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IN THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Circuit Court

D. Craig Brown, Circuit Court Judge

Case No.: 2016-001521

South State Bank, f/k/a SCBT, a South Carolina state chartered banking Corporation, d/b/a  
First Federal, a Division of SCBT..... Respondent,

v.

Three Amigos Land Co., LLC. A South Carolina limited liability company; River  
City Storage, LLC, a Florida limited liability company; Ramco River City, Inc., a Michigan  
corporation; Liberty River City Residential, LLC, a Florida limited liability company; Ramco  
Jacksonville, LLC, a Michigan limited liability company; George M. Lee, III, an individual;  
and Paul V. Degenhart an individual, Appellants.

Of whom Paul V Degenhart is the Appellant ..... Appellant.

MOTION TO RECONSIDER

PAUL V. DEGENHART  
2131 Park Street  
Columbia, South Carolina 29201  
(803) 771-6050  
Pro Se Petitioner

Other Counsel of Record  
W. CLIFF MOORE, III  
PO Box 2285  
Columbia, SC 29202  
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Attorney for Respondent

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SC Court of Appeals

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## CERTIFICATE OF COUNSEL

Petitioner certifies that the Appeal to the Court of Appeals in this matter was ruled on and filed on May 2, 2018.

## QUESTION PRESENTED

That the Court of Appeals erred in holding that the Florida court(s) had subject matter jurisdiction.

## STATEMENT OF THE CASE

On or about November 17, 2011 Respondent filed a Summons and Complaint in Duval County, Florida praying for Action on a Note, Action on guarantees, and an Action to foreclose on a mortgage held on property located in Duval County, Florida owned by Three Amigos Land Co., LLC, a South Carolina limited liability company. On or about April 23, 2012 Petitioner filed a motion to dismiss because the pleadings of the Respondent failed to properly state a cause of action. On or about June 27, 2012 the Court granted Petitioner's motion to dismiss and granted leave to the Respondent to file an Amended Complaint. On or about July 9, 2012 Respondent filed its amended complaint. On or about July 17, 2012 Petitioner filed an answer to the amended complaint. On or about January 21, 2014 the Circuit Court of the Fourth Judicial Circuit in and for Duval County, Florida court entered its Final Judgment for Deficiency. Petitioner filed a motion to amend the Final Judgment. The Court issued its order denying Petitioner's motion for rehearing or to amend final judgment. Shortly thereafter Petitioner timely filed his notice of appeal with the District Court of Appeal of Florida First District.

On or about February 12, 2015 the District Court of Appeal affirmed the judgment of the Circuit Court.

An action was then brought to domesticate the Judgment in Richland County, South Carolina. Appellant filed a motion for Relief from Foreign Judgment. A hearing was held on June 6, 2016 and an order issued on June 20, 2016. Appellant subsequently and timely filed his Notice of Appeal and on May 2, 2018 the judgment was Affirmed.\ by the Court of Appeals.

### ARGUMENT

#### THAT THE COURT OF APPEALS ERRED IN HOLDING THAT THE FLORIDA COURT(S) HAD SUBJECT MATTER JURISDICTION

Petitioner argued that Florida court lacked Subject Matter Jurisdiction which argument may be raised at any time including for the first time on appeal. See State v. Funderburk, 259 S.C. 256, 261, 191 S.E.2d. 520, 522 (1972) (stating “the acts of a court with respect to a matter as to which it has no jurisdiction are void”). See also State v. Rogers, 2014 – 000980 Ct. App. (2016) “ issues related to subject matter jurisdiction may be raised at any time” (citation omitted).

The Florida Court lacked subject matter jurisdiction under authority of Florida Rules of Civil Procedure, Rule 1.140 (B) (1) and 1.540 (b) McGee v. Biggs, 974 So. 2d 524, 526, (Fla. 4<sup>th</sup> DCA 2008), Citing Strommen v. Strommen, 927 So. 2d 176 (Fla. 2d DCA 2006) and shows that:

1. The Florida Court lacked subject matter jurisdiction to proceed. Although challenged, subject matter jurisdiction was never established on the record. The

jurisdictional question can be raised at any time and can never be time barred. De Claire v. Yohanan, 453 So. 2d 375 (Fla. 1984).

