

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

**RECEIVED**

SEP 15 2014

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

**SC Court of Appeals**

Diane Shafer Goodstein, Circuit Court Judge

Case No. 2014-001683

Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

**OBJECTION TO WELLS FARGO'S MOTION TO DISMISS APPEAL  
DUE TO FAILURE TO FILE INITIAL BRIEF IN A TIMELY MANNER**

September 10, 2014

Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, South Carolina 29115  
(803) 268-0716

Nelson Mullins Riley & Scarborough, LLP

Attorney James H. Burns & Michael Anzelmo  
SC Bar No. 70313  
1320 Main Street / 17<sup>th</sup> Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Elizabeth Scott Moise  
SC Bar No. 012945  
151 Meeting Street / Sixth Floor  
Post Office Box 1806 (29402-1806)  
Charleston, SC 29401 -2239  
(803)853-5200

Comes now the Appellant, Dorothy Sistrunk, to file her reasons for objecting to Wells Fargo's Motion to Dismiss Appeal, i.e., Wells Fargo Bank, N. A., Respondent v. Dorothy Sistrunk, Appellant - Case 2014-001683.

### REASONS

**Reason #1:** First and foremost, there is no known method or procedure that will allow a man or woman, Appellant or Respondent to follow rules that he/she does not know exist. There are no schools, classes or in home services to educate Pro Se litigants about court rules and/or procedures. There is no Pro Se channel on broadcast or cable TV. There are no government programs to pay attorney fees for Pro Se litigants and the online FAQ's are practically worthless as information sources because ..

(a) You must have the financial resources to get online and stay online.

(b) You must have a working system that is capable of high speed Internet access.

(c) You must know how to use keywords to find websites without having megabytes of unwanted information automatically downloading to your computer, ipad, notebook, tablet and/or iphone. Finally....

(d) FAQ's place Pro Se litigants at the mercy of the Judge and the system itself.

Therefore, if a Pro Se litigant has the misfortune to end up in Judge Goodstein's Court Room, or Martin R. Banks, the litigant did not, could not and will not benefit himself/herself by investing hundreds of dollars in electronic access or media systems that cannot and will not provide any immediate or long term benefit. Pro Se litigants in civil matters are in an inherently unjust legal system that depends on the depth and size of an individual's financial pockets and/or access to financial resources to consult and pay attorneys. Lawyers are provided for criminals and those accused of crimes.

Instructions and information from a Judge is not legal advice. The absence of instructions..and...information in Judge Goodstein's Court room, not the law, material

facts, brilliant legal work, or truth, gave Wells Fargo the advantage it now enjoys. And if it were not for the Appellant husband's in home computer systems and online capabilities, the Appellant would have been victimized by this unjust legal system; as it relates to Pro Se litigants, 6 years ago...and this does not include the indifference, partiality and prejudicial treatment the Appellant experienced in Judge Goodstein's court. America really does have a Criminal Justice System...not a Civil one for non indigents.

**Reason #2:** That being said...*Rule 208(a), SCACR*; the very rule quoted by attorney Anzelmo, does provide some guidance into this matter by stating in pertinent parts;

“Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, **appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service.**” [Note: **Boldness** added for emphasis].

#### **REQUIREMENTS OF RULE 208(a), SCACR**

**Reason #3:** There are 3 requirements that must be met in order to satisfy *Rule 208(a)*. (1) 30 day time limit, (2) the brief must be served on all parties to the appeal and (3) it must be filed with the Clerk of Court with proof of service. All three must be met.

On August 8, 2014, the Appellant received a letter from Nelson Mullins Riley & Scarborough, LLP, relative to a Consent for Substitution of Counsel. {*See Attached Exhibit 363*}

**Reason #4:** The Appellant's original brief was being prepared for Jason D. Wyman at Rogers Townsend & Thomas, PC., [for verification of the former counsel of record, see attached exhibit 363, pg 1, at ¶ 2]. This paragraph clearly states the following;

“Thus, Wells Fargo requests that Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC be allowed to withdraw as counsel of record in this appeal. As indicated below, Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC consent to this request.”

