

Ziraili M. Elbey

9789 Charlotte Highway, #400-191, Ft. Mill, South Carolina 29707

RECEIVED

September 25, 2014

SEP 30 2014

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

SC Court of Appeals

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RE #1: Response to Letter from above named Clerk of Court to Respondent's Counsel dated September 05, 2014 (see Exhibit "A")

RE #2 H & R Block Bank, FSB, Respondent v. Ziraili M. Elbey, Appellant  
Appellate Care No. 2013-002373

**FOR AND ON THE RECORD OF SC APPELLATE COURT**

Dear Clerk:-

Please be advised that I am in receipt of your letter sent to Respondent's Counsel (see Exhibit "A"), that is, the Brock and Scott Law Firm, PPLC. Kindly share with this Appellant, who is not an attorney, in writing, the intent of the Order approved and based on exhibit "A" for Respondent's counsel giving an extension with a deadline indicated now for October 8<sup>th</sup>, 2014 in violation of SCACR Rules. (see Exhibit "B")

These are the facts, held by the South Carolina Appellate court records documented for public record (\*\*note\*\* only those pertinent documents to this above mentioned matter in exhibit "A" are listed below:).

FACTS

Appellant's Initial Brief	Filed under SCACR 208	January 2014 [ served and filed never amended]
Counsel for Respondent's Initial Brief	<i>Failure to Conform</i> SCACR Rule 208(b)(1)(A)-(E)	See Exhibit "B" [ failure to serve and file in a timely manner to Appellant's Initial Brief]
Appellant's Designation of Matters included in the Record on Appeal	By motion filed under SCACR 209	See Exhibit "D" [amended by order July 18, 2014]; [served and filed April 18, 2014]
Counsel for Respondent's Designation of Matters included in the Record on Appeal	<i>Failure to Conform</i> SCACR Rule 209	See Exhibit "D" [ failure to serve and file in a timely manner Designation of Matters in the Record on Appeal even after July 18, 2014 Order] 30 days
Appellant's Notification/Communication to Clerk	Failure to Conform SCACR to Rule 208	See Exhibit "C" [dated April 18,, 2014]

# Ziraili M. Elbey

9789 Charlotte Highway, #400-191, Ft. Mill, South Carolina 29707


## SUMMARY

Based on the above facts, that the counsel for Respondent's failure to respond thirty (30) days following to Appellant's initial brief dated January 23, 2014, plus the tone of the clerk's letter (Exhibit "A") creates the appearance of obstruction of justice, leading, and conspiring with opposing counsel for the purpose of impeding, hindering Appellant's due process and civil rights (see Exhibit E). Again, the intent of exhibit "A", if done in error needs to be clarified in communication and the extension and reverse said Order. There is quite a difference in the SCACR rules 208 for initial brief and SCACR rules 209 for the amended designation of matters. These are two different SCACR rules 208 and rule 209, however, exhibit "A" appears to merge the two (2) documents together *giving advice* to Respondent's counsel, the *"go ahead"* now after six (6) months of non-compliance to the SCACR rules to serve and file initial brief and designation of matters earliest due date February 23, 2014. Further, it appears that in this matter and Order by the South Carolina Appellate Court of Appeals says that two (2) or more persons are conspiring for the purpose of impeding, hindering, obstructing or defeating in any manner the due course of justice in this matter not only under the SCACR Rules 208 and Rules 209, but Title 42 U.S.C. Section 1983, Title 42 U.S. C. Section 1985, and Title 18, U.S.C. Section 241 and others as it pertains to Applicant's civil rights and due process ( Exhibits. E).

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Appellant spoke with this writer's case manager, Diane on Monday, September 22, 2014, about these three (3) letter sent from the clerk of court. Case manager told Appellant that she was on four (4) days leave on the dates of these letters were sent and unable to find copies of same letters in Applicant's file folder. Case manager could not find copies of clerk's letters on public record and could not address any of this writers questions. She suggested that Applicant put all questions in writing to Clerk of Appellate court. Therefore, Jenny Abbott Kitchings, Clerk for the South Carolina Appellate Court of Appeals this writer is awaiting your reply with clarification and intent of your September 05, 2014 letter in question.

Sincerely yours,

By:   
Ziraili M Elbey, *In Propria Persona*  
9789 Charlotte Highway, #400-191  
Indian Land, South Carolina 29707  
803-233-2665

Cc: File  
SC Appellate Case Manager  
John C Few, Chief Appellate Judge  
Chad Wilson Burgess, Respondent's Counsel



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

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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 cursive script, appearing to read "Jenny Abbott Kitchings".

cc: Ziraili M. Elbey

# EXHIBIT "B"

## RULE 208 INITIAL BRIEFS

### (a) Time for Serving and Filing Initial Briefs.

**(1) Brief of Appellant.** 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.

**(2) Brief of Respondent.** Within thirty (30) days after service of appellant's brief, respondent 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.

