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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

ON PETITION FOR WRIT OF CERTIORARI

Appellate Case (Court of Appeals) No. 2024-001296

George S. Glassmeyer,.....Petitioner,

v.

South Carolina Lottery Commission,.....Respondent.

PETITION FOR WRIT OF CERTIORARI

INTRODUCTION

This petition asks this Court to issue a writ of certiorari to review the Court of Appeals' published opinion number 6155, filed July 29, 2026. *Glassmeyer v. S.C. Lottery Comm'n*, Op. No. 6155 (S.C. Ct. App. filed July 29, 2026). The opinion affirmed summary judgment against Petitioner George S. Glassmeyer on three issues under the South Carolina Freedom of Information Act: the Lottery Commission's refusal to disclose the names of lottery winners sought in Request 1; its redaction, under the Family Privacy Protection Act, of the signatures of its chief financial officers on checks disbursing public funds; and its refusal, as "overly broad" and "unduly burdensome," to respond to Requests 5, 12, and 18.

The South Carolina Freedom of Information Act is one of the few statutes the General Assembly equipped with a codified statement of purpose. It commands that the Act's provisions "must be construed so as to make it possible for citizens . . . to learn and report fully the activities

of their public officials at a minimum cost or delay to the persons seeking access." S.C. Code Ann. § 30-4-15. That purpose is the thread this petition pulls: on each of the three issues, the Court of Appeals, just as the circuit court did below, construed the Act without applying the one interpretive instruction the Legislature made mandatory. Because the decision is published and defines the Act's core terms for the first time, it will govern every public body's response to a FOIA request in this State. For the reasons below, there are special and important reasons for this Court's review under Rule 242(b), SCACR.

CERTIFICATE OF COUNSEL

The Court of Appeals issued its opinion in this case on July 29, 2026. Petitioner served and filed a petition for rehearing and request for rehearing en banc, which the Court of Appeals received on August 13, 2026. The Court of Appeals finally disposed of the petition for rehearing by an order filed September 15, 2026, denying panel rehearing, and the full court rejected rehearing en banc the same day. This petition for a writ of certiorari is timely served and filed within thirty days of that disposition. Rule 242(c), SCACR.

QUESTIONS PRESENTED

- 1) Whether the Court of Appeals erred by construing the Act's relief provision, S.C. Code Ann. § 30-4-110(A), without applying the governing interpretive command of § 30-4-15, and by engrafting onto that section a requester-specificity requirement the General Assembly never enacted — a requirement borrowed from out-of-state statutes that, unlike South Carolina's Act, contain express specificity language — particularly where the Lottery Commission declined to charge the fees the Act authorizes.
- 2) Whether the Court of Appeals erred in holding that the Lottery Commission's contractual duty under the parties' settlement agreement accrued on the date of its FOIA determination (July 5, 2023) rather than on its receipt of the qualifying request (June 21, 2023), and in excusing nonperformance as "impossible," where the only determination § 30-4-30 contemplates had already been made by the settlement agreement and disclosure was lawful when the request arrived.
- 3) Whether the Court of Appeals erred in sustaining the redaction, under the Family Privacy Protection Act, of the official-capacity signatures of the Lottery Commission's chief

financial officers on checks disbursing public funds — striking the privacy balance on the very public-official factor the panel expressly reserved.

STATEMENT OF THE CASE

This is the second time this dispute has required appellate attention. In 2013 and 2014, Glassmeyer submitted FOIA requests to the South Carolina Lottery Commission (the "Lottery") seeking information about winners of lottery prizes of \$1 million or more. *S.C. Lottery Comm'n v. Glassmeyer*, 433 S.C. 244, 248, 857 S.E.2d 889, 891 (2021). The Lottery sought a declaratory judgment that it could withhold the information under the privacy exemption, § 30-4-40(a)(2), and obtained judgment on the pleadings and a sweeping injunction. *Id.* This Court reversed, holding that the Lottery bore the evidentiary burden of proving the exemption, that whether a record is exempt "depends on the particular facts of the case," and that the injunction barring Glassmeyer from seeking the information "from any source" was overly broad. *Id.* at 251–52, 857 S.E.2d at 892–93.

