

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2015-001543

The Bank of New York Mellon Trust Company, N.A,
not in its individual capacity but solely as trustee on behalf of the
FDIC 2013-N1 Asset Trust,

Respondent,

v.

Cornell Riley,

Appellant.

**RESPONDENT'S MOTION FOR ENLARGEMENT OF TIME
TO SERVE RESPONDENT'S FINAL BRIEF**

Undersigned counsel for Respondent The Bank of New York Mellon Trust Company, N.A, not in its individual capacity but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust respectfully moves before the Court for a thirty (30) day extension of time in which to serve the Respondent's Final Brief herein and permission to file same outside the deadlines set by Rule 211, SCACR, as applicable.

Respondent has been required to submit its Final Brief within ten (10) days of May 18, 2016 along with a Motion requesting permission to file and serve same outside the filing deadlines set by Rule 211, SCACR, thereby making the deadline to serve Respondent's Final Brief May 28, 2016. By separate Motion served simultaneously herewith, Respondent has

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requested the Court to rule on the pending Appellant's Motion for Enlargement of Time in which to serve the Record on Appeal, and to further require Appellant to supplement the Proposed Record on Appeal to include all documents referenced in the Designation of Matter in their entirety. Based on the foregoing, Respondent submits that its time to file the Final Brief has not yet expired and requests clarification as to the issues addressed below.

By way of background, Appellant's Reply Brief was served on February 13, 2016, thereby making the deadline for Appellant to serve the Record on Appeal March 14, 2016. On April 1, 2016, Appellant served a Motion for Enlargement of Time to Serve the Record on Appeal and a Proposed Record, to which Respondent timely filed a Return. In its Return to Appellant's Motion for Enlargement of Time to Serve the Record on Appeal, Respondent requested that the Court issue an Order specifying the deadline for Respondent's Final Brief to be filed in light of Appellant's pending Motion for Enlargement and an Order determining whether the Proposed Record submitted by Appellant is in conformity with Rule 267, SCACR. The Court has not yet issued a ruling on the Appellant's pending Motion for Enlargement of Time to Serve the Record on Appeal, and the Proposed Record submitted by Appellant is not in conformity with Rule 210(c), SCACR because it is not arranged in the proper order and includes incomplete copies of the documents referenced in the index.

In light of the deficiencies in the Proposed Record, and the uncertainty as to whether the Court shall even grant the Appellant's pending Motion for Enlargement of Time to Serve the Record on Appeal, Respondent is seeking an Order addressing the following questions, as set forth in its Motion for an Order determining the remaining deadlines and Appellant's compliance with Rule 210, SCACR served simultaneously herewith:

(1) Whether Appellant's Motion for Enlargement of Time to Serve the Record on Appeal is granted or denied;

(2) If Appellant's pending Motion for Enlargement of Time to Serve the Record on Appeal is granted, the deadline by which Appellant must submit a complete Record on Appeal in conformity with the applicable Rules of Appellate Procedure; and

(3) If Appellant's pending Motion for Enlargement of Time to Serve the Record on Appeal is granted, the deadline by which the Respondent must serve its Final Respondent's Brief.

Respondent will be prejudiced if it is required to submit its Final Brief by May 28, 2016, because the Proposed Record submitted by Appellant is incomplete and deficient. Respondent has also been unable to calculate the applicable deadline by which it must serve its Final Brief without a ruling upon Appellant's Motion for Enlargement of Time in which to Serve the Record on Appeal and without a ruling upon the conformity of the Proposed Record with Rules 210, SCACR and 267, SCACR.

For these reasons, Respondent prays that this Court grant it leave to file its Final Brief, grant an enlargement of time in which to file same as applicable, and to issue an Order addressing the issues raised herein and in Respondent's Motion for an Order determining the remaining deadlines and Appellant's compliance with Rule 210, SCACR.

(SIGNATURE PAGE FOLLOWS)

Bank of New York Mellon Trust v. Cornell Riley
Appeal from Dorchester County Court of Common Pleas
Appellate Case No. 2015-001543

Respectfully submitted,

FINKEL LAW FIRM LLC



Magalie A. Creech (S.C. Bar 78855)

Post Office Box 41489

Charleston, South Carolina 29423

Telephone: (843) 577-5460

Facsimile: (843) 577-5135

mcreech@finkellaw.com

Attorneys for Respondent

May 23, 2016

CC:
Cornell Riley
100 Madison Ave.
Ladson, South Carolina 29456

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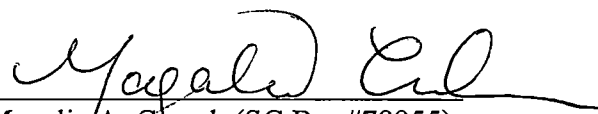
v.

Cornell Riley,

Appellant.

PROOF OF SERVICE

I certify that I have served the *Respondent's Motion for Enlargement of Time to Serve the Respondent's Final Brief* by depositing a copy of same in the United States Mail, postage prepaid, on May 23, 2016, addressed to Appellant of record, Cornell Riley, 100 Madison Ave., Ladson, South Carolina 29456.


Magalie A. Creech (SC Bar #78855)
FINKEL LAW FIRM LLC
Post Office Box 41489
Charleston, South Carolina 29423
Telephone: (843) 577-5460
Facsimile: (843) 577-5135
mcreech@finkellaw.com
Attorney for Respondent

May 23, 2016

FINKEL LAW FIRM LLC

MAGALIE A. CREECH
MCREECH@FINKELLLAW.COM

REPLY TO:
CHARLESTON LITIGATION

May 23, 2016

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

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RE: The Bank of New York Mellon Trust Company, N.A., not in its individual capacity
but solely as trustee on behalf of the FDIC 2013-N1 Asset Trust v. Cornell Riley
Appellate Case No.: 2015-001543
Our File No.: 65050.48466

Dear Ms. Kitchings:

Enclosed for filing is the *Respondent's Motion for Enlargement of Time to Serve the Respondent's Final Brief* and related *Proof of Service* in the above-referenced case, along with six (6) copies, which we kindly ask you to file and return in the attached, self-addressed, stamped envelope. Enclosed also is check number 5817 in the amount of \$25.00 for the filing fee.

Should you have any questions concerning this matter, please do not hesitate to contact our office at your earliest convenience.

With kind personal regards, we are

Yours very truly,

FINKEL LAW FIRM



Magalie A. Creech

CC: Cornell Riley

COLUMBIA
1201 Main Street, Suite 1800
Post Office Box 1799 (29202)
Columbia, SC 29201
Tel: (803) 765-2935
Fax: (803) 252-0786

CHARLESTON
Litigation, Real Estate & REO
4000 Faber Place Drive, Suite 450
Post Office Box 41489 (29423)
North Charleston, SC 29405
Tel: (843) 577-5460
Fax: (843) 577-5135

CHARLESTON
Foreclosure
4000 Faber Place Drive, Suite 450
Post Office Box 71727 (29415)
North Charleston, SC 29405
Tel: (843) 577-5460
Fax: (843) 725-0015

FINKEL
LAW FIRM LLC

P.O. Box 41489
Charleston, SC 29423

DFB

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Clerk, South Carolina Court of Appeals
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Columbia, South Carolina 29211

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