

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM AIKEN COUNTY  
M. Anderson Griffith, Master in Equity

Appellate Case No. 2018-000798

RECEIVED  
DEC 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, .....

Respondent,

v.

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

Appellants.

**RETURN TO MOTION TO REINSTATE APPEAL**

Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Respondent US Bank National Association files this return to the motion to reinstate the appeal filed by Appellants Anthony J. West and Janet L. West. Appellants fail to satisfy the good cause standard necessary to reinstate this appeal. See Rule 260(a), SCACR. Therefore, this Court should deny their motion to reinstate the appeal.

Appellants filed an initial brief on October 17, 2018. The brief contained two introductory sentences, a designation of matter, and a “statement of the case” that consisted of seventeen questions. Appellants did not file a proof of service, and the brief contained no argument or citation to authority. On October 19, 2018, the court sent two deficiency letters to Appellants. One letter addressed the initial brief and expressly instructed Appellants that (1) they must serve and file a proof of service, (2) only the caption—and not the two introductory sentences—may appear on the first page of the brief, and (3) the initial brief and designation of matter must be filed

as two separate documents. The second letter addressed Appellants' designation of matter and instructed Appellants that they must serve and file a proof of service and the document must include a caption that complies with Rule 267(a) of the South Carolina Appellate Court Rules. Each letter instructed Appellants to fix the deficiencies within ten days.

Appellants refiled the exact same papers—including the original October 17, 2018 file stamp—on October 26, 2018. This time, Appellants filed the pages containing their designation of matter and the pages containing their introductory sentences and “statement of the case” as two separate documents. Appellants did not fix any of the other deficiencies that the court expressly instructed them to fix. On October 30, 2018, the court issued two more deficiency letters. The letter addressing Appellants' initial brief again instructed them to serve and file a proof of service within ten days. The letter addressing Appellants' designation of matter again instructed them to include a caption that complies with Rule 267(a) and to serve and file a proof of service within ten days. Appellants did not correct the deficiencies or file any additional documents within the ten-day deadline set by the court. On November 16, 2018—seventeen days after the second round of deficiency letters—the court dismissed this appeal on the ground that Appellants failed to fix the deficiencies described in the court's October 30, 2018 letters.

Rule 260(a) provides that “[a] case *shall not* be reinstated except by leave of court, *upon good cause shown*, after notice to all parties.” Rule 260(a), SCACR (emphasis added). Thus, when the moving party fails to establish “good cause,” the rules do not allow this court to reinstate the appeal. Appellants' motion fails to establish good cause to reinstate this appeal.

In their motion, Appellants imply they do not understand the Appellate Court Rules and ask for leniency. The court has been very lenient with Appellants. Rather than dismissing the appeal after Appellants' original, improper filing, the court issued two rounds of deficiency letters

providing specific instructions how to comply with the rules. Despite the explicit instructions, Appellants corrected only one of the listed deficiencies and failed to meet the deadline set by the second round of letters.

The court properly dismissed this appeal based on Appellants' repeated failures to comply with the rules. *See Wise v. S.C. Dept. of Corr.*, 372 S.C. 173, 173, 642 S.E.2d 551, 551 (2007) (“Whenever it appears that an appellant has failed to comply with the requirements of the SCACR, an order of dismissal *shall* be issued” (emphasis added)); *see also* Rule 208(a)(1), SCACR (requiring an appellant to file one copy of her initial brief and proof of service); Rule 267(a), SCACR (providing requirements for the caption of a brief and examples of proper captions). Appellants offer no explanation for their failure to follow the instructions in the deficiency letters and therefore fail to show good cause why their failures should be excused and the appeal reinstated. Moreover, Appellants' arguments regarding the merits of their appeal do not constitute good cause to reinstate an appeal that was dismissed for noncompliance with the rules.

US Bank respectfully requests that the court deny Appellants' motion and remit the case to the master in equity so the foreclosure litigation may proceed.

*(signature page attached)*

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Columbia, South Carolina

December 11, 2018

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  
Appellate Case No. 2018-000798

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

Respondent,

v.

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

Appellants.

**PROOF 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):

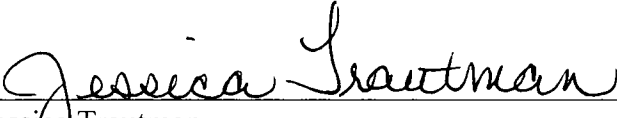
Pleadings:

Return to Motion to Reinstate Appeal

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December 11, 2018



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SC Court of Appeals

**Hand Delivered**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 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 please find the original and seven copies of Respondent's Return to Appellants' Motion to Reinstate Appeal 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, we are hereby serving the Appellants with a copy of same.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Nick Charles', written in a cursive style.

Nicholas A. Charles

NAC;jlt

Enclosure

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