matter!

FACTS  
only! provide  
Hemings - ruled  
Appellate's case  
will not be  
which supports  
Appellate's case  
Both respondents  
Motions - that  
must be dismissed  
that was in error!  
This said Appellate  
Court - Due to  
possible error by  
Interested parties  
Respondents -  
W. + respondents  
B. + respondents  
can be heard  
Appellate's case  
Court's decision

She

Interested parties  
Respondents -  
W. + respondents  
B. + respondents  
can be heard  
Appellate's case  
Court's decision

EXH. F-3

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM DORCHESTER COUNTY

Court of Common Pleas  
The Honorable Maite D. Murphy, Circuit Court Judge

RECEIVED  
MAR 20 2014  
SC Court of Appeals

Appellate No.: 2013-213208  
Civil Action No.: 2012-CP-18-539

Roger L. Whaley.....Appellant,

v.

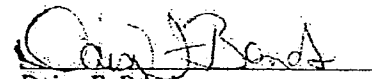
South Carolina Federal Credit Union and  
Bank of America.....Respondents.

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. Bouds

Dated: March 20, 2014

EXH. C

Appeals Court Shows Order shows it only granted only! SCFCU - see Ex. A

(1) Respondent's  
if time to  
file its  
Initial Brief  
and  
Designation  
of  
Matter

The South Carolina Court of Appeals

Roger L. Whitley, Appellant.

South Carolina Federal Credit Union and Bank of America, Respondents.

Appellate Case No. 2012-213208

The Honorable Milté D. Murphy  
Dorchester County  
Trial Court Case No. 2012CP1800539

Never! Granted  
an Extension to  
Respondent BOA -  
who never!!  
Requested such  
an Extension  
when BOA - never!  
Complied  
to this  
Appeals  
Court  
Order  
in its  
letter  
Dated  
Sept. 25, 2013  
see Exh. B

ORDER

The time for serving and filing the respondent's initial brief and designation of matter is hereby extended until November 4, 2013.

FOR THE COURT  
BY [Signature]  
CLERK

Columbia, South Carolina

cc:  
Roger L. Whitley  
Drew Hamilton, Butler  
Eric Eisen Vaher  
Jody Van Bodenbargh  
Shelia Morrison Blas

FILED

9-27-13

Exh. D

# Nelson Mullins

Nelson Mullins Riley & Scarborough LLP  
Attorneys and Counselors at Law  
1320 Main Street / 17th Floor / Columbia, SC 29201  
Tel: 803.799.2000 Fax: 803.255.9079  
www.nelsonmullins.com

Tara C. Sullivan  
Tel: 803.255.9591  
Fax: 803.255.9079  
tara.sullivan@nelsonmullins.com

*Respondent-BoA  
Filed*

*[Signature]*  
October 24, 2013

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

RE: Roger L. Whaley v. South Carolina Federal Credit Union and Bank of America  
Case No. 2012-CP-18-539  
Appellate Case No. 2012-213208  
Our File No. 05100/02149

Dear Ms. Kitchings:

Enclosed for filing, please find an original and seven copies of Bank of America's Motion to Dismiss, Certificate of Service and filing fee of \$25.00 in the above-referenced matter. Please return one file-stamped copy in the enclosed self-addressed stamped envelope.

By copy of this letter, we are hereby serving all counsel with a copy of these documents.

Very truly yours,

*Tara C. Sullivan*

Tara C. Sullivan

TCS:mw  
Enclosures

cc: Roger L. Whaley, Plaintiff pro se  
Drew Hamilton Butler, Esquire (Counsel for South Carolina Federal Credit Union)

*\* Respondent  
BFA*

*I Paid \$25.00*

*Only for*

*(1) Motion Respondent*

*to*

*Dismiss - on 10-24-2013*

*to*

*be filed*

*Not!*

*Also*

*SCFCU*

**MR. ROGER WHALEY'S COMPLIANCE/OR "OPPOSITION"  
TO SCFCU and BOA's improper filed LETTER – BOTH dated  
MARCH 20, 2014**

**ATTACHEMENTS – 7  
Part -3 of 4**

**TOTAL EXHIBITS - 27**

Exh. G

**Nelson  
Mullins**

Nelson Mullins Riley & Scarborough LLP  
Attorneys and Counselors at Law  
1320 Main Street / 17th Floor / Columbia, SC 29201  
Tel: 803.799.2000 Fax: 803.255.9079  
www.nelsonmullins.com

Tara C. Sullivan  
Tel: 803.255.9591  
Fax: 803.255.9079  
tara.sullivan@nelsonmullins.com

March 20, 2014

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

RE: Roger L. Whaley v. South Carolina Federal Credit Union and Bank of America  
Case No. 2012-CP-18-539  
Appellate Case No. 2012-213208  
Our File No. 05100/02149

Dear Ms. Kitchings:

Please allow this letter to serve as our Return to Whaley's "Motion for Rehearing/or  
Reconsideration Pursuant with Rule SCACR 221(a)" received by our office on March 12,  
2014.

