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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM HORRY COUNTY
Court of Common Pleas

The Honorable Michael G. Nettles, Circuit Court Judge

Appellate Case No. 2026-000863

Gloria Ormand-Ward by and through her Guardian and Conservator, CDM Corporation, Through its Representative, Stephen Mantell. . . . . Petitioner

vs.

David Litt, Homedebone, LLC, Rosaria A. Alagna aka Rose Alagna; Chris Parker; Chicago Land Agency Services, Inc.; Chicago Title Insurance Company; Pereira Partners, LLC; NB Labor, LLC d/b/a Newman Brothers General Contractors; John Newman; Toorak Capital, LLC . . . . . Defendants

Of Whom,

Chicago Title Insurance Company is the . . . . . Respondent

REPLY IN SUPPORT OF THE PETITION FOR WRIT OF CERTIORARI

John M. Leiter (SC Bar #3187)
Law Offices of John M. Leiter, PA
405 79th Ave., North, Suite B
Myrtle Beach, SC 29572
(843) 449-1451
Attorney for Petitioner

June 4, 2026

TABLE OF CONTENTS

INTRODUCTION

Respondent's Return confirms that certiorari is warranted on both jurisdictional questions. As to general jurisdiction, Respondent asks this Court to affirm a case of first impression that S.C. Code Ann. § 38-5-70 should be construed as a mere service statute, despite its mandatory written appointment requirement, its broad language covering "any action or proceeding," its historical jurisdictional function, and this Court's description of insurance-service statutes as a method for obtaining jurisdiction over foreign insurers. Respondent's argument depends on importing limitations from other states rather than applying South Carolina's statutory text, history, and insurance regulatory scheme.

As to specific jurisdiction, Respondent asks this Court to accept Chicago Title Insurance Company's ("Chicago Title") factual denials, disregard the entities' own public representation that "CLAS [Chicago Land Agency Services, LLC] is a joint venture partnership with Chicago Title Insurance Company," and hold as a matter of law that deed recording is outside the scope of a title-related real estate services relationship. This is not the Rule 12(b)(2) standard. Petitioner was required to make a *prima facie* showing, not prove the partnership and its scope before trial.

The Court of Appeals' decision is not merely fact-bound error correction. It establishes legal rules warranting this Court's review, including that § 38-5-70 has no jurisdictional effect absent modern jurisdiction terminology, that corporate ownership may negate a joint venture; that a public "joint venture partnership" representation can be rejected on a conclusory affidavit; and that a plaintiff must prove the internal scope of a partnership to establish specific jurisdiction. These rulings affect litigants and licensed insurers beyond this case.

ARGUMENT

I. Respondent's Return Confirms That Certiorari Is Necessary to Resolve an Unsettled Question of South Carolina Insurance Law.

This is a case of first impression. Respondent argues that review should be denied because no prior South Carolina appellate decision has *specifically* held that § 38-5-70 confers general jurisdiction. This is not a reason to deny certiorari. It is the reason certiorari exists. The Court of Appeals decided an unsettled question of statewide importance affecting every foreign insurer admitted to transact insurance business in South Carolina. This Court should provide the controlling construction for South Carolina.

The question is not whether Missouri, Indiana, Iowa, Colorado, or a federal district court would construe a different statute to confer jurisdiction. The question is whether South Carolina's Insurance Law means what it says when it requires every insurer, before licensure, to appoint the Director of Insurance as its "true and lawful attorney" upon whom "all legal process in any action or proceeding against it must be served," and to agree that such service has "the same legal force and validity as if served upon the insurer." S.C. Code Ann. § 38-5-70.

This is an important question of South Carolina law. It affects every foreign insurer admitted to transact insurance business in this state. It concerns the reach of a mandatory insurance licensing statute. It implicates this Court's prior statements that insurance service statutes provide a simple method of obtaining jurisdiction over foreign insurers. The Court should grant certiorari to resolve this issue.

A. Respondent Misframes Consent Jurisdiction as Specific Jurisdiction.

Respondent repeatedly argues that Chicago Title did not issue a title policy relating to Ms. Ormand-Ward's property, did not direct suit-related activity to South Carolina, and is being sued based on CLAS's conduct. These arguments may bear on specific jurisdiction but they do not answer the consent jurisdiction issue. The point of *Pennsylvania Fire* and *Mallory* is that consent is an independent basis for general jurisdiction. *Pennsylvania Fire Ins. Co. v. Gold Issue Mining & Milling Co.*, 243 U.S. 93, 95-96 (1917); *Mallory v. Norfolk S. Ry. Co.,* 600 U.S. 122, 137-38 (2023). Minimum-contacts doctrine governs nonconsenting defendants; it does not displace consent.

