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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Diane Shafer Goodstein, Circuit Court Judge

Appellate Case No. 2014-001683
Unpublished Opinion No. 2016-UP-472
Submitted October 1, 2016 – Filed November 9, 2015

Wells Fargo Bank, N.A., Respondent,

v.

Dorothy Sistrunk, Appellant.

**APPELLANT'S REPLY TO RESPONDENT'S RETURN LETTER TO
PETITION FOR REHEARING OR REHEARING EN BANC**

November, 25, 2016

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I. INTRODUCTION

"[T]he trial judge's finding will not be overturned without an abuse of discretion or **unless manifest injustice has occurred.**" *Berry v. McLeod*, 328 S.C. 435, 450, 492 S.E.2d 794, 802 (Ct.App.1997). "[N]umerous authorities have established the rule that an instrument wholly void, such as an undelivered deed, a forged instrument, or a deed in blank, cannot be made the foundation of a good title, even under the equitable doctrine of bona fide purchase...." *Trout v. Trout*, (1934), 220 Cal. 652 at 656. Except for citations relative to statements, it is not necessary for the Appellant to cite and state any more Abuses of Discretion that occurred in this case in this *Reply*. There are so many Abuses of Discretion already in the Record on Appeal that any one is more than sufficient to set aside the judgment or dismiss this case with prejudice for violation of applicable laws.

United States v. Schooner Peggy, 1 Cranch 103 (1801): "...If the law be constitutional. . . I know of no court which can contest its obligation. It is true that in mere private cases between individuals, a court will and ought to struggle hard against a construction which will, by a retrospective operation, affect the rights of parties, but in great national concerns . . . the court must decide according to existing laws, and if it be necessary to set aside a judgment, rightful when rendered, but which cannot be affirmed but in violation of law, the judgment must be set aside." *Id.*, at 110.

Duncan v. CRS Serrine Engineers, Inc., 524 SE 2d 115(Ct.App. 1999) "[S]ummary judgment is appropriate when it is clear there is no genuine issue of material fact and the moving party is entitled to a judgment as a matter of law. *Baird v. Charleston County*, 333 S.C. 519, 529, 511 S.E.2d 69, 74 (1999); see also *Standard Fire Ins. Co. v. Marine Contracting and Towing Co.*, 301 S.C. 418, 421, 392 S.E.2d 460, 462 (1990) (stating a motion for summary judgment shall be granted if the pleadings, depositions, answers to interrogatories, admissions on file, and affidavits show there is no genuine issue as to any

material fact and the moving party is entitled to judgment as a matter of law). In ruling on a motion for summary judgment, the evidence and the inferences which can be drawn from the evidence must be viewed in the light most favorable to the non-moving party. Baird, 333 S.C. at 529, 511 S.E.2d at 74.” Gadson v. Hembree, 364 S.C. 316, 320, 613 S.E.2d 533, 535 (2005) (“Summary judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law.”)

The “Administration of Justice” includes, but is not limited to punishment and/or retribution for an individual’s and/or group’s participation in or committing crimes, civil torts and/or for violating lawfully enacted rules, laws, regulations and/or ordinances. It also includes ruling in the interest of justice and acting to avoid a manifest injustice. Therefore, Courts cannot base the “Administration of Justice” on any perceived and/or imagined technical procedure; especially, when any technical procedure in question is not known by...or has not been adequately explained to...a *Pro Se* litigant.

“[I]mplicit in the right to self-representation is an obligation on the part of the court to make reasonable allowances to protect pro se litigants from inadvertent forfeiture of important rights because of their lack of legal training. While the right "does not exempt a party from compliance with relevant rules of procedural and substantive law," Birl v. Estelle, 660 F.2d 592., 593 (5th Cir.1981)

