

**MANDATORY JUDICIAL NOTICE OF ADJUDICATIVE
FACT MOTION**

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

RECEIVED
SEP 29 2014
SC Court of Appeals

Case No. 2013-002373

H & R Block Bank, FSB,

Respondent

v.

Ziraili M Elbey, a/k/a/ Ziraili Mohassan El Bey, WKFC Living Trust Under Trust Agreement dated June 4, 2010 by and through its Trustee Wellesley K. Clayton and American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation, Defendants,

Appellant

Of Whom Ziraili M. Elbey is the Appellant.

**MANDATORY JUDICIAL NOTICE OF ADJUDICATIVE
FACT MOTION**

Appellant, Ziraili M Elbey, a natural born woman on the land, not an attorney, hereby through SCACR Rule 201(a-g), request this honorable court to take mandatory judicial notice of a Clerk error sent to Respondent by letter dated September 5, 2014 (see exhibit A) in violation of SCACR Rule 208(b)(1)(A-E). Appellant's Initial Brief dated January 22, 2014 filed with this court in January 2014. Respondent failed to answer within the 30 day required by the SCACR by Brief of Respondent according the SCACR 208(E)(2). Appellant, finds this court to be an apex of order so through a letter she notified the Clerk of this court and Respondent of Respondent's failure to answer Appellant's Initial Brief dated January 22, 2014 according to the SCACR Rules 208(b)(1)(A-E), (see exhibit B). May this court take mandatory notice SCACR Rule 208(E)(2), states that if Respondent does not enter its own statement of the case, he/she/its shall be bound Appellant's

statement of the case. Again, read letter (exhibit B). Therefore, for the record, Appellant's Initial Brief is affirmed as a matter of fact.


This request for mandatory judicial notice motion is being filed concurrently with evidence letter of the initial Clerk notification stamped and dated by this court on April 18, 2014 on the merits that the Respondent failure to file and answer Appellant's initial brief, is duly noticed and failure to conform to the requirement of SCACR Rule 208(b)(1)(A-E).

On the other hand, the Appellant has been told numerous times by office of the clerk that if Appellant fail to file within the time prescribed by the SCACR Rules of the court, the clerk of the appellate court shall sign an order dismissing her appeal per SCACR Rule 208(a)(4). Therefore, following SCACR Rule 210 and 211, the flow of material Appellant submitted final brief filed April 18, 2014 to this court so as to be in compliance with the SCACR.

Pray that honorable court continues as an apex of rules and order of all documents being submitted in a timely matter as this court takes such action as it deems proper per the SCACR.

Motion dated September 24th, 2014 so moved respectfully.

September 24th, 2014

By: 
Zirehi M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665



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

September 05, 2014

Mr. Chad Wilson Burgess, Esquire
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia SC 29210

Re: H & R Block v. Ziraili M. Elbey
Appellate Case No. 2013-002373

Dear Counsel:

Our records indicate that the amended designation of matter for the appellant's initial brief was received July 28, 2014. Please be advised the respondent's initial brief and designation of matter is due to be served and filed September 8, 2014.

EXHIBIT "A"

Very truly yours,

A handwritten signature in black ink, appearing to read "J.A. Kitchings".

CLERK

cc: Ziraili M. Elbey

Ziraili M Elbey

9789 Charlotte Highway, 400-191, Ft. Mill, South Carolina 29707
April 14, 2014

Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
P.O. BOX 11629
Columbia, South Carolina 29211

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APR 18 2014

SC Court of Appeals

RE: Ziraili Elbey v. H & R Block Bank, FSB
Appellate Case No. 2013-002373

Dear Clerk Kitchings:-

Please be advised that the lawyers for the Respondent/Plaintiff agrees with Appellant's Initial Brief. Two (2) pleadings you should have 1) Opposition to Motion to Dismiss, and 2) the Final Brief which also addresses their Motion to Dismiss. ~~Since, Respondent/Plaintiff lawyers fail to reply in a timely manner~~ to Appellant's (initial brief) of January 23, 2014 according to Rule 208. It's been more than sixty (60+) days since Respondent's lawyers attempt to stall the Appellant's due process by filing a Motion to Dismiss on March 25, 2014. Appellant's Opposition to and Final Brief replies to lawyers Motion to Dismiss. [see pg 7, line 1-12].

I am returning the initial copy of the transcript originally received in the SC Court of Appeals on December 04, 2013 per Rule 210. Also, included in this mailing is fourteen (14) bound copies, and one unbound original copy of the final brief according to Rule 211, and Rule 267. All of the Record of Appeal materials have been sent previously according to the Rules, to the clerk who handles case no. 2013-002373 e.g. Orders, Compliant, Copy of Transcript and nineteen (19) other designated matter to be accepted as revised with a Motion to Amend Designation of Matter. These matters in the amended motion for Record on Appeal, dated February 03, 2014 of which no answer has been received by this Appellant to the motion have been submitted. Kindly make those revised Record of Appeal matters available for the judges.

Thank you for your assistance.

Sincerely yours,

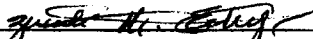
By: 
Ziraili M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, SC 29707
(803) 233-2665

EXHIBIT "B"

Enclosures:

1 Copy of Transcript

7 Bound Copies of Opposition to Motion to Dismiss, & 14 Bound Copies of Final Brief

1 original unbound copy of the Opposition and the Final Brief

Cc: Jason L. Branham, Esquire
Brock & Scott, PLLC

Appellant, Ziraili M Elbey certify that the items, and final brief for case # 2013-002373 contains no matter which is irrelevant to this appeal, plus a certificate of service to respondent's lawyers.
04/14/2014.

