

PETITION FOR A WRIT OF CERTIORARI  
To Review Decisions of the South Carolina Court of Appeals  
Case no: 2012-213208

Attachments - 45

THE STATE OF SOUTH CAROLINA  
In The Supreme Court  
Prior Case no: 2014-000067

**RECEIVED**

JUN 24 2014

**SC Court of Appeals**

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas  
REPLACEMENT MASTER of EQUITY JUDGE Maite D. Murphy  
Case No: 2012-CP-18-539

Roger L. Whaley, Pro Se Petitioner,

v.

SOUTH CAROLINA FEDERAL CREDIT UNION and BANK of AMERICA - RESPONDENTS

PETITION FOR A WRIT OF CERTIORARI

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

Jody A. Bedenbaugh, Esquire, Erick Tison Norton, Esquire  
and Never! placed any Legal Written Appearance/in Appeals nor Lower Courts – Tara C. Sullivan  
**NELSON MULLINS Riley & Scarborough LLP – Conflict of Interest/LAW FIRM**  
1320 Main Street, 17<sup>th</sup> Floor-Columbia, S.C. 29201  
803-255-9591 Fax No: 803-255-9079

Other Counsel of Record:

Drew H. Butler, Esquire, Caleb M. Riser, Esquire  
and NEVER! placed any Legal Written Appearance/in Appeals nor Lower Courts– **Shella M. Blas**  
1900 Barnwell Street, Columbia, South Carolina 29201  
843-805-6550 Fax No: 843-805-6599/or 803-779-0016  
**Attorney for Respondent**

The South Carolina Court of Appeals  
1015 Sumter St, Columbia, S.C. 29201  
803-743-1800 Fax No: 803-734-1839

**INDEX**

**Questions Presented .....1**

**Statement of the Case.....1**

**Argument**

**I. THE DECISION OF THE COURT OF APPEALS is in CONFLICT with a PRIOR DECISION OF the SUPREME COURT .....2**

**II. THERE IS A DISSENT IN THE DECISION OF THE COURT of APPEAL.....2**

**III. THE APPEALS COURT'S FINAL ORDER dated MAY 22, 2014, PROVIDED NO! LAW NOR any RULE which SUPPORTS a CONSTITUTIONAL QUESTION, involving a State & Federal LAW, regarding also the APPEALS COURT DISMISSAL ORDERS on 2/27/2014, Denial Order 1-3-2014...2**

**Conclusion .....2,3**

1. Did the S.C. Appeals Court Err in its Final Denied Ordered Decision dated May 22, 2014, cause a **CONFLICT with a PRIOR DECISION of the Supreme Court**, when the Appeals Court's 5/22/2014 ORDER Admits! also that it DENIED Appellant/Whaley's "PETITION FOR REHEARING", claiming the Appeals Court was "...UNABLE to DISCOVER that ANY Material FACT or Principle of LAW has been...Overlooked or Disregarded..." although! this Appeals Court 5/22/2014 ORDER also ADMITS! it first! DISMISSED "...This Appeal..." for Appellant/Whaley's Notice to APPEAL, on "February 27, 2014" which provided Only! the PRIOR SUPREME COURT'S Decision involving the Case Law "...Henning v. Kaye, 307 S.C. 436, 437, 415 S.E. 2d 794, 794 (1992)..." which RULED Only! in FAVOR! of Appellant/Whaley's Notice of Appeal to yet! be Active! and NOT! TO BE DISMISSED, when the case law "Henning v. Kaye..." ONLY! supported to "...DECLINE!! to...DENY (it Respondent's) MOTION TO DISMISS...?"
2. Did the S.C. Appeals Court's Denied Order dated 5/22/2014, which admits to also involves the Appeals Court's Dismissed Order 2/27/2014 - err in its Ordered Decisions due to **there is a Dissent (or possible Bias Interest) in the Decision of the Court of Appeal** regarding ONLY! the said Respondents! who ALWAYS added that the NAME of one of the **Appeals Court's Board Member/Mr. Beattie B. Ashmore**/as an alleged FEDERAL!! APPOINTE "RECEIVER" - having a personal! Interest regarding the OUTCOME of Appellant/Whaley's Notice of Appeal, whom the said RESPONDENTS! ADMITS in their MOTION to DISMISS filed in the Lower Trial Court, and upheld by this Appeal Court's Orders of 5/22/2014 & 2/27/2014, upheld Respondents' claims that Appellant/Whaley's Cashier's Checks' named PAYEE/CCG, and/or CCG's Agents!, Tony Pough, Timothy McQueen and Joseph Brunson's Civil actions & Criminal imprisonments, involves this Appeals Court's ONLY provided above case law "Henning v. Kaye..." which ruled only! in favor of the Appellant/Whaley's Notice of Appeal regarding this SUPREME COURT PRIOR DECISION -- which always! "DECLINED!" to DISMISS Appellant's Notice of Appeals?
3. Did the S.C. Appeals Court err in its Final DENIAL Order dated May 22, 2014 involving Appellant/Whaley's Petition for REHEARING, when the **Appeals Court Order of 5/22/2014 NEVER provided absolutely NO! written Law nor any written Rule** that could possibly! support the Appeals Court's written claims in its Order dated May 22, 2014 - which supports a CONSTITUTIONAL QUESTION, involving a STATE & FEDERAL LAW, when the Appeals Court's ORDER of 5/22/2014 GRANTED the said named RESPONDENTS! filed Motion(s) to Dismiss claims to be reviewed by a **FEDERAL! Law APPOINTED RECEIVER-Beattie B. Ashmore**, to be involved with Appellant/Whaley's ONLY! **known! STATE!! COURT filed Cashier's Checks named PAYEE/CCG's STATE!! COURT! APPOINTE RECEIVER!** with ONLY! the LAW FIRM Nelson Mullins Riley & Scarborough LLP - whom Appellant/Whaley timely! and properly! filed in his Initial Brief and Designation of Matter/as well as filed Appellant/Whaley's filed his MOTION to "RELIEVE!! RESPONDENT!! BANK of AMERICA's COUNSEL..." the LAW FIRM NELSON, Mullins... who was DOING an Intentional CONFLICT OF INTEREST - but, (in error/or otherwise) Denied! by the Appeals Court's ORDER dated 1-3-2014, although! **BOTH! RESPONDENT/BANK of AMERICA/and!! APPELLANT/Whaley's appointed STATE!! Court! Legal! REPRESENTATIVE!! Nelson, Mullins...LAW FIRM** involves! Appellant/Whaley's SAME said Cashier's Checks' and Cashier's Checks named PAYEE/CCG, and its said above named CCG's Agents, Pough, McQueen and Brunson's also! STATE!! and FEDERAL!! Same! claims! which involved ALSO a CONSTITUTIONAL QUESTION involving a STATE! and FEDERAL Law?

