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THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM LEXINGTON COUNTY  
Court of Common Pleas

Edward B. Cottingham, retired judge from the Fourth Judicial Circuit  
James O. Spence, master in equity for the Eleventh Judicial Circuit

Case No. 2011-197766  
(Case No. C/A 2009-CP-32-05140 from Lexington County)

Deutsche Bank Trust Company Americas  
As Trustee for RALI2007QS8,

Respondent,

H. Guy Gantt, Intervenor,

Respondent,

v.

Janice Cross, South Carolina National Bank, N.A., Defendants,

Of Whom Janice Cross is,

Appellant.

RECEIVED  
MAY 09 2013  
SC Court of Appeals

REQUEST FOR LEAVE OF THE COURT TO FILE OUT OF TIME APPELLANT'S  
RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS' MOTION TO  
STRIKE THE ALLEGED 'APPENDIX' TO THE RECORD ON APPEAL, AND FOR  
THE COURT TO ACCEPT THE SAID RETURN

**PETITION**

Appellant petitions this Honorable Court for authorization to file her Return to the Motion out of time in the above-captioned matter and for the Court to accept her return pursuant to the Court's discretion as vested in Rule 240 of the South Carolina Rules of Civil Procedure.

Accordingly, Appellant's entire case literally hangs in the balance and the motion

should be granted by this Honorable Court in a matter that has taken this Appellant who is unschooled in law and further burdened with a full-time job and the responsibilities of running a household, a full 20 months to compile and to prosecute.

The reasons why Appellant's Return to her opponent's misguided motion to strike the so-called "appendix" to the Record on Appeal is so critical are fully outlined in the Return itself, to wit.

1. First, Respondent Deutsche Bank Americas as Trustee for the 2007 securitized loan trust known as RALI2007QS8 (Residential Accredit Loans Inc., a GMAC company), persists in mischaracterizing the very nature of this appeal and would deny this Appellant her fundamental right to publish her Final Brief and to be heard. The so-called "appendix" is cited from day 1 in Appellant's Initial Brief and Final Brief, which are already on file with the Court and stand completed.

2. Appellant filed the Record on Appeal timely and in good faith pursuant to the Court's order, and Respondent Deutsche Bank misleads the Court on this point.

3. Respondent H. Guy Gantt has not asked the Court to strike the so-called "appendix," and is in agreement with it. Respondent Deutsche Bank cannot answer for Mr. Gantt.

4. Respondent Deutsche Bank Americas' present counsel who filed the misguided motion to strike was not present for the lower court proceedings, and falsely alleges that the exhibits from the so-called "appendix" do not appear in the lower court case file, when they very plainly do appear and were duly and timely served.

Respondent appears to be suggesting that Appellant is somehow lying to this Honorable Court, when she is not. The many certified mailings and proofs of service that appear in the lower court case file in the above-captioned matter are not lies. Appellant

will provide a sworn statement by her process server in the matter if necessary, although the proofs are already of record.

5. The “appendix” should have been included in the original draft of the Record on Appeal, and Appellant thoroughly explains the mistake she made by withholding them. She has stated that she did so out of an honorable intent that she not appear to defy the Court in the matter, but chose to file a motion requesting leave of the Court to file the Record on Appeal and “appendix” intact with the Court, which she did on March 27, 2013. Appellant had already filed the Record on Appeal timely on March 6, 2013 and served it timely, despite any claim made by Respondent Deutsche Bank to the contrary.

With reference to the “appendix,” Appellant was following the guidance of deputy Court personnel in good faith who in early March suggested to her process server in person that she file such a motion with the Court for including the “appendix” pages.

6. Respondent Deutsche Bank Americas as Trustee has failed without cause to file its Final Reply Brief on time with the Court.

7. In light of the above, the “appendix” is not a true appendix at all, but is part-and-parcel to Appellant’s Initial Brief which quotes from it extensively.

8. To exclude the so-called “appendix” now, therefore, would do violence to Appellant’s Initial and Final Brief alike and would do violence to this appeal.

9. Appellant already asked leave of the Court to file the entire 500-page Record on Appeal out of time and intact as submitted on March 27, 2013.

10. Respondent Deutsche Bank Americas as Trustee has made a habit out of asking the Court to strike this Appellant’s filings. This is its third request. This Honorable Court already denied Respondent Deutsche Bank’s motion to strike Appellant’s Initial Brief and in so doing, has already in effect denied this last motion to strike, has it not?

11. The sworn deposition testimony of “robo signer” Jeffrey R. Stephan is located in the so-called “appendix” and is quoted throughout Appellant’s lower court case filings. It frequently populates the documentation already on file with this Court in this appeal. Therefore, this evidence is exculpatory of Appellant’s claims and should not be excluded.

12. The fraudulent assignment of record of the note and mortgage by GMAC Mortgage “robo signer” Jeffrey R. Stephan in the land records for Lexington County stands as a fraud to this day on which Respondent Deutsche Bank presumes to build its weak case.. This is a fundamental fraud that cannot now be cured by time or by procedure or by the misguided judgments of the lower courts, namely, the Spence and the Cottingham courts. Accordingly, the matter should be overturned and an evidentiary hearing scheduled.

