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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM LEXINGTON COUNTY
COURT OF COMMON PLEAS
THE HONORABLE R. KNOX McMAHON
CIRCUIT COURT JUDGE

APPELLATE CASE NO. 2013-001745
CIVIL ACTION NO. 2012-CP-32-3496

RECEIVED

MAR 19 2015

Opinion No. 2015-UP-107 (S.C. Ct. App. filed March 4, 2015)

SC Court of Appeals

Roger R. Riemann,

RESPONDENT,

versus

Palmetto Gems & Gemological Services, Inc. &
Thomas Shofner, in his individual capacity,

APPELLANTS.

PETITION FOR REHEARING

The Respondent, Roger R. Riemann, respectfully petitions the Court for a rehearing of its Opinion No. 2015-UP-107 pursuant to Rule 221(a), SCACR based upon the following points overlooked or misapprehended by the Court:

Procedural History

The appeal in this matter stems from a suit brought by Riemann against Appellants Palmetto Gems & Gemological Services, Inc. ("PGGS") and Thomas Shofner ("Shofner"), in his individual capacity (collectively, "Appellants") for (1) violation of the South Carolina Payment of Wages Act, S.C. CODE ANN. § 41-10-10 *et seq.*; (2) a tort

claim for wrongful discharge in violation of South Carolina public policy; (3) a defamation claim based on false statements Shofner made to Riemann's wife that Riemann was a "thief" and had stolen jewelry; and (4) an intentional infliction of emotional distress claim based on the statements Shofner made to Riemann's wife. Appellants moved to dismiss the action, or in the alternative, stay proceedings and compel arbitration.

This matter was heard by the Honorable R. Knox McMahon on February 13, 2013. On June 24, 2013, Judge McMahon issued an Order denying the Appellants' Motion to Dismiss, or in the Alternative, Stay Proceedings and Compel Arbitration.

Appellants filed their Notice of Appeal on August 1, 2013, and this matter was briefed in accordance with the Appellate Court Rules. This Court heard this matter on December 10, 2014. On March 4, 2015, this Court issued its unpublished opinion reversing the Trial Court's denial of the Appellants' motion to compel arbitration and remanded the case to the Trial Court for an order consistent with this Court's Opinion that the questions of arbitrability in this case were to be decided by the arbitrator rather than the court. This Petition for Rehearing follows.

Relevant Facts

Riemann's Final Brief to this Court enumerates the facts of this matter; however, Riemann offers a brief recitation of the facts to underscore the evidence presented which reasonably supports the Trial Court's findings regarding arbitrability.

Riemann, a gemologist, was hired on August 11, 2006 to work for PGGGS. He was terminated by the owner of PGGGS, Shofner, on May 21, 2012. (R. p. 21, Complaint, ¶ 1). Prior to his termination, Riemann had made known to Shofner his concerns that he

was not receiving appropriate bonuses under his Shareholder Management Agreement with PGGG. (R. pp. 107-110, Shareholder Management Agreement, attached as Exhibit “A” to the Complaint). Riemann ultimately filed a wage complaint with the South Carolina Department of Labor, Licensing & Regulation (“LLR”) on or about February 7, 2012. LLR officially opened the investigation on or about March 14, 2012 and notified Shofner of the complaint in late March 2012. Shortly thereafter, on May 21, 2012, Shofner fired Riemann. (R. pp. 23-24, Complaint, ¶¶ 15-17).

On or about June 4, 2012, LLR completed its Investigative Report concerning Riemann’s complaint and (1) issued a citation to PGGG for numerous violations of the S.C. Payment of Wages Act, S.C. CODE ANN. § 41-10-10 *et seq.*; and (2) cited PGGG for its failure to pay Riemann his bonus for 2011. (R. pp. 112-114, LLR Investigative Report, attached as Exhibit “C” to the Complaint). Despite the findings of LLR and Riemann’s demand for payment, PGGG and Shofner have continued to refuse to pay Riemann money that is owed and due to him. (R. p. 24, Complaint, ¶¶ 18-21).

Prior to Riemann’s termination, while Riemann’s wife was visiting PGGG, Shofner confronted her and told her that Riemann was a “thief.” He further stated that she “was wearing stolen jewelry.” Shofner made these statements not only to Riemann’s wife directly, but also within the earshot of other PGGG employees. Shofner made these statements with the full knowledge that they were false. Among other things, Shofner knew that the items had been placed on either a layaway or house account and knew that Riemann had made payments on them. (R. p. 25, Complaint, ¶ 25).

