

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

---

**RECEIVED**

**Jan 21 2025**

**S.C. SUPREME COURT**

APPEAL FROM AIKEN COUNTY  
Court of Common Pleas

The Honorable William P. Keesley, Circuit Court Judge

---

Appellate Case No. 2023-000442

---

Mark Gregory Thompson and Jane Page Thompson,  
Individually and on behalf of all those similarly situated,..... Appellants,

v.

Clay Killian, in his official capacity as Aiken County Administrator,  
Jason Goings, in his official capacity as Treasurer of Aiken County,  
Aiken County Council, Aiken County, City of Aiken, Aiken Council,  
and Stuart Bedenbaugh, in his official capacity as City Manager of Aiken, ..... Respondents.

---

**AMICI CURIAE BRIEF OF HORRY COUNTY AND FLORENCE COUNTY  
IN SUPPORT OF RESPONDENTS AND THE CIRCUIT COURT'S ORDERS  
DISMISSING APPELLANTS' CLAIMS**

---

John C. Moylan, III (S.C. Bar No. 11227 )  
Lucy Dinkins (S.C. Bar No. 101177)  
WYCHE, P.A.  
807 Gervais Street, Suite 301  
Columbia, SC 29201  
Phone: 803-254-6542  
[jmoylan@wyche.com](mailto:jmoylan@wyche.com)  
[ldinkins@wyche.com](mailto:ldinkins@wyche.com)

***Attorneys for Amicus Curiae Horry County***

Steve A. Matthews (S.C. Bar No. 3689)  
HAYNSWORTH SINKLER BOYD, P.A.  
1201 Main Street, 22<sup>nd</sup> Floor  
Columbia, South Carolina 29201  
Phone: 803.540.7827  
[smatthews@hsblawfirm.com](mailto:smatthews@hsblawfirm.com)

D. Malloy McEachin, Jr. (S.C. Bar No. 3794)  
D. MALLOY MCEACHIN, JR., P.A.  
180 North Irby Street, Room 503  
Florence, South Carolina 29501  
Phone: 843.665.0135  
[malloy@mceachinlawfirm.com](mailto:malloy@mceachinlawfirm.com)

*Attorneys for Amicus Curiae Florence County*

TABLE OF CONTENTS

Table of Authorities ..... ii

Interests of Amici Counties ..... 1

Statement of the Issue .....2

Statement of the Case .....2

Standard of Review .....2

Argument .....3

Conclusion .....7

TABLE OF AUTHORITIES

CASES

*Aiken v. S.C. Dep't of Rev.*, 429 S.C. 414, 839 S.E.2d 96 (2020).....4, 5, 6, 7

*Baylis Griffin Hyman, individually and on behalf of all others similarly situated v. Horry County, et al.*, Case No. 2021-CP-26-7309 (Sup.Ct. Case No. 2025-000012) .....1

*Steven Biggs, on behalf of himself and all others similarly situated v. Florence County, et al.*, Case No. 2021-CP-21-01560 .....1

*Brown v. County of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992) ..... 3

*Buist v. Huggins*, 367 S.C. 268, 625 S.E.2d 636 (2006) .....6, 7

*Burns v. Greenville County Council*, 433 S.C. 583, 861 S.E.2d 31 (2021)..... 3

*C-Sculptures, LLC v. Brown*, 403 S.C. 53, 742 S.E.2d 359 (2013) .....5

*Creswick v. Univ. of S.C.*, 434 S.C. 77, 862 S.E.2d 706, (2021).....5, 6

*Drummond v. State*, 378 S.C. 362, 662 S.E.2d 587 (2008).....5

*Grazia v. S.C. State Plastering, LLC*, 390 S.C. 562, 703 S.E.2d 197 (2010) .....5

*Hodges v. Rainey*, 341 S.C. 79, 533 S.E.2d 578 (2000) .....6

*Lightner v. Hampton Hall Club*, 419 S.C. 357, 798 S.E.2d 555 (2017) .....5

*Morgan v. S.C. Dep't of Rev.*, No. 2012-CP-40-7331, 2013 S.C. C.P. LEXIS 2, (S.C. Ct. C. P. Feb. 27, 2013).....5

*Rainey v. Haley*, 404 S.C. 320, 745 S.E.2d 81 (2013) .....6

*Senate of the State of S.C. v. McMaster*, 425 S.C. 315, 821 S.E.2d 908 (2018).....6

STATUTES

Alternate Procedure for Collection of Property Tax Act, S.C. Code § 12-51-40, *et seq.*..... 7

