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THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM AIKEN COUNTY  
The Master in Equity Judge M. Anderson Griffith

**RECEIVED**  
JUN 12 2018  
SC Court of Appeals

Case No. 2015-CP-02-0578  
Appellate Case No. 2018-000798

US Bank National Association as Trustee successor in interest  
to Bank of America, National Association as Trustee  
Successor by merger to LaSalle Bank National Association, as  
Trustee for Structured Asset Investment Loan Trust Mortgage  
Pass-Through Certificates, Series 2004-3,.....

Respondent,

v.

Anthony J. West and Janet L. West,.....

Appellants.

**MOTION TO DISMISS APPEAL**

Pursuant to Rules 203 and 240 of the South Carolina Appellate Court Rules, Respondent US Bank National Association as Trustee successor in interest to Bank of America, National Association as Trustee Successor by merger to LaSalle Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates, Series 2004-3 (“Respondent”) moves to dismiss the above-captioned appeal. This matter warrants dismissal because Appellants Anthony J. West and Janet L. West (“Appellants”) failed to timely serve the Notice of Appeal as mandated by Rule 203(a), SCACR. Accordingly, this Court lacks jurisdiction over the appeal.

The South Carolina Appellate Court Rules mandate that the “notice of appeal *shall be served* on all respondents *within thirty (30) days after receipt of written notice of entry of the order*

or judgment.” Rule 203(b)(1), SCACR (emphasis added).<sup>1</sup> The notice of appeal must also set forth all of the information required by Rule 203(e), SCACR.<sup>2</sup> “The requirement of service of the notice of appeal is jurisdictional, *i.e.*, if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to ‘rescue’ the delinquent party by extending or ignoring the deadline for service of the notice.” *Coker v. Cummings*, 381 S.C. 45, 52, 671 S.E.2d 383, 387 (Ct. App. 2008) (citing *Elam v. S.C. Dept. of Transp.*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004)); *see also Connor v. City of Forest Acres*, 348 S.C. 454, 461, 560 S.E.2d 606, 609 (2002) (dismissing parties who had not been timely served with a notice of appeal).

On April 30, 2018, Appellants filed and served a document titled “Brief of Appellants,” which includes a copy of the March 26, 2018 Order. On May 3, 2018, the Clerk of Court for the South Carolina Court of Appeals notified Appellants of several deficiencies in the documents filed. *See* Ex. 1. The deficiencies included an incorrect title/caption and the failure to provide the date of written notice of entry of the order. *See id.* In addition, the letter notes that Appellants had to “serve and file a notice of appeal which complies with Rule 203, SCACR, and showing on your amended proofs of service that the notice of appeal has been *timely served* on the respondents.” *Id.* On May 11, 2018, Appellants filed and served a document titled “Notice of Appeal.” *See* 5/11/18 Notice of Appeal, attached hereto as Exhibit “2.” Therein, Appellants state that they “received written notice of entry of this order through US Postal mailing April 3, 2018.” *Id.* Upon

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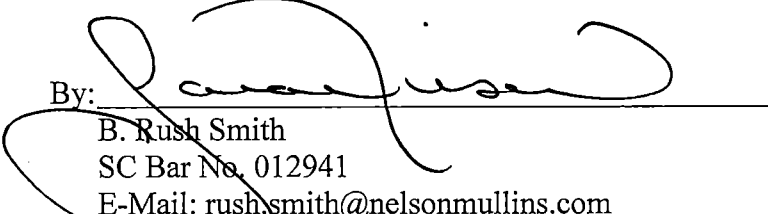
<sup>1</sup> This matter is an appeal from an order issued by the Master in Equity for Aiken County and, therefore, the notice of appeal is served in the same manner as provided by Rule 203(b)(1). *See* Rule 203(b)(4), SCACR.

