

92708

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals  
APPEAL FORM HORRY COUNTY  
Court of Common Pleas  
Judge Cynthia Howe, Master-In-Equity  
Ralph P. Stroman, Special Referee for Horry County  
Case No: 2019-001682

Leticia LLC, Movant  
M&T Bank, Plaintiff  
v.

RECEIVED  
MAY 14 2020  
SC Court of Appeals

Tyrone Davis; Bobby J. Bellamy;  
BC Fund and Management, LLC D/B/A BC Fund LLC  
and United States of America; Defendants

Of which \_\_\_\_\_

M&T Bank; Tyrone Davis; BC Fund and Management, LLC DBA BC Fund LLC  
and William O. Smith, Respondents

v.

Bobby J. Bellamy Appellant

May 7, 2020

**MOTION FOR ORDER FOR SANCTIONS ON INDISPENSABLE CO-RESPONDENTS**

Appellant moves before this court for sanctions on indispensable respondents, Tyrone Davis, BC Fund and Management LLC, William O. Smith.

**BRIEF HISTORY**

On December 16, 2019, Respondent M&T Bank Filed Motion to dismiss.

On February 28, 2020, Court order (see attached) Respondent Motion to Dismiss denied

On **February 28, 2020**, Court's order (see attached) respondent's initial brief and designation of matter due within thirty days of the date of the order.

On **April 23, 2020**, Court ordered attorneys (see attached), Scott Umstead, Daniel Orvin and Matthew Tillman to file within 10 days of the date of the letter to serve and file the respondent's initial brief and designation of matter, along with a motion requesting permission to serve and file outside of the filing deadlines set by Rule 208 and 209 of the SCACR. Further, the respondent's initial brief will not be considered if motion is made outside of ten days of the date of the letter, even though a party is found to have violated a court order, the question of whether or not to impose sanctions remains a matter for the court's discretion. *Lindsay v. Lindsay*, 328 S.C. 329, 491 S.E.2d 583 (Ct. App. 1997) (citing *Sutton v. Sutton*, 291 S.C. 401, 409, 353 S.E.2d 884, 888 (Ct. App. 1987)). Statutory sanctions for contempt are enumerated at S.C. Code Ann. 63-3-620 (Supp. 2010).

On **April 23, 2020** Court (see attached) mailed deficiency letter, John B. Kelchner, Stephanie Huggins and Ashley Z. Stanley represented as co-counsel with Cliff Moore III, Kirby D. Shealy III Adams and Reese LLP. John B. Kelchner, Stephanie Huggins and Ashley Z. Stanley represented M&T Bank in the foreclosure action and sale of the property. They are **not co-counsel** with Cliff Moore III, Kirby D. Shealy III Adams and Reese LLP. They are indispensable and needed for just adjudication under Rule 19.

Under Rule 20, SCRCP, joinder is required to resolve this controversy as a whole. Appellant rely upon the respondents to support his claim. The allegations against the proposed respondents are necessary and inextricably related to this Appeal.

Under Rule 19, SCRCP, joinder is mandatory because the proposed additional parties are indispensable to the current action and complete relief cannot be reached in their absence.

The Attorneys Cliff Moore III, Kirby D. Shealy III Adams and Reese LLP were hired under M&T Bank's **Lender's title insurance policy** to secure proper deed of conveyance in this matter. They stand in the same shoes as Matthew Tillman and Daniel Q Orvin, attorneys hired under Tyrone Davis **Buyer's title insurance policy** and the closing Attorney, Scott Umstead. These Attorneys are leaders in the scheme to invent BC Fund and Management LLC *DBA* BC Fund LLC to carry out the fraudulent and wrongful acts upon which M&T Bank relied on before

the approval of the mortgage. Title insurance **indemnifies the title** against loss under the terms of the policy. The title insurance companies should have worked in advance of issuing a policy to identify and eliminate potential risks and therefore prevent losses caused by title defects. Respondent, M&T Bank acquired the policy, with the important knowledge that recorded matters have been searched and examined so that the title insurance covering the property could be issued.

