

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

JUL 06 2015

SC Court of Appeals

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2013-CP-10-2624
Appellate Case No. 2015-001149

PNC Bank, N.A., successor to RBC Bank (USA),..... Respondent,

v.

Liberty Cottages, LLC; GW Dorchester, LLC; USS
Clarksville, LLC; Liberty Cottages Land, LLC; Royal
Beach Properties, LLC; The Brothers of SC, LLC;
Deborah Rice-Marko a/k/a Deborah G. Rice-Marko;
Evan R. Marko and John E. Marko, Jr., Appellants.

RESPONDENT'S RETURN TO APPELLANTS'
MOTION FOR EXTENSION

Respondent hereby files this return to Appellants' Motion for an Extension.

Respondent does not oppose this first extension request.

Respondent, however, will oppose any future extension requests. It would appear Appellants may seek further extensions based on the exchange in connection with this first request. (See attached email exchange.) Respondent will oppose any subsequent request to extend the time deadlines in this matter as it will cause unnecessary delay and potential further waste related to the collateral that is the subject of this action.

This appeal arises out of an interlocutory order finding Appellants contractually waived their right to a jury trial in the agreements entered into between the parties concerning this commercial loan transaction. That is the sole issue on appeal—did

Appellants waive their right to a jury trial. This issue has already been thoroughly briefed by the parties in the proceedings before the trial court, and additional extensions of time are unnecessary.

The underlying matter concerns the bank's foreclosure action seeking the money owed pursuant to the loan agreement and a foreclosure judgment and sale. The bank loaned money to Appellants which has not been repaid and Appellants are in default on their loan obligation. While this appeal proceeds, the property will sit with the debt unpaid and the debt will continue to grow. Any further delay will cost Respondent more time and money and the property will still sit. On this basis, Respondent will oppose any future extension request as this matter should be adjudicated on the narrow issue on appeal in a quick and timely manner to avoid the collateral remaining unsold.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

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*Attorneys for PNC Bank, N.A., successor to RBC Bank
(USA)*

July 6, 2015.

Attachment

Lisa Whitehurst

From: Will Jordan <wjordan@sowellgray.com>
Sent: Tuesday, June 23, 2015 11:21 AM
To: Frank Knowlton
Cc: Bobby Stepp; bill@hannalawpa.com; Billy McGee; Tara Sullivan
Subject: RE: FW: PNC v. Rice-Marko, et al

Thanks, Frank. We can't agree not to seek another extension. We plan to recite the following in our motion: "Appellants consulted with Respondent regarding this request but received only conditional consent to the extension. Appellants are unwilling to agree to the requested condition and therefore this motion is made without Respondent's consent." If you think some alternate language would be more appropriate, please let us know.

Thanks,

Will

From: Frank Knowlton [mailto:frank.knowlton@nelsonmullins.com]
Sent: Monday, June 22, 2015 1:19 PM
To: Will Jordan
Cc: Bobby Stepp; bill@hannalawpa.com; Billy McGee; Tara Sullivan
Subject: FW: FW: PNC v. Rice-Marko, et al

Will, we will agree not to oppose this request if you agree not to seek another extension. Please advise. Thanks, Frank

Nelson Mullins

Frank B. B. Knowlton
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From: Will Jordan [mailto:wjordan@sowellgray.com]
Sent: Monday, June 22, 2015 12:15 PM
To: Frank Knowlton; Billy McGee; Tara Sullivan
Cc: Bobby Stepp; bill@hannalawpa.com; Melissa Oken
Subject: PNC v. Rice-Marko, et al

Frank, Billy, and Tara:

We plan to request a 30-day extension to file our initial brief on appeal. May we indicate your consent to this request? Thanks in advance,

 Litigation is our Business.		
	William H. Jordan v-card	
	(803) 231-7815	
	www.sowellgray.com	
	Supporting Green. Please print wisely.	
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Deborah Rice-Marko a/k/a Deborah G. Rice-Marko;
Evan R. Marko and John E. Marko, Jr., Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for PNC Bank, N.A., successor to RBC Bank (USA), do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Respondent's Return to Appellants' Motion for Extension

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Lisa P. Whitehurst
Administrative Assistant

July 6, 2015

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July 6, 2015

The Honorable Jenny Abbott Kitchings
Clerk of Court
SC Court of Appeals
1220 Senate Street
Columbia, SC 29201

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SC Court of Appeals

RE: PNC Bank v. Liberty Cottages
Appellate Case No. 2015-001149

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondent's Return to Appellants' Motion for Extension in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier.

By copy of this letter to counsel of record, we are serving them with copies of this Return.

Very truly yours,


Thomas William McGee, III

TWM:lpw

Enclosures

cc: Robert E. Stepp, Esquire
Willard D. Hanna, Jr., Esquire
William H. Jordan, Esquire
Benjamin R. Gooding, Esquire