

ROGER WHALEY/vs. SCFCU and BOA - EXHIBITS

PART -1

Attachments - 11

RECEIVED

JUN 25 2014

S.C. Supreme Court

* Appeals Court's own! Below
 CASE - Henning v. Kaye
 Kaye - supporting Appellant's Appeal
 Whaley's Appeal must not be dismissed - alleged errors were indeed v. deficiencies which were indeed corrected - by Whaley Appellant - Whaley's Appeal - Attached - see A-Three - S-b-2 or see Attached Exh. AA

* Neither Respondent complied with Appellate Court Orders for Exhibits - See EXH AA + SA
 Exh. AA

The South Carolina Court of Appeals

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).

Joseph M. Currier AS
 FOR THE COURT

Columbia, South Carolina

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

2/27/14

Exh. AA

Research Shows...
 * See Attached Exhibit AA shows the Appellate Court in error for otherwise due to bias blind interest intentionally returned Appellant Whaley's - Attached Document Evidence - that was attached with the requirements of Rule 210(c) SCACR - Attached with Appellant's

Designation and/or his Initial Brief

Young with his mt to

Dismissed pursuant to Rule 210(b)(2) (a)(b)(2) (c) which shows Appellate error

Instead of an Answer to Appellate Court order Requesting to correct or Change! Appellant's Designation of Matter Claims

whereas Appellant Whaley WAS HOW ever in compliance with 5.6 Appellate Court Rules...

Henning v. Kaye, 415 S.E.2d 794 (S.C. 1992)

Supreme Court of South Carolina

Date Filed: March 11th, 1992

Status: Precedential

Citations: 415 S.E.2d 794, 307 S.C. 436

Judges: Chandler

Fingerprint: 58b1fd8a310638f9c3073bc7d6c634683493839

307 S.C. 436 (1992)

415 S.E.2d 794

Edward L. HENNING and Carol Sue Henning, Respondents

v.

Herbert KAYE and Max L. Hill Co., Inc., Defendants, of whom Max L. Hill Co., Inc. is Respondent, and Herbert Kaye is Appellant.

Supreme Court of South Carolina.

March 11, 1992.

*437 March 11, 1992.

ORDER

Respondents move the Court to dismiss this appeal. By return, appellant opposes the motion as to respondents Edward Henning and Carol Henning (the Hennings). Appellant does not oppose the motion as to respondent Max L. Hill Co., Inc. (Hill). The motion to dismiss as to Hill is granted.

The Hennings move to dismiss pursuant to Rule 231, SCACR. The Hennings claim that appellant's initial brief fails to comply with Rule 207, SCACR, and that his Designation of Matter to be included in the Record on Appeal (Designation) is insufficient under Rule 208, SCACR.

By return, appellant's counsel asserts that he has substantially complied with the Rules and that instances of noncompliance were inadvertent technical errors and minor discrepancies. Counsel moves to amend his brief. Counsel further contends that his Designation is clear and specific. *wholly filed*

Appellant's brief fails to comply with the Rule 207 in the following particulars: the components of the brief are incorrectly organized and labeled, the issues are not distinctively headed, the table of authorities is not alphabetized or referenced to the body of the brief, the statement of the case contains contested matter and omits required information, and the arguments contain no citations to the record or to the cases listed in the table of authorities.

Counsel is advised that the South Carolina Appellate Court Rules are not mere technicalities but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review.

Although 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 motion to dismiss 438 as to the Hennings. Instead, appellant shall, within fifteen (15) days of this order, serve and file an initial brief that does fully comply with Rule 207 SCACR. No changes shall be made to appellant's arguments except that appellant may add citations to the cases listed in the current table of authorities and references to the record as provided by Rule 207(b)(4).

With his brief appellant shall serve and file an amended Designation that sets forth with specificity the exhibits and other matter he wishes to include in the Record on Appeal. Appellant is reminded that the Record on Appeal shall not contain any matter not presented to the trial court Rule 209(c), SCACR.

It is so ordered.

CHANDLER, J., not participating.