To establish the fact that John Kelchner, Stephanie Huggins and Ashley Stanley counsel for M&T Bank foreclosure and sale of the property are considered co-counsel with Cliff Moore III, Kirby Shealy and Reese LLP counsel that represents M&T title insurance company, creates a conflict of interest.

The closing attorney and the title insurance companies breached corporate promises and fiduciary duties. They allowed respondent, William O. Smith, owner of BC fund and Management LLC to act under false corporate titles without duly authorization. They made numerous fraudulent representations to manipulate the Lower Court and caused the improper sale of property, outside the bounds of their authority. For example: neglect to properly file name and amend a South Carolina LLC, BC Fund and Management LLC *DBA* BC Fund LLC, North Carolina LLC, purported to impersonate a grantor, respondent William O. Smith acted as alleged sole member of BC Fund LLC and signor on the Warranty Deed to Tyrone Davis. They were negligent to complete a proper title search including professional review of chain of title, negligent to review quitclaim deed and warranty deed, negligent to review parole documents that include unsigned survey and incomplete contracts. The quitclaim deed of Appellant to BC Fund LLC states provision of conveyance in grant clause. BC Fund LLC failed to provide a service, as stated, 'fee simple, together with every contingent remainder and right of reversion' or property revert back to the Appellant. The attorneys were negligent to inform or consult the Appellant on any matters of the sale or mortgage. Based on these allegations, the proposed pleading asserts numerous intentional torts and causes of actions.

Tyrone Davis, BC Fund and Management LLC, William O. Smith, co-respondents are indispensable and their input was needed for just adjudication. The court would have considered these co-respondents absolutely necessary for a resolution to this appeal. The co-respondents are

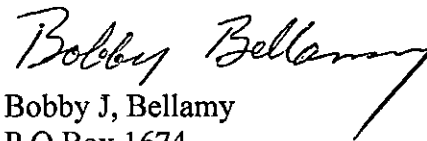
**parties** in a Lower Court order whose participation is required for jurisdiction or the purpose of rendering a judgment.

It will be necessary for the court to make determinations as to whether acts carried out by the co respondents will impair and impede the rights of the Appellant.

The Appellant prays that the co-respondents are sanctioned by this honorable court.

**May 7, 2020**

Sincerely,

A handwritten signature in cursive script that reads "Bobby Bellamy". The signature is written in black ink and is positioned above the typed name and address.

Bobby J, Bellamy  
P.O Box 1674  
Little River, South Carolina  
843 457-3625 . 29566

**THE STATE OF SOUTH CAROLINA**  
**In the Court of Appeals**  
**APPEAL FORM HORRY COUNTY**  
**Court of Common Pleas**  
**Judge Cynthia Howe, Master-In-Equity**  
**Ralph P. Stroman, Special Referee for Horry County**  
**Case No: 2019-001682**

**Leticia LLC, Movant**

**M&T Bank, Plaintiff**

**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 \_\_\_\_\_**

**M&T Bank; Tyrone Davis; BC Fund and Management, LLC DBA BC Fund LLC**  
**and William O. Smith, Respondents**

**v.**

**Bobby J. Bellamy Appellant**

**PROOF OF SERVICE**

The Undersigned certify that I have served the **Appellant's Motion for Sanction** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on May 7, 2020 addressed to his attorney of record, **Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5<sup>th</sup> floor, Columbia, S.C. 29201.**

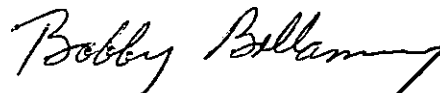
**RECEIVED**  
**MAY 14 2020**  
**SC Court of Appeals**

The Undersigned certify that I have served the **Appellant's Motion for Sanction** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on May 7, 2020 addressed to his attorney of record, **John B. Kelchner, Hutchens Law Firm P.O. Box 8237, Columbia, S.C. 29202**

The Undersigned certify that I have served the **Appellant's Motion for Sanction** on Tyrone Davis by depositing a copy of it in the United States Mail, postage prepaid, on May 7, 2020 addressed to his attorney of record, **Daniel J. Orvin, Womble Bond Dickson LLP, 5 Exchange St. Charleston, S.C. 29401**

