

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

Case No. 2014-001683

Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

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SC Court of Appeals

REPLY BRIEF

February 6, 2015

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TABLE OF CONTENTS

TABLE OF AUTHORITIES.....iii

INTRODUCTION.....4-13

REPLY TO RESPONDENT’S STATEMENT OF THE ISSUES ON APPEAL.....13

APPELLANT’S COUNTER TO THE RESPONDENT’S ISSUES ON APPEAL....14-15

REPLY TO RESPONDENT’S STATEMENT OF THE CASE & FACTS.....15-16

REPLY TO RESPONDENT’S ARGUMENTS.....17-22

REPLY TO RESPONDENT’S CONCLUSION.....22

APPELLANT’S SUMMARY BASED ON THE EVIDENCE & THE FACTS.....22-24

CONCLUSION.....24

APPENDICES 1 – 18See Attached

NOTICE OF NOTARY CERTIFICATION & PROOF OF SERVICE

- I. Notary Certification: (Notary Certification, will be dated when the Reply Brief and Appendices leave the printer.)
- II. Proof of Service: (Proof of Service will be dated when the Reply Brief and Appendices leave the printer.)

NOTICE OF IDENTIFICATION:

GoldenGate Mortgage / Golden Gate Mortgage / Golden Gate Mortgage, Inc. is
David Terrell – {Appendix 4, WF00089 @ Item #811 & Appendix 5, Exhibits 37 & 49}

NOTICE OF ABBREVIATIONS NOT GENERALLY USED OR KNOWN:

- III. Hereafter;

Appendix will be abbreviated as [App. & App.s (plural)]
Affidavit will be abbreviated as [Aff. & Aff.s (plural)]
Exhibit will be abbreviated as [Ex. & Ex.s (plural)]
Sentence will be abbreviated as [Sent. & Sent.s (plural)]
The Statement of the Evidence is abbreviated as [SOTE]

TABLE OF AUTHORITIES

Cases

<i>6 Angels, Inc. v. Stuart-Wright Mortgage, Inc.</i> (2001) 85Cal.App. 4th 1279 at 1286	5
<i>Birl v. Estelle</i> , 660 F.2d 592,, 593 (5th Cir.1981).....	5
<i>Breck v. Ulmer</i> , 745 P.2d 66, 75 (Alaska 1987).....	5
<i>Brockbank v. Best Capital Corp.</i> , 341 S.C. 372, 534 S.E.2d 688 (2000).....	7
<i>Gadson v. Hembree</i> , 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005).....	3
<i>Hall</i> , 935 F.2d at 1110.....	5
<i>Law v. S.C. Dep't of Corrs.</i> , 368 S.C. 424, 434, 629 S.E.2d 642, 648 (2006).....	7
<i>Moriarty v. Garden Sanctuary Church of God</i> , 341 S.C. 320, 534 S.E.2d 672 (2000).....	7
<i>Mulherin-Howell v. Cobb</i> , 362 S.C. 588, 595, 608 S.E.2d 587, 591 (Ct. App. 2005).....	7
<i>Plaskey v CIA</i> , 953 F .2nd 25.....	5
<i>Quality Towing, Inc. v. City of Myrtle Beach</i> , 340 S.C. 29, 530 S.E.2d 369 (2000).....	7
<i>Switzer v. Coan</i> , 261 F.3d 985, 988 (citing <i>Hall v. Bellmon</i> , 935 F.2d 1106, 1110 (10th Cir. 1991)).....	5
<i>Trout v. Trout</i> , (1934), 220 Cal. 652 at 656.....	6
<i>United States v. Balistrieri</i> , 779 F.2d 1191 (7th Cir. 1985)	6
<i>Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp.</i> , 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999).....	7
<i>Wells v. City of Lynchburg</i> , 331 S.C. 296, 301, 501 S.E.2d 746, 749 (Ct. App. 1998).....	7
<i>Wilson v. Moseley</i> , 327 S.C. 144, 146, 488 S.E.2d 862, 863 (1997).....	7
 <u>South Carolina Appellate Court Rules</u>	
Rule 212(a) SCACR.....	6, 7
 <u>South Carolina Rules Of Civil Procedure</u>	
Rule 8(f), SCRCPP.....	5
Rule 56, SCRCPP.....	7

INTRODUCTION

1. Within the 18 Appendices and the over 1,000 pages of testimony that have been filed with this “Reply Brief”, the Appellate Court now has the **Notarized and Verified Documentation** and the **Exhibits** that will prove the following clearly and convincingly and beyond any doubt by the preponderance of the evidence and expedite matters.

- (a) The Appellant’s Statements of Fact, relative to **Mortgage Fraud** and **Defrauding with Falsified Documents** from 2nd, 3rd, and maybe even a 4th party/ies are absolutely true. {See App. 3, **SOTE**, pgs 1-149, App. 4, Wells Fargo’s Ex.s WF00001-134, App. 5, Ex.s 1-85, App. 6, Ex.s 88-347, App. 7, Legal Memorandum, pgs 1-35; Opposition to Motion for Summary Judgment, pgs 1-97; App. 8, Statement of Uncontested Facts, pgs 1-85; App. 9, Reasons for Opting Out of the Fladell Settlement, pgs 1-68 & Index v, § R-1, Reasons for Continuance, pgs 1-103}
- (b) The wrongful and malicious persecution of the Appellant by Wells Fargo and their attorneys, for the crimes of another party/parties that were not before the Court since June of 2008. {See App.s & the Indices of 1 - 18}
- (c) The ethical violations by attorneys from Nelson Mullins Riley & Scarborough, LLP; most notably, Burns, Moise, Calub {App. 6, Indices ii – xiv & Ex.s 226, 228, 229, 297, 329-332 & 334-342} and now, by attorney Michael Anzelmo {See “Initial Brief”, ¶ 2, Sent.s 1-2, pg 2 & Professional Conduct **Rules 3.3; 3.4; 4.1; 5.1; 8.3 & 8.4**}
- (d) The Judicial abuse of discretion by ignoring ethical violations and the **Massive Filing Fraud** of Wells Fargo Bank, N. A., and Nelson Mullins Riley & Scarborough, LLP during the Stay/TRO and refusing to accept eyewitness testimony or see the evidence. {App.s 10-14, App. 6, Ex.s 255, 326, 328 & 329 & the **False Certification** of Wells Fargo’s mortgage by attorney Debra C. Galloway & Stephanie Hammond, App. 4, WF00058, 60, 97; App. 6, Indices ii – xiv; Ex.s 346-348 & Ex. 378, pgs 1-7}
- (e) The **Fraud upon the Court** by Wells Fargo Bank, N.A. & Nelson Mullins Riley & Scarborough, LLP’s attorneys Burns, Moise, Calub and now, Anzelmo with false accusations, false testimony, distorted facts and fabrications and in many instances outright lies. {See App.s 16 – 18, Review App. 6, Indices ii – xiv; Ex.s 226, 228, 229, 297, 329-332, 334-342 & Professional Conduct **Rules 3.3; 3.4; 4.1; 5.1; 8.3 & 8.4**}

