

IN THE COURT OF APPEALS OF TENNESSEE
AT KNOXVILLE

**BRANCH BANKING & TRUST COMPANY, v. TOWNSEND, LLC and E.
WILLIAM HENRY**

Chancery Court for Blount County
No. 10-009 Hon. David R. Duggan, Judge (Sitting by Interchange)

No. E2011-02447-COA-R3-CV-FILED-MAY 14, 2012

Tenn. R. App. P.3 Appeal as of Right; Appeal Dismissed.

HERSCHEL PICKENS FRANKS, P.J., CHARLES D. SUSANO, JR., J., and D. MICHAEL SWINEY, J.

Mark T. Freeman, Nashville, Tennessee, for appellants, Townsend, LLC., and E. William Henry,

Gregory Carlton Logue, Knoxville, Tennessee, for appellee, Branch Banking & Trust Company,

MEMORANDUM OPINION¹

This Court issued a Show Cause Order on April 19, 2012 directing appellants to show cause why the appeal should not be dismissed for lack of jurisdiction. The appellants have

¹The Court of Appeals' Rules provide:

Rule 10. Memorandum Opinion

(b) This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it shall be designated "MEMORANDUM OPINION," shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

responded to this Order, but the explanation given in response which relied on a FAX notice of appeal, does not cure the failure to file a proper notice of appeal. The notice of appeal "shall not be filed in the Trial Court by Facsimile transmission". Tenn. R. Civ. P. Rule 5A.02(4)(e).

Accordingly, this Court is without jurisdiction to entertain the appeal, and the appeal is dismissed. The cost of the appeal is assessed to Townsend, LLC., and E. William Henry.

PER CURIAM