

 **Dorothy Sistrunk**

423 Bayne Street • Orangeburg, SC 29115 • Ph: 803-268-0716 • Fx: 803-534-6727

March 16, 2015

**REASONS TO DENY WELLS FARGO'S REQUEST FOR REFERENCE
(Re: Wells Fargo asks the Court to not allow for a sur-reply.)**

The Honorable Jenny Abbot Kitchings Clerk of Court
& Deputy Clerk of Court V. Claire Allen
South Carolina Court of Appeals
POB 11629
Columbia, SC 29211

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Civil Action Case #2008-CP-38-1024
Appellate Case #2014-001683

Ms. Kitchings and/or Ms. V. Claire Allen

I am new at this so...please advise me of errors and/or any incorrect protocol. I am enclosing my "Reasons to Deny Wells Fargo's Request for the Court's Reference" and "Reasons Why Wells Fargo's Request for Reference and Motion to Strike Must Be Denied". Attorney Anzelmo's letter is dated, March 13, 2015 and it was retrieved from the mailbox on March 15, 2015. Re: "[O]ur appellate court rules do not allow for a sur-reply." {See attached copies marked as Exhibits 386, 387, 388 & 389}

Since this is not a "Brief", for this letter, I will write in first person; rather than as the Appellant. I request the Appellate Court to "**Deny Wells Fargo's Request for Reference**" that will be clearly stated in the following numbered pages with supporting *Citations to Authority* and to the *Record*.

Since allegations will be made and stated with specificity and particularity, the contents of this letter will be verified. Therefore, please present this response to Wells Fargo's letter requesting reference; in its entirety, to the Appellate Court.

Copies of this letter will sent, postage prepaid to the attorneys of record listed on page 11 of 12.

Thank you.

RECEIVED
MAR 17 2015
SC Court of Appeals

REASONS TO DENY WELLS FARGO'S REQUEST FOR REFERENCE

I. Let it be known that 18 U.S. Code § 1621 clearly states in pertinent parts; "[W]hoever— (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

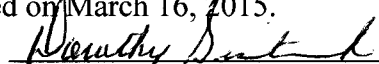
II. And...28 U.S. Code § 1746 clearly states in pertinent parts; "[W]herever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)". "

III. Finally, Rule 11(c), SCRPC clearly states in pertinent parts; "[A]ffidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true."

IV. Based on the above Rule and Laws, the Appellant, Dorothy Sistrunk, declares; under the PENALTY of PERJURY and in compliance with Rule 11(c), SCRPC, that the following stated facts are true and correct. Executed on March 16, 2015.



Dorothy Sistrunk

**WHY WELLS FARGO'S REQUEST FOR
REFERENCE AND MOTION TO STRIKE MUST BE DENIED**

1. Therefore, as stated in ¶ 8, on pg 10, in my "Response to Wells Fargo's Reply to Return to Motion to Strike", that is now **Reason #45 for Denial**, going on 7 years, I have always responded to every document, pleading and/or motion filed by Wells Fargo's attorney/s. Therefore, in the abundance of caution, I had to respond to Attorney Anzelmo's *Reply to Return to Motion to Strike*, and why Wells Fargo's "*Motion to Strike*", "*Reply to Return to Motion to Strike*" and "*Request for Reference*" must be denied

(A) *Beveridge v. Nw. Airlines, Inc.*, 259 F. Supp. 2d 838, 845 (D. Minn. 2003) (explaining propriety of reply affidavits "when necessary to address factual claims ... not reasonably anticipated" (*quoting D. Minn. LR. 7.1, Advisory Committee Note to 1999 Amendment*))

(B) *Springs Indus., Inc. v. Am. Motorists Ins. Co.*, 137 F.R.D. 238, 239 (N.D. Tex. 1991) ("In our jurisprudence the party who must persuade the court of the merits of the relief it seeks is almost always given the final word.").

