

THE STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY  
Court Of Common Pleas

The Honorable Judge Gordon Cooper  
Master In Equity

**RECEIVED**  
SEP 16 2019  
SC Court of Appeals

Appellate Case No 2017-002200  
Circuit Court Case No.2010-CP-42-0587

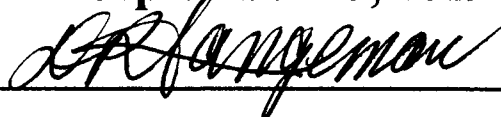
Wells Fargo Bank, N. A.; Trustees for Bear Stearns Asset Backed Securities I Trust  
2004-BO1, John B. Kelchner ..... Respondents

V.

Betty L .Tangeman, Barry D. Mallek, Alice R. Mallek, Donald Coggins Jr., and Delbert R.  
Tangeman .....Defendants  
of Whom Delbert R. Tangeman is the ..... Appellant

**MOTION (PETITION) FOR REHEARING**

September 13, 2019



By **DELBERT R. TANGEMAN**

104 RIVERSIDE Ln DUNCAN, S. C. 29334 (864)303-4282

Honorable Chief Judge James E. Lockemy:

Your honor, I apologize for not following the court rules more precisely. As you know, Appellant is a pro-se who had no previous knowledge of appellate court rules. I could not afford an attorney. Therefore, my only recourse was to proceed as I did, behind the learning curve.

Appellant hereby pleads court **rule 60 (b) 1, 2, and 3**, and ask for leave of the court to reopen my case. While I still have a lot to learn, Appellant believes he now has a good handle on what he must do to proceed. **(1) Mistakes, inadvertencies, surprises, and excusable neglect, admittedly, were the fault of the Appellant. He, now, knows how to correct them, and would have, had his motion to amend his initial briefs been granted. (2) Appellant's "Newly discovered evidence" was his expanded knowledge about "Due Process," "Alonges," "Evidence," "Equitable Maxim"="that all courts have the inherent power to all things reasonable, necessary to insure that just results are reached to the fullest extent possible."** Therefore the Supreme Court doctrine of **"Unclean Hands," and SCRE 402** "All relevant evidence is admissible..."Hence the "Designation of Matter."As a pro-se, Appellant believes his motion to amend his **Initial Briefs should have been granted.**

However, **Rule 60 b (3) Fraud**, was committed, with misleading statements by the opposing Attorney and the Judge. Please review (p.3) of the transcript evidence (R. p. 16, & Transcript lines 11-12) wherein the Attorney stated, "Plaintiff had proper standing. We had the original note at the hearing, A properly endorsed note." See (R, p. 23-26 )

### **ISSUE OF STANDING & REVIEW OF LEGAL STANDING**

Respondents made no believable response to negate "Standing." Mr. Kelchner: ( R, 23, & Transcript page 3, Lines 9 and 11 ) regarding "Standing." Plaintiff did not produce an **original note** to Defendant Tangeman ( R. 23 line 11, <sup>of</sup> & Transcript, p.3) plaintiff stated "We had the original note at the hearing". **PLAINTIFF PERJURED HIMSELF!**) Plaintiff produced only this multiple copies. (R. 15, Transcript p.2, lines 17-20) When one starts copying multiple times, one can arrange a fake note any way one wishes. (Nowhere in lines 4 thru 21 did the Plaintiff deny that statement.) The plaintiff did not produce the original note at the "Hearing" as he stated. The statement was untrue! Was that Perjury? fraud? or both? Was that an intent to deceive? Therefore, without the original note, **the plaintiff has no standing.**

### **LEGAL REVIEW IN ORDER TO PROVE "STANDING**

1. **"INJURY:** The plaintiff must have suffered or imminently will suffer injury. The injury must not be abstract and must be within the zone of interests meant to be regulated or protected under the statutory or constitutional guarantee in question."
  - A. The injury was self-inflicted. GMAC sent back to Appellant payments amounting to more than \$6,800.00. Therefore, Appellant just gave up and quit sending payments. (R. 43, Exhibit # 4)
  - B. After several years, the debt grew so large that it passed the real value of the property. Appellant sent to various Attorneys applications for

“LOAN MODIFICATION”. None responded...Those efforts went nowhere!

