

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

PART 4
ATTACHMENTS - 10

Exh. F

INITIAL BRIEF OF APPELLANTS
THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[Case no. 2012-213208]

APPEAL FROM COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS
Maite D. Murphy, Master of Equity/acting as/Special Circuit Court Judge

Lower Court Case No. 2012-CP-18-0539

ATTACHED -EXHIBITS -25/ Part 1 and Part 2

Roger L. Whaley, Pro Se

Appellant/Plaintiff,

v.

South Carolina Federal Credit Union and
BANK of AMERICA,

Respondents/Defendants.

COVER SHEET - BLUE

[INITIAL] BRIEF OF APPELLANT/Plaintiff-WHALEY
Pursuant with SCRPC RULE 203(d); 207; & 208(a)

*See Attached
proof of Services*

Roger L. Whaley
Pro Se Appellant
8673 Laurel Grove Lane
North Charleston, S.C. 29420
ia99mont@yahoo.com

Lower Court Records shows! and Admits! Plaintiff Whaley's

Compose

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2012-CP-18-0539(2)

To: Carolyn Ayer
Subject: 2012-CP-18-0539

Carolyn,

Will you please email the parties the following request? The pro se Plaintiff's email address as he stated in Court is: La99ment@yahoo.com.

Dear Gentlemen,

Upon review of the pleadings, evidence presented and arguments of both parties I would request that counsel for the Defendants South Carolina Federal Credit Union and Bank of America (please prepare a proposed Order that includes the following findings of fact and conclusions of law: The Complaint fails to meet the minimum pleading requirements of Rule 8(a) of the SCRPC; The Complaint fails to state facts sufficient to constitute a cause of action and is dismissed with prejudice pursuant to 12(b)(6) of SCRPC; The Complaint is deficient in establishing standing of the Plaintiff as the exhibits attached to the complaint do not establish that the Plaintiff is either a party to the checks in question nor does he have any interest in the checks; and the Plaintiff has the option of pursuing his interests in the ongoing receivership action in Federal Court.

Mr. Bedenbaugh, please copy Mr. Whaley with a copy of the proposed Order when submitting it to the Court. Also, please submit a hard copy, rather than via email. Thank you for your time and attention to this matter.

Best regards,

W. Murphy
Master in Equity for Dorchester County
Special Circuit Court Judge
5200 East Jim Bilton Blvd.
St. George, SC 29477
(843)832-0001

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Handwritten notes on the right side of the page:
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the SCFCU
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and
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parties!
Involved!
SCFCU's Admitted!
Plaintiff Whaley
punished from
SCFCU
which
I needed
to be Plaintiff
who by a party
to his checks

*Lower Court Judge's Email Ordered
Both! Defendants! - SCFCU & BOTH*

"Please prepare a proposed Order that includes!... Plaintiff... Exhibits Attached! to the Complaint... is... the CHECKS!! in Question... and the Plaintiff HAS the Option of pursuing his Interests in Ongoing! Receivership Action in Federal! Court..."

Reply, Reply All or Forward | More

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Exh. E

*A Pet. to over Whaley's Designation of Matter
Filed in Appeals Court
Involving SAME! Documents
of Records
in
Lower Trial Court...*

FORM 14

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Maite Murphy, Master of Equity/Serving as Special Circuit Court Judge

Case No. 2012-CP-18-539

**BOA Nor SEFCU
Never provided
Nor produced
any! Documented
Records to Defend!
Pet. to over Whaley's
produced
Documented court's
Evidence & transcripts*

Roger L. Whaley/Pro se

Appellant/Plaintiff,

v.

SOUTH CAROLINA FEDERAL CREDIT UNION and
BANK OF AMERICA

Respondents/Defendants.

DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL for the INITIAL BRIEF

Appellant proposes the following be included in the Record on Appeal, along with Appellant's returned Attached below Exhibits:

1. Judge's E-mailed Order of May 29, 2012;
2. UCC Section 3-312 showing "REMITTER is the PROPER PARTY to CLAIM, when Cashier Checks has not been Delivered to PAYEE" - Confirmed in Pet/Appellant's Complaint;
3. **NELSON, MULLIN, RILEY & SCARBOROUGH, LLP, also Richland County STATE! COURT! Appointed Receiver/ Attorney LAW FIRM! - SINCE or Before "JULY 26, 2007" for Appellant/Pit's Cashier's Checks named PAYEE- CCG & CCG's Constituents-Which includes Appellant/Whaley; Shows NELSON, MULLIN's Intentional PROFESSIONAL MISCONDUCT going Conflict of Interest/Conspiracy & Fraud against NELSON, MULLIN'S LAW FIRMS Also APPOINTED STATE!! COURT! CLIENTS CCG & CCG Constituents - WHEN Nelson, Mullin..., is ALSO AttorneyS for Respondent BOA;**
4. Respondent NELSON, MULLINS, Riley & Scarborough's LETTER "May 31, 2012" ;
5. U.S. District Court's 1/11/2013 Electronic Filed CASE ORDER REASSIGNED/or Forced Replacement of Federal Judge Margaret B. SEYMOUR-involving CCG's CONSTITUENTS FILED BANK CHARGES against BANK of AMERICA...
6. STATE of SOUTH Carolina County of Dorchester's ORDER dated Sept. 17, 2012
7. RICHLAND COUNTY STATE! COURT! LETTER from South Carolina Attorney General-dated "December 7, 2010" - shows Richland County State!!! Court!! ACCEPTED "PRO SE" Volunteered DEFENDANTS(which may include/Appellant/ Pit-Whaley - REGARDING RESPONDENTS Same!! Volunteered!! INTERVENED filed Federal Claims and Parties - since in the year 2007- Respondent's Case no. 3:2007-MC-00135-MBS-placed in the said Dorchester Court State Case matter.
8. South Carolina Attorney General's Website Summary dated MAY 12, 2011-involving BOTH Respondents/and Lower Trial Court REQUEST for Appellant/Pit to (illegal) INTERVENE in the Richland County FEDERAL! Court! case matter filed since AUGUST 1st 2007 - regarding the SAME CLAIMS/PARTIES are MOOT showing DOUBLE JEOPARDY/and Collateral Estoppel - since! the Richland COUNTY STATE!! Court! shows it FIRST!! FILED SAME!! CLAIMS and PARTIES since "MAY 21, 2007" /and filed a SECOND /Dismissal of SCAG's Claims on "DEC. 13, 2010" THAT ALREADY!! "RESOLVED" and GRANTED FULL RELEASE and DISMISSED ALL and ANY of the STATE!! COURT'S! Complainant SCAG's Civil & Criminal Claims Since NOVEMBER 21, 2007/ NOVEMBER 26, 2007/&R NOVEMBER 28, 2007 involving the RETURN of ALL! CCG and Daniel Development Groups' MONIES and PROPERTIES/which involves Appellant/Pit-Whaley's said CASHIERS Checks AND its named PAYEE/CCG, along with ALL PROPERTIES and/or Monies of the Business 3-HB's and any/or all its Subsidiaries/and Affiliate Businesses and Businesses- Constituents/Participants - and Agents/IRs

