

The South Carolina Court of Appeals

Bank of New York Mellon Trust Company, N.A., not in its individual capacity but solely as trustee on behalf of the FDIC 2013-NJ Asset Trust, Respondent,

v.

Sandra H. Dennis and Discover Bank, Defendants,

Of Whom Sandra H. Dennis is the Appellant.


Appellate Case No. 2015-002258

ORDER

Respondent has filed a motion to dismiss this appeal as untimely. Counsel for Appellant certified in an email to the Charleston County master-in-equity's office that he received written notice of entry of the underlying order on September 10, 2015. Appellant did not serve her notice of appeal from that underlying order until October 20, 2015. Pursuant to Rule 203(b)(1), SCACR, the "notice of appeal shall be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment." Here, Appellant served the notice of appeal more than thirty days after receipt of written notice of entry of the underlying order. Accordingly, this appeal is dismissed. *See Elam v. S. Carolina Dep't of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) ("The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice."). The remittitur will be sent as required by Rule 221(b), SCACR.


FOR THE COURT

FILED

5/9/16 

Columbia, South Carolina

cc:

Sandra A. Dennis

Magalie Arcure Creech, Esquire