

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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SC Court of Appeals

APPEAL FROM LANCASTER COUNTY
Court of Common Pleas
Philip E. Wright, Special Referee

Case No. 2013-002-373

H&R Block Bank,
FSB.....Respondent,

v.

Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey, WKFC Living Trust
Under Trust Agreement Dated June 4, 2010 By and through its Trustee
Wellesley K. Clayton, American Home Mortgage Servicing, Inc.
s/b/m to Option One Mortgage Corporation.....Defendants,

Of whom Ziraili M. Elbey a/k/a Ziraili Mohassan El Bey is the.....Appellant.

**RESPONDENT'S REPOSE TO APPELLANT'S MOTIONS TO STRIKE AND
FOR DEFAULT JUDGMENT**

PLEASE TAKE NOTICE that the Respondent hereby responds to the Appellant's
Motion to Strike filed on July 22, 2015 and Motion for Default Judgment filed on July
25, 2015 as follows:

1. In her Motion to Strike filed July 22, 2015 in this Court, the Appellant
asks the Court to strike the Respondent's final [sic] brief filed on October 8, 2014 and the
Amended Appendix to the Record on appeal filed on July 15, 2015 based on
Respondent's alleged failure to comply with Rule 11(a)(1) of the SCRCP.

2. A review of the documents that Appellant has asked to be stricken reveals
that both documents are properly signed and compliant with Rule 11(a)(1) of the SCRCP.


3. In her Motion for Default Judgment filed July 24, 2015 in this Court, the Appellant has alleged that she has “established all of the facts necessary to recover on its cause for relief” and seeks a default judgment to be entered against Respondent.

4. The basis for her motion is that Respondent did not and does not have standing to foreclose on her property. As already briefed in this matter, that issue was ruled upon in the August 22, 2012 judgment of the special referee and was not appealed by the Appellant. As such, it cannot be raised now.

5. Finally, as this matter is on appeal of the special referee’s order to reinstate the foreclosure judgment following bankruptcy, a default judgment is not a proper remedy to be issued from this Court.

WHEREFORE, Respondent requests that this Court deny the Appellant’s Motion to Strike and Motion for Default Judgment.

Dated: 31st day of July, 2015.



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Attorneys for Respondent H & R Block, FSB

CERTIFICATE OF SERVICE

The undersigned **RESPONSE TO APPELLANT'S MOTIONS TO STRIKE AND FOR DEFAULT JUDGMENT** was served on the parties to this action by depositing a copy thereof in the United States Mail, first class, postage prepaid, addressed to:

Ziraili M. Elbey
9789 Charlotte Highway, #400-191
Ft. Mill, South Carolina 29707
Appellant

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, SC 29210
Attorney for Respondent H&R Block FSB

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This the 3rd day of July, 2015.


Treat M. Grissom