

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

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Case No. 2014-002748  
Civil Action No.: 2010-CP-40-7917

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Deutsche Bank National Trust  
Company, as Trustee for HSI  
Asset Securitization Corporation Trust 2006-  
OPT3, Mortgage Pass-Through Certificates, Respondent,

v.

Minnie L. Williams and  
Mildred W. Glover, Unifund  
CCR Partners, Option One  
Mortgage Corporation,

Of whom Minnie L. Williams  
and Mildred W. Glover are the Appellants

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Return to Respondent's Motion to Dismiss

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Pursuant to Rule 240, SCACR, Appellants respond to Respondent's Motion to Dismiss. Respondent contends that the Notice of Appeal was not filed within the 30 days after receiving written notice of the entry of the order so the appellate court does not have subject matter jurisdiction over this case. The Notice of Appeal was timely served in accordance with South Carolina Appellate Court Rules and state law.

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Rule 203(b) SCACR says “A notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order of judgment,” and Rule 6(e) South Carolina Rules of Civil Procedure, which allows for an extra 5 days to respond to any item served by mail, does not apply to the service of the notice of appeal. However Rule 263(a) says,

“In computing any period of time prescribed or allowed by these Rules, by order of court, or by any applicable statute, the day of the act, event, or default after which the designated period of time begins to run is not to be included. **The last day of the period so computed is to be included, unless it is a Saturday, Sunday or a state or federal holiday, in which event the period runs until the end of the next day which is neither a Saturday, Sunday nor such holiday.**”

Rule 263(a) SCACR (emphasis added). The order that is being appealed was received November 24, 2014. December 24, 2014 would have been the last date for the service of the notice of appeal, except for the fact that December 24<sup>th</sup> was a state holiday. South Carolina Code ann section 53-5-10 lists the state holidays for South Carolina. It says,

“**SECTION 53-5-10.** Legal holidays enumerated; holiday schedules of public colleges and universities

The first day of January - New Year's Day, the third Monday of January - Martin Luther King, Jr. Day, the third Monday in February - George Washington's birthday/President's Day, the tenth day of May - Confederate Memorial Day, the last Monday of May - National Memorial Day, the fourth day of July - Independence Day, the first Monday in September - Labor Day, the eleventh day of November - Veterans Day, National Thanksgiving Day and the day after, and the **twenty-fourth, twenty-fifth, and twenty-sixth days of December in each**

**year** are legal holidays.

The holiday schedules of public colleges and universities, including technical colleges, shall not be in violation of this section so long as the number of holidays provided for in this section are not exceeded.” (emphasis added)

Christmas Eve was added to this code section as an official state holiday in June 2009 by 2009 Act no. 33. A copy of this act is included as Exhibit “A.” This law is still valid as of the filing of the notice of appeal in this action.

Following Rule 263(a), the “next day which [was] neither a Saturday, Sunday, nor [a state or federal holiday]” was Monday December 29, 2014. The Court of appeals addressed this same issue in In the Interest of Robert R. The Appellate Court in that case said, “Robert timely served his notice of appeal on May 26 because the prior two days were not used in computing his time to serve. We, therefore, conclude we have subject matter jurisdiction to review his appeal.” 340 S.C. 242, 244, 531 S.E.2d 301, 302, 2000 S.C. App. LEXIS 76, 1 (S.C. Ct. App. 2000).

For this reason, the Appellant asks that the respondent’s motion to dismiss be denied.

January 13, 2015

  
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Shawn M. French, SC BAR No.: 75007  
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**South Carolina General Assembly**  
118th Session, 2009-2010

**A33, R76, S668**

**STATUS INFORMATION**

General Bill

Sponsors: Senators Courson, Knotts, Cromer, Setzler, Jackson, Scott, Lourie and Rose