#### STATEMENT OF THE CASE

Respondent(s) both filed Motion(s) to Dismiss filed in the above lower trial court, and in the said S.C. Appeals Court since March 2011 & Oct. 24, Oct. 31, 2013, & Feb. 5, 2014, along with Respondents signed personal LETTERS dated Jan. 3, 9, 2014, Oct. 31, Oct. 22, Oct. 24, & Aug. 23, 2013, all were filed pleadings reviewed by the Appeals Court, resulted in S.C. Appeals Court's Final Order dated May 22, 2014, which ADMITS it relied on its Order also dated 2/27/2014 - which provided as it ONLY supportive attached Case Law - "Henning v. Kaye, 307 S.C. 436, 437, 415 S.E. 2nd 794, 794 (1992) - which states and ADMITS that "...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 (Respondents) MOTION TO DISMISS."**

Page - 1

#### ARGUMENT

1. The Appeals Court's Order 5-22-2014 date, names also Appeals Court Order dated 2/27/2014 Decision(s).

which the Appeals Court Order of 5-22-2014 ADMITS!!/or is quoted! that the Appellant/Whaley "...filed what this Court construes as a PETITION FOR REHEARING. After Careful Consideration of the PETITION for REHEARING, the Court is UNABLE to DISCOVER that ANY!! Material!! FACT! or Principle of LAW has been either OVERLOOKED or DISREGARDED, and hence, there is NO! BASIS! for GRANTING a REHEARING!. Accordingly, the PETITION for REHEARING is DENIED." - although! Appellant/Whaley's attached! first! PAGE of his Motion for Rehearing/or Reconsideration, along with PRODUCED Court(s) "TRANSCRIPTS", as well as Appellant/Whaley quoted the lower S.C. APPEALS! COURT'S OWN! PROVIDED Only!! Case LAW - "UPHELD by... 'Henning v. Kays, 307, S.C. 436, 437, 415 S.E. 2<sup>nd</sup> 794 (1992) ACTUALLY! SUPPORTS! Appellant/Whaley's 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";

1a): Appellant/Whaley PRODUCED also a COPY of Appellant/Whaley's filed "AMENDMENT to NOTICE OF APPEALS" attached as being filed in S.C. Supreme Court RECORDS, dated NOV. 2012, (which later! produced from the Supreme Court records as allegedly being Supreme Court Case no: "2014-000067") - which shows and supports the S.C. Appeals Court NEVER!! CONSIDERED! S.C. Appeals Court's own! ADMITTANCE! in S.C. Appeals Court's LETTER from its CLERK, dated "MAY 21, 2013", that admit!! -

"...THE CLERK! of the SOUTH CAROLINA SUPREME COURT TRANSFERRED your (Appellant/Whaley's)... NOTICE of APPEAL to! the COURT of APPEALS... (which Caused GREAT! CONFUSIONS!! and Damages to Appellant/Whaley's FIRST! filed NOTICE of Appeals in the Supreme Court records/claims, Filed ONLY! admitted! about a YEAR!!) ... AFTER! it was FILED AT!! the SUPREME!! COURT!. Your Case will REMAIN in the South Carolina Court of Appeals...as to the STATUS of the TRANSCRIPT REQUEST, Pursuant to Rule 207(a) of the South Carolina Appellate Court Rule..." -

1b): Facts are Appellant/Whaley has ALWAYS COMPLIED with the SCACR Rules and South Carolina's Code of LAWS, regarding his claims filed FIRST!! in his Pleading within this said Supreme Court RECORDED RECORDS, which also this honorable SUPREME COURT in ERRI, DID! NOT! COMPLY with this Supreme Court's own! produced Ordered! RULE which 204(a) which also resulted in THE DECISION OF THE COURT OF APPEALS is In CONFLICT with a PRIOR DECISION OF the SUPREME COURT, <sup>1</sup> which the Supreme Court wrote "Appellant...sent this (Supreme) 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 (Supreme) Court under! RULE 204 of the South Carolina Appellant Court Rules (SCACR) that request is Denied)." - "(See Supreme Court's attached Order dated "Jan. 31, 2014");

1c): This said S.C. Supreme Court Recorded Records and! the S.C. Appeals Court's above said recorded records, shows and supports, this said SUPREME COURT never!! wrote!/nor! never! provided absolutely! ANY! kind of Supreme Court ORDER! that ever! LEGALLY!! nor! PROPERLY TRANSFERRED!! Appellant/Whaley's NOTICE of APPEALS, and! Appellant/Whaley's filed! AMENDED!! NOTICE of APPEAL, pursuant with SCACR Rule 204(a), which supports that there is THERE IS A DISSENT IN THE DECISION OF THE COURT of APPEAL...as is stated/or Conflicts/when it ADMITTED! in this Supreme Court own! signed Order, dated January 31, 2014, showing the said Supreme Court NEVER! provided the S.C. APPEALS Court with any! Legall! Authority!! so to have heard, nor to have been Governed by the S.C. Appeals Court- which NEVER! TRANSFERRED! Appellant/Whaley's NOTICE of APPEAL to be heard/nor GOVERNED by the said S.C. Appeals Court - pursuant with SCACR Rule 204(a) -

