

THE STATE OF SOUTH CAROLINA
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

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JUN 05 2017

SC Court of Appeals

Motion to Deny Respondents' Motions to Extend Time to File Initial Brief and
Designate Matters to be Included in the Record on Appeal

Respondent Bank of America, N.A. requests an extension of time on the grounds that they require additional time "to procure copies of relevant transcripts and other court records in order to investigate and respond to Appellant's arguments." Respondent FNMA requests an extension of time due to "counsel's heavy work load." The appellants believe these are insufficient grounds for an extension of time, and so move the court to deny Respondents' Motions -- requests for extension of time, per Rule 240 of the SCACR.

MEMORANDUM

The appellants are under time limits as are the respondents. When we need a transcript, it is a simple matter to make a request of the court reporter along with the required fee, and a transcript is delivered within a few days. In our experience, the only time there is a delay is when requesting a transcript that is in the process of initial preparation, as with the trial transcript. All transcripts in this case have been prepared and are available in a timely manner upon request. As for court records, the respondents should have all of these; all parties were served during the course of these proceedings with all documents that are relevant to this appeal.

All of the issues that appellants are raising in this appeal are issues that were repeatedly raised throughout the course of this “unlawful” foreclosure. Since there are no new issues, the respondents’ attorneys should not require additional time to “investigate” or procure information.

John and Julie Dalen, the appellants, were repeatedly admonished by the trial court that they had to follow the court rules and procedures with no allowance for the fact that they are not attorneys. John Dalen has a full-time job working in the construction and home remodeling fields (ever since the gradual improvement in the economy, approximately a couple of years after the housing crash of 2008).

We have tried to comply with all the rules and time limits in spite of the fact that we cannot devote full-time efforts in this process. The banks’ attorneys, however, do this full-time; this is their job. They have paralegals and paid staff to assist them. In contrast, the appellants would have liked to file a stay or supersedes motion, but did not want to risk taking time away from the appeal (initial brief) and thus possibly jeopardize our appeal, and so we spent and continue to spend our available “free time” working on our appeal.

We are doing this appeal while working to pay our bills and being forced to move from our home, since the bank is in the process of selling our home. We, the appellants, would consider *these reasons* to be valid reasons for requesting an extension of time.

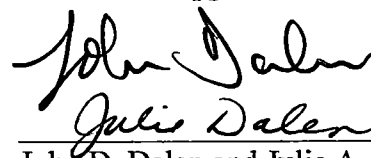
The banks' reasons appear to be excuses -- or stalling tactics -- and the court should not allow the rules to be manipulated in this way. We do not see a "good cause" for granting the requested extension.

Additionally, neither the attorney for Bank of America nor the attorney for FNMA filed any "memorandum with citation of authorities in support of the motion." From Rule 240, (c), "The pages of the petition and all supporting documents shall be consecutively numbered...and shall include the following: ... (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." Although some of this may seem to be mere technicalities, these are the rules. (Bank of America's attorney did not number their pages. See *SCACR Rule 240 (g) Failure to Comply*. "Failure of the moving party to perform any act required by this Rule may be deemed an abandonment of the motion or petition.")

Our experience at the trial court level was that we were held to compliance with *all the rules*, and due to some of our mistakes, we were denied discovery. Although the trial court never specifically told us *why* were denied discovery, we surmised that non-compliance with one of the rules pertaining to discovery was the explanation. Attorneys should be held to the same standard as non-attorneys.

WHEREFORE, the appellants move the court for an order denying motions from Respondents FNMA and Bank of America, N.A., motions for extension of time in filing their initial briefs and designations of matter to be included in the Record on Appeal.

May 31, 2017



John D. Dalen and Julie A. Dalen
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Ph. 864 647 4705
Appearing Pro Per

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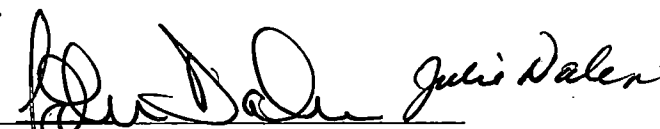
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PROOF OF SERVICE

We, John and Julie Dalen, certify that we have served a return to the attorneys of record on their motion for an extension of time for Respondents Bank of America, N.A. and Federal National Mortgage Association by depositing a copy of same in the United States Mail, postage prepaid, on May 31, 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. Calub, Esq., McGuireWoods LLP, Fifth Third Center, 201 North Tryon Street, Suite 3000, Charlotte, NC 28202.

May 31, 2017


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May 31, 2017

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

Re: Federal National Mortgage Assoc. and Bank of America, N.A., Respondents v. John D. Dalen and Julie A. Dalen, Appellants, Case No. 2017-000886


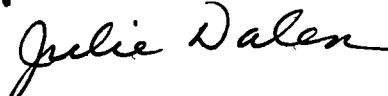
Dear Ms. Kitchings:

Enclosed for filing are the original and seven copies of Appellants' return response to Respondents' (FNMA and Bank of America, N.A.) motions for extension of time, along with our Proof of Service. Please file the original and return a filed copy to us in the return envelope provided.

By copy of this letter, I am serving a copy of the Appellants' return response on all parties to this appeal.

Thank you for your assistance.

Sincerely,

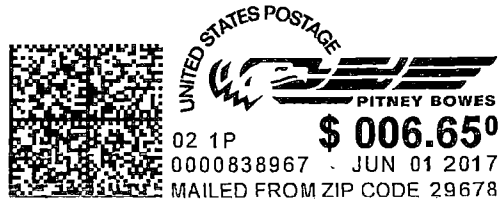
/jd

Cc: Attorneys for Respondent(s):
Enclosures as stated

John and Julie Dalen
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Ph. 864 647 4705
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PRESS FIRMLY TO SEAL



RITY®
IL ★

FROM:

*J. Dalen
109 Wood Valley Drive
Westminster, SC 29693*

EVERY SPECIFIED*

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NCLUDED*

ABLE



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TO:

*The Honorable
Genay Abbott Kitchens
Clerk, So. Carolina
Court of Appeals
P.O. Box 11629
Columbia, SC 29211*

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