

The South Carolina Court of Appeals

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

Appellate Case No. 2014-001683

ORDER

Appellant has filed a motion to remand this appeal to the circuit court "to obtain rulings on the issues raised in her pleadings." Respondent has filed a return. After careful consideration of the parties' filings, Appellant's motions are denied. Appellant shall serve the record on appeal within twenty days of the date of this order.




FOR THE COURT

Columbia, South Carolina

cc: Dorothy Sistrunk
Elizabeth Scott Moise, Esquire
Michael J. Anzelmo, Esquire

FILED
7/1/15

Exhibit 391

NOTARY VERIFICATION

IN WITNESS WHEREOF, The undersigned, being duly *SWORN*, and under the *PENALTY OF PERJURY* declares the facts stated herein in the Record on Appeal Volumes I - IX 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 and sealed these attestations this 12th day of Dec in the year 2014 in City and County of Dramburg, in the State of South Carolina.

Appellant's Signature: Dorothy Sistrunk

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

Signed, sealed and delivered in the presence of:

**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On Dec 12, 2014 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 (Record on Appeal Volumes I - IX) and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on this Verified Submission (Record on Appeal Volumes I - IX) presents these document to the Appellate Court. WITNESS my hand and official seal.

Notary's Signature Sullivan D. Buck

Commission Expires My Commission Expires July 24, 2022



(Seal)

3

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9024
www.nelsonmullins.com

Michael J. Anzelmo
Tel: 803.255.9312
Fax: 803.255.9024
michael.anzelmo@nelsonmullins.com

July 27, 2015

Hand Delivered

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

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Wells Fargo Matter #: 0362522-01
Case No.: 08-CP-38-1024
Appellate Case No.: 2014-001683
NMRS File No.: 10275/01528

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of a Return to Appellant's Motion for an Extension of Time in the above-referenced matter. Please file the original and return a clocked-in copy to me via our courier. Should you have any questions, please do not hesitate to contact me.

By copy of this letter, I am hereby serving the opposing party.

Very truly yours,



Michael J. Anzelmo

MJA:jlee
Enclosures

cc: Ms. Dorothy Sistrunk

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024
Appellate Case No. 2014-001683

Wells Fargo Bank, N.A., Respondent,
v.
Dorothy Sistrunk, Appellant.

Return to Appellant's Motion for an Extension of Time

Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Respondent Wells Fargo Bank, N.A. ("Wells Fargo") files this return to Appellant's motion for an extension of time to serve the record on appeal.¹ This Court should reject this filing and dismiss the appeal.

On July 1, 2015, this Court issued an order denying Appellant's motion to remand this matter. As part of that order this Court stated that "Appellant shall serve the record on appeal within twenty days of the date of this order." The deadline expired on July 21, 2015. Appellant did not serve the record on appeal or request this extension prior to the expiration of that deadline. Thus, this motion for an extension is untimely and should be denied.

¹ Appellant requests an extension to print the record on appeal. The applicable deadline is the deadline to serve the record on appeal.

In fact, this Court should dismiss the appeal for Appellant's failure to timely serve the record on appeal. See Wise v. S.C. Dept. of Corrections, 372 S.C. 173, 173, 642 S.E.2d 551, 551 (2007) (stating that "[w]henver it appears that an appellant has failed to comply with the requirements of the SCACR, an order of dismissal shall be issued") (emphasis added). Appellant's status as a pro se litigant does not alter that result. See, e.g., State v. Burton, 356 S.C. 259, 265 n. 5, 589 S.E.2d 6, 9 n. 5 (2003) ("A pro se litigant who knowingly elects to represent h[er]self assumes full responsibility for complying with substantive and procedural requirements of the law."). The parties completed initial briefing of this appeal on February 6, 2015, making the record on appeal due to be served by March 8, 2015. The record on appeal is, as of the date of this return, 142 days past due. Appellant should not be afforded any additional time to serve the record on appeal.

Moreover, Appellant's claims of difficulty in printing the record due to the size of the record are unfounded.² The record on appeal for this matter should be straightforward. This appeal involves the grant of a summary judgment motion by the trial court. The record need only contain those filings relevant to that motion as designated by the parties. See Rule 209(b), SCACR ("A party shall not include any matters in his Designation which is not relevant to the appeal."). Appellant's apparent desire to include a significant number of superfluous and unnecessary documents should not provide a basis for further delay of this appeal. Appellant filed her notice of appeal on July 30, 2014, yet the record on appeal has yet to be served. This Court should

² Appellant claims the index for the record exceeds 50 pages by itself. See Motion p. 2.

dismiss the appeal because of Appellant's failure to serve the record on appeal by July 21, 2015.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

Michael J. Anzelmo
SC Bar No. 72933
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, South Carolina 29201
803.799.2000

Attorneys for Wells Fargo Bank, N.A.

Columbia, South Carolina

July 27, 2015

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Case No. 2008-CP-38-1024

Appellate Tracking No. 2014-001683

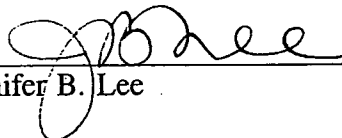
Wells Fargo Bank, N.A., Respondent,
v.
Dorothy Sistrunk, Appellant.

Proof of Service

I, the undersigned administrative assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Plaintiff Wells Fargo Bank, N.A., do hereby certify that I have served all parties in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by certified United States Mail, return receipt requested, postage prepaid, to the following address(es):

Pleadings: **Return to Appellant's Motion for an Extension of Time**

Party Served:
pro se Defendant
Ms. Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115



Jennifer B. Lee

July 27, 2015

Exhibit 395

5
 **Dorothy Sistrunk**

423 Bayne Street • Orangeburg, SC 29115 • Ph: 803-268-0716 • Fx: 803-534-6727

July 31, 2015

The Honorable Jenny Abbot Kitchings & V. Claire Allen
Clerk of Court & Deputy Clerk of Court; Respectively,
South Carolina Court of Appeals
POB 11629
Columbia, SC 29211

RECEIVED
AUG 03 2015
SC Court of Appeals

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Civil Action Case #2008-CP-38-1024
Appellate Case #2014-001683

Ms. Kitchings and/or Ms. V. Claire Allen,

Enclosed is my *Reply & Response to Respondent's Return to Appellant's Motion for an Extension of Time* with Proof of Service to the attorney of record that has filed a brief. In addition, I no longer need to find a printing company that will print the *Record*. Despite all the issues and problems encountered last week, as of July 30, 2015, the *Record on Appeal* has been printed and delivery will occur if the Appeal is not dismissed.

Pursuant to Rule 210(f), SCACR, "[T]he moving party shall have five (5) days from the date of service of a return to file an original and six (6) copies of a reply with the clerk and serve on all parties a copy of the reply." 6 copies of my Reply & Response, not stapled or bound are included; along with exhibits 391-395.

Thank you.

/s/ 
Dorothy Sistrunk

CC:

Attorney Michael Anzelmo
SC Bar No. 72933
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
(803) 799-2000

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