**(3) Reply Brief.** An appellant may file and serve a brief in reply to the brief of respondent. If a reply brief is prepared, appellant shall, within ten (10) days after service of respondent's brief, serve one copy of the reply brief on all parties to the appeal and file with the clerk of the appellate court one copy of the reply brief with proof of service.

**(4) Failure to File.** Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260. Upon the failure of respondent to timely file a brief, the appellate court may take such action as it deems proper.

### (b) Content. The initial briefs under this Rule and the final briefs under Rule 211 shall contain:

**(1) Brief of Appellant.** The brief of appellant shall contain under appropriate headings and in the order here indicated:

**(A) Table of Contents and Cases.** A table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the brief where they are cited.

**(B) Statement of Issues on Appeal.** A statement of each of the issues presented for review. The statement shall be concise and direct as to each issue, and may be stated in question form. Broad general statements may be disregarded by the appellate court. Ordinarily, no point will be considered which is not set forth in the statement of the issues on appeal.

**(C) Statement of the Case.** The statement shall contain a concise history of the proceedings, insofar as necessary to an understanding of the appeal. The statement shall not contain contested matters and shall contain, as a minimum, the following information: the date of the commencement of the action or matter; the nature of the action or matter; the nature of the defense or of the response; the action of the court, jury, master, or administrative tribunal; the date(s) of trial or hearing; the mode of trial; the amount involved on appeal; the date and nature of the order, judgment or decision appealed from; the date of the service of the notice of

appeal; the date of and description of such orders, judgments, decisions and proceedings of the lower court or administrative tribunal that may have affected the appeal, or may throw light upon the questions involved in the appeal; and any changes made in the parties by death, substitution, or otherwise. Any matters stated or alleged in appellant's statement shall be binding on appellant.

**(D) Argument.** The brief shall be divided into as many parts as there are issues to be argued. At the head of each part, the particular issue to be addressed shall be set forth in distinctive type, followed by discussion and citations of authority. A party may also include a separate statement of facts relevant to the issues presented for review, with reference to the record on appeal, which may include contested matters and summarize the party's contentions.

**(E) Conclusion.** A short conclusion stating the precise relief requested.

**(2) Brief of Respondent.** The brief of respondent shall conform to the requirements of Rule 208(b)(1)(A)-(E), except that a statement of the issues or of the case need not be made unless the respondent is dissatisfied with the statement of the issues or of the case by appellant. If a respondent does not include his own statement of the case, he shall be bound by the matters stated or alleged in appellant's statement of the case. If a respondent does include his own statement of the case, he shall be bound by the matters stated or alleged in his statement of the case. Respondent's brief may also contain argument asking the court to affirm for any ground appearing on the record as provided by Rule 220(c).

**(3) Reply Brief.** All reply briefs shall contain a table of contents, with page references, and a table of cases (alphabetically arranged), statutes, and other authorities cited, with references to the pages of the reply brief where they are cited.

**(4) References to Record.** The brief shall contain references to the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [see Rule 210(c)] to support the salient facts alleged. References shall also be made to where relevant objections and rulings occurred in the transcript. In the initial briefs, these references should be to the page and line number of the transcript prepared by the court reporter or by the page of the material to be referenced; e.g., Answer p. 7, Motion for Judgment p. 2, Transcript p. 231. Intelligible abbreviations may be used. After the Record on Appeal is prepared, these references shall be revised as provided by Rule 211(b)(1).

**(5) Length of Briefs.** Except in cases in which a sentence of death has been imposed, principal briefs shall not exceed fifty (50) pages, and reply briefs shall not exceed twenty-five (25) pages. On motion, the appellate court may grant a party permission to exceed those limitations.

**(6) Joining in Briefs.** In cases involving more than one appellant or respondent, including cases consolidated for appeal, any number of parties may join in a single brief, and any party may adopt by reference all or any part of the brief of another.

**(7) Supplemental Citations.** When pertinent and significant authorities come to the attention of a party after his initial brief(s) has been served and filed, the party shall promptly advise the clerk of the appellate court, by letter, with a copy to all counsel, setting forth the citations. There shall be a reference either to the page of the brief or to an issue to which the citations pertain,

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

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

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APR 18 2014

SC Court of Appeals

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,

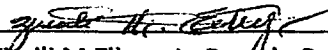
By:   
Ziraili M Elbey, *In Propria Persona*  
9789 Charlotte Highway, #400-191  
Ft. Mill, SC 29707  
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EXHIBIT "C"

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.

