

**Ballard
Watson Weissenstein**
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Desa Ballard
Harvey M. Watson III
Stephanie Weissenstein
Attorneys at Law

Post Office Box 6338 | West Columbia, SC 29171
226 State Street | West Columbia, SC 29169 | ph · 803.796.9299 | fx · 803.796.1066 | desaballard.com

Friday, September 13, 2013

Via U.S. Mail and Facsimile
Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Post Office Box 11629
Columbia, South Carolina 29211

RECEIVED

SEP 16 2013

SC Court of Appeals

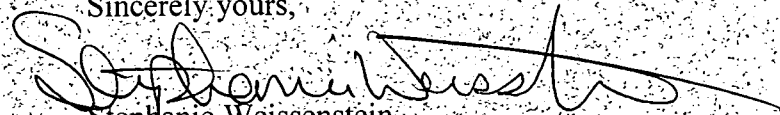
Re: *Appeal of Tuten v. Joel*
Case No: 2012-211915

Dear Ms. Kitchings:

I am writing in response to the Court's letter dated September 4, 2013, and to follow-up my voice message to Amelia, who is the case manager. Final briefs have been submitted in the referenced matter and the Court's letter September letter decries that the caption used on the final briefs does not comply with rule 267(a), SCACR because it is not the caption set forth in the court's letter of May 7, 2012. The difference between the caption on the briefs and the court's is that the court's includes a defendant who was not a party to the trial.

After receiving the initial letter setting forth the Court of Appeals' case management number and official caption, my law partner, Mr. Watson, wrote the court on May 10, 2012 and explained why we intentionally used the caption as presented on the briefs. Prior to the trial in the case, *David C. Joel, Attorney at Law, PC* was dismissed by consent. That defendant was, and is, the debtor in an involuntary bankruptcy proceeding and an automatic stay was enacted. We did not include that entity in the appellate caption because we did not wish to inadvertently violate the stay by included the debtor/defendant in the appeal, especially, since that defendant was not a party to the litigation during the trial. We respectfully request the caption submitted on the final briefs be deemed the approved and proper name of this appellate case.

Sincerely yours,


Stephanie Weissenstein
stephanie@desaballard.com

c. Tom Woodruff, Esq. (via email)
David Joel, Esq. (via email)