

**THE STATE OF SOUTH CAROLINA  
In the Court of Appeals**

**APPEAL FROM 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,**

**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.**

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**MAY 20 2020**

**SC Court of Appeals**

**And**

**Bobby J. Bellamy, Appellant,**

**v.**

**William O. Smith, Respondent.**

**AMENDED 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, SCRCPP, 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, SCRCPP, 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.

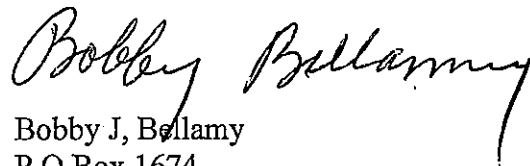
Tyrone Davis, BC Fund and Management LLC, William O. Smith, co-respondents are indispensable and their input was needed for just adjudication. The court would have considered these co-respondents absolutely necessary for a resolution to this appeal. The co-respondents are **parties** in a Lower Court 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 18, 2020**

Sincerely,



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

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**PROOF OF SERVICE**

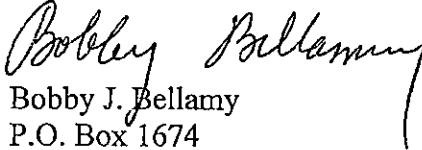
The Undersigned certify that I have served the **AMENDED MOTION FOR ORDER FOR SANCTIONS ON INDISPENSABLE CO-RESPONDENTS** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on May 18, 2020 addressed to his attorney of record, **Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5<sup>th</sup> floor, Columbia, S.C. 29201.**

The Undersigned certify that I have served the **AMENDED MOTION FOR ORDER FOR SANCTIONS ON INDISPENSABLE CO-RESPONDENTS** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on May 18, 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 **AMENDED MOTION FOR ORDER FOR SANCTIONS ON INDISPENSABLE CO-RESPONDENTS** on Tyrone Davis by depositing a copy of it in the United States Mail, postage prepaid, on May 18, 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 **AMENDED MOTION FOR ORDER FOR SANCTIONS ON INDISPENSABLE CO-RESPONDENTS** 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 18, 2020 addressed to his attorney of record, **Scott Umstead 4226 Mayfair St. #100 Myrtle Beach, S.C. 29577.**

**May 18, 2020**

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

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

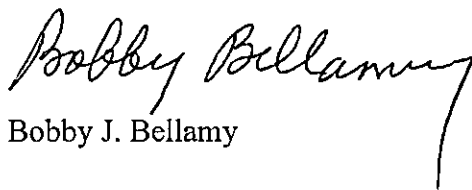
Re: M&T Bank v. Tyrone Davis, et al Appellate Case No. 2019-001682

Dear Ms. Kitchings:

I have enclosed the Original and a copy of the **AMENDED MOTION FOR ORDER FOR SANCTIONS ON INDISPENSABLE CO-RESPONDENTS** with corrects on caption/title and spacing. Please add to enclosed from original document, \$50.00 motion fee and attachments. I have served corrected copy to the Attorneys listed below by United States mail with Proof of Service, for filing in the above referenced case.

May 18, 2020

Sincerely,

  
Bobby J. Bellamy

cc:

Cliff Moore, III, Esq.

John B. Kelchner Esq.

David Orvin, Esq

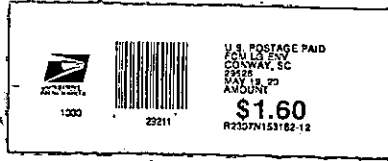
Scott Umstead, Esq.

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P.O. Box 11674  
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