

The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 30, 2012

Amy Lohr Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Dr., Ste. 109
Columbia, SC 29204

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Richard A. Farrier, Esquire
Nelson Mullins Riley
& Scarborough
P.O. Box 1806
Charleston, SC 29402

Clayton B. McCullough, Esquire
McCullough Kahn, LLC
68 1/2 Queen Street
Charleston, SC 29401

Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

The following Order has been endorsed on your Consent Motion Regarding Supplemental Briefing in the above entitled case on appeal.

"Granted.

s/ Jean H. Toal C.J.
For the Court

March 30, 2012."

Please be advised that by copy of this letter we are advising all interested parties of the action by the Court and no further briefing will be necessary.

Very truly yours,


CLERK

DES/lda

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED

MAR 28 2012

S.C. Supreme Court

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

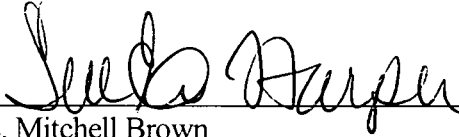
CONSENT MOTION REGARDING SUPPLEMENTAL BRIEFING

Appellants and Respondent, pursuant to this Court's Order of March 14, 2012, directing that any request for supplemental briefing be sought by appropriate motion, agree to rest on the oral argument made to this Court respecting the possible impact, or lack thereof, of the *Concepcion* and *Marmet Health Care Center* cases on this matter. Respondent, by undersigned counsel, agrees there is no need for amended briefing by Appellants respecting those cases in order to preserve error for appeal, as the cases were published after the completion of briefing in this matter. Respondent, through undersigned counsel, expressly waives any argument that amended briefing is required for preservation purposes and agrees that the oral arguments made can serve in the place of any amended briefing with respect to the impact of *Concepcion* and *Marmet*.

Hence, all parties move that this Court allow the oral argument respecting *Concepcion* and *Marmet* to serve as the arguments of the parties respecting those cases and their impact or lack thereof, and that such be considered fully preserved. In the event this Court declines to

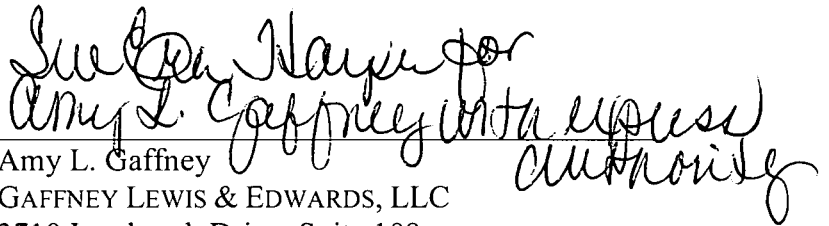
grant the consent motion, Appellants hereby conditionally move to file amended briefing respecting those cases and that a scheduling order be issued by the Court for such briefing.

WE SO MOVE AND CONSENT:

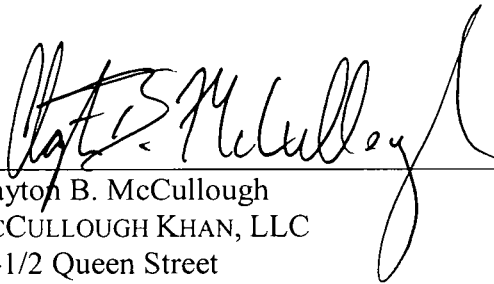


C. Mitchell Brown
Sue Erwin Harper
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Post Office Box 11070
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(803) 799-2000

Richard A. Farrier
NELSON MULLINS RILEY & SCARBOROUGH LLP
151 Meeting Street/6th Floor
Charleston, SC 29401-2239
(843) 853-5200
Attorneys for Appellants Atlantic Banc Holdings, Inc. and
Neal Arnold



Amy L. Gaffney
GAFFNEY LEWIS & EDWARDS, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204
(803) 790-8838
Attorneys for Appellant FDIC as Receiver for Atlantic
Bank & Trust



Clayton B. McCullough
MCCULLOUGH KHAN, LLC
68-1/2 Queen Street
Charleston, SC 29401
(843) 727-2243
Attorneys for Respondent Christopher T. Landers

March 28, 2012

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

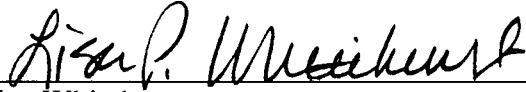
Pleadings:

Consent Motion Regarding Supplemental Briefing

Counsel Served:

Clayton B. McCullough
McCullough Khan, LLC
68 ½ Queen Street
Charleston SC 29401

Amy L. Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204

A handwritten signature in cursive script, appearing to read "Lisa P. Whitehurst", written over a horizontal line.

Lisa Whitehurst
Administrative Assistant

March 28, 2012

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9034

www.nelsonmullins.com

Sue Erwin Harper

Certified Specialist

in Employment & Labor Law

by the South Carolina Supreme Court

Tel: 803.255.5544

Fax: 803.255.9034

corky.harper@nelsonmullins.com

March 28, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RECEIVED

MAR 28 2012

S.C. Supreme Court

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of a Consent Motion Regarding Supplemental Briefing in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our check in the amount of \$25.00 as the required filing fee.

By copy of this letter to counsel of record, we are serving them with a copy of this motion.

Very truly yours,

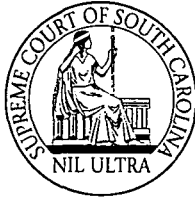

Sue Erwin Harper

rec'd check#
693081
\$ 25.00

SEH:lpw

Enclosures

cc: Clayton B. McCullough, Esquire
Amy L. Gaffney, Esquire



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 14, 2012

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Richard A. Farrier, Esquire
Nelson Mullins Riley
& Scarborough
P.O. Box 1806
Charleston, SC 29402

Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

Enclosed is an order that has been issued on your motion to continue argument and for leave to file amended briefing. Please be advised that Court has increased the time allotted for oral arguments in this case to 20-20-5.

Very truly yours,



CLERK

Enclosure

cc: Amy Lohr Gaffney, Esquire
Clayton B. McCullough, Esquire

The Supreme Court of South Carolina

Christopher T. Landers, Respondent,

v.

Federal Deposit Insurance
Corporation as Receiver for
Atlantic Bank and Trust,
Atlantic Banc Holdings, Inc.,
and Neal Arnold, Appellants.

The Honorable J. C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

ORDER

Appellants move to continue oral argument in this matter and for leave to file amended briefing. The motion for a continuance is denied and the motion to file amended briefing is denied at this time.

Appellants' filing will be treated as a supplemental citation under Rule 208(b)(7), SCACR, and the parties should be fully prepared to argue what impact, if any, the cases cited by appellants may have on this matter. If after oral argument, any party believes there is a need for supplemental

briefing, that request should be sought by appropriate motion, and that motion must be served and filed within ten (10) days of the date on which oral arguments are held in this matter.

IT IS SO ORDERED.


C.J.
FOR THE COURT

Columbia, South Carolina

March 14, 2012

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9025

www.nelsonmullins.com

C. Mitchell Brown

Tel: 803.255.9595

Fax: 803.255.9025

mitch.brown@nelsonmullins.com

March 14, 2012

Hand Delivered

The Honorable Daniel E. Shearouse
The Honorable Brenda Shealy
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

RECEIVED

MAR 14 2012

S.C. Supreme Court

Dear Mr. Shearouse:

Enclosed please find the original and seven copies of Appellants' Motion to Continue Oral Argument and for Leave to File Amended Briefing in regard to the above-referenced matter. This is one of those unusual situations where, after oral argument has been scheduled, the United States Supreme Court has issued an opinion which Appellants view seriously impacts the issues involved in this matter. All parties consent to this motion. We greatly appreciate the Court's attention to and patience with this development. Also enclosed is our firm check in the amount of \$25.00 as the required filing fee.

The Honorable Daniel E. Shearouse

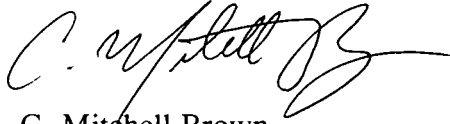
March 14, 2012

Page 2

By copy of this letter to counsel of record, we are serving them with a copy of this motion.

With kind regards, I remain

Sincerely yours,

A handwritten signature in black ink, appearing to read "C. Mitchell Brown", with a stylized flourish at the end.

C. Mitchell Brown

CMB:lpw

Enclosures

cc: Clayton B. McCullough, Esquire
Amy L. Gaffney, Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED

MAR 14 2012

S.C. Supreme Court

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

MOTION TO CONTINUE ORAL ARGUMENT AND FOR
LEAVE TO FILE AMENDED BRIEFING

Appellants Neal Arnold and Atlantic Banc Holdings, Inc. ("Appellants") hereby move to continue the oral argument of this matter to a subsequent term of Court and for leave to file amended briefing. The amended briefing would be solely for the purpose of addressing the preemptive effect of Marmet Health Care Center, Inc. v. Clayton Brown, 2012 U.S. LEXIS 1076, 80 U.S.L.W. 3475, 80 U.S.L.W. 4160 (February 21, 2012) and ATT Mobility LLC v. Concepcion, 131 S.Ct. 1740, 179 L.Ed.2d 742 (2011) in this matter. Both of these cases were decided by the United States Supreme Court after all initial briefing was completed in this case. Marmet makes clear that the preemptive effects of Concepcion are broad and affect more than class action matters, and that they extend to public policy rules in state law excluding types of claims, including torts, from being covered by arbitration agreements. Marmet was decided after this Court's scheduling of this case for oral argument.

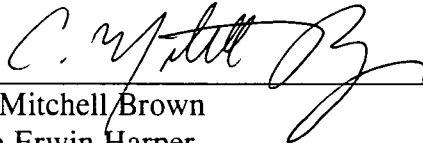
This Court recently decided Herron v. Century BMW, Inc. 719 S.E.2d 640 (2011), in which this Court stressed that specific arguments respecting preemption must be presented in appellate briefing to be addressed by this Court. Appellants believe that in order to argue Marmet and Concepcion in this matter, they must be provided leave of this Court to file amended briefs to address the impact of those cases on the legal arguments made.

Appellants argued in briefing that the Federal Arbitration Act applied in this case and that interstate commerce was clearly involved. Appellants also argued that preemption applied. However, at the time of briefing, Marmet and Concepcion did not exist. Under Marmet, building upon Concepcion, the federal law now is, Appellants would maintain, contrary to this Court's cases represented by Aiken v. World Fin. Corp. of S.C. & World Acceptance Corp., 373 S.C. 144, 644 S.E.2d 705 (2007) and its progeny. In order to argue that Marmet and Concepcion displace, through preemption, the Aiken decision and its progeny, Appellants must be granted leave to amend their briefs. Appellants will prepare such amended briefing within 10 days of receipt of an order granting them leave to do so, and will write no more than 5 pages on the effect of Marmet and Concepcion on this matter. Appellants will take less time and fewer pages, of course, if this Court so desires. However, Appellants believe they must file amended briefing in order to properly address the impact of these important cases to this matter.

As the FDIC now controls Appellant Atlantic Bank and Trust, Appellants have contacted counsel for the FDIC in this matter, Amy Gaffney, who consents to and joins in this motion. Respondent consents to the leave requested without prejudice to argue

their position in their respective briefing and without agreement as to the applicability of the cases cited herein or the conclusions alleged herein.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 
C. Mitchell Brown
Sue Erwin Harper
Post Office Box 11070
Columbia, SC 29211
(803) 799-2000

Richard A. Farrier
NELSON MULLINS RILEY & SCARBOROUGH LLP
151 Meeting Street/6th Floor
Charleston, SC 29401-2239
(843) 853-5200

Attorneys for Atlantic Bank and Trust, Atlantic Banc
Holdings, Inc. and Neal Arnold

3/14, 2012

Attached Consents

From: Corky Harper
Sent: Tuesday, March 13, 2012 09:42 AM
To: Amy Gaffney <agaffney@glelawfirm.com>
Cc: Susan Dock
Subject: RE: Landers

Thanks, Amy. We are still trying to track down Clay and/or Jamie, so please let me know if you hear from either of them.
Thanks.

SUE ERWIN HARPER
NELSON MULLINS RILEY & SCARBOROUGH, LLP
MERIDIAN, SUITE 1700
1320 MAIN STREET (29201)
POST OFFICE BOX 11070 (29211)
COLUMBIA, SC
803.255.5544 (DIRECT LINE)
803.255.9034 (DIRECT FAX)
CORKY.HARPER@NELSONMULLINS.COM

From: Amy Gaffney [mailto:agaffney@glelawfirm.com]
Sent: Tuesday, March 13, 2012 7:50 AM
To: Corky Harper
Cc: Susan Dock; Amy Gaffney
Subject: RE: Landers

Corky:

The language is fine with me. It's my understanding Clay is on vacation all this week. I don't know if he's checking, or responding to, e-mails. I sent him something on a Walmart case he and I have together and he didn't respond. Maybe you could speak with his partner, Jamie Khan...

Please let me know if my office can help with the filing.

Amy

From: Corky Harper [mailto:corky.harper@nelsonmullins.com]
Sent: Tuesday, March 13, 2012 7:35 AM
To: Amy Gaffney
Cc: Susan Dock

From: Jamie Khan [<mailto:Jamie@mklawsc.com>]

Sent: Tuesday, March 13, 2012 5:35 PM

To: Mitch Brown

Cc: Clay McCullough

Subject: RE: per our call; thanks Jamie

Mitch,

Sorry for the delay in responding. We will consent to the leave requested, with the caveats shown in my tracked changes. We obviously do not want to consent to the applicability you allege or the conclusions raised in the motion. If the changes are acceptable, we consent to the leave requested.

Regards,
Jamie

Jamie A. Khan, Esquire

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

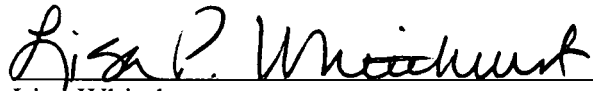
Pleadings:

**Motion to Continue Oral Argument and for Leave to
File Amended Briefing**

Counsel Served:

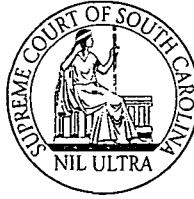
Clayton B. McCullough
McCullough Khan, LLC
68 ½ Queen Street
Charleston SC 29401

Amy L. Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204

A handwritten signature in black ink, reading "Lisa P. Whitehurst". The signature is written in a cursive style and is positioned above a horizontal line.