In fact, neither Wells Fargo Bank, N.A., (since December 22, 2007), nor Rogers Townsend & Thomas, P.C., (Since June of 2008), Nelson Mullins Riley & Scarborough, LLP., (since August of 2008) or the Goodstein Court (since June of 2008) has investigated the facts, the material facts, the evidence and the applicable laws and their violations that are relative to this case. The Appellate Court’s *Rule 212(a)*, *SCACR* and *Standard of Review* give the Appellate Court the authority to thoroughly investigate anything and everything relative to C.A. Case #2008-CP-38-1024 for the past 7 years to determine the

facts, material facts and the truth, relative to a crime being committed by the broker, appraiser, seller, the Player Law Firm and Wells Fargo's own employees and the unwarranted, wrongful and malicious persecution of the victim of that crime, by Wells Fargo Bank, N.A., and Nelson Mullins Riley & Scarborough, LLP and this is after all the facts were known. *Moriarty v. Garden Sanctuary Church of God*, 341 S.C. 320, 534 S.E.2d 672 (2000) "[E]ven when there is no dispute as to evidentiary facts, but only as to the conclusions or inferences to be drawn from them, summary judgment should be denied."

II. RESPONDENT'S LETTER SHOULD BE DISMISSED AS A VIOLATION OF RULE 240(c), RULE 240(e) AND RULE 267, SCACR

Rule 240(c), SCACR, clearly states in pertinent parts, "[A]ll motions or petitions filed in an appellate court shall be in writing, shall state the grounds thereof, and shall comply with the requirements of Rule 267. The pages of the motion or petition and all supporting documents shall be consecutively numbered. Each motion or petition shall include the following:

- (1) A certificate or affidavit of service reflecting the date of service upon all parties. The original certificate or affidavit of service must be filed with the original motion or petition.
- (2) A memorandum with citation of authorities in support of the motion.
- (3) Where the Record on Appeal or Appendix has not been filed, or where the facts relied upon in support of the motion are not contained in the Record on Appeal or Appendix, the parties shall file affidavits and other documents in support of their positions." **These requirements are absent in the return.**

Rule 240(e), SCACR, states in pertinent parts, "[a] return to a petition or motion for rehearing under Rule 221 need not be filed unless requested by the court." The Appellant was not notified that the Respondent received a request from the court to file a return. The Respondent's return to the Appellant's "*Petition For Rehearing Or Rehearing En Banc*", also does not meet the requirements of Rule 267(a), SCACR. There is no provision in the Rule to send a letter to the Clerk of the Appellate Court as a *Return*.

III. REPLY TO RESPONDENT'S STATEMENT RELATIVE TO IRRELEVANT FEDERAL RULES OF CIVIL PROCEDURE

NEUTRINO DEVELOPMENT CORP. v. SONOSITE, INC., (Dist. Court, SD Tx.

2007, n. 9) “[U]nder Federal Rule 60(b)(3) based on the fraud of a party. In such a case, the court would make factual findings to determine whether fraud was committed. Similarly, in a motion for post-judgment relief based on an allegation of inequitable conduct, the court is the finder of fact and arbiter of law. In making such post-judgment factual findings, the court can go so far as to permit the parties to conduct limited discovery on the issues.

Lonsdorf v. Seefeldt, 47 F. 3d 893 (7th Cir. 1995) “[In] order to obtain relief under Fed. R.Civ.P. 60(b)(3), the movant must prove that: (1) the party maintained a meritorious claim at trial; and (2) because of the fraud, misrepresentation or misconduct of the adverse party; (3) the party was prevented from fully and fairly presenting its case at trial. Green v. Foley, 856 F.2d 660, 665 (4th Cir.1988), *cert. denied*, 490 U.S. 1031, 109 S.Ct. 1769, 104 L.Ed.2d 204 (1989). In considering these requirements, a court must weigh the competing policy interests of the finality of judgment against fundamental fairness in light of all of the facts. Square Construction Co. v. Washington Metro. Area Transit Auth., 657 F.2d 68, 71 (4th Cir.1981). A party seeking relief must prove that they are entitled to a new trial by clear and convincing evidence. Ervin v. Wilkinson, 701 F.2d 59, 61 (7th Cir.1983).

Fed.R.Civ.P. 60(b)(3) applies to both intentional and unintentional misrepresentations. Plattner v. Strick Corp., 102 F.R.D. 612, 614 (N.D.Ill.1984). A determination of whether the alleged misrepresentation altered the result of the case is unnecessary because Rule 60(b)(3) protects the fairness of the proceedings, not necessarily the correctness of the verdict. *Id.* In reviewing the evidence to determine whether the district court's denial constituted an abuse of discretion, we must accept as true the movant's

undenied allegations. *Ervin*, 701 F.2d at 61.