Exh. H-

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

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FEB 05 2014

SC Court of Appeal

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

Exh. H-2

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), SCRPC, 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
Grains Judge #3 a Receiver in court!
28 USC 958

Exh. A3

SCFCU - Below Motion to Dismiss - Admits - This

Appeals Court rendered ~~the~~ Granted Respondents Motion to Strike or Dismiss Whaley's designation of matter... Documented Evidence - and Claims that were filed also in the lower Trial Court - that appeared Respondents BOA's Attorneys - whom Whaley always

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. AS - Both said Respondents. seeking the protection of Rule 240, SCACR, thereby perfecting the appeal. BOA's Appellate Court denied Whaley's motion to be same! Equal! That must be protected by the Rules 240 -

Claims in provide Court Whaley that BOA's Attorney were ALSO Whaley's check pay 12/23/13. Appellant state Court Whaley's money NOT federal

3 8/1/13

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

ROGER WHALEY/vs. SCFCU and BOA - EXHIBITS

PART -2

Attachments - 11

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)

With offices in the District of Columbia, Florida, Georgia, Massachusetts, North Carolina, South Carolina, Tennessee and West Virginia

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 ON 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-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. Bonus

Dated: March 20, 2014

THE SOUTH CAROLINA COURT OF APPEALS

Appellate Case 2012-213208
Lower Court Case no: 2012-CP-18-539

Pages 1 of 4
Exhibits - 18

Roger L. Whaley, Pro se) Appellant/Plaintiff Whaley's
Appellant/Plaintiff,) MOTION for Rehearing/or Reconsideration
v.) Pursuant with Rule SCACR 221(a) 1
South Carolina Federal Credit Union) UPHELD by Appeals Court's ONLY provided Case Law
and Bank of America,) "Henning v. Keye, 307, S.C. 436,437,415 S.E.2d 794 (1992)"
Respondent/Defendants.) Actually Supports Appellant/Whaley's 2
) Motion for Rehearing, MUST BE GRANTED; DUE also to Appeals
) Court's Shown continued! Errors/or Bias
) See Exh. A,AA,AAA; Exhibits 1,2,4, 4-a, 5, 5-a

COMES NOW, pro se Appellant/Plaintiff Roger L. Whaley (Appellant/ Whaley) filing timely the above said Petition/or/Motion, regarding this Appeals Court's "ORDER" dated "2/27/2014" with its Only! GOVERNING Case Law "Henning v. Keye, 307 S.C. 426,437,415 S.E.2d 794 (1992)", as Appellant/Whaley files pursuant with SCACR Rule 221(a),(b)&(c), to show this said Appeals Court's continued Overlooked Errors, and/or Misapprehensions/or/intentional/research found Bias Interest (pursuant under the Rules of Canon-for possible Misconduct) --which involves BOTH said RESPONDENTS/BOA and SCFCU's own! Documented alleged Evidence (provided within the said Lower Trial Court and within this said Appeal Court) involving this said Appeals (and Supreme) Court(s) Board Member/Mr. Beattie B. Ashmore/as being governed by an alleged FEDERAL!!!! Court appointed Receiver Law -- so to interfere with a STATE!!!! Court appointed Receiver-Law, which said interference has caused GREAT CONFUSIONS with this said STATE!! Court(s)! case matter involving this Appellant/Whaley's ONLY! filed Claims, that were filed first! ONLY within the said Supreme Court pursuant with SCACR Rule 203(d)(1)(A)(ii). *(See Apl Ct's LT 5-21-13/Exh. 4-a).

1 SCACR 221(a) - "(a) Rehearing. Petitions for rehearing must be actually received by the appellate court no later than fifteen (15) days after the filing of the opinion, order, judgment, or decree of the court. A petition for rehearing shall be in accordance with Rule 240, and shall state with particularity the points supposed to have been overlooked or misapprehended by the court."

2 Edward L. HENNING...v. Herbert KAYE...Appeals ruled states: "...Although 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 MOTION to DISMISS..."