Page - 2

### CONCLUSION

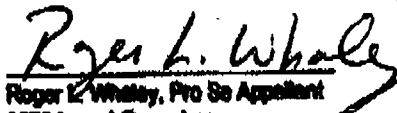
WHEREFORE, the CONCLUSION is that - S.C. Appeals Court's ILLEGALLY, as well as improperly DISMISSED Appellant/Whaley's NOTICE of APPEAL (for the S.C. Appeals Court's salways known! illegal/and also!! Unauthorized Reasons, were also ALWAYS UPHELD by the S.C. Appeals Court own! provided case law, pursuant with "Henning v. Kays..." - which

<sup>1</sup> SCACR Rule (a) Improperly Filed Cases. In the event that the NOTICE OF APPEAL is filed in the WRONG APPELLANT Court, the Appellate Court in which the matter is filed SHALL!! ISSUE!! AN! ORDER!! TRANSFERRING!! the CASE to! the Appropriate!! Appellate Court!!

**RULED in FAVOR of Appellant/Whaley on the date 2/27/2014, joint with S.C. Appeals Court's Final Decision dated May 22, 2014, which the said SUPREME COURT'S KNOWN CONFUSION by never legally or properly TRANSFERRING Appellant/Whaley's NOTICE of APPEAL and AMENDED APPEAL to the said S.C. Appeals Court, resulted also in Appellant/Whaley's attached filed MOTION FOR JUDGMENT filed against Respondent(s), BANK of America, and later filed against South Carolina Federal Credit Union, resulted in both said Respondent(s) continued conspired, THEFT, and of Appellant/Whaley's MONEY FUNDS, in which NEITHER named RESPONDENT(S) is UNDISPUTED, and/or ADMITS in BOA's filed Motion to Dismiss dated "10/24/2013", and written in SCFCU's Motion to Dismiss dated "February 5, 2014", shows Appellant/Whaley's UNDISPUTED CLAIMS of "...included claims of ...THEFT!! of MONEY...and BREACH!! of CONTRACT!! with respect to Cashier's Checks issued by SCFCU...and (illegally)...deposited into (unknown!!) Accounts AT/ BOA."**

Dated June 23, 2014

Respectfully Submitted

  
Roger L. Whaley, Pro Se Appellant  
8573 Laurel Grove Lane  
North Charleston, SC 29420  
td99mont@yahoo.com

**CERTIFICATION OF SERVICE**

I, declare that all proper parties and proper courts has been taxed, hand-delivered, and/or mailed this said PETITION FOR A WRIT OF CERTIORARI, timely and properly provided to all.

**RECEIVED**  
JUN 24 2014  
**SC Court of Appeals**

# **ROGER WHALEY/vs. SCFCU and BOA - EXHIBITS**

## **PART -1**

### **Attachments - 11**



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMNER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1880  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 22, 2014

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

Mr. Drew Hamilton Butler, Esquire  
40 Calhoun Street  
Suite 220  
Charleston SC 29401

Mr. Erik Tison Norton, Esquire  
PO Box 11070  
Columbia SC 29211

Mr. Jody Alan Bedenbaugh, Esquire  
PO Box 11070  
Columbia SC 29211

Ms. Sheila Marlouvon Bias, Esquire  
P.O. Drawer 7788  
Columbia SC 29202

Ms. Tara C Sullivan, Esquire  
Meridian/17th Floor  
1320 Main Street  
Columbia SC 29201

Mr. Caleb Martin Riser, Esquire  
1900 Barnwell St.

# The South Carolina Court of Appeals

Roger L. Whalcy, Appellant,

v.

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

Appellate Case No. 2012-213208

## ORDER

This appeal was dismissed in an order dated February 27, 2014, and Appellant has filed what this Court construes as a petition for rehearing. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*Paul E. Spivey, Jr.* J.

*W. S. Little* J.

*Gregory A. Connor* A.J.

Columbia, South Carolina

cc:  
Roger L. Whaley  
Drew Hamilton Butler, Esquire  
Erik Tison Norton, Esquire

**FILED**  
5/22/14

Jody Alan Bedenbaugh, Esquire  
Sheila Marlouvon Bias, Esquire  
Tara C Sullivan, Esquire  
Calcb Martin Riser, Esquire

\* Appeals Court's own below  
CASE - Hanan vs. Whaley  
\* support  
Appeal  
Whaley's Appeal  
Must not be  
Dismissed - alleged  
Errors were indeed v.  
Deficiencies  
which were indeed v.  
All corrected - by  
Appellant - Whaley  
See Attachment  
A - thru S-b-2  
or see Attach  
Exh. AA

\* Neither Respondent complied with Appeals  
Court Orders for Exhibits EXH AA + SA  
Research Shows...  
See Attached  
Exhibit AA  
shows the  
Appellate Court  
in error for  
otherwise due to  
bias said Inter-  
Intentionally returned Appellant  
Whaley's - Attached become  
Evidence - that was  
Attached with the  
Requirements of Rule  
210(c) SCACR - Attached  
with Appellant  
Whaley

# 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).

Designated  
and/or  
his  
Initial  
Brief

*[Signature]*  
FOR THE COURT

X Long  
with  
his  
mt  
+1

Columbia, South Carolina

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

FILED  
2/27/14

Dismiss  
pursuant to  
Rule 210(b)  
(a)(b)(c)  
+  
which  
shows  
Appellant  
errors  
Date  
an  
Answer  
to  
Appellate  
Court  
order  
Request  
to  
correct  
or  
change  
Appellant  
Designation  
of  
Motion  
Claims

# Exh. AA

whereas  
Appellant Whaley  
was also  
complied with S.C.  
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: 58b1fd8a310638fafc3073bc7d6c834683493839

