

THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM THE NINTH JUDICIAL CIRCUIT

Court of Common Pleas

Kristi Lea Harrington, Circuit Court Judge

Case No. 2009-CP-10-3608

**RECEIVED**

MAY 9 2012

**S.C. SUPREME COURT**

Elizabeth Livingston.....Respondent,

v.

Danube Valley Exports, LLC,  
Vicki W. Smith, and William Smith.....Petitioners.

**RETURN TO PETITION FOR A WRIT OF CERTIORARI**

Timothy J.W. Muller  
Rosen, Rosen & Hagood, LLC  
151 Meeting Street, Suite 400  
Charleston, SC 29401  
(843) 577-6726

Attorney for Respondent

A review of the petition filed in this matter demonstrates that Petitioners have failed to articulate or demonstrate any of the “special and important” reasons required to invoke this Court’s discretionary jurisdiction under Rule 242(b), SCACR. Indeed, Petitioners are unable to meet their burden under Rule 242 because the opinion rendered by the Court of Appeals affirming the decision of the circuit court is well supported by long standing precedent in this State. There are no federal or constitutional questions involved in this appeal, there was no dissenting opinion in the Court of Appeals, and the issues decided by the Court of Appeals are neither novel nor in conflict with prior appellate decisions in this State. Accordingly, the Petition for Writ of Certiorari should be denied.

In their Petition, Petitioners first argue that the trial court’s application of S.C. Code of Laws Section 27-37-155 involves a substantial Constitutional question but wholly fail to explain their assertion. Because the circuit court’s interlocutory ruling that was appealed by Petitioners did not involve any violation of due process or substantial Constitutional question, and Petitioners cannot establish such an argument, Petitioners first argument is without merit.

Petitioners’ second argument contends that S.C. Code of Laws Section 14-3-330 provides justification for reviewing the circuit court’s ruling, now posturing that the appealed order was “intermediate” in nature. However, as reflected in the Court of Appeals Order, Petitioners previously conceded the circuit court’s order was in fact interlocutory. The Court of Appeals and Petitioners’ earlier interpretation is correct as the Order at issue was interlocutory. Final judgment was only issued upon the grant of summary judgment by the Circuit Court, a ruling not appealed by Petitioners. As a result, the Court of Appeals correctly dismissed Petitioners’ appeal of the circuit court’s interlocutory order. The fact Petitioners’ now label the interlocutory order as “intermediate” for the purpose of establishing further review is incorrect and improper.

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Elizabeth Livingston.....Respondent,

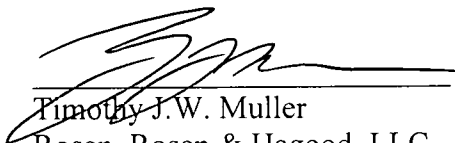
v.

Danube Valley Exports, LLC,  
Vicki W. Smith, and William Smith.....Petitioners.

**PROOF OF SERVICE**

I certify that I have served a copy of Respondent's Return on Petitioners Danube Valley Exports, LLC, Vicki W. Smith, and William Smith by depositing a copy of it in the United States Mail, postage prepaid, on May 7, 2012 addressed to Mr. Rolf M. Baghdady, 118 Cobblestone Court, Chapin, South Carolina, 29036-9705.

May 4, 2012

  
Timothy J.W. Muller  
Rosen, Rosen & Hagood, LLC  
151 Meeting Street, Suite 400  
Charleston, SC 29401  
(843) 577-6726

Attorney for Respondent

# ROSEN | HAGOOD

Timothy J.W. Muller  
tmuller@rrhlawfirm.com

May 4, 2012

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MAY 9 2012

**S.C. SUPREME COURT**  
pm 5-7-12

Daniel E. Shearhouse  
The Supreme Court of South Carolina  
Post Office Box 11330  
Columbia, SC 29211

RE: Elizabeth Livingston v. Danube Valley Exports, LLC, *et al.*  
C/A No.: 2009-CP-10-3608  
Case Tracking No.: 2012-210673

Dear Mr. Shearhouse:

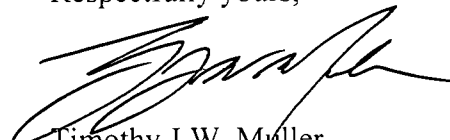
Please find enclosed the original and six copies of Respondent's Return to the Petition for a Writ of Certiorari in the above-referenced matter.

By copy of this letter, Rolf M. Baghdady, attorney for Appellants is being served with copies of same.

Thank you in advance for your assistance.

With kindest regards, I am

Respectfully yours,



Timothy J.W. Muller

TJM/dlc  
Enclosures as stated  
cc: Rolf M. Baghdady (w/ enc.)