

IN THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Marvin H. Dukes, III, Special Circuit Court Judge

Appellate Case No. 2015-000035
Lower Case No. 2013-CP-07-00610

RECEIVED

JUL 31 2015

SC Court of Appeals

First South BankPlaintiff/Respondent,

v.

John E. Rosenberg and Phillip J. Brust Defendants.

Of Whom The Estate of Phillip J. Brust is Appellant.

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

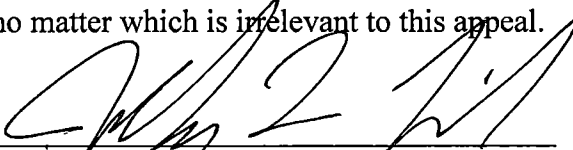
Respondent proposes the following be included in the Record on Appeal:

1. Complaint dated March 8, 2013;
2. Defendant Brust's Motion to Dismiss dated April 17, 2013 and supporting memorandum;
3. Defendant Brust's Supplemental Memorandum in Support of Motion to Dismiss dated July 31, 2013;
4. The Honorable Marvin H. Dukes' Order Denying Motion to Dismiss dated August 22, 2013;
5. Defendant Brust's Answer dated September 9, 2013;
6. October 2, 2013 Order granting Plaintiff's Motion for Summary Judgment against Defendant Rosenberg;
7. Plaintiff's Motion for Summary Judgment against Defendant Brust dated October 23, 2013;
8. Defendant Brust's First Set of Interrogatories and Requests for Production to Plaintiff dated October 9, 2013;
9. Plaintiff's Responses to Discovery Requests dated December 20, 2013;
10. Defendant Brust's Motion to Compel dated January 28, 2014;
11. Protective Order dated March 18, 2014;
12. Plaintiff's Supplemental Responses to Discovery Requests dated April 2, 2014;
13. Plaintiff's Second Supplemental Responses to Discovery Requests dated May 1, 2014;
14. Defendant Brust's Motion to Amend Answer and Cross-claims against Defendant Rosenberg dated May 30, 2014;

15. Defendant Brust's Memorandum in Response to Plaintiff's Supplemental Memorandum in Support of Motion for Summary Judgment dated July 7, 2014;
16. Defendant Brust's Supplemental Memorandum in Opposition to Motion for Summary Judgment dated July 28, 2014;
17. The Honorable Marvin H. Dukes Order granting Plaintiff's Motion for Summary Judgment against Defendant Brust dated August 5, 2014;
18. Defendant Brust's Motion for Reconsideration of the Summary Judgment Order dated August 18, 2014;
19. First South Bank's Opposition to Motion to Amend dated September 11, 2014;
20. Defendant Brust's Supplemental Memorandum in Support of Motion for Reconsideration dated October 15, 2014;
21. Plaintiff's Reply to Defendants' Supplemental Memorandum in Support of Motion for Reconsideration dated November 3, 2014;
22. The Honorable Marvin H. Dukes Order denying Brust's Motion for Reconsideration dated December 2, 2014;
23. The Honorable Marvin H. Dukes Order Denying Brust's Motion to Amend dated December 10, 2014;
24. Notice of Appeal dated January 9, 2015;
25. Deposition of Patrick Wright;
26. Deposition of Patrick Wright Exhibits 2, (First South Bank policies), 4 (January 9, 2006 Commitment Letter), 5 (January 18, 2006 instruction letter), 8 (Guaranty), and 9 (2006 Power of Attorney);
27. Deposition of Terry Finger;
28. Deposition of Finger Exhibit 1 (2001 Power of Attorney);
29. Affidavit of William C. Barksdale;
30. Transcript of Summary Judgment Hearing dated June 3, 2014;
31. Plaintiff's First Set of Requests to Admit to Defendant Philip J. Brust (dated October 3, 2013);
32. Defendant Philip J. Brust's Responses to Plaintiff's First Set of Requests to Admit (dated December 9, 2013);
33. Defendant Philip J. Brust's Supplemental Responses to Plaintiff's First Set of Requests to Admit (dated April 28, 2014); and
34. Deposition of Patrick Wright Exhibit 7 (Credit Narrative Ecological Investments, LLC) and Plaintiff's Exhibit 1 (Personal Financial Statements from Brust from 2005 - 2010).

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

July 29, 2015



Jeffrey L. Silver, SC Bar # 5104
Taylor A. Peace, SC Bar # 100206
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Columbia, South Carolina 29201

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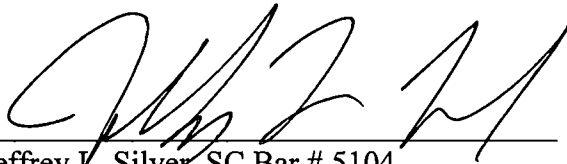
John E. Rosenberg and Phillip J. Brust Defendants.

Of Whom The Estate of Phillip J. Brust is Appellant.

PROOF OF SERVICE

I certify that I have served the **Initial Brief of Respondent and the Designation of Matter To Be Included in the Record on Appeal** upon Appellant, by depositing a copy of the same in the United States Mail, postage prepaid, on July 29, 2015, addressed to its attorney of record, Robert E. Sumner, IV, Moore and Van Allen, PLLC, Post Office Box 22828, Charleston, South Carolina 29413-2828.

July 29, 2015



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July 29, 2015

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

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SC Court of Appeals

RE: First South Bank v. John E. Rosenberg and Phillip J. Brust
Appellate Case No. 2015-000035
Our File No.: 1862.25827/JLS

Dear Ms. Kitchings:

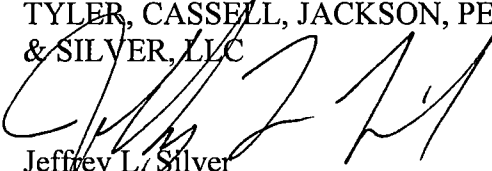
With regard to the above referenced matter, enclosed please find the original and one (1) copy each of the **Initial Brief of Respondent** and **Designation of Matter To Be Included in the Record on Appeal**, along with a **Proof of Service** of same. Please file the original with the Court and return a clocked copy to me in the enclosed self-addressed return envelope.

By copy of this letter, I am herewith serving the above documents on Robert E. Sumner, IV, as counsel for the Appellant.

If you have any questions or need anything further in this regard, please do not hesitate to contact us at any time.

Sincerely,

TYLER, CASSELL, JACKSON, PEACE,
& SILVER, LLC


Jeffrey L. Silver
Taylor A. Peace

TAP/rd

Enclosures

cc: Robert E. Sumner, IV, Esquire



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SC Court of Appeals

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COLUMBIA, SOUTH CAROLINA 29211-1656

To:

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201