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

**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

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 Motion 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  
Serves  
Judge  
#3 on  
Receiver  
in  
Court!  
28 USC  
958

Exh. H3

SCFCU - Below Motion to Dismiss - Admits - This

Appellate Court rendered ~~the~~ Granted Respondents' Motion to Strike on 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 Rule 240 - Just! AS - Both said Respondents - seeking the protection of Rule 240, SCACR, then by the Appellant to which SCFCU denied - Whaley & he same! Equal! Trust my 1/3 by the Rule 240 -

Claims in proved, Court members + has BOA: Attorneys were also Whaley cashed checks payed by Appellant state court who Whaley's money not federal

3/3/13

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

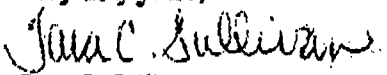
Dear Ms. Kitchings:

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

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

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> approved Case Law + merits of  
 State v. Burton and State v. Holman <sup>is most and without only</sup>  
 has Absolutely! No! Relevance to Appellate Whaley's  
 Civil Complaint - which Both Respondents Admits!  
 and do not deny that Appellant's case was a Victim  
 of Theft - you both <sup>pleadings - Never! Admits! No!</sup>

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  
 Respondents  
 complied with  
 the Appellate  
 Court Rules...

AS SCFCU  
 Admits!  
 about that  
 Appellant Whaley  
 Did! Comply!  
 the Appellate Court Rules...  
 and only! Made Unsupported  
 and None! produced Evidence that  
 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 mislead, Whaley's Appeal  
 was NO! Value on his merit  
 since  
 alleged Record shows... repeated!  
 Appellant Whaley... repeated!  
 Appellant's Appeal  
 failed - in more aspects of the appeal than  
 HE HAS - Identified in his Motion for  
 Reconsideration...

Produce  
 No!  
 Evidence  
 of a  
 Transfer  
 No!  
 Reple  
 Record  
 that  
 could  
 Disput  
 Appelle  
 Whaley  
 Attach  
 Documents  
 Evidence  
 Attach  
 with  
 Whaley  
 Complaint  
 and  
 to the  
 Appellate  
 Court  
 Order  
 Issued  
 Brief  
 +1  
 Design  
 of  
 matter

Exh. F-2

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 Henning Court Ultimate Did Not Dismiss the Appeal! it is of NO! Moment! in this Matter! Which Court had found SCFCU's Ultimate Court's Order was a...

FACTS AND STATEMENT OF FACTS AND THE LAW IN THIS MATTER! ONLY! provide CASE LAW Henning - Ruled THAT Appellant's CASE WILL NOT BE DISMISSED! which supports Appellant's case. Both parties' Motions to Dismiss MUST BE DENIED THAT WAS DECIDED AND OVERLOOKED BY THIS SAID APPELLATE COURT - Due to possible personal interest of both Respondents - Volunteered witherson Mr. Beatty B. Ashmore Beatty Appeal on the...

Shive

Appeal on the...

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. Bonds

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
) MOTION for Rehearing/or Reconsideration
Appellant/Plaintiff, ) Pursuant with Rule SCACR 221(a) 1
v. ) UPHeld by Appeals Court's ONLY provided Case Law
) Henning v. Keye, 307, S.C. 436,437,415 S.E.2d 794 (1992)\*
South Carolina Federal Credit Union ) Actually Supports Appellant/Whaley's 2
and Bank of America, ) Motion for Rehearing, MUST BE GRANTED; DUE also to Appeals
) Court's Shown continued! Errors/or Bias
Respondent/Defendants. ) 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. Kaye, 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-aaa,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!! filed! 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!!/as 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 LAWS/or 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 - alleges/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 Defeats/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/duo 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. Kaye, 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 Exh. 6,6a,6b.) 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 (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 in Rule 207(b)(4)." <sup>3</sup>

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. Kaye, 307 S.C. 426,437,415 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

<sup>3</sup> 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). <sup>4</sup> And is pursuant with Case Law "Henning 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! /or 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 filed 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;

3a): This Appeals Court in error/or 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/or 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 "Henning 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.";

<sup>4</sup> 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, readings, 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 filed WITHIN (30) days, OR by the date "OCTOBER 4, 2013" Each! of said Respondent! REQUIRED "Initial Briefs" and "Designation of Matters" -- which this said Appeals Court officials in ERROR/or 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 Complain/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/or Personal PROPERTY) which provided DOCUMENTED RECORDS/and Court filed LOWER TRIAL COURT'S TRANSCRIPT[s] 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.

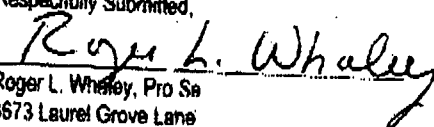
Which this said Appeals Court's ORDER dated 2/27/2014 OVERLOOKED that Appellant/Whaley's filed DESIGNATION and/or Initial Brief -- timely, correctly, filed those said claims along with UNDISPUTED DOCUMENTED EVIDENCE...in which this said Appeals court -- IN ERRED RETURNED - \*(See Exh. AA) from this said 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 those 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!! (his 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, 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. Bedenbaugh, Esquire, Erik Tison Nonon, Esquire, Drew Hamilton Butler, Esquire, Sheila M. Bias,  
 1320 Main Street, 17<sup>th</sup> 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. 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

<sup>1</sup> Before the Court of Appeals, the Appellate Case Number is 2012-213208

**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

*on shows*  
BOA - Admits! it sent this  
Appeals Court - only, this BOA's  
Letter! And Never a Required!  
paid Motion! with the proper  
caption headings  
pursuant to 6

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,

Jaime 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 1 filing Motion to Dismiss on Oct. 25, 2013. BOA - Not SCFCU*  
*Dismiss or partially strike parts of Appellant Whaley's properly filed Initial Brief & Designation of Matter*

