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**State of South Carolina
In the Court of Appeals**

RECEIVED

Appeal from Spartanburg County

APR 04 2018

Court of Common Pleas

SC Court of Appeals

Gordon G. Cooper, Master in Equity

Case No. 2012-CP-42-3027

Appellate Case No. 001238

Deutsche Bank National Trust Company, as Trustee for Argent Securities, Inc.

Asset-Backed Pass-Through Certificates, Series 2004-W11

Respondent

v.

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

Appellant

Of whom, Geary Thomas Dooly is the Appellant

**APPELLANT'S MOTION FOR LEAVE OF APPEAL PENDING
A VOID JUDGMENT OF ORDER OF THE LOWER COURT'S
ORDER**

COMES NOW, geary-thomas of the family Dooly on behalf of himself and as guardian ad litem for eleanor-sanders of the family Dooly, one of the people of South Carolina State, in a special limited appearance, without granting jurisdiction. geary-thomas submits the facts herein and does make herein motion. This motion is made and intended to comply and fulfill all South Carolina Rules of Civil Procedure, and the Court is further noticed, that geary-thomas, Pro Se Vivus/Triformis, not being educated in the law, the court must read

and construe liberally, all pleadings by geary-thomas. *Hanes v. Kerner* 404 US 520, *Birl v Estelle* 660 F.2d 592.

Pursuant to Rule 60 of South Carolina Rules of Appellate Procedure (SCRCP), Appellant, geary-thomas: Dooly, the living man (“Appellant”) makes special appearance to hereby move the Court for leave of appeal so as to enter a void judgment of order of the lower court’s order for Summary Judgment.

South Carolina Rules of Civil Procedure relative to LEAVE OF APPEAL

Rule 60(b)(2) “newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial”;

Rule 60(b)(3) “fraud, misrepresentation or other misconduct of an adverse party;”

– involving Attorneys: Genevieve S. Johnson, et al of BROCK & SCOTT, PLLC (herein after BROCK); and Giles M. Schanen, et al of NELSON MULLINS ROLEY & SCARBOROUGH LLP (herein after NELSON); AND Judge Gordon Cooper, and Judge Roger Couch; and others.

“Fraud vitiates the most solemn contracts, documents, and even judgments.” U.S. v. Throckmorton, 98 U.S.61. ALSO: Suppression of a material fact which a party is bound in good faith to disclose is equivalent to a false representation.” Leigh v. Loyd, 244 P.2d 356, 74 Ariz. 84- (1952).

Rule 60(b)(4) “the judgment is void;” – involving Attorneys: Genevieve S. Johnson, et al of BROCK; and Giles M. Schanen, et al of NELSON; AND Judges Gordon Cooper, and Judge Roger Couch.

If there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred. *Mills v. Richardson*, 81 S.E. 2d 409, (N.C. 1954); ALSO: *Henderson v. Henderson*. 59 S.E. 2d 227, (N.C. 1950).

BRIEFS OF ARGUMENTS
for Void Judgment Made by Lower Court

Brief of Count ONE: Newly discovered evidence by a Private Investigator's **CHAIN OF TITLE ANALYSIS & MORTGAGE FRAUD INVESTIGATION**. Among others, this 38 page document plus attachments, and affidavit, proves, on the record, the following:

- a) No release of Mortgage as required by covenant 22 of the Mortgage, and
- b) It is fact, the Mortgage Loan was securitized, and
- c) Note, when sold via bono fide sale, was paid in full, and
- d) Mortgage is void, and
- e) Invalid Note on several counts, and
- f) Note is not evidence of a "loan" given by Argent Mortgage Co., and
- g) Assignment of Mortgage was 5 years after closure in violation of 26USCA §860 A thru G, and
- h) Assignment of defective obligation in violation of USCODE-2009-title 26, and
- i) Other issues.

Brief of Count TWO. No first hand witness or evidence upon which to establish subject matter jurisdiction.

Before a court (judge) can proceed judicially, jurisdiction must be complete, consisting of two opposing parties (not their attorneys – although attorneys can enter an appearance on behalf of a party, only parties can testify, and until the plaintiff testifies, the court has no basis upon which to rule judicially), and the two halves of subject matter jurisdiction (the statutory or common law authority) the action is brought under the theory of indemnity and testimony of a competent fact witness regarding the injury (the cause of action). If

there is a jurisdictional failing appearing on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred. *Mills v. Richardson*, 81 S.E. 2d 409, (N.C. 1954); ALSO: *Henderson v. Henderson*. 59 S.E. 2d 227, (N.C. 1950)

THEREFORE, subject matter jurisdiction as relates to real parties of interest and first hand testimony to establish jurisdiction of the court has never been established so that a Judge could honorably hear this case. The lack of such makes it VOID from the outset. See: *Judgment is a void judgment if the court that rendered judgment lacked jurisdiction of subject matter, or of the parties, or acted in a manner inconsistent with due process, Fed. Rules Civ. Proc., Rule 60(b)(4), 28 U.S.C.A.; U.S.C.A. Const. Amend. 5 – Klugh v. U.S. 620 F. Supp., 892 (D.S.C.1985).*

Brief of Count THREE. Surprise by Attorney with Judge approval. A hearing set before Judge Roger Couch was set by Giles M. Schanen of NELSON for May 21, 2013, 9:30 AM to hear Plaintiff's Motion to Dismiss Counterclaims. geary-thomas: Dooly, the living man was SURPRISED by Giles M. Schanen as he began to read to Judge Couch from an 10 or more page Memorandum of Law relative to this hearing. Giles M. Schanen, in bad faith, and, in violation of the 72 hour Rule, knowingly failed to provide geary-thomas: Dooly, the living man with a copy. Judge Couch overruled objection.

