

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY

Court of Common Pleas

Marvin H. Dukes III

Master in Equity and Special Circuit Court Judge

Case No. 2011-CP-07-02679

(Appellate Case No. 2015-000008)

RECEIVED

MAR 12 2015

SC Court of Appeals

15322

BANK OF THE OZARKS Respondent,

v.

RIVER CITY REAL ESTATE, LLC and BENJAMIN C. GECY Appellants.

NOTICE OF MOTION AND MOTION TO DISMISS

TO: APPELLANTS RIVER CITY REAL ESTATE, LLC and BENJAMIN C. GECY AND THEIR ATTORNEY, ROBERT V. MATHISON, JR.

Respondent, Bank of the Ozarks (hereinafter "Respondent") hereby provides Notice to Appellants River City Real Estate, LLC and Benjamin C. Gecy (hereinafter "Appellants") and their attorney, Robert V. Mathison, Jr., of this Motion and hereby alleges as follows:

1. Appellants filed their Notice of Appeal in this matter on January 2, 2015.
2. On January 7, 2015, this Court advised Appellants' counsel that the Notice of Appeal had been received by this Court.
3. By letter dated January 31, 2015, a copy of which is attached hereto and incorporated herein as Exhibit A, Appellants' counsel advised this Court that the transcript of the lower court proceeding from which the appeal is taken had been completed, delivered and paid for effective January 27, 2015.

4. Rule 208(a)(1) of the South Carolina Appellate Court Rules ("SCACR") provides as follows:

"(a) Time for Serving and Filing Initial Briefs.

(1) Brief of Appellant. Within thirty (30) days after receiving the transcript or, if no transcript is ordered, within thirty (30) days after serving the notice of appeal, appellant shall serve one copy of his brief on all parties to the appeal, and file with the clerk of the appellate court one copy of the brief with proof of service."

5. As of the date of this motion, Appellants have not served their brief on Respondent nor has the initial brief been filed with this Court.

6. SCACR Rule 208(a)(4) provides in relevant part as follows:

"(4) Failure to File. Upon the failure of the appellant to file and serve his brief within the time prescribed, the clerk of the appellate court shall sign an order dismissing the appeal, and the appeal shall not be reinstated except as provided by Rule 260. ..."

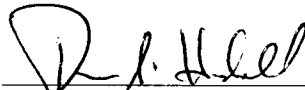
7. In light of Appellants' failure to comply with SCACR Rule 208(a)(1), Respondent hereby requests that this appeal be dismissed and that the clerk of this Court sign an order dismissing same.

WHEREFORE, Respondent prays as follows:

1. That Appellants' appeal be immediately dismissed for failure to comply with SCACR Rule 208(a)(1).

2. For such other relief as the Honorable Court may deem just and proper.

JONES, SIMPSON & NEWTON, P.A.



Dean S. Haskell
P.O. Box 7049
Hilton Head Island, SC 29938
(843) 842-6111
dhaskell@jsplaw.net
Attorney for the Respondent

Hilton Head Island, South Carolina
March 10, 2015.

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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Marvin H. Dukes III

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BANK OF THE OZARKS Respondent,


v.

RIVER CITY REAL ESTATE, LLC and BENJAMIN C. GECY Appellants.

CERTIFICATE OF SERVICE

This is to certify that I, the undersigned, of Jones, Simpson & Newton, P.A., have this date served a true and accurate copy of the Notice of Motion and Motion to Dismiss upon the parties by mailing a copy of same via United States Mail, postage prepaid to:

Robert V. Mathison, Jr., Esq.
Mathison & Mathison
P.O. Box 5271
Hilton Head Island, SC 29938


Michele Cantasano
Legal Assistant to Dean S. Haskell
JONES, SIMPSON & NEWTON, P.A.
18 Pope Avenue
Hilton Head Island, SC 29928
(843) 842-6111

Hilton Head Island, South Carolina
March 10, 2015.

LAW OFFICES
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EMAIL: rmathlaw@aol.com

ROBERT V. MATHISON, JR.

KERRY F. MATHISON

January 31, 2015

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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Re: Bank of the Ozarks v. River City Real Estate, LLC, et al.
Case No. 2011-CP-07-02679
Appellate Case No. 2015-000008

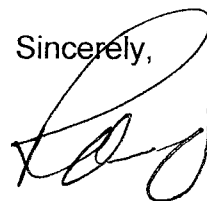
Dear Ms. Kitchings:

This letter is to advise that, in response to the letter of V. Claire Allen, Deputy Clerk, dated January 23, 2015, a copy of my letter to David Nussbaum of Coastal Court Reporting, Inc., dated January 15, 2015 (a copy of which is enclosed), has been provided to the Office of Court Administration at the address set forth in Ms. Allen's letter to me.

Also, the transcript of the summary judgment hearing in this case held on September 9, 2014, has been completed, delivered and paid for, effective on January 27, 2015.

Thanking you and with kind regards, I am

Sincerely,



Robert V. Mathison, Jr.

RVM:bh

Enclosure

cc: Office of Court Administration
✓ Dean S. Haskell, Esquire
Mr. David Nussbaum
Mr. Benjamin C. Gecy



JONES, SIMPSON & NEWTON, P.A.

WILLIAM W. JONES, JR.
MARK S. SIMPSON
WM. WESTON JONES NEWTON
SAMUEL L. KIRKLAND (SC & OH)
F. WARD BORDEN (SC, VA & DC)
DEAN S. HASKELL (SC & CT)
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March 10, 2015

The South Carolina Court of Appeals
Ms. Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, SC 29211

RE: Bank of the Ozarks v. River City Real Estate, LLC and Benjamin C. Gecy
Appellate Case No. 2015-000008

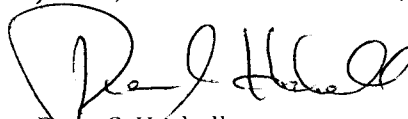
Dear Ms. Kitchings:

Enclosed please find an original and six (6) copies of Notice of Motion and Motion to Dismiss along with an original and six (6) copies of the Certificate of Service with regard to the above-captioned matter. Please file same and return a file-stamped copy (a copy of which is also enclosed) to our office in the self-addressed stamped envelope provided. Also enclosed is our check in the amount of \$25.00 in payment of the filing fee.

Should you have any questions or comments, please feel free to contact me.

Sincerely,

JONES, SIMPSON & NEWTON, P.A.



Dean S. Haskell

DSH/mc
Enclosures
cc: Robert V. Mathison, Jr., Esq.

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