THE STATE OF SOUTH CAROLINA
In the Supreme Court

ON PETITION FOR WRIT OF CERTIORARI

Appellate Case (Court of Appeals) No. 2020-000454

U.S. Bank, NA, as trustee relating to the Chevy Chase Funding, LLC Mortgage Backed Certificates, Series 2004-B, ……...Plaintiff,

v.

Alyce F. Otto, Individually; Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th of November 2009; TD Bank, NA; The United States of America, acting by and through its agency, the Internal Revenue Service; Laura Kerhulas Giese, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004; Mark Warner Kerhulas, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004; Jackson L. Munsey, Jr.; Citibank, NA, ……...Defendants,

and

Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated November 17, 2009……..…….……..Plaintiff,

v.

Jackson L. Munsey, Jr.……..…….……Defendant.

of whom Jackson L. Munsey, Jr., is the.....Petitioner,

and

Alyce F. Otto, Individually; Alyce F. Otto, Trustee Under Declaration of Trust of Alyce F. Otto dated the 17th of November 2009; Laura Kerhulas Giese, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004; Mark Warner Kerhulas, as Co-Trustee of the Theodore Ernest Kerhulas Trust Under Declaration of Trust dated May 25, 2004 are the.....Respondents.

PETITION FOR WRIT OF CERTIORARI

INTRODUCTION

This petition asks this Court to issue a writ of certiorari to review the Court of Appeals' opinion numbered 2023-UP-236. Petitioner, Jackson L. Munsey, Jr. (hereinafter "Munsey"), is the subject of an ostensible damages judgment against him that awards the Respondent (hereinafter "Otto") sums of money for damages she has never suffered and most likely never will. Otto certainly never proved that these damages exist. The Court of Appeals reversed the lower court as to some improperly awarded judgment components but left very large improperly awarded components undisturbed. Otto's judgment should not include these amounts.

The Court of Appeals has allowed Otto to hang on to hundreds of thousands of dollars awarded to her as a windfall, without support in the record. To get to that result, the Court of Appeals, just as the master-in-equity did below, ignored an order that was the law of the case and disregarded this Court's precedent.

CERTIFICATE OF COUNSEL

The Court of Appeals issued its opinion in this case on June 14, 2023. The Court of Appeals granted a motion to extend the deadline for Munsey to serve and file a petition for rehearing, which extended that deadline to July 20, 2023. Counsel for the Petitioner certifies that the petition for rehearing was served and filed on July 20, 2023. The petition for rehearing was finally ruled on by the Court of Appeals by an order filed on August 3, 2023. This petition for a writ of certiorari is timely served and filed.

QUESTIONS PRESENTED

1) Should this Court reverse the master's award, upheld by the Court of Appeals, of $177,564.00 for debt to TD Bank that Respondent Otto has never had to pay

and which would be barred by the statute of limitations if TD Bank sued to collect it?

2) Should this Court reverse the master's award, upheld by the Court of Appeals, of $57,200.00 for debt to a property owners' association, where the record at the damages hearing lacked evidence from which this award could be based?

STATEMENT OF THE CASE

For a much longer, more detailed recitation of the proceedings, see Munsey's appellant's brief to the Court of Appeals. The most pertinent occurrences below are set out here.

Munsey appealed from an order granting a default money judgment in favor of Otto and directing the disbursement to Otto of money deposited as a bond to stay a foreclosure sale ordered in favor of U.S. Bank, NA, as trustee relating to the Chevy Chase Funding, LLC Mortgage Backed Certificates, Series 2004-B (hereinafter "U.S. Bank"), during a previous appeal, as well as an order denying the Munsey's motion to reconsider. (R. pp. 1-17, 28-30, 43-46, 51-53.) The Court of Appeals reversed the master as to some components of the judgment but not as to the components subject of this petition for certiorari.

Otto sued Munsey, seeking termination or foreclosure of Munsey's interest in real property under and installment land purchase agreement between Munsey and Otto. (R. pp. 67-70.) A deed was to be issued to Munsey once his performance under the contract was complete. (R. pp. 326-45.) Under the terms of that contract, Munsey was to pay off, over time, several debts associated with Otto and the subject property, including mortgage debts to U.S. Bank and to Carolina First Bank (now known as TD

Bank), both of which were secured by mortgages on the subject land. (R. pp. 326-45.) Munsey disputed this, but he defaulted Otto's complaint. (R. pp. 41-42, 346.)

