

78505

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Charleston County
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

RECEIVED
FEB 01 2016
SC Court of Appeals

CASE NO. 2013-CP-10-1686

Church of God and Church of God of South Carolina,Appellants,

v.

Mark Estes, Patricia Estes, Michael Timothy Brooks, Individually and as Trustee for Church of God at North Charleston Trust, Adam Boyer, Individually and as Trustee for Church of God at North Charleston, Rolando River Osorio As Trustee For Church Of God At North Charleston Trust and North Palm Ministries, Inc., North Palm Community Church and Crescom Bank, Successor by Merger to Community First Bank and its Successor Crescom Bank, Defendants.

Of Whom Crescom Bank is theRespondent,

v.

Thomas Propes and Marc Campbell, Third Party
Defendants.

**APPELLANTS' RETURN TO RESPONDENT'S MOTION TO STRIKE AND FOR
LEAVE OF COURT TO ADD A CITATION TO APPELLANTS' BRIEF AND TO
AMEND APPELLANTS' DESIGNATION OF MATTER**

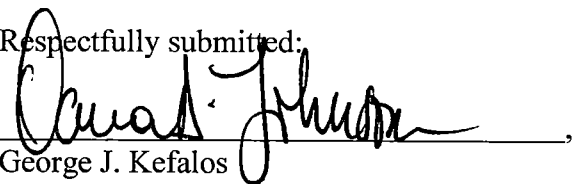
Respondent has moved to strike any reference to the loan application submitted by Defendants Brooks, Boyer and Osario contained in Appellants' Initial Brief. Respondents incorrectly allege that the loan application was never introduced in the circuit court. In fact, both

the loan application itself and the testimony of Mr. Warrick, the Respondent Bank's representative regarding the loan application, were submitted to the Circuit Court. The loan application appeared as Exhibit 1 of the Warrick deposition which was provided to the Circuit Court along with the entire Warrick Deposition and Exhibit packet on April 20, 2015 as a part of the summary judgment process.

It is true Appellants inadvertently omitted the citation to the Warrick testimony and the exhibit in their Initial Brief, but that does not change the fact that both the testimony and the exhibit were before the lower court. Appellants propose to solve the problem by amending the brief and designation of matter. Following the challenged line, "To make matters worse, the Rogue Directors disclosed on the face of their loan application their intent to use the proceeds from the mortgage loan to purchase property for a new church," there should have been a citation reading, "(Warrick Deposition, pgs. 17 – 19 and Exhibit 1)." Because of this scrivener's error, Appellants' Designation of Matter also inadvertently omitted Exhibit 1 and Pages 17 – 19 of the Warrick Deposition.

Appellant respectfully requests the Court **DENY** Respondent's Motion to Strike because the challenged material was part of the record before the lower court; and, **GRANT** Appellants leave of Court to correct the scrivener's errors. Appellants propose to add the missing citation to the Warrick Deposition and Exhibit to their brief, and to amend their Designation of Matter to include Pages 19 -21 of the Warrick Deposition and Exhibit 1 to the Warrick Deposition as shown on the attached Amended Designation of Matter.

Respectfully submitted:



George J. Kefalos
GEORGE J. KEFALOS, PA

46 A State Street
Charleston, SC 29401
(843) 722-6612
George@kefaloslaw.com

Oana D. Johnson
Attorney for Appellant
Janik L. L. P.
One Carriage Lane
Building H
Charleston, South Carolina 29407
Oana.johnson@janiklaw.com

ATTORNEYS FOR APPELLANT
CHURCHES OF GOD

January 22 2016

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED
FEB 01 2016
SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

CASE NO. 2013-CP-10-1686

Church of God and Church of God of South Carolina,Appellants,

v.

Mark Estes, Patricia Estes, Michael Timothy Brooks, Individually and as Trustee for Church of God at North Charleston Trust, Adam Boyer, Individually and as Trustee for Church of God at North Charleston, Rolando River Osorio As Trustee For Church Of God At North Charleston Trust and North Palm Ministries, Inc., North Palm Community Church and Crescom Bank, Successor by Merger to Community First Bank and its Successor Crescom Bank, Defendants.

Of Whom Crescom Bank is theRespondent,

v.

Thomas Propes and Marc Campbell, Third Party
Defendants.

AMENDED DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL

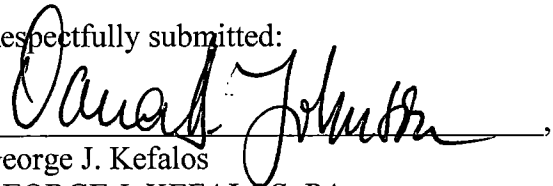
Appellants propose the following be included in the Record on Appeal:

1. Order of May 11, 2015;
2. Order of July 29, 2015;
3. March 20, 2013 Complaint with attachments/exhibits;
4. November 12, 2013 Second Amended Complaint;

5. Respondent Crescom's Motion for Summary Judgment, Exhibits 3, 4, 6 & 13;
6. Respondent Crescom's Memorandum in Support of Motion for Summary Judgment pgs. 5 - 6;
7. Campbell Deposition Transcripts pgs. 31, 139 - 141, 179 - 181, and Exhibit 11;
8. Warrick Deposition pgs. 14 - 17, 19 - 21, 23, 26 - 32, 35-36, 40 - 41, and Exhibits 1, 2 & 5; and,
9. Plaintiff's Motion to Alter or Amend with exhibits.