2. All Courts exist to ” Administer Justice” that includes, but is limited to punishment and/or retribution for an individual’s and/or group’s participation in or committing

crimes, civil torts and/or for violating lawfully enacted rules, laws, regulations and/or ordinances. Therefore, Courts cannot base the "Administration of Justice" on any perceived and/or imagined technical procedure; especially, when any technical procedure in question is not known by...or has not been adequately explained to...a pro se litigant. {See Appendix 9, Index [v], § R-1, Reasons for Continuance, ¶ 12(c)(1)-(13), pgs 8-13; ¶ 58, pg 45; ¶ 67, pg 49 & ¶74, subparts (1)-(34), pgs 56-61 }

(a) "[T]he trial judge should inform a pro se litigant of the proper procedure for the action he or she is obviously attempting to accomplish." *Breck v. Ulmer*, 745 P.2d 66, 75 (Alaska 1987) "[C]ourt errs if court dismisses pro se litigant without instructions of how pleadings are deficient and how to repair pleadings." *Plaskey v CIA*, 953 F.2nd 25.

(b) "[I]mplicit in the right to self-representation is an obligation on the part of the court to make reasonable allowances to protect pro se litigants from inadvertent forfeiture of important rights because of their lack of legal training. While the right "does not exempt a party from compliance with relevant rules of procedural and substantive law," *Birl v. Estelle*, 660 F.2d 592,, 593 (5th Cir.1981)

(c) "[I]n addition, "[w]hen the substance of a legal claim is otherwise present, this court has indicated that 'confusion of various legal theories,' a technical pleading error, should not be dispositive in pro se cases." *Switzer v. Coan*, 261 F.3d 985, 988 (citing *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991)). "[A]t the same time, we do not believe it is the proper function of the district court to assume the role of advocate for the pro se litigant." *Hall*, 935 F.2d at 1110.

(d) *Rule 8(f), SCRCF* clearly states in pertinent parts.... "[A]ll pleadings shall be so construed as to do substantial justice to all parties."

3. In addition, if an injustice, an undisclosed criminal act or tort has been discovered during the prosecution of a case, the Court must correct it and attorneys; as Officers of the Court, are mandated to report this to the tribunal or the tribunal can act independently.

{Also Review, Professional Conduct **Rules 3.3; 3.4; 4.1; 5.1; 8.3 & 8.4**}

(a) In *6 Angels, Inc. v. Stuart-Wright Mortgage, Inc.* (2001) 85Cal.App. 4th 1279 at 1286 where the Court stated: "[I]t is the general rule that courts have power to vacate a foreclosure sale where there has been fraud in the procurement of the foreclosure decree or where the sale has been improperly, unfairly or unlawfully conducted, or is tainted by fraud, or where there has been such a mis-

take that to allow it to stand would be inequitable to purchaser and parties.”

(b) *Trout v. Trout*, (1934), 220 Cal. 652 at 656 clearly states; “[N]umerous authorities have established the rule that an instrument wholly void, such as an undelivered deed, a forged instrument, or a deed in blank, cannot be made the foundation of a good title, even under the equitable doctrine of bona fide purchase....”

(c) “[I]f a party is deprived of his substantial rights in a trial before an actually biased judge, the harm can be remedied (though not costlessly) by a new trial before an unbiased judge. But the harm to the public's perception of the judicial system when a judge who appears to be biased proceeds in a case is more difficult to correct.” *United States v. Balistreri*, 779 F.2d 1191 (7th Cir. 1985)

(d) *Gadson v. Hembree*, 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005) (“Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.”)

A. **The Respondent’s “Initial Brief” does not and did not address any issue in the Appellant’s “Initial Brief” and did not and does refute, deny or contest any “Statement of Fact” “Material Fact” or “Irrefutable Fact”.**

4. As the Appellate Court can plainly see, the Respondent’s “Initial Brief” did not and does not address any issue in the Appellant’s “Initial Brief” and did not and does not refute, deny or contest any “Statement of Fact”, “Material Fact” or “Irrefutable Fact”, {Review Appellant’s “Initial Brief”, pgs 11-38} and this is after being given additional time by the Appellate Court to do so. {Review the Appellate Court’s own Orders, App. 1, Ex.s 373 & 381 to verify the Respondent’s time to respond was extended & Review the Respondent’s “Initial Brief” to Verify the Appellant's Statements of Fact}

5. In fact, neither Wells Fargo Bank, N.A., (since December 22, 2007), nor Rogers Townsend & Thomas, P.C., (Since June of 2008), Nelson Mullins Riley & Scarborough, LLP., (since August of 2008) or the Goodstein Court (since June of 2008) has investigated the facts, the material facts and the evidence relative to this case. The Appellate Court’s *Rule 212(a)* and *Standard of Review* give the Appellate Court the authority to thoroughly investigate anything and everything relative to C.A. Case #2008-

CP-38-1024 for the past 7 years to determine the facts, material facts and the truth, relative to a crime being committed by the broker, appraiser, seller, the Player Law Firm and Wells Fargo's own employees and the unwarranted, wrongful and malicious persecution of the victim of that crime, by Wells Fargo Bank, N.A., and Nelson Mullins Riley & Scarborough, LLP.....and this is after all the facts were known.

(a) Rule 212(a) SCACR, clearly states in pertinent parts; “[T]he appellate court may require copies of all or any part of the transcript of proceedings or other matter which was before the lower court or administrative tribunal to be sent up for its inspection and consideration. It may likewise require a report of the trial or hearing, or of any matter relative thereto, to be made by the trial judge or administrative tribunal. These matters shall become part of the Record on Appeal.”

