

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

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**Oct 16 2025**

APPEAL FROM OCONEE COUNTY

S.C. SUPREME COURT

Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

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Appellate Case No. 2025-000790  
Case No. 2024-CP-37-00202

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South Carolina Public Interest Foundation,  
Jim Mann, David Dial, Rachel Moore, Terri  
Meyerring, Carl Meyerring, Doug Muzik,  
Bruce Burrell, India Lancaster, John Wagner,  
Gwen McPhail, Lillian Lusk, and Linda  
Love, on behalf of all others similarly  
situated,

Appellants-Respondents,

v.

Oconee County,

Respondent-Appellant.

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**INITIAL APPELLANT'S REPLY BRIEF OF RESPONDENT-APPELLANT**

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William W. Wilkins (SC Bar No. 6112)  
Lane W. Davis (SC Bar No. 68796)  
Wilkins Davis Law Firm  
206 Mills Avenue  
Greenville, SC 29605  
(864) 263-3155

David C. Dill (SC Bar No. 101519)  
Ashley Robertson Parr (SC Bar No. 101346)  
Maynard Nexsen PC  
Post Office Box 10648  
Greenville, SC 29603-0648  
(864) 370-2211

*Attorneys for Respondent-Appellant*

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## INTRODUCTION

The County’s cross-appeal in this Action<sup>1</sup> concerns whether the Circuit Court erroneously rejected two threshold grounds for dismissal of Plaintiffs’ lawsuit. Even though the Circuit Court ultimately properly dismissed the lawsuit because Plaintiffs did not assert a viable claim against the County, Plaintiffs’ lawsuit should have been dismissed in the first instance for a very clear and straightforward reason: Plaintiffs’ lawsuit was time-barred by the 20-day window set forth in Section 11-15-30. Relatedly, Plaintiffs also lacked standing to pursue the Action.

As discussed further herein, Plaintiffs’ response misstates the Circuit Court’s holdings in its various orders, misconstrues relevant case law, and muddles the scope of review of this appeal. However, setting aside any confusion manufactured by Plaintiffs, resolution of the legal issues in this Action should be simple. South Carolina courts have spoken as to the questions implicated by the County’s cross-appeal. The South Carolina General Assembly has made clear its legislative intent in Section 11-15-30. As explained in the County’s Initial Appellant’s Brief, proper consideration and application of the law requires this Court to affirm the Circuit Court’s dismissal of Plaintiffs’ lawsuit, including because the Action is time-barred by Section 11-15-30 and because Plaintiffs lacked standing.

## ARGUMENT

### **I. Plaintiffs Cannot Overcome Their Failure to File Their Lawsuit Within the Applicable Statutory Time-Bar.**

Plaintiffs *do not* and *cannot* contest that they brought this Action well after expiration of the time period specified by Section 11-15-30, which unambiguously *bars all lawsuits* “on account of” a local government body’s issuance of general obligation bonds after the expiration of “twenty

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<sup>1</sup> In this brief, the County uses the terms as defined in its Initial Appellant’s Brief filed on August 6, 2025.

days from the date of the filing and indexing” of the underlying bond proceedings with “the office of the clerk of the county.” S.C. Code Ann. §§ 11-15-10 & -30. (County’s Initial App.’s Br., pp. 5–7, 14–15.) While recognizing Plaintiffs’ failure to comply with the statute’s requirement in filing their lawsuit, the Circuit Court erroneously refused to apply Section 11-15-30 to the Action. (R. p. \_\_\_ (March 11 Order, p. 7).)

Plaintiffs make a very brief, disjointed effort to evade the time-bar of Section 11-15-30, but their arguments—like the Circuit Court’s March 11 Order—do not include any valid reasoning to support their flawed interpretation of Section 11-15-30 and disregard for the rules of statutory construction. (*See* Pls.’ Initial Resps.’ Br., pp. 17–19.)

