

September 22, 2014

THE RECORD ON APPEAL

The Honorable Jenny Abbot Kitchings & V. Claire Allen
Clerk of Court & Deputy Clerk; Respectively,
South Carolina Court of Appeals
POB 11629
Columbia, SC 29211

RECEIVED
SEP 24 2014
SC Court of Appeals

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

Ms. Kitchings and/or Ms. Allen,

As I have stated in all my correspondence to date, I am new at this...so...please advise me of errors and/or any incorrect protocol. In addition, there is a limit to the research that can be done online without a [Bar Number]. I did not appeal the Partial Summary Judgment Order for the following reasons:

Reason #1: (A) I relied upon *USA Legal's* explanation,

"[A] partial summary judgment order is not appealable; even if the remaining claims are voluntarily dismissed without prejudice and that the dismissal order appears to be final on its face and the plaintiff is allowed to refile the claims later."

Reason #1: (B) I relied upon South Carolina's Supreme Court & Code of Laws,

"[A]n order granting a motion for partial summary judgment is immediately appealable." *See S.C. Code Ann. § 14-3-330 (1976); Nauful v. Milligan, 258 S.C. 139, 143, 187 S.E.2d 511, 513 (1972).*"

(1) SECTION 14-3-330 SC Code of Laws
Re: [www.scstatehouse.gov/code/t14c003.php]

"[T]he Supreme Court shall have appellate jurisdiction for correction of errors of law in law cases, and shall review upon appeal:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;

(3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and

(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing, modifying, or refusing the appointment of a receiver.

HISTORY: 1962 Code Section 15-123; 1952 Code Section 15-123; 1942 Code Section 26; 1932 Code Section 26; Civ. P. '22 Section 26; Civ. P. '12 Section 11; Civ. P. '02 Section 11; 1896 (22) Section 1; 1901 (23) 623; 1991 Act No. 115, Section 2, eff June 5, 1991.”

As for *Rule 210, SCACR - RECORD ON APPEAL*, I relied upon the following:

Re: [www.judicial.state.sc.us/courtReg/displayRule.cfm?ruleID=210]

“(a) Time for Service. Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal on each party who has served a brief. Proof of service of the Record shall be immediately filed with the clerk of the appellate court.

(b) Time for Filing. The appellant must file with the clerk of the appellate court fifteen (15) copies of the Record on Appeal no later than the date his brief(s) are due under Rule 211. As provided by Rule 267(d), one copy filed with the appellate court shall be filed unbound. The appellate court may require an appellant to file additional copies of the Record on Appeal.

(c) Content. The Record on Appeal shall include all matter designated to be included by any party under Rule 209 and shall comply with the requirements of Rule 267. The Record shall not, however, include matter which was not presented to the lower court or tribunal. Matter contained in the Record on Appeal shall be arranged in the following order: the title page, index, orders, judgments, decrees, decisions, pleadings, transcript, charges, exhibits and other materials or documents, and a certificate by

appellant. Each page of the Record on Appeal shall be numbered consecutively beginning with the index. Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included. When a portion of an order, judgment, decision or pleading is to be included in the Record on Appeal, the entire order, judgment, decision or pleading shall be included in the Record, to include the caption and signature(s); provided, however, that the portion of a pleading showing verification or service shall not be included unless relevant to the appeal. If the original court reporter's numbering has been deleted, the Record on Appeal shall contain ellipses or other notation indicating when pages of the court reporter's transcript have been omitted.

Where witness testimony is included in the Record on Appeal, the first page of each witness's direct, cross, redirect and recross examination must show the name of the witness, the phase of examination and the name of the counsel conducting the examination. If this information is not already reflected on the page, the top of the page shall be annotated with the required information in the following form: John H. Doe--Direct (Cross) (Redirect) (Recross) Examination by Mr. Smith.

(d) Title. The title page shall contain the caption as set forth in Rule 267. Nothing shall be printed on the title page except the caption.

(e) Index. Every Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, decisions, pleadings, pretrial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect and recross examination begins.

(f) Exhibits. Photographs, plats and diagrams, and other paper exhibits shall be inserted in the Record on Appeal where they can reasonably be reduced or drawn to a size which permits them to be printed and inserted in the Record on Appeal, without folding more than one time. Where they are larger, or do not reasonably lend themselves to accurate reproduction, they need not be included in the Record on Appeal, but shall be filed separately. All exhibits other than paper exhibits must be retained in the trial court and delivered to the appellate court only upon receipt of an order from the clerk of the appellate court.

