

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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NOV 18 2014

APPEAL FROM BERKELEY COUNTY  
Court of Common Pleas

**SC Court of Appeals**

The Honorable Robert E. Watson, Master in Equity

Appellate Case No. 2014-000696  
Circuit Court Case No. 2011-CP-08-02434

Deutsche Bank National Trust,..... Respondent,

v.

Eugene Elmore and Gwendolyn Elmore, ..... Appellants.

RETURN TO MOTION TO REINSTATE APPEAL

Respondent respectfully opposes Appellants' Motion to Reinstate this appeal, which has now been dismissed twice. Simply put, despite being given multiple opportunities to do so, Appellants have not complied with the Appellate Court Rules or the latitude from those Rules that the Court has previously given them.

Beginning with Appellants' very first filing, the Court has identified a series of procedural problems created by Appellants:

- **April 3, 2014:** The Court served Appellants with a deficiency notice that identified a series of defects in their Notice of Appeal.
- **July 11, 2014:** The Court served Appellants with a notice that their failure to file a Designation of Matter could result in the dismissal of their appeal.
- **August 28, 2014:** The Court dismissed this appeal because Appellants failed to serve and file the Record on Appeal.
- **November 6, 2014:** After receiving numerous letters from Appellants, the Court reinstated their appeal. However, Appellants again failed to file the Record on Appeal, as directed by the Court. Accordingly, the Court once again dismissed this appeal.

Now, Appellants ask the Court to reinstate their appeal once more so that they can comply with a filing requirement that they have repeatedly ignored since briefing closed in July. Appellants have never offered any legitimate explanation for their failure to comply with the Appellate Court Rules or with this Court's prior instructions, but their conduct on appeal appears consistent with their trial-level behavior that has needlessly dragged this case out.

Indeed, as explained in Respondent's Statement of the Case, the final judgment in this case was entered on July 24, 2013, after Appellants never answered the complaint, and the property at issue in this foreclosure action was sold at auction on November 6, 2013. Nevertheless, Appellants waited until January 17, 2014—almost six months after judgment was entered against them—to make their first appearance with a motion to vacate the earlier judgment. Appellants based their belated motion on the unsupported proposition that “once a debtor signs a Promissory Note, the debtor has no further obligation to the Note because the Note has become a check.” (Initial Br. of Resp't at 2–3 (July 7, 2014).)

Not surprisingly, the circuit court denied that motion, and that denial was the basis of this appeal. In the meantime, though, Appellants have refused to leave their property, and the Master in Equity issued a Rule to Show Cause against them on this point, though no hearing has been held due to the pendency of this appeal. (*Id.*)

Given the procedural history at both the trial and appellate levels, the Court should reject Appellants' efforts to prolong this litigation. There is no legitimate basis to reinstate this appeal once more, and Respondent respectfully requests that the Court deny Appellants' motion.

Respectfully submitted,

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November 18, 2014



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November 18, 2014

The Honorable Jenny Abbott Kitchings  
Clerk of Court, South Carolina Court of Appeals  
1015 Sumter Street  
Columbia, SC 29201

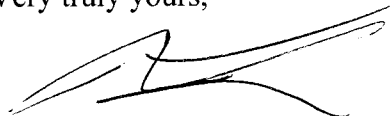
Re: Deutsche Bank National Trust, v. Eugene Elmore and Gwendolyn Elmore  
Appellate Case No. 2014-000696  
Circuit Court Case No. 2011-CP-08-02434

Dear Ms. Kitchings:

Enclosed please find Respondent's Return to Motion to Reinstate Appeal. Please file the original and return a clocked copy to us.

With kind regards, I remain

Very truly yours,

  
M. Todd Carroll

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MTC/tm

cc: Eugene Elmore  
Gwendolyn Elmore