

THE STATE OF SOUTH CAROLINA

In The Court of Appeals

69870

APPEAL FROM CHARLESTON COUNTY

RECEIVED

Court of Common Pleas

SEP 24 2013

R. Markley Dennis, Jr., Circuit Court Judge

SC Court of Appeals

Case No. 2012-CP-10-04969

South Carolina Public Interest Foundation and Waring S. Howe, Jr., individually, and on behalf of all others similarly situated, ..... Appellants,

v.

Robert W. Harrell, Jr., in his official capacity as Speaker of the South Carolina House of Representatives, Glenn McConnell, in his official capacity as President of the South Carolina Senate, Representative Harry B. "Chip" Limehouse III, Senator George E. "Chip" Campsen, and the State of South Carolina, ..... Respondents.

**MOTION TO FILE REVISED APPELLANTS' INITIAL BRIEF**

Appellants South Carolina Public Interest Foundation and Waring S. Howe, Jr., move the Court, pursuant to SCACR 240, for permission to file the Appellants' Revised Initial Brief (attached).

Respondent Harrell moved to strike large sections of the Appellants' Initial Brief (all the discussion of the substance of the claims), because the Circuit Court did not rule on the merits of Appellants' claims. Harrell's requested remedy goes well beyond a proper application of the rule and would be unfair to the Appellants. A discussion of the

merits of the claims is essential to Appellants' argument that the claims are of sufficient public importance to justify granting public importance standing. *South Carolina Public Interest Foundation v. South Carolina Transportation Infrastructure Bank*, 403 S.C. 640, 744 S.E.2d 521 (2013).


The better resolution is that Appellants file the Revised Appellants' Initial Brief.

Its three points are:

- I. The Circuit Court erred in ruling that the Appellants lacked standing.
- II. The Circuit Court erred in ruling that *Harrell* collaterally estops Appellants from asserting public importance standing.
- III. The Circuit Court erred in ruling that the doctrine of *laches* prevents the Appellants from asserting public importance standing.

WHEREFORE, Appellants pray the Court to allow them to file the attached Revised Appellants' Initial Brief, in order to afford them a full and fair opportunity to present the issue of their standing, including public importance standing.

September 21, 2013



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### Certificate of Service

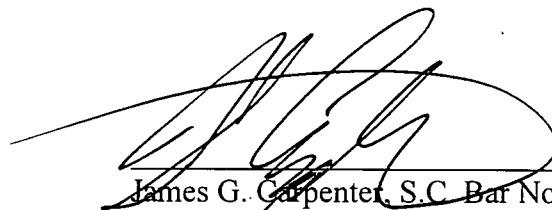
The undersigned attorney hereby certifies that he has served a copy of the foregoing Appellants' Motion to File Revised Appellants' Initial Brief on counsel for Defendants by email and US Mail, postage prepaid on Saturday, September 21, 2013 to the following persons:

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September 21, 2013

The Honorable Jenny Abbott Kitchings  
Clerk of SC Court of Appeals  
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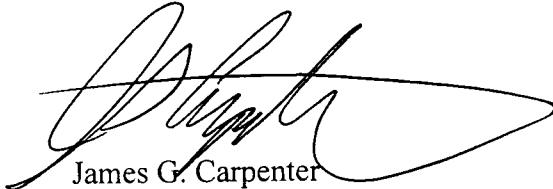
Re: *South Carolina Public Interest Foundation et al. vs. Harrell, et al*  
Civil Action No. 2012-CP-10-04969

Dear Ms. Kitchings:

I enclose Appellants' Motion to file Revised Appellants' Initial Brief, a Proof of Service, and a \$25.00 check for the filing fee.

If you need anything else, please telephone me.

Sincerely yours,  
THE CARPENTER LAW FIRM, PC



James G. Carpenter

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Enclosures  
CC w/enclosures: All opposing counsel