(g) Certificate of Counsel. Appellant or his counsel shall certify that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

(h) Review Limited to Record on Appeal. Except as provided by Rule 212 and Rule 208(b)(1)(C) and (2), the appellate court will not consider any fact which does not appear in the Record on Appeal.”

Reason #2: I am also relying upon;

“[E]x parte Wilson, 367 S.C. 7, 625 S.E.2d 205 (2005) (generally only final judgments are appealable, but an interlocutory order may be immediately appealable if it falls under S.C. Code Ann. § 14-3-330); S.C. Code Ann. § 14-3-330 (1976 & Supp. 2006) (interlocutory orders involving the merits or affecting a substantial right are immediately appealable); Mid-State Distribs., Inc. v. Century Importers, Inc., 310 S.C. 330, 334, 335 n.4, 426 S.E.2d 777, 780, 780 n.4 (1993) (An interlocutory order involving the merits is one that “must finally determine some substantial matter forming the whole or a part of some cause of action or defense.” An interlocutory order affects a substantial right when it will “discontinue an action, prevent an appeal, grant or refuse a new trial, or strike out an action or defense.”).”

I do not know whether intermediate judgment, partial summary judgment and interlocutory order mean the same or have differing shades of meaning. In addition, there is no explanation in the South Carolina’s Appellate Court Rules or in the Rules of Civil Procedure that clearly defines a “**Substantial Right**”, nor can a meaningful definition be found online. The closest definition my husband can find is “**Substantive Right**”.

In pertinent parts, *Wikipedia* states; “[S]ubstantive Rights” are basic human rights possessed by people in an ordered society and includes rights granted by natural law as well as the substantive law. Substantive rights involve a right to the substance of being human (life, liberty, happiness)..”

Reason #3: Without knowledge, explanation or a clear and unambiguous definition and/or meaning from the Court or a statute, I could not, did not and will not file a specific appeal to Judge Goodstein’s Partial Summary Judgment Order until a final Order is entered. In addition, the Order should have been vacated anyway due to...

- (A) The ***Massive Filing Fraud*** of attorneys James H. Burns and Elizabeth Scott Moise during the Stay/TRO from 2009 to 2011. And the undeniable fact...
- (B) Judge Goodstein signed an order that was drafted by Nelson Mullins Riley & Scarborough, LLP that is replete with mischaracterization of facts, misstatement of facts, misrepresentations of material facts and an OUTRIGHT LIE. No attorney went with me to the closing on December 21, 2007. **[Note: As a lay person: A LIE is any statement that is not true.]**

However, the above stated are matters for the Appellate Court to decide and rule upon. In addition, there is an Order of Reference that is pending in the Equity Court that must be adjudicated at some point in time or rescinded if I prevail in my appeal.

Reason #4: Because South Carolina’s is so confusing for a lay person, I am also relying on information from Illinois as to; **How to Compile a Record on Appeal**. {See Attached Exhibits 369 & 370}

For all the reasons stated on pages 1-4, my appeal is limited to the following;

- (1) Denial of my Motion for a New Trial,
- (2) Denial of my Motion to Alter or Amend the Partial Judgment Order, And.....
- (3) Denial of my Motion to Vacate the Partial Summary Order due to Fraud upon the Court.

Since all three motions were denied without hearings, I was forced to write a **Preliminary Statement of the Evidence** and a **Statement of the Evidence**. Both have been filed in the Court of Common Pleas in Orangeburg, South Carolina.

This letter is written in response to attorney Michael Anzelmo's letter that is dated August 20, 2014, relative to me ordering a transcript for what was basically a "No Evidence" Summary Judgment hearing...and...in response to *V. Claire Allen's* letter that is dated September 11, 2014 that is marked as **Exhibit 368**. {See Attached Copy}

Finally: What I really need to know is what happens after timelines are stayed for "Relieving Counsel" or "Substitution of Counsel"? When are timelines resumed? How will I know when a timeline is resumed after a stay? After a stay for "Relieving Counsel" or "Substitution of Counsel", when is the "Initial Brief" due? I really need to know this. Any information relative to these matters will be greatly appreciated.

Thank you for your professional and timely service.

Respectfully Submitted;

/s/ Dorothy Sistrunk
Dorothy Sistrunk

CC:

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

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Received
9/12/14

The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

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September 11, 2014

Dorothy Sistrunk
423 Bayne Street
Orangeburg SC 29115

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

Dear Ms. Sistrunk:

We have received from you a document titled "Preliminary Statement of the Issues" and a document "To Be Included in the Record on Appeal Objections to Wells Fargo's Demand for Transcript." There are numerous attachments. Be advised that there are no provisions in the South Carolina Appellate Court Rules that allow the Court to accept these filings. Therefore, these filings are being returned to you and are not considered filed with this Court.

