

STATE OF SOUTH CAROLINA)
)
 COUNTY OF RICHLAND)
)
 NATIONSTAR MORTGAGE, LLC)
 d/b/a MR. COOPER,)
)
 PLAINTIFF,)
)
 vs.)
)
 BARBARA A. GIBBS, MELVIN E.)
 GIBBS, and WESTBROOK PHASE IV)
 HOMEOWNERS' ASSOCIATION,)
)
 DEFENDANTS.)

IN THE COURT OF APPEALS
 OF SOUTH CAROLINA

RECEIVED
 NOV 15 2019
 SC Court of Appeals

CASE No: 2019-000486

**APPELLANTS' EMERGENCY
 MOTION FOR HEARING
 REPLY**

COMES NOW, the above named Appellants and reply to Appellee's Opposition to Appellant's Motion for Hearing. The reasons for this reply are set forth below:

I. PRELIMINARY STATEMENT

1. Nationstar's foreclosure was obtained by fraud on the lower court and is part and partial to their continuing criminal enterprise. Nationstar by DEFAULT has admitted to their fraud and criminal acts.¹

2. Nationstar suborned perjury in the lower court: alleging Appellants failed and neglected to pay their mortgage for the months of July and August 2013, having full and complete knowledge "this" was perjury. Nationstar continued the conspiracy in the bankruptcy court and further – falsely alleged Appellants did not pay their mortgage December 2011: PERJURY.

¹ United States Bankruptcy Court, Northern District of Georgia (Atlanta Division)

a. U.S. Code § 1622. **Subornation of perjury:**

Whoever procures another to commit any perjury is guilty of subornation of perjury, and shall be fined under this title or imprisoned not more than five years, or both.

3. Because some of Nationstar's criminal acts are material and relevant to this appeal, in the alternative, Appellants must be permitted to amend and/or supplement their brief. Nationstar has admitted they are not the party in interest and by submitting the mortgage contract to the bankruptcy court for resolution, has voided the foreclosure litigation in the lower court.

II. STATEMENT OF FACTS

4. Nationstar deliberately avoids the material and relevant fact: Nationstar committed fraud on the lower court and subornation of perjury. Nationstar's foreclosure is criminal – alleging Appellants did not pay their mortgage July and August 2013!

5. Appellant's letter dated July 26, 2013, attached to the motion for hearing, provides conclusive proof – Nationstar knew Appellants never missed a mortgage payment and Bank of America was engaged in a criminal enterprise that Nationstar *willingly* joined.

V. ARGUMENT

6. Nationstar is not the party in interest; jurisdiction of the mortgage contract was voluntarily transferred to the bankruptcy court; Nationstar has admitted Appellants never missed a payment; Nationstar admitted they are part and partial to Bank of America's continuing criminal enterprise; Nationstar admitted subornation of perjury in the lower court and the bankruptcy court; and Nationstar has severely damaged the integrity of the South Carolina courts....

7. Appellants have complied with the order of the bankruptcy court; attached hereto as ¶6, p. 5. Any and all issues Nationstar has can be filed with the bankruptcy court.

VI. CONCLUSION

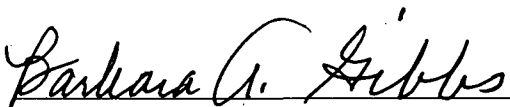
This Court must issue an Order – protecting Appellants from the criminal acts of Nationstar and their co-conspirators, sanction Nationstar and REMAND this case to the lower court for an *evidentiary hearing*.

WHEREFORE, Defendants pray this Honorable Court hold an EMERGENCY HEARING, sanction Nationstar, REMAND the case to the lower court, and grant such other and further relief the Court deems just and proper, at law and equity, general or special, to which Defendants have shown themselves justly entitled.

Respectfully Submitted,



M. Eugene Gibbs, Esq. *Pro-se*
3108 Hidden Falls Drive
Buford, Georgia 30519
(843) 610 0674
mgibbs70@aol.com



Barbara A. Gibbs, Pro-se
3108 Hidden Falls Drive
Buford, Georgia 30519
mgibbs70@aol.com

November 13, 2019
Buford, GA

IT IS ORDERED as set forth below:



Date: October 25, 2019

Wendy L. Hagenau

Wendy L. Hagenau
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE:

BARBARA ALBYTINE GIBBS,	{	CHAPTER 13
	{	
	{	CASE NO.: A19-54809-WLH
DEBTOR.	{	
	{	

ORDER CONFIRMING PLAN

On October 16, 2019 at 1:45pm, the Court held a hearing on Confirmation of the Debtor's proposed plan. Appearances were made by counsel for the Debtor, the Debtor, counsel for the Trustee, and counsel for Nationstar Mortgage LLC d/b/a Mr. Cooper ("Nationstar"). Based upon review of the record, proffer of the interested parties and consideration of related matters pending other jurisdictions, it is hereby

