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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

RECEIVED

AUG 03 2015

Diane Shafer Goodstein, Circuit Court Judge

SC Court of Appeals

Case No. 2014-001683

Wells Fargo Bank, N.A.,

Respondent,

v.

Dorothy Sistrunk,

Appellant.

**REPLY & RESPONSE TO RESPONDENT'S RETURN
TO APPELLANT'S MOTION FOR AN EXTENSION OF TIME**

July 31, 2015

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Comes now the Appellant, Dorothy Sistrunk, to file her *Reply & Response to Respondent's Return to Appellant's Motion for Extension of Time* that is dated July 27, 2015.

I. EXTRAORDINARY CIRCUMSTANCES

1. In the abundance of caution, the Appellant must respond to Respondent Wells Fargo Bank, N.A.'s ("Wells Fargo") request to "[r]eject this filing and dismiss the appeal" that is found in ¶1, on pg 1, in Respondent Wells Fargo's Return; so as not to be accused of failing to file a timely response. The Appellant has seen the statement, "Failure to file a timely response" in hundreds of rulings from Appellate and District Courts and the Appellant is not certain this *Reply & Response* is referred to in Rule 240(f), SCACR.

2. **The Appellant was victimized by extraordinary circumstances beyond the Appellant's control.** As stated in ¶1, in the Appellant's *Motion*, "[t]he *Record on Appeal* was Notary Certified on July 17, 2015." However, as stated, "[a]n issue arose with the printing company relative to numbering the *Record on Appeal* and the indices." Rule 210(c), SCACR clearly states in pertinent parts; **"Each page of the Record on Appeal shall be numbered consecutively beginning with the index."** Since, there is nothing in the Rule that clearly stated how this was to be done --- with Arabic Numbers or with lower case Roman Numerals, the printer was reluctant to print and charge me for it.

3. The printer automatically assumed, for whatever reason, my *Record on Appeal* was not properly done. This is why I attributed the reluctance to my *Pro Se* status. I am certain, if my *Record on Appeal* had been delivered from a law firm, it would have been printed and delivered on July 17, 2015 and this issue would not be before the Court. As stated in ¶2, in the *Motion*, "[n]o printer in Orangeburg, South Carolina, would print the *Record on Appeal* because they did not have any experience doing it." The printer in Columbia and the printers that were consulted were all reluctant to print the *Record* for reasons already stated in the *Motion*.

4. Since Judges are not *Pro Se* and neither is attorney Anzelmo, you have no earthly idea what a nightmare it is and what it is like being a *Pro Se* litigant in South Carolina's legal system... or the hurdles that must be overcome just to get basic information or documents done. Money does not grow on trees, the Appellant is not rich and does the very best that can be done under the circumstances. That being said, the Appellant's diligence in this matter has been seriously hampered by extraordinary circumstances that were not expected and were identified in the *Motion to Extend Time*.

(a) *Black's Law Dictionary*, (7th ed.), on pg 236, defines **Extraordinary Circumstance** as "[a] highly unusual set of facts that are not commonly associated with a particular thing or event."

(b) *High Country Home Health, Inc. v. Thompson*, 359 F. 3d 1307 (10th Circuit 2004) "[W]hen a party misses a deadline, it has several predictable avenues for attempting to avoid the resulting penalty. It can argue that there is a valid excuse for the tardiness..."

(c) *Pace v. DiGuglielmo*, 544 US 408 (2005) "[G]enerally, a litigant seeking equitable tolling bears the burden of establishing two elements: (1) that he has been pursuing his rights diligently, and (2) that some extraordinary circumstance stood in his way. See, e.g., *Irwin v. Department of Veterans Affairs*, 498 U.S. 89, 96 (1990)."

5. The Appellant's husband, that researches for the Appellant, has not found a single case law file, where an Appeal was late, because printers questioned the manner in which the Appeal was done and would not print it until the matter was satisfactorily resolved. Since the Appellant is not rich, and cannot afford double printing, the Appellant appreciated the concern, professionalism and courtesies shown.