2. Subject matter jurisdiction is confirmed on a court by the state constitution and applicable statutes. Subject matter jurisdiction may not be conferred upon the court by the consent of the parties, and the lack of subject matter jurisdiction may be raised for the first time on appeal. See Walker v. Garrison, 610 So. 2d 716, 718 (Fla. 4<sup>th</sup> DCA 1992); Florida Export Tobacco Co. v. Department of Revenue, 510 So. 2d 936, 943 (Fla. 1st DCA), review denied, 519 So. 2d 986 (Fla. 1987); See also Parker v. Parker, 553 So.2d 309, 311 (Fla. 1<sup>st</sup> DCA 1989). See also State v. Brown, 351 S.C. 522, 570 S.E. 2d 559 (Ct. App. 2002). Subject matter jurisdiction “concerns the power of the trial court to deal with a class of cases to which a particular case belongs.” Cunningham v. Standard Guar. Ins. Co., 630 So.2d 179, 181 (Fla. 1994) (citing Lovett v. Lovett, 93 Fla. 611, 112 So. 768 (1927)).
3. Further, subject matter jurisdiction cannot be waived by consent or agreement thus any purported agreement waiving subject matter jurisdiction is ineffective. Williams v. Starnes, 522 So. 2d 469, 471 (Fla. 2d DCA). The parties cannot agree to jurisdiction over subject matter jurisdiction when none exists. Cunningham. 630 So.2d at 181).

The Court of Appeals held that the Circuit Court in Florida was a court of general jurisdiction and nothing is intended to be outside their jurisdiction except that which clearly and specifically appears so to be. Petitioner contends that even if this is true

that the Record on Appeal presents no fact which supports the contention that Florida courts had subject matter jurisdiction. Respondent failed to present any fact in Florida or in the South Carolina Circuit Court that the Florida court had Subject Matter jurisdiction. As such the Appellate Court erred in affirming the lower court because no fact appears in the Record on Appeal supporting subject matter jurisdiction.

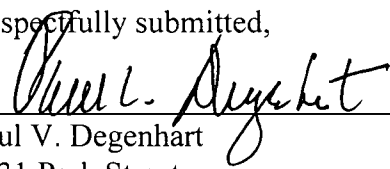
Beverly S., Individually and as Guardian ad Litem for Mandy S., Appellant v. Kayla R., Respondent 295 SC 399, 718 S.E.2d 224. (“[T]he appellate court will not consider any fact which does not appear in the Record on Appeal.”)

Further and significantly despite the fact that Petitioner had raised the issue of subject matter jurisdiction the Circuit Court Order does not even address the subject. As a result and once again the Record on Appeal contains no facts supporting subject matter jurisdiction.

### CONCLUSION

For all the reasons stated herein the relief requested by Petitioner should be granted.

Respectfully submitted,

  
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Paul V. Degenhart  
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Pro Se Petitioner

May 17, 2018

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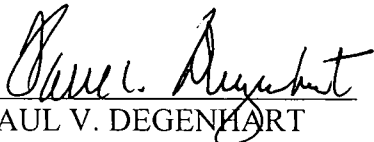
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Jacksonville, LLC, a Michigan limited liability company; George M. Lee, III, an individual;  
and Paul V. Degenhart an individual, Appellants.

Of whom Paul V Degenhart is the Petitioner ..... Petitioner

CERTIFICATE OF SERVICE

I certify that I have served the Motion to Reconsider of the Petitioner on  
Respondent by depositing it in the United States mail, postage prepaid, on May 17, 2018  
to the attorney for the Respondent, W. Cliff Moore, III, Adams and Reese, LLP, 1501  
Main Street, 5<sup>th</sup> Floor, Columbia, SC 29201

May 17, 2018

  
PAUL V. DEGENHART  
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Pro Se  
Petitioner

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\_\_\_\_\_  
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\*Also admitted in:  
Georgia and Nebraska

May 17, 2017.

By Hand Delivery

The Hon. Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201

Re: South State Bank v. Three Amigos Land Co.  
Case No. 2016-001521

Dear Ms. Kitchings:

Enclosed is a Motion to Reconsider including 1 unbound original and 6 copies along with the \$25 filing fee.

Please advise if there are any questions. Thanks.

Sincerely,

  
Paul V. Degenhart

Cc:  
W. Cliff Moore, III  
Adams & Reese, LLP  
PO Box 2285  
Columbia, SC 29202

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SC Court of Appeals