Lisa Whitehurst
Administrative Assistant

March 14, 2012



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 13, 2012

Amy Lohr Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
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Nelson Mullins Riley & Scarborough
P.O. Box 1806
Charleston, SC 29402

Clayton B. McCullough, Esquire
McCullough Kahn, LLC
68 1/2 Queen Street
Charleston, SC 29401

Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

The record in the above case has been reviewed and the time allotment for oral argument for this case is as follows:

Appellants 15 minutes

Respondent 15 minutes

Appellants in Reply 5 minutes

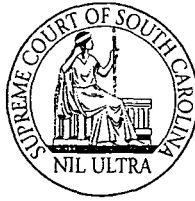
This case is scheduled for hearing on Tuesday, March 20, 2012 at 9:30 a.m.

Very truly yours,

Daniel E. Shearouse, Clerk

By 
Administrative Assistant

DES/dmh



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

March 9, 2012

Clayton B. McCullough, Esquire
McCullough Kahn, LLC
68 1/2 Queen Street
Charleston, SC 29401

Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

The following Order has been endorsed on your Motion to Dismiss, with Prejudice, appellant Atlantic Bank and Trust by and Through the FDIC Only in the above entitled case on appeal.

"Motion denied.

s/ Jean H. Toal C.J.
For the Court

March 9, 2012."

By copy of this letter we are advising all interested parties of the action of the Court in this matter.

Very truly yours,


CLERK

DES/dmh

Landers, Christopher v. Atlantic Bank
Page Two
March 9, 2012

cc: Amy Lohr Gaffney, Esquire
C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier, Esquire

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

RECEIVED

DEC 28 2011

S.C. Supreme Court

**RESPONDENT'S MOTION TO DISMISS, WITH PREJUDICE,
APPELLANT ATLANTIC BANK AND TRUST
BY AND THROUGH THE FDIC ONLY**

THIS MATTER COMES BEFORE you by way of undersigned counsel's Motion to Dismiss, pursuant to South Carolina Appellate Court Rules 224 and 232. Respondent Christopher Landers ("Landers") seeks to dismiss his claims against Atlantic Bank and Trust (hereafter as "Atlantic Bank"), by and through the Federal Deposit Insurance Corporation ("FDIC") as real party in interest for this entity, with prejudice. Atlantic Bank, by and through the FDIC, consents to this dismissal with prejudice. Appellants Atlantic Banc Holdings, Inc. and Neal Arnold do not consent to the dismissal of Atlantic Bank from this lawsuit.

Respondent Landers seeks an Order from this Court allowing the dismissal of Atlantic Bank from this suit. Upon information and belief, this case has been docketed to be heard during the February, 2012 term. Respondent does not seek an oral argument on this Motion to Dismiss.

The reason for dismissing Atlantic Bank from this suit is the fact that the FDIC has been appointed as the Receiver for Atlantic Bank. Exhibit A attached hereto is a letter dated June 3, 2011 notifying Atlantic Bank that the Office of Thrift Supervision has appointed the FDIC as Receiver. Pursuant to 12 U.S.C. § 1821 (c)(3)(A), the FDIC as Receiver for Atlantic Bank, had succeeded to all of its rights, titles, and powers. As a result of the FDIC's involvement, Respondent Landers is limited to an administrative claim process through which he must pursue all of his claims against Atlantic Bank. Mr. Landers has filed an administrative claim against Atlantic Bank with the FDIC. As such, his claims against Atlantic Bank brought in the South Carolina Court of Common Pleas should be dismissed as he has no legal right to a recovery against Atlantic Bank in that jurisdiction.

South Carolina case law holds that unless a defendant can show legal prejudice or that important issues of public policy are present, a plaintiff is generally entitled to a voluntary dismissal without prejudice as a matter of right. Nelson v. QHG of S.C., Inc., 354 S.C. 290, 520 S.E.2d 171 (Ct. App. 2003), *aff'd in part, rev'd on other grounds*, 362 S.C. 421, 608 S.E.2d 855 (2005). Here, Respondent Landers is seeking to dismiss Atlantic Bank WITH prejudice. There is neither legal prejudice nor an important issue of public policy. It is a reasonable response to the fact that a civil claim pursued against Atlantic Bank is pointless after the FDIC was appointed as the Receiver.

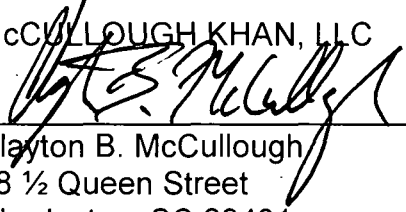
Respondent Landers will continue to pursue the claims brought against Appellants Neal Arnold and Atlantic Banc Holdings, Inc. The issues on appeal will be limited as the issues involving Atlantic Bank will be moot if it is no longer a party. Further, there is no prejudice to Appellants Neal Arnold and Atlantic Banc Holdings, Inc.

No discovery has taken place. The only item that has been litigated to date is the motion to dismiss/compel arbitration that is currently on appeal before this Honorable Court. No further or additional briefing is required as there are no new issues as a result of Atlantic Bank's dismissal.

Based on the foregoing, Appellant Landers respectfully requests the Motion to Dismiss be granted.

Respectfully Submitted,

McCULLOUGH KHAN, LLC


Clayton B. McCullough

68 1/2 Queen Street

Charleston, SC 29401

T: 843.937.0400

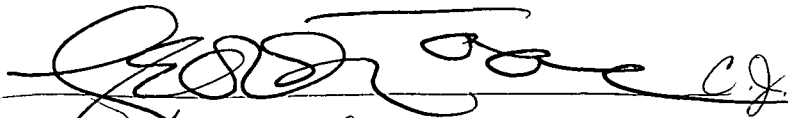
D: 843.937.0401

clay@mklawsc.com

12.22, 2011
Charleston, SC

Attorneys for Respondent

Motion denied.


For the Court

March 9, 2012



Office of Thrift Supervision
Department of the Treasury

Southeast Region

1475 Peachtree Street, N.E., Atlanta, GA 30309 • Telephone: (404) 974-9620
P.O. Box 105217, Atlanta, GA 30348-5217 • Fax: (404) 974-9802

Hand Delivered

June 3, 2011

OTS No. 18016

Atlantic Bank & Trust
152 East Bay Street
Charleston, South Carolina 29401

Re: Notice of Appointment of a Receiver

Dear Sir/Madam:

This is to notify you that the Acting Director, Office of Thrift Supervision, by Order Number 2011-40, dated June 3, 2011, appointed the Federal Deposit Insurance Corporation as receiver (Receiver) for Atlantic Bank & Trust, Charleston, South Carolina (Association), and authorized the undersigned to deliver notice of such appointment.

The Receiver is now taking possession of the Association pursuant to the terms of its appointment as set forth in Order Number 2011-40, a copy of which is attached. In connection with the appointment of the Receiver, we respectfully call your attention to Section 5(d)(4) of the Home Owners' Loan Act, 12 U.S.C. § 1464(d)(4), which establishes criminal penalties for refusal to comply with the Receiver's demand for possession of the property, business and assets of an association in receivership.

Please countersign a copy of this letter and indicate the time and date of your receipt of the letter and attachment in the space provided on the following page and return such copy to me.

Sincerely,

Roddey B. Gettys
Examiner V

Attachment

Notice of Appointment of a Receiver
Atlantic Bank & Trust
June 3, 2011
Page 2

Received by: Neale E. Arnold, CEO
Print Name and Title

At 5:17, P.M., E.D.T., on Friday, June 3, 2011

Signature: Neale Arnold

Accepting Appointment of FDIC as Receiver for Atlantic Bank & Trust, Charleston, South Carolina:

W. STEVEN BLANK, RECEIVER-IN-CHARGE
Print Name and Title

At 5:17, P.M., E.D.T., on Friday, June 3, 2011

Signature: WS Blank

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

**STIPULATION OF DISMISSAL WITH PREJUDICE AS TO APPELLANT ATLANTIC
BANK AND TRUST ONLY**

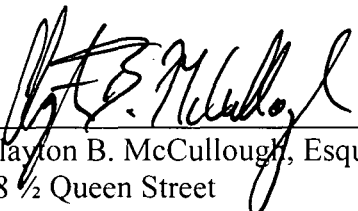
NOW on the Motion of McCullough Khan, LLC, Counsel for Respondent, and with consent of Gaffney Lewis & Edwards, LLC, Counsel for Appellant Atlantic Bank and Trust by and through the Federal Deposit Insurance Corporation (FDIC) as real party in interest for this entity;

IT IS HEREBY ORDERED that the above-captioned action, Complaint and all causes of action therein be and the same are hereby, dismissed with prejudice against Appellant Atlantic Bank and Trust and/or the Federal Deposit Insurance Corporation (FDIC) as the real party in interest for this entity, only.

WE SO STIPULATE:

[SIGNATURE BLOCK APPEARS ON FOLLOWING PAGE]

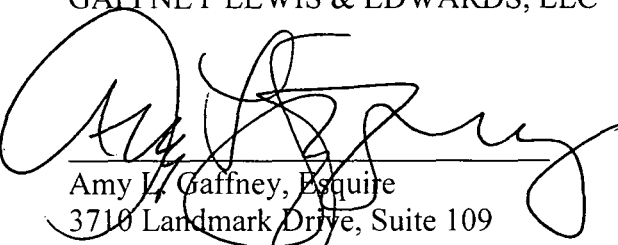
McCULLOUGH KHAN, LLC


Clayton B. McCullough, Esquire
68 1/2 Queen Street
Charleston, SC 29401
T: 843.937.0400
D: 843.937.0401
clay@mklawsc.com

12.22, 2011
Charleston, SC

Counsel for Respondent

GAFFNEY LEWIS & EDWARDS, LLC


Amy L. Gaffney, Esquire
3710 Landmark Drive, Suite 109
Columbia, SC 29204
T: 803.790.8838
F: 803.790.8841
agaffney@glelawfirm.com

December 21, 2011
Columbia, SC

Counsel for Appellant Atlantic Bank and
Trust by and through the Federal Deposit
Insurance Corporation (FDIC) as real party
in interest for this entity

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

PROOF OF SERVICE

I hereby certify that I served true and correct copies of Respondent's Motion to Dismiss, With Prejudice, Appellants Atlantic Bank and Trust only and Stipulation of Dismissal as to Appellants Atlantic Bank and Trust, Inc. on this 22nd day of December, 2011 via United States Mail, postage prepaid, upon the following counsel of record:

C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211

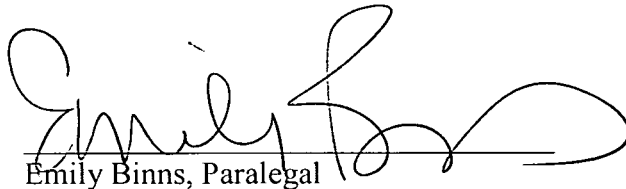
Richard A. Farrier, Esq.
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., 16th Floor
Charleston, SC 29401-2239

Amy L. Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204

RECEIVED

DEC 28 2011

S.C. SUPREME COURT


Emily Binns, Paralegal



RECEIVED

DEC 28 2011
pm 12-26-11
S.C. SUPREME COURT

Clayton B. McCullough
Direct: 843.937.0401
clay@mklawsc.com

December 22, 2011

Daniel E. Shearouse, Clerk of Court
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Re: Christopher T. Landers v. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.
and Neal Arnold
C.A. No. 2010-CP-10-00523
Our File No.: 1011.001

Dear Mr. Shearouse:

Enclosed please find the original and seven (7) copies of the following in the above-entitled matter:

- 1) Respondent's Motion to Dismiss, With Prejudice, Appellant Atlantic Bank and Trust by and through the FDIC, Only;
- 2) Stipulation of Dismissal with Prejudice as to Appellant Atlantic Bank and Trust only; and
- 3) Check in the amount of \$25.00 for the associated filing fee.

Please return one filed-stamped copy to our office in the self-addressed, stamped envelope provided. If you have any questions, please feel free to contact me.

With kind regards,

Sincerely,

McCULLOUGH KHAN, LLC

Clayton B. McCullough

CBM/eab
Enclosure – as stated above

cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Amy L. Gaffney, Esquire

check # 344
\$25.00

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED

JAN - 3 2012

S.C. Supreme Court

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

**OPPOSITION OF APPELLANTS NEAL ARNOLD AND ATLANTIC BANC
HOLDINGS, INC. TO RESPONDENT'S MOTION TO DISMISS, WITH PREJUDICE,
APPELLANT FDIC AS RECEIVER FOR ATLANTIC BANK AND TRUST**

Pursuant to South Carolina Appellate Court Rules 224 and 232,¹ Respondent Landers has moved to dismiss Atlantic Bank & Trust ("Bank")² from this appeal. The Bank is Respondent's former employer and one of three defendants he sued for breach of contract, intentional infliction of emotional distress, defamation, proxy violation, and wrongful removal as a director. A dismissal of the Bank from this appeal will leave Atlantic Banc Holdings, Inc., the Bank's Holding Company ("Holding Company"), and more significantly, its former CEO Neal Arnold, as the sole Appellants. Given the allegations of Respondent's pleadings, that Mr. Arnold "at all time [*sic*] pertinent hereto . . . was acting within the scope of his agency on behalf of the

¹ These rules have been renumbered to Rule 240 and Rule 261, respectively.

² By Order dated November 3, 2011, the FDIC, as the Bank's receiver, was substituted for the Bank as the real party in interest; however, for the sake of clarity, Respondent will be referred to herein as the "Bank."

corporate Defendants,"³ dismissal of the Bank will lead to an unjust result. Mr. Arnold, at all relevant times the Bank's CEO, is a party here only because Respondent sued him for actions he allegedly took on the Bank's behalf, admittedly within the scope of his authority as CEO. Respondent now seeks to dismiss the Bank with prejudice and hold Mr. Arnold responsible individually.

Mr. Arnold and the Holding Company oppose the motion. The motion to dismiss the Bank appears to be an attempt by Respondent to improve his position respecting arbitrability by dismissing the claim for breach of the employment contract in which the arbitration clause is contained. Indeed, in a letter to counsel,⁴ Respondent indicated he intended to do just that. Respondent's attorney wrote that after the Bank was dismissed from the appeal, he intended to "file a cleaned-up Amended Complaint narrowing the scope of the suit against Mr. Arnold (removing the claims against the Bank)." His letter continued that this would "narrow[] the scope of the issue on appeal" These statements evidence Respondent's apparent belief that, by dismissing the breach of contract claim against the Bank, he can argue that arbitration of all claims in this case is no longer required.