6. The Appellant had every reason to believe...and...expect...the *Record on Appeal* would have been printed and delivered by the 20th of July. Because the 2nd issue that arose; beyond the Appellant's control, is relative to an index to **Volumes II-V** that was not included in **Volume I**, this was changed by the Appellant's husband over the weekend. The Appellant is not a printer... and had to rely on the experience of the printing

company, his contacts and their expertise relative to printing the *Record on Appeal*.

7. Rule 210(e), SCACR, clearly states in pertinent parts; "Every Record on Appeal shall contain an index to the principal matters therein to include orders, judgments, decisions, pleadings, pretrial matters, opening statements, testimony, motions, closing arguments, jury charges, post-trial motions and exhibits. For witness testimony, the index shall show the pages on which direct, cross, redirect and recross examination begins." There is no mentioning that **Volume I** must have an index for **Volumes II-V**. In fact, there is no reference in the Appellate Court's Rules as to what to do in the event there are multiple Volumes and more than one index is required.

II. RESPONSE TO ARGUMENTS

A. Wise v. S.C. Dept. of Corrections

8. In ¶1 on pg 2, Respondent Wells Fargo argues Wise v. S.C. Dept. of Corrections. This is not a relevant case law file. This case dealt with a failure to follow a requirement relative to Appellate Rules, not an Appellate Court Order and the Appellate Court still has jurisdiction in this matter. An Order is not a Rule. It is a decree or edict.

Wise v. SC DEPT. OF CORRECTIONS, 642 SE 2d 551 (2007) "[B]y order dated October 12, 2006, this appeal was dismissed by the Court of Appeals. On October 27, 2006, the Court of Appeals received a petition to reinstate from appellant; however, **he failed to provide proof of service**. The remittitur was sent to the lower court by order dated October 30, 2006. On December 28, 2006, appellant filed a motion for enlargement of time in this Court. By order dated January 4, 2007, the motion was denied because the sending of the remittitur ended appellate jurisdiction over the matter ---- On December 28, 2006, appellant filed a motion for enlargement of time in this Court. By order dated January 4, 2007, **the motion was denied because the sending of the remittitur ended appellate jurisdiction over the matter** --- Whenever it appears that an appellant has failed to comply with the requirements of the SCACR, an order of dismissal shall be issued. Rule 231(a), SCACR. The Clerk of Court shall remit the case to the lower court in accordance with Rule 221, SCACR, unless a motion to reinstate the appeal has been actually received by the court within fifteen days of filing of the order of dismissal. *Id.*"
[Boldness added for emphasis]

B. State v. Burton

9. In ¶1, on pg 2, Respondent Wells Fargo, argues State v. Burton, 356 S.C. 259, 265 n. 5 589 S.E.2d 6, n.5 (2003) This is also not a relevant case law citation for the following reasons:

(a) **State v. Burton is a criminal case not a civil case.** State and federal law protects the constitutional right to be represented by an attorney if an individual has been accused of a crime and the punishment for that crime could be time in jail or prison.

(b) If a person is financially unable to hire an attorney, an attorney shall be appointed to represent him/her. A Public Defender is appointed by the Court. Burton had a choice and deliberately choose; for whatever reason, not to take advantage of it. This is not true in civil litigation; at least in South Carolina.

(c) **The Respondent's has also misstated the facts. The Appellant did not knowingly decide or choose to represent herself. The Appellant had no choice for financial and other reasons that will be stated.** The law firms that were initially contacted in Columbia, South Carolina in June of 2008 would not take the case, because of their belief Wells Fargo would send a Resolution Team to investigate the matter and the case would never go to Court.

