

**FOURTH DIVISION  
PHIPPS, C.J.  
ANDREWS, P. J. and MCFADDEN, J.**

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**December 10, 2013**

## In the Court of Appeals of Georgia

A11A2053. JENKINS v. WACHOVIA BANK, N. A. et al.

MCFADDEN, Judge.

The trial court granted judgment on the pleadings to Wachovia Bank, N. A., Wells Fargo Bank, N. A., and all predecessor and successor entities and John Doe corporations (collectively, the “Bank”) in an action brought by Stephen Kale Jenkins alleging negligence, breach of a duty of confidentiality and invasion of privacy. In Division 1 of *Jenkins v. Wachovia Bank*, 314 Ga. App. 257 (724 SE2d 1) (2012), we reversed the grant of judgment on the pleadings as to the negligence claim. *Id.* at 258-261 (1). In Divisions 2 and 3 of our opinion, we affirmed the grant of judgment on the pleadings as to the claims for breach of a duty of confidentiality and invasion of privacy. *Id.* at 261-263 (2), (3).

In *Wells Fargo Bank v. Jenkins*, 293 Ga. 162 (744 SE2d 686) (2013), the Supreme Court of Georgia held that the Bank was entitled to judgment on the pleadings on the negligence claim, and accordingly it reversed our judgment. *Id.* at 162. The Supreme Court noted that the grant of judgment on the pleadings on Jenkins’s remaining claims was “not at issue in [that] appeal.” *Id.* at 163 n. 1.

We therefore vacate Division 1 of our opinion in *Jenkins v. Wachovia Bank*, *supra*, 314 Ga. App. 257, and in its place adopt as our own the Supreme Court’s opinion in *Wells Fargo Bank v. Jenkins*, *supra*, 293 Ga. 162. Because the Supreme Court neither addressed nor considered Divisions 2 and 3 of our earlier opinion, and those portions of our earlier opinion are consistent with the Supreme Court’s opinion, those Divisions “become binding upon the return of the remittitur.” *Shadix v. Carroll County*, 274 Ga. 560, 563 (1) (554 SE2d 465) (2001). Accordingly, the trial court did not err in granting judgment on the pleadings to the Bank on all of the claims brought by Jenkins, and we affirm that judgment.

*Judgment affirmed. Phipps, C. J. and Andrews, P. J., concur.*