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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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MAY 16 2015
SC Court of Appeals

APPEAL FROM AIKEN COUNTY
SECOND JUDICIAL CIRCUIT
COURT OF COMMON PLEAS

REFEREE JAMES MARTIN HARVEY, JR
Trial court Case NO. 2012-CP-02-00699
APPELLATE CASE NO. 2015-001119

BANK OF AMERICA, N.A.
BAC HOME LOAN SERVICING, LP
fka Countrywide Home Loans
Servicing, LP
RESPONDENT

V.

CAROLYN S. DEANER

APPELLANT

**) APPELLANT'S MOTION TO
DISMISS RESPONDENT'S
MOTION TO COMPEL, OR
IN THE ALTERNATIVE,
MOTION TO EXTEND TIME
TO CORRECT RECORD ON
APPEAL AND EXPENSES
PAID BY RESPONDENT**

APPELLANT'S MOTION TO DISMISS RESPONDENT'S MOTION TO COMPEL, OR IN THE ALTERNATIVE, MOTION TO EXTEND TIME TO CORRECT RECORD ON APPEAL AND DESIGNATION OF MATTER to be included in the RECORD ON APPEAL

The Appellant, Pro Se, PURSUANT TO Rule 211 (a) and all other applicable Appellant rules, hereby MOVES on this Honorable APPEALS COURT to DISMISS THIS CASE WITH PREJUDICE and dismiss Respondent's Motion To Compel, or in the alternative, Motion To Extend Time to Correct Record On Appeal and Expenses Paid by Respondent in favor of the Appellant for the following reasons: **(ADDED #10** to previous Motion)

- 1. The Respondent has failed to file their Motion To Compel Appellant To Correct Record On Appeal following the filing of the Record on Appeal on January 12, 2016 TIMELY, and surely, has failed to file their Motion to Compel TIMELY before the mandatory deadline date of February 1, 2016 for filing of Final Briefs in this case.**
- 2. The Respondent has failed to file their Final Brief on or before the mandatory deadline date of February 1, 2016 due to not filing a timely Motion to Compel. Respondent is required to file a timely Motion to Compel long before Appellant filed her Final Brief.**
- 3. To Appellant's understanding of Rule 210 (c), the Appellant has indeed followed 210 (c) in filing the Record on Appeal, and the pages are in sequence for the numbered Designations in this case. Following each page number is the Designation Document with page numbers of each document as filed in the lower court. The Appellant's Record on appeal is very SIMPLE to understand and follow, such as page 33 identifies the Trial Transcript Designation and the Document is numbered 1-55 with the Exhibits 1-7 following.**

For instance and example, in Appellant's Final Brief, the Trial Transcript in the INDEX is identified as Page 33, and the witness testifies Fannie Mae is the investor of the loan, (R.p.33, Doc. p.5, line 17& 18). Another example is the identification of the Closing Summary Document by Appellant's previous Attorney Sloan which is identified in the INDEX as Page 34, and it is stated "the Defendant was not the "Lender" as required in the mortgage when they sent the right to cure letter, (R.p.34, Doc. p.5, line 28-31).

This is all in compliance with 210 (c) as interpreted by Appellant and is in legal format. In addition, no notification from the Appeals Court or Motion by Respondent prior to the mandatory deadline date of February 1, 2016 for Final Briefs of any errors in the Record of Appeal has been sent to the Appellant.

4. It would be unjust and an extreme financial and labor burden to the senior citizen Appellant on social security to be required to do this all over again due to the high cost of the work involved, extensive hours of labor without any help, and the printing expenses of 15 sets and one unbound set and driving the Record on Appeal to the Appeals Court in Columbia, SC for a second time.

In addition, the Appellant has filed her Final Brief and Reply Brief as required on or before the mandatory deadline date of February 1, 2016. The Appeals Court required 14 sets of each and one unbound set with required covers which would be another copying and labor expense required of the Appellant again.

5. Had the Respondent filed their Motion To Compel the Appellant to correct anything, then it should have been filed following the filing of the Record on Appeal on January 12, 2016, and surely, prior to the mandatory deadline date of February 1, 2016 for Final Briefs. Respondent did not file their Motion To Compel until February 12, 2016, a full 12 days after the deadline date of February 1, 2016 for FINAL BRIEFS and has FAILED TO MEET THE REQUIRED MANDATORY DATE OF FEBRUARY 1, 2016 for filing their Final Brief.

The Respondent has FAILED TO FILE A TIMELY Motion To Compel Appellant to Correct Record on Appeal, and it would be UNJUST to the Appellant to allow

additional time to Respondent to file their Final Brief in this EQUITY case due to failing to file a TIMELY Motion to Compel and this MOTION FOR RECONSIDERATION should favor the homeowner and her home property.