Please review the South Carolina Rules of Appellate Procedure which can be located on the Judicial Department website. I call your attention particularly to Rules 208, 209, 210, and 211. These rules advise you how to prepare an initial and reply brief, a designation of matter, and record on appeal. These are the documents the court must receive to adequately review an appeal.

I also must inquire of you whether you intend to appeal the order granting partial summary judgment. If you do, then an amended notice of appeal must be served and filed within fifteen (15) days from the date of this letter. I refer you to Mr. Anzelmo's letter dated August 20, 2014. As you can see, it is his position that a

Exhibit 368

transcript of the September 13, 2013 hearing will be needed, if you are appealing the order granting partial summary judgment.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Elizabeth Scott Moise, Esquire
James H. Burns, Esquire
Michael J. Anzelmo, Esquire

Exhibit 368

Chicago Daily Law Bulletin®

Volume 160, No. 41

How to compile a record on appeal

In our last column ("Filing a notice of appeal and docketing statement for the court," Jan. 27), we discussed the initial steps in perfecting an appeal to the Illinois Appellate Court — the filing of the notice of appeal, which confers jurisdiction upon the reviewing court, and the docketing statement, which provides the reviewing court with general information about the case.

Now we turn to compiling the record on appeal.

The burden rests with the appellant to create a complete record on appeal. If information is missing from the record, the appellate court can presume that the missing material supports the trial court's decision. Moreover, the appellant's failure to timely file the record on appeal can result in the dismissal of the case.

Alternatively, the appellate court can affirm the judgment from which the appeal is sought. However, the appellant's failure to timely file the record on appeal does not deprive the appellate court of jurisdiction to hear the matter; therefore, the appellate court can choose to consider the appeal on its merits.

Illinois Supreme Court Rule 321 provides that the record on appeal shall consist of the judgment appealed from, the notice of appeal and the entire original common-law record, unless the parties stipulate for, or the trial or appellate court orders, less.

The common-law record includes every document filed; every judgment and order entered; and any documentary exhibits offered and filed by any party. The appellate court, upon motion, can also order that other exhibits be included in the record. The record on appeal also includes any report of proceedings prepared in accordance with the court rules.

As discussed in our last column, the docketing statement requires that the attorney for the appellant certify that he or she made both a written request to the clerk of the circuit court to prepare the record on appeal and a written request to the court reporting personnel to prepare the transcripts of the proceedings in the trial court.

With regard to the preparation of the record on appeal in the 1st District Appellate Court, the Cook County circuit clerk website contains a "Request to Prepare a Record on Appeal" form. The appellant shall file the form as well as a deposit of \$110 in Room 801 of the Daley Center and attach a copy of the completed form to the docketing statement.

In all other appellate court districts, the appellant shall write a letter to the appeals clerk in the circuit clerk's office requesting that the record on appeal be prepared. The appellant shall then attach a copy of the letter to the docketing statement.

With respect to the report of proceedings, Illinois Supreme Court Rule 323 provides that it may include evidence, oral rulings of the trial judge, a brief statement of the trial judge of the reasons for the decision and any other proceedings that the party submitting it desires to have incorporated in the record on appeal.

With regard to the preparation of the transcripts, in any appellate court district, the appellant can write a letter to the court reporting personnel setting forth the dates of the hearings that need to be transcribed. The court reporter will then directly transmit the original transcripts to the circuit clerk for inclusion with the record on appeal.

However, it is good practice to speak directly with the court reporter to verify that he or she plans to send the transcripts to

ON APPEAL



**MICHELE M. JOCHNER
AND SHANNON R. BURKE**

Michele M. Jochner is a partner at Schiller, DuCanto & Fleck LLP, after previously serving as a judicial law clerk to Illinois Supreme Court Justices Charles E. Freeman and Mary Ann G. McMorrow. She can be reached at mjochner@sdflaw.com. Shannon Burke is a Chicago attorney and may be reached at burkeshr@yahoo.com.

the circuit clerk. If the appellant already has the transcripts in his or her possession, or the court reporter sends the transcripts directly to the appellant's attorney rather than to the circuit clerk, the parties can stipulate or the court can order that the transcripts be included in the record on appeal.

The appellant shall then take the stipulation or court order and the transcripts to the circuit clerk so that the appeals clerk can prepare the transcripts for inclusion in the record on appeal.