2. Out of all the reasons to deny Wells Fargo's *Motion to Strike* and its ensuing *Reply to Return to Motion to Strike* one of the most compelling reasons can be found in ¶ 20 on pg 17 in my "Response to Wells Fargo's Reply to Return to Motion to Strike". As stated in **Response to ¶ 3, Pgs 2-3 & Reason #42 for Denial**; based on Rule 240(c), SCACR, there are 7 mandatory requirements for filing a motion in the Appellate Court. Missing any requirement is fatal to the motion. [1] All motions or petitions filed in an appellate court shall be in writing, [2] shall state the grounds thereof, [3] shall comply with the requirements of Rule 267, [4] The pages of the motion or petition and all supporting documents shall be consecutively numbered, [5] Shall include a certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition. [6] **A memorandum with citation of authorities in support of the motion.** [7] Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, **the parties shall file affidavits and other documents in support of their positions.**"

3. Attorney Anzelmo did not file a *Memorandum with Citations to Authorities* and he did not file any *Affidavit* or any other documentation to support his position/s with his

Motion to Strike. **Consequently, Wells Fargo's Motion to Strike is fatally flawed and fails for non compliance with the mandatory requirements of Rule 240(c), SCACR.**

4. **Reason #46 for Denial:** I adopted this practice in 2008 of responding to every document, pleading and/or motion filed by Wells Fargo's attorney/s so as a Defendant and Pro Se litigant, I would not be victimized by a failure to respond or object to a document, brief, argument and/or pleading that was filed by Wells Fargo's attorneys in a timely manner. Decisions handed down from Appellate Courts never fail to point to a litigant's failure to respond and/or object to a document and/or statement and/or act in a timely manner.

(A) "[C]ourts do not sit for the purpose of relieving parties who refuse to exercise reasonable diligence or discretion to protect their own interests." *King v. Oxford*, 318 S.E.2d 125 (S.C. Ct. App.1984) "[A] party must avail himself of the knowledge or means of knowledge open to him." *Mobley v. Quattlebaum*, 101 S.C. 221, 85 S.E. 585 (1915) "[T]he court will not protect the person who, with full opportunity to do so, will not protect himself." *J.B. Colt Co. v. Britt*, 129 S.C. 226, 123 S.E. 845 (1924).

(B) *Patterson v. Balsamico*, 440 F. 3d 104 (2nd Cir. 2006) "[t]he term `waiver' is best reserved for a litigant's intentional relinquishment of a known right." *Hamilton v. Atlas Turner, Inc.*, 197 F.3d 58, 61 (2d Cir. 1999). We conclude, however, that this defense was forfeited by Balsamico's failure to pursue it during the earlier appeal or after remand. "Forfeiture" is the failure to make the timely assertion of a right. *Id.* "Where a litigant's action or inaction is deemed to incur the consequence of loss of a right, or, as here a defense, the term `forfeiture' [rather than waiver] is more appropriate." *Id.*"

(C) *Bourette v. Dresser Industries, Inc.*, 481 A. 2d 170 (Me. 1984) "[D]efendant's failure to object to counsel's commentary in his opening statement and closing argument results in review only for obvious error."

(D) *Lemus v. Artuz*, 131 F. Supp. 2d 532, 536 (S.D.N.Y. 2001) (failure to object to counsel's comments during trial "not only constitutes waiver for most purposes," but it also "evidences how immaterial [opposing] counsel actually perceived most of the allegedly improper comments to be at the time they were actually uttered.")

WHAT IS A SUR-REPLY?

5. **Reason #47 for Denial:** Since, I had no earthly idea what attorney Anzelmo meant by **sur-reply**, I asked my husband to research [sur-reply]. His research revealed the following....

(A) USLegal.com @ <http://definitions.uslegal.com/s/sur-reply/> defines **Sur-reply** as the following; "[S]ur-reply is an additional reply to a motion filed after the motion has already been fully briefed. For example, a legal document such as a motion is filed by one party (filing party) requesting the court to enter an order. The other party (responding party) responds to the motion. The filing party then replies to the responding party's response. Some courts allow the responding party to file a sur-reply to the filing party's reply to the responding party's response."

