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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 is the Respondent

And

Bobby J. Bellamy, Appellant

v.

William O. Smith, Third Party Defendant

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APPELLANT'S AMENDED MOTION TO JOIN AN ADDITIONAL PARTY

Appellant, Bobby J. Bellamy hereby file this Amended Motion for an Order to Join an Additional Party pursuant to South Carolina Rules of Civil Procedure 13(h) and 19, and 20 and 24. The Appellant moves before this honorable Court for an order for Scott Umstead, closing attorney for plaintiff M&T Bank to join Respondent M&T Bank as party to this action. Scott Umstead interest is so directly involved that the court cannot render a fair adjudication in his absence as required in SC Civil Procedure:

RULE 24 INTERVENTION (a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

RULE 19 JOINDER OF PERSONS NEEDED FOR JUST ADJUDICATION (a) Persons to Be Joined if Feasible. A person who is subject to service of process and whose joinder will not deprive the court of jurisdiction over the subject matter of the action shall be joined as a party in the action if (1) in his absence complete relief cannot be accorded among those already parties, or (2) he claims an interest relating to the subject of the action and is so situated that the disposition of the action in his absence may (i) as a practical matter impair or impede his ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of his claimed interest. If he has not been so joined, the court shall order that he be made a party. If he should join as a plaintiff but refuses to do so, he may be made a defendant, or, in a proper case, an

involuntary plaintiff. Rule 19(a) on joinder of persons needed for a just adjudication; where, upon motion of a party in an action, an absentee should be joined so that the Appellant may protect his interest which as a practical matter may be substantially impaired by the disposition of the action, he ought to have a right to intervene in the action on his own motion. The Rule expands intervention of right as provided by Code § 15-5-200, and Circuit Court Rule 22.

Scott Umstead closing attorney for M&T Bank is indispensable where the Appellant seeks a type of affirmative relief that:

1. Scott Umstead closing attorney for M&T Bank implemented and approved the Warranty Deed that permitted William Smith, member of BC Fund and Management LLC, South Carolina LLC, to illegally act as **sole member** of BC Fund LLC, North Carolina LLC to convey the Appellant's property to Tyrone Davis.
2. Scott Umstead, closing attorney for M&T Bank accepted and approved documents to secure mortgage for M&T Bank, among those documents were minutes of an allegedly meeting allowing BC Fund and Management LLC d/b/a BC Fund LLC., improper title search and improper survey and description of property.
3. Scott Umstead closing attorney for M&T Bank, failed to secure a certificate of authority for BC Fund LLC to sell real property in South Carolina as required by the State of South Carolina.
4. Scott Umstead, closing attorney for M&T Bank failed to properly distribute proceeds of the mortgage loan.

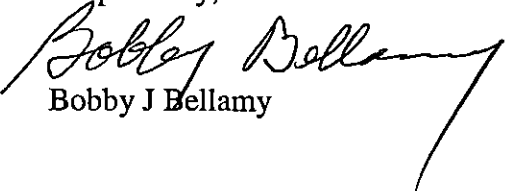
The proposed pleading supports joinder under Rules 13(h), and 19 of the South Carolina Rules of Civil Procedure ("SCRCP"). Pursuant to Rule 13(h) of the SCRCP, "Parties other than

those to the original action may be made parties to a counterclaim or cross-claim in accordance with Rules 19 and 20.” Under Rule 19 of the SCRCPP, joinder is mandatory because the proposed additional party is necessary and indispensable to the current action and complete relief cannot be reached in his absence. In the alternative, if joinder is not required under Rule 19, Rule 20 allows for the permissive joinder of parties. Under this rule, it will be necessary for the Court to determine whether the wrongful acts complained of by Plaintiff, via their counterclaims, are attributable to the proposed Counterclaim-Defendants as all counterclaims arise out of the same transaction, occurrence of series transactions or occurrences as the original action.

For these reasons, the additional party is necessary and indispensable, and moreover, its joinder is strongly favored in an effort to promote judicial economy, pursuant to Rules 13(h) and 19 or 20 of the SCRCPP. Scott Umstead has been subjected to service of process and joinder will not deprive the Court jurisdiction over the subject matter of the action to be joined as party. In Scott Umstead absence complete relief cannot be accorded among those already parties.

July 3, 2020

Respectfully,


Bobby J Bellamy

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.

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Defendants,

Of whom Bobby J. Bellamy is the Appellant,

And

Tyrone Davis is the Respondent

And

Bobby J. Bellamy, Appellant

v.

William O. Smith, Third Party Defendant

PROOF OF SERVICE

The Undersigned certify that I have served the **Appellant's Amended Motion To Join An Additional Party** on M&T Bank by depositing a copy of it in the United States Mail, postage

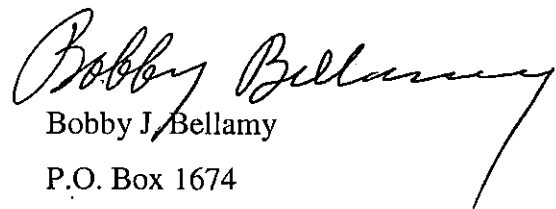
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prepaid, on July 3, 2020 addressed to his attorney of record,
Cliff Moore, III Adams and Reese LLP, 1501 Main Street 5th floor, Columbia, S.C. 29201.

The Undersigned certify that I have served the **Appellant's Amended Motion to Join an Additional Party** on M&T Bank by depositing a copy of it in the United States Mail, postage prepaid, on July 3, 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 Amended Motion to Join an Additional Party** on Tyrone Davis by depositing a copy of it in the United States Mail, postage prepaid, on July 3, 2020, 2020 addressed to his attorney of record, Daniel J. Orvin, Womble Bond Dickson LLP, 5 Exchange St. Charleston, S.C. 29401

July 3, 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

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

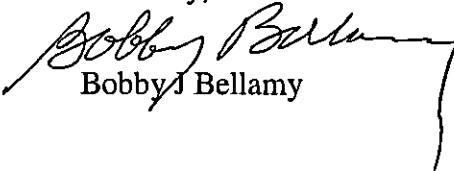
Re: M&T Bank v. Tyrone Davis, et al Appellate Case No. 2019-001682

Dear Ms. Kitchings:

I have enclosed a check for \$50.00 dollars for motion fee, the Original and a copy of the **Appellant's Amended Motion to Join an Additional Party** A copy will be served to Attorney's listed below by United States mail with Proof of Service. Please file in the above referenced case.

July 3, 2020

Sincerely,


Bobby J Bellamy

Cc:

Cliff Moore III, Esq.

John B. Kelchner, Esq.

David Orvin, Esq

Bobby Bellamy
P.O. Box 1674
Little River, SC
29564



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South Carolina Court of Appeals
Clerk: Jenny A. Kitchings
P.O. Box 11629
Columbia, South Carolina

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