In his Motion, Whaley requests that this Court reconsider its Order dated February 27, 2014,  
dismissing his appeal for failure to comply with the South Carolina Appellate Court Rules.

The Court rightfully dismissed his appeal as Whaley failed to serve and file an amended  
Designation of Matter and Initial Brief that fully complies with Rules 208 and 267 of the  
Appellate Court Rules as ordered by this Court on November 27, 2013. Accordingly, Bank of  
America respectfully requests that this Court deny the Motion for Rehearing at this time.

Thank you for your consideration.

Very truly yours,

*Tara C. Sullivan*  
Tara C. Sullivan

Cc: Roger L. Whaley, *pro se*  
Drew Hamilton Butler, Esquire/Sheila M. Bias, Esquire (Counsel for SCFCU)

Exh. G-1

Roger L. Whaley,	)	Civil Action No. 2012-CP-18-0539
	)	Appellate Case No.: 2012-213208
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	<b><u>CERTIFICATE OF SERVICE</u></b>
South Carolina Federal Credit Union and	)	
Bank of America,	)	
	)	
Defendants.	)	
	)	
	)	

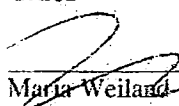
I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough, LLP, attorneys for Bank of America, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) hereinbelow specified via the service specified below, to the following address(es):

**PLEADINGS:** Return to Whaley's Motion for Rehearing/or Reconsideration

**PARTIES SERVED:**

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

Drew Hamilton Butler, Esquire  
 Sheila M. Bias, Esquire  
 Richardson Plowden  
 P. O. Drawer 7788  
 Columbia, SC 29202

  
 Maria Weiland  
 Administrative Assistant

March 20, 2014

Exh. H-

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

RECEIVED

FEB 05 2014

SC Court of Appeals

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

Roger L. Whaley.....Appellant,

vs.

South Carolina Federal Credit Union and Bank of America.....Respondents.

~~MOTION TO DISMISS ON BEHALF OF RESPONDENT SOUTH CAROLINA  
FEDERAL CREDIT UNION~~

Respondent South Carolina Federal Credit Union ("SCFCU") hereby respectfully moves for a dismissal of Appellant's appeal. The ground for this Motion is Appellant's failure to perfect his appeal pursuant to the South Carolina Rules of Appellate Procedure and the Orders of this Court. The accompanying memorandum of law sets forth this ground in more detail.

Respectfully submitted,

*Sheila M. Bias*

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*

February 5, 2014

Exh. H-1

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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

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

Roger L. Whaley.....Appellant,

vs.

South Carolina Federal Credit Union and Bank of America.....Respondents.

**MEMORANDUM IN SUPPORT OF MOTION TO DISMISS 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*

February 5, 2014

INTRODUCTION/BACKGROUND

The instant appeal is the result of Motions to Dismiss filed on behalf of Respondents at the trial level. The underlying action was commenced on February 16, 2012, with Appellant filing a confusing Complaint against Bank of America ("BOA") and South Carolina Federal Credit Union ("SCFCU"). It appears the allegations included claims of civil conspiracy, fraud, theft of money, and breach of contract with respect to cashier's checks issued by SCFCU to an entity known as Capital Consortium Group and deposited into accounts at BOA.

On March 7, 2012, SCFCU filed a Motion to Dismiss, and on March 22, 2012, BOA filed its Motion to Dismiss or, in the Alternative, Motion for a More Definite Statement. After a hearing on these motions, the trial court granted the Motions to Dismiss with prejudice. The Order dismissing the Complaint essentially found the Complaint failed to meet the minimum pleading requirements of Rule 8(a), SCRCP, the Appellant lacked standing to sue as the purchaser of a cashier's check, and that Appellant's claims should be brought before the ongoing receivership action in federal court.