(a) *Rule 240(a), SCACR* clearly states the following in pertinent parts...

“This Rule governs all motions or petitions filed in the appellate court, including but not limited to: motions for extension of time, motions to reinstate, petitions for rehearing, motions to be relieved as counsel or for **substitution of counsel**, petitions for supersedeas, motions to remand or dismiss and petitions for hearing *en banc*. Where Rules 241 through 246 provide different or additional requirements or procedures, those requirements or procedures shall apply. [Note: **Boldness** added for emphasis].

(b) *Rule 240(b), SCACR* says this in pertinent parts...

“Unless otherwise provided by these Rules, or ordered by the appellate court, the time limits imposed by these Rules shall not be stayed by the filing of a motion or petition. **A motion to dismiss an appeal or a motion to relieve counsel shall, however, automatically stay the time limits for perfecting the appeal until the motion is decided.**” [Note: **Boldness** added for emphasis].

**Reason #5:** There is no explanation in the above stated rules that explains the difference between “Substitution of Counsel” and a motion to “relieve counsel”. The Appellant was left to research the difference. The Appellant did not receive any letter, fax, memo or phone call from Jason D. Wyman that he was withdrawing from the case in a timely manner. In addition, the Appellant cannot bill him for the time and effort spent researching and writing the “Initial Brief” for Rogers Townsend & Thomas PC.

(a) *USA Legal* defines “**Substitution of Counsel**” as the following.

“If an individual/party to a case wishes to change its legal representation or substitute another attorney/law firm for the one currently handling the matter, the individual/party may request the court to do so. The former attorney/law firm may file with the clerk of court a notice of substitution of counsel signed by the party and the former attorney. The notice shall contain the style of the case, the name, address, phone number and bar number of the substitute counsel. A copy of the notice needs to be served on the substitute counsel, opposing counsel or party if unrepresented, and the assigned judge. No other or further action needs to be required by the former attorney to withdraw from representing the party. The substitution will not delay any proceeding or hearing in the case.”

(b) The August 8, 2014, letter does not mention relieving counsel and no exact online definition of “Relieving Counsel” can be found that is meaningful.

**Reason #6:** The Appellant was placed in an unenviable position of deciphering an Appellate Court Rule. Does “Substitution of Counsel” and “Relieving Counsel” have the same meaning? The Appellant chose...the same meaning. Therefore, pursuant to *Rule 240(b), SCACR*, the time limit is stayed until the motion is decided. The “Initial Brief” had to be rewritten anyway for Nelson Mullins Riley & Scarborough, LLP because specific references had to be made to the **Massive Filing Fraud** of Burns and Moise.

There is no evidence in the record that Jason D. Wyman, and/or Rogers, Townsend & Thomas, PC were involved in the **Massive Filing Fraud** of Wells Fargo and Nelson Mullins Riley & Scarborough, LLP’s attorneys – James H. Burns and Elizabeth Scott Moise that lasted for over 2 years during the Stay/TRO.

**REQUIREMENTS COULD NOT BE MET...AND...NO INSTRUCTIONS**

**Reason #7:** *Rule 208(a)*’s requirement of proof of service be filed with the “Initial Brief” could not be met because of the withdrawal, relieving and/or substitution of counsel. Jason D. Wyman was no longer counsel of record, a waiting period was required until the motion was decided and a new “Initial Brief” had to be written.

**Reason #8:** There is no requirement for the Appellate Court to provide instructions. On August 12, 2014, a letter arrived at 423 Bayne Street from the Deputy Clerk of Court, *V. Claire Allen*, that notified the Appellant that Nelson Mullins Riley & Scarborough, LLP, did not send the \$25.00 filing fee. *{See Attached Exhibit 364}*

On August 14, 2014, another letter arrived bearing the same signature of *V. Claire Allen*. This letter has a stamped file date of 13 Aug. 2014...with a notification about the status of the transcript. The Appellant is not ordering a transcript. The Appellant really needed to know about the timeline changes for the “Initial Brief” due to “Substitution of Counsel”. *{See Attached Exhibit 365}*

**Reason #9:** According to *Rule 240(b), SCACR*, the time limit is stayed until decided. Well...it was decided, but...what about the deadline for the “Initial Brief” to Nelson Mullins Riley & Scarborough, LLP? What happens when counsel is substituted just a few days before the “Initial Brief” is due with its required proof of service?