Square Const. Co. v. WASHINGTON, ETC., 657 F. 2d 68 (4th Cir. 1981) “[A] motion under Rule 60(b) is addressed to the sound discretion of the district court and will not be disturbed on appeal save for a showing of abuse. *Central Operating Co. v. Utility Workers of America*, 491 F.2d 245, 252 (4th Cir. 1974); *Consolidated Masonry & Fireproofing v. Wagman Construction Corp.*, 383 F.2d 249, 251 (4th Cir. 1967). As a threshold matter, the movant must demonstrate the existence of a meritorious claim or defense. *Compton v. Alton Steamship Co.*, 608 F.2d 96, 102 (4th Cir. 1979); *Universal Film Exchanges, Inc. v. Lust*, 479 F.2d 573, 576 (4th Cir. 1973).”

“[A] party seeking relief under subsection (3) of the rule must also prove the misconduct complained of by clear and convincing evidence and demonstrate that such misconduct prevented him from fully and fairly presenting his claim or defense. *Keys v. Dunbar*, 405 F.2d 955, 957-58 (9th Cir. 1969); *Nederlandsche Handel-Maatschappij, N.V. v. Jay EMM, Inc.*, 301 F.2d 114 (2d Cir. 1962); see *Toledo Scales Co. v. Computing Scale Co.*, 261 U.S. 399, 421, 43 S.Ct. 458, 463, 67 L.Ed. 719 (1923). In consideration of these proofs, the court must balance the competing policies favoring the finality of judgments and justice being done in view of all the facts, to determine, within its discretion, whether relief is appropriate in each case. *Compton*, p. 102.

IV. REPLY TO RESPONDENT’S STATEMENT RELATIVE TO REHASHES ARGUMENTS PRESENTED IN THE BRIEFING

Kennedy v. RETIREMENT SYSTEM, 564 SE 2d 322 (2001) “[T]he appellants have the responsibility to identify errors on appeal, not the Court. South Carolina cases clearly hold that one cannot present and try a case on one theory and then attack the result below by presenting another theory on appeal. See *Butler v. Town of Edgefield*, 328 S.C. 238, 493 S.E.2d 838 (1997).” **The Appellant’s defense of Defrauding or Swindling with falsified documents has not been heard** and arguing untimeliness is not in any “Brief”.

Watson v. Underwood, 756 SE 2d 155 (Ct.App.2014) “[T]he right of appeal arises from and is controlled by statutory law.” *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 464, 467 (2006). “An appeal ordinarily may be pursued only after a party has obtained a final judgment.” *Id.* (citing S.C. Code Ann. § 14-3-330(1) (1977); Rule 72, SCRCF; Rule 201(a), SCACR). “The determination of whether a party may immediately appeal an order issued before or during trial is governed primarily by [section 14-3-330 of the South Carolina Code (1977 & Supp.2013)].” *Id.* “Absent a specialized statute, an order must fall into one of several categories set forth in [s]ection 14-3-330 in order to be immediately appealable.” *Id.* “An order ‘involves the merits,’ as that term is used in [s]ection 14-3-330(1)[,] and is immediately appealable when it finally determines some substantial matter forming the whole or part of some cause of action or defense.” *Id.* at 7, 630 S.E.2d at 467 (footnote omitted). “The phrase ‘involving the merits’ is narrowly construed An order usually will be deemed interlocutory and not immediately appealable when there is some further act that must be done by the trial court prior to a determination of the parties’ rights.” *Id.* at 7, 630 S.E.2d at 467-68.”

“[T]he provisions of [s]ection 14-3-330, including subsection (2), have been narrowly construed and immediate appeal of various orders issued before or during trial generally has not been allowed. Piecemeal appeals should be avoided and most errors can be corrected by the remedy of a new trial.” *Hagood v. Sommerville*, 362 S.C. 191, 196, 607 S.E.2d 707, 709 (2005). “The basic policy behind denying immediate review of pretrial motions is avoidance of piecemeal litigation where the rights of the parties have not been substantially impacted.” *Breland v. Love Chevrolet Olds, Inc.*, 339 S.C. 89, 94, 529 S.E. 2d 11, 13 (2000).” (Review Webster’s definition of “**Partial**”).

