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ALAN WILSON  
ATTORNEY GENERAL

March 4, 2016

MAR 04 2016

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
HAND DELIVERED

SC Court of Appeals

Re: Jowers v. SCDHEC Appellate Case No. 2016-000428

Dear Ms. Kitchings:

I respectfully request that this Court transfer this case to the Supreme Court pursuant to Rule 204(1), SCACR. That rule provides that “[i]n the event that the notice of appeal is filed in the wrong appellate court, the appellate court in which the matters is filed shall issue an order transferring the case to the appropriate appellate court.” I believe that this case is filed in the wrong court because Rule 203(d)(1)(A)(ii) provides that the notice of appeal shall be filed with the Supreme Court for “[a]ny final judgment involving a challenge on state or federal grounds to the constitutionality of a state law . . . where the principal issue is one of the constitutionality of the law . . .” Here, the subject of this suit is the constitutionality of parts of this State’s Surface Water Withdrawal Act, S.C. Code Ann, §49-4-10, *et seq.* The Circuit Court granted summary judgment to Respondent Department of Health and Environmental Control on grounds that included that the Act does not violate any alleged constitutional rights of the Plaintiffs / Appellants. Order, January 4, 2016, pp. 1, 2 and 12 - 14. (Copy of Order attached for your convenience.)

I am bringing this matter to your attention in the form of a letter, because the Court has the authority to transfer pursuant to Rule 204(a) without a motion; however, if you prefer that I file a formal motion, I will gladly do so. I have inquired with Appellant’s counsel as to whether they would request a transfer, but I have not received a response from them. I am enclosing the original and six copies of this letter and mailing and emailing it to counsel today.

Respectfully submitted,

  
J. Emory Smith, Jr.

Deputy Solicitor General

Counsel for Defendant / Respondent DHEC

cc: Amy E. Armstrong, Esquire  
Amelia A. Thompson, Esquire  
Jessie A. White, Esquire



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