I certify that this designation contains no matter which is irrelevant to this appeal.

Respectfully submitted:



George J. Kefalos
GEORGE J. KEFALOS, PA
46 A State Street
Charleston, SC 29401
(843) 722-6612
George@kefaloslaw.com

Oana D. Johnson
Attorney for Appellant
Janik L. L. P.
One Carriage Lane
Building H
Charleston, South Carolina 29407
Oana.johnson@janiklaw.com

ATTORNEYS FOR APPELLANT
CHURCHES OF GOD

January 22, 2016

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

FEB 01 2016

SC Court of Appeals

Appeal from Charleston County
Court of Common Pleas

R. Markley Dennis, Jr., Circuit Court Judge

CASE NO. 2013-CP-10-1686

Church of God and Church of God of South Carolina,Appellants,

v.

Mark Estes, Patricia Estes, Michael Timothy Brooks, Individually and as Trustee for Church of God at North Charleston Trust, Adam Boyer, Individually and as Trustee for Church of God at North Charleston, Rolando River Osorio As Trustee For Church Of God At North Charleston Trust and North Palm Ministries, Inc., North Palm Community Church and Crescom Bank, Successor by Merger to Community First Bank and its Successor Crescom Bank, Defendants.

Of Whom Crescom Bank is theRespondent,

v.

Thomas Propes and Marc Campbell, Third Party
Defendants.

PROOF OF SERVICE

I certify that I have served copies of the forgoing **Appellants' Return to Respondent's Motion to Strike and For Leave of Court to Add a Citation to Appellants' Brief and to Amend Appellants Designation of Matter** on Respondents' counsel of record by depositing true and correct copies in the United States Mail, postage prepaid, on January 22, 2016, addressed to the following:

Matthew E. Tillman, Esquire
Daniel Q. Orvin, Esquire
Womble Carlyle Sandridge & Rice, LLP
P.O. Box 999
Charleston, SC 29402-0999
(843) 722-3400
dorvin@wcsr.com
mtillman@wcsr.com
ATTORNEYS FOR RESPONDENT

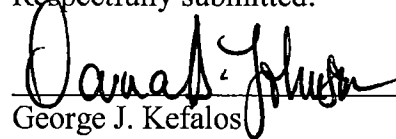
Carol B. Ervin, Esquire
Brian L. Quisenberry, Esquire
Young Clement Rivers, LLP
25 Calhoun Street, Suite 400
Charleston, SC 29401
(843) 577-4000
cervin@ycrlaw.com
bquisenberry@ycrlaw.com
ATTORNEYS FOR CHURCH OF GOD OF
SOUTH CAROLINA, THOMAS PROPEs and
MARC CAMPBELL

C. Steven Moskos, Esquire
4000 Farber Place Drive, Suite 300
Charleston, SC 29405
(843) 763-5297
csmoskos@earthlink.net

ATTORNEY FOR DEFENDANTS

Rolando Rivera Osorio
8241 Preakness Drive, Lot 211
North Charleston, SC 29420
Pro Se Defendant

Respectfully submitted:



George J. Kefalos
GEORGE J. KEFALOS, PA
46 A State Street
Charleston, SC 29401
(843) 722-6612
George@kefaloslaw.com

Oana D. Johnson
Attorney for Appellant
Janik L. L. P.
One Carriage Lane
Building H
Charleston, South Carolina 29407
Oana.johnson@janiklaw.com

ATTORNEYS FOR APPELLANT
CHURCHES OF GOD

January 22, 2016



JANIK L.L.P.

1 CARRIAGE LANE, BLDG. H
CHARLESTON, SC 29407
TEL: (843) 410-1912
FAX: (440) 838-7601

DIRECT: (440) 740-3093
DIRECT FAX: (440) 838-8141
CELL: (843) 709-1025
OANA.JOHNSON@JANIKLAW.COM

January 22, 2016

The Honorable Jenny Abbott Kitchens
South Carolina Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
FEB 01 2016
SC Court of Appeals

RE: Church of God and Church of God of South Carolina vs Mark Estes, Patricia Estes, Michael Timothy Brooks, Individually and as Trustee for Church of God at North Charleston Trust, Adam Boyer, Individually and as Trustee for Church of God at North Charleston, Rolando River Osorio As Trustee For Church Of God At North Charleston Trust and North Palm Ministries, Inc., North Palm Community Church and Crescom Bank, Successor by Merger to Community First Bank and its Successor Crescom Bank
Case No.: 2015-001848

Dear Ms. Kitchens,

Enclosed please find one original and 7 copies of Appellants' **Appellants' Return to Respondent's Motion to Strike and For Leave of Court to Add a Citation to Appellants' Brief and to Amend Appellants Designation of Matter and the Amended Designation of Matter** in the above-referenced case matter. Also enclosed is our \$25 check for filing. Please file the original and return a file-stamped copy to us using the self-addressed, postage-paid envelope enclosed.

