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**Jul 25 2023**

**S.C. SUPREME COURT**

**THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT**

Appeal from Charleston County  
Court of Common Pleas

Jennifer B. McCoy, Circuit Court Judge

Case No. 2015-CP-10-00955

Court of Appeals Case No. 2019-001520  
Unpublished Opinion No. 2023-UP-014 (S.C. Ct. App. filed January 11, 2023)

Palmetto Pointe at Peas Island Condominium Property Owners  
Association, Inc. and Jack Love, individually, and on behalf of all  
others similarly situated,

Petitioners,

v.

Island Pointe, LLC, Complete Building Corporation, Tri-County  
Roofing, Inc., WC Services, Inc., Miracle Siding, LLC and Wilson  
Lucas Sales d/b/a Miracle Siding, LLC, Eloy Alonzo Vasquez, JMC  
Construction, Inc., and JMC Construction, LLC,

Defendants,

Of which WC Services, Inc. is the

Respondent.

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

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**INDEX**

ARGUMENT IN REPLY .....1

    1.    Argument I of the return is not an argument against the merits of the  
          instant petition, but rather a plea by WCS for the Court simply to  
          ignore them. ....1

CONCLUSION.....2

In further support of their petition, Petitioners make the following brief point in reply to WCS's return.<sup>1</sup>

### **ARGUMENT IN REPLY**

**1. Argument I of the return is not an argument against the merits of the instant petition, but rather a plea by WCS for the Court simply to ignore them.**

With regard to the merits of this matter (which are addressed beginning in Argument II of the return), the upshot of WCS's position is that it agrees with and echoes the reasoning of the Court of Appeals. (*See generally* Return pp. 7–12.) Believing that they have already amply addressed and refuted the Court of Appeals' reasoning in their petition, Petitioners will not replot this ground here; however, they would take this opportunity to call out the inherent weakness of Argument I of WCS's return, which is not actually an argument against the merits of the instant petition, but rather a plea for the Court simply to ignore them.

To be sure, as Rule 242(b), SCACR, makes expressly clear, “A writ of certiorari is not a matter of right, but of sound judicial discretion . . . .” Undoubtedly, the Court is empowered to deny this or any other petition for a writ of certiorari for no reason at all, regardless of the merits. In practice, however, it does not appear that the Court is inclined to turn a blind eye to error for no better reason than because it can. *See, e.g., Branco v. Hull Storey Retail Group, LLC*, Memorandum Opinion No. 2023-MO-009 (S.C. Sup. Ct. filed May 24, 2023) (reversing, in an unpublished decision, an unpublished decision of the Court of Appeals, namely, Unpublished Opinion No. 2021-UP-009 (S.C. Ct. App. filed January 13, 2021)).) The fact that the Court

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<sup>1</sup> Shorthand references already defined in Petitioners' petition are continued in this reply (e.g., “Petitioners” refers, collectively, to Plaintiffs/Appellants, Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc., and Jack Love, individually, and on behalf of all others similarly situated; “WCS” refers to Defendant/Respondent, WC Services, Inc.; the “Subject Opinion” refers to the Court of Appeals' opinion in this matter; etc.).

regularly issues unpublished memorandum opinions, which, of course, have no precedential value, and indeed the very existence of Rule 220(b)(1), SCACR (restricting unpublished memorandum opinions to circumstances where a published opinion would have no precedential value), shows that, as the ultimate custodian of our state's judicial system, the Court's interests are not confined solely to the development of our law-giving jurisprudence but in fact encompass a broader concern for the quality of justice that system produces.

Petitioners would respectfully submit that this case does indeed include substantial and important issues (for instance, as to the respect to be accorded to valid local ordinances, both in terms of their enforcement and their inclusion in jury charges, and as to life-safety measures required to be implemented in multi-family construction) as to which this Court's guidance would be of benefit to the bench and bar. But in any event, the clear error below is enough to warrant this Court's attention. And, indeed, Petitioners submit the reason why the first thing WCS argues is for the Court to ignore the merits is because the last thing it wants is for the Court to consider them.

### **CONCLUSION**

For the foregoing additional reasons, Petitioners ask this Honorable Court to grant the instant petition, to reverse the Subject Opinion, and either to directly decide this appeal anew via an opinion that reverses the trial court and remands this case for a new trial against WCS on damages only or, as a lesser alternative, for a new trial absolute, or, alternatively, to remand the matter for any such further proceedings as may be needed to effectuate the reversal of the Subject Opinion and the trial court rulings challenging in this appeal.

**<SIGNED ON THE FOLLOWING PAGE>**

Respectfully submitted,

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