(B) <http://www.avvo.com/legal-answers/what-is-a-sur-reply> defines **Sur-reply** as the following; "[T]he surreply is generally regarded as a reply to a reply brief/memo in Florida. Typically, a party files a motion/ initial brief. The opposing party files a response to the brief or motion. Numerous courts will allow the moving party to have the last word (for lack of a better phrase) to file a reply memo / brief to reply to new arguments the opposing party made in the response memo/brief. Regarding the surreply, some courts may then allow the non-moving party to reply to the reply brief/memo; some may allow based on an order granting a motion to file one."

6. **Reason #48 for Denial:** Attorney Anzelmo, Wells Fargo's counsel, entered new misstatements, misrepresentations, mischaracterizations or distortions of facts into the record in his *Motion to Strike*. I cannot allow Wells Fargo's attorneys to constantly do this to me, the way they have been doing for 6 years going on 7. *Hamilton v. Atlas Turner, Inc., supra., Lemus v. Artuz, supra., & J.B. Colt Co. v. Britt, supra.*

7. **Reason #50 for Denial:** There is no mentioning of **[Sur-reply]** in *Rule 240, SCACR* or South Carolina's Rules of Civil Procedure or in any Appellate Court Rule. {*See SCRCF 1-86 and SCACR 101-270*} Therefore, general knowledge is not readily available.

SUR-REPLIES, SUMMARY JUDGMENTS & DISTRICT COURTS

8. Since the time span to respond to attorney Anzelmo's letter is extremely short, my husband could only use a limited number of search strings and keywords to find available case law to support my position on this matter. **Reason #49 for Denial:** I had no idea my *Response* to Attorney Anzelmo's misstatements in his *Reply to Return to Motion to Strike* would be considered as a sur-reply. In addition, there is no way I could have known this from reading the Rules. **When there are no specific rules, what am I to do?**

9. Based on the court cases I reviewed, "Sur-reply Briefs" are matters that are rarely encountered in state appellate courts, but are frequently encountered in district courts and summary judgment motions that originate in district courts. The following are just a few of many supporting citations.

(A) Missouri Supreme Court Rule 74.04(c)(4) clearly states in pertinent parts; "[S]ur-replies in Opposition to Motions for Summary Judgment. Within 15 days of service, if movant files a statement of additional material facts pursuant to Rule 74.04(c)(3), the adverse party shall file a sur-reply. The sur-reply shall set forth each additional statement of fact in its original paragraph number and immediately thereunder admit or deny each such factual statement. The sur-reply shall be in the form and shall be supported in the manner prescribed by Rule 74.04(c)(2). An electronic copy of the sur-reply shall be served as provided in Rule 74.04(c)(1). Attached to the sur-reply shall be a copy of any additional discovery, exhibits or affidavits on which the sur-reply relies. A sur-reply that does not comply with Rule 74.04(c)(2) with respect to any numbered paragraph in movant's statement of additional material facts is an admission of the truth of that numbered paragraph. If the movant files a statement of additional material facts, the adverse party may file within the same time a sur-reply memorandum of law explaining the legal or factual reasons why summary judgment should not be granted."

(B) Tishcon Corp., 2005 WL 6038743, at n. 8; see also Kershner v. Norton, No. 021887(RMU), 2003 WL 21960605, at n. 2 (D.D.C. Aug. 14, 2003) ("**[F]iling an affidavit with a reply is appropriate when the affidavit addresses matters raised in the opposition.** Such an approach fulfills the purpose of Rule 6(d), which is to avoid unfair surprise and permit the court to resolve motions on the merits." (citations omitted)). {**Boldness** for emphasis}

(C) Litton Industries v. Lehman Bros. Kuhn Loeb Inc., 767 F. Supp. 1220 (S.D.N.Y. 1991) "[C]learly, reply papers may properly address new material issues raised in the opposition papers so as to avoid giving unfair advantage to the answering party who took it upon himself to argue those previously unforeseen issues." See Travelers Ins. Co. v. Buffalo Reinsurance Co., 735 F.Supp. 492, 495 (S.D.N.Y.), vacated in part on other grounds, 739 F.Supp. 209 (S.D.N.Y.1990); U2`lqnitd States v. International Business Machs. Corp., 66 F.R.D. 383, 385 (S.D. N.Y. 1975). See, e.g., Litton Indus., 767 F.Supp. at 1235 ("**Where new evidence is presented in a party's reply brief or affidavit in further support of its summary judgment motion, the district court should permit the nonmoving party to respond to the new matters prior to disposition of the motion.**"). {**Boldness** for emphasis}

