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THE STATE OF SOUTH CAROLINA  
In The South Carolina Court of Appeals

APPEAL FROM YORK COUNTY  
Court of Common Pleas

Hon. S. Jackson Kimball III  
Master in Equity

**RECEIVED**  
MAR 14 2016  
SC Court of Appeals

Case no. 2011-CP-46-250

Bank of America, N.A., as successor by merger to BAC Home Loans  
Servicing, LP, f/k/a/ Countrywide Home Loans Servicing, LP FKA  
Countrywide Home Loans Servicing, LP.....RESPONDENT

vs.

Michelle Minardi and Ameris Bank,  
of whom Defendant Michelle Minardi is the .....APPELLANT

APPELLANT MOTION FOR RECONSIDERATION  
AND MOTION FOR ORDER TO ALTER OR AMEND  
MARCH 4, 2016 ORDER

Counsel for Appellant hereby respectfully moves the court for reconsideration and motion to alter or amend the March 4, 2016 Order. Appellant seeks reconsideration of only that part of the order which addresses, specifically, deposition exhibits under SCACR 201(c). Pending review of this matter by the court Appellant counsel does not attach same, but certifies that Exhibit-A and Exhibit-B to attached Exhibit #2 were business records attached as part of Rule 59(e) Motion to Reconsider below. They were presented to the trial court on May 29, 2015 by virtue of filed/clocked memorandum of

law. Appellant attaches the clocked first page of said memorandum as Exhibit #1 to this motion. *See also, Exhibit #2.*

#### MEMORANDUM IN SUPPORT


Appellant seeks reconsideration of the Court as it pertains to depositions exhibits which were presented to the court in the form of memorandum of law attachments. Appellant does not challenge the strike of sworn deposition testimony. On May 29, 2015 Appellant filed its Rule 59(e) Motion for Reconsideration with the master in equity. This motion followed the deposition of Diane Deloney, which occurred on April 15, 2015. Attached as exhibits to the filed memorandum of law (*which likewise constitute exhibits to the deposition transcript of Diane Deloney*) were Bank of America business records. Appellant received these business records direct from Respondent. They were not produced by Bank of America in discovery exchange below.

Attached to the Memorandum were Exhibit-A and Exhibit-B. The documents evidence what Appellant alleges to be compulsory conduct bearing on the ultimate issue on appeal and trial court error below. *See, Exhibit-#2.* The Rule 59(e) memorandum and exhibits were not challenged by Respondent in its January 6, 2016 motion. Respondent's motion references only the Motion for Summary Judgment filed by Defendant February 18, 2015. However, the Order striking "exhibits" necessarily implicates the documents which form part of the record in this case, were presented to the tribunal below, and which Appellant respectfully asserts are properly preserved for review. Exhibit #1. They likewise bear on the ultimate issue pending before the Court of Appeals in this case.

PRAYER FOR RELIEF

Appellant therefore respectfully seeks that the court reconsider and prays that the court Alter or Amend its Order permitting the records to be part of the Record on Appeal before the Court of Appeals as the Rule 59(e) motion and related memorandums that were not been challenged by Respondent.

Respectfully submitted,



J. Cameron Halford  
S.C. Bar Id. # 17184  
238 Rockmont Drive  
Fort Mill, South Carolina 29708  
803-547-6618  
803-547-6638 fax  
e-mail: cam@fortmilllaw.com

**EXHIBIT 1**

**APPELLANT MOTION FOR  
RECONSIDERATION**

**FILED MAY 29, 2015  
COURT OF COMMON PLEAS**

FILED-RECEIVED

STATE OF SOUTH CAROLINA 2015 MAY 29 AM 10:35 IN THE COURT OF COMMON PLEAS  
COUNTY OF YORK SIXTEENTH JUDICIAL CIRCUIT

DAVID HAMILTON  
C.C.P. & G.S.  
YORK COUNTY, SC

Bank of America, N.A., )  
Successor by merger to BAC )  
Home Loan Servicing, LP, )  
F/K/A Countrywide Home Loans )  
Servicing, LP, )

Case No. 2011-CP-46-04278

Plaintiff, )

**DEFENDANT MINARDI  
NOTICE OF MOTION AND MOTION  
FOR RECONSIDERATION**

vs. )

AND MEMORANDUM IN SUPPORT  
SCRPC 59(e)

Michelle Minardi, and Ameris )  
Bank, )

Defendants. )

TO: HON. S. JACKSON KIMBALL, III;  
CAROLINE GLENN, ESQ., ATTORNEY FOR BANK OF AMERICA, N.A.

YOU WILL TAKE NOTICE that counsel for the Defendant Michelle Minardi will, pursuant to SCRPC 59(e), move before the Master in Equity Judge, within ten (10) days after service hereof, or as soon as counsel may be scheduled, for Reconsideration and for an Order to Alter or Amend the ruling of the Master in Equity dated May 18, 2015 and recorded May 20, 2015.

