

WHALEY'S REPLY TO BOA'S "RETURN" TO
WRIT OF CERTIORARI

PART 2
ATTACHMENTS - 11

*Exh. AA-1 *Research Shows Handwritten Below...*
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

Not only is Not in Compliance with S.C. Appellate Court Rules! But! this said Appeals "Order" Does Not - Base its Rulings Also on SCACR-Rule 24(d) Which Automatically STAY! the Time! Limits! for Perfecting the Appeal - until the Motion is decided!

Appellant's Motion for Judgment is denied as to both Respondents. Additionally, Respondent Bank of America's motion to strike is granted. Within thirty days, Appellant shall serve and file an amended Designation of Matter which excludes items two, five, and seven through fourteen. (See Rule 209(b), SCACR (noting the Designation of Matter "may only propose to include . . . materials which may be properly included in the Record on Appeal"); Rule 210 (c), SCACR ("The Record [on Appeal] shall not, however, include matter which was not presented to the lower court or tribunal.")). Further, within thirty days, Appellant shall also serve and file an amended Initial Brief that fully complies with Rule 208, SCACR, and Rule 267, SCACR. Upon receipt of the amended Designation of Matter and Appellant's amended Initial Brief or upon the expiration of thirty days, this court will consider Respondent Bank of America's motion to dismiss.

But! Therefore! Does Show a Different! in Treatment in Enforcing! the Appeals Court's Priority! Rulings issued! + o Appellant Whaley and Respondent's Required! Filings! of Each! of their Initial Briefs and Designat. of Matters that were due! by BOA! on Oct. 4, 2013, and Extended only! to SCFCU and if-11-2013 That was Not Cancelled Nov. STAYED!

FOR THE COURT

Columbia, South Carolina

cc:

FILED
11/27/13

By + his 11-27-2013 "Order" - as alleged by SCFCU + BOA - who Never Requested an Initial Brief

Exh. AAA

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.

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

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Vertical handwritten note:
Designation of Matter - But Appellate Court in Error/late Re-litigation

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 [Signature] CLERK

Columbia, South Carolina

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

Jody Alan Bedenbaugh
Sheila Marlouvon Bias

Nelson + Mullins Law Firm

set cu

FILED
9-27-13 AS

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

October 22, 2013

7 of 7

Can't Not! Respondent
B.A. who does!
Complied with this
Columbia
Direct Dial: (803) 576-3718
sbias@RichardsonPlowden.com

Appellate's
Court
Order/aff
Letters
Dated
9-25-2013
Exh. AA,
8-23-2008
Exh. 5-C
Nov
9-27-2013
Exh. 5
aaa

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 # 2012-213206
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] 205(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.

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

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

Sincerely,

Sheila M. Bias

Sheila M. Bias
SC Bar # 100005

SMB/dfb

in Appellant
Whaley
Complied
with Appellate
Court request
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Also
Compliance
with
Appellate
order

2-27-2014
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Appellate
Order

2-27-2014
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when in
own prior
rulings.
Appellant's Compliance
with S.C. Appellate Rules

* In re Appellate Court's Error possible bias
* Respondent B.A. Did Not
file its initial brief until 10/22/13 - when Appellate
Motion to Dismiss until 10/22/13 - when Appellate
The Date 10-22-2013 - when Appellate
ordered its initial brief + designation
to be filed by 10-4-13

skid Interest
of Appellate
Clerk's Board
member Mr.
BB Ashmore



Exh ^{aa}

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11236
COLUMBIA SOUTH CAROLINA
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1231 GERVAIS STREET
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TELEPHONE (803) 734-1239
FAX (803) 734-1499
WWW.SCCOURTS.ORG

July 24, 2014

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

Re: Roger Whaley v. SC Federal Credit Union
Appellate Case No. 2014-001371

Dear Mr. Whaley:

This Court has received your corrections to the footnotes in your return. If you want this Court to consider these corrections, you will need to serve and file an amended return that fully incorporates these corrections. You will need to provide this Court with an original and 6 copies of the amended return along with a proof of service showing that a copy of the amended return has been served on opposing counsel. The amended return must be served and filed within ten (10) days of the date of this letter.

Very truly yours,

CLERK

cc: Erik Tison Norton, Esquire
Jody Alan Bedenbaugh, Esquire
Tara C Sullivan, Esquire
Drew Hamilton Butler, Esquire
Sheila Marlouvon Bias, Esquire
Caleb Martin Riser, Esquire

THE STATE OF SOUTH CAROLINA
In The Supreme Court

Exh. AB-1
BOA's Proof of Service
Dated 7/22/14

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Case No. 2012-CP-18-0539

Appellate Case No. 2012-213208

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

v.

Roger L. Whaley, Appellant.