# EXHIBIT "D "

## RULE 209

### DESIGNATION OF MATTER TO BE INCLUDED IN THE RECORD ON APPEAL

**(a) Time to Serve and File.** At the same time a party serves his initial brief(s) under Rule 208, to include a reply brief, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the Record on Appeal which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. One copy of this Designation with proof of service shall immediately be filed with the clerk of the appellate court.

**(b) Content.** The Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]. A party shall not include any matter in his Designation which is not relevant to the appeal.

**(c) Certification.** The Designation shall be accompanied by a certificate signed by the party's counsel of record that the Designation contains no matter which is irrelevant to the appeal.

# EXHIBIT "E"

TITLE 18, U.S.C., §241

## **Summary:**

Section 241 of Title 18 is the civil rights conspiracy statute. Section 241 makes it unlawful for two or more persons to agree together to injure, threaten, or intimidate a person in any state, territory or district in the free exercise or enjoyment of any right or privilege secured to him/her by the Constitution or the laws of the United States, (or because of his/her having exercised the same). Unlike most conspiracy statutes, Section 241 does not require that one of the conspirators commit an overt act prior to the conspiracy becoming a crime.

The offense is punishable by a range of imprisonment up to a life term or the death penalty, depending upon the circumstances of the crime, and the resulting injury, if any.

### **TITLE 18, U.S.C., SECTION 241**

***If two or more persons conspire to injure, oppress, threaten, or intimidate any person in any State, Territory, Commonwealth, Possession, or District in the free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States, or because of his having so exercised the same;...***

***They shall be fined under this title or imprisoned not more than ten years, or both; and if death results from the acts committed in violation of this section or if such acts include kidnapping or an attempt to kidnap, aggravated sexual abuse or an attempt to commit aggravated sexual abuse, or an attempt to kill, they shall be fined under this title or imprisoned for any term of years or for life, or both, or may be sentenced to death.***

TITLE 42, U.S.C. §1983

**Title 42 U.S.C. § 1983.** Every person who, under color or any statute, ordinance, regulation, custom or usage, of any State of Territory, subjects ... any citizen of the United States ... to the deprivation of any rights, privileges or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

TITLE 42, U.S.C. § 1985

### **Title 42 U.S.C § 1985 Conspiracy to interfere with civil rights**

(1) Preventing officer from performing duty. If two or more persons ... conspire to prevent ... any person from accepting or holding any office, trust, or place of confidence under the United States; or from discharging any duties thereof; or to injure him in his person or property on account of his lawful discharge of the duties of his

office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties.

(2) Obstructing justice; intimidating party, witness, or juror. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the law, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

(3) Depriving persons of rights or privileges. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; ... or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

**Title 42 U.S.C. § 1985** pertains to a conspiracy to interfere with civil rights, (1) to prevent an officer from performing a duty; (2) obstructing justice; intimidating party, witness, or juror; (3) or depriving persons of rights or privileges.

**Title 42 U.S.C. § 1986. Action for neglect to prevent conspiracy**

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section [42 USCS § 1985], are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses to do so, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful act, which such person by reasonable diligence could have prevented;

And such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action, and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefore, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.



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SC Court of Appeals

The South Carolina Court of Appeals

7010 1670 0002 1822 9312

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V. CLAIRE ALLEN  
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September 04, 2014

ORIGINAL

Sept 25, 2014

Ziraili M. Elbey  
9789 Charlotte Highway #400-191  
Fort Mill SC 29707

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

As of this date Appellant has not received the 18 copies plus original final brief and any and all records on appeal

Plus, kindly explain why these items are being returned as Appellant served & filed per SCACR Rules. *[Signature]*

Dear Ms. Elbey:

We are returning to you the original copy of the appellant's final brief which was filed April 18, 2014, and the amended record on appeal, filed February 6, 2014. Now is not the time to file this material. Please see Rules 210 and 211(a), SCACR, for guidance on when to file the documents with the Court.

ORIGINAL

Very truly yours,

EXHIBIT "A"

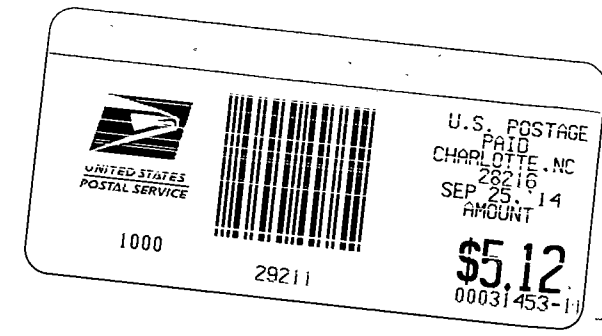
*[Signature]*

CLERK

cc: Chad Wilson Burgess, Esquire

7010 1670 0002 1822 9305

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The SC Court of Appeal  
% Jerry Abbott Kitchings, Clerk  
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