*Appeals Court ignored, elevated, cancelled, first Order Clerk for Both! Remember Filed BOA & SCFCU Initial Briefs 1/9/14 which Neither BOA - and SCFCU - Whaley's comply with the Appellate Court Rules*

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

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

RICHARDSON  
PLOWDEN

COLUMBIA, SOUTH CAROLINA  
29201  
MYRTLE BEACH, SOUTH CAROLINA  
CHARLESTON, SOUTH CAROLINA

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 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1639  
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 deficiency*

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*

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

Exh. HAA

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 29578  
2103 Farlow St., Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.1533

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

www.richardsonplowden.com

*Respon. SCFCU*

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

October 22, 2013

*797*

*and Not! Respondent BGA - who never! complied with his*

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

*APPLAS  
Court  
Order  
Letter  
Dated  
9-25-2013  
Exh. AA  
8-23-2013  
Exh. 5-a  
Nov  
9-27-2013  
Exh. 5-aaa*

The Honorable Jenny A. Kitchinga  
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 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 briefs 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.

*to Appella  
Whaley  
complied  
with Appa  
Court requ  
of Appella*

*which  
shows  
Also  
compliance  
with  
Appell  
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

*2-27-2013*

*There's  
show  
Appella  
order*

*2-27-2013*

*is moot  
or Bias  
written  
when it  
own! prior  
reliance.*

SMB/dfb

*\* Shows Appell's Court's Error or possible Bias  
\* Respondent BGA - Did not  
file its untimely filed  
Motion to Dismiss until 10/22/2013 - when Appella's  
The Date 10-22-2013 - when Appella's  
ordered its initial brief + Objections  
to be filed by 10-4-13/Supposedly Appellant's compliance  
with S.C. Appellate Rules*

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  
BoA*

*I paid \$25.00  
only for*

*(1) Motion Respondent*

*to  
Dismiss - on 10-24-2013*

*to file*

*Not!*

*Also  
SCFCU*

Exh. I

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY  
Court of Common Pleas

Maité 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 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.<sup>1</sup>

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

<sup>1</sup> 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.

*Handwritten notes:*  
 BSA-Attorneys  
 Never provided  
 No Document  
 & will incl to  
 support its  
 claims over  
 Appellant Whaley's  
 provided Documented  
 Evidence in  
 which this Appeals  
 Court's Affidavit  
 in the typed  
 see Sept. 25,  
 2013 letter  
 from  
 Appellant's  
 Court.

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

By: Tara C. Sullivan

Jody A. Bedenbaugh, SC Bar No. 71176  
E-Mail Address: jody.bedenbaugh@nelsonmullins.com  
Erik T. Norton, SC Bar No. 73860  
E-Mail: erik.norton@nelsonmullins.com  
Tara C. Sullivan, SC Bar No. 79806  
E-Mail: tara.sullivan@nelsonmullins.com  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Attorneys for Respondent Bank of America

Columbia, South Carolina

10/29, 2013.

# **ROGER WHALEY/vs. SCFCU and BOA - EXHIBITS**

## **PART -4**

### **Attachments - 12**

# 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

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

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 Joy A. Kiteley  
CLERK

Columbia, South Carolina

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

FILED  
9-27-13 AS

Exh. 5-aaa

*shows  
Appeals Court  
Only Granted!  
Extension to  
NOV. 4, 2013 to  
Only ONE  
Respondent -  
Not! to  
Both!!  
Respondents! -  
+ therefore  
Appeals Court's  
Order CASE LAW  
Henrius v. Kaye -  
Approved/Not Granted  
Relief to - the one  
Respondent! who  
Requested...*

*AS  
Respondent  
Both!  
Never!  
Requested!  
Extension!  
from  
0 date  
10-4-2013  
to  
7 file its  
initial  
brief  
with the  
designation  
matter  
↓  
when  
Respondent  
Both  
filed  
its  
M+ to  
Dismiss  
on  
10-22-13  
After!  
BOA's  
Intentional  
non-compliance  
with Appeals  
Order for letter Exh.  
1-1-13 - AR*

EXH-B



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMNER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1838  
WWW.SCCOURTS.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,

J. A. Kitchings

CLERK

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

Exh. A

RICHARDSON  
PLOWDEN  
ATTORNEYS AT LAW

COLUMBIA P.O. Drawer 7788 • Columbia, SC 2920  
1900 Barnwell St., Columbia, SC 29201 P 803.771.4400 F 803.779.001

MYRTLE BEACH P.O. Box 3646 • Myrtle Beach, SC 2957  
2103 Farlow St., Myrtle Beach, SC 29577 P 843.448.1008 F 843.448.155

CHARLESTON 40 Calhoun St., Suite 220 • Charleston, SC 2940  
P 843.805.6550 F 843.805.659

www.richardsonplowden.com

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

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)

See Exh. B + Exh. C  
Respondent's  
SCFCU  
Nov  
BOA  
Consulted  
with this  
Appellate Court's  
Orders in it  
Clerk's letter  
Dated Sept.  
25, 2013 - for  
BOA's Respondent  
to file + serve  
Initial Designation  
of Matter  
SCFCU  
Paid for  
only  
(1)  
Respondent  
Filing  
Fee  
Request  
for  
Extension

*Elh. Aaa*

*SC Appeals Court Admits Appellant Whaley's "Initial Brief" as Timely Filed, But Needs to File also his "Designation" which was filed by Appellant and Properly Accepted! by This Appeals Court...*



**The South Carolina Court of Appeals**

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11628  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMNER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
www.sccourts.org

August 23, 2013

*Since the Appeals Court never Dismissed! Appellant's "INITIAL" Brief*

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:

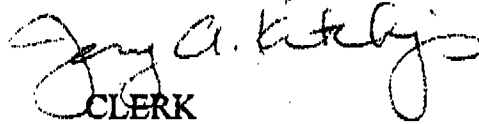
Upon reviewing your appellant's initial brief, the following deficiency or deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and any deficiency must be corrected within ten (10) days of the date of this letter:

The initial brief is not accompanied by a designation of matter to be included in the record on appeal. We are returning the attachments and exhibits to you.