**A. The Language of Section 11-15-30 Must Be Read as a Whole and Without Engrafting Any Additional Limitations.**

Section 11-15-30 applies to actions “commenced *on account of the issuance of* any such [local government’s general obligation] bonds . . .” S.C. Code Ann. § 11-15-30 (emphasis added). Like the Circuit Court, Plaintiffs minimize the phrase “on account of” in an effort to limit application of the statute. (*See* Pls.’ Initial Resps.’ Br., p. 17.) Considering the phrase—which appears *on the face of the statute*—for purposes of interpreting the statute is not only appropriate, it is required by the rules of statutory construction.<sup>2</sup> *See In re Hosp. Pricing Litig., King v. AnMed Health*, 377 S.C. 48, 59, 659 S.E.2d 131, 137 (2008) (“[I]n ascertaining the intent of the legislature, a court should not focus on any single section or provision but should consider the language of the statute as a whole.”). And while Plaintiffs may not appreciate that Merriam-Webster’s only definitions<sup>3</sup> of the phrase “on account of” support a broad application of Section 11-15-30 to

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<sup>2</sup> Plaintiffs’ assertion that the County’s argument regarding Section 11-15-30’s time-bar “focuses exclusively on only three words ‘on account of’” is outright false. (*See* County’s Initial App.’s Br., pp. 8–15.)

<sup>3</sup> Plaintiffs incorrectly state that the County “select[ed] the most convenient of Webster’s

lawsuits filed as a result of the issuance of a given bond, “the words used in a statute must be given their ordinary meaning.” *Mid-State Auto Auction of Lexington, Inc. v. Altman*, 324 S.C. 65, 69, 476 S.E.2d 690, 692 (1996) (citing *Hughes v. Edwards*, 265 S.C. 529, 220 S.E.2d 231 (1975)).

Apparently recognizing that the phrase “on account of” forms a critical part of the statute, Plaintiffs reword their prior argument by now asserting that Section 11-15-30 bars lawsuits “on account of the issuance of any such bonds,” but not lawsuits ““on account of” the spending” of any such issuance. (Pls.’ Initial Resps.’ Br., p. 17.) However, the language of Section 11-15-30 supports no such distinction, and Plaintiffs’ argument fails for the same reasons discussed in length by the County in its Appellant’s brief. (*See* County’s Initial App.’s Br., pp. 8–15.)

Finally, without explanation, Plaintiffs include a cursory argument that the titles within Chapter 15 (“Bonds of Political Subdivisions”) indicate the chapter governs the “issuance” of bonds. (Pls.’ Initial Resps.’ Br., p. 18.) However, Plaintiffs’ conclusion does nothing to refute the County’s arguments. Further, even if Chapter 15 does relate to the issuance of bonds, such a conclusion is not inconsistent with the County’s arguments because there is no credence to Plaintiffs’ manufactured distinction between “issuance” and “use” or “spending” of the bonds for purposes of construing Section 11-15-30.

**B. The Two Cases Referenced by Plaintiffs Support Dismissal Under Section 11-15-30.**

Plaintiffs reference only two cases in responding to the County’s argument that the Action should have been dismissed pursuant to Section 11-15-30. First, Plaintiffs cite *Berry v. McLeod*, 328 S.C. 435, 492 S.E.2d 794 (Ct. App. 1997) for the proposition that Section 11-15-30 focuses

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dictionary definition of the phrase.” (Pls.’ Initial Resps.’ Br., p. 17.) The two definitions cited by the County are actually the only definitions included in the online version of the dictionary. *See On Account Of*, Merriam-Webster Online, <https://www.merriam-webster.com/dictionary/on%20account%20of> (last visited Oct. 10, 2025).

on the “‘issuance’ of bonds rather than public expenditures.” (Pls.’ Initial Resps.’ Br., p. 18.) However, *Berry* does not support Plaintiffs’ argument. In *Berry*, the Court of Appeals held that the lawsuit, alleging that attorneys committed legal malpractice in connection with their handling of a revenue bond issued to fund construction of a sewer system, was time-barred under Section 11-15-30. 328 S.C. at 444, 492 S.E.2d at 799. Similar to the instant Plaintiffs, the town residents who filed suit in *Berry*—after the 20-day statute of limitations expired—tried to couch their claims as falling outside the confines of Section 11-15-30. *See id.* at 443, 492 S.E.2d at 798. It is unclear why Plaintiffs even cite *Berry* because the Court of Appeals rejected their argument, as the Court should do in this Action. *See id.* at 444, 492 S.E.2d at 799.

***Berry certainly does not support Plaintiffs’ uncited sentence incorrectly claiming that this Court has ruled that Section 11-15-30 “limits civil actions that are commenced on the account of issuance of bonds, not the expenditure of bond proceeds.”*** (Pls.’ Initial Resps.’ Br., p. 18.) To the County’s knowledge, no South Carolina case law supports this claim.

