

**THE STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**  
**APPEAL FROM SPARTANBURG COUNTY**  
**Court of Common Pleas**

**Gordon G. Cooper, Master-in-Equity**

**RECEIVED**  
DEC 04 2017  
SC Court of Appeals

**Case No. 2012-CP-42-3027**

**Appellate Case No. 2017-001238**

Deutsche Bank National Trust Company, as Trustee for Argent Securities, Inc.,  
Asset-Backed Pas-Through Certificates, Series 2004-W11, Respondent,

v.

Geary Thomas Dooly, Eleanor S. Dooly and United States of America,  
Defendants,

Of whom Geary Thomas Dooly is the Appellant.

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**RETURN TO APPELLANT'S MOTION FOR UPDATE OF CURRENT DESIGNATION  
OF MATTER BY RESPONDENT TO REFLECT OFFERED AND ACCEPTED  
DELETIONS**

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Attorney for Respondent

Respondent Deutsche Bank National Trust Company, as Trustee for Argent Securities, Inc., Asset-Backed Pas-Through Certificates, Series 2004-W11 (“Deutsche Bank”) submits the following return to Appellant Gary Thomas Dooly’s (“Appellant”) Motion for Update of Current Designation of Matter by Respondent to Reflect Offered and Accepted Deletion (“Appellant’s Second Motion”).

### ARGUMENT

Since Appellant defaulted on a home mortgage in February 2012, he has been engaging in dilatory tactics to stall foreclosure. Appellant’s Second Motion is no different. Indeed, Appellant filed his opening brief on September 15, 2017, yet has failed to file the Record. Even after this Court’s October 30, 2017 Order, which approved Deutsche Bank’s designation of matters to be included in the Record and ordered Appellant to file the Record by November 29, 2017, Appellant continues to delay.<sup>1</sup>

As noted above, this Court has already denied Appellant’s motion to strike portions of the Designation. Appellant filed a Motion to Revise Record on Appeal of Respondent to Delete Supurflous [sic] Documents and Pages (hereinafter, “Appellant’s Motion to Strike) attempting to

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<sup>1</sup> The Record on Appeal “aids [the Court’s] proper understanding of the questions involved on appeal and is necessary to [the] disposition of these questions.” *Mauro v. Clabaugh*, 299 S.C. 184, 187, 383 S.E.2d 244, 246 (S.C. App. 1989). When forming the Record on Appeal, “[t]he Designation must clearly identify what the party desires to have included in the Record on Appeal, and the Designation may only propose to include portions of the transcript, pleadings, orders, exhibits, or other materials which may be properly included in the Record on Appeal.” Rule 209(b), SCACR. The Designation is limited to relevancy in that “[a] party shall not include any matter in his Designation which is not relevant to the appeal.” *Id.* “If the parties . . . consider[] a fact relevant and worthy of mention in the brief, the parties should . . . include[] matter in the record to support that factual assertion.” *Forner v. Butler*, 319 S.C. 275, 276 n.1, 460 S.E.2d 425, 426 n.1 (S.C. App.1995). And, “[t]he appellate court may affirm any ruling, order, decision or judgment upon any ground(s) appearing in the Record on Appeal.” Rule 220(c), SCACR.

reduce Deutsche Bank's more thorough Designation of Matter on Appeal. Deutsche Bank opposed this request and the Court denied Appellant's Motion to Strike on October 30, 2017.

Despite this authorization from the Court for its Designation, Deutsche Bank offered (and intends to honor this offer) to reduce the Record by removing certain designations and/or exhibits. This offer does not include the 99 pages at issue. Yet, Appellant – ignoring this Court's previous ruling – wants more. Appellant continues to ask that additional pages be eliminated from the Record. Interestingly, the documents at issue are Appellant's own documents (an exhibit to a previous filing). Deutsche Bank fails to see issue with including these documents on appeal since Appellant produced these documents once before. As such, Appellant's Second Motion is without merit and should be denied.

#### CONCLUSION

For the foregoing reasons, Deutsche Bank respectfully requests that the Court deny Appellant's Second Motion, and that the Court grant it such other relief deemed proper and just.

Dated: December 1, 2017

Respectfully submitted,

**RESPONDENT DEUTSCHE BANK  
NATIONAL TRUST COMPANY, AS  
TRUSTEE FOR ARGENT SECURITIES,  
INC. ASSET-BACKED PASS-THROUGH  
CERTIFICATES, SERIES 2004-W11**

By: 

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Defendants,

Of whom, Geary Thomas Dooly is the Appellant.

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CERTIFICATE OF SERVICE

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I, undersigned of the law offices of Brock & Scott, PLLC, attorneys for Respondent, do hereby certify that I have served a true and correct copy of the *RETURN TO APPELLANT'S MOTION TO REVISE RECORD ON APPEAL* by first-class, U.S. Mail with postage prepaid upon the following:

Geary Thomas Dooly  
Eleanor S. Dooly  
P.O. Box 3326  
Spartanburg, South Carolina 29304  
*Pro Se Appellant*

This 1<sup>st</sup> day of December, 2017.

  
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