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Oct 06 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHEROKEE COUNTY
Court of General Sessions
Grace Gilchrist Khie, Circuit Court Judge

Indictment No. 3885/2018

The People of the State of New York, Respondent,

v.

Timothy Braico and Terrence Edwards, Defendants.

In Re:

The Matter John Thomas Burger, Material Witness

Of Which

John Thomas Burger, is the Appellant.

**NOTICE OF APPEAL
AND
REQUEST FOR EXPEDITED REVIEW**

John Thomas Burger appeals the Order of the Honorable Grace G. Knie, signed and filed on October 3, 2023, and attached hereto as Exhibit A. Appellant received notice of this Order on October 3, 2023. Appellant further requests an expedited review of this appeal.

The Order being appealed was issued pursuant to the Uniform Act to Secure the Attendance of Witnesses from Without a State in a Criminal Proceeding, as adopted by this State and codified at S.C. Code Ann. 19-9-10 to 19-9-130 (1976). In South Carolina, proceedings to summon a witness under the Act are civil proceedings and an order compelling the attendance of a witness out of state is a final order and immediately appealable. *See State of Georgia v. Meadows*, 2022 WL 17335653, at *1 (S.C. 2022). The same is true for other states adopting the Act, including

New York – the state seeking Mr. Burger’s testimony. *See, e.g., In re Issuance of Summons Compelling Essential Witness to Appear and Testify in the State of Minnesota*, 908 N.W.2d 160, 165 (2018)(citing *Codey ex rel. State of New Jersey v. Capital Cities, American Broadcasting Corp.*, 82 N.Y.2d, 521, 605 N.Y.S.2d 661, 626 N.E.2d, 636, 640 (1993)).

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Attorneys for Appellant, John Thomas Burger

Columbia, South Carolina
October 6, 2023

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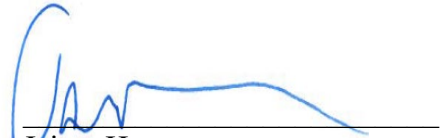
PROOF OF SERVICE

I, Jaime Harmon, legal assistant at Griffin Humphries LLC, attorneys for the Appellant, located at 4408 Forest Drive, Suite 300, Columbia, South Carolina 29206, hereby certify that on October 6, 2023, I have served all counsel in this action a copy of the **Notice of Appeal** by emailing a copy to each attorney listed below using their primary email address.

Served:

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Jaime Harmon

Columbia, South Carolina
October 6, 2023