2. “**CAUSATION:**” The injury must be reasonably connected to the defendant’s conduct.”

There is no “reasonability factor” that could possibly be the fault of the Appellant. He made every reasonable effort to send GMAC payments due them, but GMAC kept returning them. GMAC’s injury was self-inflicted!

The fault was that **GMAC was a predatory Lender.** “**A Wicked Default** is the third most common form of wrongful foreclosure we see is when a lender, takes nefarious action to put a loan into default, resulting in a situation where the borrower is unable to cure the default. Maybe, the lender declined payments, such as was done by GMAC... Maybe, because of a catch clause in the contract, which escalated the interest rate way too high. Thereby forcing a default. There are generally three ways to attack these types of loans: to attack based on fraud, to attack based on usury, and to attack based on improper foreclosure proceeding...and the Appellant intends to pursue those and more.

The fault is also in the law that President Bill Clinton passed, requiring lenders to approve mortgages to mortgag<sup>ers</sup>es even if they had little or no income. Hence, the year 2008 financial collapse of many banks.

3. “**REDRESSABILITY:**” A favorable court decision must be likely to redress the injury.

A. Now the larger, bigger, vulture Banks, like Wells Fargo, are “unreasonably”

and unjustly seizing properties from Appellants like myself whose incomes were dependant upon tennants whom the subprime lenders took away from them.

B. Where is the justice and fairness in the law to favor "Redressability" when GMAC and even Bear Stearns committed legal suicide by filing for Bankruptcy!? Therefore, Appellant Prays the Court to find in his favor!

4. **"OTHER REQUIREMENTS:** There are other requirements imposed by the Appeals Court and made law:

A party may only assert his or her own rights and cannot raise the claims of a third party who is not before the court.

If the court deems that Wells Fargo has not passed the "no Space test," or intrinsic fraud,or due process clauses as legal holder of said "**NOTE**" then, does that mean that all other holders of the NOTE become third parties who are not before the court?

### **PROPER vs. IMPROPER ENDORSED ALONGES**

Properly endorsed allonges **MUST MEET THE "NO SPACE" TEST AS REQUIRED BY SOUTH CAROLINA LAW.**

Both, the attorney for Wells Fargo and the judge are guilty of "misleading the court..."

in that." Intrinsic fraud is defined as "fraud which misleads a court in determining issues and induces the court to find for the party perpetrating the fraud. (**SEE PAGE R. 16 LINES 11 AND 12 (Transcript) WHEREIN RESPONDENT STATED "WE HAD THE ORIGINAL NOTE AT THE HEARING AND. A PROPERLY ENDORSED NOTE...." NEITHER STATEMENT WAS TRUE! WHY DID HE NOT SHOW ME THE NOTE? NEITHER WAS IT PROPERLY "ENDORSED."** Even though Judge Cooper confirmed the endorsements were "proper" (see R. 18, Transcript p.5, lines 4 & 5) THERE WAS TOTAL DISREGARD FOR THE "NO SPACE" RULE & LOOSE PAGES AS REQUIRED BY S.C. LAW.

(See section 30-7-80 (last 3 lines))

### **MISLEADING STATEMENTS BY RESPONDENT AND THE COURT**

Both the attorney and the Court made misleading statements. This is a classic case of intrinsic fraud regarding perjured testimony or "presenting forged documents at trial. Allegations that a party failed to disclose documents also generally amount to intrinsic, rather than extrinsic, fraud." 2 Raby v. Orr, 358 S.C.

10, 594 S.E.2d 478 (2004) (Intrinsic fraud was misrepresentation about accounting practices), Bowman v. Bowman, 375 S.C. 146, 591 S.E.2d 654 (Ct. App. 2004)(Intrinsic fraud was failure to disclose information about retirement account), Chewning v. Ford Motor Co., 354 S.C. 72, 79 S.E.2d 605 (2003)(Fraud

upon the court by an attorney, whether or not intrinsic or extrinsic, can be used to set aside a prior judgment), *Chewning v. Ford Motor Co.*, 345 S.C. 28, 550 S.E.2d 584 (Ct. App. 2001)(**Fraud upon the court by an attorney, whether or not intrinsic or extrinsic, can be used to set aside a prior judgment** and court declined to follow reasoning of *Bankers Trust v. Braten*, 317 S.C. 547, 455 S.E. 2d 199 (Ct. App. 1995)), *Hagy v. Pruitt*, 339 S.C. 425, 529 S.E.2d 714 (2000) ...