**Reason #10:** Since the Appellant did not know and there is nothing in the rule about requirements during “Substitution of Counsel”, the Appellant chose to wait for instructions; otherwise, it would be an unfair and an unjust burden on the Appellant to meet a *Rule 208(a)* 30 (day) proof of service requirement that no longer applied to Jason D. Wyman and Rogers Townsend & Thomas, PC. Rewriting an “Initial Brief” to send to Nelson Mullins Riley & Scarborough, LLP in such a short period is an unreasonable demand and/or expectation....even for a law firm. A Clerk of Court notification about a deadline is not legal advice and just as important as the notification about the transcript.

While the Appellant was waiting for instructions about a deadline for the “Initial Brief” from the Clerk of Court, a Deputy Clerk or any other authority at the Appellate Court, the Appellant completed and filed the “Designation of Matters to be Included in the Record on Appeal”. This was filed on September 3, 2014.

#### **WHAT DID COME WAS A MOTION TO DISMISS THE APPEAL**

**Reason #11:** If the “Substitution of Counsel” had not occurred, the “Initial Brief” for Jason D. Wyman would have been filed on time. No rewrite would have been necessary, nor specific references to the *Massive Filing Fraud* of Burns and Moise. Instead of notification about the time limit stay, a new filing deadline or extension of an existing deadline, what did come is a Motion to Dismiss the Appeal....you guessed it....from Nelson Mullins Riley & Scarborough, LLP, the same law firm...that is the cause and reason for the delay along with attorney Jason D. Wyman. {See Exhibit 363}

For 6 years, the Appellant had to endure false statements, misrepresentation of facts, misrepresentation of material facts, mischaracterization of facts and in some instances OUTRIGHT LIES from members of this same law firm; most notably, Brian A. Calub, Elizabeth Scott Moise and James H. Burns. This latest indignation from attorney Michael Anzelmo fits their consistent pattern of dishonest conduct in order to win this case. Even though referencing Rule 208(a) is well taken, the causes are ignored.

### ADDRESSING SELF-REPRESENTATION

“[I]n the federal courts, the right of self-representation has been protected by statute since the beginnings of our Nation. Section 35 of the Judiciary Act of 1789, 1 Stat. 73, 92, enacted by the First Congress and signed by President Washington one day before the Sixth Amendment was proposed, provided that, “[i]n all the courts of the United States, the parties may plead and manage their own causes personally or by the assistance of . . . counsel... The right is currently codified in 28 U.S.C. § 1654.” *Faretta v. California*, 422 U.S. 806 (1975)

“[I]n *Adams v. United States ex rel. McCann*, 317 U.S. 269, the Court recognized that the Sixth Amendment right to the assistance of counsel implicitly embodies a "correlative right to dispense with a lawyer's help. The *Adams* case does not, of course, necessarily resolve the issue before us. It held only that "the Constitution does not force a lawyer upon a defendant. *Id.* at 317 U.S. 279.” ”

“[T]o deny an accused a choice of procedure in circumstances in which he, though a layman, is as capable as any lawyer of making an intelligent choice, is to impair the worth of great Constitutional safeguards by treating them as empty verbalisms.... To force a lawyer on a defendant can only lead him to believe that the law contrives against him. Moreover, it is not inconceivable that, in some rare instances, the defendant might,

in fact, present his case more effectively by conducting his own defense. It is the defendant, therefore, who must be free personally to decide whether, in his particular case, counsel is to his advantage..." Faretta v. California, 422 U.S. 806 (1975)

"[W]hen an accused manages his own defense, he relinquishes, as a purely factual matter, many of the traditional benefits associated with the right to counsel. For this reason, in order to represent himself, the accused must "knowingly and intelligently" forgo those relinquished benefits." Johnson v. Zerbst, 304 U.S. at 464-465. Cf. Von Moltke v. Gillies, 332 U.S. 708 at 723-724 (plurality opinion of Black, J.).