You will need to submit a designation of matter to the Court pursuant to Rule 209, SCACR, and Form 14. The designation must be filed within ten days of the date of this letter or your case may be dismissed. The respondents' briefs will be due within thirty (30) days from the filing of the appellant's designation of matter.

Exh. A6

Very truly yours,

  
CLERK

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

Exh. B

\* Showing Errors filed  
by Appellate Court since  
year 2012 and up to  
about March or April 2013  
When + his Appeals Court First  
Attempted to  
Dismiss Appellant  
Notice of Appeal  
sent to lower court  
Transcript was  
Produced!!! to the  
S.C. Supreme Court



**The South Carolina Court of Appeals**

JENNY ABBOTT KITCHINGS  
CLERK  
V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11828  
COLUMBIA, SOUTH CAROLINA 29211  
1015 SUMTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
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

Because  
Appellant's  
Notice of Appeal  
was yet filed  
in Supreme Court  
who did not allegedly  
Transcript  
+ his  
Appellate Court  
until + his  
letter "May  
21, 2013"...

**IN THE SUPREME COURT OF SOUTH CAROLINA**  
**SUPREME COURT's NEW CASE No: Unknown**  
**APPEALS NO: 2012-213208**  
 County of Dorchester Court of Common Pleas  
 Lower Case No: 2012-CP-18-539 and Lower Judge – Maite D. Murphy

Roger L. Whaley, Pro Se  
 Plaintiff/Appellant.

Pages 1  
 Attachments - 3

vs.

Clerk's requested CORRECTED "Deficiency"  
**AMENDMENT TO  
 NOTICE OF APPEALS**

South Carolina Federal Credit Union  
 and  
**BANK OF AMERICA**  
 Respondent.

**ATTENTION CLERK:**

Please see the above requested Corrections involving the prior attached amendments of the complete copy of the original order and the order on motion for reconsideration. And also providing all parties of the RETURN Lowe Court's Reporter's Transcript info.

**DATE: NOVEMBER 19, 2012**

Respectfully submitted,

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

**CERTIFICATE OF SERVICE**

I declare that all the below proper parties have been served with this said Amended requested Clerk Correction to AMENDMENT TO NOTICE of APPEALS, filed within this said State Supreme Court, pursuant with SCACR Rule 267(a) and SCACR 202; as well as See attached Transcript Letter from "The Circuit Court of the Eleventh Judicial Circuit's Court Reporter dated November 10, 2012.

South Carolina's Dorchester's State Court  
 5200 East Jim Bilton Blvd.  
 St. George, SC  
 (843) 553-0160

\*\*S.C. Supreme Court of Appeals  
 P.O. Box 11330  
 29477 Columbia, S.C. 29211  
 (803) 734-1080

Mr. Jody A. Bedenbaugh, Attorney  
 1320 Main Street, 17 Floor  
 Columbia, S.C. 29201  
 (803) 799-2000

Drew Hamilton Butler, Esquire  
 Post Office Drawer 7788  
 Columbia, South Carolina 292A2  
 (803) 771-4400

**Exh. 1**

Exh. B6

**SOUTH CAROLINA FEDERAL**  
CREDIT UNION  
LIFE SIMPLY BETTER

PO Box 1000  
N Charleston, SC 29502  
Tel: 843-275-1100

No 704276

MRX CHECKS DISBURSED

09/28/10 22:59 PM BOSTON MA 02111

ROGER L HARLEN  
ASH REC'D: 0.00 CHECK REC'D: 0.00 TOTAL REC'D: 0.00  
ACS RETURNED: 0.00  
CHECK SET: 100.00 TOL SUPPLYING BANKS  
CHK: 704276

BY TRANS AMOUNT  
TO END 100.00  
TO END  
BY AFT 2.00

*COPI*

*Robert W. Kelly*

*Mike*

**SOUTH CAROLINA FEDERAL**  
CREDIT UNION  
PO Box 1000  
N Charleston, SC 29502

No 704276

PAY

One Hundred Dollars and 00 cents

TO THE ORDER OF

Supreme Court  
Roxellerr Roger L Harlen

*Robert W. Kelly*

The Order Federal Court Order dated Sept. 5, 2007 provided to FCB and State Court Judge James on Oct. 9, 2007 on and after Oct. 11, 2007 to show to be a valid order - that caused the illegal-Removal

COUNTY OF RICHLAND

EXH-2

Case No. 2007-CP-40-3116

Henry D. McMaster, in his official capacity as Securities Commissioner for the State of SC,

Plaintiff,

vs.

Capital Consortium Group, Inc.; 3 Hebrew Boys, LLC; Tony Pough; Tim McQueen; Joseph Brunson; and First Citizens Bank and Trust Company, Inc.,

Defendants.

Intentional Conspiracy Conflict of interest made with Federal Court Judge Seymour since Oct. 10, 2007. Regarding same Payee-CEG's Business Const. Funds Money or Cashier checks Money orders

BARBARA L. SCOTT B.C.C. & G.S.

