THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAR 03 2015
SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024
Appellate Case No. 2014-001683

Wells Fargo Bank, N.A., ... Respondent,

v.

Dorothy Sistrunk,..... Appellant.

Reply to Return to Motion to Strike

Pursuant to Rules 240(e) of the South Carolina Appellate Court Rules, Respondent Wells Fargo Bank, N.A. ("Wells Fargo") files this reply to Appellant's return to the motion to strike. As set forth herein, this Court should strike Appellant's Initial Reply Brief in full as untimely. In the alternative, this Court should, at a minimum, strike the portions of the Initial Reply Brief that exceed the page limitations imposed by our rules.

In the Return, Appellant claims that because this Court granted Respondent an extension to file its Initial Brief, then Appellant could file her Initial Reply Brief out of time. See Return p. 2-3. This argument lacks merit. Our rules require the Appellant to file any reply brief within 10 days of service of the initial respondent's brief or move for an extension of time with appropriate filing fee. Appellant did neither here.

Wells Fargo served Appellant with its Initial Respondent's Brief on January 26, 2015. Appellant had until February 6, 2015, to file her reply brief. See Rule 208(a)(3), SCACR, provides that "[a]n appellant may file and serve a brief in reply to the brief of respondent. If a reply brief is prepared, appellant **shall**, within ten (10) days after service of respondent's brief . . . ."). Moreover, Appellant did not file a motion for an extension of time with the required filing fee requesting the deadline be extended. Thus, the deadline remained February 6, 2015. Appellant did not serve her Initial Reply Brief until February 12, 2015. As a result, Appellant's Initial Reply Brief is untimely. This Court should strike the Initial Reply Brief in its entirety.

Appellant also admits that the Appendices filed with the brief are part of the Initial Reply Brief and are not the Record on Appeal. See Return p. 10, 16 ("Appellants 18 Appendices are Affidavits in the form of pleadings with supporting exhibits"). As part of the Initial Reply Brief, the Appendices exceed the 25 page limit imposed by Rule 208(b)(5), SCACR. Appellant's Initial Reply Brief totals 24 pages. However, Appellant attached 18 volumes of an "Appendix" to the brief that total several hundred pages of documents, comments, and argument. Thus, his Court should strike the Appendices.

If, however, the Court construes the these Appendices to constitute the Record on Appeal, then this Court should order Appellant (1) to include all matters designated by Respondent, (2) present the Record on Appeal in the form required by Rule 210, SCACR, and (3) remove all comments and argument from the Record on Appeal. Such arguments are fully set forth in the Motion to Strike and will not be repeated here for brevity.

Based on the foregoing, this Court should strike Appellant's Initial Reply Brief in full as untimely. In the alternative, this Court should, at a minimum, strike the portions of the Initial Reply Brief that exceed the page limitations imposed by our rules.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: _____

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March 3, 2015

THE STATE OF SOUTH CAROLINA
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APPEAL FROM ORANGEBURG COUNTY
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Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024

Appellate Tracking No. 2014-001683

Wells Fargo Bank, N.A., ... Respondent,

v.

Dorothy Sistrunk, ... Appellant.

Proof of Service

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by certified United States Mail, return receipt requested, postage prepaid, to the following address(es):

Pleadings:

Reply to Return to Motion to Strike

Party Served:

pro se Defendant
Ms. Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115

Jennifer B. Lee

March 3, 2015

Nelson Mullins

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March 3, 2015

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SC Court of Appeals

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

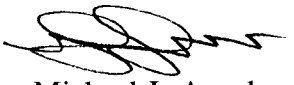
RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Wells Fargo Matter #: 0362522-01
Appellate Case No. 2014-001683
NMRS File No.: 10275/01528

Dear Ms. Kitchings:

Please find enclosed an original and seven copies of a Reply to Return to Motion to Strike in the above-referenced action. Please file the original and return a clocked-in copy to me via our courier. Should you have any questions, please do not hesitate to contact me.

By copy of this letter, I am hereby serving opposing parties.

Very truly yours,



Michael J. Anzelmo

MJA:jbl

cc: Ms. Dorothy Sistrunk