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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

The Honorable Richard L. Booth
Master in Equity

Appellate Case No. 2015-000349
Circuit Court Case No. 2010-CP-43-00823

Wells Fargo Bank, N.A., Respondent,

v.

Delores Prescott and Wells Fargo Financial Bank (SD), Defendants,

Of Whom

Delores Prescott is the Appellant.

RESPONDENT'S OPPOSITION TO MOTION TO HOLD IN ABEYANCE

Wells Fargo opposes Appellant's "Motion to Hold in Abeyance" and urges the Court to reject this type of gamesmanship. This foreclosure action was filed in April 2010 after Appellant stopped making payments on her loan agreement with Wells Fargo. Using various procedural devices—including filing multiple bankruptcies and attempting to create confusion by taking completely inconsistent positions throughout the bankruptcy and state-level matters—she has managed to avoid foreclosure (and making payments on her loan, for that matter) for over five years. Judge Booth rightly put an end to this posturing by ruling in Wells Fargo's favor on both its foreclosure claim and on Appellant's counterclaims.

Since appealing Judge Booth's ruling, Appellant has continued to throw up procedural impediments to this case's timely resolution. First, one month after the notice of appeal was filed—around the time her opening brief was due—Appellant filed a motion to relieve her capable counsel from this case. That motion pushed out all briefing deadlines by two months: one month for Appellant to find new counsel, which she did not do, and another month to file her opening brief. Now, with the new deadline for her opening brief again approaching, Appellant has filed a motion that asks the Court to simply delay everything in this appeal for six more months.

Appellant provides absolutely no explanation or authority for her request beyond cryptic citations to Rules 59 and 60 of the South Carolina Rules of Civil Procedure—rules that do not even apply in this Court or in this case—and general complaints that the issues she wishes for this Court to examine have not been preserved for appellate review. These generalized complaints are not a reason to continue stalling enforcement of Wells Fargo's rights under the parties' loan agreement, and they are not a reason to delay reviewing Judge Booth's Order granting judgment in Wells Fargo's favor on all claims.

Indeed, it is surprising that Appellant would be going to such lengths to string this litigation out and waste the Court's and the parties' respective resources when she abandoned her interest in the subject property two years ago as part of her second bankruptcy proceeding. In June 2013, Appellant filed a "Motion to Modify" her Chapter 13 plan with the Bankruptcy Court and confirmed at the outset—in blue highlighting—the she was "abandon[ing her] interest in property located at 6365 Saxton Rd., Rembert, SC 29128 [*i.e.* the property at issue in this litigation]" to Wells Fargo.¹

¹ A color copy of that filing is attached as Exhibit A, and will also be included in this case's Record on Appeal, as it was presented to Judge Booth as part of the summary judgment briefing.

Because Appellant voluntarily forfeited her interest in the property at issue in this case over two years ago, and because she has not identified any legitimate reason to put the entire appellate process on hold for another six months, the Court should reject Appellant's efforts to needlessly prolong this litigation. Respectfully, Wells Fargo urges the Court to enforce its prior briefing order and keep this appeal on schedule for timely and efficient resolution.

Respectfully submitted,

WOMBLE CARLYLE SANDRIDGE & RICE, LLP

By: 

S. Sterling Laney, III
S.C. Bar No. 6933
550 South Main Street, Suite 400
Greenville, South Carolina 29601
(864) 255-5400
slaney@wcsr.com





M. Todd Carroll
S.C. Bar No. 74000
1727 Hampton Street
Columbia, South Carolina 29201
(803) 454-6504
todd.carroll@wcsr.com

Attorneys for Respondent

June 5, 2015

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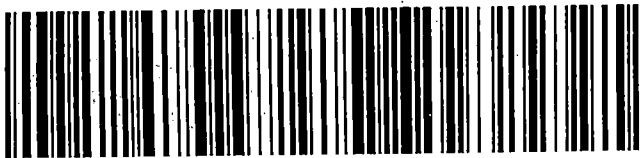
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