

THE STATE OF SOUTH CAROLINA)
)
)
Yadkin Bank,)
)
Respondent,)

vs.)

J.W. Neal Construction, LLC, Joshua)
Wilfred Neal, and The Walker's Ridge)
Homeowners Association Inc.,)
)
of whom J.W. Neal Construction, LLC)
and Joshua Wilfred Neal are the)
Appellants,)
_____)

IN THE COURT OF APPEALS

Appellate Case #: 2016-001344

Appeal of York Co. 2015-CP-46-3526,
Hon. S. Jackson Kimball, Master-in-Equity

**LETTER IN OPPOSITION TO
APPELLANTS' SECOND MOTION
FOR EXTENSION OF TIME**

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DEC 02 2016

SC Court of Appeals

Dear Honorable Clerk,

I am, yet again, writing to express my objection to the Appellants' request for additional delays in the above-referenced appeal of a mortgage foreclosure case from York County, SC. I would like to reiterate and call attention to all of the statements that I made in my October 25, 2016 letter to the Clerk opposing the Appellants' 1st Motion for Extension of Time and raise the same objections in regard to the Appellants' 2nd Motion for Extension of Time.

In addition, the Appellants' 2nd Motion for Extension of Time is untimely and contains misrepresentations by the Appellants' counsel. On October 26, 2016, the Court filed an Order which stated "The time for serving and filing the appellants' initial brief and designation of matter is hereby extended until November 21, 2016." Since then, the Appellants' counsel has not filed an initial brief. A 2nd Motion for Extension of Time by the Appellants, dated November 22, 2016, was filed by the Court on November 28, 2016.

In the Appellants' 2nd Motion for Extension of Time, the Appellants' counsel states that "the parties are in settlement discussions," which to my understanding after speaking with the Respondent's counsel, is not truthful. Mr. J.M. Foster, counsel for the Appellants, called me on November 9, 2016 and asked what price I would sell his client the property at issue in the original foreclosure case (Lot 73 of Walker's Ridge subdivision in Rock Hill), which I purchased at the Equity Court's upset bid sale on July 6, 2016.

The price I stated to Mr. Foster, \$40,000, is essentially the same price as the only comparable lot sale (Lot 74, directly adjacent to Lot 73) within the subdivision this year. This price was not accepted, rejected, or countered, and I have not been contacted by Mr. Foster through any means since November 9. That phone call clearly does not constitute what Mr. Foster called "settlement discussions, which would resolve this appeal."

Mr. Foster's statement that he "does not believe any damage will be caused to the Respondent, nor will any undue prejudice be caused by the said delay" is also untrue. Yadkin Bank has a \$36,957.18 deficiency judgment against the Appellants that the continuation of this appeal is preventing the Respondent from

levying and collecting. This appeal has also been an obstruction for me and my partner, Edwin G. Young, as the third-party purchasers of the lot, for over four months, since title insurers will not issue policies on properties subject to any pending appeals, regardless of the merit or circumstances of the appeal. Meanwhile, the Appellants have not had to foot a bill for any legal work, other than extension requests, once for requesting a transcript and now two for filing an initial brief, so this appeal and the efforts to prolong it indefinitely carry no downside risk to the Appellants and protect them from the Respondent's deficiency judgment against them.

In short, the Appellants' 2nd Motion for Extension of Time was not written and served within the deadline set by the Court's Order on October 26 and the statements made within it are not truthful. I have seen nothing that leads me to believe that this appeal is being prolonged, or was even initially filed, in good faith by the Appellants' counsel. I ask the Court to deny the Appellants' untimely 2nd Motion for Extension of Time and to dismiss the appeal. By doing so, the Court would not prevent the Appellants from either buying the lot that was the subject of the initial foreclosure action from me and my partner, or settling with the Respondent over the deficiency judgment amount, or from doing both. Those are the subject of the "settlement discussions" that Mr. Foster claims to be having with me and the Respondent's counsel, and the opportunity to actually have those discussions would be greater if this appeal was no longer shielding the Appellants from any adverse consequences resulting from inaction and delay. Thank you for your consideration.

Respectfully submitted,

November 30, 2016



Barrett M. Maners
773 Milton Ave.
Rock Hill, SC 29730
(803) 517-1196

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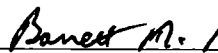
**CERTIFICATE OF SERVICE
BY MAIL**

The undersigned hereby certifies that he effected service of the Letter in Opposition to Appellants' Second Motion for Extension of Time filed in the above-captioned case, to be served via United States Mail, first-class, postage-paid, on the parties listed below on the 30th day of November 2016.

John Martin Foster
P.O. Box 106
Rock Hill, SC 29731
Attorney for Appellants

Elizabeth Wright
310 N. Front St.
Suite 4-147
Wilmington, NC 28401
Attorney for Respondent

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SC Court of Appeals

November 30, 2016

The Honorable Jenny Abbott Kitchings
Clerk of South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Case: 2016-001344; Yadkin Bank, Respondent, v. J.W. Neal Construction, LLC, Joshua Wilfred Neal, and The Walkers Ridge Homeowners Association, Inc., Of whom J. W. Neal Construction, LLC and Joshua Wilfred Neal are the Appellants

Dear Honorable Clerk,

Please find the enclosed original and seven copies of the Letter in Opposition to Appellants' Second Motion for Extension of Time, along with the Certificate of Service By Mail for the same. Please return the extra conformed copy to me in the enclosed self-addressed, stamped envelope. Thank you for your assistance.

Sincerely,



Barrett M. Maners

bmm/
enclosures

cc: John Martin Foster
P.O. Box 106
Rock Hill, SC 29731
Attorney for Appellants

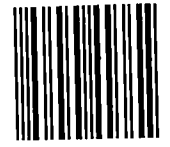
Elizabeth Wright
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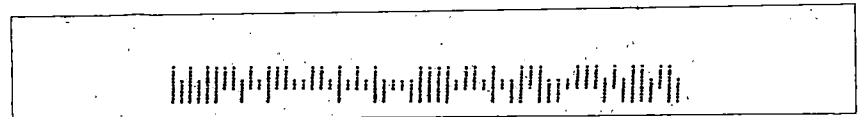
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Hon. Jenny Abbott Kitchings
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P.O. Box 11629
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