

THE STATE OF SOUTH CAROLINA
In The Court Of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

RECEIVED
OCT 30 2019
SC Court of Appeals

CASE NO. 2009-CP-26-05915
APPEAL NO. 2019-001700
(Previous Dismissed Appeal No. 2019-001119)

Plantation Federal Bank Respondent,

v.

Chester A. Crocket Appellant

and

C&C Development, LLC; Michael Chaffin; Bruce J. Ahmes;
S&D General Contractors, LLC; Col-Cor Industries, Inc.
d/b/a Active Glass and Mirror; First Electric, Inc.; Wallcraft
Construction, Inc. and Carolina Dirt Works, LLC..... Other Defendants.

**REPLY IN SUPPORT OF
RESPONDENT'S MOTION TO DISMISS APPEAL
FOR LACK OF APPEALABILITY**

J. René Josey, Esq.
Jeffrey L. Payne, Esq.
TURNER, PADGET, GRAHAM & LANEY, P.A.
Post Office Box 5478
Florence, SC 29502-5478
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ATTORNEYS FOR RESPONDENT

Other Counsel:

Robert S. Shelton, Esq.
BELLAMY, RUTENBERG, COPELAND,
EPPS, GRAVELY & BOWERS, P.A.
P.O. Box 357
Myrtle Beach, SC 29578
(843) 448-2400

Attorneys for the Appellant

This is an effort to collect a nine-year old mortgage foreclosure judgment which has long stood as the law of this case. Desperate to run out the judgment clock playing rope-a-dope, Appellant-Debtor has now filed a second appeal (this is tracking number 2019-1700 whereas the first appeal was tracking number 2019-1100) – again from a non-appealable discovery order. Again, Respondent Bank has moved to dismiss for lack of appealability.

In its response, Appellant-Debtor’s references both its specious challenge in this present post-judgment proceeding to the successor Bank’s ownership of this old judgment (as acquired in a federally-regulated transition) as well as an equally specious challenge to the actual debt in a separate fraudulent conveyance foreclosure action (South State Bank v. Crockett Family Trust, 2019-CP-26-05015). Even if these challenges had merit, they still do not qualify for an immediate appeal under South Carolina jurisprudence.

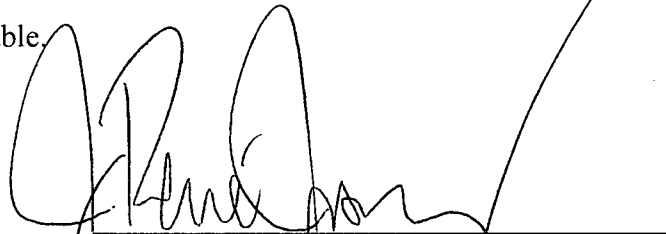
In addition, as noted in the previous appeal in this case (Tracking No. 2019-001119), Appellant’s critique of the asset transition from one bank to the other is belied by his previous communications with South State Bank inherently recognizing their ownership of this debt and the legitimacy of their collection efforts.¹ Moreover, as this Court is aware from the previous appeal, no Rule 60 motion was ever filed after the underlying judgment was rendered and Appellant’s *supposed* counterclaim, triggering his specious claim to a jury trial, was *not* filed within a year of the judgment and *not even* within one year of the Inspector General’s public report (August 15, 2016) referenced in Appellant’s pleadings. Not until after the petition for supplemental proceedings did Appellant’s creative pleading get filed with the Court.

¹ See Exhibit B to the Reply in support of the First Motion to Dismiss Appeal in this matter (Tracking No. 2019- 001119). As an example, in an email dated November 16, 2016 at 2 PM, the Appellant advises South State Bank representative Tiffany Boyd that he is working on a personal financial statement and “Hardship Statement” because he “Would love to have some idea of what this looks like before we go to Disney for Thanksgiving.”

CONCLUSION

The Appellant's most recent notice of appeal from the trial court's Order should be also dismissed as not immediately appealable.

October 28, 2019



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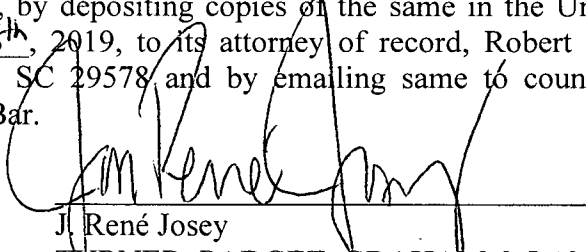
Chester A. Crocket Appellant

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Construction, Inc. and Carolina Dirt Works, LLC..... Other Defendants.

PROOF OF SERVICE

I certify that I have served Respondent's Reply in Support of its Motion to Dismiss (the Second) Appeal on Chester A. Crocket, by depositing copies of the same in the United States mail, postage prepaid, on October 28th, 2019, to its attorney of record, Robert S. Shelton, Esquire, P.O. Box 357, Myrtle Beach, SC 29578, and by emailing same to counsel's email address on file with the South Carolina Bar.



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ATTORNEYS FOR RESPONDENT

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October 28, 2019

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

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OCT 30 2019
SC Court of Appeals

Re: Plantation Federal Bank vs. C&C Development LLC
Case No.: 2009-CP-26-05915
Tracking No.: 2019-001700 (Previous Dismissed Appeal: Tracking No. 2019-001119)
TPGL File No.: 05930.00465

Dear Ms. Kitchings:

Pursuant to Rule 240(f) SCACR, enclosed for filing is a Respondent's Reply in Support of Motion to Dismiss this second appeal presently pending in your court. In accordance with SCACR 240, I am enclosing the original (unbound) and 7 copies of our Reply; I ask that one copy be stamped as filed and returned to us in the self-addressed, stamped envelope.

Also enclosed you will find an original Certificate of Service and one additional copy; again I ask that the copy be stamped as filed and returned to us in the self-addressed, stamped envelope.

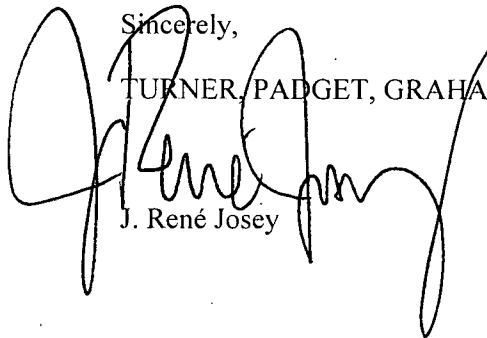
By copy of this letter to attorney Robert S. Shelton, we are serving Appellant's counsel with this motion, the exhibits, and the certificate of service.

Again, because the underlying judgment in this matter is over 9 years old, we would ask the court to consider this motion at its earliest convenience. We will be happy to appear for oral argument if the court deems that necessary. If anything additional is needed, please let us know.

Sincerely,

TURNER, PADGET, GRAHAM & LANEY, P.A.

J. René Josey



JRJ:lap

Enclosures

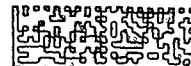
Cc: Robert S. Shelton, Esquire (w/enclosures)

Master

FIRST-CLASS MAIL

10/28/2019

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ZIP 29502
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5930.465

The Honorable Jenny Abbott Kitchings
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