2007 NOV 21 PM 3:56

Restraint Enjoin \$17 million dollars CEG + 3-Boys money funds and the only Federal Order that obligate to

ORDER UNDER SEAL GRANTING MOTION FOR RELIEF FROM ORDERS

On June 22, 2007, this Court issued its "Order Granting Plaintiff's Motion for Temporary

Injunction", said order being filed June 25, 2007 ("Injunction Order"). The Injunction Order

enjoins, inter alia, First Citizens Bank and Trust Company ("FCB") from allowing anyone

access to or releasing approximately \$17 million dollars (that was originally) in various account

maintained or controlled by Capital Consortium Group, Inc. (and) 3 Hebrew Boys, LLC (or its

principals). The Injunction Order also sets forth investment criteria for the funds that were to be

followed by FCB pending further order of this Court. By its Injunction and Receivership Order

filed July 16, 2007 ("Receiver Order") this Court found that it would be appropriate to have a

state court receiver appointed to take control of these funds, but to date this Court has not named

or empowered anyone to act as the receiver in this action. FCB now seeks amendments to the

Injunction Order and Receiver Order pursuant to Rule 60(b), S.C.R.C.P. ("Motion") so that it can

Which Later on 11/26/2007 Judge James - in favor of CCG/3Boys Also! Granted his Order for Relief from Orders of the Injunctions, Restraining Orders and All SCAS's - file Cleveland Criminal Claims

have Seized the Sept 2007 Order is Dated 10-10-07 which was Filed After FCB & CEG's Filed Already Bankrupt Petition in the U.S. Bankruptcy Court by CCG on 10-10-07

*Exhibit 2007 + Control of said  
State Court Documents - Money - Attempting to be  
page - ccg - controlled by federal official*

comply with certain orders issued by the United States District Court for the District of South Carolina which relate to control of the money being maintained by FCB.

*Denial  
to receive  
ALL  
said  
page's  
money  
10-16-07*

Based upon documents presented in support of the motion, it appears that by Order under seal filed September 5, 2007 the United States District Court for the District of South Carolina has appointed Beattie B. Ashmore, Esquire as a federal receiver to take possession and control of various assets, including those assets frozen at FCB ("Appointment Order"). Mr. Ashmore has duly requested that FCB relinquish to his control the frozen funds that currently are subject to this Court's Injunction Order and Receiver Order.

Subsequent to the filing of the Motion, Capital Consortium Group a/k/a Three Hebrew Boys filed a Chapter 11 bankruptcy petition in the United States Bankruptcy Court for the District of South Carolina. On October 11, 2007, this Court conducted a telephonic hearing to consider the Motion at which time the parties presented their positions. Subsequent to the telephonic hearing, the United States District Court by Order of the Honorable Margaret B. Seymour dated October 12, 2007, withdrew the reference of the bankruptcy case from the United States Bankruptcy Court for the District of South Carolina pursuant to 28 U.S.C. § 157(d). This Court concluded and informed the parties by electronic transmission on October 16, 2007 that it was authorizing the immediate transfer of the funds held by FCB pursuant to the prior orders of

*State Court  
Award a  
Final  
Judgment  
Regarding  
Only  
\$17.0 Million  
Granted to  
BR - Oct. 16, 2007  
"Due to Fraud"  
Federal Judge  
Seymour Dated  
Oct. 12, 2007*

this Court to Mr. Ashmore as the federal receiver. It is therefore,  
ORDERED, ADJUDGED AND DECREED that,

1. The Order Granting Plaintiff's Motion for Temporary Injunction filed June 25, 2007, is vacated insofar as it enjoins FCB from allowing access to or releasing the funds frozen by the order. Further, FCB is specifically authorized to comply with the Appointment Order and surrender control and possession of

*BJH 2*

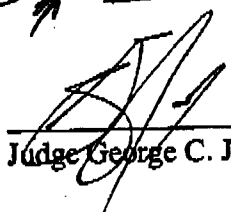
Exh. 2-c

the frozen funds to Mr. Ashmore as of October 16, 2007. FCB shall provide an accounting to the Attorney General of the funds turned over to Mr. Ashmore;

The Injunction and Receivership Order filed July 16, 2007, shall otherwise remain in effect; and

Pursuant to the terms of the Appointment Order, the Clerk of Court is directed to maintain this Order as part of the sealed record on the Motion.

AND IT IS SO ORDERED

  
\_\_\_\_\_  
Judge George C. James

\_\_\_\_\_, S.C.  
1/20, 2007

*This is CCG's  
\$2. million  
dollars  
yet!  
remains in  
possession of  
SCAS  
since 5-21-  
2007*

*Granted again?  
by  
State Court Judge  
signed 1/20/2007 - entered 4/21/2007*

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )

*Exh. 12* *61*  
IN THE COURT OF COMMON PLEAS  
FIFTH JUDICIAL CIRCUIT

HENRY D. McMASTER,  
in his official capacity as the  
SECURITIES COMMISSIONER  
FOR THE STATE OF SOUTH  
CAROLINA,  
  
Plaintiff,  
vs.

CAPITAL CONSORTIUM GROUP,  
LLC, 3 HEBREW BOYS, LLC, TONY  
POUGH, TIM McQUEEN, JOSEPH  
BRUNSON, DANIEL DEVELOPMENT  
GROUP, LLC and FIRST CITIZENS  
BANK AND TRUST COMPANY, INC.,  
  
Defendants.

*State Appointed*  
*Receiver - conflicts with*  
**OBJECTION TO APPOINTMENT  
OF  
GEORGE B. CAUTHEN AND/OR  
NELSON, MULLINS, RILEY  
& SCARBOROUGH, LLP  
AS  
A RECEIVER**

*Federal Receiver*  
*A.S. Moore*  
*5th Cir. U.S. App. Ct.*  
*Holladay*  
*8-17-2007*

Docket No. 07-CP-40-03116

2007 JUL 26 PM 3:43  
REBARA A. SCOTT  
C.C.C. & G.S.

COME now the Defendants, CAPITAL CONSORTIUM GROUP, LLC, 3 HEBREW BOYS, LLC, TONY POUGH, TIM McQUEEN, JOSEPH BRUNSON, and DANIEL DEVELOPMENT GROUP, LLC [hereinafter collectively "Defendants"], by undersigned counsel, and respectfully object to the appointment of George B. Cauthen, Esq., Partner with the Law Firm of Nelson, Mullins, Riley & Scarborough, LLP ["Nelson Mullins"], and/or any other partner or associate of Nelson Mullins as Receiver in the above-captioned matter. This objection is based on the following, to wit:

1. The Supplemental Affidavit of George B. Cauthen evidences he, as a partner with Nelson Mullins, and Nelson Mullins, in general, have a prima facie conflict of interest in that said affidavit clearly shows an on-going pecuniary relation between the Office of the Attorney General, a party to this action, and Nelson Mullins.