Exh. E-1

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9. The Richland County's STATE! COURT's JUDGE, SCAG, and DEFENSE Attorneys CONSENT ORDER TO CEASE AND DESIST Stamp Dated "September 26, 2007"
10. Richland County STATE! COURT! Case HISTORY SHEET in State Court Case no. 2007-CP-40-03116 – shows RESPONDENTS' FEDERAL COURT Judge Margaret B. Seymour and her Federal Receiver – Ashmore's (illegal) Request to INTERVENE in said STATE COURT on OCT. 10, 2007/held on OCT. 11, 2007- and Volunteered as a MATERIAL WITNESS in said STATE! COURT! on the Date OCT. 12th 2007 - Therefore SHOWS both! RESPONDENTS INTERVENED Federal Officials Seymour and Ashmore were ALWAYS also! VOLUNTEERED Participants within S.C. RICHLAND COUNTY STATE COURT, involving Appellant/Whaley's said Cashier's Checks ALONG with the RESPONDENT/BANK OF AMERICA's also! hired LAW FIRM – Nelson, Mullin, Riley...
11. 4th CIRCUIT COURT'S Appeals Court ORDER dated "MARCH 20, 2012" – involving ALSO Federal Judge MARGARET B. SEYMOUR – with the Business -Westinghouse Savannah Rivers - whom the 4th CIRCUIT COURT also FORCED and "DELETED" the SAME FEDERAL COURT JUDGE for interfering and/or PERSONALLY INTERVENING in a Case Matter- that FEDERAL JUDGE S.B. SEYMOUR was ALWAYS known!! as a PERSONAL INTERESTED PARTY, just as Federal Judge M.B. SEYMOUR- was FORCEFULLY REMOVED from Appellant/Whaley's Cashier's Checks' named PAYEE/CCG's other! Constituent's filed LAW SUIT filed against the RESPONDENT BANK OF AMERICA, along with other CONSPIRE (and found! Corrupted BANK(s); EVEN SUPPORTED by U.S. ATTORNEY GENERAL'S OFFICE of Mr. Eric Holder...and/or the DEPARTMENT OF JUSTICE – who ADMITS also to BANK OF AMERICA and many of its subsidiaries YEARS of found CORRUPTIONS illegally placed upon the INNOCENT PEOPLE of the Communities, which includes Appellant/Whaley.
12. Richland County MOTION FOR RELIEF FROM ORDER dated "OCT. 9, 2007" – Shows when the Lower Trial Court Granted BOTH! RESPONDENTS/Subsidiary/and or Affiliate – FIRS CITIZEN BANK/and said Bank's hired ATTORNEY–McCuffin – Confirms how & Why! BOTH! RESPONDENTS' Volunteered!! and placed in the lower STATE trial court, the FEDERAL!! PARTIES; Receiver-Beattie B. Ashmore and FEDERAL JUDGE M.B. SEYMOUR – whose always! INVOLVEMENT!! in the RICHLAND COUNTY'S STATE! CIVIL and CRIMINAL Court - Case MATTERS – filed by SCAG – who AGREED!! to RESOLVED and GRANTED ORDER(s) of RELIEF since the YEAR 2007– only in the FAVOR of Appellant/Whaley's Cashier's Checks' NAMED PAYEE/CCG and ALL its Constituents, named Subsidiaries, and ALL its named AGENTS and IRs, as well as CCG's Intervened PRO SE.
13. RICHLAND COUNTY's ORDER UNDER SEALGRANTING MOTION FOR RELIEF FROM OrderS, Dated NOVEMBER 21, 2007, shows in that said ORDER, the actual!! NAMES of the Lower Trial Court and RESPONDENTS Intervened FEDERAL COURT JUDGE Margaret B. SEYMOUR and FEDERAL RECEIVER Beattie B. Ashmore- who (illegally/and Unethically) was a MATERIAL WITNESS/and/or PARTICIPANTS within the Richland County STATE! COURT! who REQUESTING/and FROZEN the MONEY FUNDS involving Appellant/Whaley's CASHIER'S CHECKS named PAYEE/CCG's MONIES and PROPERTIES, and NEVER! (Legally) the FEDERAL Court; which shows the LOWER Trial COURT JUDGE ERRED in its FINAL ORDER(S) June and September 2012, Ordered/or Requested Appellant/ Whaley to ONLY GO to the said FEDERAL COURT JUDGE M.B. Seymour and Federal Receiver-Ashmore so to RETURN his MONIES, when RECORDS SHOWS!! ONLY!! the RICHLAND COUNTY STATE! COURT! Officials (illegally/or otherwise) FROZED Appellant/Whaley's Cashier's Checks named PAYEE/CCG's MONIES and PERSONAL PROPERTIES also involving CCG's Subsidiaries/and/or Facilities Monies and Properties.
14. 28 U.S.C. § 157 : US Code - Section 157: is the LAW provided by both RESPONDENTS/and the lower trial court who ORDERED/to intervened FEDERAL JUDGE Margaret B. Seymour's said LAW- that was filed ONLY!! (illegally) within the Richland County STATE! COURT! so to REMOVE!! Appellant/Whaley's Cashier's Checks' named PAYEE/CCG's filed BANKRUPTCY PETITION – so to have been PLACED ONLY within the said State!! Court! on OCT. 12, 2007 – which caused the (illegal) Removals of MONIES and or Properties involving Appellant/Whaley's said Cashier Checks since the year 2007 – up until in this year 2013

I certify that this designation contains no matter which is irrelevant to this appeal. And as a Pro Se, Appellant/ Whaley has attempted to follow the ordered requests of the said Appeals Court's Signed Letter dated "August 23rd 2013", but! the said Appeals Court's ENVELOPE shows the said LETTER was not MAILED until on the DATE "AUGUST 26, 2013" and was received by Appellant Whaley until on August 28, 2013; Otherwise to state, this said Appeals request pursuant with SCACR 209/"Designation" has been filed within the proper time REQUIREMENTS Ordered by this said Appeals Court's Clerk– not counting the HOLIDAYS and also Weekends. Therefore, if there are any further! corrections to be made, please do not hesitate to contact, as PRO SE Appellant- obtained this said FORM 14 from this said appeals court's requested website.

September 4, 2013

Roger E. Whaley
Roger E. Whaley
8673 Laurel Grove Lane
North Charleston, South Carolina 29420

CERTIFICATE OF SERVICE

I, Mr. Roger Whaley has properly faxed, mailed and or hand-delivered this said REQUESTED DESIGNATION to ALL PROPER PARTIES, in this said case matter.

cc: Draw Hamilton Butler, Esquire – Mr. E. Calèb Riser, Esquire LAW FIRM – Richardson & Plowden – Attorneys-for-SCFCU
cc: Mr. Jody Alan Bedenbauth – c/o Mr. Eric Norton, Esq. with Law Firm NELSON & MULLINS –Attorney for BOA

Exh. F-0

*Petitioner/Whaley's
Proof of Service of
his initial brief -
agreed to be faxed -
or otherwise - Never!
Accepted by BOA
officials.

