

RECEIVED
DEC 22 2014
SC Court of Appeals

KORN LAW FIRM, P.A.
ATTORNEYS AND COUNSELORS AT LAW
1300 PICKENS STREET
COLUMBIA, SOUTH CAROLINA 29201

MAILING ADDRESS
POST OFFICE BOX 12369
COLUMBIA, SOUTH CAROLINA 29211-2369
(803) 252-5817
FACSIMILE (803) 231-2060

December 19, 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. Johnson D. Koola, et al.**
Case No.: 2014-001323
Our File No.: F10-04188

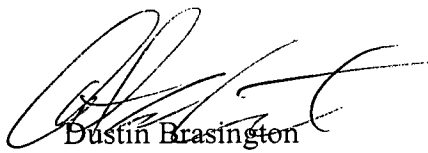
Dear Sir or Madam:

Enclosed please find an original and six (6) copies of the Respondent's Return to Appellant's Motion to Sanction the Respondent and Proof of Service in the above-referenced matter. 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)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Master in Equity

The Honorable Mikell Scarborough

Appellate Case No. 2014-001323

RECEIVED
DEC 22 2014
SC Court of Appeals

Bank of America, N.A.,

Respondent,

v.

Johnson D. Koola, First Citizens Bank and Trust Company, Inc.,
f/k/a First Citizens Bank and Trust Company of South Carolina,
and Cambridge Lakes Condominium Homeowners Association, Inc.,
f/k/a Cambridge Lakes Horizontal Property Regime,
Defendants,

Of whom Johnson D. Koola is the

Appellant.

**RESPONDENT'S RETURN TO APPELLANT'S MOTION TO SANCTION THE
RESPONDENT**

Robert P. Jackman, SC Bar No. 78755
Korn Law Firm, P.A.
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2359
(803) 252-5817
Attorney for Respondent

Johnson D. Koola
1587 Cambridge Lakes Drive
Mt. Pleasant, SC 29464
Pro Se Appellant

Other Counsel of Record:

Dean A. Hayes, Esq.
Korn Law Firm, P.A.
1300 Pickens Street
Post Office Box 12369
Columbia, SC 29211-2359
(803) 252-5817

John Sanford Kay, Esquire
Hutchens Law Firm
Post Office Box 8237
Columbia, SC 29202
(803) 726-2700

S. Nelson Weston, Jr., Esq.
Richardson Plowden & Robinson PA
1900 Barnwell Street
Columbia, SC 29201
(803) 771-4400

Eugene P. Corrigan, III, Esq.
Corrigan & Chandler, LLC
Post Office Box 547
Charleston, SC 29402
(843) 577-5450

PURSUANT TO RULE 240(E), SCACR, THE RESPONDENT HEREBY FILES ITS RETURN TO APPELLANT'S MOTION TO SANCTION THE RESPONDENT, AVERRING AS FOLLOWS:

1. Respondent filed its initial brief in this matter with the Clerk of Court for the South Carolina Court of Appeals on November 14, 2014.

2. Along with its initial brief, Respondent filed a proof of service certifying that a copy of its initial brief was served on Appellant by depositing the same into the United States Mail on November 14, 2014 addressed to Appellant at 462 Commonwealth Road, Mt. Pleasant, South Carolina 29644.

3. On December 18, 2014, Respondent received a copy of Appellant's Motion to Compel Respondent to Serve Respondent's Brief on the Appellant and Motion to Sanction the Respondent.

4. Appellant's motion states that Appellant has not yet received a copy of Respondent's initial brief and seeks an award of sanctions against Respondent alleging that Respondent filed a false certification in its proof of service of its initial brief on Appellant.

5. Appellant alleges that said false certification constitutes perjury by Respondent.

6. Upon review of the file by Respondent's counsel, it was discovered that Respondent inadvertently listed an incorrect address for Appellant, therefore identifying why Appellant had not received Respondent's initial brief.