"[A]lthough a defendant need not himself have the skill and experience of a lawyer in order to competently and intelligently choose self-representation, he should be made aware of the dangers and disadvantages of self-representation, so that the record will establish that "he knows what he is doing and his choice is made with eyes open."" Adams v. United States ex rel. McCann, 317 U.S. 279.

In Bolling v. Sharpe, 347 U.S. 497 (1954), the Supreme Court of the United States held that: "[T]he concepts of equal protection and due process, both stemming from our American ideal of fairness, are not mutually exclusive." South Carolina's Supreme Court has written: "[T]he constitutional guaranty of equal protection of the laws requires that all persons shall be treated alike under like circumstances and conditions, both in the privileges conferred and in the liabilities imposed.... The equal protection guaranty is intended to secure equality of protection not only for all, but against all similarly situated." Thompson v. South Carolina Comm'n on Alcohol and Drug Abuse, 267 S.C. 463, 472, 229 S.E.2d 718, 722 (1976).

The Clerk of Court or Deputy Clerk answering questions and/or providing instructions that will help a Pro Se litigant understand Appellate Court Procedures can

not even be considered as accommodating. They are requirements in all cases and for all litigants. Providing timely instructions relative to procedures or explaining how a case will proceed in the Appellate Court will help a Pro Se litigant understand what, when, how and why certain filings in a timely manner are mandatory. Any exceptions to the rule, would also be helpful information; even though it is also not mandatory or required.

### **RULE 263(b), & 264(b), SCACR**

**Reason #12:** Realizing the Appellate Court does not provide instructions and is under no obligation to do so...*Rule 263(b), SCACR*, provides additional insights into these matters, by clearly stating in pertinent parts.. “[T]he time prescribed by these Rules for performing any act except the time for serving the notice of appeal under Rules 203 and 243 may be extended or shortened by the appellate court, or by any judge or justice thereof. The time prescribed by these Rules for performing any act or taking any action may not be extended by agreement of the parties.”

To further explain how and why this situation and motion is before the Appellate Court, it would be helpful to examine *Rule 264(b), SCACR* that clearly states in pertinent parts,...”[A]n attorney of record in a matter pending before an appellate court may not withdraw from representation of his client without justifiable cause, or the consent of his client; and then only after proper written notice to his client, on petition to and by written order of the appellate court, **and with notice to the adverse party.**” [Note: Boldness added for emphasis]. Unlike *Rule 11(a), SCRCF*, notification is required, even to a Pro Se Litigant. **Being a Pro Se litigant is not a license for attorney or judicial abuse.**

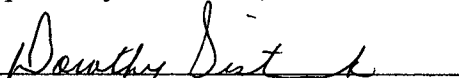
*Rule 11(a), SCRCF* clearly states in pertinent parts.. “[T]here is no duty of consultation on motions to dismiss, for summary judgment, for new trial, or judgment NOV, or on motions in Family Court for temporary relief pursuant to Family Court Rule 21, or in real estate foreclosure cases, or with pro se litigants.”

## CONCLUSION

**Finally:** Jason D. Wyman and Rogers Townsend & Thomas, PC had plenty of time and ample opportunity to notify the Appellant that they were withdrawing from the case. This would have allowed a timely filing. A timely notification would have prevented this incident from occurring and rewriting the "Brief". The Procedural History relative to Rogers Townsend & Thomas, PC is not needed, nor the specific and detailed references to letters the Appellant sent to the law firm during July of 2008. Consequently, if "Finger Pointing" must take place, all fingers can be pointed at Jason D. Wyman and Rogers Townsend and Thomas, PC. "Fingers" are already pointing at Wells Fargo and Nelson Mullins Riley & Scarborough, LLP. The severity of Wyman's violation of *Rule 264(b), SCACR* and its impact on the Appellant will be determined by the decision of the Appellate Court relative to this matter. *{See Attached Exhibit 366}*