Document Path: I:\s-res\jec\006lega.mrh.jec.docx

Introduced in the Senate on April 1, 2009

Introduced in the House on May 12, 2009

Last Amended on May 7, 2009

Passed by the General Assembly on May 15, 2009

Governor's Action: June 2, 2009, Signed

Summary: Christmas Eve

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
4/1/2009	Senate	Introduced and read first time <u>SJ-8</u>
4/1/2009	Senate	Referred to Committee on <b>Finance</b> <u>SJ-8</u>
5/6/2009	Senate	Committee report: Favorable <b>Finance</b> <u>SJ-12</u>
5/7/2009	Senate	Amended <u>SJ-32</u>
5/7/2009	Senate	Read second time <u>SJ-32</u>
5/12/2009	Senate	Read third time and sent to House <u>SJ-13</u>
5/12/2009	House	Introduced, read first time, placed on calendar without reference <u>HJ-110</u>
5/14/2009	House	Read second time <u>HJ-46</u>
5/14/2009	House	Unanimous consent for third reading on next legislative day <u>HJ-47</u>
5/15/2009	House	Read third time and enrolled <u>HJ-3</u>
5/27/2009		Ratified R 76
6/2/2009		Signed By Governor
6/11/2009		Effective date 06/02/09
6/12/2009		Act No. 33

**VERSIONS OF THIS BILL**

4/1/2009

5/6/2009

5/7/2009

5/12/2009

**Exhibit "A"**

(A33, R76, S668)

**AN ACT TO AMEND SECTION 53-5-10, AS AMENDED, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO LEGAL HOLIDAYS, SO AS TO INCLUDE THE TWENTY-FOURTH DAY OF DECEMBER AS A LEGAL HOLIDAY; AND TO REPEAL SECTION 53-5-20 RELATING TO CHRISTMAS EVE DECLARED AS A HOLIDAY FOR STATE EMPLOYEES.**

Be it enacted by the General Assembly of the State of South Carolina:

**Christmas Eve as legal holiday**

SECTION 1. Section 53-5-10 of the 1976 Code, as last amended by Act 246 of 2000, is further amended to read:

“Section 53-5-10. The first day of January--New Year’s Day, the third Monday of January--Martin Luther King, Jr. Day, the third Monday in February--George Washington’s birthday/President’s Day, the tenth day of May--Confederate Memorial Day, the last Monday of May--National Memorial Day, the fourth day of July--Independence Day, the first Monday in September--Labor Day, the eleventh day of November--Veterans Day, National Thanksgiving Day and the day after, and the twenty-fourth, twenty-fifth, and twenty-sixth days of December in each year are legal holidays.

The holiday schedules of public colleges and universities, including technical colleges, shall not be in violation of this section so long as the number of holidays provided for in this section are not exceeded.”

**Repeal**

SECTION 2. Section 53-5-20 of the 1976 Code is repealed.

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 27<sup>th</sup> day of May, 2009.

Approved the 2<sup>nd</sup> day of June, 2009.

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APPEAL FROM RICHLAND COUNTY

Joseph M. Strickland, Master-In-Equity

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Asset Securitization  
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OPT3, Mortgage Pass-  
Through Certificates,

Respondent,

v.

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Of whom Minnie L. Williams  
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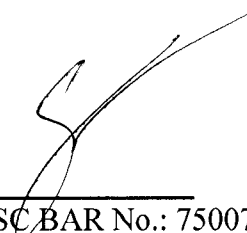
Appellants

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CERTIFICATE OF SERVICE OF RETURN TO MOTION TO DISMISS

I certify that I have served the Return to the Motion to Dismiss with a copy on Counsel of Record by depositing a copy of it in the United States Mail, postage prepaid, on January 13, 2015 addressed as follows:

Sean A. O'Connor  
Finkel Law Firm LLC  
4000 Faber Place Drive, Suite 450  
North Charleston, South Carolina 29405

  
Shawn M. French, SC BAR No.: 75007  
Attorney for Appellants  
1476 Ben Sawyer Blvd, Ste 3  
Mt. Pleasant, SC 29464  
843-606-6440(ph)



TUESDAY JANUARY 13, 2015

VIA US MAIL

SOUTH CAROLINA COURT OF APPEALS  
PO BOX 11629  
COLUMBIA, SC 29211

RE: Deutsche Bank National Trust Company, as Trustee v. Williams, et al.  
Civil Action No.: 2010-CP-40-7917  
Appellate Case No.: 2014-002748

To Whom It May Concern,

Please find enclosed a return to the Motion to Dismiss with 7 copies copy and return envelope and appropriate filing fees for the Court of Appeals. Please return a clocked copy to me in the envelope provided.

If you have any questions, you can contact me at the above number.

Sincerely,

Shawn M. French

Cc File  
Sean A. O'Connor  
Mrs. Williams and Mrs. Glover

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