(d) **The Appellant could not afford the legal services of the law firms contacted in Charleston, South Carolina.** Out of the law firms contacted in Orangeburg, several turned down the case outright without offering any consultation. One; the Dean Law Firm, {Exhibit 33} declined to take the case after consultation and the Luginbill Law Firm, {Exhibit 32} actually believed the lie, from whoever he contacted, that the Appellant ordered the falsified 7-59 Ap-

praisals. Therefore, attorney Luginbill decided there was little hope of success against the appraiser or the mortgage company since he believed the lie, the Appellant ordered the Appraisals. **The seller ordered the falsified 7-59 Appraisal ... not the Appellant.** {See Exhibit WF00027 for Proof & Verification}

(e) The online legal services that were contacted in June of 2008 told the Appellate; in their chat services, to defend the case properly would cost more than the house was worth and **unless the Appellant had deep pockets, they recommended filing bankruptcy.**

10. Based on the Appellant's experience with Charleston's, Columbia's and Orangeburg's law firms; as well as, the law firms that have an online service, to get legal help in South Carolina and in some other states, one must be either financially able, destitute, already a prisoner or face jail or imprisonment from a criminal offense. **OTHERWISE, THERE IS LITTLE OR NO HELP IN OR OUT OF COURT FOR PRO SE LITIGANTS.**

C. The Record on Appeal is 142 days past due.

11. **Again, Respondent's Attorney Michael Anzelmo has misstated the facts.** If the Appellate Court and Respondent's Attorney Michael Anzelmo, have not trashed all the *Appendices*, the last page in some of the *Appendices*, will verify, the Appellant's *Record on Appeal* was ready for delivery and was Notary Certified on December 12, 2014. {See Attached Copy Marked as Exhibit 392}

12. As you can see from Exhibit 392, the original *Record on Appeal* was 9 Volumes instead of 5 and it was 2,803, pages instead of 1813. 30 pages were added to the *Record on Appeal* because of printer concerns about the missing index for **Volumes II-V** that they believed had to be included in **Volume I**. The Appellant's delivery date was de-

layed due to Wells Fargo's *Motion to Extend Time* to January 2, 2015 in order to file the Respondent's Initial Brief. {Review Filed Exhibit 382}

13. Additional delays were caused by attorney Anzelmo's *Motion to Strike* the Appellant's *18 Appendices* that contained the truth, the evidence and the facts that supported; as well as, verified the Appellant's Statements of Fact in the *Reply Brief*. Respondent's *Motion to Strike* was filed on February 17, 2015. {Review Filed Exhibit 383}

14. The Appellate Court agreed the truth, the evidence and the facts in the *18 Appendices* could not be included with the *Reply Brief* and struck down the *18 Appendices* on April 3, 2015. {See Filed Exhibit 390}

15. After reviewing hundreds of remanded cases with her husband due to a lower court's failure to rule on issues that were raised in the initial proceedings; as well as, rule violations, from State Appellate Courts; as well as, from Federal District and Appellate Courts, the Appellant filed a *Motion to Remand* on April 14, 2015. The Appellant selected 24 reasons from successful remands that were identical or similar in law and included them in her *Citations to Authority*. The Appellate Court rejected the reasons other Courts accepted and denied the *Motion to Remand* on 7/1/15 {Exhibit 391}

16. The Appellant is well aware South Carolina's Appellate Court has no legal obligation to follow precedents from Appellate Courts in other states or Federal District Courts and/or Appeals Courts. {Review Appellant's *Citations to Authority, Supporting Motion to Remand*, Reasons 1-24, ¶¶1-27, pgs 9-36}

17. As the Appellate Court can plainly see; and based on the facts, the truth and the evidence, the Appeal is not 142 days past due and all the time alluded to by Respondent Wells Fargo's attorney, have all been pursuant to Appellate Court Rules and within the discretion of the Appellate Court. In addition, there is no appeal for the denial

of the Appellant's *Motion to Remand*, because it is not a final decision. The Appellant is relying on Rule 221(c), SCACR.

Rule 221(c) SCACR, clearly states, "[T]he appellate court will not entertain petitions for rehearing on a motion or petition unless the action of the court on the motion or petition has the effect of dismissing or finally deciding a party's appeal."

