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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas

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SEP 25 2017

R. Markley Dennis, Jr., Circuit Court Judge SC Court of Appeals

Case No. 2012-CP-08-2618
Case No. 2012-CP-08-3478

Appellate Case No. 2016-002192

Bank of North Carolina.....Respondent,

v.

Anthony M. Whitfield and Cindy Whitfield.....Defendants,

Of whom Anthony M. Whitfield is the Appellant and Cindy Whitfield is a Respondent.

Anthony M. Whitfield.....Appellant,

v.

David Swanson.....Respondent

**RESPONDENT DAVID SWANSON'S MOTION TO REQUIRE SERVICE OF AMENDED
RECORD ON APPEAL**

Steven Kropski
S.C. Bar No. 101441
David Overstreet
S.C. Bar No. 16965
Mike McCall
S.C. Bar No. 73028
Earhart Overstreet LLC
P.O. Box 22528
Charleston, S.C. 29413

*Attorney for Respondent
David Swanson*

Date: September 21, 2017

Respondent David Swanson hereby moves this Court for an order requiring the appellant to serve an amended record on appeal. Respondent identified in a prior motion for an extension of time to file his final brief that his counsel had identified multiple deficiencies in the appellant's initial record on appeal. In particular, appellant's initial record on appeal did not contain an index of the materials in the Record on Appeal as is required by Appellate Court Rule 210. Furthermore, the initial record on appeal did not comply with Rule 210 in that the materials that were included were not organized in the manner required by the Rule.

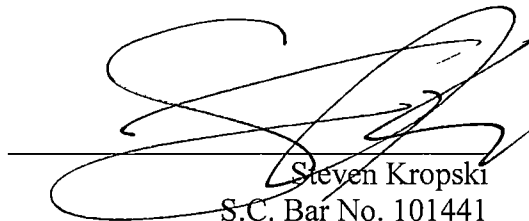
In addition to non-compliance with Rule 210, the Plaintiff's Summons and Complaint in both Berkeley County Cases (Items 5 and 6 on Respondent Swanson's Designation of Matter) were not included in appellant's initial Record on Appeal. Conversely, appellant did include an Order denying appellant's Motion to Reconsider in the Dorchester County 2014-CP-18-0358 action, and an Order granting Respondent Swanson's Motion to Dismiss in the same Dorchester County action—neither of which were designated by any party. Likewise, the initial record on appeal included appellant's Motion to Alter/Amend filed in the previously referenced Dorchester County action but was not designated by any party.

In response to Respondent's previous motion for an extension of time to file Respondent Swanson's Final Brief, this Court advised counsel that either the appellant must file a motion to allow service of an amended record on appeal, or Respondent must file a motion to require appellant to serve an amended record appeal.

Appellant has since sent an amended record on appeal to the parties to this appeal. However, appellant has not filed a motion to serve an amended record on appeal and it is unclear to Respondent if the amended record recently sent by appellant is the operative record on appeal

for the instant matter. Accordingly, Respondent Swanson hereby moves for an order requiring appellant to serve an amended record on appeal.

WHEREFORE, Respondent respectfully requests that this Court grant Respondent's motion to serve an amended record on appeal and grant Respondent Swanson an extension of (10) after filing of proof of service of the amended record on appeal to file his Final Brief.



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Attorney for Respondent
David Swanson

CERTIFICATE OF SERVICE

The undersigned certifies that Respondent's Motion for Extension of Time to File Final Brief was served on appellant's counsel and all other counsel by depositing a copy thereof in the United States mail, first class, postage prepaid, and addressed to:

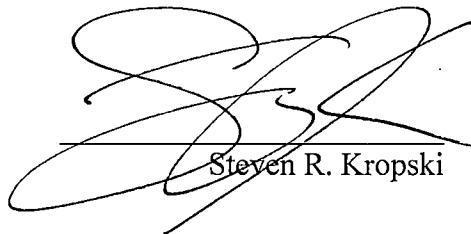
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This the 21st day of September 2017


Steven R. Kropski



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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

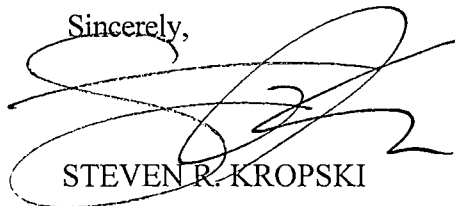
Re: Bank of North Carolina v. Anthony M. Whitfield and Cindy Whitfield
v. David Swanson
Appellate Case No.: 2016-002192 (Whitfield #1)
EO File No.: 130-0163

Dear Ms. Kitchings:

Enclosed for filing please find an original and six copies of the Respondent David Swanson's Motion to Require Service of Amended Record On Appeal along with the appropriate filing fee.

By copy of this correspondence, I have served the same upon all counsel of record. If you have any questions or concerns, please not hesitate to contact me. With kind regards, I am

Sincerely,



STEVEN R. KROPSKI

SRK/kjj

Enclosures

cc: Brent S. Halverson, Esq.
Andrew J. McCumber, Esq.
Brian C. Duffy, Esq.
Paul B. Ferrera, Esq.

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