Appellant filed a Motion to Reconsider on June 28, 2012, and a hearing was held on August 29, 2012. On September 17, 2012, the trial court entered an Order denying Appellant's Motion to Reconsider.

The Notice of Appeal was filed in October 2012. Due to various issues with the transcript and filing deficiencies, Appellant's purported Initial Brief was not filed until

August of 2013. On October 24, 2013, BOA filed a Motion to Dismiss or in the alternative a Motion to Strike those portions of Appellant's Initial Brief and Designation

SCFCU Admits! Only!! Respondent BOA filed its untimely Filed Mt to Dismiss 10-24-2013

See Appellate Exh. B. Letter Shows BOA must have filed its Pleadings before! Oct. 4, 2013

Also! B. Ashmore - Appellate Board member Shows Judge #5 a Receiver in court! 28 USC 958

Exh. #3

SCFCU - Below Motion to Dismiss - Admits - This Appeals Court rendered ~~the~~ Granted Respondents

~~Motion to Dismiss~~ ~~on~~ ~~Denial~~ ~~of~~ ~~Whaley's~~ ~~Designation~~ ~~of~~ ~~Matter...~~  
Documented Evidence - and Claims that were filed also in the lower Trial Court - that ~~offered~~ Respondent's

of Matter to be Included in the Record on Appeal which were not in compliance with the Appellate Court Rules. [Exhibit A].

Simultaneously, Appellant filed Motions for Judgment against both Respondents.

By Order filed November 27, 2013, this Court denied Appellant's Motion for Judgment as to both Respondents. [Exhibit B]. The Court further granted BOA's Motion to Strike

and ordered Appellant serve and file an Amended Designation of Matter to be Included in the Record on Appeal excluding the offending portions. Id. The Order also indicated

Appellant was to serve and file an amended Initial Brief that fully complies with Rule 208, SCACR, within thirty days. Finally, the Order stated that at the expiration of thirty days, the Court would consider BOA's Motion to Dismiss. Id.

On Tuesday, December 24, 2013, Appellant filed a Motion to Relieve the Counsel

of Respondent Bank of America (seeking the protections of Rule 240, SCACR, thereby attempting to stay the perfection of the appeal. This Court denied the Motion to Relieve

Counsel on January 3, 2014. [Exhibit C]. Since that time, Appellant has filed various documents in this Court and the South Carolina Supreme Court, but has failed to file an

amended Initial Brief or Designation of Matter to be included in the Record on Appeal.

ARGUMENT

Appellant has failed to perfect his appeal.

Pursuant to Rule 260(a), SCACR, Appellant moves this Court to dismiss the instant appeal because Appellant has failed to comply with the requirements of the South

Carolina Rules of Appellate Procedure and Orders of this Court. Appellant has failed to

perfect this appeal because he has not filed a proper Initial Brief and Designation of

Matter to be Included in the Record on Appeal as ordered by this Court. Rule 208(a)(4).

SCFCU  
Admits  
Appellant  
Whaley also  
filed under  
SCACR Rule 240 - Just  
AS - Both sides  
Respondents -  
seeking the  
protection of Rule 240,  
SCACR, thereby  
staying the perfection  
of the appeal...  
Admits which SCFCU  
Appellate Court  
denied - whaley  
& he same  
equal. That must  
be protected  
by the rule  
240 -

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BOA's  
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\*\*\*

3  
SCMB

Exh. # 24

SCACR provides that upon the failure of the appellant to file an serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal." Because Appellant has filed no briefs which properly comply with the Appellate Court Rules, he has failed to perfect his appeal. Consequently, the instant appeal must be dismissed.

CONCLUSION

Based on the foregoing, Respondents respectfully move this honorable Court for an Order dismissing this appeal.

Respectfully submitted,

Sheila M. Bias

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*

February 5, 2014

**MR. ROGER WHALEY'S COMPLIANCE/OR "OPPOSITION"  
TO SCFCU and BOA's improper filed LETTER – BOTH dated  
MARCH 20, 2014**

**ATTACHEMENTS – 6  
Part -4 of 4**

**TOTAL EXHIBITS - 27**

Exh. I

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Case No. 2012-CP-18-0539

Appellate Case No. 2012-213208

South Carolina Federal Credit Union and Bank of  
America, ..... Respondents,

v.

Roger L. Whaley, ..... Appellant.

