

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHESTERFIELD COUNTY  
Court of Common Pleas

William O. Spencer, Jr., Special Referee

Appellate Case No. 2018-000355

**RECEIVED**

NOV 09 2018

SC Court of Appeals

JPMorgan Chase Bank, National Association, ..... Respondent,

v.

Fritz A. Timmons, ..... Appellant.

RETURN IN OPPOSITION TO TIMMONS'  
MOTION TO STRIKE AND REMOVE COUNSEL

Respondent JPMorgan Chase Bank, National Association (“Chase”) respectfully requests that the court deny the “Motion to Strike and Disregard Respondents (Initial) Brief and Designation of Matter, Remove Counsel” filed by Appellant Fritz A. Timmons. In his motion, Timmons argues (1) Nelson Mullins has not properly appeared for Chase in this appeal, and (2) the items listed in Chase’s designation of matter are “not preserved” and cannot be included in the record on appeal. The court should deny Timmons’ frivolous motion.

First, Chase’s attorneys properly appeared in this case. Attorneys from Nelson Mullins filed a notice of appearance on March 20, 2018, and a motion to substitute the undersigned counsel pursuant to Rule 264 of the South Carolina Appellate Court Rules on August 22, 2018. This court granted the motion to substitute on September 21, 2018. Notably, Timmons never objected to the original notice of appearance or the motion to substitute. Regardless, Timmons lacks standing to

challenge Chase's choice of counsel, and he has not identified any failure to comply with the South Carolina Appellate Court Rules.


Second, each of the items listed in Chase's designation of matter was presented to the lower court and is relevant to this appeal. *See* Rule 209(b), SCACR (providing matter must be relevant to the appeal); Rule 210(c), SCACR (limiting the record to matter "presented to the lower court or tribunal"). All pleadings, motions, and other documents listed in the designation were filed in the circuit court, and the transcripts are records of the circuit court proceedings. Although Timmons seems to object to Chase designating *any* matter for the record on appeal, Rule 209 allows each party to serve and file a designation of matter at the same time it serves its initial brief. Rule 209(a), SCACR. Timmons has raised no colorable objection to any of the items in Chase's designation.

Finally, the rules require the appellant to order transcripts and prepare the record on appeal, and Timmons is not excused from complying with the rules on the ground that he did not designate some of the items. *See* Rule 207(a), SCACR (requiring the appellant to order and maintain transcripts of the lower court proceedings); Rule 210, SCACR (requiring the appellant to serve the record on appeal, which must include all matter designated by any party).

Timmons' motion is frivolous, and Chase respectfully requests that the court deny the motion.

*(signature page attached)*

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*Attorneys for JPMorgan Chase Bank, National Association*

Columbia, South Carolina

November 9, 2018

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SC Court of Appeals

Case No. 2015-CP-13-00768  
Appellate Case No. 2018-000355

JP Morgan Chase Bank, National Association, ..... Respondent,  
v.  
Fritz A. Timmons, ..... Appellant.

**PROOF OF SERVICE**

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for JPMorgan Chase Bank, National Association, 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: Return In Opposition to Timmons' Motion to Strike and Remove Counsel

Counsel/Party Served:  
**U.S. Mail**  
Fritz A. Timmons, *pro se*  
Post Office Box 367  
Hartsville, SC 29551

  
\_\_\_\_\_  
Jessica Trautman  
Administrative Assistant

November 9, 2018



NELSON MULLINS

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SC Court of Appeals

**Via: Hand Delivery**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
SC Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

RE: JPMorgan Chase Bank, National Association v. Fritz A. Timmons  
Appellate Case No. 2018-000355  
Our File No. 011281/02585

Dear Ms. Kitchings:

Enclosed please find the original and seven copies of Respondent's Return In Opposition to Timmons' Motion to Strike and Remove Counsel in the above-reference matter. We would ask that you file the original and return a clocked-in copy to us via our courier.

By copy of this letter to Fritz A. Timmons, *pro se*, we are serving him with a copy of same.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Nick Charles'.

Nicholas A. Charles

NAC:jlt  
Enclosures

cc: Fritz A. Timmons, *pro se*