

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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MAR 28 2017

SC Court of Appeals

APPEAL FROM YORK COUNTY
Court of Common Pleas

S. Jackson Kimball, Master in Equity

Case No. 2015-CP-46-03068

Appellate Case No. 2016-002161

Bank of New York Mellon
fka
The Bank of New York as
Trustee (CWALT 2004-
2CB)

Respondent(s),

v.

Tara B. Barfield,

Appellant.

**OPPOSITION TO RESPONDENT'S MOTION FOR INVOLUNTARY
DISMISSAL OF APPEAL OR, IN THE ALTERNATIVE, MOTION FOR
CORRECTION OF APPELLANT'S DESIGNATION OF MATTER, AND
MOTION TO STRIKE**

Respondent served his Motion for Involuntary Dismissal of Appeal or, in the Alternative, Motion for Correction of Appellant's Designation of Matter, and Motion to Strike on March 14, 2017. This Motion asks for a complete dismissal of the Appeal in this case based upon Respondent's assertion that five (5) of the

sixteen (16) items that I proposed to be included in the Appeal are irrelevant to the appeal and do not comply with Rules 209 and 210 of the SCACR.]

Even if this assertion were true – and this is not an admission of that assertion – then it would be unreasonable to dismiss the entire appeal since the five (5) items in question were only used to partially support two (2) of the three (3) arguments presented in my Initial Brief. The items in question, only pertained to the arguments of *TILA Violations* and *Fraud* and these items were not the only items used in support of these two arguments and thus the exclusion of those items from the Record on Appeal would have only a partial effect on those arguments. Furthermore, the five (5) items in question were not used to support the *TILA Rescission* argument at all and thus the exclusion of those items from the Record on Appeal would have no effect on that argument.

In addition it is my belief that these five (5) items are relevant to the Appeal and that these items should be included in the Record on Appeal since they were presented to the lower court. I must apologize for a typographical error in my Initial Brief as the dates for the RESPA Qualified Written Request(s) (hereinafter referred to as QWR) were incorrect. The correct dates of the filings of the QWR(s) and subsequent service upon the Respondent's (Plaintiff's) Attorney as shown in the record of the case were (filed and clocked copies of the Certificate(s) of Service for each of these QWR(s) are enclosed):

- a. March 9, 2016
- b. April 27, 2016
- c. August 10, 2016

The dates indicated in my initial Brief were actually the dates of the Respondent's (Plaintiff's) responses:

- d. March 22, 2016
- e. May 10, 2016
- f. August 17, 2016

I agree with respondent's statement that "The fact that Appellant may have written a QWR on the same date Appellant served her answer does not have any bearing on whether Respondent violated the TILA in 2012 or 2015."

However: the fact that the Respondent has not sent the notices required by TILA and has never denied that these required notices were not sent does show that Respondent is in violation of TILA. Also please note I did bring up the issue of the TILA Violations in my answer and that each of these QWR(s) were filed with lower court and served on the Respondent's (Plaintiff's) Attorney who then sent them to the Respondent (Plaintiff) which subsequently answered them. So I find it hard to understand how Respondent's (Plaintiff's) Attorney would not know that these documents had been filed and served.

In regards to the *Affidavit of Non-Eligibility* and *Affidavit of Indebtedness* from 2009-CP-46-1735 that were brought up in the hearing by my co-defendant; these documents are matters of public record and involve the exact same Respondent (Plaintiff), Appellant (defendant(s)), lower court and Master-in-Equity as the case in

question. These two (2) also directly contradict the Respondent's (Plaintiff's) affidavit in support of Motion for Summary Judgement in this case since the affiant, Barbara Travis (an actual employee of Bank of America) states in both documents that Bank of America is the servicer of the loan, not the owner. Whereas, the he Respondent's (Plaintiff's) affidavit in support of Motion for Summary Judgement in this case sates that Bank of America has always been the owner of the loan (the affiant is an employee of Bayview Loan Servicing). I believe that the lower court erred in not allowing this argument since the Respondent (Plaintiff) has offered contradictory and inconsistent evidence that support my argument for the existence of fraud in this case.

Furthermore, the Respondent's (Plaintiff's) answers to the QWR(s) also state that Bank of America is the Master Servicer and that the captioned Plaintiff is the owner of the loan. Which is more contradictory and inconsistent evidence from the Respondent (Plaintiff) that support my argument for the existence of fraud in this case.

