

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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**SC Court of Appeals**

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

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Case No. 2016-001526

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The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the benefit of Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2006-E,.....

Respondent,

v.

Charles Taylor, Burgess Brogdon Bldg. Supply,  
Palmetto Health Alliance,.....

of Whom Charles Taylor is the

Appellant.

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**REPLY TO RETURN TO MOTION TO COMPEL APPELLANT  
TO INCLUDE ALL MATTERS DESIGNATED BY RESPONDENT IN THE RECORD  
ON APPEAL, TO STRIKE PORTIONS OF RECORD ON APPEAL, AND STAY FINAL  
BRIEFS PENDING RULING ON THIS MOTION**

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Respondent hereby submits this Reply to Appellant's Return to the Motion to Compel Appellant to Include All Matters Designated by Respondent in the Record on Appeal, To Strike Portions of the Record on Appeal, and to Stay Final Briefs Pending a Ruling on this Motion.

First, despite Appellant's unsupported contentions to the contrary, Respondent timely filed its Motion, and is only seeking to ensure that the record before this Court is complete and accurate. (See Return at p.2, ¶ 2 (improperly alleging that Respondent is acting "in an

underhanded way” and “complaining” via “motion”).) As to the prior motion referenced by Appellant, Respondent previously filed a Motion to Strike Improper Designations, which this Court granted by Order dated October 14, 2016. As such, it represented a legitimate contention, not simply “constant complaining of one thing or the other,” as alleged by Appellant. Rather, Respondent takes this case and the appeal seriously, and will continue to work to ensure that the Court is presented with a complete and accurate record. It is Appellant’s responsibility to prepare a complete and accurate record and, necessarily then, must expect to bear the expense associated therewith. See Rule 201, SCACR(g). To ease Appellant’s burden, Respondent voluntarily provided copies of the documents referenced as exhibits to the Motion.

Second, Respondent’s Motion asked this Court to order Appellant to include the entire Certification of Compliance in the Record on Appeal, since it was designated, in its entirety, in the Designation of Matter to be Included in the Record on Appeal. Appellant did not file a Motion to Strike its designation. The Court did not otherwise rule that it should not be included in the Record on Appeal. Appellant fails to state any reason why he failed to include a complete copy of the Certification of Compliance in the Record on Appeal. The Certification of Compliance was designated, and Appellant must include it in the Record on Appeal. See Rule 210(c), SCACR. Again, for ease of reference, Respondent attached a complete copy of the Certification of Compliance to its Motion. Appellant fails to identify any reason for why he cannot simply take that copy and include it in the supplemental Record on Appeal.

Third, as to the Notice attached to the Complaint, Appellant claims that it was “not on either’s list.” (Return at p.2, ¶ 3(d).) However, it is an attachment to, and part of, the Complaint. It is not a separate document that requires a separate Designation of Matter. It should also be included in the Record on Appeal.

Fourth, Appellant concedes that his “Record on Appeal doesn’t contain copies of the signed & filed orders entered in the case,” but then also claims “the record does so contain such re the matter designation lists.” (Return at p.3, ¶ 3(h).) This statement is confusing to say the least. Under Rule 210(c), SCACR, “[t]he Record on Appeal *shall include all matter designated* to be included by any party under Rule 209 and shall comply with the requirements of Rule 267.” (emphasis added). If the signed and filed orders are on the “matter designation lists,” they must also be included in the Record on Appeal. The signed and filed orders were not included in the Record on Appeal submitted by Appellant. Necessarily then, this Court should grant the Motion and enter an order requiring Appellant to serve a supplemental record on appeal that contains copies of the signed and filed orders in this case.

Fifth, and finally, as to the purported “exhibits,” which were the subject of the prior Motion, Appellant now concedes that “he did not file the house photos with the lower court.” (Return at p.3, ¶ 3(i) (emphasis added).) Thus, he cannot “clearly identify” how the photographs were presented to the lower court, as required by the October 14, 2016 Order, and they must be stricken from the Record on Appeal. In light of Appellant’s admission, the two photographs were not properly designated, were not presented to the trial court, and, therefore, any reference to them should be stricken from the Record on Appeal and Appellant’s brief.

In sum, Respondent respectfully request that this Court enter an order (1) requiring Appellant to serve a supplemental record on appeal that contains a full and complete copy of Respondent’s Complaint and Certification; (2) requiring Appellant to serve a supplemental record on appeal that contains copies of the signed and filed orders in this case; and (3) striking reference to any exhibits to the 4/28/16 Memorandum.

***SIGNATURE PAGE ATTACHED***

Respectfully submitted,

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Popular ABS, Inc. Mortgage Pass-Through Certificates Series  
2006-E

Columbia, South Carolina

11/2, 2016

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Case No. 2016-001526

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v.

Charles Taylor, Burgess Brogdon Bldg. Supply, Palmetto Health Alliance

of Whom Charles Taylor is the..... Appellant

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**PROOF OF SERVICE**

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I, the undersigned Attorney of the law offices of Nelson Mullins Riley & Scarborough, LLP, certify that I have served a copy of Respondent's Reply to Return to Motion to Compel Appellant to Include All Matters Designated by Respondent in the Record on Appeal, to Strike Portions of Record on Appeal, and Stay Final Briefs Pending Ruling on this Motion, by United States Mail, postage prepaid, on November 2, 2016, addressed to:

Charles Taylor, *pro se*  
334 Myrtle Beach Highway  
Sumter, SC 29153

S. Nelson Weston, Jr., Esq.  
Richardson Plowden & Robinson  
P.O. Drawer 7788  
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Columbia, South Carolina

November 2, 2016

# Nelson Mullins

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November 2, 2016

## Hand Delivered

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Sumter Street  
Columbia, SC 29201

**RECEIVED**  
NOV 02 2016  
SC Court of Appeals

Re: Bank of NY Mellon v. Charles Taylor, et al.  
Case No. 2016-001526  
Our File No. 36266/01512

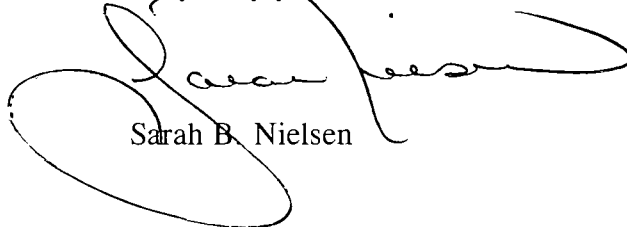
Dear Ms. Kitchings:

Enclosed please find an original and seven copies of the Reply to Return to Motion to Compel Appellant to Include all Matters Designated by Respondent in the Record on Appeal, to Strike Portions of Record on Appeal, and Stay Final Briefs Pending Ruling on this Motion in the above-referenced matter. We would appreciate your filing the original and returning a clocked copy to us via our courier.

By copy of this letter, we are hereby serving a copy of same on *pro se* Appellant and counsel.

Thank you for your attention to this matter. If you have any questions, please do not hesitate to contact us.

Very truly yours,



Sarah B. Nielsen

SBN:cr

Enclosures

cc: Charles Taylor, *pro se*  
S. Nelson Weston, Jr., Esq.