Defendant respectfully requests that the Master in Equity reconsider its ruling that the Defendant's counterclaims in the case are permissive and that Defendant is not entitled to, and has waived jury trial. Further, defendant respectfully asserts the trial court has erred as a matter of law by holding Wachovia Bank v. Blackburn, 407 S.C. 321, 755 S.E. 2d 437 (2014) as controlling

**EXHIBIT 2**

**APPELLANT MOTION FOR  
RECONSIDERATION**

**COURT OF APPEALS**

THE STATE OF SOUTH CAROLINA  
In The South Carolina Court of Appeals

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APPEAL FROM YORK COUNTY  
Court of Common Pleas

Hon. S. Jackson Kimball III  
Master in Equity

---

Case no. 2011-CP-46-250  
Court of Appeals No. 2015-001857

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Bank of America, N.A., as successor by merger to BAC Home Loans  
Servicing, LP, f/k/a/ Countrywide Home Loans Servicing, LP f/k/a  
Countrywide Home Loans Servicing, LP.....RESPONDENT

vs.

Michelle Minardi and Ameris Bank,  
of whom Defendant Michelle Minardi is the .....APPELLANT

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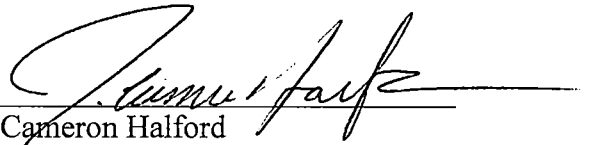
AFFIDAVIT OF APPELLANT COUNSEL IN SUPPORT  
OF APPELLANT MOTION FOR RECONSIDERATION

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NOW COMES Appellant counsel J. Cameron Halford (SC Bar Id: 17184) who  
first being duly sworn deposes and states:

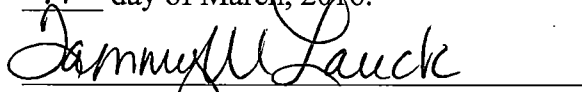
I am counsel for Appellant Michelle Minardi and I am filing this affidavit in  
support of the attached Motion for Reconsideration as it pertains to the forthcoming  
Record on Appeal. The Record on Appeal has not been published in this case to date. The  
case is a contested foreclosure action and the issue on appeal is whether Appellant was  
denied jury trial as to compulsory counterclaims. The exhibits implicated by court order  
(which have been omitted pending court review) were admitted as part of memorandums  
to the trial court on May 29, 2015 in Minardi's Rule 59(e) motion.

Further, affiant sayeth naught.



J. Cameron Halford  
S.C. Bar Id. # 17184

SWORN TO and subscribed before me this  
11 day of March, 2016.



Notary Public for South Carolina

My Commission Expires: 2-25-2026

**EXHIBIT A**

**BANK OF AMERICA LETTER TO  
DEFENDANT MINARDI DATED  
OCTOBER 18, 2010**

**EXHIBIT B**

**BANK OF AMERICA LETTER TO  
DEFENDANT MINARDI DATED  
DECEMBER 6, 2010**

PROOF OF SERVICE

I hereby certify that I am the attorney for the Appellant Michelle Minardi in the above captioned case and that I did on March 11, 2016 serve a copy of the foregoing APPELLANT MOTION FOR RECONSIDERATION and MOTION FOR ORDER TO ALTER OR AMEND on counsel for the counsel identified below by e-mail delivery and

U.S. mail, postage prepaid, and addressed as follows:

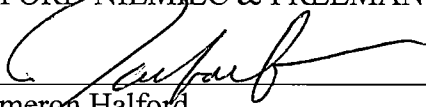
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MAR 14 2016

SC Court of Appeals

Brian A. Calub, Esq.  
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Charlotte, North Carolina 28202  
*Attorneys for Bank of America, N.A.*

HALFORD NIEMIEC & FREEMAN, LLP

  
\_\_\_\_\_  
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March 11, 2016  
Fort Mill, South Carolina

LAW OFFICES

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A Registered South Carolina Limited Liability Partnership

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FORT MILL, SOUTH CAROLINA 29708

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MAR 14 2016

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SC Court of Appeals

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P. John Freeman  
Christopher A. Tavella  
Thomas A. Givens \*

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\* Of counsel, independently owned and operated law office

March 11, 2016

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


Re: Bank of America, N.A., as successor by merger to BAC Home Loans Servicing, LP, f/k/a Countrywide Home Loans Servicing, LP f/k/a Countrywide Home Loans Servicing, LP vs. Michelle Minardi and Ameris Bank  
Case No.: 2011-CP-46-250

Dear Ms. Kitchings:

Enclosed please find an original and seven (7) copies of the Appellant's Motion for Reconsideration and Proof of Service regarding the above-referenced matter. In this regard, I would appreciate your filing these documents and returning a clocked copy to my office in the envelope provided. I have also enclosed my check in the amount of \$25.00 for the cost of filing. If you have any questions regarding the enclosed or this matter, please do not hesitate to contact my office.

With kind personal regards, I am

Sincerely,

  
J. Cameron Halford

JCH:tml

Enclosures

cc: Ms. Michelle Minardi  
w/enclosure  
Brian A. Calub, Esquire  
w/enclosure

238 ROCKMONT DRIVE ■ FORT MILL, SOUTH CAROLINA ■ 29708

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SHIP TO: Jenny Abbott Kichings, Clerk of Court  
The South Carolina Court of Appeals  
1220 Senate Street  
Columbia SC 29201-3769



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MAR 14 2016  
SC Court of Appeals