“[A]n order affects a substantial right and is immediately appealable when it (a) in effect determines the action and prevents a judgment from which an appeal might be

taken or discontinues the action, (b) **grants or refuses a new trial**[,] or (c) strikes out an answer or any part thereof or any pleading in any action." Hagood, 362 S.C. at 195, 607 S.E.2d at 709 (brackets omitted) (quoting § 14-3-330(2)). Usually, an order that does not finally end a case or prevent a final judgment from which a party could appeal is not immediately appealable. *Id.* A judgment that determines what law is applicable but leaves questions of fact unsettled is not a final judgment. Good v. Hartford Accident & Indem. Co., 201 S.C. 32, 41, 21 S.E.2d 209, 212 (1942)." [Boldness added]

"[A]dditionally, a decree or judgment that leaves in doubt whether the plaintiff will prevail is not final. Donaldson v. Bank, 4 S.C. 106, 115 (1873). **An order is not immediately appealable when appellants 'have not `arrived at the end of the road' and** [would] be able to appeal the decision after the trial [wa]s finished." Baldwin Constr. Co. v. Graham, 357 S.C. 227, 230, 593 S.E.2d 146, 147 (2004)." [Boldness added]

"[H]owever, "an order that is not directly appealable will nonetheless be considered if there is an appealable issue before the [c]ourt and a ruling on appeal will avoid unnecessary litigation." Hite v. Thomas & Howard Co., 305 S.C. 358, 360, 409 S.E.2d 340, 341 (1991), *overruled on other grounds by* Huntley v. Young, 319 S.C. 559, 462 S.E.2d 860 (1995). Generally, "[t]his [c]ourt reviews interlocutory orders when they contain other appealable issues." Ferguson v. Charleston Lincoln Mercury, Inc., 349 S.C. 558, 565, 564 S.E.2d 94, 98 (2002). However, this court has declined to consider interlocutory issues even when accompanied by an appealable order, such as the grant of summary judgment, when the court found the issue to be novel and relating to the sufficiency of the allegations, which the trial court had not had the opportunity on which to rule. Pruitt v. Bowers, 330 S.C. 483, 488, 499 S.E.2d 250, 253 (Ct.App.1998). The supreme court has noted "if the question involved will be inherent in the final judgment and can be presented in an appeal from that judgment, it will be treated as an interlocutory order, review

of which can only be had upon the general appeal." *Good*, 201 S.C. at 41, 21 S.E.2d at 212 (internal quotation marks omitted)." (Review Webster's definition of "**Partial**".)

"[A]ppellate courts in this state, like well-behaved children, do not speak unless spoken to and do not answer questions they are not asked." *State v. Austin*, 306 S.C. 9, 19, 409 S.E.2d 811, 817 (Ct.App.1991) (brackets and internal quotation marks omitted)." Now perhaps the Appellate court can understand why the Lower Court's failure to instruct the Appellate is detrimental and an Abuse of Discretion. Only a Judge or a highly skilled practicing attorney can understand all the Rules and statutory requirements of an Appeal to an Appellate Court or what to file and when.

"[H]owever, "[e]very ground of appeal ought to be so distinctly stated that the reviewing court may at once see the point which it is called upon to decide without having to 'grope in the dark' to ascertain the precise point at issue." *Jones v. Lott*, 387 S.C. 339, 346, 692 S.E.2d 900, 903 (2010) (internal citation omitted).

Herron v. CENTURY BMW, 719 SE 2d 640 (2011) "[S]imilarly, a petition for rehearing must "state with particularity the points supposed to have been overlooked or misapprehended by the court." Rule 221(a), SCACR. "The purpose of a petition for rehearing is not to present points which lawyers for the losing parties have overlooked or misapprehended, nor is it the purpose of the petition for rehearing to have the case tried in the appellate court a second time." *Kennedy v. S.C. Retirement Sys.*, 349 S.C. 531, 532, 564 S.E.2d 322, 322 (2001) (quoting Jean H. Toal, *Appellate Practice in South Carolina* 309 (1999))."