A: Whereas, the attached UNDISPUTED Appeals Court's OWN! signed documented EVIDENCE, as well as RESPONDENT's, and! the said LOWER TRIAL COURT'S REPORTER, own! shown! WRITTEN signed! ADMITTANCE!! (See Exhibits A, AA & AAA; Exh. 2,4, 4-a, 5, 5-a, 5-aa, 5-b, 5-b-1, 5-b-2) shows Appellant/Whaley's always!! COMPLIED (and CORRECTED!! this Appeals Court's ORDERED/or Requested DEFICIENCIES- which IS! INCOMPLIANCE with this Appeals Court's RECENT! for attached FINAL!! ORDER -Date 2-27-2014) ...which shows and DEFEATS this said Appeals Court's CONFUSION!and or when this Appeals Court "OVERLOOKED or Misapprehensions" its OWN! ADMITTANCE!! in the attached APPEALS Court's LETTER dated "MAY 21, 2013" - SHOWING this said S.C. STATE SUPREME!! COURT!! "(FOR OVER!! about a YEAR!!) had within the S.C. APPEALS COURT'S PERSONAL!! Bad! POSSESSION!! Appellant/Whaley's actual FILED NOTICE OF APPEAL and AMENDMENT of his -Ordered/or Requested Amended NOTICE OF APPEAL - Held ONLY!! in the SUPREME COURT for the COMPLETE!! YEAR 2012!! - UP until this said APPEALS COURT'S attach LETTER (Exh. - DATE! "MAY 21, 2013!!") - which this APPEALS COURT - in Error or due to BIAS said PERSONAL!! INTEREST, of this Appeals & SUPREME Courts' OWN!! BOARD MEMBER!!has being an alleged FEDERAL!!! RECEIVER - Mr. BEATTIE B. ASHMORE, whom! this APPEALS COURT excepted! - ONLY!! BOTH!! said named RESPONDENTS!! BOA, and SCFCU - provided DOCUMENTED!! EVIDENCE!! - that Joined!! - FEDERAL!!! COURT LAW(s)for QUESTION(s) that INTERFERED with an ONGOING!and/or completed STATE!!! Court's ALREADY! filed ORDERED Decisions - in which BOTH!! said RESPONDENTS! and this said APPEALS COURT - alleged/or ADMITS! involves the SAME! identical CLAIMS - involving this Appellant Whaley's FILED!! STATE!! COURT!! CLAIMS. Therefore, shows and supports WHY! Appellant/Whaley ONLY FILED his said NOTICE of APPEALS!and AMENDMENT NOTICE OF APPEAL within the said SUPREME COURT - pursuant with SCACR - Rule 203(d)(1)(A)(ii) (See Exh. 1,2,) shows Appellant/Whaley ALWAYS CORRECTED any! requested/or ORDERED Deficiencies, as Ordered said COURT(s). Which Defests/or shows this said Appeals Court's continued OVERLOOKED ERRORS, and/or Misapprehensions, pursuant with SCACR 221(a),(b)&(c).

As the following is further numbered stated:

1. This Appeals Court's attached Final Order dated "2/27/2014" was written in ERROR/or/due to Bias Interest fraudulently/or in error wrote that this Appeals Court's said Final Order of 2/27/2014 was governed/or ruled that its final decision was pursuant only with the State case law "Henning v. Kays, 307 S.C. 436,437,415 S.E.2d 794(1992)", which in Error!!/or otherwise wrote that - "...Appellate Court is JUSTIFIED in DISMISSING an Appeal based on an Appellant's FAILURE to COMPLY with the South Carolina Appellate Court Rules...", which is an Error!! Overlooked/or Misapprehended NON-COMplete written above said QUOTED STATEMENT made (appeared Intentionally) by this said Appeals Court's said signed Officials, which the said ordered Ruling in that said matter involves the lower trial court's ORDERED TRANSCRIPT, by that said Appellant, pursuant with Rule 207(b)(4), which this Appeals Court did not COMPLETE its above said case law STATEMENT*(See Ex. 8,8a,8b,) that's written -

"...Although 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 MOTION TO DISMISS! *438 as to the Hennings. Instead, APPELLANT SHALL, within (18) days of this Order, serve and FILE an INITIAL BRIEF that does fully comply with Rule 207, SCACR. NO!!! CHANGES!! SHALL!! be MADE! to APPELLANT'S ARGUMENTS! except that Appellant MAY!! ADD!! CITATIONS!! to! the Cases!! LISTED! in the Current!! Table of Authorities and References to the Record as provided in Rule 207(b)(4)."

