

# The South Carolina Court of Appeals

First Citizens Bank and Trust Company, Inc.,  
Appellant/Respondent,

v.

Clyde B. Livingston; Technico Marketing &  
Distribution, Inc.; B. Livingston and Charlotte V.  
Livingston; American First Federal Inc.; Citibank South  
Dakota, N.A.; Branch Banking and Trust Company of  
South Carolina; G&G Rentals; Miller Communications,  
Inc.; and Wells Fargo Bank, N.A., Defendants,

Of whom Clyde B. Livingston is the  
Respondent/Appellant.

And

First Citizens Bank and Trust Company, Inc.,  
Appellant/Respondent,

v.

Clyde B. Livingston; American First Federal Inc.;  
Citibank South Dakota, N.A.; Branch Banking and Trust  
Company of South Carolina; G&G Rentals; Miller  
Communications, Inc.; and Wells Fargo Bank, N.A.,

Of whom Clyde B. Livingston is the  
Respondent/Appellant.

Appellate Case No. 2014-001634

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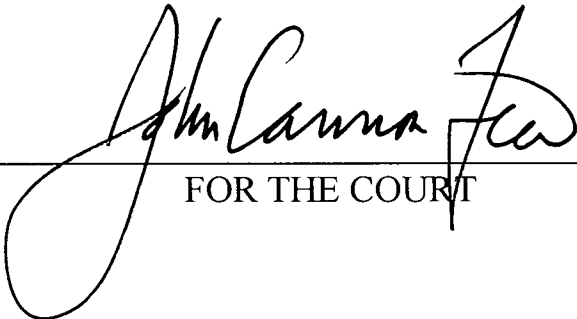
ORDER

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Appellant/Respondent First Citizens Bank and Trust Company, Inc. has filed a "Petition for Rehearing and/or Clarification of the Court's April 13, 2015 Order." Respondent/Appellant Clyde B. Livingston consents to First Citizens' petition. We clarify our April 13, 2015 order as follows.

Our April 13 order should not be read to dismiss First Citizens' entire appeal; it was intended to dismiss only the portion of the appeal challenging the special circuit judge's denial of First Citizens' motion for summary judgment on Livingston's counterclaims for breach of contract, attorney-preference violations, and libel. We did not intend to dismiss First Citizens' appeal of the special circuit judge's denial of First Citizens' motion to strike Livingston's demand for a jury trial, a mode of trial issue that was immediately appealable. Our April 13 order was a partial dismissal of First Citizens' appeal.

Although we dismissed First Citizens' appeal from the portion of the special circuit judge's order denying summary judgment, First Citizens' appeal regarding the mode of trial issue shall proceed as the primary appeal. Livingston's cross-appeal—regarding the special circuit judge's order granting First Citizens' motion for summary judgment on Livingston's unfair trade practices counterclaim—shall likewise proceed.

  
C.J.  
FOR THE COURT

Columbia, South Carolina

cc: Andrew Sims Radeker, Esquire  
Allen Mattison Bogan, Esquire  
Erik Tison Norton, Esquire  
Tara C. Sullivan, Esquire

**FILED**  
5/1/15