After Riemann filed suit, the Appellants moved to compel arbitration, relying on the “Dispute Resolution” provision of the Shareholder Management Agreement that

purportedly requires settlement of “[a]ny controversy or claim arising out of or related to this Agreement or the breach thereof” by binding arbitration. In denying the Appellants’ motion to compel arbitration, the Trial Court initially found that the Shareholder Management Agreement involved interstate commerce and was subject to the Federal Arbitration Act (“FAA”). The Trial Court also found that the arbitration clause in the contract was not “unconscionable.”

Nevertheless, the Trial Court denied the Appellants’ motion because (1) Riemann’s claim under the South Carolina Payment of Wages Act was not subject to arbitration, pursuant to S.C. CODE ANN. § 41-10-100, and (2) the Appellants failed to provide “clear and unmistakable” evidence that the parties intended for an arbitrator to determine whether the tort claims were arbitrable. The Trial Court further found that tort claims were not “substantially related” to the Shareholder Management Agreement, and that such claims were unforeseeable at the time the contract was formed, relying *inter alia* on *Aiken v. World Finance Corp. of South Carolina*, 373 S.C. 144, 151, 644 S.E.2d 705, 709 (2007) and *Chassereau v. Global-Sun Pools, Inc.*, 373 S.C. 168, 172, 644 S.E.2d 718, 720 (2007).

Argument

I. The arbitration clause of the parties’ Shareholder Management Agreement does not provide “clear and unmistakable” evidence that the parties agreed that question of arbitrability for all disputes between Riemann and the Appellants was to be decided by the arbitrator rather than the court.

In reversing the Trial Court’s denial of the Appellants’ motion to compel arbitration, this Court held “the arbitration clause of the parties’ agreement clearly and unmistakably provided that questions of arbitrability were to be decided by the arbitrator.” In so holding, this Court relied upon the opinion of the Supreme Court of the

United States in *First Options of Chicago., Inc. v. Kaplan*, 514 U.S. 938 (1995). The *Kaplan* case, however, does not mandate in this case that the arbitrator, rather than the court, decide whether Riemann's claims against the Appellants are subject to the arbitration clause in the Shareholder Management Agreement.

In *Kaplan*, a clearing firm had a dispute with the Kaplans and their investment company and pursuant to the term of a workout agreement sought arbitration of the dispute by a panel of the Philadelphia stock exchange. *Id.* at 940-41. The Kaplans denied that their disagreement with the clearing firm was arbitrable, and they filed written objections to that effect with the arbitration panel. The arbitrators determined that they had the power to rule on the merits of the parties' dispute and ruled in favor of the clearing firm. The Kaplans requested the federal district court to vacate the arbitration award, but upon motion of the clearing firm to confirm, the district court confirmed the award. The United States Court of Appeals for the Third Circuit agreed with the Kaplans that their dispute was not arbitrable and reversed the district court's confirmation of the award. *Id.* at 941.

The Supreme Court of the United States granted certiorari to address who should have the primary power to decide whether the parties agreed to arbitrate a certain dispute. The question considered was a very narrow one with respect to the standard of review applied to an arbitrator's decision about arbitrability because in this case it was the arbitrators that made the decision that the parties' dispute was arbitrable [unlike the instant case where the question was before the Trial Court]. The Court was therefore determining what standard of review by the district court applied to the arbitrators' decision that they had the power to rule on the merits of the suit. Thus, did the power to

decide arbitrability belong primarily to the arbitrators because the courts have to review their arbitrability decision deferentially or did the power belong to the court because the court determines arbitrability independently without any deference to the arbitrators' decision? *Id.* at 941-42.

The Court determined that the answer to the question was fairly simple. The question of who has the power to decide arbitrability “turns upon what the parties agreed about that matter:”

Did the parties agree to submit the arbitrability question itself to arbitration? If so, then the court's standard for reviewing the arbitrator's decision about that matter should not differ from the standard courts apply when they review any other matter that parties have agreed to arbitrate. . . . That is to say, the court should give considerable leeway to the arbitrator, setting aside his or her decision only in certain narrow circumstances. . . . If, on the other hand, the parties did not agree to submit the arbitrability question itself to arbitration, then the court should decide that question just as it would decide any other question that the parties did not submit to arbitration, namely, independently.

Id. at 943. The two answers to these questions, the Court observed, flowed “inexorably from the fact that arbitration is simply a matter of contract between the parties; it is a way to resolve those disputes-but *only* those disputes-that the parties have agreed to submit to arbitration.” *Id.* (emphasis added).