2. Therefore the above said complete quotation in no. 1, shows this Appellate Court's said Final Order dated "2/27/2014" Overlooked/or/Misapprehended this Appeals Court's OWN! FILED! attached signed LETTERS dated "September 25, 2013" Exh. AA; "MAY 21, 2013", and "AUGUST 23, 2013", along with the attached Lower Trial Court's signed LETTER dated November 10, 2012*(Exh. 4) from the said lower CIRCUIT COURT REPORTER, Ms. Brenda J. Sigwald, whom this said Appeals Court's officials were also in personal contacts, shows the Lower Trial Court's COURT REPORTER who wrote that the Appellant - "...Mr. Whaley...This is to acknowledge that on NOVEMBER 9, 2012!! I RECEIVED YOUR LETTER and PAYMENT for the TRANSCRIPT of Record in the above matter." - although! the SECOND! Different Court Reporter, did not type and delivered its requested Transcript until in the YEAR 2013, as to WHY this said Appeals Court allowed this Appellant/Whaley to file its INITIAL BRIEF/and DESIGNATION of MATTER in the YEAR 2013.

*(See attached Exh. 5-a, & Exh. AA from Apl Ct); supports Appellant/Whaley's motion for rehearing/or reconsideration must be Granted, pursuant with Rule 221(a),(b),(c), which is upheld by this Appeals Court OWN Case LAW "Henning v. Kays, 307 S.C. 428,437,415 S.E.2d 794 (1992)".

2a): This Appeals Court's Final Order 2/27/2014 In Error/or otherwise, OVERLOOKED the FACT that Appellant/Whaley requested TWO! DIFFERENT Transcripts!! from two different!! Lower Trial Court Reporters, which the last Transcript was not Delivered until in the YEAR 2013, which Appellant/Whaley immediately! provided to this Appeals Court, along with many other filed Lower Trial Court's pleadings attached with his Initial Brief & Designation of matter - but ALL said attachments were RETURNED!! by said Appeals Court to this Appellant/Whaley (See Exh. AA dated "September 25, 2013"). but SHOWS! this Appeals Court accepted!! Appellant/Whaley's INITIAL BRIEF, although it showed Deficiencies to be CORRECTED, which ONLY! ordered Appellant/Whaley to file as his CORRECTION, Appellant/Whaley's said DESIGNATION of MATTER, in which this said Appeals Court indeed ACCEPTED *(See Exh. AA), although! this said Appeals Court admits!! it RETURNED all! of Appellant/Whaley's ATTACHED DOCUMENTED EVIDENCE, which included Appellant/Whaley's

³ SCACR Rule 207(b)(4) - states "... Failure to Receive Transcript. If appellant has not received the transcript within the allotted time nor received notification of an extension within ten (10) days after the allotted time, appellant shall notify the clerk of the appellate court, and the administrative tribunal in writing."

Transcript(s), therefore made this said Appeals Court's RETURNING of Appellant/Whaley's said Documented EVIDENCE - when against SCACR Rule 210(a)&(c). ⁴ And is pursuant with Case Law Hanning v. Kaye, 307 S.C. 436,437,415 S.E.2d 794(1992) - which NEVER!! SUPPORTED for this said Appeals Court to "DISMISSED" Appellant/Whaley's Appeals Case matter. (See above QUOTE, in number 1)

3. WHEREAS, this Appeals Court's own! filed attached said above signed documents, along with the signed written admittance! also by the Respondent/SCFCU, in its document(s) dated "October 22, 2013", "September 10, 2013", shows and supports this Appeals Court's Overlooked the FACT, as to this Appeals Court's known and UNDISPUTED possible shown BIAS Personal INTEREST - actually!! Overlooked!! with BOTH said named Respondents BOA and SCFCU, Never! filed neither! of their Appeals ORDERED! Initial Briefs and Designations (See Exhibits AA, AAA; & Exh. 5), when SCFCU's hired Attorney(s)' indeed ADMITS! for shows that this said Appeal Court's 2/27/2014 FINAL ORDER/as well as this said Appeals Court's prior filed Order(s) - provided SPECIAL FAVORS to the RESPONDENT/BOA - since! Respondent/SCFCU ADMITS that SCFCU's hired Attorneys ONLY requested for this said Appeals Court to Grant an EXTENSION to file its Initial Brief and Designation (of OCTOBER 4, 2013) so to filed on the DATE "November 4, 2013", but! SCFCU also! never! filed on the date November 4, 2013, and this said Appeals Court NEVER! Cancelled SCFCU the date November 4, 2013 for SCFCU so to have properly and legally filed its required/and ORDERED Initial Brief and Designation of matter by!! the date November 4, 2013. "(See Exh. 5-a and Exh. AA) supports Appellant/Whaley's MOTION for Rehearing must be Granted;