(D) Mohamed v. Mazda Motor Corp., 90 F. Supp. 2d 757 (E.D.Tex. 2000) "[O]n December 13, 1999 Defendant Mazda Motor of America, Inc. d/b/a Mazda North American Operations' filed its *Opposed Motion to Transfer for Improper Venue or, In the Alternative, Opposed Motion to Transfer Venue Due to Inconvenient Forum* ("Mazda's Motion to Transfer") [4]. **After receiving a response, a reply to the response, a sur-reply to the reply, and a "response" to the sur-reply,** this Court now feels confident it can rule on *Mazda's Motion to Transfer* [4]. It's DENIED." {**Boldness** for emphasis}

(E) Flynn v. Veazey Const. Corp., 310 F. Supp. 2d 186 (D.D.C. 2004) The decision to grant or deny leave to file a sur-reply is committed to the sound discretion of the court. Am. Forest & Paper Ass'n, Inc. v. Env'tl. Prot. Agency, 1996 WL 509601, at n. 3 (D.D.C. Sept. 4, 1996). If the movant raises arguments for the first time in his reply to the non-movant's opposition, the court will either ignore those arguments in resolving the motion **or provide the non-movant an opportunity to respond to those arguments by granting leave to file a sur-reply.** Ben-Kotel v. Howard Univ., 319 F.3d 532, 536 (D.C.Cir. 2003); Natural Res. Def. Council, Inc. v. Env'tl. Prot. Agency, 25 F.3d 1063, 1072 n. 4 (D.C.Cir.1994) {**Boldness** for emphasis}

(F) Smith v. Burns Clinic Med. Ctr., P.C., 779 F.2d 1173, 1175 n.6 (6th Cir. 1985) (finding defendant's need to address claims in plaintiffs' opposition to summary judgment satisfied cause requirement); Morrison v. Quality Transps. Servs., Inc., 474 F. Supp. 2d 1303, 1314 (S.D. Fla. 2007) (**denying plaintiff's motion to strike defendant's supplemental affidavits where filed to rebut plaintiff's summary judgment opposition.**) {**Boldness** for emphasis}

(G) Gametech Int'l, Inc. v. Trend Gaming Sys., L.L.C., 380 F. Supp. 2d 1084, 1092 (D. Ariz. 2005) (**explaining movants typically not permitted to submit evidence after response is filed because "such a late submission would preclude respondent from addressing [it]"**). {**Boldness** for emphasis}

(H) Baugh v. City of Milwaukee, 823 F. Supp. 1452, 1456 (E.D. Wis. 1993), *aff'd*, 41 F.3d 1510 (7th Cir. 1994) ("**It seems absurd to say that reply briefs are allowed but that a party is proscribed from backing up its arguments in reply with the necessary evidentiary material.**"). {**Boldness** for emphasis.}

(I) Parkes v. County of San Diego, 345 F. Supp. 2d 1071, 1080 (S.D. Cal. 2004) (noting local rules do not specifically address the filing of "exhibits and declarations in support of a reply"), and Baugh, 823 F. Supp. at 1456 ("**Although the local rule provides for briefing ... nothing at all is said about reply affidavits.**"). {**Boldness** for emphasis}

(J) Dracz v. Am. Gen. Life Ins. Co., 427 F. Supp. 2d 1165, 1168 n.4 (M.D. Ga. 2006) ("Local Rule 7.3 allows a summary judgment movant to file 'any desired reply brief, argument or affidavit....'")

(K) Pieszak v. Glendale Adventist Med. Ctr., 112 F. Supp. 2d 970, 984 n.13 (C.D. Cal. 2000) (pointing out defendants' reply evidence "merely creates a genuine issue for trial."); Johnson v. Freeburn, 29 F. Supp. 2d 764, 768 (E.D. Mich. 1998) (**reasoning defendant's affidavits created dispute of material fact which precluded summary judgment.**) {**Boldness** for emphasis}

(L) Pippin v. Burlington Res. Oil & Gas Co., 440 F.3d 1186, 1192 (10th Cir. 2006) ("[I]f the district court does preclude a surreply, then the court can avoid error only by not relying on the new materials ... in the movant's reply brief.")