FACTS continues...

FACTS FURTHER ARE the lower trial court's SWORN TRANSCRIPT dated 5/8/2012 pages 3-8, confirms that ONLY the Respondents/Defendants ADDED the FEDERAL CLAIMS Case no. 3:07-MC-00135-MBS involving the FEDERAL RECEIVER-BEATTIE B. ASHMORE and FEDERAL U.S. District Court Judge MARGARET B. SEYMOUR - to be discussed within Appellant/Plaintiff/Whaley's filed COMPLAINT which NEVER made such references. ⁷ And according to Respondents/Appellants both filed their MOTIONS pursuant with 12(b)(6) - shows in accordance with Toussaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987)...shows the Lower Trial Court's GRANTED DISMISSAL CAN NOT SURVIVE.

CONCLUSION

For the reasons stated, this Court should reverse the judgment of the circuit court.

Respectfully submitted,

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

AUGUST, 10, 2013

CERTIFICATE OF SERVICE

I hereby certify that all the proper parties will be or has been served within proper time limited, as to Pro Se Appellant/Plaintiff/ Whaley's Initial Brief by mail, hand-delivered, and or faxed. And if there are any errors, please do not hesitate to inform this said Appellant/Whaley.

cc: Mr. Jody Alan Bcdcnbauth - c/o Mr. Eric Norton, Esq.
Attorneys NELSON & MULLINS - Respondent/Defendant/BOA
1320 Main Street/ 17th Floor
Columbia, SC 29201
(803) 799-2000 Fax no. 803-256-7500

cc: Mr. E. Caleb Riser, Esquire - c/o Mr. Drew Butler, Esq.
with LAW FIRM Richardson & Plowden
Attorney for South Carolina Federal Credit Union/Respondent/Defendant
1900 Barnwell St.
P.O. Drawer 7788
Columbia, South Carolina 29202
803-771-4400 - Fax no. 803-779-0016

⁷ The ruling on a Rule 12(b)(6) motion to dismiss must be based solely upon the allegations set forth on the face of the complaint. State Board of Medical Examiners v. Fenwick Hall, Inc., 300 S.C. 274, 387 S.E.2d 458 (1990). A Rule 12(b)(6) motion 603*603 may not be sustained if facts alleged and inferences reasonably deducible there from would entitle the plaintiff to any relief on any theory of the case. Toussaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987).

Exh. F-1 of Plaintiff Whaley's Initial Brief Arguments
 THAT SCFCU's Mt. to Dismiss - Admits!
 Appeals! Court - Granted BOA's Dismissal for
 Mt to Strike - WAS due to only "Offending!"
 portions!" Filed in

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Both the
 Lower
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 and
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 Therefore
 was
 not
 granted
 Dismissal
 by
 Appeals
 Court
 Due
 to
 the same!
 Claims
 were
 not
 discussed
 on
 the
 Lower
 Court
 Records

1. BECAUSE LOWER TRIAL COURT'S SWORN TRANSCRIPTS CONTRADICTS/WRONG SHOWS FRAUD/WHEN the LOWER TRIAL COURT APPROVED ITS SENT EMAIL 5/29/2012 "INSTRUCTED" WORDINGS to be DRAFTED in ITS Final ORDER of DISMISSAL FILED "JUNE 27, 2012", AND Only UPHELD ITS SAME RULINGS ON "SEPTEMBER 17, 2012" - WHICH THE TRIAL COURT Trans. SHOWS IT BASED ITS ORDERED DISMISSAL WITH PREJUDICE OF APPELLANT/Plaintiff/WHALEY'S COMPLAINT AND ATTACHED DOCUMENTED EVIDENCE, was by INTENTIONALLY MISLEADING/WRONGFULLY PROVIDED (Illegal) MISQUOTATIONS TO A PRO SE LITIGANT/COMPLAINANT/PLEADINGS, FILED AS PRO SE, *(See Trans. 8/29/2012 Pg 11, Lines 4-8) SHOWS the TRIAL COURT UNLAWFULLY CLAIMED "...WHEN YOU REPRESENT YOURSELF!, YOU ARE HELD!! TO THE SAME!! STANDARDS! AS IF YOU ARE AN ATTORNEY. SO I HAVE TO FOLLOW THE SAME!! STANDARDS AS FAR AS THE RULES OF LAW AND THE RULES OF PROCEDURES, AS FAR AS THAT IS CONCERNED." WHEN "HAINES V. KERNER Sct. 594" STATES OTHERWISE, (See Footnote 1. and TRIAL COURT'S TRANSCRIPT 8/29/2012 Pg 5, Lines 3-5 & Lines 12-25; & PG 6, Lines 1-23; & PG 7- Lines 1-25; Shows APPELLANT/WHALEY/PRO SE filed REASONS FOR HIS REQUESTED "DISQUALIFICATION" OF THE SAID TRIAL COURT JUDGE'S..SENT EMAIL DATED MAY 29, 2012, HAD Personal BIASED INTEREST/APPEARANCE/ OF SPECIAL FAVORS TO LICENSED ATTORNEY(S), WHEN THE TRIAL COURT JUDGE GAVE ITS REASONS FOR REQUESTING RESPONDENTS/Defendants TO DRAFT the LOWER TRIAL COURT'S PROPOSAL WAS ONLY!! BECAUSE "...AS FAR AS HAVING COUNSEL DRAFT A PROPOSED ORDER, THAT IS VERY CUSTOMERY, ESPECIALLY!! SINCE! I DON'T!! HAVE!! A LAW!! CLERK!! With the VOLUME of CASES that SOMETIMES COME!! IN!! IT!! REALLY!! JUST! PUTS! EXTRA!! WORK! ON! THEM!!" Shows request SPECIAL FAVORS because JUDGE CAN'T AFFORD A LAW CLERK, AND DUE TO TRIAL COURT JUDGE DID NOT HAVE TIME TO ACTUALLY READ ANY! OF APPELLANT/WHALEY's COMPLAINT AND DOCUMENTED ISSUES. { CANON 2A, 3E(1)(a) } & SCRCP Rule 15(b) ; & (Trans. 5/8/2012 Pg 11, Lines 16-17; & Pg 13, Lines 15-19; & T. 8/29/12 Pg 6, Lines 11-20)

