

RAY LAW FIRM, LLC

Williams at East North Building
700 East North Street
Greenville, South Carolina 29601-3013

Telephone (864) 313-5332

Facsimile (888) 633-1283

May 15, 2014

RECEIVED

MAY 16 2014

SC Court of Appeals

The Honorable Jenny Abbott Kitchings
The Honorable V. Claire Allen
South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: Rays, Petitioner/Appellant v. S.C. Department of Revenue;
Court of Appeals Case no. 2012-212844

Dear Ladies:

I represent the Appellants.

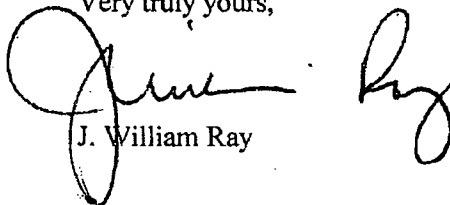
This matter was returned to my desk today via our tickler system. I note that there is no Court of Appeals decision, received here or of record, finally deciding our contested January 27, 2014 Motion for Reinstatement (cf. DOR Return filed February 10, 2014; Reply to Return filed February 18, 2014).

However, I am informed today by your online record that our March 2014 Motion(s) to Recall the Remittitur was denied yesterday. I have not yet actually received the Order of May 14, 2014.

From an abundance of caution, I must construe the one-page Order of May 14, 2014, addressing our March 2014 Motion, as a tacit denial of our antecedent January 2014 Motion for Reinstatement, as well. Consequently, I am writing to confirm that the Appellants will file and serve a Petition for Writ of Certiorari within thirty (30) days of yesterday, as provided by Rule.

Thank you for your consideration.

Very truly yours,



J. William Ray

JWR:st

Encl.: Currently pertinent copies

cc: Client

Aaron M. Scheuer, Attorney for Respondent
The Honorable Daniel E. Shearhouse

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
The Honorable Ralph King Anderson, III
Administrative Law Judge

RECEIVED

FEB 10 2014

SC Court of Appeals

Case No. 12-ALJ-17-0221-CC
Appellate Case No. 2012-212844

John Ray and Sherry Ray, Appellants,

v.

South Carolina Department of Revenue, Respondent.

**RESPONDENT'S RETURN TO APPELLANTS' MOTION FOR
REINSTATEMENT**

In accordance with Rule 240(e), SCACR, the Respondent, South Carolina Department of Revenue (Department) opposes the Motion for Reinstatement of the Appellants (Rays) and offers the following in return.

Relevant Procedural History

On April 12, 2012, the Department issued the Rays a Department Determination disallowing a tuition tax credit they claimed for 2008. On May 11, 2012, the Rays requested a contested case hearing at the Administrative Law Court (ALC). On July 26, 2012, the ALC granted the Department's motion for summary judgment and concluded that the Rays were not entitled to the tuition tax credit. On August 21, 2012, the ALC denied the Ray's Motion to Reconsider, Grant Relief and Set Aside Order

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

RECEIVED

FEB 18 2014

SC Court of Appeals

John Ray and Sherry Ray,

Appellants,

v.

S.C. Department of Revenue,

Respondent.

APPELLANTS' REPLY TO RESPONDENT'S RETURN

Pursuant to Rule 240(f), Appellants ("the Rays") respectfully Reply to the Return of Respondent ("DOR"). The Return is dated Thursday, February 6, 2014. However it was placed into an envelope bearing an inaccurate address (cf. DOR Proof of Service to the Rays' address of record), the envelope was eventually corrected, the Return mailed some time thereafter, and it was received by the undersigned on Monday, February 10, 2014 at 3:04 p.m.

First, the Rays reiterate by this reference, the text and arguments of its Motion of January 27, 2014. In addition, reference is made to the Exhibits attached thereto.

Relevant Procedural Admissions

The DOR Return contains relevant and revealing admissions. In it, to outline only two (2) concessions, DOR confirms the tribunal's non-compliant abbreviation of the matter below by the ALC. Moreover, in its submission to the Supreme Court, also dated February 6, 2014, DOR makes an astounding reversal of its position as to what "determination" is required under S. C. Code § 12-60-3370. Either, but certainly both issues, in addition to those of the Rays' Motion, further militate in favor of reinstatement here.

RAY LAW FIRM, LLC

Williams at East North Building
700 East North Street
Greenville, South Carolina 29601-3013

Telephone (864) 313-5332

Facsimile (888) 633-1283

March 6, 2014

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

Re: Rays, Petitioner/Appellant v. S.C. Department of Revenue;
Case no. 2012-212844

Dear Ms. Kitchings:

I represent the Appellants. In today's mail, I received a copy of your March 5, 2014 Remittitur to the Administrative Law Court.

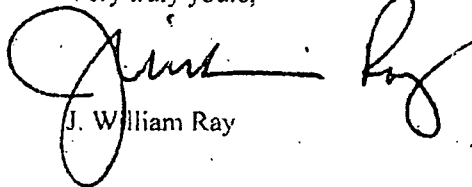
It is premature, as may be seen hereafter. This is my request that you withdraw/retrieve it.

Your file, like your online record, will reveal that at least one matter is still pending in your Court:

- On January 27, 2014, we served and filed a Motion for Reinstatement in your Court;
- Within days, DOR timely Returned;
- Shortly afterward, and despite the incursion of snow and weather delays, the Appellants timely filed and served their Reply to the DOR Return; and
- As of the date hereof, our Petition for Reinstatement and other relief has not been acted on by the Court of Appeals.

Should you have questions or require clarification of any point, please do not hesitate to let me know. Thank you for your correction of this apparently inadvertent oversight.

Very truly yours,



J. William Ray

RECEIVED

MAR 10 2014

JWR:st

cc: Clients
The Honorable Jana E. Shealy
Aaron M. Scheucr, Attorney for Respondent

SC Court of Appeals



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
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

March 12, 2014

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

RECEIVED
MAR 14 2014

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

Dear Counsel:

In response to your letter dated March 6, 2014, kindly put your request to recall the remittitur in the form of a motion. The matter can then be reviewed by the Court and an order issued.

Very truly yours,

V. Claire Allen, Deputy

CLERK

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

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

71590

John Ray and Sherry Ray,

Appellants,

v.

S.C. Department of Revenue,

Respondent.

RECEIVED

MAR 17 2014

SC Court of Appeals

APPELLANTS' MOTION TO RECALL THE REMITTITUR

Pursuant to Rules 240 & 242, SCACR, Appellants ("the Rays") respectfully move for a Recall of the Remittitur which was inadvertently, but pre-maturely, sent to the tribunal on or about March 5, 2014. The Rays received written notice thereof on March 6, 2014 and, on that same date, notified the Court of their exception in writing. That request for recall is amended and made more formal by this Motion. As may be seen hereafter, issues remain pending before this Court.

A Motion for Reinstatement and other relief was filed in this Court and served by the Rays on January 27, 2014. Within days, Respondent ("DOR") timely filed and served its Return. Shortly afterward, the Rays filed and served a Reply. As of the date hereof, the request for reinstatement has not been acted on or finally decided by the Court of Appeals. Therefore, issues and decisions remain pending in the Court of Appeals and the decision of this Court is not yet final. Rule 242(c), SCACR.

Therefore, the Remittitur is not yet ripe or proper. Respectfully, it should be recalled.