

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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JUL 27 2015

SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

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

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;
ROA, 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.

**DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL**

Appellants propose the following be included in the Record on Appeal:

1. Charleston County Complaint with exhibits, filed May 3, 2013;
2. Dorchester County Complaint with exhibits, filed May 8, 2013;
3. Florence County Complaint with exhibits, filed May 2, 2013;
4. Affidavit of Deborah Rice-Marko, filed May 20, 2014;
5. Deposition of Deborah Rice-Marko, Vol. I (July 14, 2014), Vol. II (July 15, 2014) and Vol. III (August 19, 2014), pp. 1-3, pp. 33-36, pp. 246-247, pp. 249-250, pp. 502-511, pp. 594-595, pp. 622-623, pp. 637-641, pp. 650-651, pp. 668-670, p. 653-656;

6. RBC Loan Agreement: Revolving Line of Credit (DRM 000697 – DRM 000713);
7. Deposition of Stephen Draper (February 11, 2015), pp. 1-11, pp. 14-17, pp. 145-147;
8. Email exchange between Donald J. Horres and Michael Baker dated March 18-March 19, 2008 (DRM 000346);
9. Letter from Michael Baker to Deborah Rice-Marko dated September 26, 2008 (DRM 000330);
10. Email from Stephen Draper to Michael Baker dated September 30, 2008 (PNC_Rice-Marko_20390 – 20391);
11. Email from Michael Baker to Deborah Rice-Marko dated October 3, 2008 (DRM 000378);
12. Email from Michael Baker to Deborah Rice-Marko dated November 6, 2008 (DRM 000380);
13. Deposition of Michael Baker, individually and 30(b)(6) of PNC dated January 27, 2015, pp. 1-8, pp. 34-35;
14. Business Banking Transaction Request dated November 24, 2008 (PNC_Rice-Marko_47020 - 47064);
15. Email from Michael Baker to Deborah Rice-Marko dated January 6, 2009 (DRM 000394);
16. Cover Page and relevant portions of RBC Bank Policy Manual (PNC_Rice_Marko_134078-134093);
17. Forbearance Agreement (PNC (Rice-Marko) 127471-127500);
18. 30(b)(6) Deposition of PNC (Harrington) dated January 28, 2015, pp. 1-4, p. 20, pp. 45-57;
19. Deposition of William Harrington dated May 7, 2014, pp. 24-26, pp. 40, pp. 45-47, p. 55-58, pp. 74-75, pp. 80-81;
20. Email from Larry Ficych to Rick Hartman dated February 27, 2011 (PNC_Rice_Marko_01228);

21. Deposition of Stephen Wursta, Jr. dated May 7, 2014, pp. 16-22, pp. 33-34, p. 51, pp. 55-59, pp. 116-117;
22. Email exchange between Bill Harrington and Deborah Rice-Marko dated January 23, 2012 (DRM 000325);
23. Email from Larry Ficych to several dated January 22, 2013 (PNC_Rice-Marko_055991-055993);
24. PNC Special Assets Report (August 2012) (PNC_Rice-Marko_15234 – 15241);
25. 30(b)(6) Deposition of PNC (Radermacher) dated January 27, 2015, pp. 1-5, p. 36, pp. 40-41, p. 69;
26. Default letter from Terri L. Gardner to Deborah Rice-Marko dated November 26, 2012 (DRM 000656-000661);
27. Default letter from Frank Knowlton to Deborah Rice-Marko dated February 15, 2013 (DRM 000652-000655);
28. Amended Answer and Counterclaims of Deborah Rice-Marko, Liberty Cottages, LLC, Liberty Cottages Land LLC, Royal Beach Properties, LLC, ROA, LLC and USS Clarksville, LLC filed August 27, 2014;
29. Amended Order Denying Plaintiff's Motion for Summary Judgment, Denying Plaintiff's Motion to Refer case to the Master, and Granting Plaintiff's Motion to Strike Jury Demand dated May 12, 2015;
30. 30(b)(6) Deposition of PNC (Stiller) dated January 29, 2015, pp. 1-4; pp. 38-39, p. 142;
31. PNC Code of Business Conduct and Ethics;
32. Confidentiality Agreement between Summit Investment Management and PNC (Deposition Exhibit 6 of Stiller, Deposition Exhibit 2 of Nix, Deposition Exhibit 7 of Stiller);
33. Deposition of William Barksdale dated April 1, 2015, pp. 1-4, p. 32, pp. 35-39, pp. 51-52;
34. Deposition of Kenneth Nix dated April 9, 2014, pp. 6-7;
35. Bid Report (PNC_Rice-Marko_31361-31372);
36. Email from Karen Stiller to Stephen Wursta dated March 27, 2013 (PNC_Rice-Marko_35921);

37. Spreadsheet of persons who accessed Virtual Deal Room (PNC_Rice_Marko_135358-135472);
38. Drew Chaplin Affidavit filed May 19, 2014;
39. Deposition of Daniel B. Trey Morrison, III dated March 11, 2015, pp. 43-44, p. 70;
40. 30(b)(6) Deposition of PNC (Wursta) dated January 28, 2015, pp. 73-74;
41. Charleston County Order to Transfer and Consolidate dated June 10, 2014;
42. Dorchester County Consent Order Transferring Venue dated June 18, 2014;
43. Florence County Consent Order Transferring Venue dated June 5, 2014;
44. Order denying Plaintiff's Motion for Summary Judgment, Denying Plaintiff's Motion to Refer Case to the Master, and Granting Plaintiff's Motion to Strike Jury Demand dated April 29, 2015; and
45. PNC's Bank's Brief in Opposition to Plaintiff's Appeal in Berrios v. PNC Bank (Exhibit R to Defendants' Memorandum of Law in Opposition to Plaintiff's Motion for Summary Judgment).

We certify that this designation contains no matter which is irrelevant to this appeal.

SOWELL GRAY STEPP & LAFFITTE, L.L.C.

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and Deborah Rice-Marko a/k/a Deborah G. Rice-
Marko***

-and-

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By: Willard D. Hanna by William H. Joel
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July 27, 2015

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a/k/a Deborah G. Rice-Marko; Evan R. Marko and
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Appellants.

PROOF OF SERVICE

I certify that I have caused the Initial Brief of Appellants and Designation of Matter to be served on Respondent by hand delivery on July 27, 2015, addressed to their attorneys of record, Frank B.B. Knowlton, Esquire, Tara C. Sullivan, Esquire and Thomas W. McGee, Esquire, Nelson Mullins Riley & Scarborough, LLP, 1320 Main Street, 17th Floor, Columbia, SC, 29201.

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By: 

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BY HAND DELIVERY

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


Re: PNC Bank, N.A., successor to RBC Bank (USA) v. Liberty Cottages; LLC, et al.
Appellate Case No.: 2015-001149
SGS&L File No.: 6573/1500

Dear Ms. Kitchings:

I enclose for filing the original and one copy each of Initial Brief of Appellants and Designation of Matter to Be Included in the Record on Appeal in the above-captioned matter. Please return a clocked-in copy of same to me.

By copy of this letter to counsel shown below, I am serving a copy of same upon them.

Sincerely,



William H. Jordan

Enclosures

cc: Frank B. B. Knowlton, Esquire
Tara C. Sullivan, Esquire
Thomas W. McGee, Esquire
Willard D. Hanna, Jr., Esquire