(M) *Sublet v. John Wiley & Sons, Inc.*, 351 F. Supp. 2d 836, 841 (S.D. Ind. 2004), *aff'd*, 463 F.3d 731 (7th Cir. 2006) (discussing local rule allowing surreplies only when reply "relied upon evidence not previously cited").

(N) *Black v. TIC Inv. Corp.*, 900 F.2d 112, 116 (7th Cir. 1990) (**holding district court should not consider new evidence in reply without affording nonmovant opportunity to respond**). {**Boldness** for emphasis}

(O) *Robinson v. Detroit News, Inc.*, 211 F. Supp. 2d 101, 113 (D.D.C. 2002) (**acknowledging the Federal Rules' silence on the issue of surreplies**); *King County v. Rasmussen*, 143 F. Supp. 2d 1225, 1228 (W.D. Wash. 2001), *aff'd*, 299 F.3d 1077 (9th Cir. 2002) (same). {**Boldness** for emphasis}

(P) *Doeble v. Sprint/United Mgmt. Co.*, 342 F.3d 1117, 1139 n.13 (10th Cir. 2003). In Doeble, the Tenth Circuit specifically held that "**the nonmoving party is entitled to submit a surreply whenever the court relies upon evidence presented for the first time in a reply.**" *id.* {**Boldness** for emphasis}

(Q) *Johnson v. Univ. of Iowa*, 408 F. Supp. 2d 728, 737 (S.D. Iowa 2004), *aff'd*, 431 F.3d 325 (8th Cir. 2005) (**allowing nonmovant's surreply materials because they present factual issue.**) {**Boldness** for emphasis}

(R) *Am. Tel. & Tel. Co. v. NOS Commc'ns, Inc.*, 830 F. Supp. 225, 230 n.1 (D.N.J. 1993) (**permitting opposing party's "sur-sur-surreply brief"**). {**Boldness** for emphasis}

(S) *O'HARA v. General Motors Corp.*, 508 F. 3d 753 (5th Cir. 2007) "[T]he O'Haras placed these claims at issue by raising them in their January 2006 reply brief to GM's motion for summary judgment, to which they attached a 500-page appendix. They re-asserted these claims in their sur-reply brief in March 2006, which was filed with a 400-page appendix. We reverse the district court's grant of summary judgment on the noncompliance claim....."

THIS ISSUE MUST BE RESOLVED BY THE APPELLATE COURT

10. The following search strings produced no results on Google's search engine, "Sur-reply Brief for an attorney's misrepresented facts"; "Sur-reply Brief for attorney's misstated facts"; "Sur-reply brief for an attorney's mischaracterized facts"; and, "Sur-reply brief for an attorney's distorted facts". This could be due to the following case law file.

Beavers v. Northrop Worldwide Aircraft Serv. Inc., 821 SW 2d 669 (Tex. App. 7th Dist. 1991) "[D]uring closing argument, Northrop's counsel intimated that appellants' counsel had misrepresented facts to the jury in what counsel referred to as "the lawsuit world." The following quote is an example: **In this world, it's a world sometimes of twisting, turning, exaggerating, repeating over and over, misstatement of facts, until the hope is that some people of twelve will accept**

those as true facts. Attacks on the integrity of opposing counsel are improper. American Petrofina, Inc. v. PPG Industries, Inc., 679 S.W.2d 740, 755 (Tex.App.--Fort Worth 1984, writ *dism'd by agr.*) and it is improper to argue that opposing counsel has made misrepresentations to the jury when there is no basis in the record for the accusation. E.g., Montgomery Ward & Co. v. Brewer, 416 S.W.2d 837, 845-8 (Tex.Civ.App. ---- Waco 1967, writ *ref'd n.r.e.*); T.E.I.A. v. Butler, 287 S.W.2d 198, 200-02 (Tex.Civ. App.--- Forth Worth 1956, writ *ref'd n.r.e.*). Since there is no basis in the record to support the allegation that appellants' counsel misrepresented facts to the jury, this argument was improper...." {Quotation example **Boldness** and "Underlining" done to identity the Court's example.}