**BANK OF AMERICA'S MOTION TO DISMISS APPEAL  
AND OPPOSITION TO APPELLANT'S LETTER TO CLERK A/K/A MOTION FOR  
JUDGMENT AGAINST RESPONDENT BANK OF AMERICA/OR/REQUEST TO  
REMAIN THAT SAID RESPONDENT MATTER BACK TO LOWER TRIAL COURT  
WITH INSTRUCTION, TO ENTER DIRECT JUDGMENT IN FAVOR OF  
PLAINTIFF/APPELLANT ROGER WHALEY" DATED SEPTEMBER 30, 2013, AND,  
ALTERNATIVELY, MOTION TO STRIKE PARTS OF APPELLANT'S  
DESIGNATION OF MATTER**

Pursuant to Rule 240, SCACR, Respondent Bank of America ("BOA") hereby requests  
that the Court dismiss the instant appeal with prejudice. The grounds for this Motion are that  
the Appellant's Initial Brief, to the extent it can be understood, appears to be based solely on  
the fact that the trial court judge asked the Respondents' counsel to draft the proposed orders  
being appealed from, which is not an appropriate or sufficient grounds to review or overturn  
these orders. Alternatively, if this appeal is not dismissed, BOA moves to strike those matters

improperly designated by Appellant in his Designation of Matter which are not in the record below.

Procedural Background

On February 16, 2012, Appellant commenced the underlying action by filing a complaint against Respondents. Although it is difficult to comprehend the allegations in the Complaint, it appears that it contains general allegations of civil conspiracy, fraud, theft of money, and breach of contract with respect to cashier's checks issued by Respondent South Carolina Federal Credit Union ("SCFCU") to an entity known as Capital Consortium Group and deposited into accounts at BOA. See generally Compl. and Exs.

On March 7, 2012, SCFCU filed a Motion to Dismiss, and on March 22, 2012, BOA filed its Motion to Dismiss or, in the Alternative, Motion for More Definite Statement. A hearing on these Motions was held May 8, 2012. On June 27, 2012, the trial court entered its Order granting the Motions to Dismiss and dismissing the Complaint with prejudice. The Order dismissing the Complaint finds that the Complaint was unintelligible and failed to meet the minimum pleading requirements of Rule 8(a), SCRPC. The trial court further found, among other things, that the Complaint should be dismissed with prejudice because (1) the Appellant lacked standing to sue as the purchaser of a cashier's check pursuant to *Steele v. Victory Sav. Bank*, 295 S.C. 290, 293, 368 S.E.2d 91, 92 (1988) and (2) Appellant's claims, if any, should be brought in the ongoing receivership action in federal district court related to the Capital Consortium Group/Three Hebrew Boys.

Appellant filed a Motion to Reconsider on June 28, 2012, and a hearing was held on this Motion on August 29, 2012. On September 17, 2012, the trial court entered its Order denying Appellant's Motion to Reconsider, finding that Appellant had not articulated any new

arguments or identified any errors of law or fact to support reconsideration of the Order dismissing his Complaint. Furthermore, the trial court noted that although Appellant's primary objection appeared to be that the trial court provided the grounds for its ruling in an email to counsel for BOA with a copy to Appellant and SCFCU and requested that counsel for BOA draft the proposed order, the trial court reviewed the proposed order carefully to ensure it accurately stated the court's ruling before signing.

On October 5, 2013, Appellant filed his Notice of Appeal of both the trial court's June 27, 2012, Order dismissing his Complaint with prejudice and the September 17, 2012, Order denying his Motion to reconsider the June 27<sup>th</sup> Order. Appellant's Initial Brief was submitted August 10, 2013, and by Order of September 27, 2013, this Court granted an extension for Respondents to respond to the Initial Brief until November 4, 2013.

Analysis

I. This Appeal Should Be Dismissed.

First, like Appellant's Complaint, Appellant's Initial Brief is unintelligible and fails to comply with the requirements of Rule 208(b)(1), SCACR, regarding the content and structure of an initial appellant's brief and should be dismissed for this reason.

