

PETITION FOR REHEARING FROM ORDER DISMISSING APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
MASTERS AND SPECIAL REFEREES

Gordon G. Cooper, MASTER-IN-EQUITY

Case No. 2012-CP-42-0899

RECEIVED

APR 23 2014

SC Court of Appeals

Bayview Loan Servicing, L.L.C. Respondent,

v.

Scott A. Schledwitz, Roxanne J. Schledwitz a/k/a Roxanne Johnson Schledwitz,
Mortgage Electronic Registration Systems, Inc. (MERS) as nominee for Taylor,
Bean & Whitaker Mortgage Corp., The United States of America, by and through
its agency, the Internal Revenue Service, and The South Carolina Department of
Revenue, Defendants,

Of whom Scott A. Schledwitz and Roxanne Johnson Schledwitz are the Appellants.

PETITION FOR REHEARING FROM ORDER DISMISSING APPEAL

Scott A. Schledwitz and Roxanne J. Schledwitz hereby moves this court for a rehearing of the order dated April 17, 2014 by Hon. John C. Few.

1. The basis for this motion is that the Respondent stated in its' Motion to Dismiss the Appeal that the appeal itself was moot because the property was sold to a third-party bidder on January 6, 2014. It has come to the Appellants' attention that the property has not been sold, as stated by the Respondent, either previous to the date or any day following up to the date of this motion. The Respondents' assertion on the status of the property is false.

2. The Notice of Appeal and Motion for Condition of Stay were sent to the Court of Appeals Clerk of

Court on December 20, 2014, with copies sent to the Respondents and the Clerk of Court in Spartanburg. The Notice of Appeal was recorded by the Spartanburg County Clerk of Court on December 31, 2013.

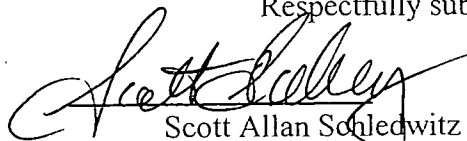
3. In the Respondents' Motion to Dismiss, the Respondent moved that the Appeal should be dismissed based on Appellant's failure to comply with South Carolina Appellate Court Rules, in part due to the Respondents not receiving the Appellants' filings via first class mail. As the court is aware, weather affected the Clerk of Court's office during the months of January and February. While the Appellants sent all case Motions and related filings to the Clerk of Court via Federal Express delivery by overnight or second day service, the receipt of those items were impacted by the closure of the Clerk's office due to inclement weather and the subsequent backlog. Copies of the same filings were sent via First Class mail to the Respondents and it is reasonable to assume that the United States Postal Service as well as their own recipient office in Columbia were affected similarly.

4. On March 10, 2014, the Appellants filed a Motion to Extend Time, due to the inclement weather affected delivery of the Federal Express package containing the Designation of Matter and Certificates of Service, pushing the delivery date to February 18, 2014. This Motion to Extend time for the Filing of the Designation of Matter to be included on the Record on Appeal was based on the potential that the actual review and stamp of the Designation would be outside of the 30 day time limit. The Appellants filed this motion in order to protect themselves from being procedurally dismissed for not meeting timely deadlines, when the actual cause was due to an act of nature, beyond the control of the Appellants.

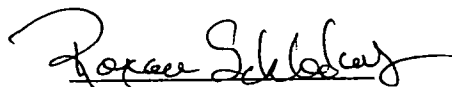
WHEREFORE, it is respectfully prayed that this court allow rehearing on this matter filed on January 20, 2014 so it can be considered by this court.

April 21, 2014

Respectfully submitted,



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The South Carolina Court of Appeals

Bayview Loan Servicing, LLC, Respondent,

v.

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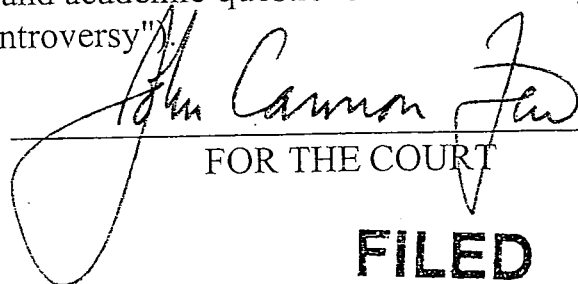
Of whom Scott A. Schledwitz and Roxanne Johnson
Schledwitz are the Appellants.

Appellate Case No. 2013-002811

ORDER

Respondent has filed a motion to dismiss this appeal from the master in equity's order of foreclosure and sale. Respondent contends this appeal is moot because the property was sold to a third-party bidder on January 6, 2014. Respondent further argues this appeal should be dismissed due to Appellants' failure to comply with the South Carolina Appellate Court Rules. Appellants did not file a return.

After careful consideration, this appeal is dismissed as moot. *See Sloan v. Dep't of Transp.*, 379 S.C. 160, 167, 666 S.E.2d 236, 240 (2008) (holding that generally, this court "will not pass on moot and academic questions or make an adjudication where there remains no actual controversy").

 C.J.
FOR THE COURT

Columbia, South Carolina

FILED

4/17/14 *lac*

cc:

Scott Allan Schledwitz

Roxanne Johnson Schledwitz

Heidi B. Carey, Esquire

Damon Christian Wlodarczyk, Esquire

**PROOF OF SERVICE PETITION FOR REHEARING FROM ORDER
DISMISSING APPEAL**

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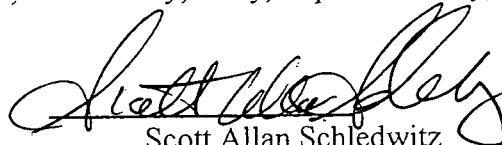
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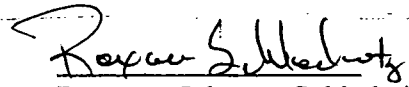
PROOF OF SERVICE

I certify that I have served the Designation of Matter on Bayview Loan Servicing, L.L.C.
by depositing a copy of it in the United States Mail, postage prepaid, on April 21, 2014,
addressed to the attorney of record, Heidi Carey, Riley, Pope and Laney, LLC, 2838 Devine
Street, Columbia, SC 29205.

April 21, 2014



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