

JAMES E. SMITH, JR. *†^

OF COUNSEL:
NINA NELSON SMITH

*ALSO ADMITTED IN NC
†ALSO ADMITTED IN GA
^ALSO ADMITTED IN NY

JAMES E. SMITH, JR., P.A.
ATTORNEYS AT LAW

1422 LAUREL STREET
POST OFFICE BOX 50333
COLUMBIA, SOUTH CAROLINA 29250

SHANNON S. STUCKEY
(1969-2000)

TELEPHONE:
(803) 933-9800
FACSIMILE:
(803) 933-9801
James@JamesSmithPA.com

September 13, 2025

Via Email Only

RECEIVED
Sep 13 2025
SC Court of Appeals

Honorable Jenny Abbott Kitchings, Clerk
South Carolina Court of Appeals
By Email: ctappfilings@sccourts.org

Re: Market Hall, LLC, d/b/a Soda City Market v. SC Department of Revenue
Petition for Rehearing
Appellate Case No.2025-001745

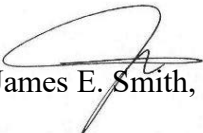
Dear Clerk Kitchings:

Please find the attached Petition for Rehearing of the Court September 9, 2025, Order dismissing the above-referenced Appeal and Proof of Service for filing with the South Carolina Court of Appeals. A copy of this letter with the same documents has been provided to the Respondent's counsel of record.

Please do not hesitate to let us know if you need anything further.

With kind regards, I remain,

Very truly yours,


James E. Smith, Jr.

cc via email: Jason P. Luther, Esq.
Thomas C. Hughes, Esq.



THE STATE OF SOUTH CAROLINA
In The Court of Appeals

Appeal From the South Carolina Administrative Law Court

S. Phillip Lenski, Administrative Law Judge

Docket No. 24-ALJ-17-0391-IJ

Appellate Case No. 2025-001745

South Carolina Department of
Revenue,

Respondent,

v.

Market Hall, LLC, d/b/a Soda
City Market,

Appellant.

PETITION FOR REHEARING

Pursuant to Rule 221(a), SCACR, Appellant, Market Hall, LLC, respectfully petitions this Court for rehearing of its Order dated September 9, 2025, dismissing the appeal as interlocutory.

I. PROCEDURAL BACKGROUND

It is understandable that this appeal might appear to be interlocutory. However, the only matter before the Court below is the enforcement of an administrative summons and the Order appealed is a Final Order.

1. Respondent issued an administrative summons to Appellant seeking information about all of Appellant's vendors.
2. Respondent was not satisfied with Appellant's response and filed a Petition for Rule to Show Cause to enforce the Summons on November 8, 2024.
3. Appellant filed a Response on November 18, 2024.
4. The Administrative Law Court (ALC) entered the Order that is the subject of this appeal enforcing the summons.
5. Appellant timely filed a Notice of Appeal.
6. On September 9, 2025, this Court dismissed the appeal, holding that the enforcement order is not a final decision of the ALC under South Carolina law.

II. GROUNDS FOR REHEARING

A. The Enforcement Order Is a Final Order

The ALCs enforcement order fully resolved the only matter before it: the Respondent's Petition to Enforce the Administrative Summons. The order conclusively adjudicated the parties rights with respect to the summons, leaving no further issues to be determined. Under South Carolina law, an order is final when it "finally determines some substantial matter forming the whole or part of some cause of action." See Ex parte Wilson, 367 S.C. 7, 625 S.E.2d 205 (2005) and Edwards v. SunCom, 369 S.C. 91, 631 S.E.2d 529 (2006). The ALCs enforcement order meets this standard, as it conclusively determined the enforceability of the summons.

B. Requiring Contempt Proceedings to Secure Review Denies Meaningful Appellate Relief

This Court's dismissal would force Appellant to defy the enforcement order, be held in contempt, and then appeal to obtain review. Such a procedure is inconsistent with due process

and South Carolina precedent, which disfavors conditioning appellate review on contempt sanctions. Requiring a party to risk sanctions to secure review undermines the fairness and efficiency of the judicial process.

C. Public Policy Supports Immediate Review

Administrative summons enforcement implicates significant statutory and constitutional rights, including protections against overbroad investigatory demands and using powerful investigative tools without any indication of wrongdoing to be investigated. Delaying review until after contempt proceedings undermines judicial efficiency and exposes parties to unnecessary sanctions. Immediate review ensures that the rights of parties are protected without subjecting them to undue hardship, unreasonable searches without any indication of wrongdoing or procedural inefficiencies.

III. RELIEF REQUESTED

For the foregoing reasons, Appellant respectfully requests that this Court:

1. Grant this Petition for Rehearing;
2. Vacate the dismissal order entered September 9, 2025; and
3. Allow the appeal to proceed on the merits of the ALCs enforcement order.

September 13, 2025

Respectfully Submitted,

s-James E. Smith, Jr.
James E. Smith, Jr.
James E. Smith, Jr., PA
1422 Laurel Street
Columbia, South Carolina 29201
(803)933-9800
Attorney for Appellant

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City Market,

Appellant.

PROOF OF SERVICE

The undersigned, Attorney for the Appellant, does hereby certify that service of the Petition for Rehearing in the above-captioned matter was made upon all counsel of record by AIS registered email address this 13th day of September 2025.

Jason P. Luther, Esq. – Jason.Luther@dor.sc.gov
Thomas C. Hughes, Esq., - Thomas.Hughes@dor.sc.gov
South Carolina Department of Revenue
Attorney for Respondent

s-James E Smith Jr
James E. Smith, Jr., P.A.
1422 Laurel Street
Columbia, SC 29205
(803) 933-9800
James@JamesSmithPA.com
Attorney for Appellant