U.S. Bank also brought suit against Otto, Munsey, and all other parties the land records indicated held an interest in the subject property, seeking foreclosure of its first-priority mortgage for Otto's failure to make the required mortgage payments. (R. pp. 71-83.) Munsey also defaulted the complaint in that foreclosure case. (R. pp. 24-25.) Both cases were referred to the master-in-equity. (R. pp. 18-19.) The cases were consolidated. (R. pp. 26-27.) Munsey sought relief from default in both cases, but the master denied those motions. (R. pp. 24-25, 41-42.)

The master-in-equity decreed foreclosure in favor of U.S. Bank. (R. pp. 31-40.) U.S. Bank waived its right to recover a deficiency judgment against Otto. (R. pp. 31, 38.) He also issued an order as to Otto's suit against Munsey, in which he ordered as follows:

> I find that, in light of the foreclosure by the first mortgage holder, Otto has waived her right to foreclose on the Contract for Deed and instead has elected to seek judgment against Munsey for amounts due under the Contract for Deed.
>
> . . .
>
> I find that, since the first mortgage holder which brought the foreclosure action has waived any deficiency judgment against Otto, the amount actually due the first mortgage holder and for which Otto should have claim against Munsey should be adjusted based on the actual foreclosure sale, the amount of the judgment against Munsey should likewise be adjusted once the foreclosure sale occurs. Therefore, the actual amount of the judgment against Munsey will be adjusted after the foreclosure sale occurs on February l. 2015. Therefore, this Court reserves the right to enter a

> Supplemental Order concerning the judgment amount.
>
> I find that since the actual amount of judgment will not be entered until after the foreclosure sale, Munsey's rights to the property shall not terminate until the foreclosure sale and he shall not be required to deliver possession of the property until the time specified in the Order of Foreclosure.
>
> NOW, THEREFORE, I CONCLUDE AND IT IS ORDERED that Otto have judgment against Munsey in the amount shown on the attached Exhibit A, subject to revision by Supplemental Order following the foreclosure sale.

(R. pp. 29-30.)

No exhibit was actually attached to that order, but one was attached to the order issued after Munsey made a motion to reconsider. (R. pp. 47-50.)

That order revised the master's decision to adjudicate the component amounts of the judgment against Munsey and deferred that to a later date, after the conclusion of the appeal Munsey had let the master know he intended to bring of the orders denying him relief from default. (R. p. 49.) It also dealt with the fact that Munsey had already posted a $243,000.00 appeal bond to stay the foreclosure sale ordered in favor of U.S. Bank. (R. pp. 48-50.) The order on Munsey's motion to reconsider ruled, materially to the instant appeal, as follows:

> [T]he Otto Order is hereby amended to include the following Conclusion of Law:
>
> The proceedings shall be stayed without the requirement of an additional *supersedeas* bond pending the disposition of Munsey's appeal in this matter. The Bond currently on deposit with the Clerk of Court shall stand as bond for the entire case, and hence secures a stay of execution of both the Otto Order and the Order of Foreclosure issued by the Court on December 22, 2015

> (the "Foreclosure Order"). Further, pending the disposition of Munsey's appeal, no final judgment amount shall be established by either the Otto Order or this Order. *A final judgment amount will* ***only be determined*** *by the Court* ***in a separate damages hearing subsequent to the foreclosure sale*** of the Plaintiff's mortgage as ordered by this Court in the Foreclosure Order.
>
> All other terms and conditions of the Otto Order shall remain in full force and effect.

(R. p. 49 (emphasis added).)

Munsey appealed the master's denial of his motions to set aside default to the Court of Appeals and lost. (R. pp. 51-53.)

Following the remittitur, the property was sold at the foreclosure sale to a third-party bidder for $783,000.00. (R. p. 363.) As U.S. Bank had already waived its right to a deficiency judgment, no deficiency judgment was entered.

After the sale, Otto filed a motion to recover bond and enter judgment, which the court scheduled for a damages hearing. (R. p. 91-96.) Otto testified at that hearing. (R. p. 247, 249 p. 251 ln. 11 through p. 283 ln. 6.) She presented a summary document stating that the amount owed to TD Bank on the debt that had been secured by the second mortgage on the property was $246,475.57. (R. p. 251 ln. 23-25, p. 293.) The court sustained a hearsay objection to the proposed admission of a document relating to money Otto contended was owed to Greenspace of Fairview (the owners' association for the subject real property). (R. p. 254 ln. 17-20.)