Plaintiffs also very briefly address *South Carolina Public Interest Foundation v. Calhoun County Council*, 432 S.C. 492, 854 S.E.2d 836 (2021), in which this Court rejected the plaintiffs’ attempt to engraft a limitation into a statutory time-bar. Plaintiffs attempt to distinguish *Calhoun* from the instant case by pointing out that the funds in *Calhoun* arose from the Capital Project Sales Tax Act, while the County issued bonds pursuant to Article X, Section 12 of the South Carolina Constitution. (Pls.’ Initial Resps.’ Br., p. 19.) This is a distinction without a difference. Plaintiffs cannot (and do not even attempt to) deny that the parties’ arguments in this case and in *Calhoun* are analogous. The reasoning used by the Court in the *Calhoun* decision is directly applicable here.

Accordingly, nothing in Plaintiffs’ response rebuts the County’s argument that Section 11-

15-30 applies to the Action. The County respectfully requests that the Court hold that the Action is time-barred by Section 11-15-30.

## **II. Plaintiffs Do Not Have Standing.**

In arguing that they have standing to pursue the Action, Plaintiffs rely both on the public importance exception to standing as well as so-called “taxpayer standing,” frequently conflating the two throughout their response. (Pls.’ Initial Resps.’ Br., pp. 1–16.) Plaintiffs have not established that they may invoke the public importance exception, and therefore, the Circuit Court erred by relying on Plaintiffs’ faulty invocation of such doctrine. Nor can Plaintiffs establish standing based solely on their status as taxpayers.

### **A. Plaintiffs Cannot Establish the Need for Future Guidance Necessary to Invoke the Public Importance Exception to Standing.**

Plaintiffs devote a large portion of their response on standing discussing how South Carolina courts have focused on issues of public importance. (*See* Pls.’ Initial Resps.’ Br., pp. 1–5.)<sup>4</sup> The County does not dispute that the public importance exception generally exists as an avenue for qualifying plaintiffs to establish standing or that South Carolina courts have applied the exception on numerous occasions. However, in this Action, Plaintiffs have not satisfied the requirements necessary to rely on the exception under well-recognized jurisprudence.

To invoke the public importance exception, the issue at stake need not only be an issue of public importance; *it must also require resolution for future guidance*. *See Carnival Corp. v. Historic Ansonborough Neighborhood Ass’n*, 407 S.C. 67, 80, 753 S.E.2d 846, 853 (2014) (“[T]he need for future guidance generally dictates when the exception applies . . . .”); *ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 199, 669 S.E.2d 337, 341 (2008) (“The key to the public

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<sup>4</sup> Notably, some of the cases cited by Plaintiffs in the lengthy string citation on pages 1–3 do not address or mention standing whatsoever. (*See* Pls.’ Initial Resps.’ Br., pp. 1–3.)

importance analysis is whether a resolution is needed for future guidance.”).<sup>5</sup>

As an initial matter, Section 11-15-30 constitutes the South Carolina General Assembly’s answer to the question of whether the public need for future guidance by the judiciary outweighs the need for finality in the context of bonds after the expiration of 20 days from the date of the filing and indexing of bond transcript records. In discussing standing, Plaintiffs ignore the fact that here, the General Assembly has already weighed competing public policy considerations and without exception has closed the courthouse doors to bond challenges after the statutory, 20-day window expires. *See* S.C. Code Ann. § 11-15-30.

Plaintiffs similarly cannot rely on the exception because ***there is no need for future guidance*** as to the very specific underlying issue at stake in this Action: whether the County may use the bond proceeds for planned sewer infrastructure improvements without first creating a special taxing district, which depends on whether the County’s intended use of the bond proceeds confers benefits upon all citizens of Oconee County. The issue in the Action is far different from the question in *Adams v. McMaster*, 432 S.C. 225, 851 S.E.2d 703 (2020), a case cited by Plaintiffs involving the South Carolina governor’s issuance of a State of Emergency along with several Executive Orders, and subsequently, public funds, in connection with the COVID-19 pandemic. *Adams* required a resolution for future guidance because the Court’s decision in that case would govern future imminent situations involving public funds issued due to the continuing COVID-19