3b): This Appeals Court in error/for otherwise, OVERLOOKED its own! recorded records which shows the RESPONDENT/BOA - NEVER! filed for ANY KIND of EXTENSION from this Appeals Court's ORDER and/or LETTER dated SEPTEMBER 25, 2013" and "SEPTEMBER 27, 2013" which wrote that "...OUR RECORDS REFLECT the RESPONDENTS'!!!! Initial Brief and Designation of matter ARE DUE!! on! OCTOBER 4, 2013..." - which RESPONDENT/BOA MUST have filed BOA's UNTIMELY FILED Motion to Dismiss before! or on the Date!! of OCTOBER 4, 2013, although this said Appeals Court's officials IN ERROR/for due to known BIAS PERSONAL said INTEREST accepted RESPONDENT/BOA's untimely/and FRAUDULENT Claims in BOA's Untimely filed MOTION TO DISMISS that was filed on the date "OCTOBER 22, 2013", in which this Appeals Court's own! filed 2/27/2013 CASE LAW Hanning v. Kaye, 307 S.C. 436,437,415 S.E.2d 794(1992) shows that said APPEALS COURT "...DECLINED TO...DISMISS...as to Hennings." and to "...SETS FORTH with!! SPECIFICITY the EXHIBITS!!!! and OTHER!!! MATTER he Wishes! to INCLUDE! in the RECORD on APPEAL";

⁴ Rule 210(c) - states "...Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, EXHIBITS and other materials or DOCUMENTS, and a certificate by appellant."

WHICH indeed! this said Appeals Court OVERLOOKED the ACTUAL FACTS that this said Appeals Court ACCEPTED!! Appellant/Whaley's filed INITIAL BRIEF!! and FILED DESIGNATION!! as being CORRECTED Ordered Deficiencies. "(See Exh. AA - when this Appeals Court ORDERED!! BOTH!! named RESPONDENTS!! to file WITHIN (30) days, OR by the date "OCTOBER 4, 2013" Each! of said Respondents! REQUIRED "Initial Briefs" and "Designation of Matters" - which this said Appeals Court officials in ERROR/for due to BIAS known personal INTEREST - NEVER! Enforced!! NEITHER! said named RESPONDENTS to have COMPLIED! with the said South Carolina Appellate Rules and Procedures - to file NEITHER of their INITIAL BRIEFS and DESIGNATIONS. Due to RESPONDANTS! ONLY! Volunteered!! JOINT APPEARANCE of a (Illegal!and Unethical!) FEDERAL!!! Appointed (alleged) Receiver/Mr. BEATTIE B. ASHMORE (whom both said RESPONDENTS/BOA and SCFCU alleges has a SPECIAL INTEREST, and! who is also!! located/as being ONE of this said S.C. Appeals and Supreme Courts' BOARD MEMBERS, who is allegedly involved with this Appellant/Whaley's STATE!! COURT!! filed LAWS, which governs Appellant/Whaley's Complaint/Cashiers CHECKS, STATE!!! Court appointed RECEIVER- (appointed BY STATE!!! Court LAW!! to Represent ONLY! the alleged VICTIMS' same! MONEY and/or PROPERTY INTEREST, in which the said RESPONDENT/BOA - ADMITS!! it indeed has within its POSSESSION...), which included this Appellant/Whaley's said MONEY/for Personal PROPERTY) which provided DOCUMENTED RECORDS/and Court filed LOWER TRIAL COURT'S TRANSCRIPT!! supports/and or shows, the SAME said LAW FIRM, NELSON, MULLINS are (illegally!and UNETHICALLY) also! REPRESENTING the RESPONDENT/BOA's said interest, although! the said LAW FIRM, NELSON, MULLINS...was STATE!! APPOINTED!! to Represent this said Appellant/Whaley's said STOLEN!! MONEY and PROPERTY interest.

Which this said Appeals Court's ORDER dated 2/27/2014 OVERLOOKED that Appellant/Whaley's filed DESIGNATION and/or Initial Brief - timely, correctly, filed those said claims along with UNDISPUTED DOCUMENTED EVIDENCE...in which this said Appeals court - IN ERRED RETURNED - "(See Exh. AA) from this said Appeals Court letter dated "September 25, 2014".