Pentax Corp. v. Robison, 135 F. 3d 760 (1st Cir. 1998) "[A] petition for rehearing must "state with particularity the points of law or fact which in the opinion of the petitioner the court has overlooked or misapprehended." The Appellant has met the requirements legal and otherwise for filing her "*Petition for Rehearing or Rehearing En Banc*".

V. **REPLY TO DENYING THE REHEARING & WHY THE APPELLANT'S REHEARING OR REHEARING EN BANC SHOULD BE GRANTED**

1. As previously stated, the purpose of the Rehearing is to identify issues the Appellate Court misapprehended, overlooked or failed to apply applicable State and/or Federal law; as well as, remedies in tort and/or found in well established policies of law or precedent. The questions presented in this case are too important to leave unsettled and they are guaranteed to reoccur in the absence of a definitive ruling from this Court on **"Illegal Contracts"**.

2. Also as previously stated, "[T]his is not the raising of a new question on appeal, but the exercise by the court of its inherent power to remand a case, in the interest of justice, to the fact finding body for the purpose of making essential factual findings, so that litigation may be disposed of in accordance with the principles of law governing the decision of factual issues." *Drake v. Raybestos-Manhattan, Inc.*, 127 SE 2d 288 (SC: S. Ct. 1962). When the Court fails to address the arguments raised in the appeal, "[a] prima facie case for rehearing has been made." *Covar v. Sallat*, 22 S.C. 265, 272 (1885)

3. The issues raised could not have been adequately addressed because the Appellant's Appeal was dismissed as being untimely. (Opinion No. 2016-UP-472)

4. The Appeals Court only addressed 1/3 of the conditions for setting aside a judgment pursuant to Rule 60(b)(3), SCRCF. The Appeals Court did not address **Misconduct** and the Appeals Court did not address **Misrepresentations** by Officers of the Court that are legal as well as ethical violations that can dismiss a case under Rule 41(b).

5. The Appeals Court failed to consider the fact, all the Appellant's pleadings are notarized or verified. Rule 8(d), SCRCF clearly states in pertinent parts, "[A]verments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading." And are admissible. See also *Jones v. Blanas*, 393 F. 3d 918 (9th Cir. 2004).

6. McCaskill v. SCI Management Corp., 298 F. 3d 677 (7th Cir. 2002) "[T]he scope of a judicial admission by counsel is restricted to unequivocal statements as to matters of fact which otherwise would require evidentiary proof; it does not extend to counsel's statements of his conception of the legal theory of a case." Michael H. Graham, 30B FED.PRAC. & PROC.EVID. (Interim ed.) § 7026 (2002). That understanding of the scope of judicial admissions is a longstanding one. For instance, in New Amsterdam Casualty Co. v. Waller, 323 F.2d 20, 24 (4th Cir.1963), the court defined judicial admissions as follows:

A judicial admission is usually treated as absolutely binding, but such admissions go to matters of fact which, otherwise, would require evidentiary proof. They serve a highly useful purpose in dispensing with proof of formal matters and of facts about which there is no real dispute. ... The doctrine of judicial admissions has never been applied to counsel's statement of his conception of the legal theory of the case. When counsel speaks of legal principles, as he conceives them and which he thinks applicable, he makes no judicial admission and sets up no estoppel which would prevent the court from applying to the facts disclosed by the proof, the proper legal principles as the Court understands them.

That conception of judicial admissions has persisted throughout the cases leading up to this decision. See, e.g., New York State Organization for Women v. Terry, 159 F.3d 86, 97 n. 7 (2d Cir.1998) ("This argument relies on a misunderstanding of the nature of judicial admissions, which are statements of fact rather than legal arguments made to a court."); Solon v. Gary Community School Corp., 180 F.3d 844, 858 (7th Cir.1999) and Keller v. United States, 58 F.3d 1194, 1198-99 n. 8 (7th Cir.1995) (quoting FED.PRAC. & PROC., and stating that judicial admissions "have the effect of withdrawing a fact from contention."); MacDonald v. General Motors Corp., 110 F.3d 337, 341 (6th Cir.1997) (holding that counsel's statement on an issue of negligence was not a judicial admission because it constituted a legal opinion or conclusion rather than a matter of fact); Guidry v. Sheet Metal Workers International Association, Local No. 9, 10 F.3d 700, 716 (10th Cir.1993) modified on other grounds, 39 F.3d 1078, 1081 n. 3 (10th Cir.1994) (rehearing en banc)

("Judicial admissions are formal admissions...which have the effect of withdrawing a fact from issue and dispensing wholly with the need for proof of the fact. [citations omitted]."