**BANK OF AMERICA'S RETURN TO APPELLANT'S
PETITION FOR A WRIT OF CERTIORARI**

Pursuant to Rule 242(d), SCACR, Respondent Bank of America ("BOA") hereby responds to the Petition for a Writ of Certiorari filed by Appellant Roger L. Whaley ("Appellant"). BOA respectfully requests that this Court deny Appellant's Petition for a Writ of Certiorari. First, Appellant's Petition is largely unintelligible. "Failure of a petitioner to present with accuracy, brevity, and clarity the information and arguments that are essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition." Rule 242(d)(4), SCACR.

Second, to the extent Appellant's Petition can be understood, Appellant's Petition fails to present any important issues of law which would merit the consideration of this Court. There are no novel questions of law at issue; there was no dissent in the decision of the Court

of Appeals: the subject decision does not conflict with any prior decision of this Court: there are no constitutional issues involved; there is no federal question or any conflict with a decision of the United States Supreme Court at issue; and there are no other special or important reasons to grant Appellant's writ of certiorari. See Rule 242(b), SCACR.

Third, Appellant's appeal was dismissed on February 27, 2014, because Appellant failed to comply with the South Carolina Appellate Court Rules. Although Appellant now seeks further review of this decision, he continues to fail to comply with the South Carolina Appellate Court Rules. For example, Appellant fails to include information required in the Appendix and continues to include information not part of the Record on Appeal. See Rule 242(e), SCACR. Furthermore, Appellant has failed to properly serve BOA with the Petition as it has only been received by fax, which is not a proper method of service, and therefore Appellant has not timely perfected his Petition. See Rules 242(c) and 262(b), SCACR.

Finally, this Court has previously declined to hear this matter. See Orders of this Court dated January 31, 2014, and February 25, 2014.

For the foregoing reasons, Respondent Bank of America respectfully requests that this Court deny Appellant's Petition for a Writ of Certiorari.

Research shows (alleged Licensed Attorneys)
* Issued by BOA on 7-22-2014 - BOA's "RETURN"..
Although BOA issued a SECOND "RETURN" for
Corrections!! <signature block next page>
on 7-24-2014
without filing it's 2
"Return" as a Required!!
Amendment according to this Supreme
Court's letter DATED 7-24-2014

Exh. AB-3

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Tara C. Sullivan

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Columbia, SC 29201

(803) 799-2000

Attorneys for Respondent Bank of America

Columbia, South Carolina

July 21, 2014.

Exh. B

*** Research found - BOA's Improper*

THE STATE OF SOUTH CAROLINA
In The Supreme Court

*Correction copy
yet! Evid
Now, due to
Document
Shows*

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Maite Murphy, Circuit Court Judge

Case No. 2012-CP-18-0539

Appellate Case No. 2014-001371

*Supreme
Court No.*

Roger L. Whaley, Petitioner,

v.

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

*and
NO!
Appeals
NO!
is
shown*

*BOA-did
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writ of Certiorari
is appealing!
The
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Court
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Improper Collection
**BANK OF AMERICA'S RETURN TO WHALEY'S
PETITION FOR A WRIT OF CERTIORARI**

*2012-213208
Improper
Collection
BOA's Proof of
Service
7-24-14*

Pursuant to Rule 242(f), SCACR, Respondent Bank of America ("BOA") hereby responds to the Petition for a Writ of Certiorari filed by Petitioner Roger L. Whaley ("Whaley"). BOA respectfully requests that this Court deny Whaley's Petition for a Writ of Certiorari. First, Whaley's Petition is largely unintelligible. "Failure of a petitioner to present with accuracy, brevity, and clarity the information and arguments that are essential to a ready and adequate understanding of the points requiring consideration will be a sufficient reason for denying the petition." Rule 242(d)(4), SCACR.

Second, to the extent Whaley's Petition can be understood, Whaley's Petition fails to present any important issues of law which would merit the consideration of this Court. There are no novel questions of law at issue; there was no dissent in the decision of the Court of

Exh. B-1

Appeals; the subject decision does not conflict with any prior decision of this Court; there are no constitutional issues involved; there is no federal question or any conflict with a decision of the United States Supreme Court at issue; and there are no other special or important reasons to grant Whaley's writ of certiorari. See Rule 242(b), SCACR.

Third, Whaley's appeal was dismissed on February 27, 2014, because Whaley failed to comply with the South Carolina Appellate Court Rules. Although Whaley now seeks further review of this decision, he continues to fail to comply with the South Carolina Appellate Court Rules. For example, Whaley fails to include information required in the Appendix and continues to include information not part of the Record on Appeal. See Rule 242(e), SCACR. Furthermore, Whaley has failed to properly serve BOA with the Petition as it has only been received by fax, which is not a proper method of service, and therefore Whaley has not timely perfected his Petition. See Rules 242(c) and 262(b), SCACR.

Finally, this Court has previously declined to hear this matter. See Orders of this Court dated January 31, 2014, and February 25, 2014.

For the foregoing reasons, Respondent Bank of America respectfully requests that this Court deny Whaley's Petition for a Writ of Certiorari.

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Exh. B-2

NELSON MULLINS RILEY & SCARBOROUGH LLP

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Columbia, South Carolina

July 24, 2014.