ORDERED that

- (1) The Chapter 13 plan is confirmed;

(2) Property of the estate shall not revert in Debtor until the earlier of discharge of Debtor, dismissal of the case, or closing of case without the entry of a discharge, unless the Court orders otherwise;

(3) A creditor must have a proof of claim filed with the Clerk of Court in order to receive a distribution under this plan, without regard to any other provision of the plan; and

(4) Attorney fees in the total sum of \$2,500.00 for Debtor's counsel provided for in the Chapter 13 plan and disclosed in the disclosure statement required by Federal Rule of Bankruptcy Procedure 2016(b) are allowed as an administrative expense, subject to disgorgement or disallowance upon request of any party in interest or sua sponte by the Court. The Trustee shall disburse the remaining balance of \$1,500.00 pursuant to the terms of the Debtor's proposed plan. Upon receipt of the \$1,500.00 by the Law Offices of Michael R. Rethinger, LLC the outstanding attorney fee balance shall be \$0.00.

(5) Upon entry of this order, the Trustee shall disburse funds necessary to satisfy the claim of DirecTV, LLC by American InfoSource as agent (Claim No. 1) in the sum of \$144.31 in full.

(6) As to the claim of Nationstar, the Trustee shall not disburse any funds owed pursuant to the terms of the confirmed plan until further order of this Court. Nationstar and/or the Debtor shall bear the responsibility to notify the Trustee and the Court of any final resolution of pending litigation currently in existence in the State of South Carolina as to the claim of Nationstar.

(7) Because no party in interest has filed a request for an order of dismissal pursuant to 11 U.S.C. § 521(i)(2) and because the parties in interest should not be subjected to any uncertainty as to whether this case is subject to automatic dismissal under § 521(i)(1), Debtor is not required to file any further document pursuant to § 521(a)(1)(B) to avoid an automatic dismissal and this case is not and was not subject to automatic dismissal under § 521(i)(1). This does not prevent any party in interest from requesting by motion that Debtor supply further information described in § 521(a)(1)(B), and this does not prevent the Chapter 13 Trustee from requesting by any authorized means, including but not

limited to motion, that the Debtor supply further information.

The Clerk of the Court is directed to serve this Order on the parties included in the attached distribution list.

END OF DOCUMENT

Presented by:

_____/s/_____
Ryan J. Williams,
Attorney for Chapter 13 Trustee
GA Bar No. 940874
303 Peachtree Center Ave., NE, Suite 120
Atlanta, GA 30303
(678) 992-1201

Consented by:

_____/s/_____
Michael R. Rethinger,
Attorney for the Debtor
Georgia Bar Number 301215
Law Offices of Michael R. Rethinger, LLC
50 Hurt Plaza SE
Suite 1150
Atlanta, GA 30303
*Signed by Ryan J. Williams
with express permission*

Consented by:

_____/s/_____
Taylor Mansell,
On behalf of
Nationstar Mortgage LLC d/b/a Mr. Cooper
GA Bar No. 940461
Shapiro, Pendergast and Hasty, LLP
211 Perimeter Center Parkway
Suite 300
Atlanta, GA 30346
*Signed by Ryan J. Williams
with express permission*

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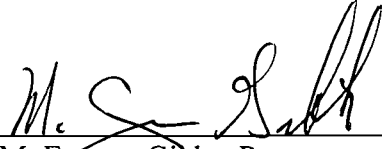
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LINE

CLERK:

Pursuant to your letter dated November 1, 2019, please find attached my check for the sum of \$50.00 for Appellants' Motion for Hearing. As explained, we were in Florence, SC, from November 1, 2019 to November 12, 2019. Our aunt died in New York on November 1, 2019 and her funeral was held in Effingham, SC on November 12, 2019 at 2:00 pm.



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Buford, Georgia 30519
mgibbs70@aol.com
(843) 610-0674

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CC: Brian A. Calub, Esq.

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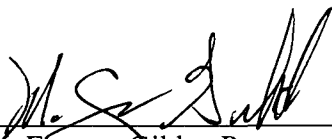
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CERTIFICATE OF SERVICE

I, Melvin E. Gibbs, hereby certify that a copy of Appellants' Reply to Appellee's Opposition to Appellants' Motion for Emergency Hearing was placed with USPS, postage prepaid, the 13th day of November 2019, addressed to:

Brian A. Calub, Esq.
McGuire Woods LLP
201 North Tryon Street, Suite 3000
Charlotte, NC 28202



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<p>MELVIN E. GIBBS 3108 Hidden Falls Drive Buford GA 30519</p> <p>WAIVER OF SIGNATURE</p> <p>(678) 889-2309</p>	<p>RECEIVED NOV 15 2019 C076</p> <p>SHIP TO: CLERK SC Court of Appeals Clerk's Office South Carolina Court of Appeals 1220 Senate St Columbia SC 29201-3769</p>



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