

**DESIGNATION OF MATTER TO BE
INCLUDED IN THE RECORD ON APPEAL**

In The Court of Appeals

APPEAL FROM OCONEE COUNTY

Court of Common Pleas

Steven C. Kirven, Master-in-Equity

Case No. 2017-000886

Federal National Mortgage Association, Respondent,

v.

John D. Dalen, Julie A. Dalen

And Wawtockace Hills Property Owners Association, Defendants

Of whom John D. Dalen and Julie A. Dalen are the Appellants

v.

Bank of America, N.A., Successor by merger to

BAC Home Loans Servicing, L.P. f/k/a

Countrywide Home Loans Servicing, L.P., Respondent

RECEIVED
MAY 19 2017
SC Court of Appeals

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Appellant proposes the following be included in the Record on Appeal:

a. Plaintiff's Complaint, October 31, 2011

Lines: #4, 8, 9, 16, and in the notice required by the FDCPA attached to the complaint, lines #2 and 5.

b. Defendant's Motion to Dismiss, including Memorandum of Law (4 pgs.)

November 22, 2011

Pages one and two: items #1, 2, and 3.

Memorandum of Law, pages 3 and 4. (Motion denied)

c. Defendant's Motion to Reconsider, Motion to Dismiss, Memorandum of Law,

February 14, 2012

Items "d" and "e" on page 2

Page 3 of Memorandum of Law: paragraphs 2 and 3 and page 4 items #1 through 5 dealing with the FDCPA and discussion paragraphs below regarding assignments and chain of title which continues on page 5, items "a" through "e", and page 6 – closing paragraph.

d. Defendant's Answer, Affirmative Defenses, Counterclaim and Demand for Jury

Trial, Memorandum of Law, February 21, 2012

Answer: page one, items "a" and "b"; page two, item "d"; and page 2, #4

Demand for Jury Trial: page 3

Affirmative Defenses: page 4, items #1, 2 and 3; page 5, items #6, and 7; page 6, items #4 and 5; and pages 7 through 11, items #7 through 61. Also, counts one through seven on pages 11 through 17.

Memorandum: page one, paragraphs #1, 2, and 3; page 2, items #1 through 5; page 3, paragraph #1 and items "a" through "e"; page 4, paragraphs #2 and 3; and entire page 5.

- e. Transcript of Hearing before Judge Alexander Macaulay on Plaintiff's Motion for Order of Reference, May 28, 2013

Page 9, items #1 through 25; page 10, #1 through 25; page 11, #1 through 25; and page 12, #4 through 12 (Pages 9 through 12 Relate to Denial of Due Process)

Page 13, #15 through 25; page 14, #1 through 25; page 15, #1 through 25; page 16, #1 through 25; page 17, #1 through 25; page 19, item #23; page 20, items #1 through 4; page 22, #6 through 25; page 23, #1 through 12; page 24, items #8 through 14; page 25, items #13 through 16; page 26, items #3, #17, #18; page 27, items #16 through 25; page 28, items #1 through 25 (regarding jury trial and assignments); page 29, items #1 through 25 (more specifically items #12 through 18 - Judge's reference to Chain of Title); page 30, items #1 through 25; page 31, items #1 through 25; page 34, items #22 and 23; and page 35, item #1

- f. Defendants filed a Motion to Deny Plaintiff's Motion for Summary Judgment, January 15, 2014

Page one, first paragraph; also on page one, item #2 continuing onto page 2, points A, B and C, and item #3; page 3, items #4 and 5; and page 8, items #16 and 17; page 9, items #18 and 20; page 11, item #22; page 11, items "a" through "d" continuing onto page 12; and page 12, items #1 and 2 (referring to attorney ethics)

- g. Defendants filed Cross-motion for Summary Judgment, January 15, 2014

Page one, item #2; page 3, items #3 and 4; page 4, paragraphs #1, 2, and 3; page 5, paragraphs #1 and 2; page 6, items #5 and 6; page 8, item "C" continuing discussion of counterclaims onto page 9; pages 12 through 15

relating to FDCPA violations; page 22, paragraph #2 continuing on page 23;
also page 23, last paragraph through page 24; also items on page 24; and from
page 31, Exhibit H (Assignment of Mortgage)

- h. Order Denying Plaintiff's Motion for Summary Judgment, July 9, 2014

Page one

- i. Motion to Dismiss for Lack of Subject Matter Jurisdiction, May 5, 2016

Page one, paragraph #2

- j. Order Granting Counterclaim Defendant's Renewed Motion for Summary
Judgment, July 28, 2016

Pages two and 3, items #4 through 8, #10, and #11 (In dispute/not supported
by evidence and is in fact, evidence of fraud); page 5, item #1; page 6, item #2;
page 7, items #3 and 4; page 3, item #5; page 9, paragraphs #1 and 2; page 10,
item VI (2 points); and page 12, VII.