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<sup>5</sup> Plaintiffs’ argument that *ATC South* is distinguishable from the instant case is misguided for two reasons. (*See* Pls.’ Initial Resps.’ Br., p. 15.) First, Plaintiffs fail to recognize that the County relied upon *ATC South* in its Appellant’s brief for purposes of arguing that the public importance exception to standing does not apply—not with respect to the concept of taxpayer standing. Indeed, the County did not substantively address taxpayer standing in its Appellant’s brief because it is not before this Court on appeal. *See infra* Part II.B. Further, the County relies upon *ATC South* for its analysis and reconciliation of standing precedent; thus the factual distinctions between *ATC South* and the instant case are irrelevant. Similarly, the factual distinctions between this case and *Freemantle v. Preston*, 398 S.C. 186, 728 S.E.2d 40 (2012), are irrelevant.

pandemic. *Id.* at 236, 851 S.E.2d at 708–09; *see also S.C. Pub. Int. Found. v. S.C. Dep’t of Transp.*, 421 S.C. 110, 119, 804 S.E.2d 854, 859 (2017) (holding that future guidance was needed regarding whether SCDOT could inspect bridges within private, gated communities because SCDOT would likely engage in the same type of inspections in the future). Unlike in *Adams* (and other similar cases involving an issue where there was a likelihood of repetition), the very specific question in the instant case is unlikely to arise again, and thus, the Court’s decision would not be useful as future guidance. *See Ballard v. Newberry Cnty.*, 432 S.C. 526, 534, 854 S.E.2d 848, 852 (Ct. App. 2021) (declining to apply the public importance exception because there was no “urgent need for future guidance”).

**B. Plaintiffs’ Mere Status as Taxpayers Cannot Confer Standing Upon Plaintiffs.**

Plaintiffs’ argument that the “Circuit Court properly ruled that [they] possess taxpayer standing” is misleading. (Pls.’ Initial Resps.’ Br., p. 9.) While earlier orders issued in the case on July 29, 2024 and August 12, 2024 included rulings on taxpayer standing, neither of the Circuit Court’s orders appealed by Plaintiffs made any ruling on so-called taxpayer standing. (R. pp. \_\_ (March 11 Order); (March 25 Order).) Notably, in its March 11 Order, the Circuit Court only ruled that the public importance exception conferred standing upon Plaintiffs and specifically omitted any determination on Plaintiffs’ argument regarding taxpayer standing. (R. p. \_\_ (March 11 Order, pp. 6–7).)

Plaintiffs now attempt to lead the Court constitutionally astray by invoking taxpayer standing when *no* such doctrine exists in South Carolina. This Court reconciled standing precedent in its modern formulation for standing analysis in *ATC South*. In a unanimous decision, this Court held that a litigant may plead and prove standing in one of only three ways: (a) by establishing the particularized harms needed to show constitutional standing; (b) by invoking a statute conferring

standing; or (c) by fulfilling the rigorous showing needed to satisfy the public importance exception. *See, e.g., Freemantle*, 398 S.C. at 192, 728 S.E.2d at 43 (citing *ATC South*, 380 S.C. at 195, 669 S.E.2d at 339). Despite Plaintiffs’ urgings, no fourth option—so-called “taxpayer standing”—exists.

While a plaintiff’s status as a taxpayer may be a consideration in establishing standing, it simply does not confer standing upon a litigant without first satisfying the threshold inquiries required under the rubric of constitutional standing, the public importance exception, or by statute. *See ATC South*, 380 S.C. at 198, 669 S.E.2d at 340–41 (holding that when the injury to a taxpayer is common to all property owners in the county, this commonality defeats the constitutional requirement of a concrete and particularized injury.); *Freemantle*, 398 S.C. at 193, 728 S.E.2d at 44 (rejecting the claim of “taxpayer standing under constitutional standing principles” because the injury as a taxpayer was common to all citizens and taxpayers of the county); *Massachusetts v. Mellon*, 262 U.S. 447, 488 (1923) (holding a taxpayer lacks standing when he “suffers in some indefinite way in common with people generally”). As a result, Plaintiffs *must* establish standing via the rubric of constitutional standing, the public importance exception, or by statute.<sup>6</sup>