3b): This said Appeals Court OVERLOOKED and/or due to Bias known said Interest, did not Consider/or must Grant this Appellant/Whaley's said Motion for Rehearing - when this said Appeals Court's in error/or otherwise Overlooked its own!! ORDER/or LETTER dated "OCTOBER 10, 2013" which admits!! that Appellant/Whaley filed ALSO its MOTION FOR JUDGMENTS, and also! later! filed Appellant/Whaley's filed MOTION TO DISMISS, (which showed and AGAIN!! PROVIDED Appellant/Whaley's Lower Trial Court's filed documented pleadings/and already filed EXHIBITS) which always!! involved Respondent/BOA & SCFCU's UNTIMELY filed alleged MOTION(s) TO DISMISS, when, both! said RESPONDENTS filed MOTIONS to DISMISS were filed AFTER! the dates "OCTOBER 22, 2013", and "NOVEMBER 4, 2013" - which was AFTER!! the DATES! in which this said Appeals Court ORDERED!! the said Respondents to have filed EACH of their file INITIAL BRIEF/and Designation - by each of their given DEADLINE DATE, which was NEVER!! COMPLIED by Neither! named RESPONDENTS, although! this said Appeals Court DUE TO - BIAS known INTEREST - Overlooked these said above UNDISPUTED FACTS, and Granted the said RESPONDENTS Untimely filed MOTION TO DISMISS, and in ERROR/or said OTHERWISE DENIED Appellant/Whaley's MOTION T DISMISS - which INDEED PROVIDED the Documented EVIDENCE attached with said EXHIBITS - which showed Appellant/Whaley's INITIAL BRIEF and DESIGNATION of MATTERS indeed "...CONTAIN...MATTER(s)...PRESENTED TO! THE TRIAL!! COURT." - Which this said Appeals Court indeed! FIRST! ACCEPTED, than!! later!! (admitted! to have) RETURNED Appellant/Whaley's DOCUMENTED EVIDENCE/and/or EXHIBITS/and Lower Trial Court's TRANSCRIPT(s) - which supported that ALL Appellant/Whaley's CLAIMS in his Initial Brief and DESIGNATION indeed were first "...PRESENTED TO THE TRIAL COURT..." Pursuant with Rule 209, 210, 207(b)(4).

4. Therefore this said Appeals Court 2/27/2014 FINAL ORDER in Error Overlooked/and due to said Bias known personal Interest, did not Consider, and or must Grant Appellant/Whaley's MOTION for REHEARING, when!! this Appeals Court's OWN! written signed! LETTER dated "SEPTEMBER 25, 2013" - admits!! that indeed Appellant/Whaley's TIMELY and PROPERLY filed INITIAL BRIEF and DESIGNATION of MATTER's attached EXHIBITS and filed Documented Pleadings/which INCLUDED Appellant/Whaley's PAID LOWER TRIAL COURT'S TRANSCRIPT, showed and supported ALL Appellant/Whaley's claims were Claims ALWAYS Discussed also within the said LOWER TRIAL COURT, whereas is in compliance with this said Appeals Court's ONLY provided Case Law "Henning v. Kaye, 307 S.C. 436,437,415 S.E.2d 794(1992)" - which RULED/and ORDERED and/or shows that/or this said APPEALS FINAL ORDER, dated 2/27/2014 - MUST!! BE DENIED.

WHEREFORE, attached is Appellant/Whaley's (6) copies, and known payment, so to file this timely and proper request to Granted this said Motion for Rehearing/and/or Reconsideration, pursuant with the above said S.C. Appellate Court Rules and Procedures. *(if the said amount of payment is not correct, please contact, and any other immediate payment will be made)

Dated: MARCH 11, 2014

Respectfully Submitted,

Roger L. Whaley
 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 timely and properly served by CERTIFIED/or OVERNIGHT-MAIL, and/or FAXED. As Appellant's declare that ALL that is stated is true and believable and is attached with the documented evidence/and/or EXHIBITS which supports ANY and ALL his Claims, as he has always provided to this said Appeals Court and to the said Lower Trial Court.

cc: Jody A. Bodenbaugh, Esquire; Erik Tison Norton, Esquire, Drew Hamilton Butler, Esquire, Sheila M. Bias,
 1320 Main Street, 17th Floor - Columbia, SC 29201 1900 Barnwell St. - Columbia, S.C. 29202

Exh. A

The Supreme Court of South Carolina

Roger L. Whaley, Appellant,

v.

