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SC Court of Appeals

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
Bentley D. Price, Circuit Court Judge

Appellate Case No. 2020-001204  
Case No. 2018-CP-10-02762

Wilmington Trust National Association as Successor  
Trustee to Citibank N.A. as Trustee of Structured Asset  
Mortgage Investments II Inc., Bear Stearns ALT-A Trust  
II Mortgage Pass-Through Certificates Series 2007-1, ..... Plaintiff,

v.

Temisan Etikerentse a/k/a Temisan L. Etikerentse,  
Ijeoma Etikerentse a/k/a Ijeoma Etkis, Suntrust Mortgage  
Inc., Capital Bank Corporation, Bank of America  
NA, Keybank National Association, and Olde Park  
Homeowners' Association Inc., ..... Defendants.

AND

Temisan Etikerentse a/k/a Temisan L. Etikerentse,  
Ijeoma Etikerentse a/k/a Ijeoma Etiks ..... Appellants,

v.

Specialized Loan Servicing LLC a/k/a SLS, ..... Respondent.

**MOTION TO DISMISS**

Pursuant to Rules 210, 240, and 263, SCACR, Respondent Specialized Loan Servicing LLC (“SLS”) moves to dismiss this appeal. Appellants filed their Initial Brief of Appellants on January 25, 2021. In response, SLS moved to strike references to materials that were not presented to the lower court and a portion of Appellants’ brief. The Court granted this motion in part via Order dated March 24, 2021, and provided that Appellants must serve an amended brief within

thirty days of the Order. Appellants filed their Amended Initial Brief of Appellants on April 22, 2021.

SLS also filed its Initial Brief of Respondent on April 22, 2021. Pursuant to Rule 208(a)(3), SCACR, Appellants' Initial Reply Brief was originally due on May 3, 2021. Appellants sought, and the Court granted, a first ten-day extension, which placed Appellants' deadline at May 13, 2021. Appellants then sought, and the Court granted, a second ten-day extension, which placed Appellants' deadline at May 24, 2021 after accounting for the weekend.<sup>1</sup> The Court's Order stated: "No further extensions will be granted absent extraordinary circumstances." Appellants did not file anything further.

Accordingly, on June 29, 2021, the Court issued a letter noting that the time to file and serve a reply brief and designation of matter had expired. The letter gave Appellants ten days to serve any reply brief and designation of matter and directed Appellants to file a motion requesting permission to serve out of time. The Court reiterated that a reply brief would not be considered if no motion was made within ten days of the letter. Appellants did not file anything in response to this letter.

Rule 210(a), SCACR provides that "[w]ithin thirty (30) days after service of the last brief, the appellant *shall serve* a copy of the Record on Appeal on each party who has served a brief" and "immediately file[]" proof of service with the clerk of the appellate court. *Id.* (emphasis added). Because Appellants opted not to file a reply brief, SLS's Initial Brief of Respondent was the "last brief." Accordingly, the Record on Appeal was due within 30 days of service of SLS's brief, which occurred on April 22, 2021. That placed the deadline for serving the record on appeal at **May 24, 2021**.


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<sup>1</sup> The Court's order provided a deadline of May 23, 2021, which fell on a Sunday.

Due to Appellants' disregard of the applicable deadlines under the South Carolina Appellate Court Rules and the Court's order, dismissal is appropriate under Rule 260(a). *Wise v. S.C. Dep't of Corr.*, 372 S.C. 173, 174, 642 S.E.2d 551, 551 (2007) ("Whenever it appears that an appellant has failed to comply with the requirements of the SCACR, an order of dismissal shall be issued."); *Tate v. State*, 345 S.C. 577, 580, 549 S.E.2d 601, 603 (2001) ("This Court dismissed his direct appeal for failure to file the Record on Appeal."). Therefore, SLS respectfully requests that the Court dismiss this appeal.

Respectfully submitted,

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