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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

R. Markley Dennis, Circuit Court Judge

**RECEIVED**

AUG 04 2015

SC Court of Appeals

Case No. 2015-001461

Wells Fargo Bank, N.A., as Successor by Merger to Wachovia Bank, National Association as Successor by Merger to First Union National Bank, ..... Respondent,

v.

Penny Creek Associates, L.L.C. a/k/a Penny Creek Associates, LLC; The Grove at Fenwick Plantation, LLC; Michel F. LaPlante a/k/a Michel LaPlante a/k/a Mitch LaPlante; Charlotte R. Zurlo; Eugene J. Zurlo; Charlotte R. Zurlo and Eugene J. Zurlo, as Co-Trustees of The Nicklaus Lane Realty Trust No.1 under Declaration of Trust dated May 22, 1998, and The Zurlo Investment Trust No. 1 pursuant to trust agreement dated August 10, 1998; Fenwick Hall Plantation Property Owners Ass'n., Inc. a/k/a Fenwick Hall Plantation Property Owners' Association, Inc.; Preserve at Fenwick Hall Property Owners' Association, Inc.; and The Grove at Fenwick Plantation Condominium Association, Inc., ..... Defendants,

Of Whom, Penny Creek Associates, L.L.C. a/k/a Penny Creek Associates, LLC; The Grove at Fenwick Plantation, LLC; Charlotte R. Zurlo; Eugene J. Zurlo; Charlotte R. Zurlo and Eugene J. Zurlo, as Co-Trustees of The Nicklaus Lane Realty Trust No.1 under Declaration of Trust dated May 22, 1998, and The Zurlo Investment Trust No. 1 pursuant to trust agreement dated August 10, 1998; Fenwick Hall Plantation Property Owners Ass'n., Inc. a/k/a Fenwick Hall Plantation Property Owners' Association, Inc.; Preserve at Fenwick Hall Property Owners'

Association, Inc.; and The Grove at Fenwick Plantation  
Condominium Association, Inc. are the..... Respondents,

Michel F. LaPlante a/k/a Michel LaPlante a/k/a  
Mitch LaPlante.....Appellant,

v.

The Eugene J. Zurlo Living Trust, Dated December  
11, 1997 and Paul Zurlo,..... Respondents.

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**RESPONDENT WELLS FARGO BANK, N.A.'S  
MOTION TO DISMISS APPEAL**

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Respondent Wells Fargo Bank, N.A. ("Wells Fargo") hereby moves the Court, pursuant to Rule 240(a), SCACR, for an Order dismissing this appeal as interlocutory and premature. In support of its Motion, Wells Fargo respectfully submits the accompanying Memorandum in Support and the materials referenced in and attached as exhibits thereto, the applicable law, and such other materials as may be considered by the Court.



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Attorneys for the Respondent  
Wells Fargo Bank, N.A., as Successor by Merger  
to Wachovia Bank, National Association, as  
Successor by Merger to First Union National Bank

August 3, 2015

Charleston, South Carolina

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Of Whom, Penny Creek Associates, L.L.C. a/k/a Penny Creek Associates, LLC; The Grove at Fenwick Plantation, LLC; Charlotte R. Zurlo; Eugene J. Zurlo; Charlotte R. Zurlo and Eugene J. Zurlo, as Co-Trustees of The Nicklaus Lane Realty Trust No.1 under Declaration of Trust dated May 22, 1998, and The Zurlo Investment Trust No. 1 pursuant to trust agreement dated August 10, 1998; Fenwick Hall Plantation Property Owners Ass'n., Inc. a/k/a Fenwick Hall Plantation Property Owners' Association, Inc.; Preserve at Fenwick Hall Property Owners'

Association, Inc.; and The Grove at Fenwick Plantation  
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Michel F. LaPlante a/k/a Michel LaPlante a/k/a  
Mitch LaPlante.....Appellant,

v.

The Eugene J. Zurlo Living Trust, Dated December  
11, 1997 and Paul Zurlo,..... Respondents.

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**CERTIFICATE OF SERVICE**

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I certify that on August 3, 2015, I have served the foregoing Respondent Wells Fargo Bank, N.A.'s Motion to Dismiss Appeal on the following parties of record by causing a copy of same to be deposited in the United States Mail, postage prepaid, addressed to counsel as follows:

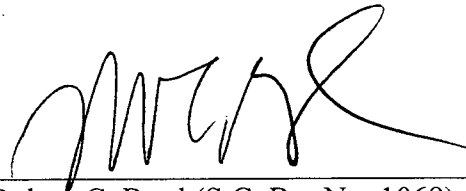
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Wachovia Bank, National Association as Successor  
by Merger to First Union National Bank

August 3, 2015



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Charleston, SC  
Charlotte, NC  
Columbia, SC  
Raleigh, NC  
Spartanburg, SC

August 3, 2015

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AUG 04 2015

SC Court of Appeals

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

Re: **Wells Fargo Bank, N.A. v. Penny Creek**  
**Appellate Case No. 2015-001461**

Dear Ms. Kitchings:

Enclosed please find an original and six copies of each of the following:

1. *Respondent Wells Fargo Bank, N.A.'s Motion to Dismiss Appeal;*
2. *Memorandum in Support of Respondent Wells Fargo Bank, N.A.'s Motion to Dismiss Appeal;* and
3. *Certificate of Service.*

Please have the originals filed with the Court. Also enclosed is a \$25.00 check for the filing fee.

If you should have any questions, please do not hesitate to contact me. Thank you for your assistance in this matter.

With kindest regards, I am

Sincerely,

Robert C. Byrd

RCB:kxl  
Enclosures

cc (w/enc.): Jason Scott Luck, Esquire  
Robert Bratton Varnado, Esquire  
Thomas B. Pritchard, Esquire  
J. Rutledge Young, Jr., Esquire  
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