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THE STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

APPEAL FROM SUMTER COUNTY

COURT OF COMMON PLEAS

Hon. Michael G. Nettles, Circuit Court Judge

RECEIVED

MAY 25 2018

SC Court of Appeals

Appellate Case No: 2016-001526

The Bank of New York Mellon f/k/a The Bank of New York, as Trustee for the benefit of Certificateholders of Popular ABS, Inc. Mortgage Pass-Through Certificates Series 2006-E, Respondents,

v.

Charles Taylor, Burgess Brogdon Bldg. Supply, Palmetto Health Alliance, Defendants,

Of Whom Charles Taylor is the Appellant.

APPELLANT'S PETITION FOR REHEARING
PURSUANT TO SCACR 221(A)

CHARLES TAYLOR, APPELLANT
332 MYRTLE BEACH HIGHWAY
SUMTER SOUTH CAROLINA 29153
(803) 609-7990-UGCARDS@AOL.COM
FOR THE APPELLANT PRO SE

Pursuant to SCACR 221(a), Appellant hereby petitions the court for a rehearing as to item 4 in the court's opinion filed May 9, 2018 because the court overlooked and/or did not fully comprehend by err the total argument-s, *1-4 below*, put forth by Petitioner as to why lower court err to deny his Rule 59(e) Motion to Amend his Answer and Counterclaim to the Respondent's Foreclosure Suit.

ARGUMENTS

THE LOWER COURT ERR TO DENY APPELLANT'S RULE 59(e) MOTION TO AMEND HIS ANSWER AND COUNTERCLAIM TO RESPONDENTS' FORECLOSURE SUIT

- (1). Because a motion to amend should be freely given where justice requires & no prejudice would occur--*Rule 15* & see: *Forman v. Davis*, 371 U.S. 178, 182 (1962); & in this case:
- (2). Justice required it; Because Apln't. needed / must / amend pleadings to prevent an injustice; in that Respd's /their loan servicer--*agents*--had been later caught by Federal Authorities, forcing some of their customers & (*Apln't was one of them*) into illegal default et al. etc., by their withholding & returning payments to them to later have "cause" (bogus) to file foreclosure suit against their mortgagors that had sizeable equity in their homes over & above the mortgage balance so that they could steal it in foreclosure fees etc., (*Apln't had over \$100,000.00 house equity above the \$39ish mortgage balance*), & thus was 1 of their victims (payments held & return: R. pp. 91-92) & Aplnt's recompense 5-3-13 from their being caught (R. p. 70); which required Aplnt. Taylor to must--after stay lifted 3-31-16--amend his said 4 years old (*earlier*) answer & counterclaim for said reason-s herein & for the important others detailed in (*Aplnt's. 1-22-16 motion to amend w/ supporting memorandum attach thereto-a copy of the proposed amended complaint:* R. pp. 71 – 83) Apln't. argued, &;

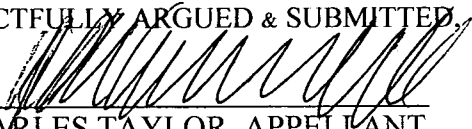
(3). No prejudice would occur; Because discovery was ongoing (5-19-16: R. p. 93) from after lifting stay (3-31-16: R. p. 14); & more importantly no prejudice to Respd's for all other reasons in Aplnt's (mot. to amend: R. pp. 71-83 & / or 59-e motion: R. pp. 86 - 93 *esp. para. 12-13*: R. p. 90); Appellant argued, and;

(4). Because even if a defect as said in (6-8-16 order: R. p. 3 #1) Apln't. still should've been allowed to amend his counterclaim, as opposed to dismissal, for reasons in Argument 1-3 above, with amending the most appropriate & preferred remedy-(*the rules of civil procedure "encourages an opportunity to amend before dismissal see 2 James Wm. Moore, et al., Federal Practice 12.34[5] (3d ed. 2000)*); thus it was prejudicial & reversible court err-abuse of discretion to grant Respd's. motion to dismiss the counterclaims, Appellant Taylor argued; And see Also, Johnsrud v. Carter, 620 F.2d 29, 32-33 (3d Cir. 1980) and Forman v. Davis, 371 U.S. Supreme Court 178, 182 (1962); in pertinent part that; to dismiss Plaintiff's claim without first permitting an opportunity to amend, would constitute forfeiture resulting simply from non-compliance with the Rules of Civil Procedure.

CONCLUSION

Because this court overlooked and/or did not fully comprehend by err, the above total argument-s put forth by Petitioner as to why lower court err to deny his Rule 59(e) Motion to Amend his Answer and Counterclaim to Respondent's Foreclosure Suit, thus Petitioner Petition for Rehearing pursuant to SCACR 221(a).