The issues presented in this appeal are not properly altered at this late date, either by dismissal of the Bank or otherwise. A party may not amend his complaint to add or delete claims and thereby avoid arbitration.⁵ Appellants Arnold and the Holding Company object to the

³ Complaint ¶ 3.

⁴ See November 17, 2011, email from Clay McCullough (Exhibit A).

⁵ As previously explained in Appellants' briefs, a court deciding whether an arbitration agreement encompasses a dispute must determine whether the factual allegations underlying the claim are within the scope of the arbitration clause, regardless of the label assigned to the claim. *Zabinski v. Bright Acres Assocs.*, 346 S.C. 580, 596, 553 S.E.2d 110, 119 (2001). Any doubts concerning the scope of an arbitration provision are resolved in favor of arbitration because of the state and federal policies favoring arbitration. *Towles v. United Healthcare Corp.*, 338 S.C.

motion to dismiss to the extent it is an attempt by Respondent to alter or somehow prejudice Appellants' appellate arguments on appeal. The Bank (*i.e.*, the FDIC) is within its rights (until early February of 2012) to remove this matter to federal court and have the claims against it addressed there. The Bank for some reason is instead deciding it will not object to Respondent's motion to dismiss in this Court. However, Appellants Arnold and the Holding Company are also parties, and they *do* object. The motion should be denied. If the motion is not denied, the dismissal should be granted by this Court only upon the express condition⁶ that none of the arguments in this appeal by Appellants Arnold or the Holding Company are adversely affected in any way thereby, including any and all of those Appellants' arguments respecting arbitrability.

[Signatures appear on following page.]

29, 38, 524 S.E.2d 839, 846 (Ct. App. 1999). A motion to compel arbitration made pursuant to an arbitration clause in a written contract should only be denied where the clause is not susceptible to any interpretation that would cover the asserted dispute. *Zabinski*, 346 S.C. at 596, 553 S.E.2d at 119. Paragraph 15 of the pertinent Employment Agreement explicitly provides that "any controversy or claim arising out of or relating to this contract, or the breach thereof, shall be settled by binding arbitration" While Plaintiff has previously amended his Complaint and attempted to artfully plead claims in an attempt to avoid this broad language, there can be no doubt that each and every one of his claims arises out of his employment and the Employment Agreement and relates to an alleged breach of that agreement. Therefore, whether the remaining Appellants could be liable for a breach of the contract or not, the broad language of the arbitration provision makes all controversies or claims "arising out of or relating to" Respondent's employment agreement arbitrable. Therefore, all claims asserted against the remaining Appellants are arbitrable, regardless of the label assigned to those claims. *Zabinski*, 346 S.C. at 596, 553 S.E.2d at 119.

⁶ Appellants reserve the right to oppose any amendment of pleadings and to argue their arbitrability positions are unaffected should this Court be inclined to grant the motion to dismiss.



C. Mitchell Brown

Sue Erwin Harper

NELSON MULLINS RILEY & SCARBOROUGH LLP

Post Office Box 11070

Columbia, SC 29211-1070

(803) 799-2000

Richard A. Farrier

NELSON MULLINS RILEY & SCARBOROUGH LLP

151 Meeting Street/6th Floor

Charleston, SC 29401-2239

(843) 853-5200

Attorneys for Appellants Atlantic Banc Holdings, Inc. and Neal
Arnold

January 3, 2012

Exhibit A

Corky Harper

From: Clay McCullough [clay@mklawsc.com]
Sent: Thursday, November 17, 2011 10:15 AM
To: Amy Gaffney (agaffney@glelawfirm.com); Corky Harper
Subject: Landers v. Atlantic and Arnold

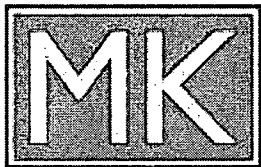
Corky and Amy,

I hope all is well. I am writing to deal with several issue in this case. We are prepared to dismiss Atlantic Bank from the lawsuit and pursue our claims against AB in the administrative claims process. We would need to file a consent order dismissing Atlantic. We will also need to file a cleaned-up Amended Complaint narrowing the scope of the suit against Mr. Arnold (removing the claims against the Bank).

I believe it narrows the scope of the issues on appeal, however, I am assuming the position will be the claims against Mr. Arnold should still be arbitrated. Corky – obviously, please tell me if you feel differently. As such, I am assuming we are still going forward with the hearing in January.

I believe if we can agree to everything I have outlined above, we will need to file a document with the Supreme Court informing them the issues have been narrowed as Atlantic is no longer in the case. Please let me know what you think – if you want to schedule a conference call to discuss all of these issue, I am available most of this week and early next week. Thanks very much.

Clay



Clayton B. McCullough, Esq.

McCullough Khan, LLC
68 1/2 Queen Street
Charleston, SC 29401
Phone: 843-937-0401
Fax: 843-937-0706
clay@mklawsc.com
www.mklawsc.com

THE INFORMATION CONTAINED IN THIS COMMUNICATION IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY CONTACT ME. THANK YOU.

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Opposition of Appellants Neal Arnold and Atlantic Banc Holdings, Inc. to Respondent's Motion to Dismiss, with Prejudice, Appellant FDIC as Receiver for Atlantic Bank and Trust

Counsel Served:

Clayton B. McCullough
McCullough Khan, LLC
68 1/2 Queen Street
Charleston SC 29401

Amy L. Gaffney
Gaffney Lewis & Edwards, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204

Virginia A. Koontz

Virginia A. Koontz
Administrative Assistant

January 3, 2012



GAFFNEY *Attorneys & Counselors at Law*
LEWIS & EDWARDS

3710 Landmark Dr.
Suite 109
Columbia, SC 29204
803.790.8838
Fax: 803.790.8841

Amy L. Gaffney
Regina Hollins Lewis
Susan Rawls Edwards
Lee Ellen Bagley
Mary D. LaFave

agaffney@glelawfirm.com
rlewis@glelawfirm.com
sedwards@glelawfirm.com
lebagley@glelawfirm.com
mlafave@glelawfirm.com

February 2, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

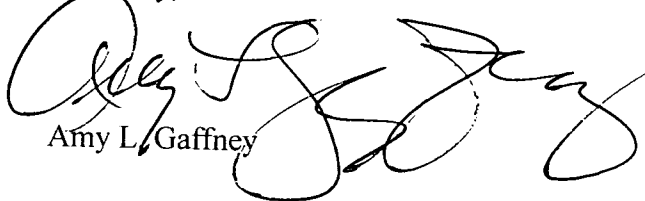
RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-0523

Dear Mr. Shearouse:

I am writing to inform the Court that I, counsel for FDIC in the above-referenced matter, have a scheduling conflict the entire week of March 4 – 11, 2012 as I will be out of the country during that time. I would, therefore, appreciate the Court's consideration for protection during that time and would ask that any oral argument for the above-referenced matter be scheduled for a time other than that week.

Thank you for your attention to this request. If you should have any questions, please do not hesitate to contact me.

Sincerely,



Amy L. Gaffney

ALG/tlg

Cc: Clayton B. McCullough, Esq.
Sue (Corky) Harper, Esq.
C. Mitchell Brown, Esq.

RECEIVED

FEB 06 2012

S.C. SUPREME COURT

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9025
www.nelsonmullins.com

C. Mitchell Brown
Tel: 803.255.9595
Fax: 803.255.9025
mitch.brown@nelsonmullins.com

January 30, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RECEIVED

JAN 30 2012

S.C. Supreme Court

RE: Harleysville Mutual Insurance Company v. The State of South Carolina, et al.
Our File No: 00470/01571

Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Our File No. 29003/05002

Dear Mr. Shearouse:

Pursuant to the Court's notice dated January 24, 2012, please be advised that on March 6, 2012, I am scheduled to participate in the SC Bar Bridge the Gap program and on March 21, 2012, I am scheduled to attend our Firm's Executive Committee Management meeting. I would respectfully request that one of these two matters be scheduled for March 7 or 8 and that the other be scheduled for March 20. If the Court cannot accommodate that then scheduling one of the matters for March 21 would be preferable to both being scheduled on the same day or on consecutive days. I thank the Court very much for its kind consideration of this request.

With kind regards, I remain

Sincerely yours,


C. Mitchell Brown

CMB:lpw

The Honorable Daniel E. Shearouse

January 30, 2012

Page 2

cc: David B. Miller, Esquire
Martin M. McNerney, Esquire
William M. Wilson, III, Esquire
J. Emory Smith, Jr., Esquire
Charles E. Carpenter, Jr., Esquire
Debra S. Tedeschi, Esquire
Laura A. Foggan, Esquire
Amy L. Gaffney, Esquire
Clayton B. McCullough, Esquire
Trenholm Walker, Esquire

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9025

www.nelsonmullins.com

C. Mitchell Brown

Tel: 803.255.9595

Fax: 803.255.9025

mitch.brown@nelsonmullins.com

January 24, 2012

RECEIVED

JAN 24 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

S.C. Supreme Court

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Our File No. 29003/05002

Dear Mr. Shearouse:

Last week, I notified the Court of a conflict I have on March 21, 2012. I have since learned that I also have a conflict on March 6, 2012. I participate in the SC Bar Bridge the Gap program and the winter session is scheduled for March 6, 2012. Therefore, I would appreciate the oral argument for this case being set for one of the other dates specified in the Court's letter. Thank you for your consideration.

With kind regards, I remain

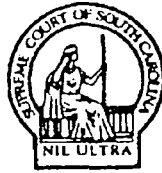
Sincerely yours,



C. Mitchell Brown

CMB:lpw

cc: Amy L. Gaffney, Esquire
Clayton B. McCullough, Esquire
Trenholm Walker, Esquire



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
From: Daniel E. Shearouse
Date: January 24, 2012
RE: March Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the March 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of March 6, 7, 8, 20 and 21. Please notify this office in writing prior to January 31, 2012 as to any scheduling conflicts for the March term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

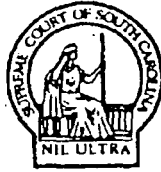
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Clayton B. McCullough, Esquire
From: Daniel E. Shearouse
Date: January 24, 2012
RE: March Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the March 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

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Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Richard A. Farrier, Esquire
From: Daniel E. Shearouse
Date: January 24, 2012
RE: March Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the March 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of March 6, 7, 8, 20 and 21. Please notify this office in writing prior to January 31, 2012 as to any scheduling conflicts for the March term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Amy Lohr Gaffney, Esquire
From: Daniel E. Shearouse
Date: January 24, 2012
RE: March Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the March 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of March 6, 7, 8, 20 and 21. Please notify this office in writing prior to January 31, 2012 as to any scheduling conflicts for the March term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Landers, Christopher v. Atlantic Bank

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
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C. Mitchell Brown
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Fax: 803.255.9025
mitch.brown@nelsonmullins.com

January 18, 2012

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
Post Office Box 11330
Columbia, SC 29211

RECEIVED

JAN 19 2012

S.C. SUPREME COURT

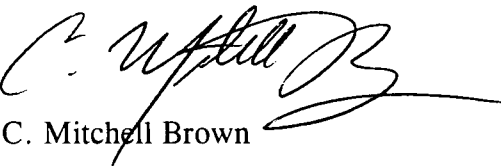
RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Our File No. 29003/05002

Dear Mr. Shearouse:

Pursuant to the Court's notice dated January 11, 2012, please be advised that I am scheduled to attend our Firm's Executive Committee Management meeting on March 21, 2012. Therefore, I would appreciate the oral argument for this case being set for one of the other dates specified in the Court's letter. Thank you for your consideration.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw

cc: Amy L. Gaffney, Esquire
Clayton B. McCullough, Esquire
Trenholm Walker, Esquire

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

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Sue Erwin Harper

Certified Specialist

in Employment & Labor Law

by the South Carolina Supreme Court

Tel: 803.255.5544

Fax: 803.255.9034

corky.harper@nelsonmullins.com

January 3, 2012

Hand Delivered

The Honorable Daniel E. Shearouse
Clerk of Court
South Carolina Supreme Court
1231 Gervais Street
Columbia, SC 29201

RECEIVED

JAN - 3 2012

S.C. Supreme Court

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Our File No. 29003/05002

Dear Mr. Shearouse:

Enclosed for filing please find the original and seven (7) copies of Appellants' Opposition to Respondent's Motion to Dismiss, with Prejudice, Appellant FDIC as Receiver for Atlantic Bank and Trust in the above-referenced matter.

Please return a clocked copy to us via our courier. By copy of this letter we hereby serve all counsel of record.

Thank you for your assistance in this matter.

Very truly yours,

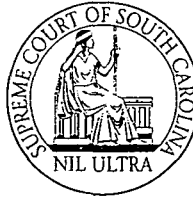


Sue Erwin Harper

SEH:dh8

Enclosures

cc: Clayton B. McCullough
Amy L. Gaffney



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

January 11, 2012

Amy Lohr Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Dr., Ste. 109
Columbia, SC 29204

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley & Scarborough
P. O. Box 11070
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Richard A. Farrier, Esquire
Nelson Mullins Riley & Scarborough
P.O. Box 1806
Charleston, SC 29402

Clayton B. McCullough, Esquire
McCullough Kahn, LLC
68 1/2 Queen Street
Charleston, SC 29401

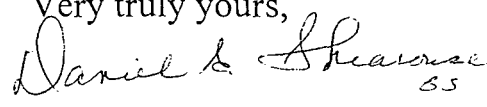
Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

When the roster for the February 2012 term of Court was prepared, the above referenced case was not scheduled. Our records indicate that you are counsel of record in this case.

Landers, Christopher v. Atlantic Bank
Page Two
January 11, 2012

This case will be placed on the March 2012 Preliminary List of Cases. Court will meet the days of March 6, 7, 8, 20 and 21.

Very truly yours,

CLERK

DES/dmh



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 28, 2011

Clayton B. McCullough, Esquire
McCullough Kahn, LLC
68 1/2 Queen Street
Charleston, SC 29401

Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

This will acknowledge receipt of your Respondent's Motion to Dismiss, with Prejudice, Appellant Atlantic Bank and Trust by and through the FDIC only in the above entitled matter.

By copy of this letter, opposing counsel is requested to file an original and six (6) copies of a return to this motion no later than January 3, 2012, pursuant to Rule 240(e). Upon receipt of the return, the matter will be taken under consideration and you will be notified as soon as action has been taken.

The time limits for perfecting the appeal will be held in abeyance pending the Court's decision.

