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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

The Honorable Robin B. Stilwell, Circuit Court Judge

Case No. 2008-CP-23-8476

State of South Carolina ex rel, Robert
M. Ariail, Solicitor, Thirteenth
Judicial Circuit,

Respondent,

v.

Eighty-Eight One Hundred Forty-
Eight Dollars and 45/100th
(88,148.45), Three Hundred Twenty-
Two (322.00) Dollars and Eighty
Dollars (\$80.00) and Contents of Safe
Deposit Box 22031, Moon Magruder
at Wachovia Bank contents
Defendant Property and Moon Cha
Magruder, Interested Party,

Defendants,

Of Whom Moon Cha Magruder is

Appellant.

APPELLANT'S PETITION FOR REHEARING

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Court of Appeals

Appellant's Petition for Rehearing

Pursuant to Rule 221(a) of the South Carolina Appellate Court Rules, Appellant respectfully requests that the Court of Appeals reconsider and rehear its Opinion No. 2012-UP-388 filed on June 27, 2012. Appellant respectfully submits that in affirming the Circuit Court's Order, this Court overlooked or misapprehended the points set forth below.

In affirming the Circuit Court's ruling, the Court of Appeals focused, in part, on Appellant's failure to establish that the attorney representing the State of South Carolina "who practiced in the civil division . . . had access to information concerning [Appellant's] criminal counsel." However, as an employee of the State of South Carolina and of the office of the Thirteenth Circuit Solicitor's office, the knowledge of Appellant's criminal counsel must be imputed on her.

As this Court has previously ruled:

[I]t is important to clearly understand the doctrine of imputed knowledge. It is founded upon the duty of an agent to his principal and the presumption that he has performed it. . . . 'The duty of an agent to inform his principal of all material facts is a duty which the law conclusively presumes that the agent has performed, and a principal is therefore affected with knowledge of all material facts of which the agent receives notice or acquires knowledge while acting in the course of his employment and within the scope of his authority, although the agent does not in fact inform his principal thereof.'

Bank of Johnsonville v. Sovereign Camp, Woodmen of the World, 130 S.C. 444, 454-455, 126 S.E. 332, 335 (1925) (citations omitted).

Assistant solicitors are appointed agents of the County solicitor who serve at the will of the Solicitor. S.C. Code Ann § 1-7-405. Solicitors have a statutory

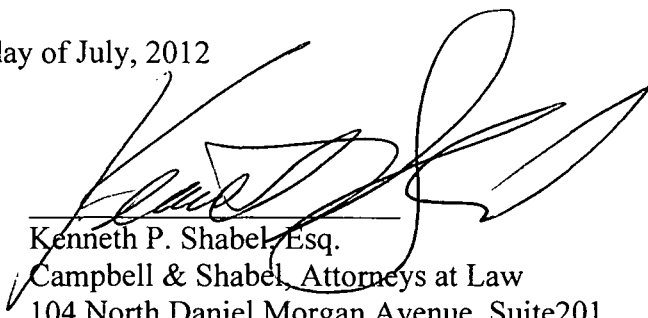
duty to “represent in all matters, both civil and criminal, all institutions, departments, and agencies of the State.” Solicitors serve and act upon designation by the Attorney General. Id. It is through this designation that the Solicitors are charged with the obligation to petition Courts for forfeiture under South Carolina Code Section 44-53-530.

It is clear that someone in the Thirteenth Circuit Solicitor’s Office had knowledge of Appellant’s criminal attorney. That is not in dispute. Once someone in the office had the knowledge, then the Solicitor of the Thirteenth Circuit was “affected” with that knowledge. Whether it was the attorney in this case or another attorney in the office of Solicitor is irrelevant, as the knowledge of one attorney in the office imputes the knowledge to the Solicitor even if that attorney never informs the Solicitor.

Once the Solicitor has knowledge, as both Plaintiff and as representing the State of South Carolina, then one who represents the Solicitor’s Office in this proceeding cannot say that the Office had “exhausted all known avenues to locate [Appellant].” Such a statement is fraudulent because, at the very least, it was reckless.

Based upon these points, Appellant respectfully requests that this Court reconsider and rehear its Opinion in this matter after fresh, de novo review of the evidence and the Record on Appeal.

Respectfully submitted, this tenth day of July, 2012

A handwritten signature in black ink, appearing to read 'Kenneth P. Shabel', is written over a horizontal line. The signature is stylized and cursive.

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