The question is not whether Chicago Title's suit-related conduct independently satisfies specific jurisdiction. The question is whether Chicago Title, as a licensed foreign insurer, accepted South Carolina's statutory condition that it appoint the Director as attorney for "all legal process in any action or proceeding against it." Respondent's no title policy and no suit related conduct arguments do not answer that statutory question.

B. Section 38-5-70 Must be Read in its Historical Jurisdictional Context.

Respondent is correct only in the abstract that modern service of process and personal jurisdiction are distinct concepts. That proposition does not resolve the statutory-construction question. Section38-5-70 and its predecessors arose against the *Pennoyer* framework, in which personal jurisdiction depended on presence within the forum and service there. *Pennoyer v. Neff*, 95 U.S. 714 (1877). For a foreign insurer, the required written appointment of the Insurance Director supplied the jurisdictional substitute for physical presence. In that setting, the statute was not merely a notice provision. It was the

mechanism by which a foreign insurer, as a condition of licensure, made itself present and subject to suit in South Carolina.

Respondent treats § 38-5-70 as though it were a modern procedural rule governing notice after personal jurisdiction has otherwise been established. This reading divorces the statute from the regime in which it was enacted. The question is not whether service and jurisdiction are always identical today and the Petitioner agrees they are not. The question is whether the General Assembly intended this mandatory appointment to carry the jurisdictional effect such appointments historically carried. *Ex parte Schollenberger*, *Pennsylvania Fire*, and *Mallory* say yes. See *Ex parte Schollenberger*, 96 U.S. 369, 376 (1877); *Pennsylvania Fire*, 243 U.S. at 95-96; *Mallory*, 600 U.S. at 137-38.

Meyer v. Paschal confirms the importance of historical context. 330 S.C. 175, 498 S.E.2d 635 (1998). *Meyer* does not decide this case, but it illustrates the proper method of statutory construction. In *Meyer*, this Court considered the historical jurisdictional purpose of a *Pennoyer*-era statute before determining its modern application. *Meyer v. Paschal*, 330 S.C. 175, 498 S.E.2d 635 (1998). The same method should be used here. Section 38-5-70 should be construed in light of the historical role of insurer-appointment statutes: making foreign insurers amenable to suit through a written appointment required as a condition of licensure. Unlike the tolling statute in *Meyer*, however, § 38-5-70 has not been displaced by modern minimum-contacts doctrine. *Mallory* confirms that consent remains an independent basis for personal jurisdiction and that *Pennsylvania Fire* remains good law. The Court of Appeals therefore erred by treating § 38-5-70 as a mere notice provision rather than as a continuing statutory consent mechanism.

C. *Mallory* Rejects Respondent's Magic Words Argument.

Respondent argues that § 38-5-70 cannot confer consent jurisdiction because it does not use the word "jurisdiction." But *Mallory* rejected any "magic words" requirement. *Mallory*, 600 U.S. at 136 n.5. What matters is the legal effect of the statutory bargain. Section 38-5-70 requires every insurer, before licensure, to execute a written appointment of the Director as its "true and lawful attorney" for "all legal process in any action or proceeding against it" and to agree that service on the Director has the same legal force as service on the insurer. This is consent by written appointment, even without the phrase "general personal jurisdiction."

D. Missouri Rev. Stat. § 7042 Does Not Distinguish *Pennsylvania Fire*.

Respondent attempts to distinguish *Pennsylvania Fire* because Missouri Rev. Stat. § 7042 used the word "jurisdiction," while § 38-5-70 does not. That distinction is illusory. The word "jurisdiction" in § 7042 appeared in a limited clause governing process issued by "a justice of the peace or other inferior court." The statute first authorized service from courts of record, justices of the peace, and inferior courts; it then provided that, "in case such process is issued by a justice of the peace or other inferior court," the process could be served by an officer where the superintendent maintained his office, and "such service shall confer jurisdiction."