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

Appellate Case No. 2014-000067

Lower Court Case No. 2012-CP18-00539

ORDER

The appeal in this case is currently pending before the South Carolina Court of Appeals.¹ Appellant has now sent this Court a document dated January 7, 2014.

To the extent this document is asking that this appeal be transferred to or certified for review by this Court under Rule 204 of the South Carolina Appellate Court Rules (SCACR), that request is denied.

To the extent appellant may be seeking a review of various rulings that the Court of Appeals has made in this appeal, that request is dismissed (*Aiken Speir, Inc. v. Henry*, 326 S.C. 268, 486 S.E.2d 492 (1997)). Further, the request for a stay or supersedeas of the orders of the Court of Appeals is denied.

Finally, the request to waive any filing fee is denied as moot.

[Handwritten Signature]
C.J.

FOR THE COURT

Columbia, South Carolina
January 31, 2014

cc: Mr. Roger L. Whaley
Drew Hamilton Butler, Esquire

¹ Before the Court of Appeals, the Appellate Case Number is 2012-213208

Nelson Mullins

Nelson Mullins Riley & Scarborough L.L.P.
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

on shows
BOA - Admits, it sent this
Appeals Court - only. This BOA's
Letter, and never, a Required!
Paid Motion! with the proper
Caption Headers,
pursuant to

January 9, 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:

On October 25, 2013, our firm filed a Motion to Dismiss Appeal and Opposition to Whaley's "Motion for Judgment" and Alternatively, Motion to Strike Parts of Whaley's Designation of Matter on behalf of Bank of America in the above-referenced matter.

Our Motion to Strike was granted by this Court by Order filed November 27, 2013. Pursuant to this Order, Whaley was required within thirty days to serve and file an amended Designation of Matter, excluding those items not properly included, and to serve and file an amended Initial Brief that fully complies with Rules 208 and 267 of the Appellate Court Rules. The Order indicates that upon receipt of the amended Designation of Matter and Initial Brief or upon the expiration of thirty days, the Court would reconsider our Motion to Dismiss.

Although thirty days has passed, Whaley has 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. Bank of America therefore respectfully requests that this Court reconsider its Motion to Dismiss at this time. Please let us know if you need any further information.

Very truly yours,
Tara C. Sullivan
Tara C. Sullivan

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

With offices in the District of Columbia, Florida, Georgia, Massachusetts, North Carolina, South Carolina, Tennessee and West Virginia

BOA Admits to only filing Motion to Dismiss on Oct 25, 2013. BOA - Not SCFCU
Substantive 31 days
Requesting to Dismiss or partially strike parts of Appellant Whaley's properly filed & accepted Initial Designation of Matter

Appeals Court ignored and reversed!
Carroll
to 3
First Order
Order
cancel
for
Both!
Remember
Filed
BOA + SCFCU
Initial Brief
4/20
which
Neither
BOA
and Letter!
SCFCU - 11/20/13

ROGER WHALEY/vs. SCFCU and BOA - EXHIBITS

PART -3

Attachments - 11

The South Carolina Court of Appeals

Roger L. Whaley, Appellant,

v.

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

Appellate Case No. 2012-213208

ORDER

Appellant has filed a motion to relieve Respondent Bank of America's counsel. After careful consideration, Appellant's motion is denied.

Judge M. C. Whaley AS
FOR THE COURT

Columbia, South Carolina

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

FILED
1-3-14

↑
X

RICHARDSON
RICHARDSON PLOWDEN ROBINSON, P.A.
PLOWDEN
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 29
 1900 Barnwell St., Columbia, SC 29201 P 803.771.4400 F 803.779.0

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29
 2103 Farlow St., Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1

CHARLESTON 40 Calhoun St., Suite 220 • Charleston, SC 29
 P 843.805.6550 F 843.805.6

www.richardsonplowden.com

January 3, 2014

Columbia
 Direct Dial: (803) 578-3718
 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 ("SCFCU") is in receipt of Mr. Whaley's "Motion to Relieve as Counsel – Respondent BOA's Attorneys and/or Law Firm Nelson Mullins . . ." ("Motion"). It appears this Motion is directed at another party. However, out of an abundance of caution and based on statements made in the Motion, please accept this letter (and the copies required by Rule 240(e)) as our brief Return to the Motion. If the Court requires a more formal return, please advise and we will provide same.