**“Intrinsic fraud is defined as “fraud which misleads a court in at 82, 579 S.**determining issues and induces the court to find for the party perpetrating the fraud.

## **UNCLEAN HANDS**

“Buckley may provide the practitioner with a recent equitable argument issued by our Supreme Court which does not look favorably upon those who are undeserving and who try to use the court rules to obtain a benefit they do not deserve. “Wells Fargo has very “UNCLEAN HANDS.” WELLS FARGO CURRENTLY VS. BANK OF AMERICA, U.S. BANK, BB&T, Chase Bank, Credit Zendore,Regions Bank and Mortgage Bank. That says nothing about two (2) class action lawsuits currently going forward with Wells fargo’s illegal deceptions with their own depositors and their continued practice of forcing mortgagors to continue paying on mortgages after they are paid off. .

Recently our Supreme Court relied upon the equitable principle of unclean hands. The Court cited First Union Nat'l Bank of S.C. v. Soden, which held that the doctrine of unclean hands will preclude a litigant from recovering in equity if that litigant acted unfairly.

**“Federal Rule 60(b)(3)**, by its express terms, permits judgments to be set aside for fraud, whether the fraud is intrinsic or extrinsic.” Mr. G. v. Mrs. G, 320 S.C. 305, 465 S.E.2d 101 (Ct. App. 1995), fn. 2. (emphasis added). Chewing v. Ford Motor Co., 345 S.C. 28, 550 S.E.2d 584 (Ct. App. 2001)(Fraud upon the court by an attorney, whether or not intrinsic or extrinsic, can be used to set aside a prior judgment and court declined to follow reasoning of Bankers Trust v. Braten, 317 S.C. 547, 455 S.E. 2d 199 (Ct. App. 1995).

“Litigants should lose cases when the facts or the rules of substantive law are against them.

## CONCLUSION

The Appellant has proven, with convincing and conclusive evidence, that both the lower Court Judge, and, Plaintiff misled the proceedings, and, thereby **prejudiced** the appellant with their false statements regarding: the **legality of the note, Standing and Alonges.**      **P. 9.**

Therefore. Appellant moves the Court to approve his motion for rehearing

Under **Rule 60 (b) (1), (2), and (3)**. In the paragraph following item (5). Does the Appellant understand correctly that he has no more than one year to re-submit his final and final reply briefs? He believes he can accomplish that in around 60 days.

A handwritten signature in black ink, appearing to read "A. Longman". The signature is written in a cursive style with a large initial "A" and a long, sweeping underline.

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Tangeman .....defendants  
of Whom Delbert R. Tangeman is the ..... Appellant

**PROOF OF SERVICE OF Appellant’s Motion for Rehearing (Rule 221)**

The Appellant hereby certifies that he did deposit his **Motion for Rehearing** by mailing the  
same in the U.S. Postal service postage prepaid to:

Marghretta Shisko, Esq., Attorney for Malleks P.O. Box 3547 Sptg, S.C. 29304

James D. Floyd, Esq., Att. for Respondents, P.O Box 8237 Col., S.C. 29202 (803)726-2700

John B. Kelchner, Esq., Attorney for Respondents P.O. Box 8237 Col. S.C. 29202

M.C. Griffin & J/E. Schulz 214 N. Tryon St Suite 3700 Charlotte, NC 28202 (704)388-6000

Clerk of Court Sptg County, 180 Magnolia St. Sptg. S.C. 29306

This 13th day of September, 2019



Delbert R. Tangeman

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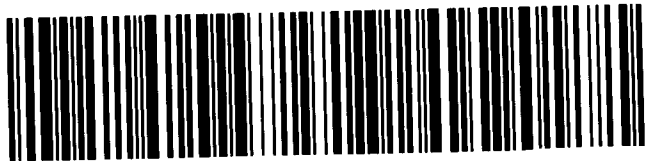
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