On remand, the parties settled. In a February 15, 2022 agreement, the Lottery's nondisclosure policy was to "remain in full force until May 31, 2023," and the agreement provided that "[i]f the South Carolina General Assembly does not enact legislation addressing this specific issue by such date, then [the Lottery] will provide the full names, cities, and states of lottery prize claimants in response to FOIA requests after that date." R. p. 78; Settlement Agreement 2. Glassmeyer, in turn, agreed not to submit requests concerning claimants or winners through May 31, 2023.

The General Assembly did not legislate by May 31, 2023. It ratified Proviso 3.5 of the 2023–24 Appropriations Act on June 14, 2023, but that proviso did not take effect until July 1, 2023. Act No. 84, 2023 S.C. Act 477, 767, Part I.B, § 3, Proviso 3.5. In the interval, on June 16,

2023, Glassmeyer submitted eighteen FOIA requests; the Lottery received them on June 21, 2023 — ten days before Proviso 3.5 took effect. The Lottery did not issue its determination until July 5, 2023, after the proviso's effective date, and then invoked the proviso to withhold the winners' names sought in Request 1.

Three categories of request are before the Court. Request 1 sought the names and the cities and states of winners of prizes of \$1 million or more. Request 4 sought copies of checks issued to those winners; the Lottery produced the checks but redacted the drawers' signatures — the signatures of its current and former chief financial officers — asserting the Family Privacy Protection Act ("FPPA") required redaction. Requests 5, 12, and 18 (the "Documents Requests") sought, respectively, all checks and wire transfers, all vendor bills and invoices, and all employee emails over roughly a two-year period. Glassmeyer sought these records because he worried that Lottery employees may be embezzling public funds. The Lottery denied the Documents Requests as unduly burdensome and overly broad under § 30-4-110(A), supported by an expert affidavit estimating multimillion-dollar review costs. Though FOIA authorizes a public body to charge reasonable fees for the search, retrieval, and redaction of records, the Lottery has never charged a fee for responding to a FOIA request.

The circuit court (Coble, J.) granted summary judgment to the Lottery on all issues and denied reconsideration under Rule 59(e), SCRPC. The Court of Appeals affirmed. It held that the Lottery did not violate FOIA or the settlement agreement by withholding the names, because Proviso 3.5 was in effect "on the date the Lottery Commission issued its determination" and performance of the contract was excused as impossible; that the FPPA protected the drawers' signatures because the drawers' "moderate" privacy interest was not outweighed by a "minimal" public interest in information "cumulative" to the already-disclosed names; and that the Documents

Requests were overly broad and unduly burdensome. On the last point, the court acknowledged that South Carolina "ha[s] not yet had cause to define" those terms, and it adopted a multifactor specificity test drawn from Pennsylvania's Right-to-Know Law and federal FOIA decisions. The panel denied rehearing on September 15, 2026, and the full court rejected rehearing en banc the same day.

ARGUMENT

A writ of certiorari is "not a matter of right, but of sound judicial discretion, and will be granted only where there are special and important reasons." Rule 242(b), SCACR; *S.C. Dep't of Soc. Servs. v. Benjamin*, 430 S.C. 235, 844 S.E.2d 373 (2020). Rule 242(b) identifies considerations that indicate "the character of reasons which will be considered," including novel questions of law and a decision in conflict with a prior decision of this Court. Each of the three issues below presents such a reason, and a single error unites them: the courts below construed the Freedom of Information Act without applying § 30-4-15, which commands that the Act "be construed so as to make it possible for citizens . . . to learn and report fully the activities of their public officials *at a minimum cost or delay* to the persons seeking access." S.C. Code Ann. § 30-4-15 (emphasis added). This Court and the Court of Appeals have treated that codified purpose as controlling: "FOIA is remedial in nature and should be liberally construed to carry out its purpose," and "[i]n keeping with this construction," its exemptions and relief provisions are read narrowly, with the burden on the public body. *Pope v. Wilson*, 427 S.C. 377, 384–85, 831 S.E.2d 442, 445–46 (Ct. App. 2019); see *Evening Post Publ'g Co. v. City of N. Charleston*, 363 S.C. 452, 457, 611 S.E.2d 496, 499 (2005).

I. The decision defines the core terms of § 30-4-110(A) for the first time by engrafting an out-of-state specificity requirement and ignoring the Act's codified purpose — an error magnified by the Lottery's refusal to charge the fees the Act authorizes.