2. THE TRIAL COURT INTENTIONALLY! MISQUOTED/OR GREATLY ERRED IN ITS DISMISSAL OF APPELLANT/WHALEY'S COMPLAINT, WHEN IT Volunteered AND provided LAWS CONCERNING A PRO SE LITIGANT STANDARDS ARE! TO BE HELD AT THE SAME!! Standards AS AN ATTORNEY, WHEN NEITHER!! RESPONDENTS IN THEIR JOINT MOTIONS TO DISMISS, NEVER!! DENIED any! APPELLANT/WHALEY's COMPLAINT CLAIMS/or ANY OF HIS FILED PLEADINGS- (Which a DENIAL IS REQUIRED PURSUANT WITH SCRCP 8(a)), WHEN Records SHOWS RESPONDENTS ONLY! ADDED! their OWN ADDITIONAL Federal CLAIMS Case 3:07-MC-0135-MBS (Trans. 5/8/2012 Pgs 3-12) in ONGOING STATE!! MATTERS- THAT WERE added CLAIMS NEVER! PART OF APPELLANT/Whaley's COMPLAINT CLAIMS, which APPELLANT/WHALEY'S COMPLAINT CAN!! SURVIVE THE LOWER TRIAL COURT ORDER OF DISMISSAL! As "... Rule 12(b)(6) Motion 603*603 May not be Sustained if Facts alleged and Inferences reasonably deducible there from would Eradicate the Plaintiff to ANY Relief on any Theory of the Case, Toissaint v. Ham, 292 S.C. 415, 357 S.E.2d 8 (1987); & Rooker/Feldman Doctrine; RESPONDENTS Joint MOTIONS TO DISMISS/MEMO Pgs 2, ADMITS!! UNDER ITS OWN "STANDARD OF REVIEW" STATES "Generally, in CONSIDERING a 12(b)(6) Motion, the TRIAL COURT MUST!! LIMIT!! ITS REVIEW! TO!! THE ALLEGATIONS! SET! FORTH! IN THE COMPLAINT. Stiles v. Onorato, 318 S.C. 297, 457 S.E. 2d 601 (1995);"; See Trans. 8/29/12 Pg 9, Lines 11-25, & Pg 10)

¹ Haines v. Kerner, Sct. 594 and Justice Black in Conley v. Gibson, 355 U.S. 41 at 46 (1957) - "...IT WAS HELD THAT A PRO-SE PLEADING REQUIRES LESS STRINGENT READING THAN!! ONE DRAFT! BY A LAWYER." - Which Lower Trial Court's ORDER OF DISMISSAL WITH PREJUDICE- is indeed AGAINST Haines v. Kerner's LAW; and supports the JUDGE'S MISCONDUCT & Disqualification pursuant with CANON 2A, 3E(1)(a)

² As According to the LOWER TRIAL COURT'S "MAY 8, 2012" TRANSCRIPT Pgs 3, LINES 10-25; & Full Pgs 4 -7; & Pg 8, Lines 1 - 24; SHOWS BOTH RESPONDENTS/AGREED to their JOINT MESSAGES PRESENTED TO THE TRIAL COURT, WHEN RESPONDENTS VOLUNTEERED! THEIR OWN! ADDED! ADDITIONAL! CLAIMS! TO BE ADDED TO APPELLANT/Plaintiff/WHALEY'S CLAIMS THAT WERE NEVER PART OF APPELLANT/WHALEY'S COMPLAINT, *(The ruling on a Rule 12(b)(6) motion to dismiss MUST!! BE! BASED!! SOLELY!! UPON THE ALLEGATIONS SET FORTH ON THE FACE OF THE COMPLAINT. State Board of Medical Examiners v. Fenwick Hall, Inc., 300 S.C. 274, 397 S.E.2d 458 (1990)*) FACTS ARE RESPONDENT/Defendant/BOA'S OWN ATTORNEYS- with LAW FIRM NELSON & MULLINS/ATTORNEY "BEDENBAUGH" (AND JOINT by SCFCU) - SHOWS - TRIAL COURT - Illegally! RAISED!! A FEDERAL!! CIVIL/Criminal COURT JURISDICTIONAL!! CASE MATTERS, TO BE HEARD WITHIN LOWER TRIAL STATE!! COURT'S ONGOING/or Litigated STATE CASE MATTERS! (which RESPONDENTS' OWN! provided - FEDERAL COURT JUDGE, MARGARET B. SEYMOUR'S RULINGS, who RULED that a FEDERAL!! COURT!! COULD! NOT!! INTERFERE NOR !! REVIEW an ONGOING STATE!! COURT! MATTERS - SHOWN IN CIVIL Case No. C.A. 3:06-0010-MBS-jm (Pursuant under ROOKER/ FELDMAN DOCTRINE - "...PREVENTS this FEDERAL! COURT FROM ASSUMING JURISDICTION OVER ONGOING STATE LITIGATION or REVIEWING ANY!! DECISION!! MADE! OR SOON! TO BE MADE THEREIN.") - WHICH APPELLANT/WHALEY filed WHY his APPEALS CLAIMS UNDER SCRCP 203(d)(1)(A)(ii) - CONCERNS "... Any Final Judgment involving a Challenge on State or Federal grounds to the Constitutionality of a State Law..."; written Clearly & Plainly in supports with SCRCP 8(a)- WHEN Trial Court JUDGES' ORALLY ADMITTED!! in Court's Sworn TRANSCRIPT 8/29/2012 Pg 10, & 11,- ALL!! OF APPELLANT/WHALEY'S CLAIMS Heard AND filed in Court FIRSTHELD 5/8/2012 WERE "VERY WELL SPOKEN and ARTICULATE." AND that APPELLANT/WHALEY "...PRESENTED YOUR DOCUMENTS and!! YOUR CASE...VERY CLEARLY, and I CERTAINLY!! DO! RECALL! THAT! YOU! DID.;" Shows...(Dismissal Pursuant w/! Canon 2A, 3E(1)(a); and ROPC 1.7 ATTORNEYS DOING CONFLICT OF INTEREST *(See TRANS. 8/29/2012 Pg 5, Lines 19-25; & Pg 6, Lines 1-17; & see Lines 18 -23);

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Respondents/added/RICHLAND COUNTY Case no. 2011-CP-40-08913/.....