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<sup>6</sup> *See e.g., S.C. Dep’t of Transp.*, 421 S.C. at 118, 804 S.E.2d at 858 (finding petitioners were unable to show they suffered a concrete and particularized injury, as required for constitutional standing, that was distinct from other taxpayers and therefore lacked constitutional standing) (citing *Freemantle*, 398 S.C. at 193, 728 S.E.2d at 44 (recognizing that a taxpayer’s injuries are “common to all citizens and taxpayers ... [which thereby] defeats the constitutional requirement of a concrete and particularized injury”) (alteration in original)); *S.C. Pub. Int. Found. v. Harrell*, 378 S.C. 441, 445 n.1, 663 S.E.2d 52, 54 n.1 (2008) (declining to address SCPIF’s contention that acts constituted special laws in violation of the South Carolina Constitution because petitioner lacked standing); *Sloan v. Dep’t of Transp.*, 379 S.C. 160, 170–71, 666 S.E.2d 236, 241 (2008) (finding standing based upon the public importance exception because “[t]he expenditure of public funds pursuant to a competitive bidding statute is of immense public importance”); *Sloan v. Hardee*, 371 S.C. 495, 497 n.1, 640 S.E.2d 457, 458 n.1 (2007) (finding the matter was of sufficient public interest to confer standing); *Sloan v. Dep’t of Transp.*, 365 S.C. 299, 304–05, 618 S.E.2d 876, 878–79 (2005) (finding the issue was of such public importance to confer standing); *Sloan v. Wilkins*, 362 S.C. 430, 437, 608 S.E.2d 579, 583 (2005) (finding standing because the issue

Without acknowledging the same, Plaintiffs have argued against controlling precedent by distinguishing *ATC South* and *Freemantle* in ways unsupported by South Carolina decisional law. Notably absent from the authority cited by Plaintiffs is a single case allowing “taxpayer standing” after the Supreme Court’s issuance of the *ATC South* decision (*i.e.*, after November 2008). This Court should reject Plaintiffs’ argument that they have taxpayer standing to assert their claims, when South Carolina decisional law recognizes no such doctrine.<sup>7</sup>

There is simply no basis upon which Plaintiffs can establish standing, and without standing, subject matter jurisdiction likewise cannot exist. Therefore, the Circuit Court’s March 11 Order must be reversed because the Circuit Court issued the order without subject matter jurisdiction to do so.<sup>8</sup>

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was of such public importance as to require its resolution for future guidance); *Sloan v. Sanford*, 357 S.C. 431, 434, 593 S.E.2d 470, 472 (2004) (finding standing via the public importance exception); *Sloan v. Greenville Cnty.*, 356 S.C. 531, 551, 590 S.E.2d 338, 349 (Ct. App. 2003) (finding the case was of sufficient public importance to confer standing).

<sup>7</sup> Furthermore, Plaintiff SCPIF does not explain how it could possess taxpayer standing when, as a non-profit organization, it pays no taxes.

<sup>8</sup> Plaintiffs also incorrectly argue that their claims are not barred by the doctrines of mootness or ripeness. (Pls.’ Initial Resps.’ Br., pp. 20–21.) Importantly, the time limitation of Section 11-15-30 renders the Action moot. *See Sloan v. Friends of the Hunley, Inc.*, 369 S.C. 20, 26, 630 S.E.2d 474, 477 (2006) (“A moot case exists where a judgment rendered by the court will have no practical legal effect upon an existing controversy . . .”). The exceptions to the mootness doctrine do not apply to the Action for the same reasons that the public importance exception to the standing doctrine does not apply. *See id.* at 27, 630 S.E.2d at 478. Plaintiffs likewise cannot establish the ripeness of their claims, nor have they from an evidentiary standpoint.

**CONCLUSION**

This Court should affirm the Circuit Court’s dismissal of the Action. For the reasons set forth above, Respondent-Appellant Oconee County respectfully requests that the Court hold, as additional sustaining grounds for dismissal, that the Action is time-barred by S.C. Code Ann. § 11-15-30 and that Plaintiffs lack standing to maintain the Action.

Respectfully submitted,

s/ William W. Wilkins

William W. Wilkins (SC Bar No. 6112)  
Lane W. Davis (SC Bar No. 68796)  
Wilkins Davis Law Firm  
206 Mills Avenue  
Greenville, SC 29605  
(864) 263-3155  
billy@billywilkinslaw.com  
lane@wilkinsdavis.com

David C. Dill (SC Bar No. 101519)  
Ashley Robertson Parr (SC Bar No. 101346)  
Maynard Nexsen PC  
Post Office Box 10648  
Greenville, SC 29603-0648  
(864) 370-2211  
ddill@maynardnexsen.com  
aparr@maynardnexsen.com

*Attorneys for Respondent-Appellant*

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Greenville, South Carolina