S.C. Code § 12-60-80(C) ..... *passim*

## INTERESTS OF AMICI COUNTIES

This case is one of many pending putative class actions across South Carolina seeking refunds from various counties for all payments ever made to those counties for road maintenance fees. Each of the cases seeks damages of hundreds of millions of dollars that would bankrupt and devastate the defendant counties. Horry County is a defendant in one of these related cases, *Baylis Griffin Hyman, individually and on behalf of all others similarly situated v. Horry County, et al.*, Case No. 2021-CP-26-7309 (the “Horry County Case”), which is currently on appeal to this Court and has been assigned Appellate Case Number 2025-000012. Florence County is also a defendant in another of the related cases, *Steven Biggs, on behalf of himself and all others similarly situated v. Florence County, et al.*, Case No. 2021-CP-21-01560 (the “Florence County Case”), which is currently pending in circuit court. Horry County and Florence County are sometimes referred to jointly herein as “Amici.”

The claims in the Horry County Case are substantively identical to the claims against Aiken County in this case. The Honorable Kristi F. Curtis dismissed the claims against Horry County in their entirety on May 9, 2022, on the ground that the claims are barred by S.C. Code § 12-60-80(C), which prohibits class actions against political subdivisions, such as Horry County. Judge Curtis denied the plaintiff’s motion to reconsider on December 9, 2024, and the plaintiff filed a notice of appeal with this Court on January 2, 2025. The claims in the Florence County Case are likewise substantively identical to the claims against Aiken County in this case. The plaintiff in that case has filed his motion for class certification, and the parties have filed supporting and opposing memoranda.

One of the issues on appeal in this case against Aiken County is whether § 12-60-80(C) bars class actions against political subdivisions in accordance with its plain language—the same

ground on which Judge Curtis dismissed the claims in the Horry County Case and one of the issues raised against class certification in the Florence County Case. Thus, the resolution of this appeal has the potential to be dispositive of the related appeal pending in the Horry County Case, as well as of the other related cases currently pending against various other counties, including the Florence County Case.

Because of the staggering damages at issue in these road maintenance fee cases and the severe negative consequences that a reversal in this case would have on numerous South Carolina counties and their citizens, this appeal is a matter of significant public interest. Amici submit this brief discussing the class action prohibition in § 12-60-80(C) to ensure that this issue is fully briefed for the Court. Amici also agree with the other arguments raised by Aiken County in its Final Brief and by Beaufort County in its amicus brief but will not reiterate them here for the sake of efficiency. Amici respectfully request that the Court affirm the underlying orders of the Honorable William P. Keesley dismissing Appellants' claims against Aiken County and its codefendants.

**STATEMENT OF THE ISSUE**

1. Whether the circuit court correctly held that S.C. Code § 12-60-80(C) bars class actions against political subdivisions in accordance with its plain language?

**STATEMENT OF THE CASE**

Please see the Statement of the Case set forth in Respondent's Brief, which Amici adopt and incorporate by reference.

**STANDARD OF REVIEW**

Please see the Standards of Review set forth in the Final Amicus Curiae Brief of Beaufort County and in Respondent's Brief, which are adopted and incorporated by reference.

## ARGUMENT

The claims in the related road maintenance fee cases, including this case against Aiken County and the Horry County and Florence County Cases, rely on this Court’s decision in *Burns v. Greenville County Council*, 433 S.C. 583, 861 S.E.2d 31 (2021), which held that a post-1997 increase in the road maintenance fee imposed by Greenville County was an impermissible tax based on the lack of evidence presented by Greenville County to show that its fee constituted a permissible “uniform service charge” under a definitional provision in a state statute.<sup>1</sup> The *Burns* decision, however, did not authorize a class action for the refund of taxes, nor did it order any refund of payments made in connection with Greenville County’s road maintenance fee. *Id.* In contrast to the plaintiffs in this case and the related cases, the plaintiffs in *Burns* did not assert claims on behalf of a purported class for a refund of payments made for Greenville County’s road maintenance fee. The *Burns* decision does not authorize Appellants’ claims; their claims, which are asserted on behalf of a purported class, are barred by the plain language of S.C. Code § 12-60-80(C).

Section 12-60-80(C) provides:

Notwithstanding subsections (A) and (B), **a claim or action for the refund of taxes may not be brought as a class action** in the Administrative Law Court or any court of law in this State, **and** the department, **political subdivisions, or their instrumentalities may not be named or made a defendant in any other class action** brought in this State.