*Receiver*  
*informal*  
*actual appoint*  
*still under advisement*

Law Office  
of  
**HEMPHILL P. PRIDE II**  
*H. P. Pride II*  
Hemphill P. Pride II  
Post Office Box 4529  
Columbia, South Carolina 29240  
(803) 258-8015

ATTORNEY FOR DEFENDANTS CAPITAL CONSORTIUM GROUP, LLC, 3 HEBREW BOYS, LLC; TONY POUGH, TIM McQUEEN JOSEPH BRUNSON and DANIEL DEVELOPMENT GROUP, LLC

July 26, 2007.

**EMERGENCY NOTICE**

**TO: ALL CONCERN, due to Vehicle transportation problems, Mr. Roger Whaley is not able to HAND-DELIVER the attached Writ of Certiorari, but will be OVERNIGHT MAILED to the proper Courts and Faxed to ALL proper Legal Counselors**

**Ref: Supreme Court Prior Case no. 2014-000067; & Appeals case no. 2012-CP-18-539**

# **ROGER WHALEY/vs. SCFCU and BOA - EXHIBITS**

## **PART -1**

### **Attachments - 11**



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11620  
COLUMBIA, SOUTH CAROLINA 29211  
1018 SLANTER STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE (803) 734-1600  
FAX (803) 734-1630  
[www.sccourts.org](http://www.sccourts.org)

May 22, 2014

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

Mr. Drew Hamilton Butler, Esquire  
40 Calhoun Street  
Suite 220  
Charleston SC 29401

Mr. Erik Tison Norton, Esquire  
PO Box 11070  
Columbia SC 29211

Mr. Jody Alan Bedenbaugh, Esquire  
PO Box 11070  
Columbia SC 29211

Ms. Sheila Marlouvon Bias, Esquire  
P.O. Drawer 7788  
Columbia SC 29202

Ms. Tara C Sullivan, Esquire  
Meridian/17th Floor  
1320 Main Street  
Columbia SC 29201

Mr. Caleb Martin Riser, Esquire  
1900 Barnwell St.

# 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

This appeal was dismissed in an order dated February 27, 2014, and Appellant has filed what this Court construes as a petition for rehearing. After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied.

*Paul E. Spivey, Jr.* J.

*W. H. Miller* J.

*Gregory A. Hunter* A.J.

Columbia, South Carolina

cc:  
Roger L. Whaley  
Drew Hamilton Butler, Esquire  
Erik Tison Norton, Esquire

**FILED**  
5/22/14

Jody Alan Bedenbaugh, Esquire  
Sheila Marlouvon Bias, Esquire  
Tara C Sullivan, Esquire  
Calcb Martin Riser, Esquire

\* Appeals Court's own! Below  
CASE - Henning v. Whaley  
\* a/c - supporting  
Appellant's appeal  
Whaley's appeal  
must not be  
dismissed - alleged  
IR of v. S  
Deficiencies  
which were  
corrected - by  
Appellant - Whaley  
See Attachments  
A - Three - S-b.2  
EXH. AA  
ALL CORRECTED - BY  
APPELLANT - WHALEY  
SEE ATTACHMENTS  
A - THREE - S-b.2  
EXH. AA

\* Neither Respondent complied with Appellate  
Court Orders for better or for ill EXH AA + SA  
Research Shows...  
\* See Attached  
Exhibit AA  
shows the  
Appellate Court  
in Error for  
other reasons due to  
Bias Said Inters  
Intentionally Retained Appellant  
Whaley's Attached Document  
Evidence that was  
Attached with the  
Requirements of Rule  
210(c) SCACR - Attached  
with Appellant  
Whaley

# 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).

Designated  
and/or  
his  
Initial  
Brief

*[Signature]*  
FOR THE COURT

Columbia, South Carolina

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

FILED  
2/27/14

Dismiss  
pursuant to  
Rule 210  
(a)(b)(c)  
(c)  
which  
shows  
Appellant's  
error  
order  
Request  
to  
correct  
or  
change  
Appellant  
Designation  
of  
Motion  
Class

# Exh. AA

When AS  
Appellant Whaley  
was always in  
compliance with S.C.  
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: 58b1fd6a310638fafc3073bc7d6c634683493839

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

RECEIVED

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

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**

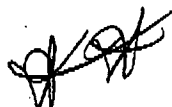
Appellate Case No.: 2012-213208  
Civil Action No.: 2012-CP-18-539

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

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 Motion to Dismiss 10-24-2013

also! B. Ashmore - Appeals Board memb. Strains Judge #34 receive in any Court. 28 USC 958

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

Exh. A3

SCFCU - ~~Below~~ Motion to Dismiss - Admits - This

Appellate Court rendered ~~the~~ Granted Respondents Motion to Strike on Whaley's designation of matter... Documented Evidence - and Claims that were filed also in the lower Trial Court - that appeared Respondent's 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 - Just. AS - Both said Respondents - seeking the protection of Rule 240, SCACR, thereby perfecting the appeal. Admits SCFCU Appellate Court denied Whaley's motion to be same! Equal! That must be protected by the Rule 240 -

Claimed in provided Court. That BOA's Attorney were also Whaley's check payee/escrow agent. Appellate Court Whaley's motion Not Federal

3 8/13/13

Exh. # 21

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

**EMERGENCY NOTICE**

**TO: ALL CONCERN, due to Vehicle transportation problems, Mr. Roger Whaley is not able to HAND-DELIVER the attached Writ of Certiorari, but will be OVERNIGHT MAILED to the proper Courts and Faxed to ALL proper Legal Counselors**

**Ref: Supreme Court Prior Case no. 2014-000067; & Appeals case no. 2012-CP-18-539**

**RECEIVED**

JUN 24 2014

**SC Court of Appeals**