<sup>2</sup> The brief filed on April 30, 2018, cannot substitute for the notice of appeal because it does not comply with the mandatory requirements of Rule 203(e), SCACR. *See* 5/3/18 Deficiency Ltr. to Appellants, a copy of which is attached hereto as Exhibit “1.”

receipt of written notice of entry of the order on April 3, 2018, Appellants had thirty (30) days to serve a notice of appeal. *See* Rule 203, SCACR; *see also* Rule 263, SCACR (“The time prescribed by these Rules for performing any act except the time for the service of the notice of appeal under Rules 203 and 243 may be extended . . . by the appellate court . . .”). Thirty days from April 3, 2018, was May 3, 2018. The “Proof of Service” reflects service of the “Notice of Appeal” by U.S. Mail on May 11, 2018. *See* Ex. 2. Accordingly, the Notice of Appeal was served more than thirty days after Appellant received written notice of entry of the order.

For these reasons, this Court lacks jurisdiction to consider the appeal and Respondent respectfully requests dismissal of the appeal.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By:   
B. Rush Smith  
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~~Sarah B. Nielsen~~  
SC Bar No. 78384  
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1320 Main Street / 17th Floor  
Post Office Box 11070 (29211-1070)  
Columbia, SC 29201  
(803) 799-2000

Attorneys for Respondent US Bank National Association

6/12, 2018

# Exhibit 1

(5/3/18 Deficiency Letter to  
Appellants)



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

May 03, 2018

Anthony J. West  
39 Pride Avenue  
Graniteville SC 29829-3905

Janet L. West  
39 Pride Avenue  
Graniteville SC 29829-3905

Re: US Bank v. Anthony West  
Appellate Case No. 2018-000798

Dear Anthony West and Janet West:

Upon reviewing your document titled Brief of Appellants, the following deficiencies have been noted under the South Carolina Appellate Court Rules (SCACR), and must be corrected within ten (10) days of the date of this letter or your appeal will be dismissed:

- The caption/title does not comply with Rule 267(a), SCACR. Specifically, you must file an Amended Notice of Appeal in substantially the same format as that shown by Form 1 in Appendix C to Part II of the SCACR.
- We are returning your document titled Brief of Appellants to you as it is not required at this time. Please see Rules 207, 208 and 209 for further guidance regarding the timing of filing your appellant's initial brief and designation of matter.
- You must provide the date you received written notice of entry of the order on appeal.

- You must serve and file a notice of appeal which complies with Rule 203, SCACR, and showing on your amended proofs of service that the notice of appeal has been timely served on the respondents.

Very truly yours,

*V. Claire Allen, Deputy*

CLERK

cc: William Price Stork, Esquire  
Tasha B. Thompson, Esquire

# Exhibit 2

(5/11/18 Notice of Appeal)

5

**AMENDED NOTICE OF APPEAL**

**IN THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

**APPEAL FROM AIKEN COUNTY**  
The Master-in-Equity Judge M. Anderson Griffith

**CASE No. 2015-CP-02-0578**

**RECEIVED**  
MAY 11 2018  
SC Court of Appeals

US Bank National Association as Trustee successor in interest to Bank of America, National Association as Trustee. Successor by merger to LaSalle Bank National Association, as Trustee for Structured Asset Investment Loan Trust Mortgage Pass-Through Certificates, Series 2004-3.....Respondents

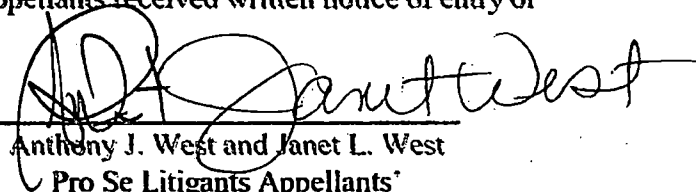
**Vs.**

Anthony J. West and Janet L. West.....Appellants

**NOTICE OF APPEAL**

Anthony J. West and Janet L. West appeal the order of the Honorable Judge M. Anderson Griffith; Master-in-Equity dated March 26, 2018. Appellants received written notice of entry of this order through US Postal mailing April 03, 2018.