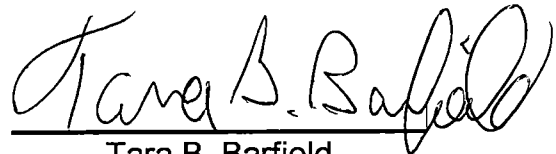
In addition, since the attorney for the Respondent pointed out that I was not in attendance at the hearing in this case, I would like to explain my absence so that the court does think that I just did not show up. I was not able to attend the hearing because I had to care for and arrange cancer treatments at Duke Medical Center for my mother when her Multiple Myeloma recurred. My request for a continuance for the hearing (which was submitted eight (8) days prior to the hearing date) was denied by Master-in Equity S. Jackson Kimball, III. Thus, I was unable to attend the hearing but I was able to care for my mother until she passed away on October 28.

CONCLUSION

Appellant respectfully requests that the Respondent's Motion should be denied for the reasons stated herein. In the event that the court decides that some of these items in question should be stricken from the Initial Brief and that the Initial Brief should be corrected and resubmitted, Appellant requests that the deadline for re-submission of its Initial Brief be set for thirty (30) days from time of such decision.

Respectfully submitted,

March 24, 2017



Tara B. Barfield
5088 Mariana Court
Tega Cay, South Carolina 29708
(704) 293-0132
Appellant Pro Se

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

CASE NO
2015-CP-46-3068

The Bank of New York Mellon fka The Bank of
New York, as Trustee (CWALT 2004-2CB)

Plaintiff,

CERTIFICATE OF SERVICE:
RESPA QWR – 2nd Request

Vs.

Tara B. Barfield a/k/a Tara Burdiss Barfield,
Samuel C. Barfield, SouthTrust Bank, N.A.,
Beneficial Financial I Inc., CACH, LLC, and
The South Carolina Department of Revenue,

Defendant(s).

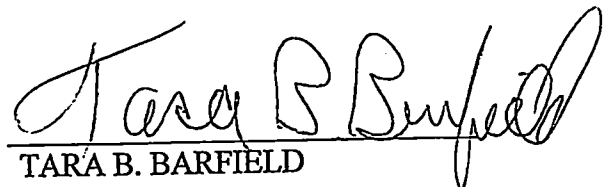
TARA B. BARFIELD
5088 Mariana Court
Tega Cay, SC 29708

April 27, 2016

I, TARA B. BARFIELD, the undersigned Defendant Pro Se, do hereby certify that I have served the foregoing **RESPA Qualified Written Response (QWR) – 2nd Request** on the Plaintiff's Attorney via U.S.P.S. (with Proof of delivery) by causing it to be deposited in a U.S.P.S. mailbox box a copy of each of the same, postage prepaid, return address clearly indicated, addressed to the following:

RILEY POPE & LANEY, LLC.
2838 Devine Street
Columbia, SC 29205
(803) 799-9993
Attorney for Plaintiff

4/27, 2016



TARA B. BARFIELD
5088 Mariana Court
Tega Cay, SC 29708
(704) 293-0132
Defendant, Pro Se

FILED-RECEIVED
2016 APR 27 AM 11:42
DAVID HAMILTON
C.S. 05263
YORK COUNTY, SC

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

CASE NO
2015-CP-46-3068

The Bank of New York Mellon fka The Bank of
New York, as Trustee (CWALT 2004-2CB)

Plaintiff,

**CERTIFICATE OF SERVICE:
RESPA QWR – 3rd Request**

Vs.

Tara B. Barfield a/k/a Tara Burdiss Barfield,
Samuel C. Barfield, SouthTrust Bank, N.A.,
Beneficial Financial I Inc., CACH, LLC, and
The South Carolina Department of Revenue,

Defendant(s).


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2016 AUG 10 AM 11:51
DAVID SPANGLTON
C.C.C.P. & C.S.
YORK COUNTY, SC

TARA B. BARFIELD
5088 Mariana Court
Tega Cay, SC 29708

August 10, 2016

I, TARA B. BARFIELD, the undersigned Defendant Pro Se, do hereby
certify that I have served the foregoing **RESPA Qualified Written Response (QWR) –
3rd Request and Notice of TILA and RESPA Violations** on the Plaintiff's Attorney
via U.S.P.S. (with Proof of delivery) by causing it to be deposited in a U.S.P.S. mailbox
box a copy of each of the same, postage prepaid, return address clearly indicated,
addressed to the following:

RILEY POPE & LANEY, LLC.
2838 Devine Street
Columbia, SC 29205
(803) 799-9993
Attorney for Plaintiff



TARA B. BARFIELD
5088 Mariana Court
Tega Cay, SC 29708
(704) 293-0132
Defendant, Pro Se

8/10, 2016

STATE OF SOUTH CAROLINA
COUNTY OF YORK

IN THE COURT OF COMMON PLEAS

CASE NO
2015-CP-46-3068

The Bank of New York Mellon fka The Bank of
New York, as Trustee (CWALT 2004-2CB)

Plaintiff,

**CERTIFICATE OF SERVICE:
ANSWER AND DEFENSES
And RESPA (QWR)**

Vs.