(b) “[A]s a conclusion of law, the Appellate Court reviews the trial court’s grant of summary judgment de novo.” Quality Towing, Inc. v. City of Myrtle Beach, 340 S.C. 29, 530 S.E.2d 369 (2000) “[T]o obtain summary judgment, the moving party must demonstrate there is “no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law.” Rule 56, SCRPC; Wilson v. Moseley, 327 S.C. 144, 146, 488 S.E.2d 862, 863 (1997); Wells v. City of Lynchburg, 331 S.C. 296, 301, 501 S.E.2d 746, 749 (Ct. App. 1998) (“An appellate court reviews the granting of summary judgment under the same standard applied by the trial court.”) “[T]he evidence and all reasonable inferences must be viewed in the light most favorable to the non-moving party.” Law v. S.C. Dep’t of Corrs., 368 S.C. 424, 434, 629 S.E.2d 642, 648 (2006) “[I]f triable issues exist, those issues must go the jury.” Mulherin-Howell v. Cobb, 362 S.C. 588, 595, 608 S.E.2d 587, 591 (Ct. App. 2005)

(c) “[S]ummary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.” Brockbank v. Best Capital Corp., 341 S.C. 372, 534 S.E.2d 688 (2000). “[A]ll inferences, conclusions and ambiguities, arising from the evidence must be construed most strongly against the moving party.” Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp., 336 S.C. 53, 518 S.E.2d 301 (Ct. App. 1999). “[E]ven when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied.” Moriarty v. Garden Sanctuary Church of God, 341 S.C. 320, 534 S.E.2d 672 (2000)

B. The Respondent’s “Initial Brief” does not and did not refute or deny the issue in this case is Mortgage Fraud by second, third and maybe even a fourth party and not foreclosure.

6. In addition to not refuting, denying or contesting any “Statement of Fact”,

“Material Fact” or “Irrefutable Fact”, the Respondent’s “Initial Brief” does not refute, deny or contest the issue in this case that is the criminal act of **Defrauding a Bank** by second, third and maybe even a fourth party and not a foreclosure action. Neither did the Respondent challenge any of the *Precedents* and *Authorities* identified in the “Initial Brief”, nor any *Authority* relative to the numerous frauds that can be found in Wells Fargo’s documents. {Review Appellant’s “Initial Brief” pgs 16-18, App. 4, Indices ii – xxxii & Ex.s WF00001-134; App. 7, Index iv, § R-1, Opposition to Motion for Summary Judgment, pgs 1-70; App. 9, Reasons for Opting out of the Fladell Settlement, ¶ 7 & subparts (1)-(11), pgs 20-21 & App. 14, Ex. 378, Dorothy Sistrunk’s Affidavit of Facts & Truth, Re: Debra C. Galloway & Stephanie Hammond, ¶¶ 71-78, pg 6 }

7. Wells Fargo Bank, N. A., and Wells Fargo’s attorneys have been victimized by their own lack of personal knowledge relative to the events. {App. 3, **SOTE**, ¶ 11, & subparts, (1)-(22), pgs 41-43} Therefore, they deliberately chose to fabricate a version of the events that best suits what they want to accomplish in court, i.e., a foreclosure by any means necessary, that includes, but is not limited to misrepresenting, misstating, omitting and ignoring material facts, distorting facts, using false testimony, outright LYING and relying on Judges to sign Court Orders drafted by attorneys. This alone borders on ethical violations and another Fraud upon the Court. {App. 3, pgs 1-12, App. 6, Indices ii-xiv & Ex.s 226; 228, 229, 297, 329-332; 334-342; App.s 16-18, the “Initial Brief” ¶ 2, pg 2}

8. No attorney drafted Court Order from Nelson Mullins Riley & Scarborough, LLP, referred to any Appellant or witness affidavit, the evidence or Statements of Fact. {Review Appellant’s “Initial Brief” pgs 27 - 38 & for evidence of attorney drafted Court Orders that Judge Goodstein may have simply signed, see the caption formatting on Judge Goodstein’s signed Court Orders in App. 1, Ex.s 109, 255, 303 & 329}

C. Instead of being Rewarded for exposing the scheme or artifice to Defraud Wells Fargo out of \$75,000.00, the Appellant has been LIED on by attorneys from Nelson Mullins Riley & Scarborough, LLP., before, during and after the Stay/TRO and by Wells Fargo's own employees....and this is after all the facts where known.

9. Therefore, by taking advantage of a judge's approved practice of signing attorney drafted orders, Wells Fargo Bank and Nelson Mullins Riley & Scarborough, LLP., were able to continue their ruthless and malicious persecution of the Appellant who is an "Innocent Victim" of a well executed Scheme or Artifice to **Defraud Wells Fargo Bank** out of \$75,000.00 by others. {App. 3, SOTE, ¶ 12 & subparts (1)-(47), pgs 43-64}. Wells Fargo's document file clearly identifies the other party/ies. {App. 4, Indices ii – xxxii & Ex.s WF00001-WF00130} Instead of being rewarded for exposing Thomas Jacobs' Jim H. Austin, III's and David Terrell's Scheme or Artifice to **Defraud Wells Fargo Bank** out of \$75,000.00, with help from the Player Law Firm {App. 5, Indices ii – xi & Ex.s 1-85} and Wells Fargo's own employees, {App. 6} the Appellant was LIED on and about and falsely accused by Wells Fargo's employees and attorneys:

10. Evidence and proof the Appellant was LIED on and about and falsely accused by Wells Fargo's own employees.

(a) Wells Fargo's Employees, after the facts were known, {App. 3, SOTE, ¶ 12, subparts (5)(A)-(F), pgs 44-45} most notably by Janet Frotscher {App. 4, WF00120 & WF00125-126 & App. 8, Statement of Uncontested Facts, ¶¶ 22-24, pgs 33-34} who knew Golden Gate Mortgage did not broker mortgage loan 0174072777. {App. 14, Ex. 92, Affidavit of Facts, Material Facts & Truth to Refute Allegations by Wells Fargo's Personnel & Attorney/s., ¶¶ 15-16, pg 12}. **Mortgage loan 0174072777 was brokered by the unlicensed seller - Thomas Jacobs; and the Appellant never met the appraiser and showed him any invoices.**

(b) Ben L. Windust, just LIED. Any LIE will do when an individual is concealing the truth or intentionally misstating or misrepresenting facts. {App. 6, Ex.s 193-205}; **there are no additional liens on 423 Bayne Street** {App. 4, WF00108}; **and all documents for modification were sent to Wells Fargo by the Appellant.** {App. 5, Ex.s 65-66; Ex. 72 & App. 6, Ex.s 166-173}.