On both direct examination and cross-examination, Otto testified that it had been more than three years since any payment was made on the TD Bank debt that had been secured by the second mortgage and that no suit seeking to collect that debt had

ever been brought. (R. p. 272 ln. 14 through p. 273 ln. 8, p. 280 ln. 16 through p. 281 ln. 7.)

No one other than Otto testified at the hearing. (R. pp. 247-92.) The only exhibits admitted into evidence were Otto's summary of what she claimed her damages to be and her calculation of what she claimed to be owed on the third mortgage debt. (R. p. 251 ln. 23-25, p. 274 ln. 4-21, pp. 293-95.)

Otto sought for the remainder of the U.S. Bank first mortgage debt that was not paid through the foreclosure sale to be made a part of her judgment against Munsey, but the master noted that, in light of U.S. Bank's waiver of deficiency judgment, no debt was owed to U.S. Bank any longer. (R. p. 262 ln. 6-12.) Otto also sought to recover everything on her summary sheet, including an amount for fair rental value of the subject property. (R. p. 283 ln. 14 through p. 284 ln. 4.)

Munsey pointed out that the second mortgage debt was no longer secured by a mortgage, since those mortgages were wiped out by the U.S. Bank foreclosure sale. (R. p. 284 ln. 11 through p. 286 ln. 8.) Accordingly, citing the case of Newell v. Neal, 50 S.C. 68, 27 S.E. 560, 567 (1897), Munsey argued that the three-year statute of limitations under S.C. Code Ann. § 15-3-530 applies to the second mortgage debt and that, being barred by the statute of limitations, the second mortgage debt was not appropriate for inclusion in the damages to be awarded in Otto's judgment. (R. p. 284 ln. 11 through p. 286 ln. 8.) Munsey argued that Otto had not incurred any damage with regard to the second mortgage debt. (R. p. 284 ln. 11 through p. 286 ln. 8.)

Munsey further argued that the foreclosure sale had removed any previous lien held by Greenspace of Fairview on the subject property and that it was not appropriate

to include Greenspace of Fairview debt in Otto's judgment. (R. p. 285 ln. 11-12.) Munsey argued that Otto was not entitled to recover a fair rental value of the property as damages, since she would not have had possession of the property, and that Otto had no legal grounds to recover such rental value from the bond Munsey had deposited. (R. p. 285 ln. 12-25.) Munsey argued that Otto was seeking to recover items of money as damages without having adduced proof that she had actually suffered those damages. (R. p. 286 ln. 2-8.)

Following contention among counsel about a proposed order that Otto's attorney submitted, the master directed that a status conference be held. (R. p. 364.) Two days before the status conference, Otto filed a memorandum attaching a number of exhibits, including ones that were neither offered nor admitted at the damages hearing. (R. pp. 366-436.) Among these exhibits was an affidavit of one Madelon Wallace and its exhibit, which addressed the Greenspace debt. (R. pp. 380-83.) Munsey restated the arguments he made at the damages hearing and noted his objections to the court concerning the exhibits filed with Otto's memorandum, with the exception of the attorneys' fee affidavits. (R. p. 309 ln. 7 through p. 311 ln. 25, p. 314 ln. 13-15, p. 318 ln. 23 through p. 319 ln. 17.)

The master issued an order that awarded Otto essentially everything she sought and more. (R. pp. 1-13.) This included awards to her of $177,564.00 for the debt to TD Bank that had once been secured by a second mortgage, $57,200.00 for Greenspace debt, nearly $90,000.00 in compound judgment-rate interest retroactively assessed from December 15, 2015, forward, and $84,085.00 of fair rental value. (R. pp. 1-13.) The master awarded Otto a total judgment of $453,143.05 and directed the clerk of

court to pay the entire $243,000.00 bond Munsey had put up to the Kerhulas Trustees (as judgment creditors of Otto), less the amount of Otto's attorneys' fees. (R. pp. 9-10, 12.)

Munsey moved to reconsider. (R. pp. 97-121.) The master denied that motion, and, anticipating that Munsey would bring this appeal, ordered that the bond funds should be held by the clerk of court during this appeal's pendency. (R. pp. 14-17.)