7. This scrivener's error by Respondent was a result of Respondent's counsel failing to change the address for Appellant on a brief Respondent had filed in a separate

matter that was used as a template by Respondent's counsel for the purpose of formatting and ensuring compliance with Rule 267, SCACR.

8. A stated in the proof of service filed by Respondent along with its initial brief on November 14, 2014, Respondent did serve a copy of its initial brief on Appellant by depositing the same into the United States Mail on November 14, 2014 addressed to Appellant at 462 Common Wealth Road, Mt. Pleasant, South Carolina 29644.

8. Although the address for Appellant contained in its proof of service was incorrect, the proof of service filed by Respondent did not contain any false, misleading or fraudulent information, and was merely a scrivener's error by Respondent, as Respondent did mail a copy of its initial brief to Appellant on November 14, 2014 to 462 Common Wealth Road, Mt. Pleasant, South Carolina 29644.

9. The certification made in Respondent's proof of service for its initial brief accurately stated when, where and the manner in which Respondent served its initial brief on Appellant, therefore the certification was not false, misleading or fraudulent and no perjury was committed by Respondent.

10. Scrivener's errors and excusable neglect are not grounds for sanctions to be imposed on a party without the party first being afforded the opportunity to correct its mistake.

11. Concurrent with the submission of this return, Respondent is hereby serving on Appellant a copy of its initial brief filed on November 14, 2014 at Appellant's correct address of 1587 Cambridge Lakes Drive, Mt. Pleasant, South Carolina 29464.

12. Respondent is also filing an amended proof of service for its initial brief with the Clerk of Court for the South Carolina Court of Appeals.

For the reasons stated, Respondent respectfully requests that this Court issue an order denying the Appellant's Motion to Sanction the Respondent and requiring the Record on Appeal to be filed and served by Appellant within thirty (30) days of the date of Respondent's amended service of its initial brief on Appellant pursuant to Rule 210(a), SCACR.

Respectfully submitted,



Robert P. Jackman, #78755
1300 Pickens Street
P.O. Box 12369
Columbia, SC 29211
(803) 252-5817
Bob.Jackman@kornlawfirm.com
Attorney for Respondent

December 19, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM CHARLESTON COUNTY DEC 22 2014
Master in Equity

SC Court of Appeals

The Honorable Mikell Scarborough

Appellate Case No. 2014-001323

Bank of America, N.A.,

Respondent,

v.


Johnson D. Koola, First Citizens Bank and Trust Company, Inc.,
f/k/a First Citizens Bank and Trust Company of South Carolina, and
Cambridge Lakes Condominium Homeowners Association, Inc.,
f/k/a Cambridge Lakes Horizontal Property Regime,
Defendants,

Of whom Johnson D. Koola is the

Appellant.

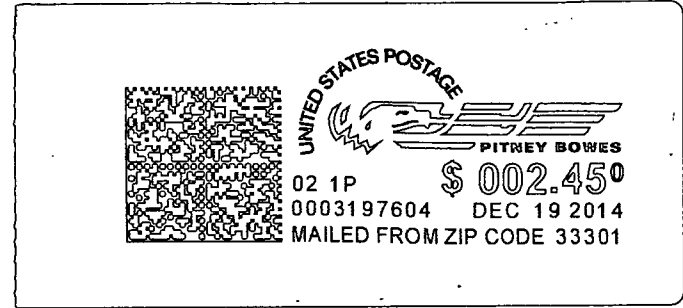
PROOF OF SERVICE

I, Dustin Brasington, certify that I have served a copy of Respondent's Return to Appellant's Motion to Sanction the Respondent on Appellant Johnson D. Koola by depositing a copy of it in the United States Mail, postage prepaid, on December 19, 2014 addressed to Appellant at 1587 Cambridge Lakes Drive, Mt. Pleasant, South Carolina 29464.


Dustin Brasington
Paralegal to Robert P. Jackman

December 19, 2014.

Korn Law Firm
PO Box 12369
Columbia, SC 29211



DAB

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

RECEIVED
DEC 22 2014
SC Court of Appeals