STATEMENT OF ISSUES ON APPEAL

1. DID THE LOWER TRIAL COURT ERRED/or DUE TO PERSONAL BIAS INTEREST, PERSONALLY ALLOWED ONLY!! the RESPONDENT/Defendant/BANK OF AMERICA/BOA/OR BOA'S HIRE/PAYED! LAW FIRM, NELSON and MULLINS! to PREPARE THE TRIAL COURT'S PROPOSED! ORDERS, DATED "JUNE 27, 2012" and "SEPTEMBER 17, 2012" BY GOING AGAINST!! THE LOWER TRIAL COURT'S OWN! PRIOR! WRITTEN ORDERS/THAT WERE NEVER!! AMENDED!! (Pursuant with CANON 2A, & 3E[1][a]- AND ROCP 1.7[a][1]) WHICH INVOLVES THE LOWER TRIAL COURT'S EMAIL!! WRITTEN WITH DIRECT INSTRUCTIONS/ORDERS DATED "MAY 29, 2012" THAT GAVE "INSTRUCTIONS" FOR BOTH! RESPONDENTS/Defendants/BOA and SC FEDERAL CREDIT UNION TO PREPARE EACH!! OF THEIR OWN!! PROPOSED! ORDER...ALTHOUGH! (LATER) the LOWER TRIAL COURT JUDGE SIGNED! ONLY!! RESPONDENT/Defendant/ BANK OF AMERICA/BOA's ATTORNEYS' WITH THE LAW FIRM NELSON & MULLINS PREPARED!! PROPOSED ORDER - WHICH (illegally!!) ALSO REVISED/AND CHANGED THE TRIAL COURT'S EMAILED!! WRITTEN Instruction ORDERS-due to THE TRIAL COURT EMAILED!! WRITTEN ORDERS! CONFLICTED!! with the RESPONDENT/Defendant/BOA'S FILED MOTION TO DISMISS/MEMORANDUM Pgs 4 & 6 - (Which showed Defendant/BOA's ALWAYS! RELIANCE!! AND CLEAR UNDERSTANDING OF APPELLANT/Plaintiff/WHALEY's Numbered COMPLAINT CLAIMS 3,5,&6-which ADMITS!! Plaintiff/WHALEY's ALWAYS!! WRITTEN "UNDISPUTED" PERSONAL INTEREST/WHO "ESTABLISHED STANDINGS" WITH APPELLANT/WHALEY'S CASHIER'S CHECKS UNDER the Uniform Commercial CODE/OR/CC LAW(S) SECTIONS "4.403 & 3.312." - "See attached DOCUMENT Titled "NATIONAL CHECK FRAUD CENTER/under SECTION 3-312 of the UCC-shows/and admits!! - "IF A CUSTOMER REPORTS...CASHIER'S CHECK IS LOST, STOLEN, OR DESTROYED...and the CHECK WAS ISSUED in a STATE which...ADOPTED Revised SECTION 3-312 of the UCC..." SHOWS "WHO IS THE CLAIMANT? IF THE CASHIER'S CHECK HAS NOT!! BEEN! DELIVERED!! TO! THE PAYEE, THE REMITTER!! IS! THE PROPER! PARTY!! TO MAKE! A! CLAIM!!!"³ AS Appellant/Plaintiff/WHALEY's COMPLAINT provided UNIFORM Commercial CODE/UCC 3.312 also SHOWS THE APPELLANT's STATUTE OF LIMITATION "See Trial Ct Trans 5/8/2012 Pg 9, Lines 11-21) to CLAIMED his MONIES had/nor HAS NOT EXPIRED, not until AFTER!! the CHECK HAS BEEN EACCEPTED!! by the NAMED PAYEE/and "IF the CUSTOMER has MADE A CLAIM alleging THAT THE CHECK(S) WAS/(were) STOLEN, (the BANK) WILL WANT to DETERMINE if the ENDORSEMENT!! HAS!! BEEN!! FORGED!! BY! A THIEF!!" ⁴ Which shows NOT ONLY THAT APPELLANT/Plaintiff/WHALEY'S COMPLAINT IS/AND ALWAYS HAS BEEN in COMPLIANTS with SCRCP 8(a); and SCRCP 12(b)(6) -

2. DID THE LOWER TRIAL COURT in ERROR/OR DUE TO BIAS MISCONDUCT OF PERSONAL INTEREST (Canon 2A, 3E[1][a]. & being filed pursuant with SCRCP Rule 15.[b]) SIGNED! (ILLEGALLY/or UNETHICALLY) for RESPONDENT/ Defendant/BOA'S ATTORNEYS with NELSON and MULLINS LAW !! FIRM!! to ONLY!! PREPARED The Lower Trial Court's (shown in above no. 1; Illegal and Unethical, Filed) PROPOSED ORDER(s) 6/27/2012 & 9/17/2012 - WHEN BOTH THE SAID LOWER TRIAL COURT JUDGE (See Trial Ct Trans 3/29/2012 Pg 6, Lines 11-23), AND RESPONDENT/BOA'S ATTORNEYS' LAW FIRM, NELSON and MULLINS - always known that LAW FIRM OF NELSON and MULLINS was DOING AN !! INTENTIONAL CONFLICT!! of INTEREST!! BY BEING PAID/OR APPOINTED! OR HIRED TO REPRESENT!! BOTH!! the RESPONDENT/Defendant/BOA and!! APPELLANT/Plaintiff/WHALEY'S PERSONAL INTEREST (AS LAW FIRM NELSON & MULLINS being the RICHLAND COUNTY STATE!! COURT! APPOINTED! RECEIVER! INVOLVING the Lower Trial Court's 6/27/2012 ORDER Pg 4, no. 7 - involvement with RESPONDENT/Defendant/BOA's ADDED, ADDITIONAL FEDERAL CLAIMS ⁵ (to be IN APPELLANT/WHALEY'S COMPLAINT, that was REVIEWED AND WAS JUDGED REGARDING AN alleged "FEDERAL" RECEIVER, MR. BEATTIE B. ASHMORE and the FEDERAL DISTRICT COURT JUDGE MARGARET B. SEYMOUR "See Trial Ct TRANS. 5/8/2012 Pg 3, Lines 23-25; Pgs 4-8; and APPELLANT/FILED RULES Pursuant with SCRCP 203(d)(1)(A)(ii) - A CONSTITUTIONAL QUESTION INVOLVING A STATE! and FEDERAL LAW/which is against ROCKER/FELDMAN DOCTRINE, which PREVENTS a ONGOING STATE! COURT! CASE MATTER TO BE REVIEWED/OR INTERVENED WITH AN 'ONGOING' OR SOON TO BE SETTLED FEDERAL COURT CASE MATTER)" (See Trial Ct Trans. Pg 5, Lines 2-23)

