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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

The Honorable Joe M. Crosby, Master-in-Equity

Case No. 2011-CP-22-00342

Appellate Case No. 2015-002484

RECEIVED
AUG 15 2016
SC Court of Appeals

TD Bank, N.A., Successor by merger to Carolina First
Bank, N.A., Respondent,

v.

Sunil V. Lalla and Sharon W. Lalla, Appellants.

MOTION TO DISMISS

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondent TD Bank, N.A., Successor by merger to Carolina First Bank, N.A. (hereinafter "TD Bank"), hereby moves this Court to dismiss the above-captioned appeal filed by Appellants Sunil V. Lalla and Sharon W. Lalla ("Appellants"). TD Bank requests an expedited ruling and dismissal of this matter based on the Court's July 6, 2016, Opinion between the same parties as explained herein.

Procedural Background and Analysis

In the first appeal involving these same parties, on July 6, 2016, TD Bank obtained a favorable decision from this Court affirming the lower court's order granting foreclosure judgment and sale. TD Bank, N.A. v. Lalla, Op. No. 2016-UP-350 (S.C. Ct. App. filed July 6, 2016). On July 20, 2016, Appellants filed a petition for rehearing, which remains pending.

This is the second appeal arising out of this foreclosure matter. This appeal involves the question of whether the lower court erred in granting TD Bank's request for the appointment of a receiver. Based on this Court's decision affirming the underlying appeal and finding that the foreclosure judgment was proper, the Court necessarily must affirm the lower court's order appointing a receiver. See S.C. Code Ann. § 15-65-10 (providing for the appointment of a receiver). Given the Court's prior Opinion finding the foreclosure order to be lawful, the Court must issue a consistent order in this matter based on the statutory power of the Master-in-Equity to appoint a receiver. The grounds raised by the Appellants in this appeal all hinge on the contention that the foreclosure order was invalid, which this Court summarily rejected.

Therefore, in the interests of justice and judicial economy, TD Bank asks for this Court to dismiss this appeal. Alternatively, TD Bank requests an expedited ruling on the briefs in this matter, without oral argument, based on its July 6, 2016 Opinion. Appellants have proven to desire to further delay justice with a multiplicity of appeals and Appellants are likely to seek certiorari in both appeals. TD Bank seeks to have this ruling expedited to avoid additional delay and the expense of additional and unnecessary costs.

Conclusion

For the foregoing reasons, TD Bank respectfully requests that the Court dismiss this appeal or, alternatively, expedite its ruling on the briefs in this matter without oral argument.

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to Carolina First Bank, N.A.

Columbia, South Carolina

August 15, 2016.

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for TD Bank, NA, Successor by merger to Carolina First Bank, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Motion to Dismiss

Counsel Served:

S. Jahue Moore, Esq.
Moore Taylor & Thomas
P.O. Box 5709
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SC Court of Appeals



Maria Keeve
Administrative Assistant

August 15, 2016

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
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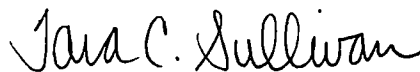
RE: TD Bank, NA, Successor by merger to Carolina First Bank, N.A., Respondent
v. Sunil V. Lalla and Sharon W. Lalla, Appellants
Appellate Case No. 2015-002484
Our File No. 04387/01834

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondent's Motion to Dismiss in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our check in the amount of \$25.00 as the required filing fee.

By copy of this letter to counsel of record, we are serving them with a copy.

Very truly yours,



Tara C. Sullivan

TCS:mk
Enclosures

cc: S. Jahue Moore, Esquire

LAW OFFICES

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