- k. Motions Hearing Transcript before Master-in-Equity Ellis B. Drew held August 9,
2016

Page seven, items #13 through 24; page 8, items #1 through 25; pages 9, and
10, items #1 through 25; page 11, items #1 through 7; page 12, items #1
through 8 and items #19 through 25; page 13, items #1 through 9; page 13,
items #15 through 22; page 14, items #1 through 8; page 17, items #8 through
25; page 18, items #8 through 25; page 20, items #5 through 12; page 21, items
#1 through 12; page 22, items #1 through 6; and on each of pages 23, 24 and
25, items #1 through 25

- l. Transcript of Motions Hearing before Master-in-Equity Steven C. Kirven, held
September 8, 2016

Page six, items #23 and 24; page 7, items #22 through 25; page 8, items #1

through 25; page 9, items #22 through 25; page 10, items #1 through 25; page 11, items #1 through 25; page 13, items #1 through 25; page 14, items #1 through 25; page 15, items #1 through 25; page 16, items #1 through 10; page 17, items #15 through 18 and item #25; page 18, items #3 through 15; page 19, items #14 through 25; page 20, items #19 through 25; page 21, items #1 through 25; page 22, items #1 through 25; page 23, items #9 through 25; page 24, items #1 through 25; and page 25, items #1 through 25;

m. Order Denying Motion to Reconsider, October 13, 2016

Page two, Findings of Fact continued onto page 3.

n. Order Denying Motion to Dismiss, October 16, 2016

Pages two and 3, Findings of Fact

o. Defendants filed Motion to Dismiss for Lack of Subject Matter Jurisdiction and Denial of Due Process of Law, February 22, 2017

Page one, paragraphs 1 and 2; page 2, items #1 through 10; page 3, items #1 through 15; page 4, item #20; page 5, items #21 through 27; page 6, items #28 through 33; page 7, items #34 through 36; page 8, items #37 and 38; page 9, items #39 and 40 continued on pages 10, 11 and 12; page 12, items #41 and 42; page 13, item #43; and pages 13 and 14 - conclusion.

p. Defendants filed a Declaration of Claims for Fraud upon the Court, Lack of Subject Matter Jurisdiction, Fraud/Misrepresentation, and Denial of Due Process of Law on February 27, 2017

Page one, Action at Law naming Master-in-Equity Steven C. Kirven as a defendant; page 2, item #2; page 3, items #4 through 11; page 4, items #12 through 21; page 5, items #22 through 28; page 6, items #29 through 31;

page 7, items #32 through 37; page 8, items #36 through 42; page 9, items #42 through 46; page 10, items #47 through 50; page 11, items #51 through 55; page 12, items #56 through 59; page 13, items #60 through 65; pages 14 and 15, item #66; page 16, items #68 through 70; page 17, items #71 through 73; page 18, items #74 through 78; page 19, items #79 through 84; page 20, items #85 through 94; page 21, items #96 through 98.

This Declaration included the following Exhibits:

1) Exhibit A

Transcript of the Testimony of Zachary Chromiak, September 12, 2014

Page three - containing pages 9 through 12 of the transcript, specifically referencing transcript page 12, items #7 through 18; Exhibit page 4 containing pages 13 through 16 of the transcript, specifically referencing items #1 through 25 on each of transcript pages 13 through 16.

2) Exhibit B

Plaintiff's Responses to Defendant's Interrogatories, Requests for Admissions and Production of Documents

Page one, item #2; page 2, items #5 and 6; page 3, item #7; page 5, Request and Response 2; page 6, Request and Response 4; page 7, Request and Response 1; page 10, item #1; page 12, items #1 and 2; page 13, items #3 through 6; page 14, items #7 through 10; page 15, item #11, page 16, Request and Response 2; page 24, items #6 through 11; page 26, Interrogatory and Answer 2; page 27, Interrogatory and Answer 4; and page 30, Interrogatory and Answer 3.