(c) Elizabeth S. Hodgson False/Scam Affidavit allowed a mortgage riddled with fraud into the HMP. {App. 6, Index vii & Ex. 235 & App. 14, Ex. 266, pgs 1-3} Attorney Hodgson's Affidavit not only demonstrated she had no personal knowledge about mortgage loan 0174072777 and the case, she may have **Perjured** herself. {See App. 3, SOTE, ¶ 23 & subparts (1)-(3), pgs 85-86}

(d) After all the facts were known, Wells Fargo's personnel; again, most notably, Janet Frotscher, also concealed the truth about the **Mortgage Fraud** and LIED to South Carolina's Department of Consumer Affairs (SCDCA) and to the Office of the Comptroller of the Currency (OCC). Janet Frotscher and her Executive Resolution Team never investigated any of the Appellant's Statements of Fact. They chose to LIE about them instead. {App. 4, Indices, xxix – xxxii & Ex.s WF00120, WF00125-126 & WF00130-132}

11. Evidence and proof the Appellant was LIED on and about and falsely accused

by lawyers from Nelson Mullins Riley & Scarborough, LLP.

(a) Attorney Calub LIED about the Appellant, after the facts were known. {App. 6, Indices viii - ix, & Ex.s 330-331} **The seller never gave the Appellant an appraisal.**

(b) Attorney Calub violated professional and judicial ethics by maliciously harassing and hounding the Appellant for documents, Wells Fargo and Nelson Mullins Riley & Scarborough, LLP., already had – WF00001-137 {App. 6, Index vii & Ex.s 241-243 & App. 8, Statement of Uncontested Facts, ¶¶ 1-3, pgs 1-9}

(c) Attorney Calub violated professional and judicial ethics by filing a Motion to Compel Discovery for the documents the Appellant was using for her Counterclaims & Affirmative Defenses. These are Wells Fargo's own documents WF00001-137, that Judge Goodstein even signed. {App. 6, Index vii & Ex. 255 & App. 8, Statement of Uncontested Facts, ¶¶ 1-3, pgs 1-9}

(d) Attorney Calub filed a motion for Sanctions because the Appellant could not afford an attorney and did not want to be deposed without an attorney. {App. 15, Dep. of Dorothy Sistrunk, March 2, 2012, Pgs 1-18 & App.s 10, 11 & 12, [All Sections & All Pages] - Notarized & Verified}

(e) The Appellant requested written questions or a deposition by telephone because no attorney was necessary. {App. 12, Index [v], § R-1, Defendant Fourth Filed Objection to Notice of Taking Deposition, Pgs 1-5 & App.s 10, 11 & 12, [All Sections & All Pages] - Notarized & Verified}

(f) Attorney James H. Burns LIED about the Appellant. {App. 6, Index ix, & Ex. 332} The Appellant never stated the seller and appraiser conspired to mislead her. This is a fabrication or a deliberate distortion of the facts to fit the event profile Nelson Mullins Riley & Scarborough, LLP needs for a successful foreclosure. A deliberate fabrication or distortion of facts is false testimony. False testimony by an attorney is **Fraud upon the Court**. {App. 9, Index [v], § R-1, Reasons for Continuance, ¶ 74, subpart (14), pg 59}

(g) Attorney Burns and/or Wells Fargo also LIED about the Appellant and LIED to the Court. {App. 6, Ex.s 335-340 & Ex. 342 & App. 9, Index [v], § R-1, Reasons for Continuance, ¶ 74, subpart (19), pg 59}

(h) Attorney Burns and/or Wells Fargo Bank never made any attempt to contact the Appellant during the Stay/TRO and according to Ben L. Windust, the Appellant's loan was never considered for modification {App. 6, Index iv & Ex. 193} This **Massive Filing Fraud** lasted from 2009 to August 2011. {App.s 16 – 18 & App. 9, Index [v], § R-1, Reasons for Continuance, ¶ 74, subpart (21), pg 60 & App. 13, [All Sections & All Pages] - Notarized & Verified}

(i) Attorney Elizabeth Scott Moise and/or Wells Fargo LIED about the Appellant. {App. 6, Index vi, & Ex. 229} The Appellant never sent Wells Fargo any documents and {App. 6, Index viii & Ex. 329, pgs 1-6}, Elizabeth Moise's LIE and misrepresentation of material facts in the signed Court Order for Partial Summary Judgment include, but are not limited to the following:

(1) The Appellant never attended a closing with an attorney on December 21, 2007. {App. 6, Ex. 329, ¶ 12, pg 3};

(2) The cost of yard work had nothing to do with the Appellant's need for new housing. {App. 6, Ex. 329, ¶ 1, pg 2};

(3) The Appellant's husband never contacted the seller about any houses the seller had for sale. {See App. 5, Ex. 30, & App. 6, Ex. 329, ¶ 1, pg 2};

(4) The Appellant did notify Wells Fargo relative to the seller's misrepresentations. {See App. 5, Ex.s 4-64, & App. 9, Index [v], § R-1, Reasons for Continuance, ¶ 74, subpart (23), pg 60 & App. 14, Ex. 377 & App. 13, [All Sections & All Pages] - Notarized & Verified}

(j) On pg 2, ¶ 2, Sent. #2, in the Respondent's "Brief", Attorney Michael Anzelmo has distorted and misrepresented the facts and is attempting to mislead, the Appellant Court. The Appellant did not admit on pg 214, that she had no evidence of Wells Fargo's alleged fraud. **On pg 214, the Appellant is talking about the house, 423 Bayne Street, not Wells Fargo's fraud.** {Review Dep. of Dorothy Sistrunk, pg 214, & App. 9, Index [v], § R-1, Reasons Continuance, ¶ 73, subpart (7), pg 56, & ¶ 74, subparts (9)-(10), pg 58 & Review App. 13}