Munsey appealed, and the Court of Appeals reversed as to the award of fair rental value and retroactively assessed judgment interest, but the court affirmed as to the second mortgage TD Bank debt and Greenspace debt components of the judgment. Munsey petitioned for rehearing, which was denied, and this petition for certiorari followed.

ARGUMENT

"In a breach of contract action, the measure of damages is the loss actually suffered by the contractee as the result of the breach." Collins Holding Corp. v. Landrum, 360 S.C. 346, 350, 601 S.E.2d 332 (2004) (internal quotation marks omitted). "The purpose of an award of damages for breach of contract is to put the plaintiff in as good a position as he would have been in if the contract had been performed. The proper measure of compensation is the loss actually suffered by the plaintiff as a result of the breach." Minter v. GOCT, Inc., 322 S.C. 525, 528, 473 S.E.2d 67, 70 (Ct. App. 1996).

The Court of Appeals' decision here upholds an award – making the TD Bank debt part of Otto's judgment against Munsey – of money for damages that even Otto concedes she has *not* suffered, and which the evidence shows she is never likely to

suffer. (R. p. 272 ln. 14 through p. 273 ln. 8, p. 280 ln. 16 through p. 281 ln. 7, p. 284 ln. 11 through p. 286 ln. 8.)

I. The April 2016 order decided that only the evidence adduced at the 2019 damages hearing would be used to determine the damages.

In determining that the award of the TD Bank debt was proper, the Court of Appeals relied on amounts found to be owed in the December 2015 order that had been expressly undone by the April 2016 order. The Court of Appeals held that "the master did not err in using damages set forth in Exhibit A from the December 2015 and April 2016 Orders and the evidence from the earlier damages hearing when calculating the damages in his final judgment[,]" that "[a]lthough the master explained in the April 2016 Order that he would determine the final judgment amount after the foreclosure sale, he specifically incorporated Exhibit A into the April 2016 Order and the December 2015 Order as the damages due at that time[,]" and that "the master did not intend to disregard his previous calculation of damages; rather, he intended to leave the issue open to allow him to adjust the Exhibit A damages amounts as needed after the appeal and the foreclosure sale."

A look at the April 2016 order reveals that its words do not support this determination. The master issued a December 2015 order (which the master later called "the Otto Order") on the basis of evidence from a November 24, 2015, hearing. (R. pp. 29-30.) It stated that the component amounts of the judgment in favor of Respondent Otto were set forth on an Exhibit A, but no such exhibit was attached to the order. (R. pp. 29-30.) The April 2016 order did attach that Exhibit A, but it did not evince an intent for the figures in Exhibit A to be used in computing the later judgment amount;

it simply noted that the Exhibit A attachment to the April 2016 order was the one that was intended to be attached to the December 2015 order. (R. p. 48, 50.) It was a housekeeping matter, tying up the loose end created when Exhibit A was not attached to the first order. (R. pp. 29-30, 48, 50.)

What the April 2016 order also did, though, was to undo the granting of a judgment for the amounts of the Exhibit A figures. The April 2016 order, issued on Munsey's motion under Rule 59, SCRCP, walked back the grant of the judgment to Otto for the Exhibit A figures and changed the master's ruling to provide that, "pending the disposition of Munsey's appeal, no final judgment amount shall be established by either the Otto Order or this Order. A final judgment amount will only be determined by the Court in a separate damages hearing subsequent to the foreclosure sale of the Plaintiff's mortgage as ordered by this Court in the Foreclosure Order." (R. p. 49.)

Per that order, "[a] final judgment amount [would] *only* be determined by the Court in a *separate* damages hearing" to be held later. (R. p. 49) (emphasis added). The April 2016 order did not provide that the amount of the judgment against Munsey would be determined cumulatively on the basis of evidence from the November 24, 2015, hearing *and* evidence adduced that the damages hearing to be held later. (R. p. 49.) It, rather, ruled that the amount of the judgment would *only* be determined in the later damages hearing, the damages hearing that was held on October 29, 2019. (R. p. 49.)

That the judgment against Munsey would only be determined on the basis of the evidence adduced at that later damages hearing is and was the law of the case. See,

e.g., Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009); Ross v. Med. Univ. of S.C., 328 S.C. 51, 62, 492 S.E.2d 62, 68 (1997).