The Courts have interpreted the “good cause” standard applied in rule 55(c) SCRCP, when a party seeks relief from an entry of default, finding that the PROMPTNESS with which relief is sought, the existence of a meritorious defense and the PREJUDICE TO THE OTHER PARTIES are relevant factors to consider in determining whether “ good cause” has been shown. See e.g., New Hampshire Ins. Co. v. The Bey Corp., 312 S.C. 47, 437, 435 S.E. 2d 377 (Ct.App.1993). The Respondent lacked required promptness, and the Respondent’s “good cause” is prejudicial to the Appellant, Pro Se in this case. In fact, the lack of promptness would place an undue financial and extreme hardship on the Appellant in this case to do the Record on Appeal a second time and the Final Brief and Reply Brief a second time which both require 14 sets and one unbound set mandated by the Appeals court. RESPONDENT HAS FAILED TO TIMELY FILE THEIR MOTION TO COMPEL AND A RULING IN FAVOR OF GRANTING RESPONDENT’S MOTION TO COMPEL IS UNJUST, AND PREJUDICIAL TO THE APPELLANT SINCE THE APPELLANT HAS ALREADY FILED HER FINAL BRIEF AND FAVOR SHOULD GO TO THE APPELLANT HOMEOWNER IN THIS EQUITY CASE.

6. Appellant was unable to find any completed document examples of a Record on Appeal at the South Carolina site or internet and is unable to afford an attorney at this time. The Appellant is awaiting a ruling on her Motion and Affidavit to Proceed in Forma Pauperis from the lower court and is unable to pay for this tremendous workload and copy center expenses again and would need a court appointed attorney with Court paid cost to undertake this enormous task as all Appellant Designations and Respondent Designations sent to Appellant were included in the 49 Designations in the Record on Appeal.

In addition, the Appellant called and ask the case specialist when the Record On Appeal was filed on January 12, 2016 to please let her know if anything was not acceptable, and Appellant did reach out for assistance in all “fairness”.

7. To this end, there is exceptionally “good cause” to deny the Respondents Motion To Compel since the Respondent has FAILED TO FILE A TIMELY MOTION TO COMPEL THE APPELLANT TO CORRECT RECORD ON APPEAL and would be unjust and cause the Appellant a grave injustice, undue burden and hardship and would be PREJUDICE to the Appellant in this Equity case.

8. There was no mention of the Appellant’s already filed Final Brief in the Appeals Court’s previous ruling, nor where Appellant could find an acceptable SC example of a Record on Appeal , and APPELLANT would NOW NEED AT LEAST 90 DAYS to continue to seek contingency legal counsel to comply with corrections in ruling Order and refile Record on Appeal with legal guidance while obtaining funds to do so each month from monthly social security check as trips to the Appeals Court will be necessary to comply. In addition it seems, due to the ruling, the Appellant would have to also correct her 25 page Final Brief and run 14 copies which is additional labor and copying expenses and Respondent should have to carry the burden of cost for all labor and expenses.

9. The Respondent has not met the “JUST CAUSE” standard of “reasonableness” or “good faith” in filing their Motion to Compel after the Appellant had met and filed her Final Brief timely, therefore, granting favor to the Respondent would be prejudiced and unjust to the Appellant in this case. The lack of filing the Motion To Compel timely which was a full month after the Record on Appeal was filed and 12 days after the deadline date of FINAL BRIEFS is “unreasonable” and not in “good faith”, and Appellant would be extremely prejudiced by granting favor to the Respondent’s NEGLIGENCE causing continued HARM, expenses and labor to the Appellant in this case.

The Respondent has not proved to the Appeals Court sufficient reason or cause for filing their Motion to Compel a full 12 days after the Final Briefs were due and a full month after the Record on Appeal was filed by the Appellant, nor proved just cause exists, and therefore, the requested Motion To Compel should be denied, and favor granted to the Appellant and homeowner in this equity case. Respondent did not file their Final Brief timely and dismissal is in order.