12. Wells Fargo's 0174072777 mortgage loan is a classic example of a **Mortgage Fraud** that was initiated and executed by people familiar with the mortgage brokering industry and the weaknesses within it. Otherwise, the fraud would not succeed. {App. 8, Statement of Uncontested Facts, ¶ 8 & Subparts 8(a)-(h), pgs 13-14} Wells Fargo admits, mortgage loan No. 0174072777 is a brokered loan. {App. 4, WF00120 & WF00125-126}

13. For over 6 years, Nelson Mullins Riley & Scarborough, LLP, willfully and knowingly peddled falsified documents, forgeries, credit report abuse, falsified values in an **Appraisal Fraud** as evidence of a brokered loan, thus perpetrating and perpetuating a “Fraud upon the Court”, upon the Appellant, Judge Goodstein and upon Wells Fargo Bank, after all the facts were known. {App. 4, Indices ii – xxxii & Ex.s WF00001-134} Whether the attorneys at Nelson Mullins Riley & Scarborough, LLP accepted the undeniable and irrefutable facts or...not...is immaterial – **Mortgage Fraud-is-Mortgage Fraud-** by statutory definition in 13 states and federal law. As Officers of the Court; and as paid counsel, they had a duty and responsibility to tell the Court and Wells Fargo the truth about this **Fraud**. {App. 3, SOTE, ¶ 13, & 13(a)-(i)(1)-(6), pgs 63-67}

D. Defrauding a bank is a criminal offense not a civil tort open to legal debate.

14. Defrauding a bank is a criminal offense, not a civil tort, nor can this felonious criminal activity be legitimately treated as a tort open to legal debate. This was the case in the Goodstein Court that led to this appeal. What Wells Fargo knew and when Wells Fargo knew it...is also immaterial. Wells Fargo was notified repeatedly for over 7 years about **Mortgage Fraud** and the falsified, forged and unauthorized documents of the seller, the broker and the appraiser and the illegal brokering activities of the seller - Thomas Jacobs. {App. 5, Indices ii–xi & Ex.s 4-64 + **Verified or Notarized Pleadings**}

15. The appraiser of record, Jim H. Austin, III, {App. 4, WF00078} did not appraise 423 Bayne Street during October of 2007. There are two trees directly in front of 423 Bayne Street; one is a 30 foot Crepe Myrtle tree and the other is a 30 foot Black Berry or Black Cherry tree. Jim H. Austin, III, could not have been at 423 Bayne Street during October of 2007 because of the following irrefutable facts. {App. 3, SOTE, pgs 12-64,

App. 5, Ex. 113, the property, App. 6, Indices i – xxxii & Ex.s WF00001-27, App. 8, Statement of Uncontested Facts, pgs 1-26 & Review App. 4, WF00117 & 119}

(a) There is no 30 foot, Black Berry or Black Cherry Tree in his photos of the property in his 7-59 Appraisal. There are no overgrown hedges and the massive property deterioration is also absent. The interior is a complete fabrication; as well as the improvements cited that do not exist. {App. 4, WF00001-3, 10, 12, 14-16, 23 & 25}

(b) The Appellant's husband was at the property all day on October 7th, 8th and 9th in 2007 and Jim H. Austin, III, never showed up to do any appraisal. {App. 14, Ex. 245, Aff. of George M. Sistrunk, Background the Signed Broker's Agreement, pg 8} The Appellant's husband's Statements of Fact, have never been denied, contested or refuted by anyone in 7 years, including Jim H. Austin, III, Thomas Jacobs and David Terrell. Wells Fargo's \$75,000.00 value is an imaginary concoction and a complete fabrication.

REPLY TO RESPONDENT'S STATEMENT OF THE ISSUES ON APPEAL

16. The Respondent presented two issues in the "Statement of the Issues on Appeal".

(a) This Court should affirm because the circuit properly denied Sistrunk's June 9th motion for a new trial. and.....

(b) This Court should affirm because the circuit correctly denied Sistrunk's Rule 60(b), SCRCP, motion.

17. **Within the Appellant's Appendices 1-18, is more than enough evidence to justify Sanctions and Punitive damages against Wells Fargo Bank, N. A., Nelson Mullins Riley & Scarborough, LLP, and Rogers, Townsend & Thomas, P.C. for perpetrating a Massive Fraud upon the Court, violating Professional Ethics and wrongfully and maliciously persecuting the Appellant that all the evidence proves beyond any doubt is an "Innocent Victim" of this Scheme or Artifice to Defraud.**

18. Attorneys Burns, Moise, Calub and now, Anzelmo have done nothing but distort, misrepresent, mischaracterize, omit and conceal facts from the Court; and as their filed court papers reveal, even LIED on the Appellant and to the Court. These are egregious offenses and serious ethical violations the Court cannot ignore. {App.s 16-18 [All Pages]}

APPELLANT'S COUNTER TO THE RESPONDENT'S ISSUES ON APPEAL

19. Judge Goodstein did not rightly deny the Appellant's appeal because Rule 56 was severely violated. Only the pleadings, depositions, answers to interrogatories, admissions on file, together with the affidavits, if any can be used to determine a summary judgment motion. {App. 8, Statement of Uncontested Facts, ¶ 43 & 43(a)-(k)(1)-(13), pgs 44-65}

20. By this standard, Judge Goodstein abused her discretion by conducting no evidence hearings and abused it again by refusing to allow eyewitness testimony. By relying only on attorney Burns' recital of events at the Summary Judgment hearing is also a Rule violation and another discretionary abuse. {App. 9, Index [v], § R-1, Reasons for Continuance, ¶¶ 19-32, pgs 19-32 & App. 13, Objects to Continuance, pgs 1-8}

21. Based on the evidence and the facts, the Respondent's issues lack any genuine merit relative to this case and border on another ethical violation. There are 5 issues the Appellant Court need decide that will firmly establish this case as a precedent to guide the Appellate Court in all future deliberations relative to brokered loans in a foreclosure action that is the gravamen of this case and the Appellant's Appeal.

(a) The governing law and principles that should be applied as the **Standard of Review** when a bank or lender files a **Mortgage Fraud** and/or **Scheme or Artifice to Defraud**, as defined by statutory law, as a foreclosure action.

(b) The governing law and principles that must be applied in the lower courts when the perpetrator(s) of a **Mortgage Fraud** or **Scheme or Artifice to Defraud** are not the defendant(s) on trial, but another party/parties that are not before the Court.