³ See Appel/Pif's Compl. no. 2, states "...RESEARCH SHOWS that the...Defendant SC Credit Union has REFUSE to RELEASE Plaintiff WHALEY's said MONEY FUNDS that's been PROPERLY REQUESTED to be RETURNED, since...PLAINTIFF WHALEY'S MONIES...WAS NEVER PAID/nor RELEASED to PLAINTIFF WHALEY'S NAMED PAYEE..."; and the Lower Trial Court's OWN ORDER Dismissal with Prejudice/dated "JUNE 27, 2012" - ADMITS!! in its Pg 2, No. 3 - UNDER "FINDINGS OF FACTS" THAT- "...BASED on the allegations IN THE COMPLAINT and the COPIES of the CHECKS PROVIDED!! it APPEARS the PLAINTIFF!! IS! THE REMITTER!! of the CASHIER'S CHECKS...". THEREFORE SHOWS the named LOWER TRIAL COURT's OWN!! said above ORDER(s)!! 6/27/2012 and UPHELD ON 9/17/2012 -ADMITS! Appellant/PLAINTIFF/WHALEY IS THE ONLY!! REMITTER/or PURCHASER on his CASHIER'S CHECKS, which Appellant/Plaintiff/WHALEY'S COMPLAINT Provided RULES- UCC 4.403 & 3.312 -WHICH SUPPORTS/AND SHOWS APPELLANT/WHALEY is the ONLY! PARTY! OF INTEREST...since! he ALWAYS CLAIMED! IN HIS COMPLAINT!/Provided with DOCUMENTED!! EVIDENCE! WHICH SUPPORTED THAT THE RESPONDENT/Defendant/BOA!! ADMITTED!! TO MANY! OTHER!! CCG CONSTITUENTS!! AND! to the STATE!! DEPARTMENT OF REVENUE, THAT Appellant/Plaintiff/WHALEY's CASHIER'S CHECKS NAMED PAYEE/CCG NEVER! RECEIVED!! CCG's Constituents!! CASHIER'S CHECKS -whom APPELLANT'S COMPLAINT/and Trial Court's ORDER 6/27/2012 pg 4, ALWAYS CLAIMED CONSPIRACY by both SAID RESPONDENTS/Defendants caused the "THEFT!" of APPELLANT/WHALEY'S MONIES over \$52,000.00 THOUSAND DOLLARS, who IS THE ONLY! PARTY and "HOLDER" who has STANDINGS, With Appellant/WHALEY'S CASHIER'S CHECKS;

⁴ Which the Lower Trial Court's GRANTED RESPONDENT/Defendant/BOA's, MOTION TO DISMISS/MEMORANDU dated 3/21/2012 always ADMITTED!! on its FIRST PAGE, that APPELLANT/WHALEY'S "...COMPLAINT CONTAINS...allegations of CIVIL CONSPIRACY, FRAUD, THEFT!!! of MONEY, and BREACH OF CONTRACT with RESPECT to CASHIER'S CHECKS ISSUED!! by SOUTH CAROLINA FEDERAL CREDIT UNION...and...BANK OF AMERICA...See COMPL. and EXS." Shows Trial Court NEVER considered Pif' claims of "THEFT".

⁵ The ruling on a Rule 12(b)(6) Motion to Dismiss MUST BE BASED SOLELY!! UPON THE ALLEGATIONS SET FORTH ON THE FACE OF THE COMPLAINT. *State Board of Medical Examiners v. Fenwick Hall, Inc.*, 300 S.C. 274, 387. And "Rule 12(b)(6) Motion 603*603 MAY NOT be SUSTAINED if FACTS alleged and INFERENCES reasonably deducible there from WOULD ENTITLE THE PLAINTIFF TO ANY!! RELIEF on any theory of the case. *Toussaint v. Harb, 297 S.C. 415, 357 S.E.2d 8 (1987).*" WHICH LOWER TRIAL COURT'S prepared said above Orders & BOTH Respondents ADMITS its "UNDISPUTED" FACTS!! as to the APPELLANT/WHALEY'S numbered COMPLAINT 3,5,&6/showing the UCC SECTION 3.312 confirms! ONLY the Appellant/WHALEY is the REMITTER/or Purchaser of his Cashier's Checks who's named PAYEE NEVER COLLECTED/said Check, which SHOWS THE REMITTER or "HOLDER" Appellant/WHALEY IS YET AN INTERESTED PARY who has LEGAL STANDING CLAIM the RETURN of his said monies.

Exh. F-4

STATEMENT OF THE CASE

THE TRIAL COURT ERRED or due to BIASED PERSONAL INTEREST, MADE ITS JUDGMENT DISMISSING APPELLANT/Plaintiff/WHALEY'S COMPLAINT, ALSO WITHOUT NEVER REVIEWING any of APPELLANT/WHALEY'S RESPONSIVE PLEADING AND DOCUMENTED EVIDENCE, OTHER THAN! THE TRIAL COURT SPEAKING (VERBALLY IN TRANSCRIPTS) ONLY involving APPELLANT/WHALEY'S CASHIER'S CHECKS, WHEN THE LOWER TRIAL COURT "ORDER OF DISMISSAL WITH PREJUDICE" Pg 4 no. 7, ADMITS THAT APPELLANT/Plaintiff/WHALEY ALSO FILED additional!! CLAIMS IN HIS RESPONSIVE PLEADING Pursuant with SCRPC Rule 15(b), RESPONDED TO RESPONDENTS/ Defendants filed (later) Joint filed MOTION(S) TO DISMISS WITH PREJUDICE/MEMORANDUM Pg 2 WHICH RESPONDENTS/AND TRIAL COURT'S GRANTED MOTION TO DISMISS ADMITS!! "...in CONSIDERING A 12(b)(6) MOTION, the TRIAL COURT, MUST!! LIMIT ITS REVIEW to the ALLEGATIONS SET FORTH IN THE COMPLAINT, *Stiles v. Onorato*, 318, .S.C. 297, 457, S.E. 2d. 601 (1995); BUT THE Lower TRIAL COURT ALLOWED RESPONDENTS/Defendants to INTERVENE ADDED CLAIMS IN WHICH APPELLANT/WHALEY DID NOT WRITE IN HIS COMPLAINT, BUT INDEED APPELLANT/WHALEY PROPERLY RESPONDED!! TO RESPONDENTS, ALTHOUGH! THE TRIAL COURT NEVER ORDERED IN ITS EMAIL INSTRUCTIONS, NOR in ANY of the RECORDED TRANSCRIPTS for the RESPONDENTS/Defendants TO ADDED APPELLANT/Plaintiff/WHALEY'S FILED "...DOCUMENTS ENTITLED NOTICE OF CONTINUANCE or MOTION for JUDGMENT against S.C. FEDERAL CREDIT UNION or Defendants MUST PRODUCE DOCUMENTS; AND PLAINTIFF'S REPLY TO DEFENDANT BANK OF AMERICA'S MOTION TO DISMISS/MEMO and ALTERNATIVE for MORE DEFINITE STATEMENT/and PRODUCE DOCUMENTS". so to have BEEN JUDGED IN THE LOWER TRIAL COURT'S GRANTED ORDERS, DATED "JUNE 27, 2012" AND "SEPTEMBER 17, 2012"; THEREFORE SHOWS THE LOWER TRIAL COURT DID ANOTHER! SPECIAL FAVOR FOR RESPONDENT/BOA'S HIRED/paid LAW FIRM "NELSON and MULLINS" WHO DO NOT DENY!!! AND OR IS "UNDISPUTED" THAT RESPONDENT/BOA'S HIRED ATTORNEYS/ WITH NELSON and MULLINS are ALSO THE STATE! COURT! APPOINTED ATTORNEYS LAW FIRM who were APPOINTED to ALSO REPRESENT APPELLANT/WHALEY'S CASHIER CHECKS named PAYEE/CCG'S CONSTITUENTS' MONEY INTEREST, in which RESPONDENT/Defendants, has ALSO MADE their ADDED DEFENSE CLAIMS. Which is an ANOTHER ERROR OF LAW/ or Rule INTENTIONALLY DENIED to APPELLANT/WHALEY pursuant ROPC 1.7(a)(1) & Canon 2A, 3E(1)(a)