Very truly yours,

Brenda F. Shealy
CHIEF DEPUTY CLERK

DES/lda

cc: Amy Lohr Gaffney, Esquire
C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier, Esquire



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Richard A. Farrier, Esquire
From: Daniel E. Shearouse
Date: December 12, 2011
RE: February Preliminary List

Pursuant to the provisions of Rule 216 of the South Carolina Appellate Court Rules, this is to advise that the following case(s) will probably be reached for hearing at the February 2012 term of the South Carolina Supreme Court. Our records indicate that you are counsel of record in one or more of these case(s).

Court will meet the days of February 7, 8, 9, 22 and 23. Please notify this office in writing prior to December 20, 2011 as to any scheduling conflicts for the February term, and any changes or additions of counsel that should be made to the record for the purpose of argument. If you do have a scheduling conflict, please advise as to the specific nature of the conflict.

Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Clayton B. McCullough, Esquire
From: Daniel E. Shearouse
Date: December 12, 2011
RE: February Preliminary List

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Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

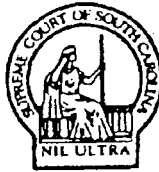
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

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Sue Erwin Harper, Esquire
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Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

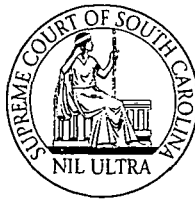
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

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From: Daniel E. Shearouse
Date: December 12, 2011
RE: February Preliminary List

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Landers, Christopher v. Atlantic Bank



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

December 7, 2011

Amy Lohr Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Dr., Ste. 109
Columbia, SC 29204

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley & Scarborough
P. O. Box 11070
Columbia, SC 29211

Richard A. Farrier, Esquire
Nelson Mullins Riley & Scarborough
P.O. Box 1806
Charleston, SC 29402

Clayton B. McCullough, Esquire
McCullough Kahn, LLC
68 1/2 Queen Street
Charleston, SC 29401

Re: Landers, Christopher v. Atlantic Bank

Dear Counsel:

When the roster for the January 2012 term of Court was prepared, the above referenced case was not scheduled. Our records indicate that you are counsel of record in this case.

Landers, Christopher v. Atlantic Bank

Page Two

December 7, 2011

This case will be placed on the February 2012 Preliminary List of Cases. Court will meet the days of February 7, 8, 9, 22 and 23.

Very truly yours,

A handwritten signature in black ink, consisting of a large, stylized 'D' followed by a series of loops and a long horizontal stroke extending to the right.

CLERK

DES/dmh

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9025

www.nelsonmullins.com

C. Mitchell Brown

Tel: 803.255.9595

Fax: 803.255.9025

mitch.brown@nelsonmullins.com

November 22, 2011

Hand Delivered

The Honorable Daniel E. Shearouse

Clerk of Court

South Carolina Supreme Court

1231 Gervais Street

Columbia, SC 29201

RECEIVED

NOV 22 2011

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

S.C. Supreme Court

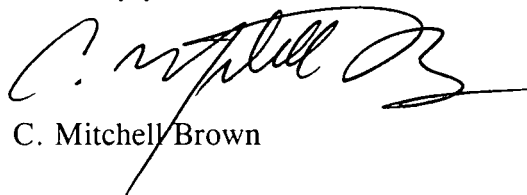
Dear Mr. Shearouse:

I am in receipt of the Court's notice that this case could be called for oral argument during the January 2012 term. As I was traveling last week, I missed the November 18th deadline for responding to your request. Please accept my sincere apology for this late response.

I respectfully request protection for January 25th and 26th. I am scheduled to be in Charlotte, North Carolina, for meetings and other business on those dates. I have no conflict with January 10th, 11th, or 24th. I sincerely appreciate any consideration the Court can provide for this request.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:m

cc: Clayton B. McCullough, Esquire
Trenholm Walker, Esquire



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

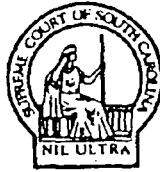
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

To: Clayton B. McCullough, Esquire
From: Daniel E. Shearouse
Date: November 10, 2011
RE: January Preliminary List

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Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
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PHONE NO. 734-1080

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Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
DEPUTY CLERK

P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

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From: Daniel E. Shearouse
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Landers, Christopher v. Atlantic Bank



The South Carolina Supreme Court

DANIEL E. SHEAROUSE
CLERK OF COURT
BRENDA F. SHEALY
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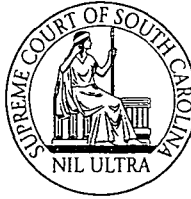
P.O. BOX 11330
COLUMBIA, S.C. 29211
PHONE NO. 734-1080

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Landers, Christopher v. Atlantic Bank



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

November 3, 2011

Amy Lohr Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Dr., Ste. 109
Columbia, SC 29204

Re: Landers, Christopher v. Atlantic Bank

Dear Ms. Gaffney:

The following Order has been endorsed on your Motion to Substitute Real Party in Interest in the above entitled case on appeal.

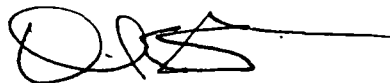
“Granted.

s/ Jean H. Toal C.J.
For the Court

November 3, 2011.”

Please be advised that by copy of this letter we are advising all interested parties of the action by the Court.

Very truly yours,



CLERK

Landers, Christopher v. Atlantic Bank
Page Two
November 3, 2011

DES/lda

cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier, Esquire
Clayton B. McCullough, Esquire

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

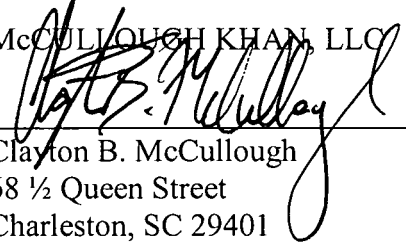
**RESPONDENT'S RESPONSE TO MOTION TO
SUBSTITUTE REAL PARTY IN INTEREST**

Respondent Christopher T. Landers ("Respondent") does not oppose the Motion to Substitute Real Party in Interest filed by the Federal Deposit Insurance Corporation, Receiver of Appellant Atlantic Bank and Trust.

RECEIVED
OCT 21 2011
S.G. SUPREME COURT

Respectfully Submitted,

McCULLOUGH KHAN, LLC


Clayton B. McCullough

68 ½ Queen Street

Charleston, SC 29401

T: 843.937.0400

D: 843.937.0401

clay@mklawsc.com

10-19, 2011
Charleston, SC

Attorneys for Respondent

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

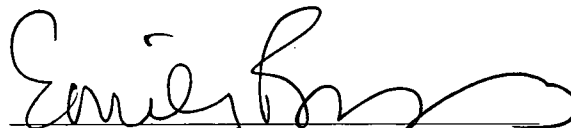
PROOF OF SERVICE

I hereby certify that I served true and correct copies of Respondent Response to Motion to Substitute Real Party in Interest on this 19th day of October, 2011 via United States Mail, postage prepaid, upon the following counsel of record:

C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211

Richard A. Farrier, Esq.
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., 16th Floor
Charleston, SC 29401-2239

Amy L. Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204


Emily Binns, Paralegal

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court Of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No: 2010-CP-10-523

RECEIVED

SEP 06 2011

SC Court of Appeals

Christopher T. Landers, ...

Respondent,

v.

**Federal Deposit Insurance Corporation
as Receiver for Atlantic Bank And Trust,
Atlantic Banc Holdings, Inc.,
and Neal Arnold, ...**

Appellants.

MOTION TO SUBSTITUTE REAL PARTY IN INTEREST

COMES NOW the Federal Deposit Insurance Corporation, as Receiver of Atlantic Bank and Trust, (hereinafter "Receiver"), and respectfully represents to the Court that it is the real party in interest in the above captioned lawsuit, as contemplated by Rule 17 S.C.R.Civ.P. and moves the Court to substitute the Receiver in the place and stead of Atlantic Bank and Trust.

In support of its Motion, the Receiver would show the Court as follows:

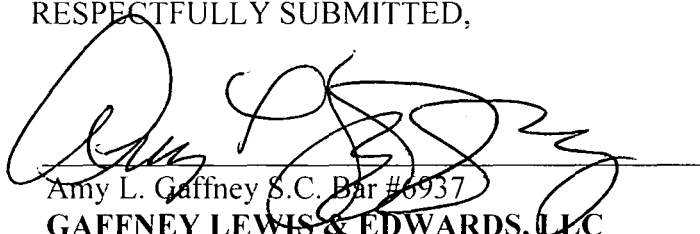
1. Atlantic Bank and Trust was a federal savings bank duly authorized to operate under the laws of the State of South Carolina.
2. On June 3, 2011, the Office of Thrift Supervision took possession of the business and property of Atlantic Bank and Trust, and appointed the FDIC as its receiver as evidenced by

the Notice of Appointment of Receiver, attached hereto as Exhibit A. The FDIC accepted the appointment as receiver pursuant to 12 U.S.C. § 1821(c)(3)(A) on June 3, 2011, as evidenced by the Letter of Acceptance, attached hereto as Exhibit B.

3. The FDIC, as Receiver for Atlantic Bank and Trust and its divisions, has succeeded to all rights, titles, and powers and privileges of Atlantic Bank and Trust pursuant to 12 U.S.C. § 1821 (c)(3)(A).

WHEREFORE, the Receiver hereby intervenes as a party-defendant in the above captioned case, as a matter of right pursuant to Rule 17 S.C.R.Civ.P. and requests that this Court substitute the Receiver in the place and stead of Atlantic Bank & Trust, Charleston, South Carolina.

RESPECTFULLY SUBMITTED,


Amy L. Gaffney S.C. Bar #6937

GAFFNEY LEWIS & EDWARDS, LLC

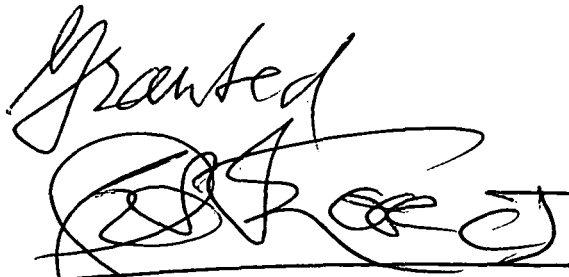
3710 Landmark Drive, Suite 109

Columbia, South Carolina 29204

803.790.8838 (office)

803.790.8841 (fax)

agaffney@glelawfirm.com


Granted

November 3, 2011
Columbia, South Carolina

This 1st day of September, 2011

Attorneys for FEDERAL DEPOSIT INSURANCE
CORPORATION as Receiver for Atlantic Bank &
Trust

“Exhibit A”



Office of Thrift Supervision
Department of the Treasury

Southeast Region

1475 Peachtree Street, N.E., Atlanta, GA 30309 • Telephone: (404) 974-9620
P.O. Box 105217, Atlanta, GA 30348-5217 • Fax: (404) 974-9802

Hand Delivered

June 3, 2011

OTS No. 18016

Atlantic Bank & Trust
152 East Bay Street
Charleston, South Carolina 29401

Re: Notice of Appointment of a Receiver

Dear Sir/Madam:

This is to notify you that the Acting Director, Office of Thrift Supervision, by Order Number 2011-40, dated June 3, 2011, appointed the Federal Deposit Insurance Corporation as receiver (Receiver) for Atlantic Bank & Trust, Charleston, South Carolina (Association), and authorized the undersigned to deliver notice of such appointment.

The Receiver is now taking possession of the Association pursuant to the terms of its appointment as set forth in Order Number 2011-40, a copy of which is attached. In connection with the appointment of the Receiver, we respectfully call your attention to Section 5(d)(4) of the Home Owners' Loan Act, 12 U.S.C. § 1464(d)(4), which establishes criminal penalties for refusal to comply with the Receiver's demand for possession of the property, business and assets of an association in receivership.

Please countersign a copy of this letter and indicate the time and date of your receipt of the letter and attachment in the space provided on the following page and return such copy to me.

Sincerely,

Roddey B. Gettys
Examiner V

Attachment

Notice of Appointment of a Receiver
Atlantic Bank & Trust
June 3, 2011
Page 2

Received by: Neale E. Arnold, CEO
Print Name and Title

At 5:17, P.M., E.D.T., on Friday, June 3, 2011

Signature: Neale Arnold

Accepting Appointment of FDIC as Receiver for Atlantic Bank & Trust, Charleston, South Carolina:

W. STEVEN BLANK, RECEIVER-IN-CHARGE
Print Name and Title

At 5:17, P.M., E.D.T., on Friday, June 3, 2011

Signature: WS Blank

“Exhibit B”



FDIC

Division of Resolutions and Receiverships Jacksonville Temporary Satellite Office

7777 Baymeadows Way W
Jacksonville, Florida 32256

June 3, 2011

John E. Bowman, Acting Director
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

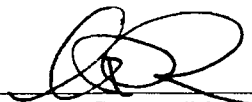
**Subject: Atlantic Bank and Trust
Charleston, South Carolina – In Receivership
Acceptance of Appointment as Receiver**

Dear Sir or Madam:

Please be advised that the Federal Deposit Insurance Corporation accepts its appointment as Receiver of the captioned depository institution, in accordance with the Federal Deposit Insurance Act, as amended.

Sincerely,

FEDERAL DEPOSIT INSURANCE CORPORATION

By: 
Name: W. Steven Black
Title: Receiver-in-Charge

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court Of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No: 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

**Federal Deposit Insurance Corporation
as Receiver for Atlantic Bank And Trust,
Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.**

CERTIFICATE OF SERVICE

I, Terry Gordon, an employee of Gaffney Lewis & Edwards, have this day caused to be served upon the persons named below Federal Deposit Insurance Corporation's Motion to Substitute Real Party in Interest in the above-captioned matter via regular U.S. Mail as follows:

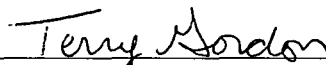
Clayton B. McCullough, Esq.
McCullough ■ Khan, LLC
68 ½ Queen Street
Charleston, SC 29401

Attorney for Plaintiff

Sue Erwin Harper, Esq.
NELSON MULLINS
PO Box 11070
Columbia, SC 29211-1070

Attorney for Atlantic Bank & Trust, Atlantic
Bank Holdings, Inc. and Neal Arnold

Columbia, South Carolina
September 1, 2011


Terry Gordon



GAFFNEY *Attorneys & Counselors at Law*
LEWIS & EDWARDS

3710 Landmark Dr.
Suite 109
Columbia, SC 29204
803.790.8838
Fax: 803.790.8841

Amy L. Gaffney
Regina Hollins Lewis
Susan Rawls Edwards
Lee Ellen Bagley
Mary D. LaFave

agaffney@glelawfirm.com
rlewis@glelawfirm.com
sedwards@glelawfirm.com
lebagley@glelawfirm.com
mlafave@glelawfirm.com

September 1, 2011

Tanya Gee, Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, South Carolina 29211

RE: *Christopher T. Landers v. Atlantic Bank and Trust, et al.*
Case No. 2010-CP-10-0523

Dear Clerk Gee:

Enclosed please find the original and six copies of the Federal Deposit Insurance Corporation's, as Receiver, Motion to Substitute Real Party in Interest in the above-referenced matter. Please file the original and appropriate copies and return a file-stamped copy to our office in the enclosed self-addressed, stamped envelope I am enclosing for your convenience.

