

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable 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,

**Reply to Appellant's Return to LaSalle Bank's Motion to Dismiss Appeal
And Return to Appellant's Motion for an Extension of Time**

Pursuant to Rules 240(f) and 240(e) 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") files (1) its reply to Appellant Laura T. Toney's ("Toney") return to the motion to dismiss the appeal and (2) its Return to Toney's Motion for an Extension of Time. Toney's return misrepresents facts in a baseless and unsupported attempt to avoid dismissal of her meritless appeal. The fact of the matter is this: Toney has been in possession of the

applicable transcript in this matter since January 28, 2014—the date LaSalle Bank provided Toney with a copy of the transcript, free of charge. Toney simply refuses 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. This wholesale failure to comply with our appellate court rules warrants dismissal of the appeal.

In the Return, Toney claims that she “never received a copy of the transcript from [LaSalle Bank].” See Return p. 2 ¶ 2. This argument lacks any merit.¹ LaSalle Bank sent the transcript to Toney at P.O. Box 722, Bishopville, South Carolina 29010. See Letter dated January 28, 2014, attached hereto as Exhibit A. This is the same address used by Toney on her filings with this Court. See, e.g., Cover Letter for Toney’s Return to this Motion to Dismiss dated March 28, 2014, attached hereto as Exhibit B. Counsel for LaSalle has used this address for every filing in this matter, including the motion to dismiss. See Affidavit of Michael J. Anzelmo, Esquire, attached hereto as Exhibit C. Notably, the January 28th letter with the transcript that was sent to Toney was not returned as undeliverable, or otherwise returned, by the United States Post Office. Id. This is also the same address used by the Court for notices to Toney. See, e.g., Letter dated March 19, 2014, attached hereto as Exhibit D. Undoubtedly, the Court has not had those communications returned either.

¹ In the Return, Toney persists in her unfounded claim that she has been unable to secure the transcript in this matter despite her efforts to do so. See Return p. 1-2. Toney has not copied this Court or LaSalle Bank with any communications to the court reporter since the date of Toney’s last communication to this Court on November 1, 2013, as required by the appellate court rules. Regardless, this argument lacks any merit. LaSalle Bank sent one letter to the court reporter and obtained this transcript in a timely manner from the court reporter.

Toney's claim in the Return is wholly meritless. She has been provided every opportunity to file and serve her Initial Appellant's Brief and Designation of Matter. LaSalle Bank even took the extraordinary step to order, pay for, and provide Toney the transcript despite the fact that responsibility fell to Toney under our appellate court rules. Toney refuses to do so. Instead, she misrepresents facts to this Court in a blatant attempt to delay dismissal of her appeal even longer. This Court must dismiss this appeal.

Moreover, on March 19, 2014 (the same day that LaSalle Bank filed this motion to dismiss), this Court sent Toney a letter stating that she "must serve and file the appellant's initial brief and designation of matter within ten days." See Letter dated March 19, 2014, attached hereto as Exhibit D. The Court's directive was mandatory. Any failure to comply "will result in dismissal of the appeal." Id. Toney failed to comply with the clear mandate from this Court.

Instead of filing her Initial Brief and Designation of Matter as required, Toney requested an extension of time to do so. This Court should reject this request. This appeal has been pending since June 24, 2013. Due to Toney's failure to follow the clear directives imposed by our appellate court rules, this appeal has now been pending for 280 days and has yet to even begin initial briefing. Toney simply refuses to comply with her mandatory obligations as Appellant. Thus, LaSalle Bank requests that this Court not allow 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 J. 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

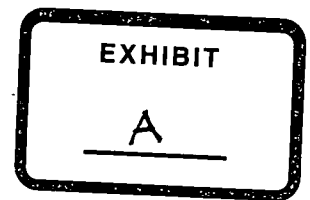
Columbia, South Carolina

March 31, 2014

Nelson Mullins

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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,

A handwritten signature in black ink, appearing to read "Michael J. Anzelmo".