May 11, 2018



Anthony J. West and Janet L. West  
Pro Se Litigants Appellants  
39 Pride Avenue  
Graniteville, S.C. 29829-3905  
803-391-8850

Cc: Plaintiff's Counsel; Scott and Corley, P.A. Law Firm  
Attorney William P. Stork, Bar#100242  
Attorney Tasha B. Thompson, Bar#76415  
Attorney Andrew Sullivan, Bar#100464  
(Attorney Andrew Michael Wilson Bar# left firm.)  
(Attorney Vance Bradham Bar# left firm.)  
P.O. Box 2065 Columbia, S.C. 29202

Cc. Aiken County Master-In-Equity Judge M. Anderson Griffith P.O. Box 109 Park Avenue, Suite 211, Aiken, S.C. 29801

**PROOF OF SERVICE OF AMENDED NOTICE OF APPEAL**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM AIKEN COUNTY  
Court of Master in Equity

M. Anderson Griffith, Judge

Case No. 2015-CP-02-00578

**RECEIVED**  
MAY 11 2018  
SC Court of Appeals

US Bank National Association  
As Trustee successor in  
interest to Bank of America.  
National Association as  
Trustee successor by merger  
to LaSalle Bank National  
Association, as Trustee for  
Structured Asset Investment  
Loan Trust Mortgage Pass  
Through Certificates, Series  
2004-3

RESPONDANTS

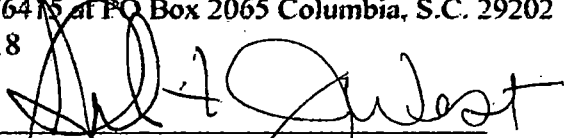
Vs.

Anthony J. West; a/k/a Jerry West and Janet L. West; f/k/a Janet L. Cox

APPELLANTS

**PROOF OF SERVICE**

Appellants' Anthony and Janet West certify, we have served this Amended Notice of Appeal to Aiken County Judge M. Anderson Griffith; Master-in-Equity; 109 Park Avenue, S.E. Room 211 Aiken, S.C. 29801 and to be recorded with The Clerk of Court, Robert J. Harte. And, to Plaintiffs Counsel, Scott and Corley, P.A. attention: Attorney's William P. Stork SC Bar#100242 and Tasha B. Thompson, SC Bar#76415 at PO Box 2065 Columbia, S.C. 29202 through US Postal Mailing this 11 May, 2018

  
Anthony J. West and Janet L. West  
39 Pride Avenue, Graniteville, S.C. 29829  
Pro Se Defendants/Appellants

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM AIKEN COUNTY  
The Master in Equity Judge M. Anderson Griffith

Case No. 2015-CP-02-0578  
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Respondent,

v.

Anthony J. West and Janet L. West, .....

Appellants.

CERTIFICATE OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins  
Riley & Scarborough LLP, attorneys for Respondent, do hereby certify that I have served all  
counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of  
the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Notice of Appearances of B. Rush Smith, III and Sarah B. Nielsen

Motion to Dismiss Appeal

Counsel & Pro Se Parties Served:

Anthony J. West  
Janet L. West  
39 Pride Avenue  
Graniteville, SC 29829-3905

William Price Stork  
Scott & Corley, P.A.  
2712 Middleburg Dr., Suite 200  
Columbia, SC 29204

*Kim R. Smith*

Kim R. Smith  
Administrative Assistant

June 12, 2018



Sarah B. Nielsen  
T 803.255.9284 F 803.255.5943  
sarah.nielsen@nelsonmullins.com

NELSON MULLINS RILEY & SCARBOROUGH LLP  
ATTORNEYS AND COUNSELORS AT LAW

1320 Main Street | 17th Floor  
Columbia, SC 29201  
T 803.799.2000 F 803.256.7500  
nelsonmullins.com

June 12, 2018

**Hand Delivered**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
PO Box 11629  
Columbia, SC 29211

RE: US Bank National Association v. Anthony J. West and Janet L. West  
Appellate Case No. 2018-000798  
Our File No. 011281/02614

Dear Ms. Kitchings:

Enclosed are the original and seven copies each of Respondent's Notice of Appearances and Motion to Dismiss Appeal, along with our filing fee, in the above-referenced matter. We would appreciate it if you would file the original document and return a clocked in copy to our courier.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Sarah B. Nielsen', written over a large, loopy flourish that extends to the left and underlines the name.

Sarah B. Nielsen

SBN:krs  
Enclosures  
cc: Anthony J. West  
Janet L. West  
William Price Stork, Esquire

**RECEIVED**

JUN 12 2018

SC Court of Appeals