The Undersigned certify that I have served the **Appellant's Motion for Sanction** on BC Fund and Management LLC D/B/A BC Fund LLC by depositing a copy of it in the United States Mail, postage prepaid, on May 7, 2020 addressed to his attorney of record, **Scott Umstead 4226 Mayfair St. #100 Myrtle Beach, S.C. 29577.**

**May 7, 2020**



Bobby J. Bellamy  
P.O. Box 1674  
Little River, S.C. 29566



# The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201

TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

February 28, 2020

Bobby J. Bellamy  
P.O. Box 1674  
Little River SC 29566

Mr. Daniel Quigley Orvin, Esquire  
PO Box 999  
Charleston SC 29402-0999

Mr. Matthew Tillman, Esquire  
5 Exchange Street  
Charleston SC 29401

Mr. W. Cliff Moore, III, Esquire  
PO Box 2285  
Columbia SC 29202

Mr. John Brian Kelchner, Esquire  
Mrs. Ashley Zarrett Stanley, Esquire  
PO Box 8237  
Columbia SC 29202

Ms. Stephanie M Huggins, Esquire  
2838 Devine Street  
Columbia SC 29205

Mr. Scott B. Umstead, Esquire  
4226 Mayfair St., Ste 100  
Myrtle Beach SC 29577-5446

Mr. Kirby Darr Shealy, III, Esquire  
PO Box 2285  
Columbia SC 29202

Re: M&T Bank v. Tyrone Davis  
Appellate Case No. 2019-001682

Dear Counsel and Mr. Bellamy:

Enclosed is the Court's order. The respondents' initial brief and designation of matter are due within thirty days of the date of the order.

Very truly yours,

*V. Claire Allen, Deputy*

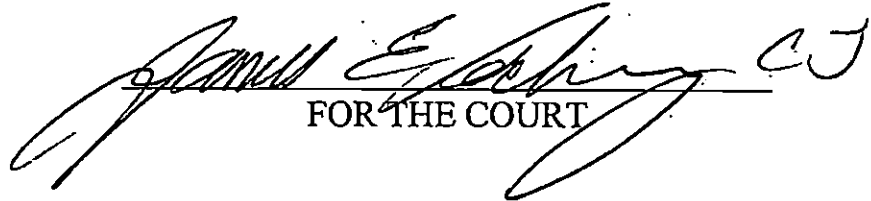
CLERK

---

ORDER

---

After careful consideration, Respondent's motion to dismiss is denied.

  
FOR THE COURT

Columbia, South Carolina

cc:

Bobby J. Bellamy  
Daniel Quigley Orvin, Esquire  
Matthew Tillman, Esquire  
W. Cliff Moore, III, Esquire  
John Brian Kelchner, Esquire  
Stephanie M Huggins, Esquire  
Ashley Zarrett Stanley, Esquire  
Scott B. Umstead, Esquire  
Kirby Darr Shealy, III, Esquire

FILED

February 28, 2020

Very truly yours,

*V. Claire Allen*

CLERK

cc: Bobby J. Bellamy  
W. Cliff Moore, III, Esquire  
John Brian Kelchner, Esquire  
Stephanie M Huggins, Esquire  
Ashley Zarrett Stanley, Esquire  
Kirby Darr Shealy, III, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 23, 2020

Mr. Kirby Darr Shealy, III, Esquire  
PO Box 2285  
Columbia SC 29202

Re: M&T Bank v. Tyrone Davis  
Appellate Case No. 2019-001682

Dear Counsel:

Upon reviewing your respondent's initial brief, the following deficiency has been noted under the South Carolina Appellate Court Rules (SCACR), and this deficiency must be corrected when filing the respondent's final brief:

- Our records reflect that John Brian Kelchner, Stephanie M. Huggins, and Ashley Zarrett Stanley are co-counsel for the respondent, M&T Bank. Therefore, they should be listed on the cover of the respondent's initial brief for respondent M&T Bank.
- The caption/title does not comply with Rule 267(a), SCACR. Specifically, the caption must match exactly with the one given below.