Read naturally, the use of the word "jurisdiction" clarified that Missouri's inferior courts would also have jurisdiction if the special service procedure was followed. It does not show that courts of general jurisdiction needed the phrase "such service shall confer jurisdiction" before the statutory appointment operated as consent. The operative consent

mechanism in § 7042 was the insurer's written appointment of the Superintendent to receive process in proceedings against the insurer and its agreement that such service would bind the company. Section 38-5-70 contains the same essential mechanism. Chicago Title's reference to § 7042 therefore does not transform § 38-5-70 into a mere notice provision.

E. *Landwehr* Was a Missouri Statutory Construction Decision, And Does Not Support Chicago Title's Position.

Respondent's reliance on *State ex rel. American Central Life Insurance Co. v. Landwehr,* 318 Mo. 181, 300 S.W. 294 (Mo. banc 1927), is misplaced. *Landwehr* did not announce a constitutional rule. It construed Missouri's statute in light of Missouri's legislative history. Critically, *Landwehr* acknowledged that, standing alone, the words "in all proceedings" were broad enough to extend to all actions against foreign insurers, whether or not based on Missouri contracts or Missouri liabilities. *Id.* at 187-88, 300 S.W. at 296. The Missouri court narrowed the statute only because it found a limiting policy in prior Missouri enactments. Respondent identifies no comparable South Carolina statutory history.

Nor does *Robert Mitchell Furniture* require denial of review. *Robert Mitchell Furniture* states that the scope of a statutory appointment turns on whether state law, "expressly or by local construction," gives the appointment broader effect. *Robert Mitchell Furniture Co. v. Selden Breck Constr. Co.,* 257 U.S. 213, 216 (1921). If local construction matters, this Court should provide it.

F. The "So Long as Any Liability Remains Outstanding" Clause Is a Duration Clause.

Respondent converts a duration clause into a subject-matter limitation. Section 38-5-70 first defines the scope of the appointment: “all legal process in any action or proceeding against it.” It then states how long the Director's authority continues: “so long as any liability remains outstanding in the State.” That latter clause preserves the appointment while South Carolina liabilities remain outstanding after an insurer’s withdrawal or cessation of business. It does not rewrite “any action or proceeding” to mean only actions arising from South Carolina policies.

The Insurance Law confirms that when the General Assembly intended to confine substituted service to policy-related claims, it said so expressly. The unauthorized-insurer statute, S.C. Code Ann. § 38-25-520(a), applies to actions “arising out of the policy or contract.” Section 38-5-70 contains no comparable limitation. A licensed insurer has affirmatively sought the privilege of transacting insurance business in South Carolina; an unauthorized insurer has not. The broader licensed-insurer statute should not be narrowed by judicial insertion.

G. Respondent's Construction Undermines South Carolina's Insurance Regulatory Bargain.

Section 38-5-70 cannot be isolated from the Insurance Law's overall licensing requirements. Before licensing a foreign insurer, the Director must be satisfied that the insurer accepts the terms and obligations of Title 38 as part of the consideration for its license, that its dealings are fair and equitable, and that it conducts business in a manner not contrary to the public interest. S.C. Code Ann. § 38-5-90(b), (k), (l). If a condition later exists that would have prohibited licensure, that condition becomes a ground for revocation under § 38-5-120.

Respondent's reading creates uncertainty even for regulatory enforcement. If a licensed insurer publicly represented a relationship in a way the Director believed was unfair, inequitable, or contrary to the public interest, the insurer could hardly accept a South Carolina license and then contend South Carolina courts are powerless because § 38-5-70 is only a notice device and not applicable to create jurisdiction of no policy-specific claim is involved. Petitioner does not contend this case is an enforcement action. The point is that Respondent's construction strips the written appointment of the jurisdictional effect that makes the Insurance Law's licensing bargain coherent.

H. South Carolina Authority Supports Review.

Respondent says *Wofford*, *Equilease*, and *White Oak* are distinguishable because none decided the precise question presented. That misses the point. In *Equilease*, this Court stated that insurance service statutes were designed to provide "a simple and easy method of obtaining jurisdiction over a foreign insurance company." *Equilease Corp. v. Weathers*, 275 S.C. 478, 483, 272 S.E.2d 789, 791 (1980). *White Oak* repeated the same jurisdictional understanding. *White Oak Manor, Inc. v. Lexington Ins. Co.*, 407 S.C. 1, 9, 753 S.E.2d 537, 541 (2014). *Wofford*, likewise, recognized that a foreign insurer's appointment of the Insurance Commissioner carried jurisdictional consequences. *Wofford v. Prudential Ins. Co.,* 65 F.Supp 637 (W.D.S.C. 1946). The Court of Appeals treated § 38-5-70 only as a mere notice mechanism. This holding, in light of these cases, warrants review.