D. Printing the record due to size is unfounded.

18. In ¶2, on pg 2, **again, Respondent's attorney Anzelmo, has misstated the facts.** The issue at Columbia's printers that have experience printing Appeals for the Appellate Court is not the number of pages. **It is numbering the pages.** Based on their experience, only the Court Records are to be numbered consecutively. The Indices are not included in that numbering process. According to Columbia's experience printers, the indices are numbered separately with lower case Roman Numerals. Even though the Appellant argued Rule 210(c), SCACR, **"Each page of the Record on Appeal shall be numbered consecutively beginning with the index"**, it was not persuasive... and the printer, after consulting other printers, would not print the *Record* the way it was numbered. According to the language of the Rule, the Appellant numbered the Indices. {Review Filed Examples}

19. The next issue was the amount of information included in the Indices that increased the number of pages to 50. The Appellant informed the printer all the exhibits had to be explained because they were never reviewed or discussed in Court. This required consultation with other printers and an attorney with Appellate Court experience before the *Record on Appeal* could be printed. The Appellant has no idea how this issue was resolved, because personal conversations with the attorney have not been revealed.

20. As stated earlier, another issue was the missing index to **Volumes II-V**. The Appellant's husband completed the new index, renumbered all the indices with lower case Roman Numerals; as advised, and the *Record on Appeal* was delivered to Columbia

Printing on July 20, 2015. This is why no *Motion to Extend Time* was filed earlier. On Tuesday, July 21, 2015, other problems emerged, i.e., frequent paper jams due to the age of the documents. The Appellant's records are 7-8 years old and have been copied and recopied a number of times; therefore, they are fragile documents. Finally, late, Tuesday, afternoon, on July 21, 2015, the Appellant was notified, the *Record* could not be printed and delivered. On Wednesday, July 22, 2015, equipment failure halted the project and the Appellant's husband began researching the language for a *Motion to Extend Time*.

E. **Appellant's desire to include superfluous documents and unnecessary documents**

21. Finally, in ¶2, on pg 2, Respondent attorney's statement relative to the "[A]ppellant's apparent desire to include a significant number of superfluous and unnecessary documents" is thoroughly discredited and proven false by Exhibit 392. The Appellant has reduced pages, not increased them. Every pleading and exhibit supports one of the 24 reasons why this case should have been remanded in 2015 and sent to a Jury in 2008.

22. When it comes to adjudicating this case; based on the highest principles and/or standards of American and international law, like it or not, believe it or not; as the Appellate court will soon discover for itself, the problem with this case is not the Appellant, its Wells Fargo, Wells Fargo's corporate lawyers, Wells Fargo's hired lawyers from Nelson Mullins Riley & Scarborough, LLP and the Errors of Fact and Law by the lower court Judge. As Officers of the Court, they have done little to inspire confidence in the legal profession or in the Court of Common Pleas in Orangeburg, South Carolina.

III. SUMMATION

23. By Wednesday afternoon on July 22, 2015, the Appellant still did not know what to do. There is no *Motion* addressing the issues the Appellant encountered and no

support could be found in case histories with the search string... “[m]otion to extend time to print the record on appeal”. Therefore, the Appellant was forced out of necessity to file an unprecedented *Motion to Extend Time* for which no case law could be found --- [A **Motion to Extend Time to Print the Record on Appeal.**] Since, the Appellant did not know when the binding equipment would be repaired or replaced and neither did Columbia Printing, no time limit could be placed on it and the Appellant could not wait any longer to file the *Motion*. In addition, it might take several days to find the right search string.

24. By Thursday night, July 23, 2015, the *Motion* was completed and it was filed on Friday, July 24, 2015. The *Motion* was made in good faith, in the abundance of caution and not for the purposes of unnecessary delay. Based on additional research into the matter from online PDF files from other states, District Courts and Federal Appellate Courts, Columbia’s professional printers position is supported. In the records we finally found online, only the Court’s Records are consecutively numbered Arabically.