7. "[A] defendant's waiver of the right to a jury trial must be knowing, voluntary, and intelligent." *Patton v. United States*, 281 U.S. 276, 312-13 (1930), *overruled on other grounds by Williams v. Florida*, 399 U.S. 78, 92 (1970). "[A] defendant's knowing and voluntary waiver of statutory or constitutional rights must be established by a complete record, and may be accomplished by a colloquy between the court and defendant, between the court and defendant's counsel, or both." *Roddy v. State*, 339 S.C. 29, 34, 528 S.E.2d 418, 421 (2000).

8. *Com. v. Wright*, 846 A. 2d 730 (Pa: Super. Ct. 2004) "[T]herefore, we will not quash the instant appeal. See *Commonwealth v. Hurst*, 367 Pa.Super. 214, 532 A.2d 865, 867 (1987) (a trial judge must advise a defendant of his right to file an appeal and the time within which that right must be exercised; where the trial judge failed to inform a defendant of his appellate rights, an otherwise untimely appeal will not be quashed); *Commonwealth v. Curry*, 318 Pa. Super. 490, 465 A.2d 660, (1983) (sentencing court erroneously failed to advise the defendant of his right to file a motion for reconsideration of sentence within ten days of imposition of sentence, and its failure to do so was not offset in any way by its thorough advice as to defendant's right to appeal); *Commonwealth v. Katz*, 318 Pa.Super. 282, 464 A.2d 1343 (1983) (an otherwise untimely appeal would not be considered untimely because the defendant was not informed of his right to appeal and time within which he must exercise such right, thus precluding assumption that his decision to exercise his appellate rights late was done in a knowing, intelligent, and voluntary manner). See generally, Pa.R.Crim.P. 704(c) (dealing with a trial court's duty to inform the defendant of his post-sentencing and appellate rights and the time within which such rights must be exercised)."

VI. SUMMATION

When this case began 8 years ago, the Appellant sincerely believed all she had to do was tell the truth and write the truth. (R. pp. 5-24 & 68-148) It is a sad commentary, but nonetheless true. The truth means absolutely nothing in a Court of law unless a Judge sitting without a jury accepts it. (R. Vols. I-V) In fact, a Judge can accept any statement except the truth, including misstatements, misrepresentations of material facts and even an outright lie...if he/she chooses (R, pp. 39-44 & Vol. II)...and if he/she chooses., he/she can completely ignore the truth and decide a case without any truth. (R. pp. 46 & 48, R. Vol. V, Part 2, pp. 1742 & 1747) Written documents have more weight than truth and it doesn't really matter whether they are forgeries or not or how they came into existence as long as a Judge sitting without a jury accepts them as true. (R. Vol. V, Part 1, pp. 1525-1532 & Part 2, pp. Bi-Bxxxii; 1623-1660; 1680, 1682, 1685-86, 1688-96, 1699, 1702-07, 1709 & 1719) This case is now nearing its end; and after 8 years, it is still an unbelievable uphill battle to get a Judge sitting without a jury to listen to and accept the truth.

VII. CONCLUSION

The Appellant's defense of Defrauding and Swindling with the falsified, forged, altered and unauthorized documents of 2nd and/or 3rd parties has not been heard in 8 years. Attorney's Moise and Burns changed it to "Fraud" and the Judge complied with the change over her objections. For the reasons stated in her "*Petition For Rehearing Or Rehearing En Banc*" and in this "*Appellant's Reply To Respondent's Return Letter To Petition For Rehearing Or Rehearing En Banc*" the Court should Rehear this case and reverse the judgment of the circuit court and put an end to this travesty of justice and a miscarriage of justice that is nothing but a hardship on the Appellant and her family.

