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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM DORCHESTER COUNTY CIRCUIT COURT

James E. Chellis, Master-In-Equity

Appellate Case No.: 2016-000704

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DEC 16 2016

SC Court of Appeals
Respondent,

Wells Fargo Bank, N.A.,

v.

Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.; Drakesborough
Homeowners Association, Inc.,

Defendants,

Of whom, Latisa L. Cunningham is the Appellant.

—————
MOTION TO DISMISS APPEAL
—————

Chad W. Burgess, Esq.
Brock & Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
(803) 454-3540
Attorney for Respondent

PLEASE TAKE NOTICE that Respondent, Deutsche Bank National Trust Company, as Trustee for Soundview Home Loan Trust 2006-1, Asset-Backed Certificates, Series 2006-1, ("Respondent") by and through its undersigned attorney, will move before this Court for an Order dismissing the instant appeal pursuant to Rules 260 and 269 of the South Carolina Appellate Court Rules. Though having been given ample latitude regarding her filings in this appeal, Appellant has repeatedly failed to comply with the SCACR which

have required numerous letters from this Court notifying Appellant of her failure to make filings timely or of deficiencies with her filings.

On December 13, 2016, the undersigned received Appellant's proposed record on appeal which was filed with the Court on November 28, 2016. Though the Proof of Service indicates the record on appeal was served upon the undersigned on November 28, 2016, the envelope (a copy of which is attached hereto and incorporated herein as **Exhibit "1"**) indicates the record on appeal was mailed on December 12, 2016.

A review of the proposed record reveals several deficiencies. Deficiencies that are so prevalent as to prevent Respondent from submitting their final brief. Specifically, this document failed to include the material proposed in Respondent's designation of matter to be included in the record on appeal. Further, the document was not accompanied by a certificate of the Appellant as required by SCACR Rule 210(g).

The South Carolina Supreme Court ruled upon a similar motion to dismiss in Henning v. Kaye, 307 S.C. 436, 415 S.E.2d 794 (1992). In Henning, the Supreme Court noted that the SCACR "are not mere technicalities, but provide the parties and this Court with an orderly mechanism through which to guide appeals in this State. It is incumbent upon counsel to provide material that complies with the Rules and facilitates appellate review." Id. at 437. While the Henning court ultimately gave appellant an opportunity to correct the record (the first such opportunity granted), it noted that it "would be completely justified in dismissing this appeal based on appellant's numerous violations of the Rules..." Id. at 438.

Unlike the appellant in Henning, Appellant in this case has already been given numerous opportunities to correct the defects in her filings and given opportunities to make


filings out of time. Appellant was given at least two distinct opportunities to cure the defects in her initial brief through deficiency letters from this Court dated July 16, 2016 and August 9, 2016. It is worth noting that the instant appeal is Appellant's second filed in this action. Appellant's previous appeal (appellate case number 2015-0012211) was dismissed on December 2, 2015 based upon Appellant failing to correct the deficiencies in her initial brief.

Appellant's continued disregard for the SCACR warrants a dismissal of the instant appeal pursuant to SCACR Rule 269 as it has become clear that the appeal is frivolous, taken solely for the purposes of delay, and is not in compliance with the SCACR.

Based upon the foregoing, Respondent respectfully requests that this appeal be dismissed.

Respectfully submitted,

Brock and Scott, PLLC
3800 Fernandina Road, Suite 110
Columbia, South Carolina 29210
Telephone: (803) 454-3540


Chad Burgess
Attorney for the Respondent

Dated: December 15, 2016
Columbia, South Carolina

EXHIBIT 1

Latisa L. Cunningham

1227 Wild Goose Trail

Summerville, SC 29483



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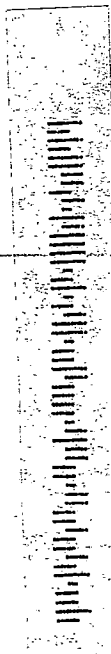
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Chad Burgess

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v.

Richard B. Cunningham; Latisa L. Cunningham; SC Housing Corp.; Drakesborough
Homeowners Association, Inc.,

Defendants,

Of whom, Latisa L. Cunningham is the Appellant.

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that on December 15, 2016, she served a copy of Respondent's Motion to Dismiss Appeal and Certificate of Service by Mail upon the person(s) below by depositing the same in the US Mail with proper postage affixed and addressed as follows:

Latisa L. Cunningham
1227 Wild Goose Trail
Summerville, South Carolina 29483

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DEC 16 2016

SC Court of Appeals

Kathryn Howell

Kathryn Howell
Brock & Scott, PLLC

B&S No.: 13-03642



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SC Court of Appeals

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December 15, 2016

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

Re: Wells Fargo Bank, N.A. v.; Latisa L. Cunningham; et al
Appellate Case Number: 2016-000704
B&S file Number: 13-03642

Dear Sir or Madam,

Enclosed please find an original and six copies of a Motion to Dismiss Appeal with regard to the above referenced matter. Kindly file the same and return a clocked copy to me in the enclosed self-addressed stamped envelope.

Thank you in advance for your assistance in this matter.

Sincerely,

Kathryn Howell
Paralegal

Enclosures

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