

**APPELLANT'S NOTICE OF OPPOSITION TO  
AMENDED NOTICE OF APPEARANCE OF COUNSEL**

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.

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Come now Appellant, Ziraili M Elbey, a natural born woman on the land, not an attorney, hereby states that more than two hundred and forty days (240+) after the filing of Appellant's SCACR 208 initial brief, and SCACR 208 reply brief, SCACR 209 designation of matters and other pertinent materials. In Opposition to **AMENDED NOTICE OF APPEARANCE OF COUNSEL** now representing H. & R Block Bank, FSB (hereafter the bank or Respondent), in Appellant's case no. 2013-002373 creates not only a breach of trust, but a question of intent.

**PLEASE TAKE MANDATORY NOTICE** pursuant to Rule 201(a-g) that this request for appearance is from a different Law Firm named McGuireWoods. McGuireWoods had every opportunity to following the SCRCR with the Lancaster Court of Common Pleas and file a substitute counsel request and order to join Brock and Scott,

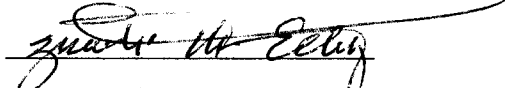
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**SC Court of Appeals**

PLLC in case no. 2011-CP-29-00035 which they fail to do. Therefore, McGuireWoods should be denied appearance of counsel for this Respondent at this late juncture. It is untimely and they fail to do with Lancaster Count of Common Pleas before or after the initial Complaint, Summons and Notices filing 14<sup>th</sup> January 2011.

MCGUIREWOODS never signed a written contract nor requested foreclosure arbitration to contract with Appellant, Ziraili M Elbey; therefore, H & R Block Bank, FSB in case no. 2011-CP-29-00035 dated January 14, 2011 was the only Plaintiff in the aforementioned foreclosure case and Block and Scott PLLC was the only counsel of record. No contract existed between MCGUIREWOODS and this Appellant. Pursuant to S.C.Code Ann. § 15-48-10(a). *See, e.g., Alderman v. Bivin*, 233 S.C. 545, 552, 106 S.E.2d 385, 389 (1958) (A contract may be rescinded on grounds of unilateral mistake if the mistake was "induced by the fraud, deceit, misrepresentation, concealment, or imposition in any form of the party opposed in interest to the reformation or rescission, without negligence on the part of the party claiming the right."); *Richardson's Restaurants, Inc. v. National Bank of S.C.*, 304 S.C. 289, 297, 403 S.E.2d 669, 673 (Ct.App.1991) ("At common law, a party to a contract cannot avoid it on the ground that he/she/it made a mistake if there has been no misrepresentation, there is no ambiguity in the terms of the contract, and the other party has no **notice** of the mistake and acts in good faith. An erroneous impression taken up from the suggestion of the party's own mind does not relieve him/her/it from the contract.") (citations omitted); *see also Smothers v. United States Fidelity & Guar. Co.*, 322 S.C. 207, 210, 470 S.E.2d 858, 860 (Ct.App.1996) ("It is the general rule that a court of equity will not, where a mistake of law is disclosed, grant relief from the consequences thereof in the absence of fraud or undue influence."). Appellant, Ziraili M. Elbey never signed written **contract** with MCGUIREWOODS nor did **foreclosure arbitration** occur in the conduct of initial foreclosure case. This request will violate SCACR 209 & 210(c), the Record on Appeal since the designation of matters were previously submitted in a timely manner. This request is a thinly-veiled attempt to circumvent due process of this Appellant's case. It is untimely, improper and should be denied as MCGUIREWOODS was not a Substitute Counsel in the lower court.

For these reasons, Amended Notice of Appearance of Counsel request for MCGUIREWOODS as another counsel for the bank in case no. 2013-002373 should be denied.

October 20<sup>th</sup>, 2014

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

Cc: File  
Brock & Scott, PLLC  
McGuireWoods

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Appellant

Of Whom Ziraili M. Elbey is the Appellant.

**PROOF OF SERVICE**

I certify that Brock & Scott, PLLC, Attn: Chad Burgess, 3800 Fernandina Rd., Ste 110, Columbia, South Carolina, 29210 and Benjamin Milam, McGuireWoods at 201 North Tryon Street, Suite 2900, Charlotte, NC 28202-4011 received a copy of the **APPELLANT'S OPPOSITION NOTICE TO AMENDED NOTICE OF APPEARANCE OF COUNSEL** by depositing a copy of it in the U.S. Mail, postage prepaid, on October 20<sup>th</sup>, 2014 addressed to above counsel listed and this Appellate Court.

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**SC Court of Appeals**

October 30<sup>th</sup>, 2014

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

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### Certificate of Appellant

The undersigned hereby certifies that the **APPELLANT'S OPPOSITION NOTICE TO AMENDED NOTICE OF APPEARANCE OF COUNSEL** contain all material as listed and copies previously submitted and proposed to be included by any of the parties and not any other material.

October 30<sup>th</sup>, 2014

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

Ziraili M Elbey

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

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**SC Court of Appeals**

October 20, 2014

Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC (29201)


**RE: H & R Block Bank, FSB v Ziraili M. Elbey et al. Case No. 2013-002373  
and Appellant's Opposition of Notice to Amended Notice of Appearance**

Dear Clerk:

Enclosed please find the original, plus one copy of the Appellant's Opposition of <sup>Notice</sup> ~~Notice~~ to Amended Notice of Appearance regarding the above captioned matter. Please fill the originals with this court and return a conformed copy to this writer in self-addressed envelope.

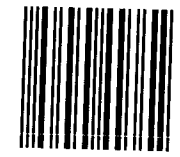
Thank you for your prompt attention to this matter. Please do not hesitate to contact me should you have any questions.

October 20<sup>th</sup>, 2014

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

Cc: File  
Brock & Scott, PLLC  
McGuireWoods

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Ft Mill, SC 29707



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/s/ Jimmy Abbott K. Pehring, Clerk  
P.O. Box 11629 or 1015 Sumter St (29201)  
Columbia, SC 29211

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