10. Appellant would need 90 to 120 days to come to the Appeals Court, retrieve the 14 copies of the Record on Appeal, and then begin the laborious task of numbering the pages 1-899. The time it takes to number and then double check each set is an undue OPPRESSIVE burden on the Appellant. In addition, an undue OPPRESSIVE laborious burden and expenses would be placed on the Appellant to do her Final Brief all over again and run the 14 copies, plus one unbound copy. Therefore, due to the UNTIMELY AND NEGLIGENT FILING of the Respondent's Motion To Compel, the Appellant moves on the court to have the Respondent pay the additional expenses involved in the revision task as follows, \$280.00 for copying expenses for the revised 15 sets of Record on Appeal and revised 15 Sets of Appellant Final Brief, \$90.00 for hole punching, \$30.00 for binding and \$100.00 for time and travel to Appeals Court with a total of \$500 for the 2 Sets of documents including the additional copying and traveling expenses for delivery of 15 sets of Record on Appeal and 15 sets of Appellant Final Brief back To the Appeals Court. This Extension of Time request is ALSO due to Appellant's health issues and upcoming doctor's appointments and possible hospitalization and surgery due to the long term four year oppressive burden of this case which should have been dismissed in the lower court on the FRAUDULENT and FALSIFIED Acceleration Letter and VOID NOTE. Appellant requests the Extension of time to begin upon receipt of the \$500.00 from the Respondent, HOWEVER, APPELLANT'S MOTION TO DISMISS RESPONDENT'S MOTION TO COMPEL IS JUSTIFIED AND EQUITABLE IN THIS EQUITY CASE AND SHOULD BE IN RULED IN FAVOR OF THE APPELLANT, HOMEOWNER.

WHEREFORE, the Appellant moves on this Honorable Appeals Court to dismiss this case with prejudice in favor of the Appellant, dismiss and cancel the Judgement Foreclosure and Sale, file satisfaction, and remove the lis pendens and invalid and void assignment from Appellant's Chain of Title,

And any other damages, punitive and otherwise, including extreme emotional, mental and physical internal medical distress, attorney fees and court expenses this Honorable Appeals Court deems just and proper in favor of the Appellant.

Respectfully submitted , this 12th day of May 2016.

North Augusta, SC Aiken County

A handwritten signature in black ink, appearing to read "Carolyn S. Deaner", is written over a horizontal line.

CAROLYN S. DEANER

704 KERSHAW DRIVE

NORTH AUGUSTA (BELVEDERE), SC 29841

PRO SE/APPELLANT

(706) 399-5496

CERTIFICATE OF SERVICE

I hereby certify that the foregoing APPELLANT'S ANSWER TO RESPONDENT'S MOTION TO COMPEL APPELLANT TO CORRECT RECORD ON APPEAL AND FOR EXTENSION OF TIME TO FILE FINAL BRIEF AND MEMORANDUM IN SUPPORT has been served upon the parties in this action by mailing a copy thereof, postage prepaid to the following:

Janiere E. Taylor, Robert A. Muckenfuss, and Trent Grissom

and Charlie Gwynne, Esq.

MCGUIREWOODS LLP

201 North Tryon Street, Suite 3000

Charlotte, NC 28202

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SC Court of Appeals

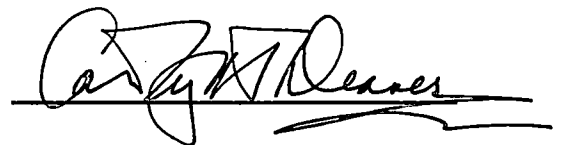
CHARLIE GWYNNE, Esq.

Rogers Townsend and Thomas

P. O. Box 100200

Columbia, SC 29202

This the 12th day of May 2016



Carolyn S. Deaner, Pro Se

May 12, 2016

TO: The Honorable Jenny Abbott Kitchings

South Carolina Court to Appeals

1220 Senate Street

Columbia, SC 29201

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SC Court of Appeals

RE: Bank of America, N.A. v. Carolyn S. Deaner

Appellate Case No. 2015-001119

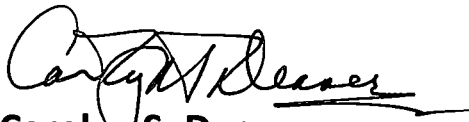
Dear Mrs. Kitchings:

Please find enclosed an original and six (6) copies of the Appellant's MOTION TO DISMISS Respondent's Motion To Compel, or in the alternative, Motion To Extend Time To Correct Record On Appeal and Expenses Paid By Respondent. Also, please find enclosed the self addressed stamped envelope for return of the filed top sheet copy with clocked date.

In addition, I am serving the counsel for the Respondent a copy.

Thank you for your time and consideration in this matter. Please contact me should you have any questions or need more information.

Cordially,


Carolyn S. Deaner

Pro Se

cc: Janiere Taylor, Esq., Trent Grissom, Esq.

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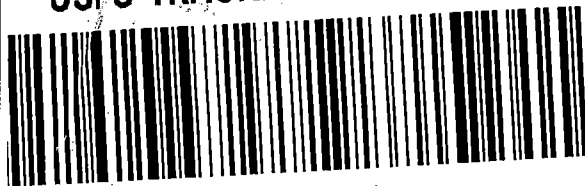
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SOUTH CAROLINA COURT OF APPEALS
1220 SENATE STREET
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