

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

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SEP 12 2017  
SC Court of Appeals

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**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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**Appellate Case No. 2016-000329**

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**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**

**APPELLATE AMENDED FINAL BRIEF**

Attorney For Respondent  
Robert A. Kerr, Jr.  
78 Wentworth Street  
Charleston, SC 29401

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

## TABLE OF CONTENTS

Table of Authorities.....	ii
Statement of Issues on Appeal.....	1
Question on Appeal.....	1
Statement of the Case.....	2
Arguments.....	3
Conclusion.....	4

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 Appellant Amended Final Brief to argue the issue on appeal in order to resolve the issues between me and the Respondent.

On July 17, 2014, the Respondent 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 Respondent 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.

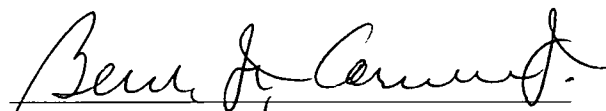
According to Federal Rule 5.1.(c), the court may reject the constitutional challenge, but may not enter a final judgment holding the statute unconstitutional.

(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.



Beck, Jr., Cornelius J. Grantee/Beneficiary  
34 Old Evergreen Lane  
Pawley's Island, South Carolina Republic [29585]

9/11/17  
Date

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Georgetown Dental Center of South Carolina, Inc. and  
South Beach Dental Center, Inc.....Defendants**

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

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**CERTIFICATE OF COUNSEL**

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The undersigned certified that this Appellant Amended Final Brief complies with Rule 211(b), SCACR.



Beck, Jr., Cornelius Johnathan  
34 Evergreen Lane  
Pawley's Island 29585

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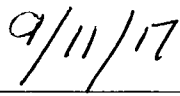
CERTIFICATE OF SERVICE

I, Beck, Cornelius Johnathan Jr., certify that I am of such age and discretion to be competent to serve papers. That on the \_\_\_\_\_ day of \_\_\_\_\_, 2017, I have served a copy of the documents listed below, by Certified Mail, sent to each of the following persons at the locations stated below.

Documents: - APPELLANT AMENDED FINAL BRIEF

Party(ies) Served:  
Attorney for Respondent  
Robert A. Kerr, Jr.  
78 Wentworth Street  
Charleston, SC 29401

  
Beck, Jr., Cornelius Johnathan  
34 Evergreen Lane  
Pawley's Island 29585

  
Date