September 10, 2014

Respectfully Submitted;

/s   
Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, South Carolina 29115  
(803) 268-0716

**Note:** Since allegations are made with specificity and particularity, this submission will be verified.

**NOTARY VERIFICATION**

*IN WITNESS WHEREOF*, The undersigned, being duly *SWORN*, and under the *PENALTY OF PERJURY* declares the afore stated facts are true and correct as of her own knowledge. When it comes to matters stated therein that are based upon information and/or belief; as to those matters, she believes them to be true. Accordingly, based on the stated facts, has signed and sealed these attestations this 10<sup>th</sup> day of Sept in the year 2014 in City and County of Orangeburg, in the State of South Carolina.

Affiant Signature: Dorothy Sistrunk

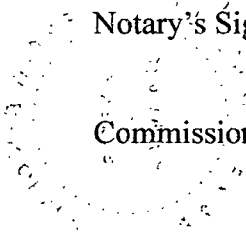
Notary's Signature as Witness (1): Lillian D. Buck

**Signed, sealed and delivered in the presence of:**

**STATE OF SOUTH CAROLINA  
COUNTY OF ORANGEBURG**

On Sept 10<sup>th</sup> 2014 before me appeared Dorothy Sistrunk and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on this Verified Submission (Objection to Wells Fargo's Motion to Dismiss Appeal Due to Failure to File "Initial Brief" in a Timely Manner) presents this document to the Court. WITNESS my hand and official seal.

Notary's Signature Lillian D. Buck



Commission Expires  
July 24, 2022

Commission Expires \_\_\_\_\_

**(Seal)**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

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Case No. 2008-CP-38-1024

Appellate Tracking No.

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Wells Fargo Bank, N.A., ..... Respondent,

v.

Dorothy Sistrunk, ..... Appellant.

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**Consent Substitution of Counsel**

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Pursuant to Rule 264 of the South Carolina Appellate Court Rules, Respondent Wells Fargo Bank, N.A. ("Wells Fargo"), notifies this Court that it desires Elizabeth Scott Moise, James H. Burns, and Michael J. Anzelmo, Esquire, of the law firm of Nelson Mullins Riley & Scarborough, LLP, to replace Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC, as counsel of record for it in this appeal. Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC will remain counsel of record for Wells Fargo in matters pending before the trial court, including, but not limited to, the foreclosure action.

Thus, Wells Fargo requests that Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC be allowed to withdraw as counsel of record in this appeal. As indicated below, Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC consent to this request.

**Exhibit 363**

Accordingly, Wells Fargo, by and through undersigned counsel, requests that this Court order that Scott Moise, James H. Burns, and Michael J. Anzelmo, Esquire, of the law firm of Nelson Mullins Riley & Scarborough, LLP, be substituted as counsel of record for it in this appeal. Further, Respondent requests that Jason D. Wyman, Esquire, and Rogers Townsend & Thomas, PC be relieved of any further representation and be removed from the court dockets in this appeal.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

Elizabeth Scott Moise  
SC Bar No. 012945  
151 Meeting Street / Sixth Floor  
Post Office Box 1806 (29402-1806)  
Charleston, South Carolina 29401-2239

James H. Burns  
SC Bar No. 70313  
Michael J. Anzelmo  
SC Bar No. 72933  
1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, South Carolina 29201  
803.799.2000

Attorneys for Wells Fargo Bank, N.A.

Columbia, South Carolina

August 7, 2014

{Consent Signature Follows}

**Exhibit 363**

We so consent:

By: 

Jason D. Wyrman, Esquire  
Rogers Townsend & Thomas, PC  
Synergy Business Park  
220 Executive Center Drive  
Columbia, South Carolina 29210

August 7, 2014

**Exhibit 363**

Received  
8/8/14

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024

Appellate Tracking No.

Wells Fargo Bank, N.A., ..... Respondent,  
v.  
Dorothy Sistrunk, ..... Appellant.

