

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM HORY COUNTY

Court of Master-In-Equity

Judge Cynthia Howe, Master-In-Equity

Appellate Case No. 2018-001523

M&T Bank, Respondent,

v.

Tyrone Davis; Bobby J. Bellamy; BC Fund and Management, LLC d/b/a BC Fund, LLC and United States of America, Defendants,

Of which Bobby J. Bellamy is the Appellant,

And

Tyrone Davis; BC Fund and Management, LLC d/b/a BC Fund, LLC are Respondents,

And

Bobby J. Bellamy, Appellant

v.

William O. Smith, Respondent

January 22, 2019

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JAN 23 2019

SC Court of Appeals

Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement

Now comes the Appellant with a Second Amended Reply, according to the Respondent, the Appellant is confused in the matter of an Appeal on an order from Master-in-Equity denying Appellant's Motion for Summary Judgement. The responsive pleading was so vague that the

Appellant cannot reasonably be required to frame a responsive pleading, the appellant moves the court for more definite statement before interposing his responsive pleading.

The Motion for Summary Judgment in this case was a three day trial held in February 2014. The Master-in-Equity failed to make a ruling on that Motion for Summary Judgment until May 2018. The Appellant's Attorney at that time, Bellamy Law firm filed a Motion to reconsider, based on denial of that same Motion for Summary Judgment on July 3, 2018. The Master-in-Equity denied Motion to Reconsider on July 12, 2018. The judgment or order in question was fundamentally erroneous on its face, a transcript may not be required and the appellate court may take review. On appeal, the appellate court shall apply the same Rule 56 standard that applies in the trial court. *Woodson*, citing *Quail Hill, LLC v. Cnty. of Richland*, 387 S.C. 223, 234, 692 S.E.2d 499, 505 (2010).

The Appeal is from a Motion for Summary Judgment, the Appellant has filed the Summary Judgment record, supporting and opposing papers, and other matters of record which were pertinent to the Summary Judgment motion. The records essential to a final determination whether summary judgment was properly entered. When reviewing the grant of a summary judgment, the South Carolina Appellant Court applies the same standard that governed the trial court; summary judgment is proper when there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. *Fleming v. Rose*, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002); see also Rule 56(c), SCRPC. "On appeal from an order granting summary judgment, the appellate court will review all ambiguities, conclusions, and inferences arising in and from the evidence in a light most favorable to the appellant." *Willis v. Wu*, 362 S.C. 146, 151, 607 S.E.2d 63, 65 (2004).

The hearing for Motion for Summary Judgment concerned a pure question of law. A pure question of law can be appealed without having a transcript. As such, transcripts are not always required for appeals from a motion for summary judgment. Parties who appeal a summary-judgment order do not need to include in the Record on Appeal the transcript of the trial-court hearing on the motion. In *Woodson v. DLI Properties*, 406 S.C. 517, 753 S.E.2d 428 (2014), they included in the Record on Appeal the supporting documents and legal arguments before the trial court when the court ruled. But they did not include a transcript of the hearing on the motion.

According to the Respondent, because the appellant was allegedly represented by counsel in the lower court and because there was not an order relieving that counsel, the Respondent was given automatic stay of filing, secondly, the respondent claims, the court delayed the briefing schedule to address the representation of the Appellant in this appeal.

b) Extending Time. For good cause, the court may extend the time prescribed by these rules to perform any act, or may permit an act to be done after that time expires. But the court may not extend the time: (1) to file a notice of appeal (except as authorized in Rule 4) or an application for allowance of appeal; or (2) to file a petition for review; or (3) **for doing any act when the time for doing the act has been prescribed by statute.**

(2) The notice of appeal **must** be signed by the individual appellant or by counsel for the appellant. A notice of appeal not bearing the necessary signature will be stricken unless omission of the signature is corrected promptly after being called to the attention of counsel or the party. A pro se notice of appeal is considered filed on behalf of the signer.

The notice of appeal was signed by Appellant and filed on August 15, 2018. The court accepted the briefs and Record on Appeal as filed. The Appellant filed final brief on October 12, 2018. The court mailed notice of suspicion of hybrid representation and request for Motion for Relief of Counsel within ten (10) days on October 18, 2018.

The Respondent failed to respond to any matter in the Appeals proceeding. The Appellant filed Motion to Relieve Counsel and the court granted relief on November 21, 2018. Respondent filed Motion to Dismiss on December 3, 2018.