The Court of Appeals' holding in this regard is at odds with the record. Findings and evidence from the first hearing could not properly support the award of the TD Bank second mortgage debt amount as part of Otto's judgment against Munsey.

II. Otto never proved that she has sustained or will sustain damages by virtue of Munsey's failure to pay the TD Bank note.

Regardless of whether it was proper for the master to consider evidence from the 2015 hearing, the evidence adduced at the 2019 hearing showed that the TD Bank note debt, usually referred to by the parties as the second mortgage debt, was not part of Otto's damages. The Court of Appeals erred in deciding not to reverse as to this component of the judgment against Munsey.

The Court of Appeals held that "[t]he record includes no evidence that TD Bank forgave the note it held or that it will not attempt to collect this debt from Otto. The doctrine of mitigation of damages does not require Otto to unreasonably exert herself or incur expense by litigating the statute of limitations defense to a collection action TD Bank might bring against her." The Court of Appeals' conclusions are based on speculation, not on the evidence in the record.

As Respondent Otto's counsel conceded at oral argument, the contract between Otto and Munsey required Munsey to pay the TD Bank debt. If Munsey had performed his obligations under the contract, that performance would have made it so that Otto would not have to pay the TD Bank debt, since Munsey would have paid it. (R. pp. 326-45.) If the contract had been performed, Otto would not have gotten the money subject of the TD Bank debt; she just would not have been exposed to a potential

judgment against her by TD Bank for that debt. (R. pp. 326-45.) Since the statute of limitations has run on TD Bank's claim on that debt, Newell v. Neal, 50 S.C. 68, 27 S.E. 560, 567 (1897), Otto is, with regard to the TD Bank note debt, in the same position she would be if Munsey had performed the contract – not exposed to a judgment in favor of TD Bank and not out money paid to TD Bank.

"In a breach of contract action, the measure of damages is the loss actually suffered by the contractee as the result of the breach." Collins Holding Corp., 360 S.C. at 350 (internal quotation marks omitted). "The purpose of an award of damages for breach of contract is to put the plaintiff in as good a position as he would have been in if the contract had been performed. The proper measure of compensation is the loss actually suffered by the plaintiff as a result of the breach." Minter, 322 S.C. at 528.

The master entered – and the Court of Appeals has now affirmed – an order that "compensates" Otto for a loss she has not incurred, placing her in a far *better* position than she would have been in had the contract been performed. (R. pp. 6, 7, 12, 99-100, p. 284 ln. 11 through p. 286 ln. 8, pp. 326-45.) The master, and now the Court of Appeals, with neither law nor evidence to support doing so, gave Otto a windfall of hundreds of thousands of dollars more than she could have ever received had Munsey performed under his contract with her. (R. pp. 6, 7, 12, 99-100, p. 284 ln. 11 through p. 286 ln. 8, pp. 326-45.) The law of contract damages does not permit this. Collins Holding Corp., 360 S.C. at 350; Minter, 322 S.C. at 528.

Nor is the master's award of this money to Otto supported by the idea that TD Bank may sue Otto in the future. While one cannot definitively determine what would happen if TD Bank were to sue Otto on this debt, the only evidence that was before the

court was to the effect that Otto would have a complete defense to such a suit under the statute of limitations. (R. pp. 6, 7, 12, 99-101, p. 272 ln. 14 through p. 273 ln. 8, p. 280 ln. 16 through p. 281 ln. 7, p. 284 ln. 11 through p. 286 ln. 8); see S.C. Code Ann. § 15-3-530(1); Newell, 27 S.E. at 567. The obligation to mitigate damages applies to breach of contract cases, and, under mitigation of damages principles, Otto cannot recover for the second mortgage debt if she can avoid incurring any damage concerning it by taking reasonable measures. E.g., Small v. Springs Industries, Inc., 300 S.C. 481, 388 S.E.2d 808 (1990); Lyons v. Fidelity Natl. Title Ins. Co., 415 S.C. 115, 133, 781 S.E.2d 126, 136 (Ct. App. 2015). Raising a statute of limitations defense in any future collection action by TD Bank on this debt would be a reasonable measure for Otto to take. While Otto never proved the existence of any damage concerning the second mortgage debt, the only evidence before the court was that, if TD Bank ever seeks to collect from Otto, mitigation is possible and reasonable that would prevent such collection altogether. Lyons, 415 S.C. at 134.

