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**SC Court of Appeals**

Clerk of Court of Appeals  
1015 Sumter St  
Columbia SC 29201

December 4, 2014

In re: Regions Bank v. Mark V. Day  
Appellate Case No. 2014-002359

Dear Clerk,

Our office is in receipt of your memo dated November 17, 2014. Given the standing of the claim and the authority outlined below, Defendant may not appeal the order of the Court striking his "Notice of Removal to the United States District Court" entered on September 29, 2014.

Briefly, I will provide a procedural history of the case. Since there is no record on appeal yet, I will refer to the dates in my file concerning the action in the trial division, styled as "Regions Bank v. Mark V. Day, a/k/a Mark Vinson Day," docket no. 2014-CP-02-01544, Aiken County Court of Common Pleas. On July 8, 2014, Plaintiff, through counsel, filed a complaint against the Defendant on a purchase money loan for a motor vehicle. After

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service of the summons and complaint on July 16, 2014, Defendant thereafter failed to reply within thirty days as required under SCRPC, Rule 12. Plaintiff, through counsel, served a motion for default judgment on August 22, 2014, which motion was granted on September 8, 2014.

Subsequent to entry of the Order of Default and Judgment, Defendant filed a document captioned "Notice of Removal to the United States District Court" on September 15, 2014. Our office contends there were various legal defects in filing such a document after entry of judgment in South Carolina Circuit Court, therefore we served a Motion to Strike the "Notice of Removal to the United States District Court" on September 16, 2014. Judge Early granted the motion to strike by order entered September 29, 2014.

Pursuant to Rule 201(a), SCACR, appeal may only be taken from a final judgment or appealable order.

S.C. Code § 14-3-330 provides the basis of appellate jurisdiction as follows:

(1) Any intermediate judgment, order or decree in a law case involving the merits in actions commenced in the court of common pleas and general sessions, brought there by original process or removed there from any inferior court or jurisdiction, and final judgments in such actions; provided, that if no appeal be taken until final judgment is entered the court may upon appeal from such final judgment review any intermediate order or decree necessarily affecting the judgment not before appealed from;

(2) An order affecting a substantial right made in an action when such order (a) in effect determines the action and prevents a judgment from which an appeal might be taken or discontinues the action, (b) grants or refuses a new trial or (c) strikes out an answer or any part thereof or any pleading in any action;

(3) A final order affecting a substantial right made in any special proceeding or upon a summary application in any action after judgment; and

(4) An interlocutory order or decree in a court of common pleas granting, continuing, modifying, or refusing an injunction or granting, continuing,

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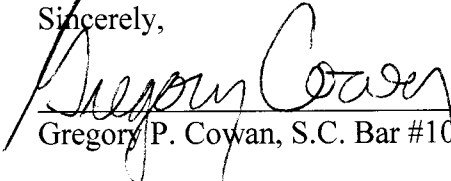
modifying, or refusing the appointment of a receiver.

As stated by the South Carolina Supreme Court, “[t]he provisions of [s]ection 14–3–330 [...], have been narrowly construed and immediate appeal of various orders issued before or during trial generally has not been allowed. Piecemeal appeals should be avoided and most errors can be corrected by the remedy of a new trial.” Hagood v. Sommerville, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005).

Defendant’s appeal does not fall within sub-section (1), as follows: the order of the court is not an intermediate judgment, order or decree, since final judgment had previously been rendered on September 8, 2014. Furthermore, Defendant did not appeal an order affecting a substantial right under sub-section (2), since the order does not determine the action. As previously mentioned, the action had been determined on September 8, 2014. The order neither granted nor refused a new trial, and it did not strike out an answer or any part thereof or any pleading in any action. Under sub-section (3), the order does not affect a substantial right in a special proceeding, insofar as the present action is not a special proceeding. Finally, under sub-section (4), the order does not concern an injunction or the appointment of a receiver.

As stated above, Defendant may not appeal this order, since the appellate division lacks jurisdiction over the case.

Sincerely,



Gregory P. Cowan, S.C. Bar #100299

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