RESPECTFULLY ARGUED & SUBMITTED,

BY: 
CHARLES TAYLOR, APPELLANT
332 MYRTLE BEACH HIGHWAY
SUMTER, S.C. 29153 (Ph. 609-7990)

Sumter, South Carolina

May 21, 2018

2.

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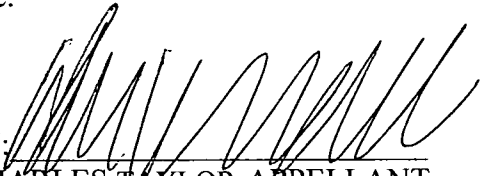
Charles Taylor, Burgess Brogdon Bldg. Supply, Palmetto Health Alliance,
Defendants,

Of Whom Charles Taylor is the Appellant.

PROOF OF FILING AND SERVICE

Petitioner certifies that he filed *1 unbound original and 6 copies* of the Petition for
Rehearing to this Court by U.S. Mail, on the date below and serve same to counsel
listed below by the same means on same date.

May 21, 2018

BY: 
CHARLES TAYLOR-APPELLANT
332 MYRTLE BEACH HIGHWAY
SUMTER SOUTH CAROLINA 29153
(803) 609-7990

Respondents' Counsel of Record:
Lead-Sara B. Nielsen, Esq.
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1320 Main Street / 17th Floor
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Columbia, SC. 29201
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May 21, 2018

The Honorable Jenny Abbott Kitchings
Clerk of the South Carolina
Court of Appeals
1015 Sumter Street
Columbia, S. C. 29201

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SC Court of Appeals

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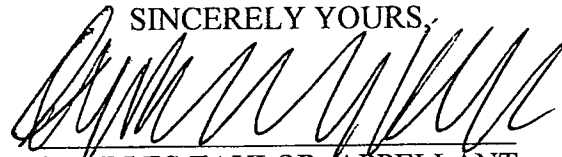
Of Whom Charles Taylor is the Appellant.
Appellate Case No: 2016-001526

Dear Mrs. Kitchings:

Please find enclosed for filing:

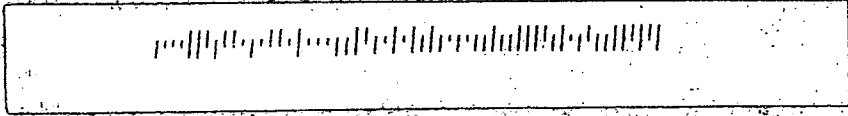
Appellant's, (*1 unbound original and 6 copies*), Petition for Rehearing with proof of filing
and service to counsel listed below. Please clock extra copy & return it to me in the SASE.
Thanks very much! **The \$25 filing fee money order is enclosed herewith.** Thanks again!

SINCERELY YOURS,



CHARLES TAYLOR, APPELLANT
332 MYRTLE BEACH HIGHWAY
SUMTER SOUTH CAROLINA 29153
(803) 609-7990

Cc: Respondents' Counsels of Record:
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Charles Taylor
332 Myrtle Beach Highway
Sumter South Carolina 29153

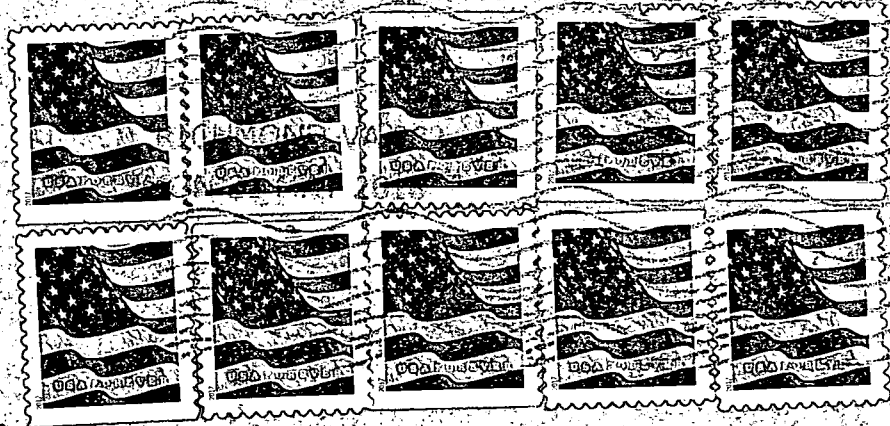


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The
Clerk



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The Hon. Jenny Abbott Kitchings
Clerk of the S. C. Court of Appeals
Post Office Box 11629
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