

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Ralph King Anderson, III, Judge
Case No. 2012-212844

John Ray and Sherry Ray,

Appellants,

v.

S.C. Department of Revenue,

Respondent.

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SEP 24 2013

SC Court of Appeals

**SUPPLEMENT TO THE APPELLANTS' SEPTEMBER 16, 2013
PETITION FOR REHEARING, WITH SUGGESTION FOR
REHEARING EN BANC, REGARDING THE ORDER DATED SEPTEMBER 11, 2013**

On September 16, 2013, pursuant to Rules 219, 221 and 240, SCACR, the Appellants ("Rays") respectfully Petitioned for a Rehearing En Banc regarding the Order of The Honorable Jasper M. Cureton dated September 11, 2013, properly addressed, and received by the undersigned on September 13, 2013. The opening paragraph of that Petition contained the statement: A Petition for Rehearing regarding the Order of Judge Cureton dated Friday, July 12, 2013 (a virtually identical ruling) and received by the undersigned on Monday, July 15, 2013 **remains pending** (Emphasis added). The Rays have, only now, been notified of the inaccuracy of that statement.

Similarly, the Timeline given in the September 16, 2013 Petition contained the statement: 15. To the date hereof, the Rays have not been "advised that the suggestion [for rehearing en banc] has been rejected" (Rule 219(b), SCACR) or that the Petition has been reviewed, considered and a ruling issued. That paragraph remains fully accurate, as of September 16, 2013.

It now appears that, by letter from the Office of the Clerk of Court dated September 9, 2013, the Rays were advised that the earlier Petition was no longer being considered. The letter was properly addressed (p. 1 of the attached Exhibit). However, it was placed in an envelope bearing an address that has not been in use for over three (3) months (p. 2 of the Exhibit), as noted by the Clerk's Office no later than mid-July 2013 (p. 3 of the Exhibit). Due to a postal forwarding delay, pages 1 and 2 of the Exhibit were not received until September 17, 2013, after the preparation and mailing of the currently pending Petition for Rehearing with En Banc suggestion.

For accuracy and clarity, the entries on pages 3 and 4 of the Petition of September 16, 2013 should properly be, and hereby are, supplemented. The corrected partial timeline below begins with the first effected Petition paragraph. Textual changes are underscored.

Supplemented/Corrected/Revised Timeline

12. ALL documents and copies listed in paragraphs 9, 10 and 11 [Record on Appeal, Briefs, Proofs of Service, cover letters, beginning June 6, 2013] bore the twenty-years-old accurate street address of the undersigned counsel.
13. An Order of conditional dismissal was issued on **July 12, 2013** and promptly received by mail directly from the Office of the Clerk utilizing the proper address (see ¶ 12, above).
14. Due to the nature of the Order, on **July 18, 2013**, the Rays mailed to the Court and served a Petition for Rehearing with Suggestion for Rehearing En Banc citing and including most, if not all, of DOR's defects and the notes and arguments provided hereafter. Petition Exhibit C.
15. ...
16. It now appears that, on or about **August 29, 2013** (date of cover letter), while the Rays' original Petition was pending and immediately prior to the Labor Day holiday, DOR filed a "Renewed" Motion for dismissal.

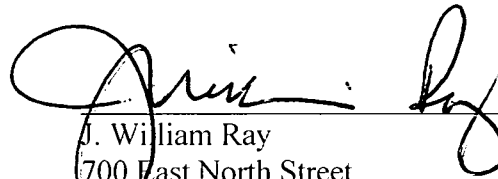
17. However, that document and its newly created attachment, purportedly mailed on that date, were misaddressed, not properly served, and thereby gave no timely notice of the DOR motion. *BB&T v. Taylor*, 369 S.C. 548, 633 S.E.2d 501 (2006). (The document was eventually received, AFTER the time for the Rays' response had expired.) It now appears that, on **September 9, 2013**, the Office of the Clerk advised by letter that the Rays' original Petition was no longer under consideration (Exhibit p. 1). However, it was mailed in a mis-addressed envelope and it did not timely arrive (Exhibit p. 2).
18. DOR's "Renewed" Motion was misaddressed, delayed by the holiday and postal forwarding, and were not delivered to the Rays until the afternoon of **September 11, 2013**. Petition Exhibit D. Upon his return to the office that same evening, the undersigned immediately notified the Clerk, the Deputy Clerk and opposing counsel of the delay, confirmed receipt of the Motion on that date, and expressed the clear intent to respond within the time(s) set by the Rules of this Court (Petition Exhibit E) following proper service; all without notice or knowledge that an Order had already been issued and entered on **September 11, 2013**. No response from any source has been forthcoming.
19. Instead, on **September 13, 2013**, the properly addressed September 11, 2013 Order of The Honorable Jasper M. Cureton dismissing the subject appeal was received in the office of the undersigned.
20. The Rays **September 16, 2013** Motion for Rehearing with Suggestion for Rehearing En Banc timely followed in less than three (3) days following receipt and notice of the September 11, 2013 Order and without notice or knowledge of the September 9, 2013 letter.
21. [Paragraph 15 of the pending Petition Timeline] To the date of the current Petition submission. **September 16, 2013**, the Rays had not been "advised that the original

