

80037

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

RECEIVED

APPEAL FROM ORANGEBURG COUNTY JUN 27 2016

Court of Common Pleas **SC Court of Appeals**

James B. Jackson, Jr., Master in Equity

Case No. 2015-001112

South Carolina Federal Credit Union

Respondent

v.

Dorothy Harley Sistrunk aka Dorothy
Harley-Sistrunk aka Dorothy A. Harley
aka Dorothy Sistrunk

Appellant

MOTION TO EXTEND TIME TO REPLY TO JUNE 30, 2016

June 24, 2016

Dorothy Harley Sistrunk
423 Bayne Street
Orangeburg, South Carolina 29115
Ph: (803) 268-0716
Fx: (803) 534-6727

Moore & Van Allen, PLLC
Reid E. Dyer
78 Wentworth Street
Post Office Box 22828 (29413-2828)
Charleston, SC 29401-1428
Ph: (843) 579-7045
Fx: (843) 579-8754
Attorneys for Respondent

Comes now the Appellant, Dorothy Harley Sistrunk, to file her Motion to Extend Time, i.e., South Carolina Federal Credit Union Respondent v. Dorothy Harley Sistrunk, Appellant - Case 2015-001112. This Motion to Extend Time is based upon the following facts and reasons.

I. FACTS & GROUNDS FOR THIS MOTION TO EXTEND TIME TO REPLY

1. **FACT:** Rule 240(f), SCACR, clearly states in pertinent parts, “[T]he moving party shall have five (5) days from the date of service of a return to file an original and six (6) copies of a reply with the clerk and serve on all parties a copy of the reply. The provisions of Rule 240(c) apply to a reply.”

2. **FACT:** Rule 240(g), SCACR, states; “[F]ailure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.”

3. **FACT:** It was not possible to file a return in the time provided. The mail was not read until Thursday night, June 23, 2016 and the Respondent’s Return to Appellant’s Motion is dated June 16, 2016. {See Attached Exhibit 52}

4. **GROUND:** The reason why the mail was not read until Thursday night, June 23, 2016 is because a family member by marriage to the Appellant, Rodney L. Sistrunk, has been lingering near death at The Regional Medical Center in Orangeburg, South Carolina since June 16, 2016 and our concerns have been focused on the situation there. Rodney L. Sistrunk is still in the CCU at the hospital. However, his condition has stabilized somewhat, since Wednesday, June 22, 2016, and his outlook, after surgery was performed, has improved, but not enough, to remove him from the CCU.

5. **GROUND:** Because of this tragic and unexpected development, the mail at 423 Bayne Street was neglected. Now that Rodney L. Sistrunk is no longer at death’s door, the Appellant and her husband, George M. Sistrunk, brother of Rodney L. Sistrunk, can once again devote some attention to the matters at hand.

6. During this tragic time period, the Appellant respectively asks the Appellant Court and the Respondent's indulgence and understanding in this matter to Extend Time for the Appellant's Reply to June 30, 2016. This will give the Appellant's husband, sufficient time to research relevant case history and supporting documentation; already in the Court's Record, that will support the Appellant's Reply.

II. MEMORANDUM WITH CITATIONS OF AUTHORITIES

7. Because events have been stated herein with specificity and particularity this Motion will be verified pursuant to Rule 11(c), SCRPC, 18 USC §1621 and 28 USC §1746; as well as, Rule 240(c)(1)-(3), SCACR with the following Citations of Authorities.

Golden Canal Co. v. Bright, 6 P. 142 (Colo. 1884) (holding that under mandamus statute, a verified petition was equivalent to an affidavit); Iowa v. One Certain Automobile, 23 N.W.2d 847 (Iowa 1946) (noting the general rule that a verified pleading may be held to be an affidavit); Missouri ex rel. Burton v. City of Parsons, 95 P. 391 (Kan. 1908) (noting that a verified petition can be used as an affidavit and the allegations contained therein should be treated accordingly); Montana ex rel. Redle v. District Court In and For Missoula County, 59 P.2d 58 (Mont. 1936) (noting that under statutes requiring an affidavit, a verified petition is equivalent to, and can be used as, an affidavit); Renville State Bank v. Kinsberg, 166 N.W. 643, 644 (S.D. 1918) ("A written declaration, properly sworn to, may constitute an affidavit, even though in the form of an ordinary pleading."); Washington ex rel. Victor Boom Co. v. Peterson, 70 P. 71 (Wash. 1902) (holding that a verified pleading can constitute an affidavit)

III. CONCLUSION

8. Therefore, based on the facts and reasons stated herein, the Appellant's *Motion to Extend Time to Reply until June 30, 2016* should be granted. Even though it is still June 23, 2016 and since it is already after 9:00 pm, this *Motion* will be dated, mailed and executed on Friday morning, June 24, 2016. Thank you.

June 24, 2015

Respectfully submitted,

/s/ Dorothy Harley-Sistrunk
Dorothy Harley Sistrunk
423 Bayne Street
Orangeburg, South Carolina 29115

NOTARY CERTIFICATION

IN WITNESS WHEREOF, The undersigned, being duly *SWORN*, declares under the *PENALTY OF PERJURY* that the stated facts in her "Motion to Extend Time to Reply to June 30, 2016" are true and correct as of her own knowledge. When it comes to matters stated therein that are based upon information and/or belief; as to those matters, she believes them to be true. Accordingly, based on the stated facts; Re: Appellate Case No. 2015-001112 and Civil Action Case No. 2011-CP-38-1392, will sign, seal and execute her attestations on this 24 day of June in the year 16 in the City and County of Orangeburg, in the State of South Carolina.

