

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

The Honorable Joseph M. Strickland
Master-In-Equity

Case No. 2014-000140

Bank of America, N.A. Respondent,
v.

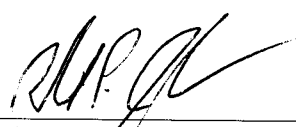
Duce Staley, Felicia Woods a/k/a Felicia B. Woods,
SCBT, N.A., South Carolina Department of Revenue,
Palmetto Health, Manheim Automotive Financial Services, Inc.,
and Spring Valley Homeowners' Association, Defendants,

And, Willie Zimmerman, Third Party Participant,
Appellant.

RESPONDENT'S MOTION TO STRIKE APPELLANT'S FINAL BRIEF

Respondent now moves to strike the Appellant's Final Brief for failure to comply with South Carolina Appellate Court Rule 211(b) by the addition of paragraphs not contained in his initial brief.

October 31, 2014


Robert P. Jackman, SC Bar No.: 78755
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Attorney for Respondent

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SC Court of Appeals

THE RESPONDENT HEREBY MOVES TO STRIKE APPELLANT'S FINAL BRIEF FOR FAILURE TO COMPLY BY SOUTH CAROLINA APPELLATE COURT RULE 211(b) BY ADDING ADDITIONAL PARAGRAPHS THAT WERE NOT CONTAINED IN THE INITIAL BRIEF.

1. Respondent filed its Summons and Complaint, 2011-CP-40-08074, seeking foreclosure on November 23, 2011.

2. Judge Joe M. Strickland, Richland County Master in Equity, issued a Master's Order and Judgment of Foreclosure and Sale on September 20, 2012.

3. Foreclosure sale occurred on April 1, 2013 and Appellant was the successful bidder.

4. At hearing on June 21, 2013 Judge Strickland ruled that the April 1, 2013 foreclosure sale should be vacated for Appellant's failure to provide the bid, minus the 5% deposit, within twenty (20) days of sale and issued a formal order on July 30, 2013.

5. Appellant appeared pro se at hearing on June 21, 2013.

6. The foreclosure sale was rescheduled to September 3, 2013 and Appellant was the successful bidder.

7. At a Status Conference on November 21, 2013 Judge Strickland ruled the September 3, 2013 foreclosure sale be vacated for Appellant's failure to provide the bid, minus the 5% deposit, within thirty (30) days and executed a formal order on December 17, 2013.

8. Beth Bernstein, Esq. appeared on behalf of Appellant on November 21, 2013.

9. Appellant filed a Notice of Appeal in the Court of Appeals on January 6, 2014 expressing the intent to appeal Judge Strickland's December 16 [sic], 2013 Order

Vacating the Sale.

10. Appellant acknowledges receipt of the December 16 [sic], 2013 order on December 16 [sic], 2013.

11. On February 25, 2014 Appellant filed an Initial Brief of Appellant seeking to appeal Judge Strickland's Order Vacating Sale executed on July 30, 2013.

12. On October 8, 2014, Appellant filed a Final Brief of Appellant which contained several paragraphs that were not contained in the Initial Brief submitted on February 25, 2014.

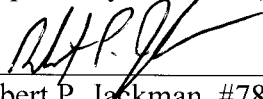
13. Rule 211(b) provides, "[t]he final brief(s) shall be identical to the brief(s) previously served under Rule 208, except for the following: (1) References to the Record; (2) Correction of Typographical Errors and Misspellings." Rule 211(b), SCACR.

14. Appellant's Initial Brief improperly seeks to submit for appellate review issues that were not contained in his initial brief.

For the reasons stated, Respondent respectfully requests that this Court STRIKE Appellant's Final Brief where it seeks appellate review of issues not contained in Appellant's Initial Brief in violation of South Carolina Appellate Court Rule 211(b).

October 31, 2014

Respectfully submitted,


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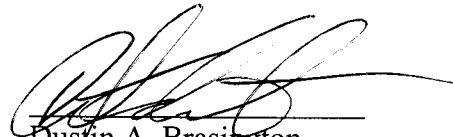
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and Spring Valley Homeowners' Association, Defendants,

And, Willie Zimmerman, Third Party Participant,
Appellant.

PROOF OF SERVICE

I certify that I have served Respondent's Motion to Strike Appellant's Final Brief on Willie Zimmerman by depositing a copy of it in the United States Mail, postage prepaid, on November 7, 2014 addressed to Appellant, Willie Zimmerman, at Post Office Box 2013, Irmo, SC 29063.



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Paralegal to Robert P. Jackman

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November 7, 2014

The Honorable Jenny Abbott Kitchings
Court of Appeals Clerk of Court
Post Office Box 11629
Columbia, SC 29211

RE: **Bank of America, N.A., vs. Duce Staley, et al.**
Case No.: 2014-000140
Our File No.: F11-06934

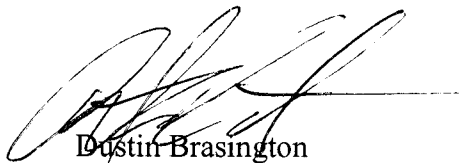
Dear Sir or Madam:

Enclosed please find an original and six (6) copies of the Respondent's Motion to Strike Appellant's Final Brief and Proof of Service in the above-referenced matter. Also enclosed is a check in the amount of \$25.00 for our filing fee. Please file same and return one copy to me marked "filed" in the self-addressed, stamped envelope provided.

By copy of this letter, I am hereby serving the appellant with a copy of the above documents.

If you have any questions or should need anything further, please do not hesitate to contact me.

Sincerely,



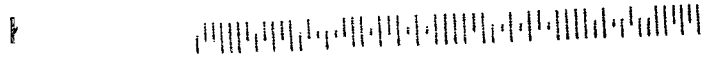
Dustin Brasington
Litigation Paralegal

Enc. (as stated)

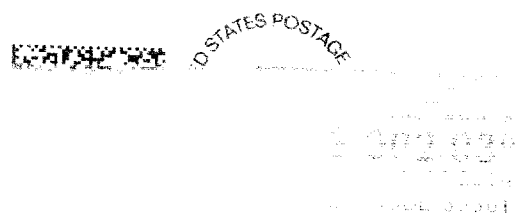
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