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THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM THE KERSHAW COUNTY
Court of Common Pleas

Jeffrey M. Tzerman, Master-in-Equity

CIVIL ACTION NO.: 2006-CP-28-0433
APPELLATE CASE NO.: 2014-002455

Palmetto Residential Builders, LLC Appellant,

v.

Michael Cox and Elizabeth Cox. Respondents.

APPELLANT'S PETITION FOR REHEARING

RECEIVED
JAN 05 2017
SC Court of Appeals

Joey R. Floyd, Esquire
Benjamin C. Bruner, Esquire
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Attorneys for Appellant

**MEMORANDUM IN SUPPORT OF
PETITION FOR REHEARING**

Pursuant to South Carolina Appellate Court Rules, Appellant petitions this Court to rehear this case. Appellant respectfully asserts that there are particular points which have either been overlooked or misapprehended by the Court in rendering its Decision filed December 21, 2016 (Unpublished Opinion No. 2016-UP-524) upon the following grounds:

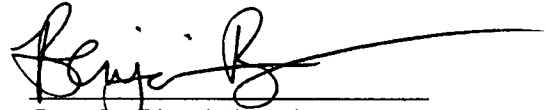
THE COURT AFFIRMED THE TRIAL COURT UPON THE MISAPPREHENSION THAT THE APPELLANT SEEKS THE ATTACHMENT OF ALL FUNDS IN COX'S RETIREMENT ACCOUNT.

In its motion, Palmetto asked the Trial Court to cause Cox to deliver the funds he deposited into his retirement account AFTER judgment against him was entered. (R. p. 4.) In its Order affirming the trial court, this Court wrote, "Palmetto argues the master erred in: (1) precluding attachment of all funds in Cox's retirement account[.]" (emphasis added). Far from "all" the funds in the retirement account, the order from which Palmetto appeals seeks only money Cox transferred to his protected account AFTER entry of the judgment against him.

Judgment was entered against Cox on February 13, 2008. (R. p. 46.) Based upon deposit records discovered during supplemental proceedings, Palmetto moved for an order that Cox cause the contributions made to his retirement account since January 1, 2010, over \$50,000, be paid to Palmetto. At no time has Palmetto sought to empty Cox's entire retirement account to pay the judgment. Rather, Palmetto's motion seeks only to set aside a series of transfers made long after entry of Palmetto's judgment, and long after Cox in fact knew he owed that money to Palmetto.

If the law is that a money deposited into a retirement account after entry of judgment is immune from claims of judgment creditors, then any judgment debtor can protect his assets by simply establishing a retirement account and depositing any money not spent on living expenses into that account. These things ought not to be.

January 3, 2017

A handwritten signature in black ink, appearing to read "Benjamin C. Bruner", written over a horizontal line.

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Palmetto Residential Builders, LLCAppellant,

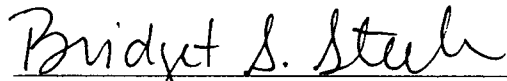
vs.

Michael Cox and Elizabeth Cox. Respondents.

PROOF OF SERVICE

I, Bridget S. Steele, a Legal Assistant of Bruner, Powell, Wall & Mullins, LLC, attorneys for Appellants, Palmetto Residential Builders, LLC do hereby certify that on the 3rd day of January, 2017, I served the *Appellant's Petition for Rehearing* upon opposing counsel by depositing copy of the same in the U.S. Mail, postage prepaid, and addressed as follows:

R. Charles Richards, Esq.
Richards Law Firm, LLC
1622 Sunset Boulevard
West Columbia, SC 29169
Attorney for Respondents



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** Also Admitted in District of Columbia

AUTHOR'S E-MAIL: BBRUNER@BRUNERPOWELL.COM

January 3, 2017

VIA U.S. MAIL

The Honorable Jenny Abbott Kitchings

Clerk of Court, South Carolina Court of Appeals

1220 Senate Street

Columbia, South Carolina 29201

Re: Palmetto Residential v. Michael Cox
Appellate Case No.: 2014-002455
Our File No.: 21547.100

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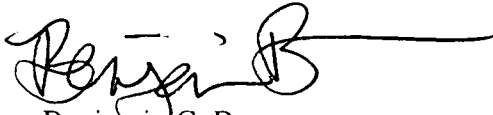
JAN 05 2017

SC Court of Appeals

Dear Ms. Kitchings:

Please find enclosed for filing the original and one (1) copy of the *Appellant's Petition for Rehearing* in the above-referenced matter, together with proof of service of the same on opposing counsel. Also included is a check in the amount of \$25.00 for the filing fee. Please file the original, clock-in the copy and return the copy to me in the envelope provided. By copy of this letter, I am serving the same on counsel of record. If you have any questions, please do not hesitate to contact me.

Sincerely,


Benjamin C. Bruner

BCB/bs

Cc: R. Charles Richards, Esquire