suggestion for rehearing en banc has been rejected” (Rule 219(b), SCACR) or that the Petition had been reviewed, considered and a ruling issued.

22. On September 17, 2013, the mis-addressed envelope (Exhibit p. 2) bearing the properly addressed letter (Exhibit p. 1) with the first notice of the status of the Rays’ original Petition arrived in the office of the undersigned.

WHEREFORE, because some portions of the text of the Rays’ September 16, 2013 Petition for Rehearing En Banc regarding the Order of September 11, 2013 contain inadvertent errors, of which the Appellants were neither aware nor notified prior to September 17, 2013, the foregoing supplementation is respectfully provided to the Court.

Respectfully submitted,



J. William Ray
700 East North Street
Greenville SC 29601-3013
(864) 313-5332

PRO SE/ATTORNEY FOR APPELLANTS

September 18, 2013



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1015 SUMTER STREET
COLUMBIA, SOUTH CAROLINA 29201
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September 09, 2013

J. William Ray
700 East North Street
Greenville SC 29601-3013

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SEP 17 2013

Re: John Ray v. SC Dept. of Revenue
Appellate Case No. 2012-212844

Dear Counsel:

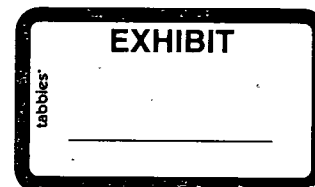
We have received your petition for rehearing with suggestion of rehearing en banc. The Court will not consider a petition for rehearing on an order that does not have the effect of dismissing or finally deciding an appeal pursuant to Rule 240(i), SCACR.

Very truly yours,

V. Claire Allen, Deputy

CLERK

cc: Benjamin John Tripp
Sean Gordon Ryan
Milton Gary Kimpson
Harry T. Cooper, Jr.
Aaron Michael Scheuer



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J. WILLIAM RAY
PO BOX 8535
GREENVILLE SC 29604-8535

296 N7E 100961310009/12/13
NOTIFY SENDER OF NEW ADDRESS
: J WILLIAM RAY ATTORNEY
700 E NORTH ST STE 4
GREENVILLE SC 29601-3013

BC: 29601301304 *1554-04078-10-16

2960103013
29604823535



South Carolina Court of Appeals

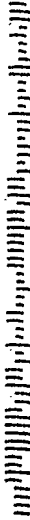
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COLUMBIA, SOUTH CAROLINA 29211

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J. WILLIAM RAY
700 EAST NORTH STREET
GREENVILLE SC 29601-3013

29601301304



FIRST-CLASS MAIL

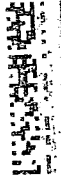
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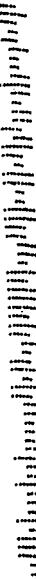
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COLUMBIA, SOUTH CAROLINA 29211



J. WILLIAM RAY
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GREENVILLE SC 29601-3013

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John Ray and
The County

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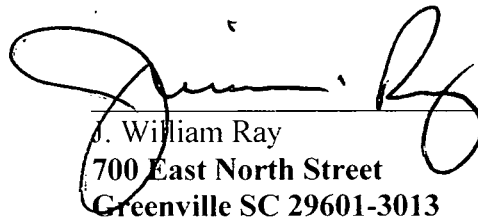
S.C. Department of Revenue,

Respondent.

PROOF OF SERVICE

I do hereby certify that a copy of the Supplement to the Appellants' September 16, 2013 Petition for Rehearing En Banc in the above captioned case has been duly served on the Respondent by placing the same in an envelope, with adequate prepaid postage affixed thereto, addressed as shown below, and properly depositing such copy of it in the United States Mail on the date below.

Aaron M. Scheuer, Esquire
Attorney for the Respondent S.C. Department of Revenue
P. O. Box 12265
Columbia, SC 29211



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