II. Respondent's Specific-Jurisdiction Argument Confirms That the Court of Appeals Misapplied the *Prima Facie* Standard.

Respondent's specific-jurisdiction argument treats the Rule 12(b)(2) motion as if Petitioner had to prove the existence and scope of the Chicago Title/CLAS joint venture partnership with the same level of evidence required for trial. This is not the required standard. At the pretrial stage, Petitioner was required to make only a *prima facie* showing of personal jurisdiction, and factual disputes arising from affidavits must be resolved in the non-moving party's favor. *M.B. Khan Constr. Co. v. Three Rivers Bank & Trust Co.*, 354 S.C. 412, 415-16, 581 S.E.2d 481, 482-83 (2003); *Brown v. Inv. Mgmt. & Research, Inc.*, 323 S.C. 395, 400, 475 S.E.2d 754, 756 (1996). South Carolina's long-arm statute expressly reaches a defendant who acts “directly or by an agent” as to a cause of action arising from the commission of a tortious act in whole or in part in this State. S.C. Code Ann. § 36-2-803(A)(3).

Petitioner does not rely on an unexercised right to additional jurisdictional discovery. The record already contained enough evidence to satisfy the prima facie standard: the public statement on ctclas.com that “CLAS is a joint venture partnership with Chicago Title Insurance Company,” Chicago Title's 49.9% ownership of CLAS, overlapping Chicago Title and CLAS personnel, the shared Chicago office address, and CLAS's e-recording of the fraudulent deed in Horry County (R. 225). The point is narrow: the courts below were required to view that record in Petitioner's favor, not credit Chicago Title's conclusory affidavit and resolve the disputed existence and scope of the relationship against Petitioner. Petitioner's position is not that discovery might someday create jurisdiction; it is that the evidence already before the circuit court established a *prima facie* basis for jurisdiction.

A. Petitioner Made a *Prima Facie* Showing That Chicago Title and CLAS Operated as a Joint Venture Partnership.

Respondent characterizes Petitioner's evidence as an “incorrect” “erroneous” or “nonsensical” as to CLAS's website. Yet Respondent does not address that the partnership representation on the website remains publicly displayed as of the date of the filing of this Reply Brief. Chicago Title seeks to have this Court accept its preferred inference. The website did not use vague marketing language. It stated and continues to state that “CLAS is a joint venture partnership with Chicago Title Insurance Company, the marquee name in title insurance,” and that this “unique relationship” positioned CLAS to provide title-related services to real estate professionals in an accurate and timely manner. The domain name ctclas.com, itself, reinforces the integrated public presentation: “ct” for Chicago Title and “clas” for Chicago Land Agency Services.

Chicago Title is a sophisticated title insurer; CLAS is a sophisticated real estate services company. The Court should not accept, as a matter of law at the pleading stage, that their public statement of a joint venture partnership was meaningless. Nor did Chicago Title submit an affidavit from the person responsible for the website stating that the representation was mistaken, unauthorized, outdated, unknown to Chicago Title, or withdrawn before CLAS recorded Ms. Ormand-Ward's deed.

Michael Cusack's affidavits do not eliminate the factual dispute. His first affidavit states that he is an Executive Vice President of Chicago Title, that Chicago Title is licensed in South Carolina, that Chicago Title did not issue a policy on the property, and that Chicago Title owns 49.9% of CLAS (R. 196). It does not deny the website representation. His second affidavit says, in conclusory terms, that Chicago Title and CLAS are not

“co-owners” or “partners” of a business, but still does not explain the website statement, identify who authorized it, say it was false or incorrect when made, or deny that Chicago Title knew of or benefitted from it (R. 385). At most, the affidavit creates a factual dispute. Under *M.B. Khan* and *Brown*, that dispute had to be resolved in Petitioner's favor at this stage.