Tara B. Barfield a/k/a Tara Burdiss Barfield,
Samuel C. Barfield, SouthTrust Bank, N.A.,
Beneficial Financial I Inc., CACH, LLC, and
The South Carolina Department of Revenue,

Defendant(s).

TARA B. BARFIELD
5088 Mariana Court
Tega Cay, SC 29708

March 9, 2015

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SC Court of Appeals

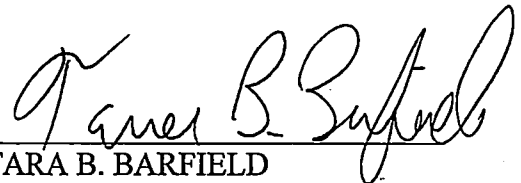
DAVID HAMILTON
CLERK OF COURT
YORK COUNTY, SC

2016 MAR -9 PM 4:18

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I, TARA B. BARFIELD, the undersigned Defendant Pro Se, do hereby certify that I have served the foregoing **ANSWER AND DEFENSES and RESPA Qualified Written Response (QWR)** on the Plaintiff's Attorney via FedEx Ground Service (with Proof of delivery) by causing it to be deposited in a FedEx box a copy of each of the same, postage prepaid, return address clearly indicated, addressed to the following:

Heidi B. Carey, SC Bar No. 7020
RILEY POPE & LANEY, LLC.
2838 Devine Street
Columbia, SC 29205
(803) 799-9993
Attorney for Plaintiff



TARA B. BARFIELD
5088 Mariana Court
Tega Cay, SC 29708
(704) 293-0132
Defendant, Pro Se

3/9, 2016

March 24, 2017

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
Post Office Box 11629
Columbia, South Carolina 29211

RE: The Bank of New York v. Tara Barfield
Case No. 2015-CP-46-03068
Appellate Case No. 2016-002161

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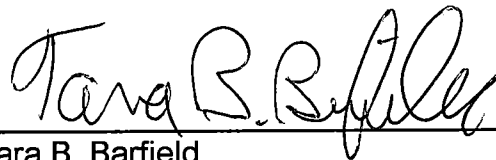
MAR 28 2017

SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed the original and one (1) copy of the Appellant's Opposition to Respondent's Motion for Involuntary Dismissal of Appeal or, in the Alternative, Motion for Correction of Appellant's Designation of Matter, and Motion to Strike, with Certificate of Service in the above referenced matter. Please file the enclosed documents and return one (1) clocked copy in the enclosed self-addressed stamped envelope.

Thank You,



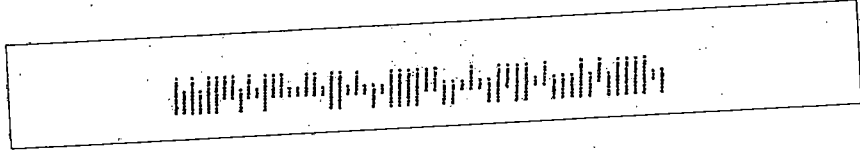
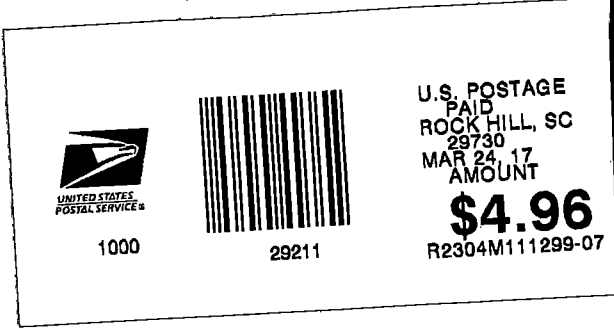
Tara B. Barfield
5088 Mariana Court
Tega Cay, South Carolina 29708
(704) 293-0132
Appellant Pro Se

cc:

Riley Pope & Laney (via USPS)
Post Office Box 11412
Columbia, South Carolina 29211

Samuel C. Barfield, Pro Se
5088 Mariana Court
Tega Cay, South Carolina 29708

TARA B. BARFIELD
5088 MARTHA CT
TEGA CAY, SC 29708



THE HONORABLE JENNY ABBOTT KITCHINGS
CLERK, SOUTH CAROLINA COURT OF APPEALS
POST OFFICE BOX 11629
COLUMBIA, SC 29211

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SC Court of Appeals