(emphasis added). The plain language of the statute prohibits two broad categories of class actions: (1) class actions for the refund of taxes, and (2) “any other class action” against the Department of Revenue and/or political subdivisions, such as counties, and their instrumentalities. Because this

---

<sup>1</sup> This Court upheld Horry County’s road maintenance charge in *Brown v. County of Horry*, 308 S.C. 180, 417 S.E.2d 565 (1992) and determined that it constitutes a valid uniform service charge.

case and the related cases are putative class actions against counties, they are barred by the second half of § 12-60-80(C), which is commonly referred to as the “catchall clause.”

This Court has already ruled on this very issue—the scope of the second half of § 12-60-80(C)—in *Aiken v. S.C. Dep’t of Rev.*, 429 S.C. 414, 839 S.E.2d 96 (2020). In that case, the Court dubbed the second half of § 12-60-80(C) the “catchall clause” and held that it is *not* limited to certain types of class actions. *Id.*, 429 S.C. at 419, 422, 839 S.E.2d at 99, 100. The Court noted that interpreting the catchall clause to prohibit only certain types of class actions, as Appellants suggest here, would be “absurd and forced”:

We hold subsection 12-60-80(C) indicates no intent to limit or restrict the general words “any other class action” in the catchall clause of subsection (C) to the specific subject of “taxes” set forth in the first portion of subsection (C). To interpret the catchall clause in this fashion would simply amount to an unnecessary re-recitation of the first portion of subsection (C); this would be an absurd and forced construction of the catchall cause of subsection (C).

*Id.*, 429 S.C. at 419, 839 S.E.2d at 99 (citation omitted). The Court concluded: “We hold the plain language of subsection 12-60-80(C) prohibits this action from proceeding as a class action.” *Id.*, 429 S.C. at 422, 839 S.E.2d at 100.

Appellants ask the Court to disregard its holding in *Aiken* because the Department of Revenue was a defendant in that case, and, according to Appellants, it was therefore a case contemplated by the Revenue Procedures Act. In *Aiken*, however, the Court expressly stated that the case was barred from proceeding as a class action under the catchall clause of § 12-60-80(C) *regardless* of whether the Revenue Procedures Act otherwise applied to the case. *Id.*, 429 S.C. at 421-422, 839 S.E.2d at 100 (“We hold the plain language of subsection 12-60-80(C) prohibits this action from proceeding as a class action. . . . [W]e express no opinion as to whether the Revenue Procedures Act applies to other issues in this case.”). Thus, contrary to Appellants’ suggestion, the

fact that the Department of Revenue was a defendant in *Aiken* does not render the holding in the case inapplicable, nor does it change the plain meaning of the catchall clause.

In addition to *Aiken*, South Carolina courts have dismissed or affirmed the dismissal of class actions based on § 12-60-80(C) in numerous other cases. *See Lightner v. Hampton Hall Club*, 419 S.C. 357, 368, 798 S.E.2d 555, 560 (2017) (“The plain language of the statute [§ 12-60-80(C)] prohibits a claim for a tax refund from being brought as a class action in any court of law in this state.”); *Drummond v. State*, 378 S.C. 362, 370 n. 5, 662 S.E.2d 587, 591 n. 5 (2008); *Grazia v. S.C. State Plastering, LLC*, 390 S.C. 562, 576, 703 S.E.2d 197, 204 (2010); *Morgan v. S.C. Dep’t of Rev.*, No. 2012-CP-40-7331, 2013 S.C. C.P. LEXIS 2, 26 (S.C. Ct. C. P. Feb. 27, 2013).

The reasoning behind these holdings is straightforward and settled: the statutory language stating that “political subdivisions, or their instrumentalities may not be named or made a defendant in any other class action brought in this State” is unambiguous and must be enforced in accordance with its plain terms. *See, e.g., Creswick v. Univ. of S.C.*, 434 S.C. 77, 81, 862 S.E.2d 706, 708 (2021) (per curiam) (“If a statute’s language is plain, unambiguous, and conveys a clear and definite meaning, there is no need to employ the rules of statutory interpretation, and this Court must apply the statute according to its literal meaning.” (citation omitted)); *C-Sculptures, LLC v. Brown*, 403 S.C. 53, 56, 742 S.E.2d 359, 361 (2013) (“Under the plain meaning rule, it is not the court’s place to change the meaning of a clear and unambiguous statute.” (citation omitted)).

