

IN THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

JUL 28 2014

APPEAL FROM DORCHESTOR COUNTY
Court of Common Pleas
Maite D. Murphy, Circuit Court Judge

S.C. Supreme Court

On Order of Dismissal (S.C. Ct. App. Filed Feb. 27, 2014)
Appellate Case No.: 2014-001371

Roger L. WhaleyAppellant,

vs.

South Carolina Federal Credit Union and Bank of AmericaRespondents.

**REPLY TO RETURN TO THE MOTION TO DISMISS ON BEHALF OF SOUTH
CAROLINA FEDERAL CREDIT UNION**

Respondent South Carolina Federal Credit Union (“SCFCU”) hereby submits this brief Reply and Response to the Return to our Motion to Dismiss.¹ SCFCU specifically incorporates by reference as if repeated herein verbatim its arguments in its Motion to Dismiss and supporting Memorandum, and will only address new matters raised by Petitioner’s Return to our Motion in this Reply.

As this Court well knows, a Motion to Dismiss is separate and apart from a Return to a Petition for a Writ of Certiorari. Accordingly, any relief requested by Petitioner regarding our Motion to Dismiss

¹ On July 25, 2014, counsel for Respondent SCFCU received a copy of this Court’s deficiency notice to Mr. Whaley regarding the filing of the Return to the Motion to Dismiss. However, Respondent SCFCU was never served with a copy of the Return to the Motion to Dismiss. A review of the Appellate Case Management System indicates that a Return was received by this Court on July 18, 2014. On July 28, 2014, Respondent SCFCU received, via fax, what purports to be a corrected or amended Return or Response to the Memorandum of Law in Support of the Motion to Dismiss and the Certificate of Service in an attempt to correct the deficiencies this Court has highlighted. Although it does not appear that the Amended Return is a proper amendment nor has Respondent SCFCU actually received the Return to its Motion to Dismiss, in the interest of judicial economy, Respondent SCFCU will respond briefly to this Motion.

not addressing the arguments in his Petition for a Writ of Certiorari should be rejected as our Motion to Dismiss does not serve as our return to the Petition for a Writ of Certiorari. Upon this Court's disposition of our Motion to Dismiss, should we be required to file a Return to the Petition for a Writ of Certiorari, same will be filed at that time and in accordance with this Court's orders. See Rule 240(b), SCACR ("A motion to dismiss an appeal ... shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.").

Based on the foregoing, our Motion to Dismiss, and Memorandum in Support thereof, Respondent SCFCU respectfully requests that this Court dismiss the Petition for Writ of Certiorari as untimely or, in the alternative, issue an Order striking the appendix filed by Mr. Whaley.

Respectfully submitted,



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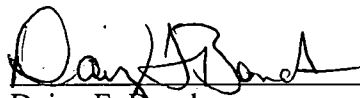
South Carolina Federal Credit Union and
Bank of America.....Respondents.

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 Reply to Return to the Motion to Dismiss 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
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Daisy F. Bonds

Dated: July 28, 2014