11. **Reason #51 for Denial:** Unlike the attorneys in the above referenced case file histories, I am not falsely accusing attorneys Brian A. Calub, James H. Burns, Elizabeth Scott Moise or Michael Anzelmo The evidence is in the Court Records and the Appellate Court's Records. Only a Judge can determine whether or not the evidence presented is clear and convincing. Therefore this issue, must be decided by the Appellate Court.

12. **Reason #52 for Denial:** Other than vague general terms, neither Attorneys Michael Anzelmo, James H. Burns, Brian A. Calub nor Elizabeth Scott Moise, can point to any statement or document in which I lied, distorted a fact, misrepresented a fact, misstated a fact, mischaracterized a fact or engaged in false testimony. Attorney Anzelmo has not filed any "Brief" to date, to which he can point to any document or statement that is not true and not supported by the facts, Citations to Authority and the evidence.

13. **Reason #53 for Denial:** Attorney Anzelmo has only attacked my Pleadings and Affidavits on procedural grounds, not on their truth, relevancy, probative value, substance and/or content and he has ignored the fact they are **Verified**, **Sworn to** or **Notarized**.

(A) In **Appendix #1** are Court Orders, Motions & My Demand for Trial by Jury and the identification of misrepresented facts on signed Court Orders;

(B) In **Appendix #2** are Wells Fargo's Original Complaint, My Answer to Complaint, First Amendment to Answer to Complaint, Responses and Replies to "Pleadings" and/or "Briefs" Wells Fargo filed in Court;

(C) In **Appendix #3** is "The Statement of the Evidence" based on the Record;

(D) In **Appendix #4** are Wells Fargo's Exhibits WF00001-134, with explanations because Judges in the Appellate Court have never seen the evidence, nor would they be able to identify the **Falsified**, **Forged** and **Altered Documents**, that constitute **Mortgage Fraud** and/or **Bank Fraud**, **Document Fraud**, **Appraisal Fraud**, **Notary Fraud**, **Unauthorized Use** and **Statutory Violations**;

(E) In **Appendix #5** are my Exhibits 1-85 that verify my Statements of Fact in **Notarized, Sworn** and/or **Verified Pleadings**;

(F) In **Appendix #6** are my Exhibits 88-347 that verify my Statements of Fact in **Notarized, Sworn** and/or **Verified Pleadings**; as well as, identification of the misrepresented facts and false testimony of Attorneys Brian A. Calub, James H. Burns and Elizabeth Scott Moise; {*Exhibits 226, 228-229, 241-243, 255, 329-331 & 334-342*}

(G) The Contents of **Appendices, #7, #8 & #9** can be found on pgs 6-8 in my "*Response to Wells Fargo's Reply to Return to Motion to Strike*";

(H) The Partial Contents of **Appendices, #10, #11, #12 & #13** can be found on pgs 6-8 in my "*Response to Wells Fargo's Reply to Return to Motion to Strike*".

(I) In **Appendix #14** are Affidavits and Replies or Rebuttals to Wells Fargo's Affidavits.

(J) In **Appendix #15** are the Depositions of Dorothy Sistrunk, that verify attorneys Burns', Calub's and Scott Moise's violation of *Rule 30(b)(2), SCRPC*. Additional violations can be found on pgs 21-22 in my "*Appellant Objects to Wells Fargo's Motion to Strike*" and in **Appendix 8**.

(K) **Appendices #16-#18**, document the ***Massive Filing Fraud*** of attorneys James H. Burns, Elizabeth Scott Moise and Wells Fargo during the Stay/TRO.

14. **Reason #54 for Denial**: No attorney has the authority to Strike the Court's Records. **Appendices 1-18** are the Records that have been maintained by the Clerk of Court and are the same documents in the *Record on Appeal*.