Respectfully submitted,

November 25, 2016

/s Dorothy Sistrunk
Dorothy Sistrunk
423 Bayne Street
Orangeburg, South Carolina 29115
Phone (803) 268-0716

Note: Due to averments that are stated with specificity and particularity, this "Reply" will be verified and notarized: Winnetka Bank v. Mandas, 202 Ill. App.3d 373, 397 (1st Dist. 1990). "[W]hen a pleading is verified, every subsequent pleading must also be verified unless the trial court excuses the verification."

DOROTHY SISTRUNK'S DECLARATION

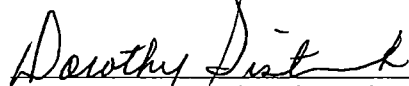
I. Let it be known that 18 U.S. Code § 1621 clearly states in pertinent parts; "[W]hoever— (1) having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify 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. Based on the above federal laws; I declare; under the PENALTY of PERJURY, that the foregoing is true and correct. Executed on November 25, 2016.



Dorothy Sistrunk

NOTARY CERTIFICATION

IN WITNESS WHEREOF, The undersigned, being duly *SWORN*, declares under the *PENALTY OF PERJURY* that the facts in her "Appellant's Reply To Respondent's Return Letter To Petition For Rehearing Or Rehearing En Banc" are true and correct as of her own knowledge. Except as to those matters stated herein 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.2014-001683, Civil Action Case No. 2008-CP-38-1024 and Unpublished Opinion No. 2016-UP-472 will sign, seal and execute her attestations on this 20 day of November in the year 2016 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 Sistrunk

Notary's Signature as Witness (1) Karen Loya Pearson

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

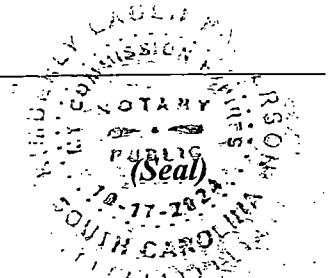
**STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG**

On 11-28-16 before me appeared Dorothy Sistrunk and proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that she is executing the same in her authorized capacity, and by her signature on her "Appellant's Reply To Respondent's Return Letter To Petition For Rehearing Or Rehearing En Banc" and this Notary Certification presents this document to the Appellate Court.

WITNESS My Hand and Official Seal.

Notary's Signature Karen Loya Pearson

Commission Expires 10-17-24



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas

Diane Shafer Goodstein, Circuit Court Judge

Appellate Case No. 2014-001683
Unpublished Opinion No. 2016-UP-472
Submitted October 1, 2016 – Filed November 9, 2016

Wells Fargo Bank, N. A., Respondent

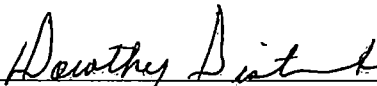
v.

Dorothy Sistrunk, Appellant.

PROOF OF SERVICE

I certify that I served a copy of my "*Appellant's Reply To Respondent's Return Letter To Petition For Rehearing Or Rehearing En Banc*" on Wells Fargo Bank, N.A., by depositing a copy of it in the United States Postal Service, postage prepaid, on November 28, 2016, addressed to Wells Fargo's attorney/s of record that are listed below. :

Today's Date: November 28, 2016

/s/ 
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(803) 268-0716

Attorney James H. Burns & Michael Anzelmo
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 **Dorothy Sistrunk**

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

**Appellant's Reply To Respondent's Return
Letter To Petition For Rehearing Or Rehearing En Banc**

November 28, 2016

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

RECEIVED

NOV 28 2016

SC Court of Appeals

RE: Wells Fargo Bank, N.A. v. Dorothy Sistrunk
Civil Action Case #2008-CP-38-1024
Appellate Case #2014-001683
Opinion No. 2016-UP-472

Ms. Kitchings and/or Ms. V. Claire Allen

I am enclosing my "Appellant's Reply To Respondent's Return Letter To Petition For Rehearing Or Rehearing En Banc" and Proof of Service. In accordance with *Rule 240(e), SCACR*, I am enclosing an original and six (6) copies of my Reply; paper clipped and not stapled, and I have also served a copy of same on all parties listed below.

Thank you.

/s/ 
Dorothy Sistrunk

CC:

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