The Court then provided brief guidance on how a court should decide whether the parties agreed to submit the arbitrability issue to arbitration, first recognizing that courts should apply ordinary state-law principles that govern the formation of contracts. *Id.* at 944. The Court also directed that “[c]ourts should not assume that the parties agreed to arbitrate arbitrability unless there is *clear* and *unmistakable* evidence that they did so.” *Id.* (internal citations omitted) (emphasis added).

This Court relied upon this language in *Kaplan* in presumably determining that

the following language in the Shareholder Management Agreement provided the clear and unmistakable evidence that the parties agreed the question of whether Riemann's claims were arbitrable should be decided by the arbitrator: "Any dispute as to whether a controversy or claim is subject to arbitration shall be submitted as a part of the arbitration proceeding."

This analysis stops short, however, in resolving the question required to be answered by the Supreme Court in *Kaplan* – whether the parties contractually agreed to submit the question of arbitrability of a particular dispute to arbitration no matter the origin of the dispute. *Id.* at 943. In other words, is there clear and unmistakable evidence that Riemann agreed to submit to the arbitrator the question of arbitrability of all potential disputes between him and the Appellant, including claims not arising out of and not related to the Shareholder Management Agreement? Based upon the language of the Shareholder Management Agreement, the *Kaplan* opinion, and upon the precedent of this State's Supreme Court, the answer to this question is no.

By its terms, the Dispute Resolution Clause of the Shareholder Management Agreement only applies to any "controversy or claim arising out of or related to [the Shareholder Management Agreement] or the breach thereof." Therefore, by its terms, the Shareholder Management Agreement does not apply to disputes between the parties which arise outside of their contractual relationship.

Appellants, however, seek to sweep every interaction and dispute between the parties under this arbitration clause without any regard to whether such disputes are connected to the Shareholder Management Agreement by arguing that the one sentence – "Any dispute as to whether a controversy or claim is subject to arbitration shall be

submitted as a part of the arbitration proceeding” - covers every single interaction and removes all ability of the courts to decide whether a certain claim is subject to arbitration even when the claim has no relationship to the Shareholder Management Agreement and does not arise out of or relate to the Agreement to be covered by the Dispute Resolution Clause in the first instance.

This one sentence does not provide the “clear and unmistakable” evidence required by the United States Supreme Court in *Kaplan* that the parties agreed to submit the arbitrability of claims bearing no relationship to the Shareholder Management Agreement to the arbitrator. In fact, in *Kaplan*, the Court ultimately held that Kaplans did not agree to submit the question of arbitrability to arbitration because the agreement was silent or ambiguous on the issue and therefore, there was no clear and unmistakable evidence that the Kaplans agreed to submit such questions to the arbitration. *Kaplan*, 514 U.S. at 944-47.

The same can be said for the Dispute Resolution Clause in this case. The clause is silent, or in the very least, ambiguous, as to whether claims not arising out of or not related to the Shareholder Management Agreement are subject to a delegation clause contained within an agreement between the parties that only governs specific matters. The sentence upon which the Appellants rely does not clearly and unmistakably establish that the parties contractually agreed to submit claims legally distinct from the parties’ contractual relationship to an arbitrator on the question of whether such claims are arbitrable. The Dispute Resolution Clause is much too vague to clearly and unmistakably provide evidence that Riemann and Appellants contractually agreed to have an arbitrator decide the arbitrability of every single potential dispute between them. *See Chassereau*

v. Global-Sun Pools, Inc., 373 S.C. 168, 171-72, 644 S.E.2d 718, 720 (2007) (“[A]rbitration is a matter of contract, and a party cannot be required to arbitrate any dispute which he has not agreed to arbitrate.”).

In the absence of clear and unmistakable evidence to the contrary, the question of the arbitrability of a claim is an issue for judicial determination. *See Simpson v. MSA of Myrtle Beach, Inc.* 373 S.C. 14, 23, 644 S.E.2d 663, 667-68 (2007) (observing the courts decide certain “gateway matters” such as “whether the parties have a valid arbitration agreement at all, or whether an arbitration clause applies to a certain type of controversy”); *see also Chassereau*, 373 S.C. at 171, 644 S.E.2d at 720.