When a lawyer has been appointed to represent a client, withdrawal ordinarily requires approval of the appointing authority. See Rule 6.2 Similarly, court approval or notice to the court is often required by applicable law before a lawyer withdraws from **pending litigation.**

Bellamy Law Firm's representation in this matter was completed when the agreed-upon assistance was concluded. See Rules 1.2(c) and 6.5. See also Rule 1.3. The lower Court Denied the Motion to reconsider, as a result there was no pending litigations to be heard on this matter, final Judgement released Bellamy Law Firm from any farther representation unless approved by client. See enclosed letters

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. *See enclosed*

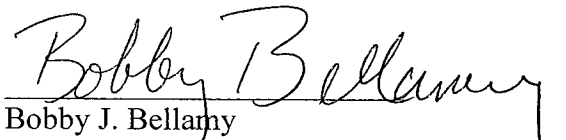
A lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. (2) A lawyer does not violate this rule by acceding to reasonable requests of opposing counsel that do not prejudice the rights of a client. A lawyer shall not represent a client, where representation has commenced.

Lawyers treat opposing counsel with courtesy and cooperate with opposing counsel when it will not prevent or unduly hinder the pursuit of the objective of the representation. To this end, a lawyer may waive a right or fail to assert a position of a client without first obtaining the client's consent.

Bellamy Law Firm attempted to file an extension of time to file pleadings or discovery as a courtesy, without obtaining the client's consent because the Appellant was a flood victim and unable to communicate, receive mail or emails.

For this reason, the court suspected hybrid representation. I pray that the court accepts this request, Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement.

Sincerely,


Bobby J. Bellamy
3664 Sea Mountain Highway
Little River, SC 29566

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM HORY COUNTY

Court of Master-In-Equity

Judge Cynthia Howe, Master-In-Equity

Appellate Case No. 2018-001523

M&T Bank, Respondent,

v.

Tyrone Davis; Bobby J. Bellamy; BC
Fund and Management, LLC d/b/a BC
Fund, LLC and United States of America, Defendants,

Of which Bobby J. Bellamy is the Appellant,

And

Tyrone Davis; BC Fund and Management, LLC d/b/a BC
Fund, LLC are Respondents,

And

Bobby J. Bellamy, Appellant

v.

William O. Smith, Respondent

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PROOF OF SERVICE

I certify that I have served the Appellant's **Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on January 22, 2019 addresses to his attorney of record, Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5th Floor, Columbia, S.C. 29201.

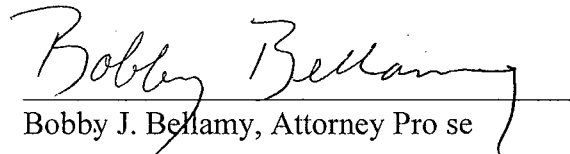
I certify that I have served the Appellant's **Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on January 22, 2019 addresses to his attorney of record, John B. Kelchner, Hutchens Law Firm P.O. Box 8237, Columbia, S.C. 29202.

I certify that I have served the Appellant's **Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement** on Tyrone Davis by depositing a

copy of it in the United States Mail, postage prepaid, on January 22, 2019 addresses to his attorney of record, Daniel J. Orvin, Womble Bond Dickson LLP, 5 Exchange St. Charleston, S.C. 29401

I certify that I have served the Appellant's **Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement on Scott Umstead, William O. Smith, BC Fund and Management LLC DBA BC Fund LLC**. By depositing a copy of it in the United States Mail, postage prepaid, on January 22, 2019 addressed to attorney Scott Umstead 4226 Mayfair St. #100 Myrtle Beach, S.C. 29577.

January 22, 2019

A handwritten signature in cursive script that reads "Bobby Bellamy". The signature is written in black ink and is positioned above a horizontal line.

Bobby J. Bellamy, Attorney Pro se

3664 Sea Mountain Highway,
Little River, S.C. 29566 843 457-3625

January 22, 2019

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

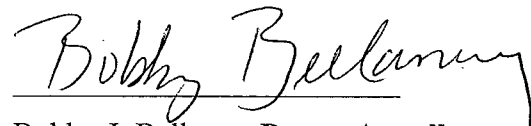
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RE: M&T Bank etal, Respondent vs Bobby J. Bellamy, Appellant case no. 2018-001523.

Dear Ms. Kitchings:

Enclosed for filing is Appellant's **Second Amended Reply to the Respondent's Motion to Dismiss, with Motion for More Definite Statement** with proof of service.

Sincerely,



Bobby J. Bellamy, **Pro se Appellant**
3664 Sea Mountain Highway,
Little River, South Carolina 29566
843 457- 3625

Attorney for Respondent

Cliff Moore, III Adams and Reese LLP
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Daniel J Orvin
Womble Bond Dickson LLP
5 exchange Street
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843 772-3400

\$50.00 enclosed

Bobby Williams
3664 Sea Mountain Hwy
Little River, SC
29566

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Jenny Abbott Kitchings, Clerk
P.O. Box 11629
Columbia, SC
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