Rule 11(c), SCRPC clearly states in pertinent parts; "[A]ffidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true."

Appellant's Signature: Dorothy Hasky-Sawicki

Notary's Signature as Witness (1): Linda R. Hadden

Signed, Sealed, Executed and Delivered in the Presence of:

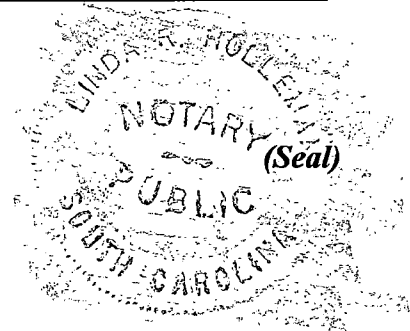
**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On 6-24-16 before me appeared Dorothy H. Sawicki and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within Motion and acknowledged to me that she is executing the same in her authorized capacity, and by her signature on her "Motion to Extend Time to Reply to June 30, 2016" and this Notary Certification presents this document to the Appellate Court.

WITNESS My Hand and Official Seal.

Notary's Signature Linda R. Hadden

Commission Expires 01-21-2025



Declaration Of Dorothy Harley Sistrunk

I. Let it be known that 18 U.S. Code § 1621 clearly states in pertinent parts; "[W]hoever— (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true; or (2) in any declaration, certificate, verification, or statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true; is guilty of perjury and shall, except as otherwise expressly provided by law, be fined under this title or imprisoned not more than five years, or both. This section is applicable whether the statement or subscription is made within or without the United States."

II. And...28 U.S. Code § 1746 clearly states in pertinent parts; "[W]herever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate, verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

- (1) If executed without the United States: "I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".
- (2) If executed within the United States, its territories, possessions or commonwealths: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)". "

III. Rule 11(c), SCRPC clearly states in pertinent parts; "[A]ffidavits or verifications authorized or permitted under these Rules shall be written statements or declarations by a party or his attorney of record or of a witness, sworn to or affirmed before an officer authorized to administer oaths, that the affiant knows the facts stated to be true of his own knowledge, except as to those matters stated on information and belief and as to those matters that he believes them to be true."

IV. Based on the above Rule and Laws, as the Appellant in this case, I, Dorothy Harley Sistrunk, declare; under the **PENALTY** of **PERJURY**, under the laws of the United States and in compliance with Rule 11(c), SCRPC, that the foregoing stated facts in my Motion to Extend Time to Reply to June 30, 2016 are true and correct.

Date: Executed on June 24, 2016.

Signature: 
Dorothy Harley Sistrunk

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

James B. Jackson, Jr., Master-In-Equity
Trial Court Case No. 2011CP3801392

RECEIVED

JUN 27 2016

SC Court of Appeals

Appellate Case No. 2015-001112

South Carolina Federal Credit Union..... Respondent,

v.

Dorothy Harley Sistrunk a/k/a Dorothy
Harley-Sistrunk a/k/a Dorothy A. Harley
a/k/a Dorothy Sistrunk..... Appellant.

PROOF OF SERVICE

This is to certify that I have this day served the Appellants in the foregoing matter with a copy of the foregoing *Return to Appellant's Motion to Remand* by depositing same in the United States Mail with adequate postage affixed thereon to ensure delivery, addressed as follows:

Dorothy Harley Sistrunk
423 Bayne Street
Orangeburg, SC 29115

June 16, 2016



Julie M. Chanson
MOORE & VAN ALLEN, PLLC
78 Wentworth Street
Post Office Box 22828
Charleston, SC 29413-2828
Telephone: (843) 579-7000

Exhibit 52

 **Dorothy Sistrunk**

423 Bayne Street • Orangeburg, SC 29115 • Ph: 803-268-0716 • Fx: 803-534-6727

Motion to Extend Time to Reply to June 30, 2016

June 24, 2016

The Honorable Jenny Abbot Kitchings - Clerk of Court
& the Highly Esteemed V. Claire Allen – Deputy Clerk of Court
South Carolina Court of Appeals
POB 11629
Columbia, SC 29211

RECEIVED

JUN 27 2016

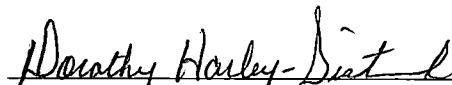
SC Court of Appeals

RE: South Carolina Federal Credit Union, Respondent v. Dorothy Harley Sistrunk,
Appellant – Case No. 2011-CP-38-1392 / 2015-001112

Ms. Kitchings or Ms. Allen,

In accordance with Rule 240(d), SCACR, I have enclosed an original and six (6) copies of my *Motion to Extend Time to Reply to June 30, 2016, Exhibit 52, Notary Certification and My Declaration*, [paper clipped and not stapled], my *Proof of Service* and my filing fee of \$25.00. I have also served a copy of same on all parties listed below.

Thank you.


Dorothy Harley Sistrunk

CC:

Moore & Van Allen, PLLC
Reid E. Dyer
78 Wentworth Street
Office Box 22828 (29413-2828)
Charleston, SC 29401-1428
Ph: 843-579-7045 Fx: 843-579-8754
Attorney/s for Respondent South Carolina Federal Credit Union (SCFCU)

Dorothy Sistrunk
423 Bayne Street
Orangeburg, SC 29115



UNITED STATES POSTAGE
PITNEY BOWES

02 1P
\$ 002.830
0000015843 JUN 24 2016
MAILED FROM ZIP CODE 29115

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RECEIVED
JUN 27 2016
SC Court of Appeals