

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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JAN 28 2015

SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

James B. Jackson, Jr., Special Circuit Court Judge

Case No. 2007-CP-38-00196 and 2007-CP-38-0201
Appellate Case No. 2014-001634

First Citizens Bank and Trust Company, Inc., Appellant/Respondent,

v.

Clyde B. Livingston, Technico Marketing & Distribution,
Inc., B. Livingston and Charlotte V. Livingston, American
First Federal, Inc., Citibank South Dakota, N.A., Branch
Bank and Trust Company of South Carolina, G&G Rentals,
Miler Communications, Wells Fargo Bank, N.A.,

Defendants,

Of whom Clyde B. Livingston is the Respondent/Appellant,

And

First Citizens Bank and Trust Company, Inc., Appellant/Respondent.

v.

Clyde B. Livingston, American First Federal, Inc., Citibank
South Dakota, N.A., Branch Bank and Trust Company of
South Carolina, G&G Rentals, Miler Communications,
Wells Fargo Bank, N.A.,

Defendants,

Of whom Clyde B. Livingston is the Respondent/Appellant.

**FIRST CITIZENS' DESIGNATION OF MATTER FOR INCLUSION IN THE RECORD
ON APPEAL**

Pursuant to Rule 209, SCACR, Appellant/Respondent First Citizens Bank and Trust
Company, Inc. ("Appellant/Respondent") designates the following material for inclusion in the

record on appeal. Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to the appeal (see attached certification):

ORDERS

1. Consent Order, C.A. No. 2007-CP-38-196.
2. Consent Order, C.A. No. 2007-CP-38-201.
3. Order Granting Motion to Amend, C.A. No. 2007-CP-38-196.
4. Order Granting Motion to Amend, C.A. No. 2007-CP-38-201.
5. Order Denying Summary Judgment dated December 19, 2007, C.A. No. 2007-CP-38-196.
6. Order Denying Motion to Reconsider, C.A. No. 2007-CP-38-196.
7. Order Denying Motion to Reconsider, C.A. No. 2007-CP-38-201.
8. Order Granting Summary Judgment in Part and Denying in Part dated June 14, 2010, C.A. No. 2007-CP-38-196.
9. Order Amending Caption, C.A. No. 2007-CP-38-196.
10. Order Amending Caption, C.A. No. 2007-CP-38-201.
11. Order Granting Summary Judgment in Part, Denying in Part, and Denying Plaintiff's Motion to Strike Jury Demand (C.A. Nos. 2007-CP-38-196 and -201).
12. Order Denying Motions for Reconsideration (C.A. Nos. 2007-CP-38-196 and -201).

PLEADINGS

13. Complaint with Exhibits, C.A. No. 2007-CP-38-196.
14. Complaint with Exhibits, C.A. No. 2007-CP-38-201.
15. Answer, C.A. No. 2007-CP-38-196.
16. Answer, C.A. No. 2007-CP-38-201.

17. Amended Answer and Counterclaim, C.A. No. 2007-CP-38-196.
18. Amended Answer and Counterclaim, C.A. No. 2007-CP-38-201.
19. Amended Complaint with Exhibits, C.A. No. 2007-CP-38-196.
20. Answer to Amended Complaint, C.A. No. 2007-CP-38-196.

TRANSCRIPTS

21. Livingston Deposition Excerpts pages 62, 63, 64.
22. Transcript dated December 13, 2013.

MISCELLANEOUS AND OTHER MOTIONS:

23. First Citizens Motion and Order of Reference, C.A. No. 2007-CP-38-196.
24. First Citizens Motion and Order of Reference, C.A. No. 2007-CP-38-201.
25. Livingston Motion to Quash Ex Parte Order of Reference, C.A. No. 2007-CP-38-196.
26. Livingston Motion to Quash Ex Parte Order of Reference, C.A. No. 2007-CP-38-201.
27. Livingston Motion to Amend Answer, C.A. No. 2007-CP-38-196.
28. Livingston Motion to Amend Answer, C.A. No. 2007-CP-38-201.
29. Livingston Motion for Summary Judgment dated August 1, 2007, C.A. No. 2007-CP-38-196.
30. Livingston Motion to Reconsider dated December 26, 2007, C.A. No. 2007-CP-38-196.
31. Livingston Memorandum in Support of Motion to Reconsider dated January 20, 2008, C.A. No. 2007-CP-38-196.
32. Livingston Memorandum in Support of Motion to Reconsider dated January 20, 2008, C.A. No. 2007-CP-38-201.
33. First Citizens Motion for Summary Judgment dated July 29, 2009, C.A. No. 2007-CP-38-196.
34. First Citizens Motion for Summary Judgment dated July 29, 2009, C.A. No. 2007-CP-38-201.