Michael J. Anzelmo

EXHIBIT

B

March 28, 2014

P.O. Box 722
Bishopville, SC 29010

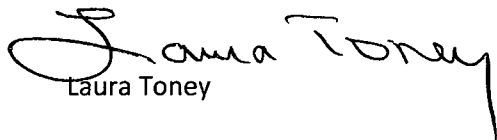
South Carolina Court of Appeals
Clerk of Court
P.O. Box 11629
Columbia, SC 29211

Dear Sir or Madam:

Please find enclosed (1) original and (6) copies of the Reply to Respondent's Motion to Dismiss and Motion to Request an Extension to file the Appellant's Initial Brief and Designation of Matter. Also, included is the \$25.00 filing fee.

Thank you for your attention in this matter.

Sincerely,


Laura Toney



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

The Honorable Diane S. Goodstein
Circuit Court Judge

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v.

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Affidavit of Michael J. Anzelmo, Esquire

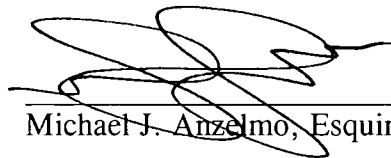
I, Michael J. Anzelmo, Esquire, of the law firm of Nelson Mullins Riley & Scarborough LLP, after being duly sworn, depose and say:

1. LaSalle Bank sent the transcript to Appellant Laura T. Toney on January 28, 2014.
2. The transcripts were sent to Toney's address of P.O. Box 722, Bishopville, South Carolina 29010.
3. This is the same address used by Toney on her filings with this Court.

4. Counsel for LaSalle has used this Post Office Box address for every filing in this matter, including the motion to dismiss.

5. The January 28th letter containing the transcript that was sent to Toney was not returned as undeliverable, or otherwise returned, by the United States Post Office to counsel for LaSalle Bank.

Further affiant sayeth not.



Michael J. Anzelmo, Esquire

March 31, 2014

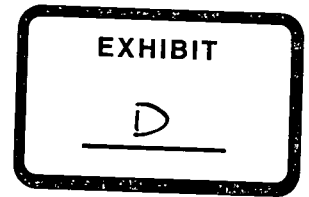
SWORN to and subscribed before me

this 31 day of March, 2014



(L.S.)
Notary Public for South Carolina

My Commission Expires: 7-14-15



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
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March 19, 2014

Laura T. Toney
PO Box 722
Bishopville SC 29010

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

Dear Ms. Toney:

This letter is to confirm receipt of Mr. Anzelmo's letter dated January 28, 2014, in which he confirms a copy of the transcript has been forwarded to you by his office. Therefore, you must serve and file the appellant's initial brief and designation of matter within ten days. Failure to serve and file the appellant's initial brief and designation of matter within ten days will result in the dismissal of this appeal.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Henry Guyton Murrell, Esquire
Michael J. Anzelmo, Esquire
Christopher Stephen Truluck, Esquire

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
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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: Reply to Appellant's Return to LaSalle Bank's Motion to Dismiss Appeal and Return to Appellant's Motion for an Extension of Time

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

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



Jennifer B. Lee
Administrative Assistant

March 31, 2014

Nelson Mullins

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michael.anzelmo@nelsonmullins.com

RECEIVED
MAR 31 2014
SC Court of Appeals

March 31, 2014

Hand Delivered

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

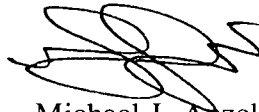
RE: Laura T. Toney a/k/a Laura Ann Toney v. Deutsche Bank National Trust
Company As Trustee For the Holders of New Century Home Equity Loan
Trust, Series 2005-A, Asset Backed Pass-Through Certificates; et al.
Civil Action No.: 2012-CP-38-01108
Our File No.: 11281/01670

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of Reply to Appellant's Return to LaSalle Bank's Motion to Dismiss Appeal and Return to Appellant's Motion for an Extension of Time in the above-referenced matter. Please file the original and return a clocked-in copy to me via our courier. Should you have any questions, please do not hesitate to contact me.

By copy of this letter, I am hereby serving opposing parties.

Very truly yours,



Michael J. Anzelmo

MJA:jlee
Enclosures

cc: Laura Toney
Chris S. Truluck, Esq.