Where there was not clear and unmistakable evidence that Riemann agreed otherwise, the question of arbitrability of the claims brought by Riemann against the Appellants was within the power of the Trial Court to decide. Riemann therefore respectfully submits that this Court misapprehended the holding and application of the *Kaplan* opinion to this case. Riemann therefore requests that this Court reverse its opinion and reinstate the Order of the Trial Court denying the Appellants’ motion to compel arbitration.

II. The Trial Court correctly determined that Riemann’s claims against the Appellants were not subject to arbitration.

While this Court did not address the remaining issues, Riemann asserts that the Trial Court correctly decided that Riemann’s claims for violation of the South Carolina Payment of Wages Act, wrongful discharge, defamation, and intention infliction of emotional distress were not subject to arbitration.

A. The South Carolina Payment of Wages Act statutorily bars the Appellants from forcing Riemann to arbitrate his statutory claim under the Act.

The Trial Court also correctly found that the Appellants cannot force Riemann to arbitrate his claim under the South Carolina Payment of Wages Act (the “Act”). To do so would violate S.C. CODE ANN. § 41-10-100, which provides that “No provision of this chapter may be contravened or set aside by a private agreement.” This includes, naturally, the provision in § 41-10-80(C) which provides employees with the right to bring a “civil action” against employers for violations of the Act.

The Appellants’ argument on this issue is not persuasive because it ignores the “cardinal rule of statutory construction” that, to ascertain and effectuate the actual intent of the legislature, “statutes which are part of the same Act must be read together.” *Burns v. State Farm Mut. Auto. Ins. Co.*, 297 S.C. 520, 522, 377 S.E.2d 569, 570 (1989). Further, sections which are part of the same general statutory law of the state must be construed together, and each provision must be given effect, if it can be done by any reasonable construction. *Smalls v. Weed*, 293 S.C. 364, 370 360 S.E.2d 531, 534 (S.C. App. 1987) (quoting *State v. Fidelity & Deposit Co. of Maryland*, 114 S.C. 511, 104 S.E. 182 (1920)). The Appellants’ argument, if accepted, would require the Court to ignore the binding definition of the term “civil action,” ignore the remedial nature of the Act, and frustrate the intent of the legislature as expressed in the statutes.

It is well-established that the South Carolina Payment of Wages Act is “remedial legislation designed to protect working people and assist them in collecting compensation wrongfully withheld.” *Dumas v. InfoSafe Corp.*, 320 S.C. 188, 194, 463 S.E.2d 641, 645 (Ct. App. 2005). For that reason, our state “refus[es] to allow employers to ignore the

statute by claiming their employees had by contract or custom waived their statutory right to prompt payment of wages.” *Futch v. McAllister Towing of Georgetown, Inc.*, 335 S.C. 598, 504, 518 S.E.2d 591, 594 (1999) (quoting *Cato v. Grendel Cotton Mills*, 132 S.C. 454, 456-61, 129 S.E. 203, 205 (1925)). S.C. CODE ANN. § 41-10-100 embodies this policy by affirming that “[n]o provision of this chapter may be contravened or set aside by a private agreement.” (emphasis added).

Most recently, an employer attempted to argue that its failure to pay an employee as agreed had been waived by consent and that he was “estopped from challenging the policy” that he was contesting. In rejecting the employer’s argument, this Court relied on § 41-10-100, noting that “any agreement Ross may have consented to would be void” under § 41-10-100 and “unenforceable against him by Ligand.” *Ross v. Ligand Pharmaceuticals, Inc.*, 371 S.C. 464, 473 n. 1, 639 S.E.2d 460, 465 (Ct. App. 2006).

In the instant case, the Trial Court properly found that the language of § 41-10-100 was plain and unambiguous, and that the statute made clear that “[n]o provision of this chapter may be contravened or set aside by private agreement.” That section, read together with § 41-10-80(C), makes it equally clear that Riemann’s claim under the Act cannot be arbitrated. (R. p. 15, Order).

This finding is supported by other “plain and unambiguous” language in the South Carolina Code. The definition of a “civil action,” found in Rule 2 of the South Carolina Rules of Civil Procedure, declares emphatically that “[t]here shall be one form of action to be known as ‘civil action.’” (emphasis added). Moreover, Rule 3, SCRPC, is equally emphatic, defining a “civil action” as commenced only “when the summons and complaint are filed with the clerk of court within the statute of limitations in any manner

prescribed by law, or if actual service is accomplished within one hundred twenty days after filing.”