THE LOWER TRIAL COURT ALLOWED BOTH! RESPONDENTS/ Defendants/ATTORNEYS (ADDED) DEFENSE CLAIMS (that were NEVER part of Appellant/Plaintiff/WHALEY'S COMPLAINT, WHEN THE LOWER TRIAL COURT AGAIN! CONTINUE TO SIGNED RESPONDENT(S)/Defendant(s) ERRED!! PROPOSAL ORDERS making FRAUDULENT CLAIMS that "this DOCUMENT is MOSTLY!! UNINTELLIGIBLE!! and this COURT FINDS, to the EXTENT is SEEKS a CONTINUANCE, A JUDGMENT, or OTHER RELIEF against! the DEFENDANTS, it SHOULD be DENIED BASED! ON THE REASONS SET FORTH HEREIN." WHICH THE LOWER TRIAL COURT'S OWN! ADMITTANCE!! TO APPELLANT/Plaintiff/WHALEY'S COMPLAINT AND FILED PLEADING ARE - "...VERY WELL SPOKEN and ARTICULATE..." AND stated FURTHER THAT APPELLANT/WHALEY'S "...PRESENTED YOUR DOCUMENTS and YOUR CASE LAST TIME VERY CLEARLY, and I CERTAINLY!! DO RECALL THAT YOU DID." - CONTINUE TO SHOW LOWER TRIAL COURT'S SIGNING OF RESPONDENT/Defendant/BOA ADMITTED WRITTEN PROPOSAL ORDER(S), ARE BEING GRANTED BY THE SAID TRIAL COURT JUDGE TO ONLY HIDE/OR COVER UP THE FACT! THAT THE LOWER TRIAL COURT ADMITS! IT NEVER REVIEWED APPELLANT/Plaintiff/WHALEY'S COMPLAINT, AND OTHER FILED PLEADINGS, ATTACHED WITH HIS DOCUMENTED EVIDENCE, WHEN THE TRIAL COURT'S EMAIL MAY 29, 2012 INSTRUCTION ORDERS ONLY! REQUESTED that APPELLANT/WHALEY'S COMPLAINT WAS DEFICIENT REGARDING THE CASHIER'S CHECKS' EVIDENCE, AND NONE! OF THE ATTACHED STATE COURT SIGNED ORDERS, OTHER SIGNED DOCUMENTS REGARDING RESPONDENT/BOA'S ALSO PERSONAL APPEARANCE/WHO WAS TO REPRESENT/AND/OR/ WOULD BE A WITNESS FOR THE APPELLANT/WHALEY, which such testimony would CAUSE! GREAT! DAMAGES to BOTH! RESPONDENTS/Defendants BANK OF AMERICA and SOUTH CAROLINA FEDERAL CREDIT UNIONS, WHICH PUBLIC RECORDS SHOWS BOTH SAID RESPONDENTS/Defendants, HAS ALWAYS BEEN JOINT!! ALSO AS BUSINESS SUBSIDIARIES/AFFILIATES, JOINT BY FIRST UNION BANK, AND WACHOVIA BANK... WHICH JOINTS RESPONDENT BANK OF AMERICA WITH RESPONDENT SOUTH CAROLINA FEDERAL CREDIT UNION, WHICH CONFIRMS APPELLANT'S CONSPIRACY, AND THEFT COMPLAINT CLAIMS, WHICH TRIAL COURT ADMITS IT NEVER REVIEWED.

THE LOWER TRIAL COURT'S TRANS. DATED 5/8/2012 Pg 6, Lines 17- ADMITS! THAT IT IS GOVERNED "UNDER THE UNIFORM COMMERCIAL CODE, ARTICLE III."; AND RESPONDENT/BOA's Mt to Dism. Memo. Pgs 4, Last Parg. & Pg 6, Last Parg.-; ADMITS! BY JOINT! RESPONDENTS/Defendants THAT "...PLAINTIFF'S COMPLAINT CONTAINS ...allegations THAT BANK OF AMERICA CONSPIRED WITH SOUTH CAROLINA FEDERAL CREDIT UNION with RESPECT to the CASHIER'S CHECKS. Compl. ¶¶ 3,6..."; and ADMITS ALSO THAT "...IT IS UNDISPUTED in this CASE THAT PLAINTIFF, WHO WAS THE PURCHASER OF THE CASHIER'S CHECK from SOUTH CAROLINA FEDERAL CREDIT UNION. Compl. ¶ 5"; as WELL IS LOCATED IN LOWER TRIAL COURT "ORDER OF DISMISSAL WITH PREJUDICE" dated "JUNE 27, 2012" Pg 2, No. 3, and UPHELD in LOWER TRIAL COURT'S "SEPT. 17, 2012" "ORDER" ADMITS! that "BASED ON THE allegations IN THE COMPLAINT, and the COPIES of the CHECKS PROVIDED, it APPEALS the PLAINTIFF IS the REMITTER of the CASHIER'S CHECKS"; SHOWS ALL THE Joint! RESPONDENTS/Defendants/and the said LOWER TRIAL COURT ADMITS THAT ALL RELIED UPON APPELLANT/WHALEY'S COMPLAINTS NUMBERED! PLAIN, CLEAR CLAIMS in numbers 3,5,6,, AS WELL AS APPELLANT/WHALEY PROVIDED HIS DOCUMENTED EVIDENCE OTHER CCG MEMBERS WHOM RESPONDENT/BOA indeed RETURN THEIR CCG' MONIES AFTER THEY FILED WITH RESPONDENT/BOA THEIR MONIES THAT WERE YET! BEING HELD IN THE BANK OF RESPONDENT/BOA - WHEN THEIR MONIES WERE RETURNED UNDER - UNIFORM COMMERCIAL CODE SECTION 3-312 - WHICH ALWAYS SUPPORTED APPELLANT/WHALEY'S CLAIMS THAT HE YET! WAS THE HOLDER/and OWNER/AND REMITTER OF CASHIER'S CHECKS HAS NOT BEEN DELIVERED TO THE PAYEE, SHOWS THE REMITTER IS!! THE PROPER! PARTY TO MAKE A CLAIM

Exh. F-5

FACTS

UNDISPUTED FACTS ARE, that on the date "September 17, 2012" the Lower Trial Court signed and entered its "ORDER" located on page 1, ADMITS that "Plaintiff...seeking Reconsideration of this Court's Order entered on June 27, 2012, which Dismissed Plaintiff's Complaint with Prejudice, CLAIMING that:

A. The Court HELD a HEARING on Plaintiff's Motion "(that Filed for DISQUALIFICATION of Trial Court Judge) which wrote that "...on August 29, 2012... Plaintiff's PRIMARY OBJECTION appears to be that the Court Provided the GROUNDS for ITS RULING in an EMAIL to COUNSEL for BANK OF AMERICA, with a Copy to Plaintiff and to Counsel for South Carolina Federal CREDIT UNION.

