

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas
Roger M. Young, Sr., Circuit Court Judge

S.C. SUPREME COURT

Appellate Case No. 2024-001481

Richard A. Butts, individually and on behalf of
all others similarly situated, Respondent,

v.

Miriam Mace, in her official capacity as Treasurer of Georgetown County,
and Georgetown County, South Carolina, Appellants.

**REPLY TO RETURN TO MOTION FOR A
STAY OF BRIEFING DEADLINES**

Appellants request a short stay of briefing deadlines to allow the circuit court to rule on the issue presented in this appeal—the constitutionality of Section 2(E) of Act 236—in *Brown v. Young*, a related road user fee case. Respondent does not dispute that the forthcoming ruling in *Brown* involves the same issue and will be reviewed by this Court. Instead, Respondent contends that Appellants’ request would result in delay and that a stay would somehow undermine this Court’s authority to decide constitutional questions. Neither argument is convincing.

Respondent is correct, of course, that the requested stay would result in some “delay.” If the Court grants Appellants’ motion, initial briefs will likely be filed a few months later than originally scheduled. But such a minor interruption is warranted where the purpose for the stay is

to allow for a uniform briefing schedule in this case and *Brown*, which would conserve judicial resources and benefit the parties' presentation of the issues. A stay is also desirable given the Court's October 31, 2024 order certifying the appeal in *Thompson v. Killian*, Appellate Case No. 2023-000442. *Thompson* is ready for consideration and involves the threshold question of whether South Carolina law prohibits a class action lawsuit for the recovery of allegedly illegal taxes.

Respondent's argument concerning the Court's authority to hear constitutional issues is also unavailing. Respondent appears to suggest that because this Court has the last say on constitutional questions, it would be improper for the Court to await the circuit court's ruling in *Brown*. Respondent cites rules governing the Court's authority to hear matters in its original jurisdiction for support. But there is no petition for original jurisdiction pending, and those very rules recognize the benefit of allowing matters to be heard by the lower courts in the first instance. *See* Rule 245(a), SCACR ("The Supreme Court will not entertain matters in its original jurisdiction when the matter can be determined in a lower court in the first instance, without material prejudice to the rights of the parties."). Respectfully, the same is true here.

Appellants request that the Court stay all briefing deadlines in this matter until a notice of appeal is filed in *Brown* so the parties may submit briefs on a uniform schedule and the Court may consider, collectively, the arguments that are impacting counties throughout our State.

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Respectfully submitted,

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