There is nothing in the record tending to indicate that, in the purely speculative event that TD Bank ever does sue Otto on its limitation-barred debt claim, simply answering and raising a statute of limitations defense would cause Otto "to unreasonably exert herself or incur expense[.]" While Otto probably would hire a lawyer to defend her in that event, she could defend herself *pro se*. Nothing would require her to incur *any* expense to make such a defense. Given the simplicity of a statute of limitations defense, the undersigned is at a loss to see how simply pointing out the passage of time could constitute unreasonable exertion.

While Otto certainly does have an obligation to mitigate her damages, that is only part of a bigger point: Otto has not suffered any loss by reason of Munsey's failure to pay the TD Bank debt, and all the facts in the record indicate that it is likely that she never will suffer any such loss.

The master's award in this regard is in no way connected to "the loss actually suffered by the plaintiff as a result of the breach." Minter, 322 S.C. at 528. The Court of Appeals erred in affirming it, and this Court should grant certiorari and reverse it.

III. The master's use of the Greenspace Affidavit was a structural defect and was not harmless.

The Court of Appeals also affirmed the master's award of $57,200.00 to Otto for her exposure to ostensible debt to the Greenspace of Fairview property owners' association. That number comes from an affidavit submitted after the damages hearing, not from any evidence adduced at that hearing. That is error this Court should reverse.

"The law recognizes two kinds of errors: trial errors and structural defects. The former are subject to 'harmless error' analysis while the latter are not. . . . [S]tructural defects in the constitution of the trial mechanism defy analysis by harmless error standards." LaSalle Bank Natl. Assn. v. Davidson, 386 S.C. 276, 280, 688 S.E.2d 121, 123 (2009) (internal quotation marks omitted). Structural defects are errors in the very way that the process of deciding the issue is set up. Id.

The master's use of the Greenspace affidavit was no harmless error but, rather, a structural defect. This document was not even put before the master at the damages hearing. As discussed above, the law of the case was that the judgment against Munsey would be determined by the evidence adduced at the damages hearing held in 2019. No evidence of the amount of the Greenspace debt was adduced at that hearing. The

improperly used affidavit was not cumulative to other evidence that could have produced such a debt figure. In allowing and relying on an affidavit and its exhibit without Munsey having any opportunity to cross-examine the affiant, the master created a "structural defect in the constitution of the trial mechanism[.]" Id. When a proceeding is structurally defective, nothing but reversal can cure such a defect. See id.

This court should grant certiorari and reverse this improper award.

IV. Certiorari should be granted to uphold important damages principles.

Quite correctly, this Court has limited contract damages (and most other kinds of damages) to "the loss actually suffered by the plaintiff as a result of the breach." Minter, 322 S.C. at 528. The Court of Appeals' decision affirmed an award of damages the plaintiff had, per her own words, never suffered – and which she is likely never to suffer at all. (R. p. 272 ln. 14 through p. 273 ln. 8, p. 280 ln. 16 through p. 281 ln. 7, p. 284 ln. 11 through p. 286 ln. 8.)

The Court of Appeals' decision disregards Collins Holding Corp., 360 S.C. at 350 (internal quotation marks omitted), Minter, 322 S.C. at 528, and the eminently fair and reasonable principle noted in those cases. Certiorari should be granted, not just to secure a lawful, proper determination of the judgment amount against Munsey, but also to get the Court of Appeals back on the right track, so that its decisions in other cases about damages comport with this Court's and are sound.

CONCLUSION

For these reasons, Petitioner prays for an order granting a writ of certiorari in this case.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Harrison, Radeker & Smith, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
drew@harrisonfirm.com
Attorney for Petitioner

September 1, 2023

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PROOF OF SERVICE

I certify that I served the foregoing petition for writ of certiorari in this case by providing a copy of it by email to opposing counsel at the email address(es) shown below and on the date shown below:

Sarah P. Spruill, Esq.
sspruill@hsblawfirm.com

Max T. Hyde, Jr., Esq.
max@maxhydelawfirm.com

Samantha N. Larkins, Esq.
samantha@maxhydelawfirm.com

David L. Walsh, Esq.
dlwalsh@gainesandwalsh.com

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Harrison, Radeker & Smith, P.A.
Post Office Box 50143
Columbia, South Carolina 29250
(803) 779-2211
drew@harrisonfirm.com
Attorney for Petitioner

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