(c) The appropriate instructions to lower court judges that will prevent another **Miscarriage of Justice** like C. A. Case #2008-CP-38-1024.

(d) The amount of penalties to be levied against law firms and/or lawyers for

deliberately persecuting "Innocent Victims" of a **Mortgage Fraud** and/or a **Scheme or Artifice to Defraud** committed by "Industry Insiders" when the facts can be known.

(e) What recommendations to send to the Judiciary Committee to strengthen laws and/or remedies that will help "Innocent Victims" trapped in fraudulent mortgages initiated by "Industry Insiders", due to lax oversight or **Complicity** by lenders or banks.

REPLY TO THE RESPONDENT'S STATEMENT OF THE CASE AND FACTS

22. Like attorney Elizabeth S. Hodgson, {App. 6, Ex. 235} Attorney Anzelmo has demonstrated a thorough lack of knowledge relative to the issues in this case and has returned to or is simply repeating the fabricated event profile and distorted facts that were crafted by attorneys at Nelson Mullins Riley & Scarborough, LLP. As the Appellate Court can plainly see from the Appellant's "Brief", the Appellant's case is based on **Mortgage Fraud** and a **Scheme or Artifice to Defraud** by second, third and maybe even a fourth party that is thoroughly supported by the evidence, the facts and the material facts. {App. 3, **SOTE**, pgs 1-149 and Appendices 4-18, to verify these facts.}

23. Therefore, attorney Anzelmo's distortion and misrepresentation of the facts on pg 2, in ¶ 2, is a continuation of the violation of Rule 30(b)(2), SCRCP. This is an ethical violation. {App. 9, Index [v], § R-1, Reasons for Continuance, ¶ 20 & 20(a)-(e)(1)-(8), pgs 25-29} This statement in his "Brief" also verifies the **Fraud upon the Court** that has been committed by Wells Fargo Bank, the attorneys from Nelson Mullins Riley & Scarborough, LLP and Judge Goodstein's abuse of discretion that lasted over 6 years. {App.s 3-18 [All Sections & All Pages] - **Verified & Notarized Pleadings** }

24. **The Appellant has never stated anywhere - at anytime - the seller and appraiser conspired to mislead her. This statement by attorneys from Nelson Mullins Riley & Scarborough, LLP is a complete fabrication, patently false and**

constitute false testimony. Every pleading in the Appellant's Appendices are either Notarized or Verified Pleadings. Therefore, the Appellate Court has over 2,000 pages in 18 Appendices of unanswered, uncontested and never refuted or denied Affidavits of Fact.

25. The evidence never existed, circumstantial or otherwise, to support attorney Anzelmo's statement or any legal theory, just like it never existed to support similar statements by Elizabeth Scott Moise, James H. Burns and Brian A. Calub relative to this foreclosure action. {App. 8, Statement of Uncontested Facts, ¶ 2(b)-(c)(1)-(5), pgs 2-5}

26. Attorney Anzelmo is an Officer of the Court whose Bar No. is 72933. **Therefore, whenever an Officer of the Court purposely distorts, misrepresents, conceals, misstates, and/or omits facts and/or lies during the presentation of a case in any Court of Law, that attorney has committed a Fraud upon the Court.** Attorney Anzelmo's "Brief" constitutes the physical evidence of the violation and can be entered into the record as evidence. {App. 8, Index [vi], § R-2, Defendant Dorothy Sistrunk Objects to Continuance & Filed a Motion for a New Trial, ¶¶ 38-50, pgs 15-19}

27. The **Dishonest Conduct** of Wells Fargo and its hired attorneys from Nelson Mullins Riley & Scarborough, LLP includes the **Massive Filing Fraud** during the TRO. For over 5 years, Judge Goodstein abused her discretion by ignoring this **Massive Filing Fraud**. {Apps. 3-13 & 16-18 [All Pages & Sections] – Verified & Notarized}

28. Consequently, the Appellate Court must investigate this **Massive Filing Fraud**, so that justice can be done. Since Appendices 3-18, that have been filed, are stand alone Affidavits that document the **Massive Filing Fraud**, Ethical Abuses and Judicial Abuses that have never been refuted or denied, they can be entered into the record as evidence. {Apps. 3-13 & 16-18 [All Sections & All Pages] – Verified & Notarized}

REPLY TO RESPONDENT'S ARGUMENTS

28. On, page 5, the Respondent argues, "This Court should affirm because the circuit court properly denied Sistrunk's Motion for a New Trial." This argument is spurious at best. When the Appellate Court considers the Massive Filing Fraud, False Accusations by attorneys and by Wells Fargo Bank and the OUTRIGHT LIES that have entered into the record about and on the Appellant; as well as, the Mortgage Fraud by 2nd, 3rd and even a 4th party, i.e., the Player Law Firm and Wells Fargo's own employees; the Appellate Court can properly and appropriately consider Sanctions and Punitive Damages for these offenses and abuses.

29. According to historical records, in courts conducted by the Gestapo during the 1940's and the Soviet Union's KGB, such an argument would be loudly applauded. The same is true from verdicts or decisions from a Kangaroo Court. However, South Carolina's Appellate Courts are not run by the Gestapo or the KGB, therefore, the injustices of the lower courts can be corrected on Appeal, if the Appeal has merit and is based on the facts, the material facts, the law and truth.

30. Wells Fargo's Complaint was never based on any truth, facts, material facts or any actuality, real or imagined. It was and always will be an illegal loan, before the facts were known and after the facts were known. Nelson Mullins Riley & Scarborough, LLP's fabrications; false testimony, distorted legal presentations; along with the fabrications, false accusations and OUTRIGHT LIES of Wells Fargo's personnel have kept this "Travesty of Justice" and a precedent setting list of abuses alive for over 6 years.

31. This is why Sanctions and Punitive Damages are the "Order of the Day" and not another miscarriage of justice, that stemmed from a failure within South Carolina's Judicial System. Attorney Anzelmo has already crossed the line by presenting an "Initial

Brief” based on the same false testimony and distorted facts of his predecessors.

(a) In subsection [a], attorney Anzelmo argues “**Tolling of Time**” for an appeal. In a Kangaroo Court, like the Appellant was in for 6 years, every Motion would have been categorically denied or never considered, just like they were denied and not considered in Goodstein’s Court. Under the **Legal Doctrine of Substantial Justice**, technical pleading errors are routinely overruled so that the “Administration of Justice” is preserved. The “Administration of Justice” is far more important than a pleading error.