13. Appellant raises a substantive question on the constitutionality of a foreign principal such as Frankfurt, Germany based Deutsche Bank Ag suing a South Carolina citizen in state court, while that citizen has been barred by the lower court from compelling her opponent to appear by a valid subpoena in the venue in which it filed suit. This is a fundamental constitutional question that is worthy of the consideration of this Honorable Court.

Accordingly, it also begs the question of the protections afforded in the Eleventh Article of Amendment to the Constitution for the United States of America, a question this Appellant raised in the initial motions hearing of June 8, 2010. See transcript.

This Court swore an oath to protect and to defend both the state and federal constitutions, yet Respondent Deutsche Bank would deny this Court that right to hear such an important Issue on Appeal.

14. The 1099-A’s and the notice to Appellant of her and her husband’s right to

collect a settlement from the National Mortgage Settlement constitute newly discovered evidence pursuant to Rule 60(b) of the South Carolina Rules of Civil Procedure and should be included as Appellant has argued.

15. There is no evidence that Deutsche Bank Trust Company Americas as Trustee for RALI2007QS8 ever existed as actual plaintiff in the matter. GMAC Mortgage LLC and the law firms are the real moving parties in the matter. Neither has standing to “acquire” Appellant’s real property, and Appellant absolutely did not “abandon” her home. The “A” in 1099-A stands for “acquisition” or abandonment.”

In addition, the 1099-A’s show that Freddie Mac is either the real investor in the matter or paid GMAC and/or Deutsche Bank insurance money in the matter, which may constitute insurance fraud as there is no injured party. Deutsche Bank was sued for insurance fraud by the United States attorney for the District of New York, which evidence is included in the so-called “appendix.”

16. GMAC and Jeffrey Stephan were also sued by the Ohio attorney general in the “robo signing” scandal for the exact same reasons as occurred in this matter. This is but one of the many cases this Appellant cited time and again in her lower court case filings and in this appeal that appear in the so-called “appendix” that Respondent Deutsche Bank would exclude from the record after-the-fact.

Respondent Deutsche Bank takes a dim view of the importance of case law in influencing the reasonings of this Honorable Court, and would deny this Court access to those filings in the so-called “appendix” for making its best determination.

17. Respondent Deutsche Bank would curiously exclude newspaper articles in the “appendix” concerning the “robo signing” scandal directly affecting this case, although those filings appear in the lower court case file, were cited time and again in the lower

court case filings, and are in the public domain. The articles are condemnatory of the actions of GMAC Mortgage LLC, Judy Faber, and Jeffrey R. Stephan, the exact same cast of actors who appeared on stage in this case.

18. Respondent Deutsche Bank has had ample time to file its Reply Brief in the matter and in no way has been hampered by the "appendix." No, not a whit.

## CONCLUSION

For the above-cited reasons and more, Appellant petitions the Court to accept out of time her RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS' MOTION TO STRIKE THE ALLEGED 'APPENDIX' TO THE RECORD ON APPEAL. The Court is vested with discretion in the matter by rule, by precedent, and by fairness.

Appellant relies on the Court to protect her fundamental right to be heard in these matters, and apologizes if this unintentional delay has caused the Court or her opponent(s) any inconvenience.

**Janice Cross SO MOVES  
THIS HONORABLE COURT.**

Executed on May 9<sup>th</sup>, 2013

Respectfully submitted,

by: Janice Cross  
Janice Cross, Real Party in Interest

cc: Mark Wierman, Esquire  
Henry Taylor, Esquire  
Les Blankenship, Esquire

See Proof of Service

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Of Whom Janice Cross is, Appellant.

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**PROOF OF SERVICE**

OF THE REQUEST FOR LEAVE OF THE COURT TO FILE OUT OF TIME  
APPELLANT'S RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS'  
MOTION TO STRIKE THE ALLEGED 'APPENDIX' TO THE RECORD ON  
APPEAL, AND FOR THE COURT TO ACCEPT THE SAID RETURN

I certify that on this day I served a copy of Appellant's 6-page REQUEST FOR LEAVE OF THE COURT TO FILE OUT OF TIME APPELLANT'S RETURN TO RESPONDENT DEUTSCHE BANK AMERICAS' MOTION TO STRIKE THE ALLEGED 'APPENDIX' TO THE RECORD ON APPEAL, AND FOR THE COURT TO ACCEPT THE SAID RETURN and proof of service upon the following parties by USPO regular mailings: (1) Deutsche Bank Trust Company Americas as Trustee for RALI2007QS8, in care of Mark Wierman, BRADLEY ARANT BOULT CUMMINGS LLP, 100 N. Tryon St., Suite 2690, Charlotte, NC 28202, and (2) H. Guy Gantt, c/o Henry Taylor, Esq., 3618 Sunset Blvd., Suite D, West Columbia, SC 29169, and (3) Les Blankenship, Finkel Law Firm, 3955 Faber Place. Dr., Ste 200, N. Charleston, SC 29405.

Executed on May 9, 2013

by: John David Cross  
John David Cross, Mailer and Server