As evidenced below, a copy of this Motion to Substitute Real Party in Interest is being forwarded to counsel for the Plaintiff and for Atlantic Bank and Trust, et al.

If you have any questions, please do not hesitate to contact us.

Sincerely,

Terry Gordon
Paralegal for Amy L. Gaffney

/tlg

Enclosures: as stated

cc: Clayton B. McCullough, Esq. (w/ encls.)
Sue Erwin Harper, Esq. (w/ encls.)

RECEIVED
SEP 06 2011
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED

OCT 28 2011

S.C. Supreme Court

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

**RESPONSE OF APPELLANTS
ATLANTIC BANC HOLDINGS, INC. AND NEAL ARNOLD
TO MOTION TO SUBSTITUTE REAL PARTY IN INTEREST**

RECEIVED
OCT 14 2011
SC Court of Appeals

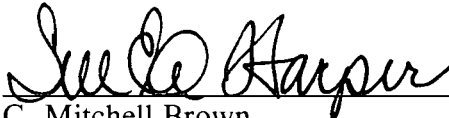
C. Mitchell Brown
Sue Erwin Harper
NELSON MULLINS RILEY & SCARBOROUGH LLP
Post Office Box 11070
Columbia, SC 29211
(803) 799-2000

Richard A. Farrier
NELSON MULLINS RILEY & SCARBOROUGH LLP
151 Meeting Street/6th Floor
Charleston, SC 29401-2239
(843) 853-5200

Attorneys for Appellants, Atlantic Bank and Trust, Atlantic
Banc Holdings, Inc. and Neal Arnold

Appellants Atlantic Banc Holdings, Inc. and Neal Arnold do not oppose the Motion to Substitute Real Party in Interest filed by the Federal Deposit Insurance Corporation, Receiver of Appellant Atlantic Bank and Trust. Appellants Atlantic Banc Holdings, Inc. and Neal Arnold will continue to be represented by the undersigned counsel.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 
C. Mitchell Brown
Sue Erwin Harper
1320 Main Street / 17th Floor
Post Office Box 11070 (29211)
Columbia, SC 29201
(803) 799-2000

Richard A. Farrier
NELSON MULLINS RILEY & SCARBOROUGH LLP
151 Meeting Street/6th Floor
Charleston, SC 29401-2239
(843) 853-5200

*Attorneys for Appellants Atlantic Banc Holdings, Inc. and
Neal Arnold*

Dated: October 14, 2011

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

**Response of Appellants Atlantic Banc Holdings, Inc.
and Neal Arnold to Motion to Substitute Real Party in
Interest**

Counsel Served:

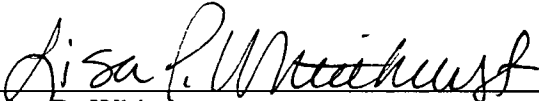
Clayton B. McCullough, Esquire
McCullough Khan LLC
68½ Queen Street
Charleston, SC 29401

RECEIVED

OCT 14 2011

SC Court of Appeals

Amy L. Gaffney, Esquire
Gaffney Lewis & Edwards LLC
3710 Landmark Drive Ste 109
Columbia, SC 29204



Lisa P. Whitehurst
Administrative Assistant

October 14, 2011

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9034

www.nelsonmullins.com

Sue Erwin Harper

Certified Specialist

in Employment & Labor Law

by the South Carolina Supreme Court

Tel: 803.255.5544

Fax: 803.255.9034

corky.harper@nelsonmullins.com

RECEIVED

October 14, 2011

OCT 28 2011

S.C. Supreme Court

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RECEIVED

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

OCT 14 2011

SC Court of Appeals

Dear Ms. Gee:

Enclosed please find the original and seven copies of the Response of Appellants Atlantic Banc Holdings, Inc. and Neal Arnold to Motion to Substitute Real Party in Interest in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier.

By copy of this letter to counsel of record, we are serving them with a copy of this response.

Very truly yours,



Sue Erwin Harper

SEH:lpw

Enclosures

cc: Clayton B. McCullough, Esquire
Amy L. Gaffney, Esquire

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

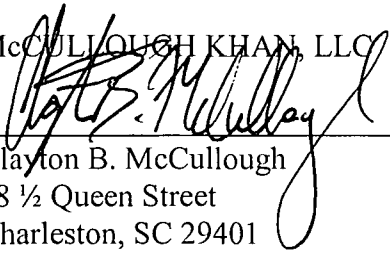
The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

**RESPONDENT'S RESPONSE TO MOTION TO
SUBSTITUTE REAL PARTY IN INTEREST**

Respondent Christopher T. Landers ("Respondent") does not oppose the Motion to Substitute Real Party in Interest filed by the Federal Deposit Insurance Corporation, Receiver of Appellant Atlantic Bank and Trust.

Respectfully Submitted,

McCULLOUGH KHAN, LLC



Clayton B. McCullough

68 ½ Queen Street

Charleston, SC 29401

T: 843.937.0400

D: 843.937.0401

clay@mklawsc.com

10-19, 2011
Charleston, SC

Attorneys for Respondent

THE SUPREME COURT OF SOUTH CAROLINA

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

The Honorable J.C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

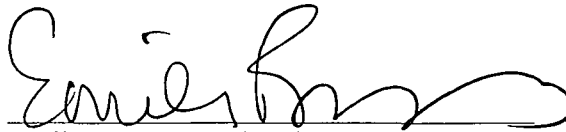
PROOF OF SERVICE

I hereby certify that I served true and correct copies of Respondent Response to Motion to Substitute Real Party in Interest on this 19th day of October, 2011 via United States Mail, postage prepaid, upon the following counsel of record:

C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211

Richard A. Farrier, Esq.
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., 16th Floor
Charleston, SC 29401-2239

Amy L. Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Drive, Suite 109
Columbia, SC 29204



Emily Binns, Paralegal



RECEIVED

OCT 21 2011

S.C. SUPREME COURT
October 19, 2011

Emily A. Binns
Direct: 843.937.0400
Email: emily@mklawsc.com

Debbie Hopkins
Supreme Court of South Carolina
P.O. Box 11330
Columbia, SC 29211

Re: Christopher T. Landers v. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.
and Neal Arnold
C.A. No. 2010-CP-10-00523
Our File No.: 1011.001

Dear Debbie:

Enclosed please find the original and seven (7) copies of the Respondent's Response to Motion to Substitute Real Party in Interest in the above-entitled matter. Please return one filed-stamped copy to our office in the self-addressed, stamped envelope provided.

If you have any questions, please feel free to contact me.

With kind regards,

Sincerely,

McCULLOUGH KHAN, LLC



Emily A. Binns, Paralegal

/eab

Enclosure – as stated above

cc: C. Mitchell Brown, Esquire
Richard A. Farrier, Esquire
Amy L. Gaffney, Esquire



Emily A. Binns
Direct: 843.937.0400
Email: emily@mklawsc.com

October 13, 2011

Debbie Hopkins
SC Supreme Court
Post Office Box 11330
Columbia, SC 29211

Re: Christopher T. Landers v. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.
and Neal Arnold
Trial Court Case No.: 2010-CP-10-00523
Our File No.: 1011.001

Dear Debbie:

Pursuant to your request, please find enclosed labels to affix to the Briefs and Record on Appeal referencing our new contact information in the above-entitled matter.

If you have any questions, please feel free to contact me.

With kind regards,

Sincerely,

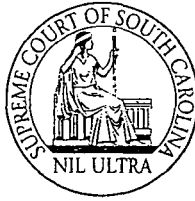
McCULLOUGH KHAN, LLC

Emily A. Binns, Paralegal

/eab

Enclosure – as stated above

RECEIVED
OCT 17 2011
S.C. SUPREME COURT



The Supreme Court of South Carolina

DANIEL E. SHEAROUSE
CLERK OF COURT

BRENDA F. SHEALY
CHIEF DEPUTY CLERK

POST OFFICE BOX 11330
COLUMBIA, SOUTH CAROLINA 29211

(803) 734-1080

FAX (803) 734-1499

October 14, 2011

Amy Lohr Gaffney, Esquire
Gaffney Lewis & Edwards, LLC
3710 Landmark Dr., Ste. 109
Columbia, SC 29204

Re: Landers, Christopher v. Atlantic Bank

Dear Ms. Gaffney:

This will acknowledge receipt of your Motion to Substitute Real Party in Interest in the above entitled matter.

By copy of this letter, all counsel of record are requested to file an original and six (6) copies of a return to this motion no later than October 24, 2011, pursuant to Rule 240(e). Upon receipt of the returns, the matter will be taken under consideration and you will be notified as soon as action has been taken.

Very truly yours,

CHIEF DEPUTY CLERK

BFS/dmh

cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier, Esquire
Clayton B. McCullough, Esquire

The Supreme Court of South Carolina

Christopher T. Landers, Respondent,

v.

Atlantic Bank and Trust,
Atlantic Banc Holdings, Inc.,
and Neal Arnold, Appellants.

The Honorable J. C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

ORDER

Pursuant to Rule 204(b) of the South Carolina Appellate Court Rules, this appeal is hereby certified for review by the South Carolina Supreme Court. Upon receipt of this order, the Court of Appeals is hereby directed to forward the case file, all records and briefs and any exhibits on file to this Court.

IT IS SO ORDERED.


C.J.
FOR THE COURT

Columbia, South Carolina

October 4, 2011

cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier, Esquire
Clayton B. McCullough, Esquire
G. Trenholm Walker, Esquire
Daniel S. McQueeney, Jr., Esquire
The Honorable Tanya Gee

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-0523

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

RESPONDENT'S NOTICE OF APPEARANCE AND SUBSTITUTION OF COUNSEL

PLEASE TAKE NOTICE that the undersigned counsel, Clayton B. McCullough, Esquire of McCullough Khan, LLC hereby makes this appearance on behalf of the Respondent and is hereby substituted for the existing counsel of record for the Respondent, Pratt-Thomas Walker P.A. on behalf of Respondent. Please direct all future pleadings, motions, notices, correspondence, and other communications herein to the law firm of McCullough Khan, LLC at the address and contact information provided herein.

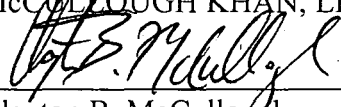
Pratt-Thomas Walker, P.A. and Respondent hereby consents to this substitution.

PRATT-THOMAS WALKER, P.A.

McCULLOUGH KHAN, LLC


G. Trenholm Walker
Post Office Drawer 22247
Charleston, SC 29413-2247
Telephone: 843.727.2200
gtw@p-tw.com

7-29-11, 2011
Charleston, South Carolina
Former Attorneys for Respondent


Clayton B. McCullough
68 1/2 Queen Street
Charleston, SC 29401
Telephone: 843-937-0400
clay@mklawsc.com

7-28-11, 2011
Charleston, South Carolina
Appearing Counsel for Respon

SC Court of Appeals

AUG 03 2011

RECEIVED

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-0523

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

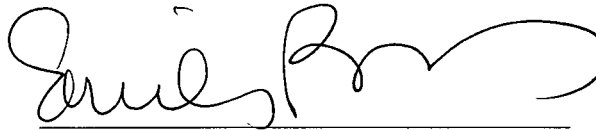
Appellants.

PROOF OF SERVICE

I hereby certify that I served true and correct copies of Respondent's Notice of Appearance on this 2nd day of August, 2011 via United States Mail, postage prepaid, upon the following counsel of record:

C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211

Richard A. Farrier, Esq.
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., 16th Floor
Charleston, SC 29401-2239



Emily Binns
Paralegal to Clayton B. McCullough

SC Court of Appeals

AUG 03 2011

RECEIVED



Emily Binns
Direct: 843.937.0400
Email: emily@mklawsc.com

August 2, 2011

The Honorable Tanya A. Gee
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Christopher T. Landers vs. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.
and Neal Arnold
C/A No.: 2010-CP-10-0523

Dear Mrs. Gee:

Enclosed please find the original and one (1) copy of the Notice of Appearance and Substitution of Counsel in the above-entitled matter. Please file the original and return a clocked copy to me in the self-addressed, stamped envelope provided.

If you have any questions, please feel free to contact me.

With kind regards,

Sincerely,

McCULLOUGH KHAN, LLC

Emily A. Binns
Paralegal

/eab

Enclosure – as stated above

cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier, Esquire
Christopher T. Landers

RECEIVED
AUG 03 2011
SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

June 14, 2011

Clayton B. McCullough, Esquire
Trenholm Walker, Esquire
Daniel S. McQueeney, Jr., Esquire
Pratt-Thomas & Walker, PA
P O Drawer 22247
Charleston, SC 29413-2247

Re: Landers, Christopher v. Atlantic Bank
2010172726

Dear Counsel:

The following Order has been endorsed on your Motion for Extension in the above entitled case on appeal.

"Granted.

John Cannon Few C.J.
For the Court

By s/ Tanya A. Gee
Clerk

June 14, 2011 ."

Please be advised that the Record on Appeal and all Final Briefs will be submitted for the Court's consideration.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
MAY 26 2011
SC Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-0523

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

**RESPONDENT'S MOTION FOR EXTENSION OF DEADLINE TO FILE AND SERVE
FINAL BRIEF**

Respondent Christopher T. Landers ("Respondent") hereby moves this Court to extend, from May 19, 2011 to May 25, 2011, the deadline in which to file and serve his Final Brief. "The time prescribed by [the South Carolina Appellate Court Rules] for performing any act except the time for serving the notice of appeal . . . may be extended or shortened by the appellate court, or by any judge or justice thereof." Rule 263(b), SCACR. Moreover, rules of procedure should be liberally construed to due substantial justice between the parties. Spence v. Spence, 368 S.C. 106, 129, 628 S.E.2d 869, 881 (2006).