1. Due to the nature of the **Fraud upon the Court**, that the Appellant experienced from the Judge, Attorneys & Wells Fargo Bank, filing a Motion to vacate the Partial Summary Order due to **Extrinsic Fraud upon the Court by Officers of the Court**, was the only option available for the Appellant. In addition, it is documented and can be proven.

2. There is no time limit for **Fraud upon the Court**, because it is an affront to justice and America’s legal system. Filing an appeal for failure to Alter or Amend or a New Trial would have been a waste of time and money for the Appellant because the *Standards for Review* are strict.

3. Therefore, the Rules cited in the “Brief” on pg 6, and the case law cited do not relate to this case. There is no evidence in the case file history of *Collins Music Co., Inc., v. IGT*, of **Fraud upon the Court by Officers of the Court**, and the Plaintiff or the Persecution of an “Innocent Victim” of a **Scheme or Artifice to Defraud** by 2nd, 3rd and even a 4th party, therefore, this case law file is not appropriate as a precedent.

(b) In subpart [b] on page 8, attorney Anzelmo argues “**The circuit court properly denied the June 9th Motion for a New Trial because it was untimely.**” This

argument also lacks merit and is entirely inappropriate. Fraud taints everything it touches including judgments. Therefore, this is not an argument the court needs to consider. In addition, Interlocutory Orders are not readily appealable unless a **Substantial Right** or the **Merits** are involved, the Appellant relied on § 14-3-330(1)-(3) SC Code of Laws.

(c) In subpart [c], on pg 9, attorney Anzelmo studiously ignores the fact that a lawyer's arguments alone are insufficient grounds for a Summary Judgment. Lawyers generally lack personal knowledge of events. The Appellant's entire defense is based on "**Notarized**" personal knowledge and not speculation of what might have happened.

1. The Appellant's **Notarized** and **Verified** Pleadings document the facts, the material facts and the truth. Whereas, Wells Fargo relied on the very people that were actively engaged in Defrauding the bank out of \$75,000.00.

2. Based on long standing legal precedent, that Affidavits must be based on personal knowledge and/or eyewitness testimony and not speculation, Summary Judgment should have been denied, rather than approved.

32. In **Section [II]**, on pg 9, attorney Anzelmo returns to his efforts to highlight and stress the Appellant's inappropriate legal procedures. On pg 11, is attorney Anzelmo's misstatement, distortion, misrepresentation of fact, a deliberate false statement or another mischaracterization of the facts from a Wells Fargo attorney.

(a) In subpart [a], Attorney Anzelmo argues *Sadisco of Greenville, Inc., v. Greenville Cnty. Bd. of Zoning Appeals*, this case also lacks merit as a case file reference. In ¶ 2, under [a], on pg 10, attorney Anzelmo resorts to misrepresenting, misstating, distorting and/or mischaracterizing the facts. This is another ethical violation.

1. The Appellant's **Mortgage Fraud Defense**, as the Court can now accurately determine is not based on idle speculation. The Appellant has

presented the “**Verifiable Evidence**” of **Mortgage Fraud** as defined by statutory law, the perpetuation of this *Fraud* by Wells Fargo Bank and Wells Fargo’s reliance and use of forged and falsified documents to exact a payment from the Appellant. These falsified documents were ignored in Scott Moise’s drafted order, that is based on an OUTRIGHT LIE and misrepresented facts. Judge Goodstein simply signed it. {App. 6, Ex. 329}

2. Attorney Anzelmo has also misrepresented the facts. Judge Goodstein did not grant a Summary Judgment on all counterclaims. Since the Appellant did not know about pleadings in 2008, the only counterclaims considered were the same poorly conceived ones in the Appellant’s *Answer* and *First Amendment to Answer to Complaint* {See App. 2, Ex.s 297 & 298} that were in attorney Burns’ filed Motion. {App. 1, Ex. 332}

3. In ¶ 3, attorney Anzelmo again misrepresents the facts. The Appellant did raise new issues. There is no evidence Judge Goodstein read the “**Verified Pleading**” because **Notary Fraud** was presented for the first time. The Appellant discovered that Stephanie Hammond was not an employee at Orangeburg County’s Office of the Register of Deeds. She was an employee at the Player Law Firm. This new revelation was not considered by Judge Goodstein. {App.s 3-13, [All Sections & All Pages]}

4. This is another grossly misrepresented fact, the circuit court did not consider any counterclaims in the Appellants **Notarized** and **Verified** Pleadings that dealt with **Mortgage Fraud**, **Notary Fraud**, **Document Fraud**, **Forgery by Substitution**, and/or **Appraisal Fraud** and did not conduct any evidentiary hearings to consider the evidence. {App.s 1-13}

5. On pgs 11-15, With the exception of Bankers Trust Co., v. Braten, the Appellate Court will come to realize all the case law files referenced by attorney Anzelmo are included in the Appellant's **Verified Pleadings** and were never considered by Judge Goodstein. {See App.s 3-9 & 11 [All Sections & All Pages] to verify this Statement of Fact} This includes Bowers v. Bowers & Chewing. {Apps. 3-9, [All Sections & Pages]}

(b) In response to [d] on pg 15, whenever an Officer of the Court engages in presenting false testimony, misrepresenting material facts, distorting the facts, deliberately misstating the facts; either his own or the Plaintiff's or telling OUTRIGHT LIES to the Court, **Fraud upon the Court** has been committed. Whenever an Officer of the Court falsely accuses the Appellant, he/she has committed an ethical violation.