These acts of bad faith and violation of SCRCPP, very common and important court rules, are blatant acts of misconduct upon the Court by collusion of Attorney Giles M. Schanen and a Judge Roger Couch.

Brief of Count FOUR. Judge made ruling on presentation solely by the Plaintiff's Attorney. Judge Couch made a ruling to Dismiss while geary-thomas: Dooly, the living man had been placed in a very compromising position by SURPRISE of Giles M. Schanen with no just opportunity to defend against Plaintiff. Judge Couch accentuated

the SURPRISE in bad faith by overriding objection and then making a ruling with argument from only one side. Collusion?

Brief of Count FIVE. Filing was made per Judge Couch 30 day instructions, however the Clerk of Court “Lost that 111 page filing” for well over 30 days thus depriving access. Judge Couch had made his ruling in Court at hearing, therefore with the 111 Page filing lost, that ruling only needed to be confirmed by written Order. Collusion?

Brief of Count SIX. Judge Couch confirmed his ruling via an Order to Dismiss Counterclaims during the “lost period” of the filing and the Clerk of Court purposely mailed said Order to a wrong address such that geary-thomas: Dooly, the living man was deprived of notification of Judge Couch order. Collusion?

Brief of Count SEVEN. Defendant with Clerk of Court Assistance paid the \$25 fee and completed the filing form to schedule a hearing with Judge Couch. Said hearing was never scheduled, nor any contact made by anyone from the Court or Judge. Question remains: “What happened to the requested and paid for hearing?” Collusion?

Brief of Count EIGHT. Surprise and Collusion: No response was made to Defendant’s Answer to Plaintiff’s Motion for Summary Judgment for over 30 days, even until Hearing for Summary Judgment. Different reasons were given by Attorney Genevieve S. Johnson and Judge Cooper. Collusion?

CONCLUSION

Pursuant to Rule 60 of South Carolina Rules of Appellate Procedure (SCRCP), Appellant, geary-thomas: Dooly, the living man moves the Court to Grant a leave of **Appellate Case No. 001238** while, geary-thomas: Dooly, the living man, proceeds with a void judgment of the lower court’s order, and any and all other actions appropriate based on

the above briefed newly discovered evidence, attempt to commit fraud, and misconduct. Note: A void judgment is void , *from its inception, is and forever continues to be absolutely null, without legal efficacy, ineffectual to bind the parties or to support a right, of no legal force and effect whatever, and incapable of enforcement in any manner or to any degree. Loyd v. Director, Dept. of Public Safety, 480 So. 2d 577(Ala. Civ. App. 1985).*

Respectfully submitted,
April 2, 2018

geary-thomas: Dooly the living man, appellant, sui juris
c/o Post Office Box 3326 Spartanburg, South Carolina [29304]

geary-thomas: dooly

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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APPEAL FROM SPARTNBURG COUNTY
Court of Common Pleas

APR 04 2018

SC Court of Appeals

Gordon G. Cooper, Master In Equity

Appellate Case No. 2017-001238

Deutsche Bank National Trust Company, as Trustee for Argent Securities Inc.,
Asset-Backed Pass-Through Certificates, Series 2004-W-11..... Respondent
v.

Geary Thomas Dooly, Eleanor S. Dooly, & united States of America, Defendants,
Of Whom Geary Thomas Dooly is theAppellant

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and correct copy of, **APPELLANT'S
MOTION FOR LEAVE OF APPEAL PENDING A VOID JUDGMENT OF
ORDER OF THE LOWER COURT'S ORDER** via first class, U.S. Mail with
postage prepaid upon the following:

1. Genevieve S. Johnson of Brock and Scott, PLLC, Attorneys for Respondent,
3800 Fernandina Road, Suite 110, Columbia, SC 29210, and
2. William P Stork 2712 Middleburg Drive Suite 200 Columbia, S.C. 29204

Geary-Thomas: Dooly the living man

% Post Office Box 3326 Spartanburg, South Carolina [29304]

April 2, 2018 Phone: 864-978-3426

geary-thomas: dooly

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In The Court of Appeals
APPEAL FROM SPARTNBURG COUNTY
Court of Common Pleas

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April 2, 2018 Phone: 864-978-3426

Geary-Thomas: Dooly

Geary-Thomas: Dooly
c/o P.O.Box 3326
Spartanburg, SC 29306

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APR 04 2018
SC Court of Appeals

April 2, 2018, 2014

South Carolina Court of Appeals
The Honorable Jenny Abbott Kitchings, Clerk of Court
Post Office Box 11629
Columbia, South Carolina 29211

Re: Deutsche Bank v. Geary Thomas Dooly
Appellate Case #: **2014-000600** [CCP #:2012 - CP- 42-3027]

Dear Ms. Kitchings:

Please find:

1. Enclosed: A copy of "Certificate Service" re service of a copy to all parties of APPELLANT'S MOTIONFOR LEAVE OF APPEAL PENDING A VOID JUDGMENT OF ORDER OF THE LOWER COURT ORDER.
2. Enclosed: Court's Original Motion, including original of Certificate of service (page 7 of 7) plus six (6) copies of said Motion.
3. Enclosed: Money Order in the amount of \$25.

Sincerely,
geary-thomas:dooly

geary-thomas:dooly