

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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JAN 09 2015

APPEAL FROM BEAUFORT COUNTY  
Marvin H. Dukes, III, Special Circuit Court Judge

**SC Court of Appeals**

74722

Case No. 2013-CP-07-00610

First South Bank .....Respondent,

v.

John E. Rosenberg and Phillip J. Brust..... Defendants,

Of Whom Phillip J. Brust is.....Appellant.

NOTICE OF APPEAL

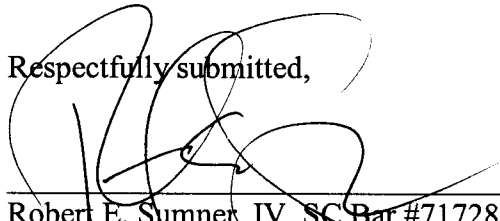
Appellant Phillip J. Brust appeals two separate orders from the trial court. Appellant appeals the Order of the Honorable Marvin H. Dukes, III, Master in Equity sitting as Special Circuit Judge for the Beaufort County Court of Common Pleas, in the above-captioned matter, denying Appellant’s Motion to Amend Answer and Cross-claims Against Defendant John E. Rosenberg (the “Motion to Amend”), which was entered on December 2, 2014 and filed on December 10, 2014. (See Order Denying Motion to Amend, attached hereto as Exhibit A). On May 30, 2014, Appellant filed the Motion to Amend. Judge Dukes denied the Motion to Amend pursuant to the Order entered on December 2, 2014 and filed on December 10, 2014. Appellant

received written notice of entry of the Order denying the Motion to Amend on December 10, 2014.

Appellant further appeals the Order of Honorable Marvin H. Dukes, III, Master in Equity sitting as Special Circuit Judge for the Beaufort County Court of Common Pleas, granting Respondent's Motion for Summary Judgment entered July 31, 2014, and filed August 5, 2014 (*See* Order Granting Motion for Summary Judgment, attached hereto as Exhibit B). Judge Dukes granted summary judgment in favor of the Respondent pursuant to the Order entered July 31, 2014, and filed August 5, 2014. On August 18, 2014, Appellant timely filed and served a Motion for Reconsideration. On September 15, 2014, First South Bank filed its Opposition to the Motion for Reconsideration, and on October 15, 2014, Appellant filed a Supplemental Memorandum in Support of Motion for Reconsideration. Judge Dukes entered and filed the Order Denying the Motion for Reconsideration on December 18, 2014. Appellant received written notice of entry of Judge Dukes' Order Denying the Motion for Reconsideration on December 18, 2014.

January 8, 2015

Respectfully submitted,



Robert E. Sumner, IV, SC Bar #71728

E. Brandon Gaskins, SC Bar #73274

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*Attorney for Appellant Phillip J. Brust*

Other Counsel of Record:

Jeffrey L. Silver, Esquire  
Tyler, Cassell, Jackson, Peace & Silver, LLC  
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Columbia, SC 29211  
(803) 779-4997

*Attorney for Respondent First South Bank*

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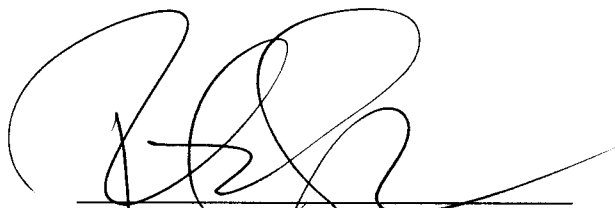
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PROOF OF SERVICE OF NOTICE OF APPEAL

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This is to certify that I have this day served counsel for the Respondent in the foregoing matter with a copy of the foregoing *Notice of Appeal* by depositing same in the United States Mail with adequate postage affixed thereon to ensure delivery, addressed as follows:

Jeffrey L. Silver, Esquire  
Tyler, Cassell, Jackson, Peace & Silver, LLC  
1331 Elmwood Avenue, Suite 300  
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Columbia, SC 29211  
(803) 779-4997



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[brandongaskins@mvalaw.com](mailto:brandongaskins@mvalaw.com)

Attorney for Appellant Phillip J. Brust

January 8, 2015

Charleston, South Carolina

**Moore & Van Allen**

January 8, 2015

**VIA OVERNIGHT MAIL**

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

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Attorney at Law

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**RE: First South Bank v. John E. Rosenberg and Phillip J. Brust  
Case No. 2013-CP-07-00610  
MVA File No. 038043.1**

Dear Ms. Kitchings:

Enclosed for filing please find the original and one (1) copy of a Notice of Appeal in the above referenced matter. I am filing a copy of the Notice and this letter with the Beaufort County Court of Clerk of Court, and I am enclosing a check in the amount of \$100.00 for the requisite filing fee. Please file the original and return a file stamped copy in the self-addressed envelope provided.

By copy of this letter, I am serving all counsel of record with a copy of the same.

Thank you for your assistance in this matter.

Sincerely,

Moore & Van Allen PLLC

Robert E. Sumner, IV

RES/hm

Enclosures: as stated

cc: Jeffrey L. Silver, Esquire  
Beaufort County Clerk of Court

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**SC Court of Appeals**