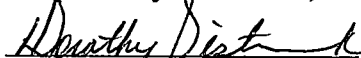
IV. CONCLUSION

25. If Columbia Printing cannot repair or replace the binding machine, the Appellant will be forced to find another printer to complete the *Record on Appeal* for a reasonable price. The Appellant has presented no arguments or excuses and has stated the facts and written the truth. It’s up to the Court to accept or not accept the truth. The Appellant has learned, “[t]he law favors appeals and abhors their forfeiture.” Revere v. Wiregrass Gas & Appliance Co., 169 So. 2d 120 (La: Ct.App. 1st Cir. 1964) & Texas Pipe Line Company v. Stein, 190 So. 2d 244 (La: Ct.App. 4th Cir.1966)

Therefore, the *Motion to Extend Time for Printing* should be granted. Thank you.

July 31, 2015

Respectfully Submitted;


Dorothy Sistrunk

Declaration

I. Let it be known that 18 U.S. Code § 1621 clearly states in pertinent parts; "[W]hoever— (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

II. And...28 U.S. Code § 1746 clearly states in pertinent parts; "[W]herever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)". "

III. Rule 11(c), SCRCF clearly states in pertinent parts; "[A]ffidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true."

IV. Based on the above Rule and Laws, as the Appellant in case #2014-001683; I, Dorothy Sistrunk, declare; under the **PENALTY** of **PERJURY**, under the laws of the United States and in compliance with Rule 11(c), SCRCF, that the stated facts in my "*Reply & Response to Respondent's Return to Appellant's Motion for an Extension of Time*" are true and correct. Executed on 7/31/2015.



Signature

NOTARY CERTIFICATION

IN WITNESS WHEREOF, The undersigned, being duly *SWORN*, and under the *PENALTY OF PERJURY* declares the facts stated herein in her Reply & Response to Respondent's Return to Appellant's Motion for an Extension of Time are true and correct as of her own knowledge. When it comes to matters stated therein that are based upon information and/or belief; as to those matters, she believes them to be true. Accordingly, based on the stated facts, has signed, sealed and executed these attestations this 31st day of July in the year 2015 in the City and County of Orangeburg, in the State of South Carolina.

Appellant's Signature: Dorothy Sistrunk

Notary's Signature as Witness (1): Julian D. Buck

Signed, Sealed and Delivered in the Presence of:

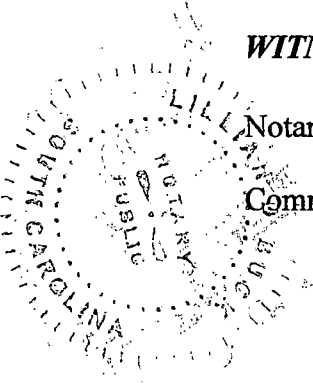
**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On July 31st 2015 before me appeared Dorothy Sistrunk and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instruments (Reply & Response to Respondent's Return to Appellant's Motion for an Extension of Time) and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on this Verified Submission presents these document to the Appellate Court.

WITNESS My Hand and Official Seal.

Notary's Signature Julian D. Buck

Commission Expires July 24, 2022



(Seal)

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

2014-001683

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AUG 03 2015

SC Court of Appeals

Wells Fargo Bank, N.A., Respondent,

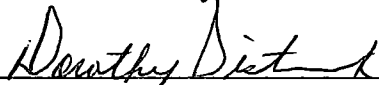
v.

Dorothy Sistrunk, Appellant.

PROOF OF SERVICE

I certify that I have served a copy of my *Reply & Response to Respondent's Return to Appellant's Motion for an Extension of Time* on Wells Fargo Bank, N.A., by depositing a copy of it with United Parcel Service (UPS), prepaid, on July 31, 2015, addressed to Wells Fargo's attorney of record that has filed a brief. The said attorney is listed below.

Today's Date: July 31, 2015

/s 
Dorothy Sistrunk
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(803) 268-0716

Attorney Michael Anzelmo
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Please Note for the Record: Elizabeth Scott Moise has not filed a brief.