Furthermore, to the extent the Initial Brief can be understood, Appellant's primary objection seems to be the same as that advanced before the trial court on Appellant's Motion for Reconsideration: that the trial court provided the grounds for its ruling in an email to counsel for BOA with a copy to Appellant and SCFCU and requested that counsel for BOA draft the proposed order. Appellant seems to be arguing that the trial court's Order did not

Appellant's "Letter to Clerk a/k/a Motion for Judgment against Respondent Bank of America . . ." dated September 30, 2013, is based on his erroneous assertion that this Court's extension of time for Respondents to respond to his Initial Brief did not also apply to BOA. The Court's order is not limited as Appellant suggests.

comply with the trial court's emailed instructions regarding the Order. Appellant ignores the fact that in its Order on his Motion for Reconsideration, the trial court confirmed it reviewed the proposed Order dismissing his Complaint carefully to ensure it accurately stated the court's ruling before it was signed. In any event, Appellant fails to set forth any arguments or identify any errors of law or fact to support his appeal of the Orders at issue. This appeal should therefore be dismissed.

II. Alternatively, Those Matters Designated by Appellant in His Designation of Matter Which Are Not in the Record Below Should Be Stricken.

Appellant's Designation of Matter shall not "include matter which was not presented to the lower court or tribunal." Rule 210(c), SCACR. The following items were listed by Appellant in his Designation of Matter but were not presented to the lower court or tribunal and should, therefore, be stricken:

A) Item Two\*;

\*Although the text of this UCC Section was included as an Exhibit to Appellant's Complaint, the page referencing UCC Section 3-312 entitled "National Check Fraud Center, Other Check Problems: Lost, Stolen, or Destroyed Cashier Checks, Teller and Certified Checks" attached as an Exhibit to his Initial Brief (all of which exhibits seem to correspond with those items listed in his Designation of Matter) was not presented to the lower court and should therefore be stricken.

B) Item Five; and

C) Items Seven through Fourteen.

*Handwritten notes:*  
B&A Attorneys  
Never provided  
No Evidence to support its  
Claims over  
Appellant's Appeal  
provided Whaley's  
Evidence in  
Court's Appeal  
in 2013  
see Sept. 25, 2013 letter  
from  
Appellant's  
Counsel

Exh. I-4

Conclusion

For the foregoing reasons, Respondent Bank of America respectfully requests that the Court dismiss this appeal with prejudice, or in the alternative, strike those matters designated by Appellant in his Designation of Matter which are not in the record below as listed in Section II above.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Attorneys for Respondent Bank of America

Columbia, South Carolina

10/24, 2013.

Exh. J

*Respondent BOT's Letter - March 20, 2014  
is Not in Compliance - Rule*

**RULE 267  
FORM OF PAPERS**

**(a) Captions.** All documents filed in the appellate court shall be headed by a caption. Except as provided below for appeals from administrative tribunals, the caption shall contain the name of the appellate court where the document is to be filed (i.e., Supreme Court or Court of Appeals); if the matter involves review of a lower court decision, the name of the county and judge from which the appeal is taken including the title of the judge (e.g., Circuit Court Judge, Family Court Judge, Master-in-Equity, Probate Judge, Special Referee, Special Circuit Court Judge); the title of the case (the party commencing the action in the lower court shall always appear first in the title regardless of whom is appellant or petitioner); the title of the document (e.g., RECORD ON APPEAL; APPENDIX; BRIEF OF APPELLANT; PETITION FOR WRIT OF CERTIORARI; MOTION TO DISMISS); and the name, address and phone number of the counsel submitting the document, or in the case of a Record on Appeal or Appendix, the names, addresses and phone numbers of all counsel in the case. The caption should be substantially in the form shown by this example.

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

APPEAL FROM RICHLAND COUNTY  
Howard S. Barnes, Circuit Court Judge

Paul L. Doe, .....Appellant (or Respondent),

v.

Mary M. Roe, .....Respondent (or Appellant).

RECORD ON APPEAL

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Columbia, SC 29000  
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Attorney for Appellant

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In appeals from administrative tribunals, the caption shall contain the name of the appellate court where the document is to be filed (i.e. Supreme Court or Court of

Re: ROGER L. WHALEY v. SC FEDERAL CREDIT UNION  
Appellate Case No. 2012-213208

Dear Ms Kitching

Please send me a stamped copy of this document with the received date in the enclosed self-addressed envelope.

Sincerely,

ROGER L. WHALEY

RECEIVED

MAR 31 2014

SC Court of Appeals

Roger Whaley  
8673 Laurel Grove Ln  
N Charleston, SC 29420-6816

Roger Whaley  
8673 Laurel Grove Ln  
N Charleston, SC 29420-6816

S.C. Court of Appeals  
Tenny Abbott Kitching, Clerk  
Post office Box 11629  
Columbia SC 29211

**RECEIVED**  
MAR 31 2014

**SC Court of Appeals**

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