In this case, the Record on Appeal was served on April 29, 2011. As a result, Respondent's Final Brief was due on May 19, 2011. Due to a miscommunication, the undersigned counsel did not receive actual notice that the Record on Appeal had been received until after the May 19, 2011 deadline. Upon learning the Record had been received, the

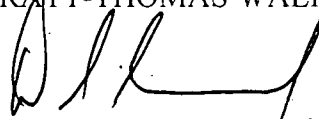
5-19-11 1st motion
5-25-11

undersigned counsel immediately finalized the Final Brief for service and filing with this motion.
As a result, the Final Brief is being filed and served simultaneously herewith.

Based on the foregoing and to do substantial justice between the parties, Respondent would respectfully request the Court of Appeals grant an extension allowing Respondent to serve and file his Final Brief on May 25, 2011 or such other date as the Court may Order upon consideration of this motion.

Respectfully Submitted,

PRATT-THOMAS WALKER, PA



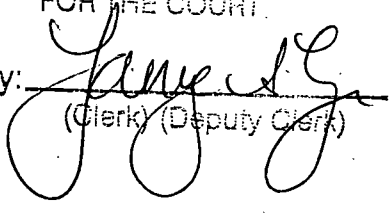
Daniel S. McQueeney, Jr. (S.C. Bar #6802)
P.O. Drawer 22247 (29413-2247)
16 Charlotte Street
Charleston, SC 29403
Phone: (843) 727-2256
Email: dsm@p-tw.com
Attorneys for Respondent

May 25, 2011
Charleston, South Carolina

GRANTED

JOHN CANNON FEW, C.J.
FOR THE COURT

By:



(Clerk) (Deputy Clerk)

FILED

6/14/11

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-0523

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

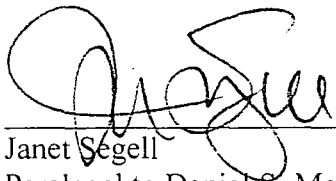
Appellants.

PROOF OF SERVICE

I hereby certify that I served true and correct copies of Respondent's Motion for Extension of Deadline to File and Serve Final Brief and Respondent's Final Brief on this 25th day of May, 2011 via United States Mail, postage prepaid, upon the following counsel of record:

C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211

Richard A. Farrier, Esq.
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., 16th Floor
Charleston, SC 29401-2239



Janet Segell
Paralegal to Daniel S. McQueeney, Jr.

PROFESSIONAL ASSOCIATION

16 CHARLOTTE STREET
CHARLESTON, SC 29403

PO DRAWER 22247
CHARLESTON, SC 29413-2247

PHONE: 843.727.2200
FAX: 843.727.2238

WWW.P-TW.COM

May 25, 2011

(843) 727-2247 (direct dial)
(843) 579-4811 (fax)
js@p-tw.com (e-mail)

E. DOUGLAS PRATT-THOMAS
G. TRENHOLM WALKER
W. ANDREW GOWDER, JR.
JON L. AUSTEN
LINDSAY K. SMITH-YANCEY (SC, NC)
CLAYTON B. McCULLOUGH
THOMAS H. HESSE (SC, GA)
IAN W. FREEMAN (SC, CA)
FRANCIS M. ERVIN II (SC, MA)
DANIEL S. McQUEENEY, JR.
JAMIE A. KHAN
KATHLEEN FOWLER MONOC

The Honorable Tanya A. Gee
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RE: Landers v. Atlantic Bank and Trust, et al.

Dear Ms. Gee:

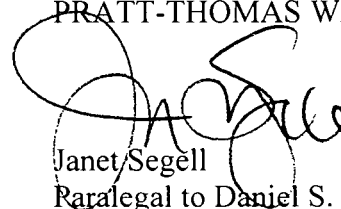
Please find enclosed an original and 15 copies of Respondent's Motion for Extension of Deadline to File and Serve [His] Final Brief in the above-referenced matter. I have also enclosed our firm's check in the amount of \$25 to cover the filing fee.

In anticipation of the Court's granting said motion, I have also enclosed an original and 15 copies of Respondent's Final Brief. As evidenced by the enclosed Proof of Service, I am serving all counsel of record with copies of the motion and the brief.

Thank you for your assistance in this regard.

Very truly yours,

PRATT-THOMAS WALKER, P.A.



Janet Segell
Paralegal to Daniel S. McQueeney, Jr.

js
enclosures

c: C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Richard A. Farrier, Esq.

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9034
www.nelsonmullins.com

Sue Erwin Harper
Certified Specialist
in Employment & Labor Law
by the South Carolina Supreme Court
Tel: 803.255.5544
Fax: 803.255.9034
corky.harper@nelsonmullins.com

May 19, 2011

VIA HAND-DELIVERY

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

RECEIVED
MAY 19 2011
SC COURT OF APPEALS

Dear Ms. Gee:

Enclosed for filing please find the original and 16 copies of:

1. Final Brief of Appellant;
2. Final Reply Brief of Appellant; and
3. Record on Appeal.

We would ask that you file the originals and return clocked-in copies to us via our courier.

By copy of this letter to counsel of record, we are serving them with a copy of the Final Brief of Appellant and Final Reply Brief of Appellant. The Record on Appeal was previously served on counsel of record on April 29, 2011.

Very truly yours,


Sue Erwin Harper

SEH:vk
Enclosures

cc: Clayton B. McCullough, Esquire (w/enclosures)
Trenholm Walker, Esquire (w/enclosures)

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9034
www.nelsonmullins.com

Sue Erwin Harper
Certified Specialist
in Employment & Labor Law
by the South Carolina Supreme Court
Tel: 803.255.5544
Fax: 803.255.9034
corky.harper@nelsonmullins.com

April 29, 2011

VIA HAND-DELIVERY

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street – 5th Floor
Columbia, SC 29201

RECEIVED

APR 29 2011

SC Court of Appeals

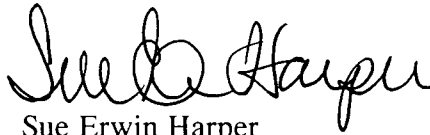
RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

Dear Ms. Gee:

Enclosed please find the original and one copy of the Proof of Service of the Record on Appeal in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier.

By copy of this letter to counsel for Respondent, we are serving them a copy of the Record on Appeal, together with a copy of the Proof of Service.

Very truly yours,



Sue Erwin Harper

SEH:vk
Enclosures

cc: Clayton B. McCullough, Esquire (w/enclosure)
Trenholm Walker, Esquire (w/enclosure)

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED
APR 01 2011
SC COURT OF APPEALS

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

APPELLANTS' AMENDED DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Appellants Atlantic Bank and Trust, Atlantic Banc Holdings, Inc., and Neal Arnold ("Appellants") designate the following material for inclusion in the record on appeal. Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to the appeal:

ORDER

1. Order Regarding Appellants' Motion to Compel Arbitration and to Dismiss or Stay, entered September 7, 2010, filed September 8, 2010;

PLEADINGS

2. Summons and Complaint, with exhibits, filed January 21, 2010;
3. Amended Summons and Amended Complaint filed March 1, 2010;
4. Second Amended Summons and Second Amended Complaint filed June 11, 2010

5. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Answer to Second Amended Complaint filed July 16, 2010;

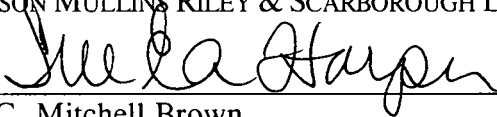
TRANSCRIPT

6. Transcript of Record: June 25, 2010 Motion to Compel Hearing;

MISCELLANEOUS AND OTHER MOTIONS:

7. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Motion to Compel Arbitration and to Dismiss or Stay filed January 22, 2010;
8. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Motion to Strike Amended Answer, to Compel Arbitration, and to Dismiss or Stay all Proceedings, including Discovery, with exhibit, filed March 22, 2010;
9. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Memorandum in Support of Motion to Compel Arbitration, and to Dismiss or Stay filed June 25, 2010;
10. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Notice of Appeal of Judge Nicholson's September 7, 2010 Order filed September 23, 2010.
11. Landers letter dated December 18, 2009.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 

C. Mitchell Brown
Sue Erwin Harper
Post Office Box 11070
Columbia, SC 29211
(803) 799-2000

Richard A. Farrier
NELSON MULLINS RILEY & SCARBOROUGH LLP
151 Meeting Street/6th Floor
Charleston, SC 29401-2239
(843) 853-5200

Attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold

April 1, 2011

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

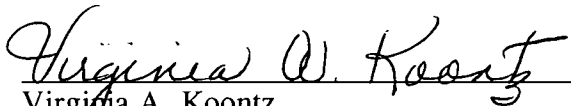
I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

**Appellants' Amended Designation Of Matter To
Be Included In The Record On Appeal**

Counsel Served:

Clayton B. McCullough
Trenholm Walker
Pratt-Thomas Walker, PA
P.O. Drawer 22247
Charleston, SC 29413-2247



Virginia A. Koontz
Administrative Assistant

April 1, 2011

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law
1320 Main Street / 17th Floor / Columbia, SC 29201
Tel: 803.799.2000 Fax: 803.255.9034
www.nelsonmullins.com

Sue Erwin Harper
Certified Specialist
in Employment & Labor Law
by the South Carolina Supreme Court
Tel: 803.255.5544
Fax: 803.255.9034
corky.harper@nelsonmullins.com

April 1, 2011

VIA HAND-DELIVERY

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

Dear Ms. Gee:

Enclosed please find the original and one copy each of the Initial Reply Brief of Appellants and Appellants' Amended Designation of Matter to be Included in the Record on Appeal in regard to the above-referenced matter. We would ask that you file the originals and return clocked-in copies to us via our courier.

By copy of this letter to counsel of record, we are serving them with copies of these pleadings.

Very truly yours,



Sue Erwin Harper

SEH:vk
Enclosures

cc: Clayton B. McCullough, Esquire (w/enclosure)
Trenholm Walker, Esquire (w/enclosure)

RECEIVED
APR 01 2011
SC Court of Appeals



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
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March 23, 2011

C. Mitchell Brown, Esquire
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& Scarborough
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Columbia, SC 29211

Richard A. Farrier
Nelson Mullins Riley
& Scarborough LLP
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Charleston, SC 29401-2239

Clayton B. McCullough, Esquire
Trenholm Walker, Esquire
Daniel S. McQueeney, Jr., Esquire
Pratt-Thomas & Walker, PA
P O Drawer 22247
Charleston, SC 29413-2247

Re: Landers, Christopher v. Atlantic Bank
2010172726

Dear Counsel:

All parties are advised that the originals of all records on appeal and final briefs filed with the appellate courts are scanned. Therefore, in accordance with the May 1, 2008 Amendments to the South Carolina Appellate Court Rules, DO NOT staple, spiral bind, velobind, or otherwise permanently bind the ORIGINALS of these documents. The original brief(s) and record on appeal should still have front and back covers in compliance with Rule 267(e) of the South Carolina Appellate Court Rules, but should not be bound. You may secure the originals with paper clips, binder clips, rubber bands, by placing them in large envelopes, or by any other similar means that will keep the pages together without binding or hole-punching. All COPIES of the record on appeal and final briefs should be bound as specified in the South Carolina Appellate Court Rules.

If you have any questions, please do not hesitate to contact this office.

Very truly yours,

V. Claire Allen, Deputy
CLERK

TAG/laf

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-0523

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Appellants.

RESPONDENT CHRISTOPHER T. LANDERS'S DESIGNATION OF MATTER
TO BE INCLUDED IN THE RECORD ON APPEAL

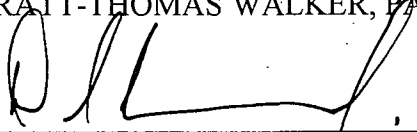
Respondent Christopher T. Landers ("Respondent") proposes the following be included in the Record on Appeal:

1. Plt.'s Compl. filed January 21, 2010 (with exhibits attached thereto);
2. Defs.' Mot. to Compel Arbitration filed January 22, 2010;
3. Plt.'s Am. Compl. filed March 1, 2010;
4. Defs.' Mot. to Strike filed March 22, 2010;
5. Plt.'s Second Am. Compl. filed June 11, 2010;
6. Defs.' Answer to Am. Compl. filed July 16, 2010;
7. Order filed Sept. 8, 2010;
8. Defs.' Notice of Appeal filed Sept. 23, 2010.

I certify that this designation contains no matter which is irrelevant to this appeal.

[signature on following page]

PRATT-THOMAS WALKER, PA



Clayton B. McCullough (S.C. Bar #137222)

G. Trenholm Walker (S.C. Bar #5777)

Daniel S. McQueeney, Jr. (S.C. Bar #6802)

P.O. Drawer 22247 (29413-2247)

16 Charlotte Street

Charleston, SC 29403

Phone: (843) 727-2200

Email: cbm@p-tw.com

March 2, 2011

Charleston, South Carolina

IN THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-0523

Christopher T. Landers,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold,

Respondent,
RECEIVED
MAR 03 2011
Appellants
SC Court of Appeals

PROOF OF SERVICE

I hereby certify that I served true and correct copies of Respondent's Initial Brief and Designation of Matter on this 3rd day of March, 2011 via United States Mail, postage prepaid, upon the following counsel of record:

C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Nelson Mullins Riley & Scarborough
P.O. Box 11070
Columbia, SC 29211

Richard A. Farrier, Esq.
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., 16th Floor
Charleston, SC 29401-2239



Janet Segall
Paralegal to Daniel S. McQueeney, Jr.

16 CHARLOTTE STREET
CHARLESTON, SC 29403

PO DRAWER 22247
CHARLESTON, SC 29413-2247

PHONE: 843.727.2200
FAX: 843.727.2238

WWW.P-TW.COM

E. DOUGLAS PRATT-THOMAS

G. TRENHOLM WALKER

W. ANDREW GOWDER, JR.

JON L. AUSTEN

LINDSAY K. SMITH-YANCEY (SC, NC)

CLAYTON B. McCULLOUGH

THOMAS H. HESSE (SC, GA)

IAN W. FREEMAN (SC, CA)

FRANCIS M. ERVIN II (SC, MA)

DANIEL S. McQUEENEY, JR.

JAMIE A. KHAN

KATHLEEN FOWLER MONOC

March 2, 2011

(843) 727-2247 (direct dial)
(843) 579-4811 (fax)
js@p-tw.com (e-mail)

The Honorable Tanya A. Gee
Clerk of Court
South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
MAR 03 2011
SC Court of Appeals

RE: Landers v. Atlantic Bank and Trust, et al.