35. First Citizens Motion for Summary Judgment dated October 19, 2012, C.A. No. 2007-CP-38-196.
36. First Citizens Motion for Summary Judgment dated January 3, 2013, C.A. No. 2007-CP-38-201.
37. First Citizens Memorandum in Support of Motion for Summary Judgment dated December 30, 2013 (C.A. Nos. 2007-CP-38-196 and -201).
38. First Citizens Motion to Strike dated January 7, 2013, C.A. No. 2007-CP-38-196.
39. First Citizens Motion to Strike dated January 8, 2013, C.A. No. 2007-CP-38-201.
40. First Citizens Motion for Reconsideration dated May 14, 2014 (C.A. Nos. 2007-CP-38-196 and -201).
41. Livingston Motion to Reconsider dated May 2, 2014 (C.A. Nos. 2007-CP-38-196 and -201).
42. First Citizens Notice of Appeal.
43. Livingston Notice of Cross-Appeal.

[signature page attached]

NELSON MULLINS RILEY & SCARBOROUGH LLP

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*Attorneys for Appellant/Respondent First Citizens Bank
and Trust Company, Inc.*

Columbia, South Carolina
January 28, 2015

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v.

Clyde B. Livingston, Technico Marketing & Distribution,
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First Federal, Inc., Citibank South Dakota, N.A., Branch
Bank and Trust Company of South Carolina, G&G Rentals,
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Defendants,

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And

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South Dakota, N.A., Branch Bank and Trust Company of
South Carolina, G&G Rentals, Miler Communications,
Wells Fargo Bank, N.A.,

Defendants,

Of whom Clyde B. Livingston is the Respondent/Appellant.

FIRST CITIZENS' CERTIFICATION OF COUNSEL

Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the Designation of
Matter to be Included in the Record on Appeal contains no matter which is irrelevant to the
appeal.

NELSON MULLINS RILEY & SCARBOROUGH LLP

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*Attorneys for Appellant/Respondent First Citizens Bank
and Trust Company, Inc.*

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Case Nos. 2007-CP-38-0196 and Case No. 2007-CP-38-0201
Appellate Case No. 2014-001634

First Citizens Bank and Trust Company, Inc., Appellant/Respondent,

v.

Clyde B. Livingston, Technico Marketing &
Distribution, Inc., B. Livingston and Charlotte V.
Livingston, American First Federal, Inc., Citibank South
Dakota, N.A., Branch Bank and Trust Company of South
Carolina, G&G Rentals, Miler Communications, Wells
Fargo Bank, N.A.,..... Defendants,

Of whom Clyde B. Livingston is the Respondent/Appellant,

And

First Citizens Bank and Trust Company, Inc., Appellant/Respondent,

v.

Clyde B. Livingston, American First Federal, Inc.,
Citibank South Dakota, N.A., Branch Bank and Trust
Company of South Carolina, G&G Rentals, Miler
Communications, Wells Fargo Bank, N.A.,..... Defendants,

Of whom Clyde B. Livingston is the Respondent/Appellant.

PROOF OF SERVICE

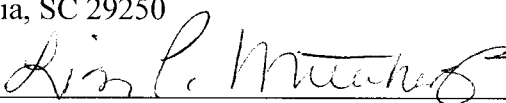
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins
Riley & Scarborough LLP, attorneys for Appellant/Respondent, do hereby certify that I
have served all counsel in this action with a copy of the document(s) hereinbelow

specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Document(s): First Citizens' Designation of Matter for Inclusion in the Record on Appeal

Counsel Served:

Andrew S. Radeker, Esquire
Harrison & Radeker, P.A.
PO Box 50143
Columbia, SC 29250



Lisa P. Whitehurst

January 28, 2015

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

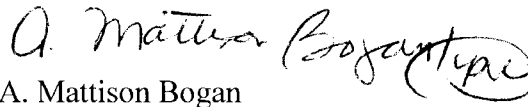
RE: First Citizens Bank v. Clyde Livingston
Appellate Case No. 2014-001634
Our File 00689/01777

Dear Ms. Kitchings:

Enclosed please find the original and one copy each of First Citizens' Initial Appellant's Brief and First Citizens' Designation of Matter for Inclusion in the Record on Appeal. We would ask that you file the originals and return clocked-in copies to us via our courier.

By copy of this letter to counsel of record, we are serving them with copies of these pleadings.

Very truly yours,


A. Mattison Bogan

AMB:lpw

Enclosures

cc: Andrew S. Radeker, Esquire