The Appellants incorrectly argued that the Trial Court “expanded” the Act’s statutory bar on private waivers of the Act’s provisions. To agree with Appellants’ argument, this Court would have to ignore the legislature’s clear definition of a “civil action,” as well as its equally clear directive in § 41-10-100, as well as the remedial nature of the Act itself.

The Appellants also (wrongly) argued that the language of § 41-10-80(C) – which grants an employee the right to bring a civil action – can be contravened or set aside by private agreement because the legislature stated that private citizens “may” bring a civil action. The Appellants compared the grant of this right to other sections of the Act that are directives to LLR, which is the administrative agency in charge of enforcing the Act. These directives are understandably stated in terms mandating that LLR, and its Director, carry out specific bureaucratic duties with regard to the Act, such as investigating claims, assessing penalties, and giving written warnings to violators. *See* S.C. CODE ANN. §§ 41-10-30, 41-10-50 & 41-10-70. By contrast, it would be absurd for the legislature to issue a directive to private citizens “requiring” them to exercise their rights under § 41-10-80(C). Following this argument to its logical conclusion, the Appellants must presume that the legislature could order private citizens to bring civil actions in the same manner that it can order administrative agencies to carry out specific duties of state government. Such a

distinction is absurd should have no bearing on the issues before this Court.¹

For these reasons, it is clear that the Trial Court had ample legal and factual grounds to deny the Appellants' attempt to compel arbitration of Riemann's claim under the South Carolina Payment of Wages Act. Therefore, Riemann respectfully requests this matter be reheard and the trial court's Order affirmed.

B. Riemann's remaining tort claims for wrongful discharge, defamation, and intentional infliction of emotional distress are not claims that "arise out of or are related to" the Shareholder Management Agreement, and therefore, these claims are not subject to the "Dispute Resolution" provision cited by the Appellants.

In determining that Riemann's three tort claims were not arbitrable, the Trial Court found that the tort claims did not bear a "significant relationship" to the arbitration provision of the Shareholder Management Agreement. The Trial Court made this determination after examining the Shareholder Management Agreement and the nature of the factual allegations of Riemann's claims for wrongful discharge, defamation, and intentional infliction of emotional distress. Because none of the claims relied on the outcome of the resolution of any issue significantly related to the Shareholder Management Agreement, the Trial Court reasonably ruled that they were not arbitrable under the Shareholder Management Agreement. (R. p. 18, Order).

In reaching its decision, the Trial Court relied on the rulings of the South Carolina

¹ The Appellants also point to one case from the Court of Appeals in which the arbitration of a Payment of Wages Act claim under the Act is referenced. *Pearson v. Hilton Head Hosp.*, 400 S.C. 281, 733 S.E.2d 597 (Ct. App. 2012). While the Appellants cite to the case, and three other cases decided in federal courts, for support for the proposition that arbitration of claims under the Act can be compelled in spite of S.C. CODE ANN. § 41-10-100, a close reading of *Pearson* and the other cases reveals that none of these cases ever addressed the impact of § 41-10-100, or even indicate in any way that the issue was raised by any party. As such, the cases have no bearing on the resolution of the issues presented here.

Supreme Court that were directly on point. In determining whether a dispute between parties is covered under a purported arbitration agreement, our Supreme Court has stated as follows:

[W]e pronounce a more definitive rule for determining whether a significant relationship exists between a dispute between parties to a contract and the underlying contract, thereby implicating an arbitration agreement in the contract. Because even the most broadly-worded arbitration agreements still have limits founded in general principles of contract law, this Court will refuse to interpret any arbitration agreement as applying to outrageous torts that are unforeseeable to a reasonable consumer in the context of normal business dealings.

Aiken, 373 S.C. at 151, 644 S.E.2d at 709 (2007); *Chassereau*, 373 S.C. at 172, 644 S.E.2d at 720 (“[W]e refuse to interpret an arbitration agreement with similar, though not identical, language to apply to illegal or outrageous acts that no reasonable person would have foreseen at the time the parties executed the agreement to arbitrate”).

Under the tests set forth by our Supreme Court, none of the tort claims alleged by Riemann are arbitrable. None of the claims rely on the outcome of the resolution of any issue specifically related to the Shareholder Management Agreement:

- Riemann’s claim for wrongful discharge in violation of public policy does not rely on any issue specifically related to the Shareholder Management Agreement. Instead, the claim is based solely on the allegations that: (1) Riemann filed a wage complaint with LLR, (2) Shofner fired him shortly thereafter, and (3) there is a causal connection between the two, and any attempt by Shofner to justify the termination after the fact is pretextual. Not one of these allegations relies in any way on any issue related to the Shareholder Management Agreement.
- Riemann’s claim for defamation arises wholly outside the Shareholder Management Agreement, and alleges exactly the type of “outrageous conduct” referenced in the Supreme Court’s decisions in *Aiken* and *Chassereau*, *supra*.
- Likewise, Riemann’s claim for intentional infliction of emotional distress, or “outrage,” arises from conduct that is wholly disconnected with any issue related to the Shareholder Management Agreement.