(A) *Fox v. Wardy, 234 SW 3d 30 (Tex.App. 8th Dist. 2007)* "[W]ith limited exceptions not relevant here, an appellate court may not consider matters outside the appellate record. *Siefkas v. Siefkas, 902 S.W.2d 72, 74 (Tex.App.-El Paso 1995, no writ), citing Sabine Offshore Service v. City of Port Arthur, 595 S.W.2d 840, 841 (Tex. 1979)*. "[T]he appellate record consists of the clerk's record and, if necessary to the appeal, the reporter's record...."

(B) *Kirshner v. Uniden Corp. of America, 842 F. 2d 1074 (9th Cir. 1988)* "[a] certified copy of the docket entries prepared by the clerk of the district court shall constitute the record on appeal in all cases." This court's Rule 10-2 provides, in pertinent part: "Pursuant to FRAP 10(a), the complete record on appeal consists of: ... (b) the district court clerk's record of original pleadings, exhibits and other papers filed with the district court ('clerk's record')." Ninth Cir.R. 10-2."

(C) *Rule 209(a), SCACR*, clearly states in pertinent parts; "[A]t the same time a party serves his initial brief(s) under Rule 208, to include a reply brief, he shall also serve on all parties to the appeal a Designation of Matter to be Included in the

Record on Appeal which shall set forth with specificity those parts of the transcript, pleadings, orders, exhibits, or other materials which he proposes to include in the record on appeal. One copy of this Designation with proof of service shall immediately be filed with the clerk of the appellate court."

(D) Rule 209(b), SCACR, clearly states in pertinent parts; "[T]he Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal [See Rule 210(c)]."

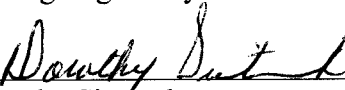
SUMMARY

15. There are now 54 reasons why Wells Fargo's *Motion to Strike* and the documents that have emanated from it must be denied. For years I was haunted by the specter of failing to do, now I am confronted by the specter of what I should not and cannot do. It seems there is no escaping this crevice that is between a rock and a hard place. My only consolation is this; I have read and seen where paid attorneys have not done much better.

CONCLUSION

16. Whatever the Appellate Court directs me to do relative to this matter will be done. For all the reasons stated in the "*Appellant Objects to Well Fargo's Motion to Strike*", my "*Response to Wells Fargo's Reply to Return to Motion to Strike*", my "*Reasons to Deny Wells Fargo's Request for Reference*" and "*Why Wells Fargo's Request for Reference and Motion to Strike Must Be Denied*"...this case must be remanded back to the Circuit Court from which it came for the Jury Trial that has been denied going on 7 years.

March 16, 2015

/s/ 
Dorothy Sistfunk

CC:

Attorney Michael Anzelmo
SC Bar No. 72933
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Elizabeth Scott Moise
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401-2239
(803) 853-5200

NOTARY CERTIFICATION

IN WITNESS WHEREOF, The undersigned, being duly **SWORN**, and under the **PENALTY OF PERJURY** declares the facts in her "Reasons to Deny Wells Fargo's Request for Reference and Why Wells Fargo's Request for Reference and Motion to Strike Must Be Denied" are true and correct as of her own knowledge. When it comes to matters stated therein that are based upon information and belief; as to those matters, she believes them to be true. Accordingly, based on the stated facts; Re: Case No. 2014-001683, has signed, sealed, attested and executed this 16th day of March in the year 2015 in the City and County of Orangeburg, in the State of South Carolina.

Rule 11(c), SCRPC clearly states in pertinent parts; "[A]ffidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true."

Appellant's Signature: Dorothy Strunk

Notary's Signature as Witness (1): Lillian D. Buck

Signed, sealed and delivered in the presence of:

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On 3/16/2015 before me appeared Dorothy Strunk and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and by her signature on her "Reasons to Deny Wells Fargo's Request for Reference and Why Wells Fargo's Request for Reference and Motion to Strike Must Be Denied" and this Notary Certification presents this document to the Appellate Court. WITNESS my hand and official seal.

