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May 8, 2015

**VIA HAND DELIVERY**

The Honorable Daniel E. Shearouse  
Clerk of Court  
South Carolina Supreme Court  
1231 Gervais Street  
Columbia, South Carolina 29201

**RECEIVED**

MAY - 8 2015

**S.C. Supreme Court**

RE: Francis P. Maybank v. BB&T Corporation et al.

Dear Mr. Shearouse:

I am writing to the Court in response to the May 6, 2015, letter of counsel for Appellants/Respondents BB&T, in which he notified the Court of the parties' receipt of the ordered transcripts in the above-captioned case. After discussing it with Mr. Brown, an unresolved issue remains relating to the completeness of the trial transcript the parties have received.

During the trial, excerpts from certain video depositions of witnesses were played for the jury pursuant to Rule 32, SCRPC. Thereafter, the presenting party filed an original copy of the full deposition transcript of the fact witness, a DVD containing a video file of the excerpted portions of the video deposition that were played for the jury, and a written designation listing the excerpted pages and lines of the video deposition which were designated by each of the parties pursuant to Rule 32(a)(5), SCRPC. Each of these submissions was accepted by the trial court as a Court Exhibit. Notwithstanding the fact that these deposition excerpts were played before the jury, they were not transcribed into the trial transcript by the trial court reporter.

To address this issue, Mr. Brown has suggested to the undersigned that the trial court reporter should be requested to transcribe the designated portions of the video depositions. However, we understand from the trial court reporter that transcribing those portions of the video depositions and inserting them into the existing trial transcript could take up to thirty (30) days due to the time

required for both transcription and insertion of these additional portions and correction of its attendant effects, such as changes to pagination references throughout the transcript. This would cause significant additional and unnecessary delay in this appeal.

In order to avoid this unnecessary delay, the undersigned proposes the following two-part solution:

1. The Court permit the parties to attach to the trial transcript as separately numbered exhibits, copies of those pages of the deposition transcripts of the fact witnesses that were played for the jury, which already exist and were prepared concurrent with taking of the video depositions during discovery of this case; and
2. Because only the excerpted portions of the video depositions were played for the jury and accepted into evidence as a Court exhibit, and thus only those portions are proper for inclusion in the Record on Appeal pursuant to Rule 210(c), SCACR, the Court permit the parties to redact any portion of a deposition transcript page which was not played for the jury, and therefore not a part of the testimony presented below.

We believe this proposed solution serves the dual purpose of providing the Court a complete record of the testimony and evidence presented below, while not inflicting further delay on Respondent/Appellant Mr. Maybank, who is eighty-two (82) years old and whose case was filed in 2011.

If you have any questions, or require additional information, please do not hesitate to contact me. With best regards, I am,

Respectfully,

**WILLOUGHBY & HOEFER, P.A.**

  
John M. S. Hoefer

cc: C. Mitchell Brown, Esquire (via Hand Delivery)  
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