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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Letitia H. Verdin, Circuit Court Judge

Case No. 2010-CP-23-5880
Appellate Case No.: 2015-000523

Overland, Inc. d/b/a Land River Greenville.....Appellant,

vs.

Lara Marie Nance, Charlie Andrew Nance, Roger Fields,
Synovus Financial Corporation d/b/a NBSC, Branch Banking
And Trust Company, Bank of America Corporation, and
SunTrust Bank, Inc. Defendants.

Of whom Lara Marie Nance, Charlie Andrew Nance, Roger Fields, Bank of America Corporation, and SunTrust Banks, Inc. are the Respondents.

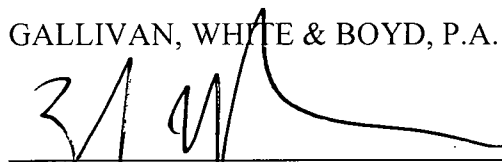
MOTION TO DISMISS APPEAL

Respondent SunTrust Banks, Inc. ("SunTrust") moves to dismiss Appellant Overland, Inc.'s appeal pursuant to Rules 240 and 260(a), SCACR. The trial court granted SunTrust and Bank of America summary judgment on December 17, 2014. Appellant, however, failed to comply with Rule 203(b), SCACR, requiring that a notice of appeal be served within 30 days of this order. Indeed, Appellant did not file a notice of appeal until March 4, 2015.

Additionally, Appellant did not file a motion to alter or amend under Rule 59(e), SCRPC, within the requisite 10-day period, which would have stayed the time for appeal. The extension granted by the trial court to file a Rule 59(e) motion was null and void, as this Court has unequivocally stated that the “ten-day time limit [under Rule 59(e)] may not be extended.” *Gobbi v. People’s Federal Bank*, 2006 WL 7285959, *4, Op. No. 2006-UP-245 (S.C. App. May 16, 2006). Additionally, Appellant never sought an extension from SunTrust, failing to include it on any requests for extension or asking that an extension be granted as to the ruling for summary judgment as to SunTrust. Accordingly, Appellant’s failure to file its notice of appeal by January 16, 2015, results in its notice being tardy and therefore barred as a matter of law. For these reasons and those asserted in Bank of America’s Motion to Dismiss, which are fully incorporated and adopted herein, SunTrust respectfully requests that Appellant’s appeal be dismissed.

Respectfully submitted,

GALLIVAN, WHITE & BOYD, P.A.



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Greenville, SC

April 9, 2015

Attorney for Defendant, SunTrust Banks, Inc.

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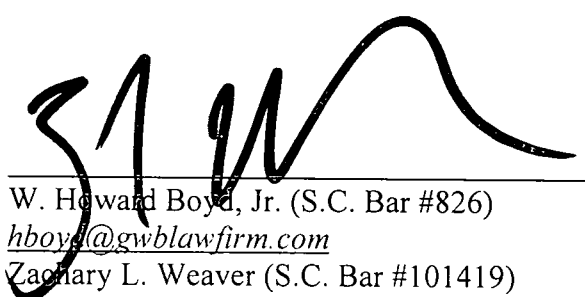
Of whom Lara Marie Nance, Charlie Andrew Nance, Roger Fields, Bank of America Corporation, and SunTrust Banks, Inc. are the Respondents.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 9th day of April, 2015, he served a copy of the Motion to Dismiss Appeal of Respondent, SunTrust Banks, Inc., upon all counsel of record, by depositing a copy thereof in the United States Mail, postage prepaid, and addressed as follows:

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April 9, 2015

Honorable Jenny Abbot Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

Re: Overland, Inc., d/b/a Land Rover Greenville v. Lara Marie Nance, et al.
C.A. No.: 2010-CP-23-5880
Appellate No.: 2015-000523

Dear Ms. Kitchings:

Please find enclosed for filing the original and six (6) copies of the Motion to Dismiss Appeal of Respondent, SunTrust Banks, Inc. in the above-captioned case, along with the original and six copies of our Certificate of Service. Our firm check in the amount of \$25.00 for the motion filing fee is also enclosed.

We would appreciate your filing the originals and returning a clocked copy of each document in the envelope provided. As always, your assistance with this matter is greatly appreciated. If you have any questions, please feel free to contact me.

Sincerely yours,

GALLIVAN, WHITE & BOYD, P.A.

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ZLW/lwb
Enclosures

cc: Mr. T. Hunter Reid
Mr. James W. Sheedy

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