Very truly yours,

William R. Turner IV

William R. Turner IV

cc: Matthew E. Tillman, Esq.
Carol Ervin, Esq.
Steven Moskos, Esq.
Rolando Osorio
George Kefalos

OANA JOHNSON, ESQ
1 CARRIAGE LANE BUILDING H
CHARLESTON SC 29407

3.39
RETURNED FOR ADDITIONAL POSTAGE
29407-9000



\$1.145
US POSTAGE
FIRST-CLASS
FROM 29201
JAN 22 2016
stamps.com



062S0009290257

RECEIVED
FEB 01 2016
SC Court of Appeals



The Honorable Jenny Abbott Kitchens
Clerk of Court
South Carolina Court of Appeals
PO Box 11629
Columbia SC 29211-1629

PRIORITY MAIL

OF DELIVERY SPECIFIED*

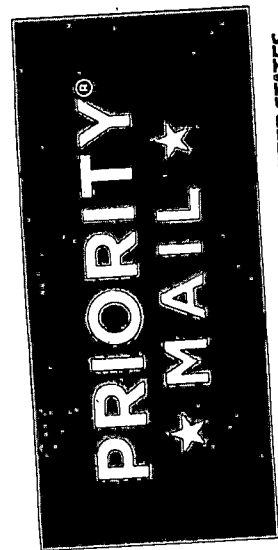
TRACKING™ INCLUDED*

URANCE INCLUDED*

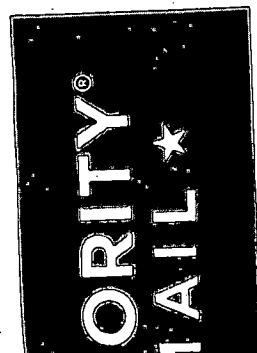
KUP AVAILABLE

omestic only

ED INTERNATIONALLY,
OMS DECLARATION
MAY BE REQUIRED.



This product is for use with Priority Mail.®
Misuse may be a violation of federal law.
This label is not for resale.

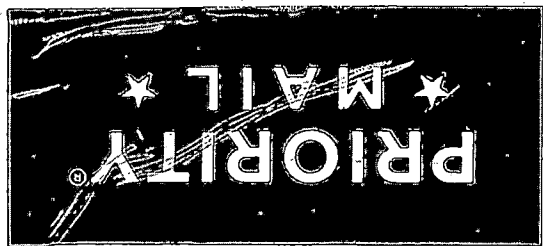


UNITED STATES
POSTAL SERVICE®
VISIT US AT USPS.COM®
Label 106A, Jan 2015

This product is for use with Priority Mail.®
Misuse may be a violation of federal law.
This label is not for resale.

This product is for use with Priority Mail.®
Misuse may be a violation of federal law.
This label is not for resale.

UNITED STATES
POSTAL SERVICE®



UNITED STATES
POSTAL SERVICE®
VISIT US AT USPS.COM®
Label 106A, Jan 2015

This product is for use with Priority Mail.®
Misuse may be a violation of federal law.
This label is not for resale.

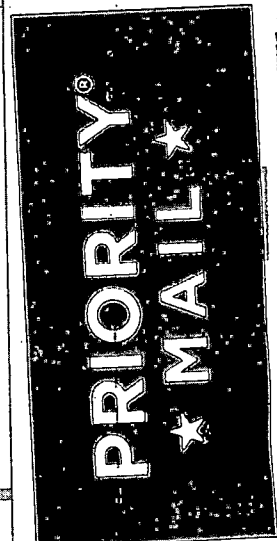
UNITED STATES
POSTAL SERVICE®



UNITED STATES
POSTAL SERVICE®
VISIT US AT USPS.COM®
Label 106A, Jan 2015

P	US POSTAGE & FEES PAID 1 LB PRIORITY MAIL RATE LOCAL ZONE NO SURCHARGE COMMERCIAL BASE PRICING	062S0009290257 FROM 292
	 stamps.com 01/27/2016	
PRIORITY MAIL 1-DAY™		
OANA JOHNSON, ESQ 151 King St 2nd Floor CHARLESTON SC 29401		0024
B012		
SHIP TO:	The Honorable Jenny Abbott Kitchens Clerk of Court South Carolina Court of Appeals PO Box 11629 Columbia SC 29211-1629 	
USPS TRACKING #		
 9405 5118 9956 3348 3485 99		

This product is for use with Priority Mail.®
Misuse may be a violation of federal law.
This label is not for resale.



UNITED STATES
POSTAL SERVICE®
VISIT US AT USPS.COM®
Label 106A, Jan 2015

This product is for use with Priority Mail.®
Misuse may be a violation of federal law.
This label is not for resale.



UNITED STATES
POSTAL SERVICE®

RECEIVED
FEB 01 2016
SC Court of Appeals

RECEIVED
FEB 01 2016
Court of Appeals