

**THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS**

APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
THE HONORABLE JOCELYN NEWMAN
CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2019-001438
CIVIL ACTION NO. 2018-CP-40-06469

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JAN 24 2020

SC Court of Appeals

Gary Washington, Michele Washington, Carolina Procurement Institute, Inc., Carolina Encouragement Center, Gervais Professional Suites, LLC, Wellsfargo Bank, FRU, Haynsworth Sinkler Boyd, P.A., Edgefield Holdings, LLC, (Assignee), Liberty Solutions, US Department of Treasury, Fannie MAE and Freddie MAC, First Palmetto Savings Bank, F.S.B., Branch Banking and Trust Company of South Carolina, Palmetto Health Alliance, State of South Carolina Department of Revenue, and Seturas Mortgage Company,

PLAINTIFFS,

Of whom Gary Washington, Michele Washington, and Carolina Procurement Institute, Inc. are the,

APPELLANTS,

versus

South Carolina Community Bank a.k.a
SC Community Bank a.k.a. SCCB,
OPTUS Bank,

RESPONDENT.

**RESPONDENT'S RETURN TO APPELLANTS' MOTION FOR NEW HEARING,
DISGORGEMENT OF FEES PAID TO INSTALL NEW COUNSEL, REINSTATE
REQUEST FOR JURY TRIAL, REMOVAL OF JUDGE JOCELYN NEWMAN
FOR BIAS AND SANCTION ATTORNEY WILLIAM G. YARBOROUGH, III**

On or about January 15, 2020, Appellants filed a document with this Court titled “Motion for New Hearing, Disgorgement of Fees Paid to Install New Counsel, Reinstate Request for Jury Trial, Removal of Judge Jocelyn Newman for Bias and Sanction Attorney William G. Yarborough, III.”

In this Motion, Appellants seek disgorgement of fees and sanctions against William G. Yarborough, III who was relieved as the Appellants’ attorney by this Court on January 17, 2020. The motion also purports to seek the recusal of Judge Jocelyn Newman and a new hearing in the action underpinning this appeal. Respondent South Carolina Community Bank objects to the extent Appellants’ Motion seeks relief related to the merits of the appeal.

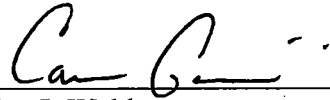
Following the foreclosure of property owned by Appellants, which was affirmed by this Court on appeal, *South Carolina Community Bank v. Gary A. Washington et al.*, 2018-UP-183, Appellants filed a new action against Respondent alleging extrinsic fraud, fraud upon the Court, and violations of the Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Respondent filed a motion to dismiss Appellants’ new action with the circuit court. Judge Newman heard Respondent’s motion to dismiss on April 12, 2019 and granted the motion to dismiss on August 1, 2019. Appellants appealed the order granting the motion to dismiss to this Court.

The Motion which Appellants filed on or about January 15, 2020 with this Court requests this Court, in part, to order that Judge Newman be recused from the underlying case and that a new hearing be held on Respondent’s motion to dismiss. Respondent objects to this relief sought by Appellants because these are issues that underlie the order on appeal and which also may be not be preserved for appeal. This Court should refrain

from ruling on such requests by Appellants until after the parties brief the merits of the appeal.

Accordingly, for the reasons set forth herein, Respondent objects to any request by Appellants to recuse Judge Newman and order a new hearing in the underlying case.

Respectfully submitted,



Charles J. Webb
Carmen V. Ganjehsani
RICHARDSON, PLOWDEN & ROBINSON, PA
1900 Barnwell Street (29201)
Post Office Drawer 7788
Columbia, South Carolina 29202
(803) 771-4400
**ATTORNEYS FOR RESPONDENT
SOUTH CAROLINA COMMUNITY
BANK**

January 23, 2020.

CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondent South Carolina Community Bank, do hereby certify that I have this date served the foregoing **Respondent's Return to Appellants' Motion for New Hearing, Disgorgement of Fees Paid to Install New Counsel, Reinstate Request for Jury Trial, Removal of Judge Jocelyn Newman for Bias and Sanction Attorney William G. Yarborough, III**, dated January 23, 2020, by causing the same to be deposited in a United States Postal Service mailbox, postage prepaid, addressed to the parties as indicated below:

Gary and Michele Washington
1324 Furman Drive
Sumter, SC 29154

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SC Court of Appeals



Carmen V. Ganjehsani
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(803) 771-4400
**ATTORNEYS FOR RESPONDENT
SOUTH CAROLINA COMMUNITY
BANK**

Dated: January 23, 2020.

Reply to: **Carmen V. Ganjehsani**
Direct Dial: 803-253-8692
cganjehsani@richardsonplowden.com

January 23, 2020

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

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JAN 24 2020

SC Court of Appeals

Re: Gary Washington v. South Carolina Community Bank
Appellate Case No. 2019-001438
RPR File No.: 4286-99

Dear Ms. Kitchings:

I am enclosing for filing the original and six copies of the Return to the Appellants' "Motion for New Hearing, Disgorgement of Fees Paid to Install New Counsel, Reinstate Request for Jury Trial, Removal of Judge Jocelyn Newman for Bias and Sanction Attorney William G. Yarborough, III" in the above referenced matter, along with our Certificate of Service.

By copy of this letter, I am serving a copy of this Return on Gary and Michele Washington.

Sincerely,

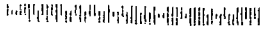


Carmen V. Ganjehsani

CVG

Encs.

cc: Gary and Michele Washington
Charles J. Webb (FYI)



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**RICHARDSON
PLOWDEN**
ATTORNEYS AT LAW

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The Honorable Jenny Abbott Kitchings
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