In his Motion, Mr. Whaley contends that the removal of Bank of America's ("BOA") counsel should also include the removal of all claims and added parties brought by BOTH Respondents. (See Appellant's Motion p. 2). Appellant further argues SCFCU's claims must also be "relieved." *Id.* To the extent that Appellant's Motion seeks to vitiate SCFCU's claims and/or defenses at trial level and on appeal, same should be denied. The relief requested by Appellant is improper, inappropriate, without merit, and should be rejected by this Court. Even if Mr. Whaley's motion to relieve counsel were properly made, such a motion cannot serve as a vehicle to remove the claims, defenses, and/or arguments of another party to the action. Accordingly, any relief requested by Mr. Whaley as it applies to SCFCU must be denied.

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

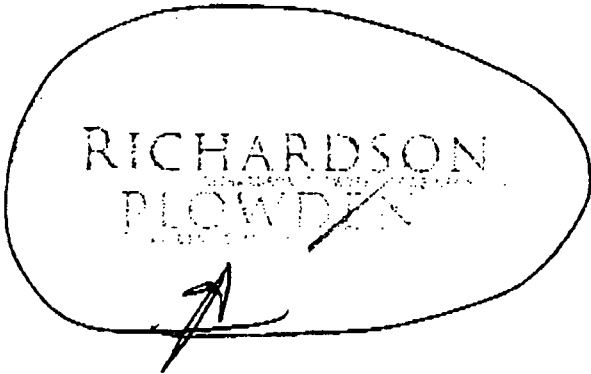
Thank you for taking the time to review this letter and with kind regards, I am

Sincerely,

Sheila M. Bias

Sheila M. Bias
 SC Bar # 100005

Exh. E



COLUMBIA, S.C. 29201
MYRTLE BEACH, S.C. 29577
CHAF, DESIGN, ARCHITECTURE

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



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11829
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

October 10, 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

** SEE-Exh. 5-b.1
Shows for compliance
Appellant Whaley
Corrected for compliance with
Appellate Court letter/
order of deficiencies*

Dear Counsel:

Upon reviewing your "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," 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.

Very truly yours,

Jenny A. Kitchings
CLERK

Exh. 5-b

PLOWDEN
ATTORNEYS AT LAW

Exh. HAA

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578
2103 Farlow St., Myrtle Beach, SC 29577 P 843.446.1008 F 843.446.1533

CHARLESTON 40 Calhoun St., Suite 220 • Charleston, SC 29401
P 843.805.6550 F 843.805.6599

www.richardsonplowden.com

Respondent SCFCU

*Research shows Respondent-SCFCU - Admits!
It only filed for extension for SCFCU*

October 22, 2013

777

and Not! Respondent BGA - who never complied with his

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

*APPEALS
Court
Order(s)
Letter
DATED
9-25-2013
Exh. AA
8-23-2013
Exh. 5-4*

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-1800639
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 or 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.

*Now
9-27-2013
EXH. 5
aaa
↓
no Appeal
Whaley
Complied
with Appa
court requi
deficient
↓
which
shows
Also
Complian
with
A appeal
order*

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

*2-27-2013
↓
Therefor
show
Appeals
order
2-27-2013
is most
or/ Bias
written
when it
own! prior
relevance.*

** Shows Appellate Court's Error possible Bias
* Respondent BGA - Did not file its untimely filed Motion to Dismiss until 10/22/2013 - when Appeals The Date 10-22-2013 - when Appeals member - Mr. BB Ashmore
said Interest of Appeals Court's Board member - Mr. BB Ashmore
Appellant's Compliance*

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

[Signature]
October 24, 2013

*Respondent-BoA
Filed*

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
BoA
I paid \$25.00
Only for
(1) Motion Respondent
to
Dismiss - on 10-24-2013
to
be filed
Not!
Also
SCFCU*

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

Exh. I-1

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

Exh. I-2

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, 2012, 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 27th 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

¹ 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.

Exh. I-3

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.

*BSA Attorneys
Never provided
No. Documented
Evidence to
support its
Claims over
Appellant's Whaley's
provided Documented
Evidence in
Court's Affidavit
in ~~the~~ typed
see Sept. 25,
2013 letter
from
Appellant's
Counsel.*