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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

Clyde N. Davis, Jr., Special Referee

Case No. 2009-CP-46-03996
Appellate Case No. 2013-001930

JPMorgan Chase Bank, National Association, Respondent,
v.
Leah B. Sample and JP Morgan Chase Bank, National
Association s/b/m to Providian National Bank, Defendants
Of Whom Leah B. Sample is Appellant.

Motion to Dismiss the Appeal

Pursuant to Rules 210(a) and 240 of the South Carolina Appellate Court Rules, JPMorgan Chase Bank National Association (“Respondent”) moves to dismiss the appeal filed by Appellant Leah B. Sample (“Sample”) because Sample has failed to serve the Record on Appeal. This failure warrants dismissal of the appeal.

Our Appellate Court Rules requires an appellant, such as Sample, to serve the Record on Appeal on counsel for respondent “[w]ithin thirty (30) days after service of the last brief. . . .” Rule 210(a), SCACR. This service rule is mandatory. Id. (establishing that “the appellant **shall** serve a copy of the Record on Appeal on each party who has served a brief”) (emphasis added). “Proof of service of the Record **shall**

be immediately filed with the clerk of the appellate court” to confirm compliance with the service mandate. Id. (emphasis added).

Respondent served its Initial Brief on counsel for Sample on March 24, 2014. Rule 210(a), SCACR, required Sample to serve the Record (and file proof of service with the Court) no later than April 23, 2014. Sample failed to do so. Therefore, this Court should dismiss the appeal.

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By: 

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Columbia, South Carolina

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JP Morgan Chase Bank, National Association, Respondent,

v.

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Of Whom Leah B. Sample is Appellant.

PROOF OF SERVICE

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for JP Morgan Chase Bank, National Association, do hereby certify that I have served all parties 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):

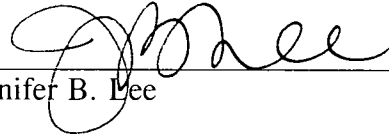
Pleadings:

Motion to Dismiss the Appeal

Party Served:

David B. Sample
2424 India Hook Road
Suite 160
Rock Hill, SC 29732

David B. Sample
Attorney at Law
1506 Ebenezer Road
Rock Hill, SC 29732

A handwritten signature in black ink, appearing to read "Jennifer B. Lee", is written over a horizontal line.

Jennifer B. Lee

May 5, 2014

Nelson Mullins

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May 5, 2014

Hand Delivered

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

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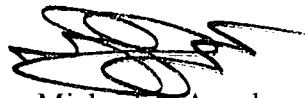
RE: JP Morgan Chase Bank v. Leah B. Sample, et al.
Case No.: 2009-CP-46-03996
Appellate Case No.: 2013-001930
Our file no.: 11281/01794

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of a Motion to Dismiss Appeal 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: David B. Sample