

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

NOV 17 2015

SC Court of Appeals

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 to Strike" dated November 9, 2015

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 to strike dated November 9, 2105. On October 12, 2015, Wells Fargo filed a motion to require Appellant to include in the Record on Appeal all matters set forth in Wells Fargo's Designation of Matter. Appellant filed a return. In that return, Appellant admitted that she did not include all documents designated by Wells Fargo. See Appellant's Return p. 3 "Reason #5." Wells Fargo filed a reply. That motion remains pending with this Court.

Appellant now files a motion to strike Wells Fargo's motion. In response to Appellant's motion, Wells Fargo incorporates its motion dated October 12, 2015, and its reply to Appellant's return to that motion. Moreover, in her motion to strike, Appellant again admits that she did not include the items designated by Wells Fargo

that were omitted by Appellant from the Record on Appeal. See Motion p. 3 ¶ 4 (“Since many of the documents the Appellant excluded were Designated Matters, the Appellant clearly stated the reasons for this exclusion was the lack of money to pay for the entire Record.”).

Appellant does not get to pick and choose which items should be included in the Record on Appeal. Rule 210(c), SCACR, mandates Appellant include all matters designated by Wells Fargo. Wells Fargo certified that the items designated were relevant to the appeal.

As admitted by Appellant, she failed to include the following items designated by Wells Fargo in the Record on Appeal:

1. All exhibits presented by Wells Fargo with its motion for summary judgment. Wells Fargo designated its “Motion for Summary with Exhibits dated, June 28, 2013.” See Designation of Matters, Item 8. Appellant has admitted that she failed to include Exhibits Numbers 2, 9, and 10 in the Record on Appeal.¹

2. Wells Fargo’s “Letter dated March 31, 2014, serving Order Granting Motion for Partial Summary Judgment on Sistrunk.” See Designation of Matters, Item 9. Appellant has admitted excluding this item as well.

This Court should deny this motion to strike and order Appellant to file a supplemental Record on Appeal including all items set forth and attached to Wells Fargo’s motion. Wells Fargo previously provided courtesy copies of the excluded items noted above for use by Appellant in compiling and service of the supplemental

¹ In the motion to strike, Appellant appears to argue that she is not required to include the exhibits in the Record on Appeal because she included the Motion for Summary Judgment alone. See Motion p. 3 ¶ 3(c). That is incorrect. Rule 210(c), SCACR, required Appellant to include the exhibits as designated by Wells Fargo.

Record on Appeal. Alternatively, if Appellant cannot afford (as she has stated she cannot do) to comply with the Appellate Court Rules and submit a proper Record on Appeal, then this Court should dismiss the appeal. See Rule 210(a), SCACR (“Within thirty (30) days after service of the last brief, the appellant shall serve a copy of the Record on Appeal”); 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); 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.”).

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By: 

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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 Respondent 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 to Strike" dated November 9, 2015**

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



Lisa P. Whitehurst

November 17, 2015

Nelson Mullins

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SC Court of Appeals

November 17, 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 the *Return to Appellant's "Motion to Strike" dated November 9, 2015* in the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier.

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

Very truly yours,



Michael J. Anzelmo

MJA:lpw
Enclosures
cc: Ms. Dorothy Sistrunk