Notary's Signature Lillian D. Buck

Commission Expires My Commission Expires July 24, 2022

(Seal)

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9024
www.nelsonmullins.com

Michael J. Anzelmo
Tel: 803.255.9312
Fax: 803.255.9024
michael.anzelmo@nelsonmullins.com

March 13, 2015

Hand Delivered

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

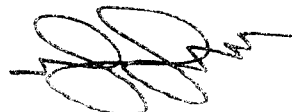
RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Case No.: 08-CP-38-1024
Appellate Case No.: 2014-001683
NMRS File No.: 10275/01528

Ms. Kitchings,

On February 17, 2015, Respondent Wells Fargo Bank, N.A., filed and served a motion to strike Appellant's Initial Reply Brief. Appellant filed and served a return to the motion on February 24, 2015. Wells Fargo filed and served a reply to Appellant's return on March 3, 2015. The filing and service of Wells Fargo's reply closed the filings related to the motion to strike. *See* Rule 240, SCACR (providing for the filing of a motion, a return by the non-moving party, and a reply by the filing party).

Appellant has now served counsel for Wells Fargo with Appellant's reply to Wells Fargo's reply. The filing letter and certificate of service from Appellant's sur-reply are enclosed with this letter for the Court's reference. Our appellate court rules do not allow for a sur-reply. *See* Rule 240, SCACR. Wells Fargo asks the Court to not accept the improper filing and return the filing to Appellant. This Court should consider the motion to strike without this improper filing.

Very truly yours,



Michael J. Anzelmo

Enclosure as stated

cc: Ms. Dorothy Sistrunk

Exhibit 386

 **Dorothy Sistrunk**

423 Bayne Street • Orangeburg, SC 29116 • Ph: 803-268-0716 • Fx: 803-534-6727

March 11, 2015

The Honorable Jenny Abbot Kitchings Clerk of Court
& Deputy Clerk of Court V. Claire Allen
South Carolina Court of Appeals
POB 11629
Columbia, SC 29211

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Civil Action Case #2008-CP-38-1024
Appellate Case #2014-001683

Ms. Kitchings and/or Ms. V. Claire Allen

I am new at this so...please advise me of errors and/or any incorrect protocol. I am enclosing my "**Appellant's Response to Wells Fargo's Reply to Return to Motion to Strike**". In accordance with *Rule 240(e), SCACR*, I am enclosing an original and six (6) copies of my objection; paper clipped and not stapled, and I have also served a copy on all parties listed below.

Thank you.


/s/ Dorothy Sistrunk
Dorothy Sistrunk

CC:

Attorney Michael Anzelmo
SC Bar No. 72933
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Elizabeth Scott Moise
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401-2239
(803) 853-5200

Exhibit 387

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.

MAR 17 2015
SC Court of Appeals

PROOF OF SERVICE

I certify that I served a copy of my "Appellant's Response to Wells Fargo's Reply to Return to Motion to Strike" on Wells Fargo Bank, N.A., by depositing a copy of it in United Parcel Service (UPS), prepaid, on March 11, 2015, addressed to Wells Fargo's attorney/s of record that are listed below.

Today's Date: March 11, 2015

/s/ Dorothy Sistrunk
Dorothy Sistrunk
423 Bayne Street
Orangeburg, South Carolina 29115
(803) 268-0716

Attorney Michael Anzelmo
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Elizabeth Scott Moise
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401 -2239
(803)853-5200

Exhibit 388

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.

**APPELLANT'S RESPONSE TO
WELLS FARGO'S REPLY TO RETURN TO MOTION TO STRILE**

March 11, 2015

Dorothy Sistrunk
423 Bayne Street
Orangeburg, South Carolina 29115
(803) 268-0716

Nelson Mullins Riley & Scarborough, LLP

Michael Anzelmo
SC Bar No. 72933
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

Elizabeth Scott Moise
SC Bar No. 012945
151 Meeting Street / Sixth Floor
Post Office Box 1806 (29402-1806)
Charleston, SC 29401 -2239
(803) 853-5200

Exhibit 389

RECEIVED
MAR 17 2015
SC Court of Appeals

Dorothy Sistrunk
407 Bayme Street
Columbia, SC 29201



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MAR 17 2015
SC Court of Appeals

first class

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1018 Sumter Street-6th Floor
Columbia, SC 29201