3) Exhibit C

Lis Pendens

Page one

4) Exhibit D

Plaintiff's Complaint

Page one, item #4; page 2, items #8 and 9; page 3, item #17; and page 5,
items #2 and 5

5) Exhibit E

Pooling and Servicing Agreement

Page one, paragraph one, The Certificates; page 2, items "A" through "G";
page 4, paragraph 2, Certificate; page 5, Article II continued through page 7

6) Exhibit F

Korn Law Firm letter to Judge Macaulay acknowledging Trust

Page one

7) Exhibit G

Assignment of Mortgage dated May 9, 2011

Page one, invalid notary signature, assignment not proper - Quicken Loans
had already sold the note and mortgage

8) Exhibit H

Copy of the note dated December 20, 2007

Page three, Quicken Loans endorsement to Countrywide Bank FSB (no other
endorsements)

9) Exhibit I

Copy of the Assignment of Mortgage with Notary Signature (highlighted) and

the Notary Public's Oath and Certificate of Filing showing that the signature used on her application must be used on all notarized documents

Pages one through 3

10) Exhibit J

Resume of Notary Jenny Kogak wherein she states that she performed notary services for Bank of America in Simi Valley for their final docs department, performing up to 350 notarizations per day between February 2011 and August 2011 (the Assignment of Mortgage bearing her purported signature is dated May 9, 2011)

11) Exhibit K

Complaint filed by all 50 States Attorneys' General and The United States against numerous banking institutions including Bank of America, N.A. and BAC Home Loans Servicing as well as Countrywide Home Loans Inc. which was ultimately settled by the banking institutions for substantial payments to the United States as well as the individual states.

Page six: Bank of America, N.A. and Countrywide Bank, FSB named as defendants as well as BAC Home Loans Servicing and Countrywide Home Loans Servicing.

Page ten: item #1, points 51 through 53; pages 10, 11 and 12 (item #2) point #60, "a" through "s" and also on page 12, item #3, points #65 and 66

q. Judgment of Foreclosure and Sale, March 6, 2017

Page two, items #7, 10, 11, 12, and 14; page 3, item #17; page 9, item #26; page 11, item #38; and page 16, Order of the Court

- r. Transcript of Trial before Judge Kirven on March 2, 2017, Transcript dated April 25, 2017
Page four, item #25; page 5, items #1 through 25; page 7, items #1 through 25; page 8, items #1 through 25; page 9, items #3 through 7; page 11, items #1 through 25; page 12, item #14; page 13, items #20 through 25; page 14, items #3 and 4 (Evidence of fraud) and items #9 through 25; page 15, items #1 through 25; page 17, items #7 through 17; page 18, items #9 and 10; page 20, items #24 and 25; page 21, items #18 through 25; pages 22 through 32, items #1 through 25; and page 35, items #1 through 12.
- s. Bank's Exhibits: (1) Note dated December 20, 2007
(3) Assignment of Mortgage dated May 9, 2011
- t. New Trial Amended Judgment, including Judicial Notice of Adjudicated Facts March 15, 2017
Page one, part one ("I"); page 2, items #2, 3 and 4; page 4, item #8; pages 3 and 4, part two ("II"); pages 5 and 6, part three ("III"); all of page 7; page 8, item #12; page 9, item #13 which continues onto pages 10, 11, 12 and 13; and page 13 - conclusion continuing through page 15.
Regarding Judicial Notice:
Page one, paragraph one; page 2, items #1 through 4; page 3, items #5 through 8; page 4, item #9; pages 5 and 6 - conclusion
- u. Order Denying Motion for New Trial and/or Amended Judgment, March 17, 2017
Page one
- v. Bank of America v. Grisel Reyes-Toledo, Sup. Ct. of Hawaii, SCWC-15-0000005, dated Feb. 28, 2017
Pages 2 through 6, pages 11 through 21

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PROOF OF SERVICE

THE STATE OF SOUTH CAROLINA
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Federal National Mortgage Association, Respondent,
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**PROOF OF SERVICE OF DESIGNATION OF MATTER
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I certify that I have served the Designation of Matter to be Included in the Record on Appeal on Federal National Mortgage Association and Bank of America, N.A. by depositing a copy of it in the United States Mail, postage prepaid, on May 16, 2017, addressed to the attorneys of record: Charles S. Gwynne, Jr., Esq., Rogers Townsend & Thomas, PC, P.O. Box 100200, Columbia, SC 29202 and Brian A. Caleb, Esq., McGuire Woods LLP, Fifth Third Center, 201 North Tryon Street, Suite 3000, Charlotte, NC 28202.

May 15, 2017

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Appearing Pro Per


John D. Dalen


Julie A. Dalen

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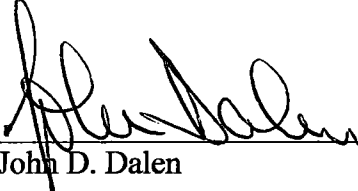
BAC Home Loans Servicing, L.P. f/k/a

Countrywide Home Loans Servicing, L.P., Respondent

Certification of Matter to be Included in the Record on Appeal

I certify that this designation contains no matter which is irrelevant to this appeal.

May 15, 2017


John D. Dalen


Julie A. Dalen

John D. Dalen and Julie A. Dalen
Appearing Pro Per/Appellant(s)

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