**Proof of Service**

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by certified United States Mail, return receipt requested, postage prepaid, to the following address(es):

Pleadings:

**Consent Substitution of Counsel**

Party Served:

*pro se* Defendant  
Ms. Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, SC 29115

**Exhibit 363**

Received  
8/8/14

# 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: 803.255.9024  
www.nelsonmullins.com

Michael J. Anzelmo  
Tel: 803.255.9312  
Fax: 803.255.9024  
michael.anzelmo@nelsonmullins.com

August 7, 2014

Hand Delivered

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
1015 Sumter Street - 5th Floor  
Columbia, SC 29201

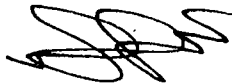
RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk  
Wells Fargo Matter #: 0362522-01  
Case No.: 08-CP-38-1024  
NMRS File No.: 10275/01528

Dear Ms. Kitchings:

Enclosed please find an original and six copies of a Consent Substitution of Counsel in the above-reference matter. Please file the original and return a clocked-in copy to me via our courier. Should you have any questions, please do not hesitate to contact me.

By copy of this letter, I am hereby serving opposing parties.

Very truly yours,



Michael J. Anzelmo

MJA:jlee  
Enclosures  
cc: Ms. Dorothy Sistrunk  
Jason D. Wyman

**Exhibit 363**

Received  
8/12/14



# 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) 734-1839  
www.sccourts.org

August 11, 2014

Mr. Michael J. Anzelmo, Esquire  
PO Box 11070  
Columbia SC 29211

Re: Wells Fargo Bank v. Dorothy Sistrunk  
Appellate Case No. 2014-001683

Dear Counsel:

Upon reviewing your correspondence, which the Court construes as a motion to substitute counsel, the following deficiency has 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 required filing fee has not been submitted. The correct filing fee is \$25.00.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: Dorothy Sistrunk  
Jason David Wyman, Esquire  
Elizabeth Scott Moise, Esquire  
James H. Burns, Esquire

**Exhibit 364**

Received  
8/14/14

# The South Carolina Court of Appeals

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

Appellate Case No. 2014-001683

The Honorable The Honorable Diane Schafer Goodstein  
Orangeburg County  
Trial Court Case No. 2008CP3801024

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## ORDER

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Respondent has filed a motion for substitution of counsel. The motion is Granted. Please be advised our records have now been amended to show that Elizabeth Scott Moise, Esquire, James H. Burns, Esquire, and Michael J. Anzelmo, Esquire are now counsel of record for Respondent in the above mentioned case on appeal. Jason David Wyman, Esquire, is no longer counsel of record and will not be copied on any future correspondence regarding this matter.

Appellant must notify the Court of the status of the transcript within ten (10) days of the date of this order.

FOR THE COURT

BY V. Cloine Allen, Deputy  
CLERK

FILED

AC 13 Aug 2014

**Exhibit 365**

Columbia, South Carolina

cc:

Dorothy Sistrunk

Jason David Wyman, Esquire

Elizabeth Scott Moise, Esquire

James H. Burns, Esquire

Michael J. Anzelmo, Esquire

---

**Exhibit 365**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

---

Case No. 2008-CP-38-1024

Appellate Case No. 2014-001683

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Wells Fargo Bank, N.A., ..... Respondent,  
v.  
Dorothy Sistrunk, ..... Appellant.

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**Motion to Dismiss Appeal**

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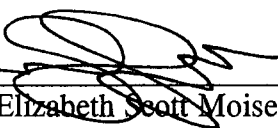
Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondent Wells Fargo Bank, N.A. (“Wells Fargo”) moves to dismiss the above-captioned appeal in its entirety. The basis for this motion is that Appellant failed to timely file any Initial Appellant’s Brief. As a result, this Court must dismiss the appeal.

The South Carolina Appellate Court rules require Appellant to serve the Initial Appellant’s Brief “[w]ithin thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal . . . .” Rule 208(a)(1), SCACR. Appellant filed and served her notice of appeal on July 30, 2014. On August 18, 2014, Appellant advised this Court that no transcript would be ordered in this appeal. See “Certificate that no Transcript Will Be Ordered by Appellant” filed August 18, 2014. Therefore, Appellant’s Initial Brief was to be served on Well Fargo no later than August 29, 2014, pursuant to Rule 208(a)(1), SCACR.

