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THE STATE OF SOUTH CAROLINA
In The Court of Appeals Case No. 2012-213310

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
Charles B. Simmons, Master in Equity

Case No. 2011-CP-23-5912

Charles M. Thompson, et al
v.
Bank of America, N.A.

Respondent

Appellant

RECEIVED

APR 22 2013

SC Court of Appeals

Case No. 2011-CP-23-3668

U.S. Bank, N.A.
v.
Charles M. Thompson, et al

Respondent

Appellant

MOTION FOR SUBSTITUTION OF NAME OF COUNSEL

On April 16, 2013 undersigned counsel [herein "Counsel"] learned that he is currently listed as counsel of record for U.S. Bank, N.A. in the above referenced matter. Counsel worked as an associate foreclosure attorney for the Finkel Law Firm, LLC [herein "Finkel"] from 2007 until he retired this past January. At Finkel, many attorneys work on the same file, i.e. many different attorneys review and sign complaints, motions, affidavits, etc. for any one file. Sometime ago¹, U.S. Bank, N.A. retained Finkel to foreclose a mortgage given by Charles M. Thompson. Finkel represented U.S. Bank, N.A. in the equity court and it was Counsel's belief that Finkel continued to represent U.S. Bank, N.A. in this appeal until relieved. Following the judgment and sale, Counsel was instructed by Finkel to attend, and did attend, a post sale motion hearing in front of Judge Simmons. Following the hearing, Bank of America, N.A. obtained an unfavorable result from Judge Simmons and appealed his orders.

Thereafter, Counsel was advised by Finkel that Finkel was not able to represent U.S. Bank, N.A. in the appeal because of a conflict of interest. Because Counsel had attended the post sale hearing, Finkel instructed him to advise the client and find an attorney who could represent U.S. Bank, N.A. in the appeal. Counsel spoke with Attorney Frank M. Cisa who told Counsel that he would take the case if U.S. Bank, N.A.

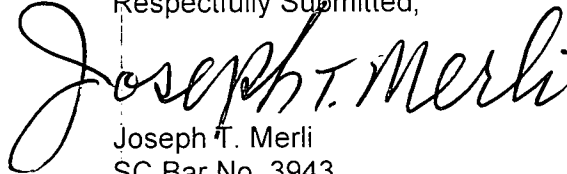
¹ Counsel does not have this file. Consequently, Counsel can only go by his best recollection.

approved and signed a waiver for a minor possible conflict. Counsel was then informed by U.S. Bank, N.A. that it had approved Mr. Cisa and would sign Mr. Cisa's waiver. It was Counsel's understanding that Mr. Cisa would appear, submit a Motion for Substitution of Counsel and a brief on behalf of U.S. Bank, N.A. Following approval of Mr. Cisa, Counsel submitted a motion for an extension of time to file a brief, so that Mr. Cisa would have time to review the file. It was also Counsel's understanding, that after Counsel left Finkel, other attorneys at Finkel would continue to work on the cases Counsel had worked on, including assisting Mr. Cisa if necessary with the instant case.

On April 16, 2013 Counsel received a copy of an order in the instant case which was mailed to his residence. Counsel telephoned the court and was advised by the Clerk of Court's Office that Finkel was not attorney of record, but rather that he, individually, was attorney of record even though Finkel had represented U.S. Bank, N.A. in the lower court. Moreover, Counsel learned on April 16, 2013 that Mr. Cisa had not been substituted as attorney for U.S. Bank, N.A. and no brief on behalf of U.S. Bank, N.A. had been filed. On April 17, 2013, Counsel requested Finkel to immediately file a motion to remove Counsel's name from this matter and take any other necessary action. To Counsel's knowledge, no motion has been filed.

Accordingly, based on the above, Counsel requests the Court to substitute Mr. Thomas A. Shook, Finkel partner and head of its foreclosure practice, as attorney for U.S. Bank, N.A. until Mr. Shook, Mr. Cisa and U.S. Bank, N.A. can resolve the conflict of interest issues, substitute other counsel if necessary, file a motion to submit a brief out of time, and take any other action necessary to protect the interests of U.S. Bank, N.A.²

Respectfully Submitted,



Joseph T. Merli
SC Bar No. 3943
2076 Church Creek Dr.
Charleston, SC 29414
843 766-3853
Attorney for U.S. Bank, N.A.
(as informed by the Clerk of Court's Office)

April 19, 2013

² The Court should note that Counsel is not being paid fees and costs by U.S. Bank, N.A. for preparing this motion.

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In The Court of Appeals Case No. 2012-213310

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas
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Case No. 2011-CP-23-5912

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v.
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Respondent

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on April 19, 2013 he served all counsel in this action as listed below with a copy of this Motion for Substitution of Name of Counsel by mailing a copy of same in the USPS postage paid.

Michael J. Anzelmo
Nelson Mullins LLP
1320 Main St./ 17th Floor
Columbia, SC 29201

Paul E. Hammack
Andrew F. Carson
Clawson and Staubes, LLC
223 W. Stone Avenue, Ste. 100
Greenville, SC 29609

Frank M. Cisa
Cisa & Dobbs, LLC
858 Lowcountry Blvd. Ste. 101
Mt. Pleasant, SC 29464

Thomas A. Shook
Finkel Law Firm, LLC
3955 Faber Place Dr.
North Charleston, SC 29405

April 19, 2013


Joseph T. Merli

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April 19, 2013

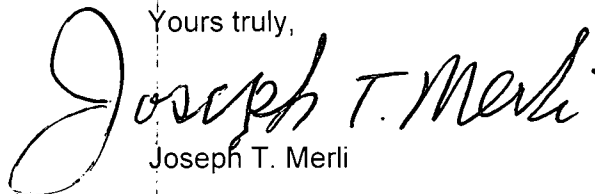
Jenny A. Kitchings, Clerk of Court
SC Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: SC Court of Appeals Case No. 2012-213310
Trial Court Cases 2011-CP-23-5912 and 2011-CP-23-3668

Dear Ms. Kitchings:

Enclosed please find an original and seven copies of a Motion to Substitute Name of Counsel in the above referenced matter along with a check for the motion fee. Please file the original and return a filed stamped copy to me in the enclosed envelope. If you have any questions, feel free to give me a call at the number listed above. By copy of this letter, I am hereby serving counsel for all parties.

Yours truly,



Joseph T. Merli

JTM/jtm
Enc.

Cc: Michael J. Anzelmo
Paul E. Hammack
Frank M. Cisa
Thomas A. Shook

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