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ROBERT N. HILL
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December 11, 2014

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DEC 12 2014

SC Court of Appeals

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

Re: 21st Mortgage Corp. v. Youmans, et.al., No. 2011-CP-03-127
Appellate Case No. 2013-001844

Dear Ms. Kitchings,

This is a Rule 208(b)(7), SCACR, letter to bring *Buist v. Buist*, Op. No. 27468 (S.C. Sup.Ct. filed December 3, 2014) (Shearouse Adv.Sh. No. 49 at 61), to the Court's attention.

Buist holds that an issue will not be heard on appeal unless it was raised and ruled on in the trial court, and that a party must draw the trial court's attention to the precise nature of the alleged error. It is cited to show that 21st Mortgage's arguments about collateral estoppel do not preserve its new arguments about the constitution or whether Youman's judgment satisfies S.C. Code Ann. § 37-2-404(1).

At yesterday's oral argument, the parties agreed that 21st Mortgage did not argue constitutional due process to the trial court. The trial court did not rule on the constitution (Record pp. 2-8); the Rule 59 motion did not ask for a ruling on the constitution (Record, 55-57); and the constitution was not cited in either of 21st Mortgage's two appellate briefs.

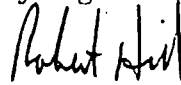
21st Mortgage likewise raises new argument when it says that Youman's judgment does not satisfy S.C. Code Ann. § 37-2-404(1). The record does not show that this was raised before the trial court entered summary

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judgment, and neither the Rule 59 motion (Record, pp. 55-57) nor 21st Mortgage's opening appellate brief mentions § 37-2-404(1) or offers any views on the provision's proper construction.

Chief Judge Few and Judges Thomas and Lockemy heard the appeal. Please bring *Buist* to their attention.

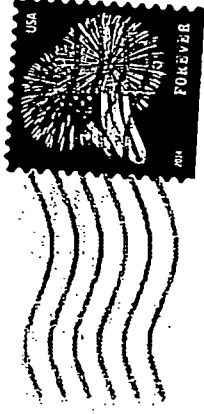
My highest regards,

A handwritten signature in black ink, appearing to read "Robert Hill". The signature is written in a cursive style with a large initial "R".

Robert Hill

cc: Mark B. Tinsley, Esq.
Thomas E. Lydon, Esq.

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COLUMBIA, SC 292

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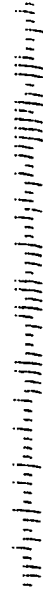
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Reply To

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DEC 16 2014

SC Court of Appeals

December 15, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29201

**Re: 21st Mortgage Corporation v. Robert Youmans and Tonya Stoney
Appellate Case No. 2013-001844**

Dear Ms. Kitchings:

I represent the Appellant in the above-referenced appeal. This letter is in response to the Rule 208(b)(7) letter submitted by the attorney for the Respondents.

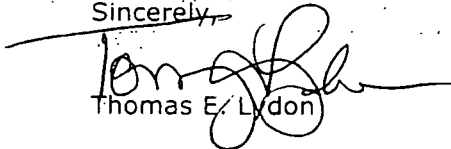
The letter from Respondents' attorney ignores the requirements of Rule 208(b)(7) in two important respects. First, the rule allows a party to submit supplemental citations to authorities that are "pertinent and significant." The rule also states that the letter shall be "without argument." However, Respondents' letter does not comply with either of these requirements. Instead, it is simply an attempt by Respondents' counsel to circumvent Appellant's right to "open and close the argument." Rule 218(a), SCACR.

While the *Buist v. Buist* opinion may be pertinent, it is not significant. The paragraph in *Buist* that is cited by Respondents' counsel is no more than a statement of the well-settled law in this state and does not change the existing law in any way. Furthermore, after citing the case and stating the reason for citing it, Respondents' counsel then proceeds to violate Rule 208(b)(7) a second time by including two paragraphs of argument in his letter.

It would be hypocritical of me to complain about Respondents' counsel violating the rule and then to violate the rule myself by including responsive arguments in this letter. Therefore, I am requesting the Court's permission to respond to the arguments in the letter from Respondents' counsel. I believe that I should be allowed to submit such a response in order to preserve my right to close the argument as provided in the South Carolina Appellate Court Rules.

Thank you for your consideration of this request.

Sincerely,


Thomas E. Lydon

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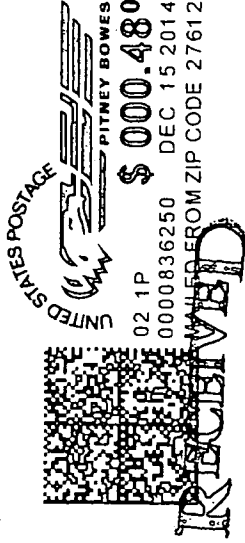
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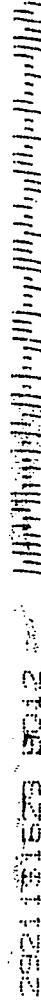
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DEC 17 2014

Re: 21st Mortgage Corp. v. Youmans, et.al., No. 2011-CP-03-127
Appellate Case No. 2013-001844

SC Court of Appeals

Dear Ms. Kitchings,

Youmans received 21st Mortgage's letter to you dated December 15, 2014 and disagrees with its reading of the appellate rules.

Rule 208(b)(7) allows a party to cite authority that the citing party considers significant enough to bring to the Court's attention. The Court decides how significant the authority is once it is brought to the Court's attention.

Rule 208(b)(7) also allows a party to state reasons for the citation and refer to the issue to which the citation pertains. Youmans's letter about *Buist v. Buist*, Op. No. 27468 (S.C. Sup.Ct. filed December 3, 2014)(Shearouse Adv.Sh. No. 49 at 61), does not cross this line.

Lastly, Rule 218(a) is not a license to raise new issues at oral argument, in a reply brief, or for the first time on appeal.

Still, Youmans has no objection if 21st Mortgage wants to submit a fuller response on *Buist*. If the Court grants leave, Youmans asks 21st Mortgage to please cite where in the record -- or in its opening brief -- that it mentioned the constitution or how to construe S.C. Code Ann. § 37-2-404(1).

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Chief Judge Few and Judges Thomas and Lockemy heard the appeal.
Youmans again asks that *Buist* be brought to their attention.

My highest regards,



Robert Hill

cc: Mark B. Tinsley, Esq.
Thomas E. Lyden, Esq.

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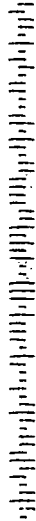
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