**Exhibit 366**

Appellant failed to serve her Initial Appellant's Brief<sup>1</sup> by that mandatory deadline. This Court must dismiss the appeal. See Wise v. S.C. Dept. of Corrections, 372 S.C. 173, 173, 642 S.E.2d 551, 551 (2007) (stating that "[w]henver it appears that an appellant has failed to comply with the requirements of the SCACR, an order of dismissal **shall** be issued") (emphasis added). Appellant's status as a pro se litigant does not alter that result. See, e.g., State v. Burton, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9 n. 5 (2003) ("A pro se litigant who knowingly elects to represent h[er]self assumes full responsibility for complying with substantive and procedural requirements of the law.").

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:   
Elizabeth Scott Moise  
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Michael J. Anzelmo  
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Post Office Box 11070 (29211-1070)  
Columbia, South Carolina 29201  
803.799.2000

Attorneys for Wells Fargo Bank, N.A.

Columbia, South Carolina

September 8, 2014

<sup>1</sup> Appellant served a Designation of Matters but failed to serve any Initial Appellant's Brief.

**Exhibit 366**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024

Appellate Tracking No.

**RECEIVED**

SEP 15 2014

**SC Court of Appeals**

Wells Fargo Bank, N.A., ..... Respondent,

v.

Dorothy Sistrunk, ..... Appellant.

**Proof of Service**

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by certified United States Mail, return receipt requested, postage prepaid, to the following address(es):

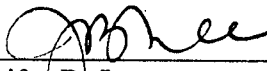
Pleadings:

**Motion to Dismiss Appeal**

Party Served:

*pro se* Defendant  
Ms. Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, SC 29115

**Exhibit 366**

  
Jennifer B. Lee

---

September 8, 2014

**Exhibit 366**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY  
Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

2014-001683

**RECEIVED**

SEP 15 2014

**SC Court of Appeals**

Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

**PROOF OF SERVICE**

I certify that I have served the Objection to Wells Fargo's Motion to Dismiss Appeal Due to Failure to File "Initial Brief" in a Timely Manner on Wells Fargo Bank, N.A., by depositing a copy of it in the United States Postal Service, postage prepaid, on September 10, 2014, addressed to Wells Fargo's attorney/s of record that are listed below.

September 10, 2014

/s/ Dorothy Sistrunk  
Dorothy Sistrunk  
423 Bayne Street  
Orangeburg, South Carolina 29115  
(803) 268-0716

Attorney James H. Burns & Michael Anzelmo  
SC Bar No. 70313  
1320 Main Street / 17<sup>th</sup> Floor  
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Columbia, SC 29201  
(803) 799-2000

Elizabeth Scott Moise  
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Charleston, SC 29401 -2239  
(803)853-5200

 **Dorothy Sistrunk**

423 Bayne Street • Orangeburg, SC 29115 • Ph: 803-268-0716 • Fx: 803-534-6727

September 10, 2014

The Honorable Jenny Abbot Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
POB 11629  
Columbia, SC 29211

**RECEIVED**

SEP 15 2014

**SC Court of Appeals**

RE: Wells Fargo Bank, N.A. vs Dorothy Sistrunk  
Civil Action Case #2008-CP-38-1024  
Appellate Case #2014-001683

Ms. Kitchings,

I am new at this so...please advise me of errors and/or any incorrect protocol. I am enclosing **Objection to Wells Fargo's Motion to Dismiss Appeal Due to Failure to File "Initial Brief" in a Timely Manner**. In accordance with *Rule 240(e), SCACR*, I am enclosing an original and six (6) copies of my objection; paper clipped and not stapled, and I have also served a copy on all parties listed below.

Thank you.

*Dorothy Sistrunk*  
/s/ Dorothy Sistrunk  
Dorothy Sistrunk

CC:

Attorney James H. Burns & Michael Anzelmo  
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