Although the docketing statement expressly requires that the appellant verify that he or she has requested that the clerk prepare the record on appeal and that the court-reporting personnel prepare the transcripts, there is one more component of the record that the appellant must compile — the exhibits.

If the trial court maintained possession of the exhibits, the appellant must arrange to have the exhibits sent to the circuit clerk so that the appeals clerk can include the exhibits in the record on appeal. If either of the parties maintained possession of the exhibits, the parties can stipulate or the court can order that the exhibits be included in the record on appeal.

The appellant shall then take

the exhibits, along with the stipulation or court order, to the circuit clerk so that the appeals clerk can include the exhibits in the record on appeal.

After the circuit clerk compiles the record on appeal, the clerk will notify the appellant that the record is available. The appellant must arrange to have the record on appeal timely filed with the appellate court.

Illinois Supreme Court Rule 325 provides various alternatives for the transmission of the record on appeal. Upon payment of fees and costs, the circuit clerk shall transmit the record to the reviewing court or, upon request, deliver it to the appellant for transmission.

Alternatively, at the request of any party, the clerk of the trial court shall deliver to the reviewing court a certificate that the record has been prepared and certified in the form required for transmission to the reviewing court. The timely filing of the certificate in the reviewing court shall be considered the filing of the record on appeal.

Once the record on appeal or the certificate in lieu of the record has been filed, the clerk of the reviewing court shall provide notice of filing to all parties to the appeal.

Stay tuned for our discussion of the next step in the appellate process: the filing of briefs.

Exhibit 369

Order of September 1, 2000

[Set out entire order including caption and signature.] *What do you mean set out entire order? Who writes this? Do I write this and get the judge to sign it?*

Order of December 1, 1990

[Set out entire order including caption and signature.]

Complaint

[Set out entire complaint including caption and signature.] *What do you mean set out entire Complaint? Who writes this? Do I write this and get Wells Fargo to sign it?*

Answer

[Set out entire answer including caption and signature.]

There is no testimony in my case except by attorney

Testimony of Stephen L. Doe

[Set out testimony including entire page of trial transcript where a portion of the page is to be included.]

Deposition of John B. Doe

[Set out testimony including entire page of trial transcript where a portion of the page is to be included.]

Testimony of Louise M. Miller

[Set out testimony including entire page of trial transcript where a portion of the page is to be included.]

Testimony of Jane C. Roe

[Set out testimony including entire page of trial transcript where a portion of the page is to be included.]

Testimony of Mark N. Brown

[Set out testimony including entire page of trial transcript where a portion of the page is to be included.]

Charge *Is the Charge Judge Goodstein's Order?*

[Set out the portions of the jury charge designated to be included. Where a portion of a page of the charge is to be included, include the entire page.]

Request to Charge

[Set out request to charge.]

Defendant's Exhibit 1 *I understand this.*

[Set out exhibit.]

Defendant's Exhibit 6

[Set out exhibit.]

Defendant's Exhibit 7

[Set out exhibit.]

Certificate of Counsel

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

March 20, 2001

/s/ John E. Smith
John E. Smith
Post Office Box 123
Greenville, South Carolina 29000
(803) 000-0000
Attorney for Appellant

This is why I'm relying on information from Illinois on how to do this, because it is clear and not confusing. If there's a problem with me using this format please let me know.

*Thanks
Dorothy Smith*

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SC Court of Appeals

FORM 15
RECORD ON APPEAL

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals
[In The Supreme Court]

SC Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

George E. Brown, Circuit Court Judge

Case No. 2000-CP-00-0000

Stephen L. Doe, as Personal
Representative of the Estate of
John B. Doe,

Respondent,

v.

Jane C. Roe,

Appellant.

RECORD ON APPEAL

John E. Smith
Post Office Box 123
Greenville, South Carolina 29000
(864) 000-0000
Attorney for Appellant

Mary P. Jones
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Greenville, South Carolina 29000
(864) 000-0000
Attorney for Respondent

Exhibit 370

This I understand.

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 Jane C. Roe 1

 Mark N. Brown 2

Charge 2

Request to Charge 2

Defendant's Exhibits

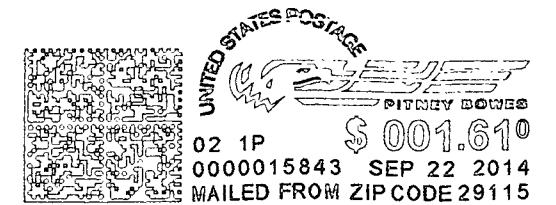
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Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115



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SC Court of Appeals

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