

Second Request

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3 October 2022

The Honorable Patricia Howard
SCSC
1231 Gervais Street
Columbia, SC 29401

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S.C. SUPREME COURT

Re: App. # 22-1123

Dear Ms. Howard:

We hope you and yours were safe and sound through the Hurricane. Thank you for your letter of September 29, 2022. We are following up because case law provides that jurisdiction can be raised at any time and jurisdiction cannot be waived. Jurisdiction is raised in the petition for rehearing, including but not limited to, jurisdiction under the SCACR and other, which was not addressed by the Court of Appeals (COA). Because it was not addressed in the Court of Appeals, it is not prohibited by Rule 242, SCACR. Further, there is no final decision on the pending Court of Appeals Rule 221, petition for rehearing, Because there is no final decision on the pending Court of Appeals Rule 221, petition for rehearing, which is challenged, Rule 242, SCACR, does not apply. Moreover, the matter includes a request for uniformity in the interpretation and application of the SCACR which again is not prohibited by Rule 242, SCACR, and, in fact, is in the purview of the Supreme Court. S.C. Const. Art.

V, § 4; see *Stokes v. Denmark Emer. Servs.*, 315 S.C. 263, 433 S.E.2d 850 (1993); Toal *et al.*, *Appellate Practice In South Carolina*, Third Edition (2016), p. 15-16. In addition, challenge to the constitutionality of conversion by the lower appellate court of unearned fees paid in good faith is not prohibited by Rule 242, SCACR. If it were, the letter, spirit, and Legislative intent of the statutory scheme would be frustrated leading to an absurd result in the State court of last resort. "The touchstone of due process is protection of the individual against arbitrary action of government," *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), or denial of fundamental procedural fairness, see, e.g., *Fuentes v. Shevin*, 407 U.S. 67, 82 (1972) (the procedural due process guarantee protects against "arbitrary takings"). *County of Sacramento v. Lewis*, 523 U.S. 833, 118 S.Ct. 1708, 140 L.Ed.2d 1043 (1998). See *Moore v. Moore*, 376 S.C. 467, 657 S.E.2d 743 (2008) (procedural due process requires (1) adequate notice; (2) adequate opportunity for a hearing; (3) the right to introduce evidence; and (4) the right to confront and cross-examine witnesses). See U.S. Const., Article I, sec. 9 and 10; U.S. Const., Article III; U.S. Const. amend. I, IV, V, VII, and XIV.

Again, thank you for your help. By copy of this letter, the other side is notified. With best personal regards, I am

Very truly yours,

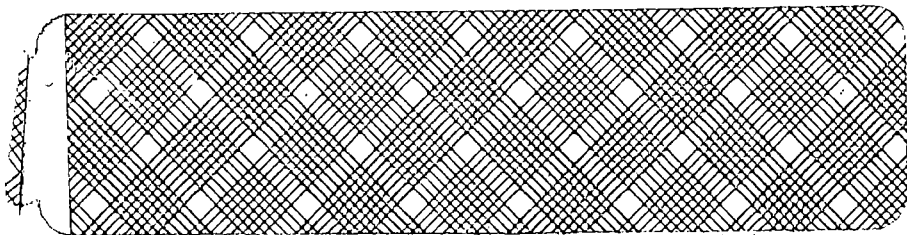
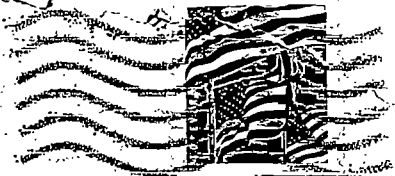
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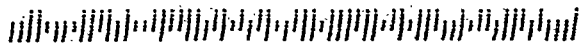
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