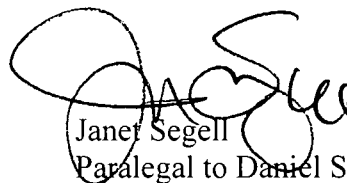
Dear Ms. Gee:

Please find enclosed Respondent's Initial Brief and Designation of Matter in the above-referenced case. As evidenced by the enclosed Proof of Service, I am serving Appellants' counsel of record with copies of same.

Thank you for your assistance.

Very truly yours,

PRATT-THOMAS WALKER, P.A.



Janet Segell
Paralegal to Daniel S. McQueeney, Jr.

:jas
enclosures

c: C. Mitchell Brown, Esq.
Sue Erwin Harper, Esq.
Richard A. Farrier, Esq.

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED
JAN 06 2011
SC Court of Appeals

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

APPELLANTS' DESIGNATION OF MATTER TO BE INCLUDED
IN THE RECORD ON APPEAL

Pursuant to Rule 209, SCACR, Appellants Atlantic Bank and Trust, Atlantic Banc Holdings, Inc., and Neal Arnold ("Appellants") designate the following material for inclusion in the record on appeal. Undersigned counsel certifies, pursuant to Rule 209(c), SCACR, that the designation contains no matter which is irrelevant to the appeal:

ORDER

1. Order Regarding Appellants' Motion to Compel Arbitration and to Dismiss or Stay, entered September 7, 2010, filed September 8, 2010;

PLEADINGS

2. Summons and Complaint, with exhibits, filed January 21, 2010;
3. Amended Summons and Amended Complaint filed March 1, 2010;
4. Second Amended Summons and Second Amended Complaint filed June 11, 2010

5. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Answer to Second Amended Complaint filed July 16, 2010;

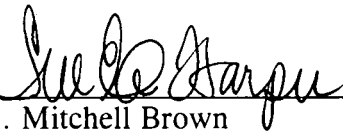
TRANSCRIPT

6. Transcript of Record: June 25, 2010 Motion to Compel Hearing;

MISCELLANEOUS AND OTHER MOTIONS:

7. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Motion to Compel Arbitration and to Dismiss or Stay filed January 22, 2010;
8. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Motion to Strike Amended Answer, to Compel Arbitration, and to Dismiss or Stay all Proceedings, including Discovery, with exhibit, filed March 22, 2010;
9. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Memorandum in Support of Motion to Compel Arbitration, and to Dismiss or Stay filed June 25, 2010;
10. Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold's Notice of Appeal of Judge Nicholson's September 7, 2010 Order filed September 12, 2010.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: 
C. Mitchell Brown
Sue Erwin Harper
Post Office Box 11070
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(803) 799-2000

Richard A. Farrier
NELSON MULLINS RILEY & SCARBOROUGH LLP
151 Meeting Street/6th Floor
Charleston, SC 29401-2239
(843) 853-5200

Attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold

January 4, 2011

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

RECEIVED
JAN 06 2011
SC Court of Appeals

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

**Appellants' Designation of Matter to be Included in the
Record on Appeal**

Counsel Served:

Clayton B. McCullough
Trenholm Walker
Pratt-Thomas Walker, PA
P.O. Drawer 22247
Charleston, SC 29413-2247

Lisa P. Whitehurst

Lisa Whitehurst
Administrative Assistant

January 4, 2010

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

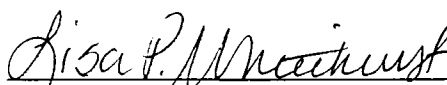
Pleadings:

Initial Brief of Appellants

Counsel Served:

Clayton B. McCullough
Trenholm Walker
Pratt-Thomas Walker, PA
P.O. Drawer 22247
Charleston, SC 29413-2247

RECEIVED
JAN 06 2011
SC COURT OF APPEALS



Lisa Whitehurst
Administrative Assistant

January 4, 2010

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9034

www.nelsonmullins.com

Sue Erwin Harper

Certified Specialist

in Employment & Labor Law

by the South Carolina Supreme Court

Tel: 803.255.5544

Fax: 803.255.9034

corky.harper@nelsonmullins.com

January 4, 2011

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
Post Office Box 11629
Columbia, SC 29211

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

RECEIVED
JAN 06 2011
SC Court of Appeals

Dear Ms. Gee:

Enclosed please find the original and one copy each of the Initial Brief of Appellants and Appellants' Designation of Matter to be Included in the Record on Appeal in regard to the above-referenced matter. We would ask that you file the originals and return clocked-in copies to us in the envelope provided for your convenience.

By copy of this letter to counsel of record, we are serving them with copies of these pleadings.

Very truly yours,


Sue Erwin Harper

SEH:lpw

Enclosures

cc: Clayton B. McCullough, Esquire
Trenholm Walker, Esquire

The South Carolina Court of Appeals

Christopher T. Landers,

Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc
Holdings, Inc., and Neal Arnold,

Appellants.

The Honorable J. C. Nicholson, Jr.
Charleston County
Trial Court Case No. 2010-CP-10-00523

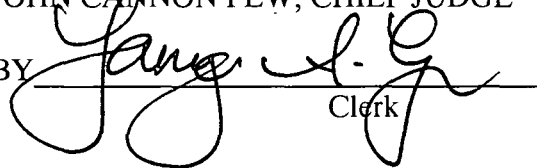
ORDER

Pursuant to a conference call with the parties, the time for filing and serving the Appellants' Initial Brief and Designation of Matter is extended until January 4, 2011, and the Respondent's Initial Brief and Designation of Matter are due on March 4, 2011. Thereafter, the Appellants shall have thirty days to file and serve the Appellants' Initial Reply Brief.

AND IT IS SO ORDERED.

JOHN CANNON FEW, CHIEF JUDGE

BY


Clerk

Columbia, South Carolina

FILED

10/29/10 *Erster*

100-100000

100-100000

100-100000



cc: C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Richard A. Farrier
Clayton B. McCullough, Esquire
Trenholm Walker, Esquire



The South Carolina Court of Appeals

JOHN CANNON FEW
CHIEF JUDGE

JOHN C. CALHOUN BUILDING
POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
TELEPHONE: (803) 734-1890
FAX: (803) 734-2373
E-MAIL: jfew@sccourts.org

October 14, 2010

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Richard A. Farrier
Nelson Mullins Riley
& Scarborough LLP
151 Meeting St./6th Floor
Charleston, SC 29401-2239

Clayton B. McCullough, Esquire
Trenholm Walker, Esquire
Pratt-Thomas & Walker, PA
P O Drawer 22247
Charleston, SC 29413-2247

Re: Landers, Christopher v. Atlantic Bank
2010172726

Dear Counsel:

This letter serves as an Order granting Appellant's request for an extension of time in which to file the Appellant's Initial Brief and Designation of Matter. I have extended the due date until December 3, 2010. I realize that this extension may not give you all the time you need to complete the Appellant's Initial Brief and Designation of Matter. I have set a conference call for 9:30 a.m. on Tuesday, October 26, 2010 to discuss an overall approach to setting due dates for all filings in this appeal. **The Appellant is responsible for initiating the conference call by getting all parties on the phone at the allotted time.** The call should last less than ten minutes. The participants in the call will include counsel for all parties and me. In preparation for the call, please consider the other time commitments you have in the near future so we can discuss a suitable timeframe for all parties to complete their briefs. If the time scheduled for the conference call creates a conflict, please contact the Clerk's Office at 734-1890 with all counsel on the phone. We will reschedule the call to suit you.

I look forward to talking to you on Tuesday, October 26, 2010.

Sincerely yours,

John Cannon Few, by Joseph L. Gen
John Cannon Few Clerk

JCF/laf

FILED

10/20/10 ~~WMA~~

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP

Attorneys and Counselors at Law

1320 Main Street / 17th Floor / Columbia, SC 29201

Tel: 803.799.2000 Fax: 803.255.9025

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C. Mitchell Brown

Tel: 803.255.9595

Fax: 803.255.9025

mitch.brown@nelsonmullins.com

October 14, 2010

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

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OCT 14 2010

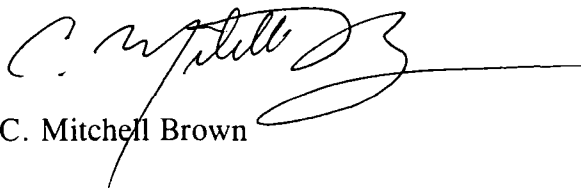
SC Court of Appeals

Dear Ms. Gee:

Due to other deadlines and work obligations, the Appellants, Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold respectfully request a thirty (30) day extension of time to file their initial brief and designation of matter in this matter. This is the first request for an extension of time by the Appellants. Our check for \$25.00 is enclosed as the required motion fee. We thank the Court for its kind consideration of this request.

With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw

Enclosure

cc: Clayton B. McCullough, Esquire
Trenholm Walker, Esquire

11/3/10 1st motion
12/3/10

Nelson Mullins

Nelson Mullins Riley & Scarborough LLP
Attorneys and Counselors at Law
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mitch.brown@nelsonmullins.com

October 4, 2010

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

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OCT 04 2010
SC Court of Appeals

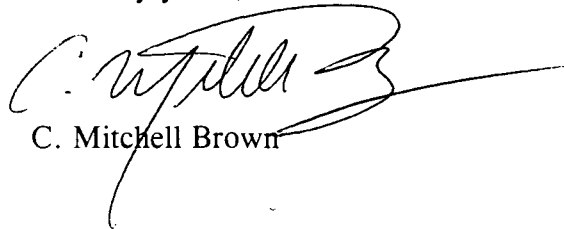
RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
SC Court of Appeals Case Tracking No. 2010172726
Our File No. 29003/05002

Dear Ms. Gee:

Please be advised that we received the transcript in regard to the above-referenced matter today, October 4, 2010. Thus, by our calculations, the appellants' initial brief and designation of matter will be due November 3, 2010.

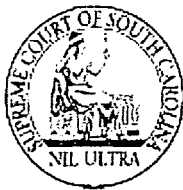
With kind regards, I remain

Sincerely yours,



C. Mitchell Brown

CMB:lpw
cc: Clayton B. McCullough, Esquire
Trenholm Walker, Esquire



The Supreme Court of South Carolina

TITLE OF CASE (Christopher T. Landers
(
(
(
(V. 2010CP1000523
(
(
(
(Atlantic Bank and Trust, et al.
(
(

RECEIVED
SEP 28 2010
SC Court of Appeals

Notice

Upon request and for good cause shown, Brenda Cooley, Court Reporter, is hereby granted an extension up to and including October 10, 2010 to prepare and deliver the Transcript of Record in the above case.

Desiree Allen
Court Services Manager
South Carolina Court Administration

Columbia, South Carolina
09/21/2010

cc: Sue Erwin Harper, Esquire
Clayton B. McCullough, Esquire
Brenda Cooley



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
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September 24, 2010

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Richard A. Farrier
Nelson Mullins Riley
& Scarborough LLP
151 Meeting St./6th Floor
Charleston, SC 29401-2239

Re: Landers, Christopher v. Atlantic Bank
2010172726

Dear Counsel:

We have received your Notice of Appeal in the case noted above. This case will be docketed in the Court of Appeals and all communications concerning this case, including motions and petitions, initial and final briefs, and the Record on Appeal, should be directed to and filed in this Court. For all filings, please note the requirements of Rule 267(a) of the South Carolina Appellate Court Rules, and be further advised that Court of Appeals policy requires the firm name of any counsel shown must be included in his or her address.

We suggest that large parcels such as copies of final briefs and the Record On Appeal be sent directly to the Court via the street address: 1015 Sumter Street, Columbia, S.C. 29201. Thank you for your attention to this. Failure to file in the proper court may result in the dismissal of your appeal.

PLEASE BE ADVISED that, pursuant to Rule 207 of the South Carolina Appellate Court Rules, the transcript must be ordered within ten (10) days of the proof of service of the Notice of Appeal and you must provide this Court, opposing counsel, and the Office of Court Administration with all correspondence regarding the transcript. It is also Appellant's responsibility to make satisfactory arrangements (including agreement regarding payment for the

transcript) with the Court Reporter for furnishing the transcript. You reminded of the notification requirements of Rule 207(a)(5), SCACR. also, please advise the Court in writing upon receipt of the transcript.

NOTE: If you believe this case has been improperly filed in the Court of Appeals, by reason of the limitations set forth in S.C. Code Ann. Section 14-8-200(b)(1998), as amended June 1, 1999, notify the Clerk's office of the Court of Appeals immediately. The cited Code Section prohibits the Court of Appeals from hearing appeals in seven classes of cases:

- 1) any final judgment from the circuit court which includes a sentence of death;
- 2) any final judgment from the circuit court setting public utility rates pursuant to Title 58;
- 3) any final judgment involving a challenge on state or federal grounds to the constitutionality of a state law or county or municipal ordinance where the principal issue is the constitutionality of the law or ordinance;
- 4) any final judgment from the circuit court involving the authorization, issuance, or proposed issuance of general obligation debt, revenue, institutional, industrial, or hospital bonds of the state, its agencies, political subdivisions, public service districts, counties, and municipalities or any other indebtedness now or hereafter authorized by Article X of the Constitution of this state;
- 5) any final judgment from the circuit court pertaining to elections and election procedure;
- 6) any order limiting an investigation by a State Grand Jury under S.C. Code Ann. Section 14-7-1630;
- 7) any order of the family court relating to an abortion by a minor under S.C. Code Ann. Section 44-41-33.

Very truly yours,

V. Claire Allen, Deputy

Tanya A. Gee
CLERK

TAG/laf

cc: Clayton B. McCullough, Esquire
Trenholm Walker, Esquire



The South Carolina Court of Appeals

TANYA A. GEE
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
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September 24, 2010

C. Mitchell Brown, Esquire
Sue Erwin Harper, Esquire
Nelson Mullins Riley
& Scarborough
P O Box 11070
Columbia, SC 29211

Richard A. Farrier
Nelson Mullins Riley
& Scarborough LLP
151 Meeting St./6th Floor
Charleston, SC 29401-2239

Re: Landers, Christopher v. Atlantic Bank
2010172726

Dear Counsel:

This office has received your Notice of Appeal in the above matter. It has been assigned the Case Tracking Number that appears above. Please use this number on all future correspondence relating to this matter.

I do wish to call the attention of the parties to the attached order relating to the inclusion of personal data identifiers and other sensitive information in documents filed with the Supreme Court of South Carolina and the South Carolina Court of Appeals. Please note that the responsibility for insuring that information is redacted or sealed as required by this order rests with counsel and the parties. This office will not review filings for redaction or to determine if materials should be sealed.