Leticia, LLC, Movant,

In Re:

M&T Bank, Plaintiff,

v.

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

And

M&T Bank, Respondent,

v.

Tyrone Davis, Bobby J. Bellamy, BC Fund and Management, LLC d/b/a BC Fund, LLC, Defendants,

Of whom 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.

Very truly yours,

*V. Claire Allen*

CLERK

cc: Bobby J. Bellamy  
Daniel Quigley Orvin, Esquire  
Matthew Tillman, Esquire  
W. Cliff Moore, III, Esquire  
John Brian Kelchner, Esquire  
Stephanie M Huggins, Esquire  
Ashley Zarrett Stanley, Esquire  
Scott B. Umstead, Esquire



## The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS  
CLERK

V. CLAIRE ALLEN  
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629  
COLUMBIA, SOUTH CAROLINA 29211  
1220 SENATE STREET  
COLUMBIA, SOUTH CAROLINA 29201  
TELEPHONE: (803) 734-1890  
FAX: (803) 734-1839  
[www.sccourts.org](http://www.sccourts.org)

April 23, 2020

Mr. Daniel Quigley Orvin, Esquire  
PO Box 999  
Charleston SC 29402-0999

Mr. Matthew Tillman, Esquire  
5 Exchange Street  
Charleston SC 29401

Mr. Scott B. Umstead, Esquire  
4226 Mayfair St., Ste 100  
Myrtle Beach SC 29577-5446

Re: M&T Bank v. Tyrone Davis  
Appellate Case No. 2019-001682

Dear Counsel:

Our records reflect that the time for serving and filing the respondent's initial brief and designation of matter for the respondents BC Fund and Management, LLC, Tyrone Davis, and William O. Smith has expired. Within ten (10) days of the date of this letter, you may serve and file the respondent's initial brief and designation of matter, along with a motion requesting permission to serve and file the brief and designation outside of the filing deadlines set by Rules 208 and 209 of the SCACR. Your respondent's initial brief will not be considered if no motion is made within ten (10) days of the date of this letter.

# The South Carolina Court of Appeals

Leticia, LLC, Movant,

In Re:

M&T Bank, Plaintiff,

v.

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

And

M&T Bank, Respondent,

v.

Tyrone Davis, Bobby J. Bellamy, BC Fund and  
Management, LLC d/b/a BC Fund, LLC, Defendants,

Of whom 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.

Appellate Case No. 2019-001682

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

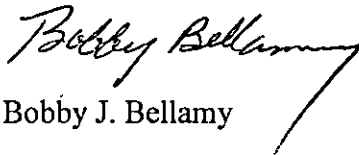
Re: M&T Bank v. Tyrone Davis, et al Appellate Case No. 2019-001682

Dear Ms. Kitchings:

I have enclosed a check for \$50.00, the Original and a copy of the **Appellant Motion for Sanctions** and served a copy to the Attorneys listed below by United States mail with Proof of Service, for filing in the above referenced case.

May7, 2020

Sincerely,

  
Bobby J. Bellamy

**RECEIVED**  
MAY 14 2020  
SC Court of Appeals

cc:


Cliff Moore, III, Esq.

John B. Kelchner Esq.

David Orvin, Esq

Scott Umstead, Esq.

Bobby Bellamy  
P.O. Box 1674  
Little River, SC  
29566

UNITED STATES POSTAL SERVICE		Retail
<b>F</b>	US POSTAGE PAID	Origin: 29528 05/07/20 4518600529-15
	<b>\$4.60</b>	
FIRST-CLASS PKG SVC - RTL™		
		0 Lb 5.50 Oz 1005
		<b>B012</b>
SHIP TO:	PO BOX 11629 COLUMBIA SC 29211-1629	
USPS TRACKING® NUMBER		
		
9500 1134 4962 0128 5890 67		

RECEIVED  
MAY 14 2020  
SC Court of Appeals

SC Court of Appeals  
Check Jerry A. Kitchings  
P.O. Box 11629  
Columbia, SC 29211