B. In the EMAIL, the COURT REQUESTED that COUNSEL for BANK OF AMERICA DRAFT a PROPOSED ORDER - that was entered on recorded lower court records "June 27, 2012" which indeed CONFLICTS/and/ CONTRADICTS the lower trial court's "Instructions" EMAIL Orders dated "MAY 29, 2012" that actually Requested BOTH! RESPONDENTS/Defendants Counselors /BOA and SC FEDERAL CREDIT UNION to DRAFT the lower trial court's PROPOSED EMAIL Instructions ORDERS.

C. "The Complaint is deficient in establishing Standing of the Plaintiff as the EXHIBITS Attached to the COMPLAINT DO NOT ESTABLISH that the Plaintiff is EITHER a PARTY to the CHECKS in QUESTION..." As! Respondent/Defendants/ JOINT ORDER(s) dated "June 27, 2012" pages 4 & 6, and "September 17, 2012" on page 1, CONFLICTS and shows the LOWER TRIAL Court's ORDER(s) indeed CONFLICTS/and or shows UNTRUTHFUL statement in lower trial court's EMAIL 5/29/2012.

FACTS ARE UNDISPUTED admitted in lower trial court's transcript dated 5/8/2012, Pg 11, Lines 16-17; and Pg 13, Lines 15-19; shows the lower trial court presiding JUDGE, always ADMITTED that the said trial court NEVER REVIEWED/Nor "...LOOKED AT" Appellant/Plaintiff/Whaley's COMPLAINT nor any of his filed pleading attached with Documented Evidence.

FACTS ARE UNDISPUTED by the lower trial court Judge ALWAYS ADMITTED in Lower Trial Court's sworn Trans. 8/29/2012 Pg 10, Lines 20-25; and Pg 11, Lines 1-3; which shows Appellant/Plaintiff/Whaley's COMPLAINT and filed PLEADINGS along with attached Documentations were "CERTAINLY...VERY WILL Spoken and Articulate." When the Lower Trial Court admitted when Appellant/Plaintiff/Whaley "...PRESENTED your DOCUMENTS and your CASE Last Time (held in Open Court on 5/8/2012) VERY! CLEARLY!, and I CERTAINLY do RECALL that YOU DID." But, yet! the trial court Judge, signed! in its "ORDER to DISMISS with PREJUDICE", dated "JUNE 27, 2012" and UPHELD in the lower trial court's "ORDER" dated "SEPTEMBER 17, 2012" - shown! CONFLICTING and FRAUDULENT claims WRITTEN in the Lower Trial Court's "EMAIL" "instructions" ORDERS dated "MAY 29, 2012", which REQUESTED for BOTH! RESPONDENTS/Defendants/BANK OF AMERICA and! SC. FEDERAL CREDIT UNION - to PREPARED the lower trial court's PROPOSED EMAILED ORDERS, but! FACTS ARE ONLY the RESPONDENT/Defendant/BANK OF AMERICA, Prepared the said dated ORDERS, 6/27/2012 & 9/17/2012, prepared Only! by the Respondent/Defendant/BANK OF AMERICA, and approved by the Respondent/SC Federal Credit Union, and signed! by the Lower Trial Court Judge, whose signed Order(s) dated 6/27/2012, & 9/17/2012 - wrote under its Conclusion of Law that Appellant/Plaintiff/Whaley's "...COMPLAINT is MOSTLY Comprised of INCOMPREHENSIBLE allegations and! EXHIBITS...As a RESULT Dismissal is Proper...GIVEN THE NATURE of the ALLEGATIONS...the Court Findings...to GRANT the MOTIONS! to DISMISS with Prejudice INSTEAD of GRANTING PLAINTIFF Leave to AMEND the COMPLAINT because!!! ANY such AMENDMENT would be FUTILE!!"; which "...CONTRADICTS and CONFLICTS with the Trial Court ORAL SWORN!! under OATH! Transcript claims, and also! shows FRAUD CLAIMS NEVER written in the Lower trial court's EMAIL Instructions (See attached LETTER dated May 31, 2012/from the LAW FIRM of NELSON and MULLINS!)and the attached EMAIL "Request" Orders dated "MAY 29, 2012" ...NEVER! wrote that Appellant/Plaintiff/Whaley's "...Instead of GRANTING LEAVE TO AMEND the Complaint because ANY such AMENDMENT WOULD be FUTILE!!".

FACTS UNDISPUTED ARE that indeed the lower trial court's SWORN UNDER OATH above written Claims indeed ADMITS! Appellant/Plaintiff/Whaley's filed COMPLAINT and Provided Documents were VERY CLEARLY spoken and Articulate, as well as the said lower trial court Transcript and the Trial Court's signed ORDER(S) SUPPORTS AND shows that the lower trial court Granted the JOINT!! (1 Page-& 1 Paragraph) filed MOTION to DISMISS, filed by Respondent/Defendant/SC FEDERAL CREDIT UNION who NEVER DENIED any of Appellant/Plaintiff/Whaley's CLAIMS written in his COMPLAINT, which does not comply with SCRPC Rule 8(d),⁵ under a who only wrote that "...Counsel...move before who agreed to be JOINT with the Respondent/Defendant/BANK of AMERICA's filed to DISMISS/MEMORANDUM Claims on pages 4 & 6 which shows the RESPONDENT/Defendant/BANK of AMERICA "UNDISPUTED" wrote that "Plaintiff's COMPLAINT Contains several... allegations that BANK OF AMERICA CONSPIRED with SOUTH CAROLINA FEDERAL CREDIT UNION with Respect to the Cashier's Checks. COMPL ¶¶ 3, 6." See page 4, of Respondent/BOA's Motion to Dismiss/Memo page 4. Shows BOTH RESPONDENTS/Defendants RELIED UPON Appellant/Plaintiff/Whaley's CLEAR filed COMPLAINT, shown also on page 6, of Respondents/Defendants/ JOINT Motion to Dismiss/Memorandum dated "MARCH 21, 2012".

Pg -3-

⁵ SCRPC Rule 8 (d) Effect of Failure to Deny. "...Averments in a PLEADING to which a responsive pleading is required, other than those as to the amount of damage, ARE ADMITTED WHEN NOT!! DENIED! in the responsive pleading..."; AS NEITHER!! named RESPONDENTS/Defendants - NEVER! DENIED!! ABSOLUTELY None of Appellant/Plaintiff/Whaley's CLEAR and WELL SPOKEN Complaint attached DOCUMENTED EVIDENC which the said trial court's SWORN TRANSCRIPT ADMITTED! were very clear! and well spoken...therefore gave ALL PARTIES FAIR NOTICE of the CLAIMS in which neither Respondent/Defendants has NEVER GIVEN A REQUIRED DENIAL.