Very truly yours,

V. Claire Allen, Deputy

CLERK

TAG/laf

cc: Clayton B. McCullough, Esquire
Trenholm Walker, Esquire

The Supreme Court of South Carolina

RE: Interim Guidance Regarding Personal Data Identifiers and
Other Sensitive Information in Appellate Court Filings

ORDER

Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. Ex parte Capital U-Drive-It, Inc., 369 S.C. 1, 630 S.E.2d 464 (2006); Davis v. Jennings, 304 S.C. 502, 405 S.E.2d 601 (1991). Therefore, with some few exceptions,¹ documents filed with this Court or the South Carolina Court of Appeals (appellate court) are available to the public unless sealed by order of the appellate court in which the matter is pending.

Several commercial vendors have recently requested copies of briefs filed with the appellate courts, and it is anticipated that these and other appellate filings will be available electronically from both private and public sources in the future. The ready availability of these documents raises significant privacy concerns. While this problem is currently under review by the Chief Justice's Task Force on Public Access to Court Records, we adopt the following interim guidance regarding personal data identifiers and other sensitive information in documents filed in the appellate courts.

Parties shall not include, or will partially redact where inclusion is necessary, the following personal data identifiers from documents filed with an appellate court:²

1. Social Security Numbers. If a social security number must be included, only the last four digits of that number should be used.
2. Names of Minor Children. If a minor is the victim of a sexual assault or is involved in an abuse or neglect case, the minor's name will be completely redacted and a term such as "victim" or "child" should be used. In all other cases, only the minor's first name and first initial of the last name (i.e., John S.) should be used.
3. Financial Account Numbers. If financial account numbers are relevant, only the last four digits of these numbers should be used.
4. Home Addresses. If a home address must be included, only the city and state should be used.

Parties wishing to file documents containing the personal data identifiers listed above may file unredacted documents under seal, together with redacted versions for the public file. The sealed unredacted documents shall be filed in a separate Appendix and the bottom of each page of the Appendix shall be marked "Sealed." No order of the appellate court will be required to file this sealed Appendix. The number of copies of the Appendix to be served and filed shall

be the same as that required for the brief, record on appeal, motion or other filing that includes the redacted documents.

If the caption of the case contains any of the personal data identifiers listed above, the parties should file a motion to amend the caption to redact the identifier. This should be done contemporaneously with the filing of the notice of appeal or the commencement of the case with the appellate court. Without a motion to the appellate court, the caption of a juvenile delinquency matter from the family court shall be redacted to only use the juvenile's first name and first letter of the juvenile's last name (i.e., In the Interest of John S., a Juvenile.)

A party seeking to seal material beyond those personal identifiers listed above, must file a motion to seal with the appellate court in which the matter is pending. This is true even if the lower court or administrative tribunal may have issued an order sealing the record. Until the motion is ruled on, the clerk of the appellate court shall treat the material as if it is sealed. Parties and counsel are reminded that the standard established in Ex parte Capital U-Drive-It, Inc. and Davis v. Jennings, supra, must be met before any request to seal all or a portion of a record will be granted. Once sealed by order of an appellate court, the materials will remain sealed before the appellate courts unless otherwise ordered by the appellate court in which the matter is pending.

Parties should exercise caution in including other sensitive personal data in their filings, such as personal identifying numbers, medical records, employment history, individual financial information, proprietary or trade secret information, information regarding an individual's cooperation with the government, information regarding the victim of any criminal activity, or national security information.

Attorneys are expected to discuss this matter with their clients so that an informed decision can be made about the inclusion of sensitive information. The appellate courts and their staff will not review filings for redaction or to determine if materials should be sealed; the responsibility for insuring that information is redacted or sealed rests with counsel and the parties.

IT IS SO ORDERED.

s/Jean H. Toal C.J.

s/James E. Moore J.

s/John H. Waller, Jr. J.

s/E.C. Burnett, III J.

s/Costa M. Pleicones J.

Columbia, South Carolina

August 13, 2007

1 See, e.g., Rule 12 of the Rules for Lawyer Disciplinary Enforcement contained in Rule 413, SCACR; Rule 12 of the Rules for Judicial Disciplinary Enforcement contained in Rule 502, SCACR; Rule 402(n), SCACR; and Rule 403(l), SCACR.

2 This restriction shall not apply when this information is required or requested by the appellate court. For example, the application for admission to practice law under Rule 402, SCACR, requires many of these personal identifiers to be disclosed.

Nelson Mullins

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Attorneys and Counselors at Law

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September 22, 2010

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

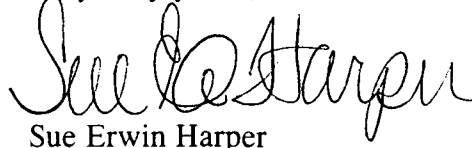
RECEIVED
SEP 22 2010
SC Court of Appeals

RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
Our File No. 29003/05002

Dear Ms. Gee:

Please be advised that the transcript in the above-referenced matter was ordered on July 8, 2010 (see attached letter). We will advise the Court upon receipt of the transcript from the court reporter.

Very truly yours,



Sue Erwin Harper

SEH:lpw

Enclosure

cc: Ms. Brenda Cooley
S.C. Court Administration
Clayton B. McCullough, Esquire
Trenholm Walker, Esquire

Nelson Mullins

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July 8, 2010

Ms. Brenda Cooley
Circuit Court Reporter
Post Office Box 24
Sullivans Island, SC 29482

Re: Transcript of June 25, 2010 Hearing (10:00 a.m.)
Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-10-523
Our File 29003/05002

Dear Ms. Cooley:

I believe you were the court reporter for the June 25 hearing in this case. During that hearing, held at the Charleston County Courthouse before Circuit Judge Nicholson, I argued Defendants' motion to compel arbitration.

We intend to file an appeal, and would appreciate your preparing a transcript of this hearing.

If you require a deposit before you begin your work on the transcript, please let me know and we will be happy to forward a check in the appropriate amount. Thank you for your assistance.

Sincerely yours,



Sue Erwin Harper

SCE/et

PM 9/17/10
POS 9/17/10

RECEIVED
SEP 17 2010
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

NOTICE OF APPEAL

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold (hereinafter "Appellants"), appeal the Order of the Honorable J.C. Nicholson, Jr. dated September 7, 2010 (attached as Exhibit A). Appellants received written notice of entry of this Order on September 14, 2010.

NELSON MULLINS RILEY & SCARBOROUGH LLP

By: Sue Erwin Harper
C. Mitchell Brown
Sue Erwin Harper
Post Office Box 11070
Columbia, SC 29211
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Richard A. Farrier
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Attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold

Sept. 17, 2010

Other Counsel of Record:

Clayton B. McCullough
Trenholm Walker
Pratt-Thomas Walker, PA
Post Office Drawer 22247
Charleston, SC 29413
(843) 727-2243

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

J.C. Nicholson, Jr., Circuit Court Judge

Case No. 2010-CP-10-523

Christopher T. Landers, ... Respondent,

v.

Atlantic Bank and Trust, Atlantic Banc Holdings, Inc.,
and Neal Arnold, ... Appellants.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Atlantic Bank and Trust, Atlantic Banc Holdings, Inc. and Neal Arnold, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

Pleadings:

Notice of Appeal

Counsel Served:

Clayton B. McCullough
Trenholm Walker
Pratt-Thomas Walker, PA
P.O. Drawer 22247
Charleston, SC 29413-2247



Lisa Whitehurst
Administrative Assistant

September 17, 2010

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SEP 17 2010
SC Court of Appeals

Nelson Mullins

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September 17, 2010

The Honorable Tanya A. Gee
Clerk of Court
SC Court of Appeals
1015 Sumter Street - 5th Floor
Columbia, SC 29201

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SEP 17 2010
SC Court of Appeals

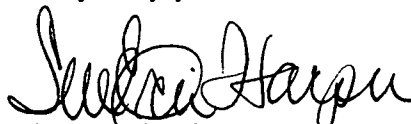
RE: Christopher T. Landers v. Atlantic Bank and Trust, et al.
Civil Action No. 2010-CP-10-523
Policy No. EC03200331
Claim No. F1004629
Our File No. 29003/05002

Dear Ms. Gee:

Enclosed please find the original and one copy of a Notice of Appeal in regard to the above-referenced matter. We would ask that you file the original and return a clocked-in copy to us via our courier. Also enclosed is our Firm check in the amount of \$100.00 as the required filing fee.

By copy of this letter to the lower court and counsel of record, we are serving them with a copy of this notice.

Very truly yours,


Sue Erwin Harper

SEH:lpw

Enclosure

cc: The Honorable Julie J. Armstrong
Clayton B. McCullough, Esquire
Trenholm Walker, Esquire



Exhibit A

STATE OF SOUTH CAROLINA)

COUNTY OF CHARLESTON)

Christopher T. Landers,)

Plaintiff,)

vs.)

Atlantic Bank and Trust, Atlantic Banc
Holdings, Inc. and Neal Arnold,)

Defendant.)

IN THE COURT OF COMMON PLEAS

C/A NO.: 2007-CP-10-523

2010

ORDER

FILED
CLERK OF COURT
2009 SEP -8 PM 9:32

THIS MATTER COMES BEFORE me on Defendants' Motion to Compel Arbitration and to Dismiss or Stay. A hearing was conducted on Defendants' Motion on Friday, June 25, 2010. After reviewing the pleadings, briefs, caselaw, and hearing oral arguments on Defendants' Motion, I find and conclude as follows:

- 1) Plaintiff has filed a Summons and Complaint, an Amended Summons and Complaint, and a Second Amended Summons and Complaint. The Second Amended Complaint contains five causes of action: 1) Breach of Contract/Constructive Termination; 2) Slander and Slander *per se*; 3) Intentional Infliction of Emotional Distress; 4) Illegal Proxy Solicitation Pursuant to S.C. Code 33-7-220 (i); and 5) Wrongful Expulsion as a Director.
- 2) Since Defendants have not answered or filed a responsive pleading (Defendants filed a Motion to Dismiss rather than an Answer) I find the Second Amended Complaint appropriately filed and will consider its allegations;
- 3) I reviewed the applicable Employment Agreement containing the arbitration provision.

4) The question of arbitrability of a claim is an issue for judicial determination pursuant to South Carolina law. New Hope Missionary Baptist Church v. Paragon Builders, 379 S.C. 620, 667 S.E.2d (Ct. App. 2008); Zabinski v. Bright Acres Assoc., 346 S.C. 580, 553 S.E.2d 110 (2001); Faltaous v. Anderson Ocean Club, Opinion No. 4679 (S.C. Sup. Ct. 2010).

5) The law governing the determination before the Court is as follows:

Arbitration is a matter of contract and a party cannot be required to arbitrate any dispute when he/she has not agreed to arbitrate. Chassereau v. Global Sun Pools, Inc. 644 S.E.2d 718 (2007). Courts generally hold that broadly-worded arbitration agreements apply in disputes in which "significant relationship" exists between the asserted claims and the contract in which the arbitration clause is contained. Aiken v. World Finance Corporation of South Carolina, 373 S.C. 144 644 S.E.2d 705 (2007). citing Zabinski v. Bright Acres Assoc., 346 S.C. 580, 553 S.E.2d 110 (2001). "Applying what amounts to a "but for" causation standard essentially includes every dispute imaginable between the parties which greatly over simplifies the parties' agreement to arbitrate claims between them. Such a result is illogical and unconscionable." Aiken at pg. 708.

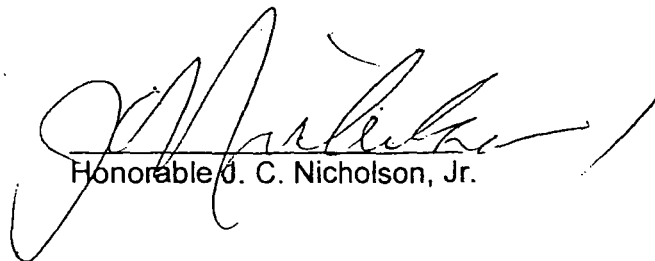
Arbitration agreements do not apply to illegal or egregious acts that no reasonable person would have foreseen at the time the parties executed the agreement to arbitrate. Global Pools citing Aiken v. World Finance Corporation of South Carolina, 644 S.E.2d 705 (2007).

Additionally, in Hatcher v. Edward Jones & Co., 379 S.C. 549, 666 S.E.2d 294 (Ct. App.) the South Carolina Court of Appeals stated "Just as the Supreme Court held in Aiken, we find that to interpret the arbitration provision contained in Hatcher's [Plaintiff] contract with Edward Jones [Defendant] to apply to alleged acts completely outside of the expectation of the parties at the time the contract was entered would be inconsistent with the goal favoring arbitration as an effective means for resolving disputes. Id.

6) Based on my review of South Carolina case law, I find that Landers' claim for Breach of Contract/Wrongful Termination is subject to the arbitration provision as this claim arises out of the Employment Agreement and was foreseeable at the time the contract was entered into.

- 7) As to the remaining causes of action, I find that there is not a significant relationship between these claims and the contract containing the arbitration provision, therefore, they are not subject to arbitration. For example, the claim for illegal proxy solicitation is brought in Landers' capacity as a shareholder (not employee) and his claim for wrongful expulsion as a director is brought in his capacity as director (not employee).
- 8) Additionally, as to these four claims, as an additional ground for my ruling, I find that the alleged facts for these four claims were unforeseeable at the time the parties entered into the agreement to arbitrate. For example, having reviewed the detailed factual allegations asserted in support of the slander and outrage claims, the parties cannot have foreseen this conduct as part of their employment relationship. If those factual allegations are considered true for purposes of the motion, these two causes of action assert egregious acts that were not contemplated at the time the Employment Agreement was signed.
- 9) Based on the foregoing, I grant the Motion to Compel Arbitration and to Stay or Dismiss the lawsuit as to the Plaintiff's First Cause of Action for Breach of Contract/Wrongful Termination and herein stay this cause of action so that it may proceed in arbitration.
- 10) I further order that the remaining four causes of action, Slander and Slander *per se*, Intentional Infliction of Emotional Distress, Illegal Proxy Solicitation pursuant to S.C. Code 33-7-222 (i), and Wrongful Expulsion as a Director, are not subject to the arbitration provision. Therefore, Defendants' Motion is denied as to these four causes of action. These claims shall proceed in the Court of Common Pleas.

IT IS SO ORDERED.



Honorable J. C. Nicholson, Jr.

September 7, 2010
Charleston, South Carolina