CLAS's corporate status does not defeat the *prima facie* showing. Petitioner does not contend CLAS ceased to exist as a corporation. She contends that two separate entities--Chicago Title and CLAS--joined together in a joint venture partnership. South Carolina law permits a corporation to be a partner, member, associate, or manager of a partnership, joint venture, trust, or other entity. S.C. Code Ann. § 33-3-102(9). Chicago Title's 49.9% ownership of CLAS does not preclude a separate joint venture relationship between the two entities.

B. The Recording of Deeds Fell Within the *Prima Facie* Scope of the Relationship.

Respondent argues that even if a joint venture partnership existed, CLAS's recording of the deed was outside its scope. That, too, asks the Court to resolve a fact-intensive scope question against Petitioner. The website describes the relationship as positioning CLAS to provide services to real estate professionals in an accurate and timely manner. In the title insurance and real estate closing context, recording deeds are not unrelated. It is a fundamental component of the real estate title process. A deed is recorded to place the conveyance in public land records, affect title, and complete the transaction from the standpoint of notice.

CLAS did not randomly interact with South Carolina. It electronically recorded a deed concerning South Carolina real property in the Horry County Register of Deeds. That act allegedly enabled Homedebone to convey Ms. Ormand-Ward's home and caused injury in South Carolina. If, as the website states, the Chicago Title/CLAS relationship existed to provide accurate and timely title-related services to real estate professionals, deed recording falls comfortably within the *prima facie* scope of that relationship. Respondent's attempt to isolate “title insurance” from the recording services that create and affect title is artificial.

Respondent emphasizes that CLAS invoiced Litt and the invoice did not mention Chicago Title. That proves little. If a partnership acts through one partner, the fact that the acting partner issued the invoice does not establish that the act was outside the partnership's scope. At most, the invoice creates a competing inference. It does not defeat specific jurisdiction as a matter of law.

C. CLAS's E-Recording Was Purposefully Directed at South Carolina and is Attributable to Chicago Title at the *Prima Facie* Stage.

The long-arm statute reaches tortious acts committed in whole or in part in South Carolina, including acts done “directly or by an agent.” S.C. Code Ann. § 36-2-803(A)(3). The event giving rise to her claims was the recording of a fraudulent deed in South Carolina land records. The property was in South Carolina. The public record affected was in South Carolina. The injury occurred in South Carolina. The recording had legal effect because it was directed to the Horry County Register of Deeds.

Respondent's unilateral act argument therefore fails. Petitioner is not relying on conduct of a stranger. She alleges CLAS acted as Chicago Title's partner in the publicly

represented joint venture partnership. If that allegation and supporting evidence are credited for *prima facie* purposes, CLAS's recording of the deed was not unilateral third-party conduct. It was the conduct of Chicago Title's partner, directed into South Carolina, causing injury in South Carolina.

Respondent also suggests that Petitioner had to show the joint venture contemplated substantial performance in South Carolina. That is not the test under § 36-2-803(A)(3). This case arises from a tortious act committed, in whole or in part, in South Carolina: electronic recording of a fraudulent deed in Horry County's land records. Due process is satisfied because the act was purposefully directed to South Carolina, concerned South Carolina real property and its citizen, and gave rise to the claims. South Carolina has a compelling interest in adjudicating claims involving fraudulent deeds recorded in its county land records.

D. The Specific Jurisdiction Ruling Warrants Review.

Respondent portrays the specific jurisdiction issue as fact-bound, which it is not. The Court of Appeals created legal rules that corporate ownership can preclude a separate joint venture, that a public statement of a joint venture partnership may be disregarded on a conclusory affidavit, and that a plaintiff must prove the internal scope of the venture before trial. Those rules conflict with the *prima facie* standard and the long-arm statute. Petitioner presented enough evidence that Chicago Title and CLAS publicly held themselves out as a joint venture partnership, that the relationship existed to provide title-related real estate services, and that CLAS recorded the fraudulent deed in South Carolina as part of those services. That showing was sufficient to defeat Chicago Title's Rule 12(b)(2) motion or, at minimum, to warrant review by this Court.

CONCLUSION

For these reasons, the Petition for a Writ of Certiorari should be granted.

Respectfully submitted,

s/ John M. Leiter
John M. Leiter (SC Bar ID #3187)
Law Offices of John M. Leiter, PA
405 79th Ave., North, Suite B
Myrtle Beach, SC 29572
(843) 449-1451
Jleiter@48th.com
Attorney for Petitioner

Myrtle Beach, South Carolina
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