The Trial Court also explicitly ruled that it was “clear from the record before this Court that Riemann’s claims are wholly disconnected with any issue related to the Shareholder Management Agreement.” (R. p. 19, Order). In so holding, the Trial Court had at its disposal a record that included the Shareholder Management Agreement, which did not articulate Riemann’s specific duties or obligations as an employee, or the manner in which Riemann’s employment might be terminated. (R. pp. 107-110, *See* Shareholder Management Agreement). Thus, the Trial Court had ample legal and factual bases to determine that Riemann’s claims were “wholly disconnected with any issue related to the Shareholder Management Agreement.” (R. p. 19, Order).

Indeed, the Appellants abandoned any effort to argue that Riemann’s three tort claims were “significantly related” to the Shareholder Management Agreement. Appellant’s Brief only addresses their argument that the Trial Court should not have addressed the issue of arbitrability at all. Because the issue was not addressed in the Appellants’ Brief, it must be deemed abandoned and is the law of the case. *Judy v. Martin*, 381 S.C. 455, 458-59, 674 S.E.2d 151 (2009); *Bochette v. Bochette*, 300 S.C. 109, 112, 386 S.E.2d 475, 477 (Ct. App. 1989).

For these reasons, the Trial Court’s ruling that Riemann’s three tort claims are not subject to arbitration has ample legal and factual support and must be upheld.

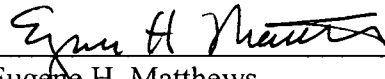
CONCLUSION

For the reasons set forth herein, Respondent Roger R. Riemann respectfully requests that the Court grant his Petition for Rehearing, withdraw the Opinion of the Court, and reinstate the Trial Court’s Order denying the Appellants’ motion to compel.

Dated this the 19th day of March, 2015.

Respectfully Submitted,

RICHARDSON PLOWDEN & ROBINSON, P.A.



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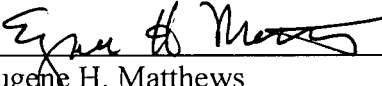
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COUNSEL FOR RESPONDENT ROGER R. RIEMANN

CERTIFICATE OF SERVICE

I, the undersigned, attorney for Respondent Roger R. Riemann, do hereby certify that I have this date served the foregoing Petition for Rehearing, dated March 19, 2015, by causing the same to be deposited in a United States Postal Service mailbox, postage prepaid, addressed to counsel of record as indicated below:

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Dated: March 19, 2015.

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Jenny A. Kitchings, Clerk
South Carolina Court of Appeals
1015 Sumter Street
Columbia, SC 29201

RE: *Roger R. Riemann v. Palmetto Gems and Gemological Services, Inc. & Thomas Shoffner, in his individual capacity*
Appellate Case No.: 2013-001745
C/A No.: 2012-CP-32-03496
Our File No.: 7957-001

Dear Ms. Kitchings:

Please find enclosed for filing the original and six copies of the *Petition for Rehearing* in the above matter. Also enclosed is the \$25.00 filing fee. Please file the 2 extra copies enclosed and return them to our office via our courier. By copy of this letter, we are this day serving a copy of the same on counsel of record for the Appellants.

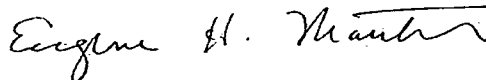
I am also writing to advise the Court that Carmen V. Ganjehsani, Esq. and Sheila M. Bias, Esq. are appearing as additional counsel of record for the Respondent Roger R. Riemann, and I request that their names be added along with the undersigned as counsel for the Respondent.

Should you have any questions or concerns regarding the enclosed, please do not hesitate to contact our office.

With best regards, I am

Sincerely,

RICHARDSON PLOWDEN & ROBINSON, P.A.



Eugene H. Matthews

/jlm
Enclosures as Stated

cc: Angus H. Macaulay, Esquire (w/encl.)
James A. Byars, Esquire (w/encl.)
Mr. Roger Riemann (w/encl.)

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