(c) The Appellant's Mortgage Fraud & Defrauding with Falsified Documents Defense was never heard..because it was changed to "Fraud" by attorneys Moise, Burns and Calub that misrepresented and distorted the facts and LIED to the lower court. The lower court mistakenly relied on arguments in Motions submitted from these same attorneys that studiously avoided the Appellant's Mortgage Fraud Defense. The lower court would not and did not conduct evidentiary hearings, would not and did not refer to any Affidavits, Verified or Notarized Pleadings or allowed any eyewitness testimony or the presentation of any evidence, by definition and applicable precedents, this is Extrinsic and Intrinsic **Fraud upon the Court** conducted exclusively by Officers of the Court; as well as, a violation of the "Due Process Clauses" in South Carolina's and the United States Constitution. {App.s 1-18 [All Pages & All Sections] - Notarized & Verified}

(d) In addition, to the **Fraud upon the Court by Officers** in motions, documents and live arguments, there is also the Massive Filing Fraud from this same law

firm, the same attorneys and Wells Fargo Bank. Therefore, the Appellate Court can consider the Pleadings, Depositions, Answers to Interrogatories, and Admissions on File, together with the Affidavits so that the Appellate Court Judges can determine for themselves that it is the Appellant that is speaking and writing the truth...and not Wells Fargo...or any of the attorneys that have represented Wells Fargo over the past 6 years.

REPLY TO RESPONDENT'S CONCLUSION

33. Finally, in attorney Anzelmo's conclusion, he studiously avoided, requesting the Court to review Pleadings, Depositions, Answers to Interrogatories, and Admissions on File, together with the Affidavits to determine the facts, the material facts and the truth, in order to uphold or affirm the lower Court's denial of the Appellant's motion.

34. It is also worth noting, attorney Anzelmo did not request the Appellate Court to validated his facts in their review and he did not argue facts, material facts, the truth or mention any evidence. Attorney Anzelmo relied solely on the results Wells Fargo obtained in the No Evidence and No Eyewitness Testimony hearings that worked so well for them in the lower court. In, short, attorney Anzelmo is indirectly supporting any violation of the "Due Process Clauses", whenever an attorney can get away with it. Such thinking is an ethical violation. Attorneys cannot violate Constitutional Rights to fairness.

APPELLANT'S SUMMARY BASED ON THE EVIDENCE & THE FACTS

35. Unlike Wells Fargo, the Appellant welcomes this review by the Appellate Court so that Wells Fargo can pursue the perpetrators of the **Mortgage Fraud** and **Bank Fraud** against their Bank. Perhaps it is not too late for these people to pay for their crimes...or at least be dragged into Court before a real, and strict, no nonsense Judge, and a real Jury.

36. The broker, David Terrell, the Seller, Thomas Jacobs, the Appraiser, Jim H. Austin, III, the Player Law Firm, i.e., attorney.... Debra C. Galloway...and....Stephanie

Hammond; as well as, Wells Fargo's own employees need to be and must be held accountable for what they have done. In all of Wells Fargo's filed arguments, they studiously avoided mentioning the broker. Even, attorney Anzelmo, failed to mention the broker, with whom, Wells Fargo dealt exclusively. {App.s 3-15, [All Sections & Pages]}

37. The broker is the conduit by which the falsified, forged, unauthorized and scam documents were sent to Wells Fargo. Despite his involvement, Wells Fargo consistently failed to present evidence of a legally brokered loan. Even though, Thomas Jacobs illegally brokered the loan, he could not have done it without the support of Golden Gate Mortgage/Inc./David Terrell and Wells Fargo's "Willful Blindness", before and after.

38. This avoidance to mentioning the broker's involvement, led to Brian A. Calub's misuse of Rule 30, that is also an ethical violation. Attorney Calub and Wells Fargo's attorneys have seemingly accepted their misuse of Rule 30, as though this is a standard operating procedure in the legal profession. Tricking positive answers out of people by asking questions that they could not..and..cannot possibly know the answer to. {App. 15}

**THE DEPOSITION SCAM OF
NELSON MULLINS RILEY & SCARBOROUGH, LLP**

39. The Appellant could not possibly conclude this "Reply Brief" without referring to the **Deposition Scam of Nelson Mullins Riley & Scarborough, LLP**. Throughout the deposition on September 6, 2012, Wells Fargo's attorney, Brian A. Calub, tricked the Appellant into answering questions about Wells Fargo's **Fraud** to which she could not have possibly known the answer. {App. 15, [All Sections & Pages] - Notarized & Verified}

40. The only truthful answer is no. Do you have any evidence relating to Wells Fargo's **Fraud?** The only truthful answer is **No**. Wells Fargo dealt exclusively with the broker. Therefore, it is impossible for the Appellant to have any evidence or knowledge

about Wells Fargo's dealings with the broker. The same broker that never met the Appellant and who played a key role in Defrauding Wells Fargo Bank out of \$75,000.00. The same broker, attorney Anzelmo failed to mention in his "Initial Brief". The attorneys from this same law firm, presented this Scam Deposition to Judge Goodstein that the Appellant never approved. Judge Goodstein referred to it in her letter. {App. 1, Ex. 326, ¶ 2, pg 2} Attorney Anzelmo referred to it in his "Initial Brief" on pg 2, in ¶ 2, Sent. #2.

41. Therefore, based on the evidence and the facts, the Appellate Court can end this travesty of justice without delay by cancelling this fraudulent loan, note and mortgage, correcting the wrong done to the Appellant and clearing up all outstanding issues relative to a fraudulent mortgage being filed in Orangeburg County that is supported by falsified, forged, altered and unauthorized documents from..and..by 2nd, 3rd, and possibly even a 4th party/parties and was Falsely Certified at the Player Law Firm. Wells Fargo was deemed present at the closing. {App.s 3-13, Re: Wells Fargo's WF00058, 60, 97 & 102}

42. Even though Wells Fargo avoids this truth, the Appellate Court cannot forget it. The Appellant did not broker the loan, did not send falsified; forged, altered and unauthorized documents to Wells Fargo and went to 1415 Broad River Road to cancel any loan for \$75,000.00...and...has been struggling to get it cancelled since 12/22/2007.

CONCLUSION

43. For the reasons stated, this Court should reverse the judgment of the circuit court. and put an end to this travesty that is nothing but a hardship to the Appellant and her family. The Appellant is not rich. To expedite matters, 18 Appendices are attached.

Respectfully submitted,

February 6, 2015

/s Dorothy Sistrunk

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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

2014-001683

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

PROOF OF SERVICE

I certify that I served a copy of my "Reply Brief" on Wells Fargo Bank, N.A., along with 18 Appendices, by depositing a copy of it in United Parcel Service (UPS), prepaid, on February, 12, 2015, addressed to Wells Fargo's attorney/s of record that are listed below per their approved request by the Appellate Court to extend time to February 2, 2015. Therefore, 10 days hence is February 12, 2015.

Today's Date: February 12, 2015

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