Appellants urge the Court to ignore the unambiguous language of the catchall clause of § 12-60-80(C) and instead to hold that it prohibits class actions against political subdivisions only in property taxes cases seeking relief other than a refund, despite the fact that the statute states that political subdivisions “may not be named or made a defendant in **any** other class action[.]” § 12-60-80(C) (emphasis added). Appellants posit that this is the “only sensible interpretation” based

on what Appellants believe the General Assembly “intended.” Appellants’ Br. at 21. Appellants do not, however, dispute that the language of the statute is unambiguous, nor could they reasonably do so.

As noted above, it is well settled that “[w]here [a] statute’s language is plain and unambiguous, and conveys a clear and definite meaning, the rules of statutory interpretation are not needed and the court has no right to impose another meaning.” *Senate of the State of S.C. v. McMaster*, 425 S.C. 315, 322, 821 S.E.2d 908, 912 (2018) (quoting *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000)); *see also, e.g., Creswick*, 434 S.C. at 81, 862 S.E.2d at 708; *Aiken*, 429 S.C. at 419, 839 S.E.2d at 99; *Rainey v. Haley*, 404 S.C. 320, 323, 745 S.E.2d 81, 82 (2013). This Court has further directed that “[u]nder the plain meaning rule, this Court has no right to search for or impose another meaning or resort to subtle or forced construction to change the scope of a clear and unambiguous statute.” *Creswick*, 434 S.C. at 81-82, 862 S.E.2d at 708 (citations omitted). Here, the plain language of § 12-60-80(C) provides that political subdivisions and their instrumentalities, including but not limited to Aiken County and Amici Counties, may not be named as a defendant in *any* class action, and the statute must be enforced as written. *See, e.g., McMaster*, 425 S.C. at 322, 821 S.E.2d at 912.

Thus, precedent from this Court as well as the unambiguous language of § 12-60-80(C) mandate that the statute be enforced according to its plain terms, which means that all class actions against political subdivisions are barred.

Appellants’ reliance on *Buist v. Huggins*, 367 S.C. 268, 625 S.E.2d 636 (2006) to narrow the plain meaning of § 12-60-80(C) is likewise misplaced. The claims in *Buist* were not brought on behalf of a purported class, and the catchall phrase of § 12-60-80(C) was not at issue. Instead, the Court held that the Revenue Procedures Act did not apply to the petitioners’ claims challenging

the interest due after a delinquent tax sale because such claims were governed by the Alternate Procedure for Collection of Property Tax Act, § 12-51-40, *et seq.* *Buist*, 367 S.C. at 274-75, 625 S.E.2d at 639. This case does not involve delinquent taxes, and there is no suggestion that the Alternate Procedure Act applies. Moreover, *Buist* was decided fourteen years before *Aiken*. Put simply, *Buist* is neither controlling nor informative.

### **CONCLUSION**

The unambiguous language of S.C. Code § 12-60-80(C) prohibits any class actions against political subdivisions, including counties. Appellants' argument that the statute should be interpreted only to bar class actions against political subdivisions involving certain types of taxes is contrary to the unambiguous statutory language and has already been rejected by this Court in *Aiken v. S.C. Dep't of Rev.*, 429 S.C. 414, 839 S.E.2d 96 (2020). Appellants, therefore, are barred by § 12-60-80(C) from pursuing their class claims.

This appeal involves matters of significant public importance to residents across South Carolina, and Amici respectfully ask the Court to affirm the circuit court's dismissal of Appellants' claims.

Respectfully submitted,

*s/John C. Moylan, III*

\_\_\_\_\_  
John C. Moylan, III (S.C. Bar No. 11227 )

Lucy Dinkins (S.C. Bar No. 101177)

WYCHE, P.A.

807 Gervais Street, Suite 301

Columbia, SC 29201

Phone: 803-254-6542

[jmoylan@wyche.com](mailto:jmoylan@wyche.com)

[ldinkins@wyche.com](mailto:ldinkins@wyche.com)

***Attorneys for Amicus Curiae Horry County***

Steve A. Matthews (S.C. Bar No. 3689)  
HAYNSWORTH SINKLER BOYD, P.A.  
1201 Main Street, 22<sup>nd</sup> Floor  
Columbia, South Carolina 29201  
Phone: 803.540.7827  
[smatthews@hsblawfirm.com](mailto:smatthews@hsblawfirm.com)

D. Malloy McEachin, Jr. (S.C. Bar No. 3794)  
D. MALLOY MCEACHIN, JR., P.A.  
180 North Irby Street, Room 503  
Florence, South Carolina 29501  
Phone: 843.665.0135  
[malloy@mceachinlawfirm.com](mailto:malloy@mceachinlawfirm.com)

*Attorneys for Amicus Curiae Florence County*

January 21, 2025