

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

**APPEAL FROM Horry COUNTY
Ralph P. Stroman, Special Referee
Trial Court Case No. 2014-CP-26-04835**

**APPEAL FROM GEORGETOWN COUNTY
Ralph P. Stroman, Special Referee
Trial Court Case No. 2014-CP-22-00685**

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AUG 14 2017

SC Court of Appeals

Appellate Case No. 2016-000329

First Citizen Bank and Trust Company, Inc.....Respondent

v.

**Beck Holding Company, LLC, C.J.B Holding & Trust
Company, LLC, Cornelius J. Beck, Jr., Andrews Dental
Center, Inc. Inlet Dental Center, Inc. Seaside Surgical, Inc.,
Georgetown Dental Center of South Carolina, Inc. and
South Beach Dental Center, Inc.....Defendants**

Of whom Cornelius J. Beck, Jr. is the Appellant

FINAL BRIEF

Attorney For Respondent
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Charleston, SC 29401

Beck, Cornelius Johnathan Jr.
34 Old Evergreen Lane
Pawley's Island, SC

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TABLE OF AUTHORITIES

- [FRCP Rule 5.1(a)].....77
- Relief under [FRCP Rule 24(1)].....77

STATEMENT OF ISSUES ON APPEAL

On December 14, 2014, I filed a timely Constitutional Challenge Rule 5.1 and an injunction under FRCP Rule 24(1). The Plaintiff ignored the filing of such documents, and continued on with due course of the foreclosure case.

QUESTIONS ON APPEAL

1. Isn't it true when a Constitutional Challenge has been filed the court may object to the constitutional challenge and if the Attorney General does not intervene to declare that it is constitutional that no final judgment can be given?
2. So if there can be no final judgment isn't it true that no order can be given for a foreclosure sale in this case?

STATEMENT OF THE CASE

1. On or around about July 17, 2014, a Summons and Complaint was filed by the Plaintiff (See Record on Appeal page 108).
2. Sometime thereafter, I was served with the Summons and Complaint (See Record on Appeal page 111).
3. On September 2, 2014, I responded to the Summons and Complaint with an answer (See Record on Appeal page 104).
4. On December 31, 2014, I filed a Constitutional Challenge along with an Injunction pursuant to FRCP 24(1) (See Record on Appeal page 77).
5. On March 31, 2015, the Plaintiff proceeded with a Request for Summary Judgment and was granted a foreclosure judgment (See Record on Appeal page 22).

ARGUMENT

COMES NOW by Special Appearance, Beck, Cornelius Johnathan Jr., in this Final Brief to argue the issue on appeal in order to resolve the issues between me and the Plaintiff.

On July 17, 2014, the Plaintiff filed a Summons and Complaint (See record on Appeal page 108). Shortly thereafter I was served with a copy of the Summons and Complaint, (See Record on Appeal page 111) and then on September 2, 2014, I responded to the Summons and Complaint (See Record on Appeal page 104) challenging the jurisdiction of the court. This response was followed up with a Constitutional Challenge (see Record on Appeal Page 77) being filed on December 31, 2014.

After filing the Constitutional Challenge Plaintiff made Motion to Strike the Constitutional Challenge and continued to move forward with the proceedings of the foreclosure disregarding the Constitutional Challenge.

At no point during between December 31, 2014 and October 14, 2016 have I forfeited, or waived my right to the Constitutional Challenge that was filed. To the best of my knowledge the clerk of the court never certified the Constitutional Challenge, according to 28 U.S.C. §2403.

According to Federal Rule 5.1.(c), the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

(c) INTERVENTION; FINAL DECISION ON THE MERITS. Unless the court sets a later time, the attorney general may intervene within 60 days after the notice is filed or after the court certifies the challenge, whichever is earlier. Before the time to intervene expires, the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.


At no point in this case has my claim of constitutional challenge has been forfeited pursuant to Federal 5.1.(d).

(d) NO FORFEITURE. A party's failure to file and serve the notice or the court's failure to certify, does not forfeit a constitutional claim or defense that is otherwise timely asserted.

IN CONCLUSION, the fact that I did file the constitutional challenge against statutes for foreclosure, there should be no final judgement for foreclosure and sale, which includes but not limited to Summary Judgement. According to the rule, given that the Attorney General did not intervene in the matter will hold that the statutes are unconstitutional, and thereby there can be no judgment, neither can there be an issue for order to sale. I pray that this court will overturn the order granting foreclosure judgment and dismiss this case with prejudice.

SIGNATURE PAGE

Respectfully submitted,



Beck Jr, Cornelius J.
34 Old Evergreen Lane
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Date 8/14/17