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 PINEVILLE, North Carolina
 281340030
 3613950834 -0099
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Sales Receipt		
Product Description	Sale Qty	Unit Price
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		\$5.96

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Priority Mail 2-Day By Weight 1 lb. 0.50 oz.		
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USPS Tracking #: 9114901230803325586006		
Includes \$50 insurance		
Issue PVI:		=====
		\$5.80

Total: \$11.76

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 Approval #: 950374
 Transaction #: 984
 23 903233625
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Return Receipt Fee (Endorsement Required)	0.00	
Restricted Delivery Fee (Endorsement Required)	0.00	
Total Postage & Fees	\$ 5.96	04/15/2014

Sent to: *Chad Burgess, Brock & Scott Hill*
 Street, Apt. No. or PO Box No.: *300 Fernandina Pl, Se 110*
 City, State, ZIP+4: *Keumber, SC 29210*

PS Form 3800, August 2005 See Reverse for Instructions

7010 1670 0002 1822 9138

EXHIBIT "B"

**PROOF OF SERVICE OF TO MANDATORY JUDICIAL
NOTICE OF ADJUDICATIVE FACT MOTION**

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas

Philip E. Wright, Special Referee

Case No. 2013-002373

H & R Block Bank, FSB,

Respondent

v.

Ziraili M Elbey, a/k/a/ Ziraili Mohassan El Bey, WKFC Living
Trust Under Trust Agreement dated June 4, 2010 by and
through its Trustee Wellesley K. Clayton and American Home
Mortgage Servicing, Inc. s/b/m to Option One Mortgage
Servicing, Inc. s/b/m to Option One Mortgage Corporation,
Defendants,

Appellant

Of Whom Ziraili M. Elbey is the Appellant.

RECEIVED

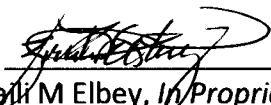
SEP 29 2014

SC Court of Appeals

PROOF OF SERVICE

I certify that Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd., Ste 110,
Columbia, South Carolina, 29210 received a copy of the **MANDATORY JUDICIAL NOTICE OF
ADJUDICATIVE FACT MOTION** by depositing a copy of it in the U.S. Mail, postage prepaid, on
September _____, 2014 addressed to H & R Block Bank, FSB, its attorneys of record, Brock &
Scott.

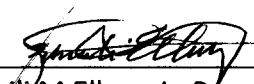
September 24th, 2014

By: 
Zirali M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665

Certificate of Appellant

The undersigned hereby certifies that the **MANDATORY JUDICIAL NOTICE OF ADJUDICATIVE FACT MOTION** contain all material as listed and copies previously submitted and proposed to be included by any of the parties and not any other material. Also, the filing fee is included of US twenty-five dollars USD.

September 24th, 2014

By: 
Zirali M Elbey, *In Propria Persona*
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina, 29707
(803) 233-2665

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SEP 29 2014

SC Court of Appeals

To: Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
P.O. Box 11629, Columbia, SC 29211

September 24, 2014

73687

RE: MANDATORY JUDICIAL NOTICE OF ADJUDICATIVE FACT MOTION

H & R Block v. Ziraili M. Elbey
Appellate Case No. 2013-002373

Ziraili M Elbey, a/k/a/ Ziraili Mohassan El Bey, WKFC Living Trust Under Trust Agreement dated June 4, 2010 by and through its Trustee Wellesley K. Clayton and American Home Mortgage Servicing, Inc. s/b/m to Option One Mortgage Servicing, Inc. s/b/m to Option One Mortgage Corporation, Defendants,

Of Whom Ziraili M. Elbey is the Appellant.


September 24, 2014

Dear Clerk of Court:-

I am in receipt of your three letters. I am addressing your letter through a Mandatory Judicial Notice of Adjudicative Fact Motion. Kindly find a USPS Money Order in the amount of \$25.00 USD for filing this motion. Thank you for your attention to this matter in getting it to the proper case manager. I am including copies with a self-addressed envelope to be stamped and returned to this writer.

Again, thank in advance.

Respectfully,

By: 

Ziraili M. Elbey, 'In Propria Persona'

9789 Charlotte Highway, #400-191

Ft. Mill, SC 29707

(803)233-2665

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SEP 29 2014

SC Court of Appeals

original

To: Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
P.O. Box 11629, Columbia, SC 29211

September 24, 2014

Cc: SC Appellate Court – Clerk of Court
H & R Block Bank, FSB – Counsel Brock & Scott – Chad Burgess
File Copy

ENCLOSURES
1 original
7 copies for judges
1 cover letter
1 copy to be stamped & return to sender

To: Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
P.O. Box 11629, Columbia, SC 29211

September 24, 2014

RE: MANDATORY JUDICIAL NOTICE OF ADJUDICATIVE FACT MOTION

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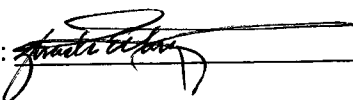
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To: Jenny Abbott Kitchings, Clerk
The South Carolina Court of Appeals
P.O. Box 11629, Columbia, SC 29211

September 24, 2014

Cc: SC Appellate Court – Clerk of Court
H & R Block Bank, FSB – Counsel Brock & Scott – Chad Burgess
File Copy