The Court of Appeals' overbreadth holding turns on a question this Court has never resolved, and the court said as much: "[o]ur courts have not yet had cause to define the terms 'unduly burdensome' and 'overly broad' in the FOIA context." That concession alone establishes a novel question under Rule 242(b)(1). The novelty runs deeper, however, in *how* the court filled the gap. To give content to § 30-4-110(A), it adopted the Pennsylvania Commonwealth Court's three-factor specificity test — subject matter, scope, and timeframe — and a line of federal FOIA decisions holding that "broad, sweeping requests lacking specificity are not permissible." *See Pa. Dep't of Educ. v. Pittsburgh Post-Gazette*, 119 A.3d 1121, 1125–26 (Pa. Commw. Ct. 2015).

Every one of those authorities construes a statute containing an express specificity requirement that South Carolina's Act does not have. The Pennsylvania test interprets a statute that, by its terms, demands that a request "identify or describe the records sought with sufficient specificity to enable the agency to ascertain which records are being requested." 65 Pa. Stat. and Cons. Stat. § 67.703. The federal decisions rest on 5 U.S.C. § 552(a)(3)(A), which requires a request that "reasonably describes such records." South Carolina's § 30-4-110(A), by contrast, says nothing of specificity; it permits relief only from requests that are "unduly burdensome, overly broad, vague, repetitive, or otherwise improper." The General Assembly enacted no requester-tailoring duty, and the courts may not supply one. *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) ("[T]he court has no right to impose another meaning."). Indeed, the very South Carolina decision the Court of Appeals invoked for consulting other jurisdictions *declined to*

follow out-of-state authority precisely because it construed a broader statutory standard absent from South Carolina law. *State Farm Mut. Auto. Ins. Co. v. Goyeneche*, 429 S.C. 211, 224–26, 837 S.E.2d 910, 917–18 (Ct. App. 2019). Engrafting a specificity requirement from foreign statutes is not merely novel; it is affirmatively inconsistent with § 30-4-15's command that the Act be construed "at a minimum cost or delay to the persons seeking access."

The error is compounded by a feature of this record that the Court of Appeals treated as irrelevant: the Lottery had never charged a fee for responding to a FOIA request. FOIA expressly permits a public body to "establish and collect reasonable fees not to exceed the actual cost of the search, retrieval, and redaction of records." S.C. Code Ann. § 30-4-30(B). The Act thus builds in its own answer to volume. The two burdens a large request imposes — cost and delay — are the very burdens § 30-4-15 addresses, and the Act resolves each without denying access: cost is recovered through a reasonable fee charged to the requester, and delay is managed by producing voluminous records over a reasonable timeline. A public body confronted with a large request is not put to a choice between crippling its operations and refusing outright; it may charge the requester the actual cost of the work and produce the records on an extended schedule.

The Lottery declined the mechanism the Legislature gave it. Having chosen not to charge fees, it then invoked the very costs it elected to absorb as the ground for withholding the records altogether. The Court of Appeals blessed that maneuver, reasoning in footnote 10 that "[c]harging fees is not a prerequisite for a public body to receive relief from an unduly burdensome or overly broad request." But that reasoning permits a public body to forgo the statutory cost-recovery tool and then convert the self-imposed, unrecovered cost into a basis for total nondisclosure — the opposite of the result § 30-4-15 commands. The Act's design is that a requester who wants "information as vast as" he desires may have it, paying the actual cost and awaiting a reasonable

production timeline; it is not that a public body may absorb no cost, impose no fee, and answer a voluminous request with nothing at all. A rule that rewards an agency for declining to charge fees — by letting the uncharged cost justify withholding — maximizes, rather than minimizes, the "cost or delay to the persons seeking access" the General Assembly directed courts to minimize. § 30-4-15.

This question is of exceptional statewide importance. The opinion is published and is the first to define the operative terms of § 30-4-110(A). It will set the framework by which every public body in South Carolina may resist a FOIA request as "overly broad," and it does so by importing a specificity requirement the Legislature omitted, by leaving § 30-4-15 unapplied, and by allowing an agency that charges no fees to withhold on grounds of cost. That the full Court of Appeals declined rehearing en banc — after the question was framed as one of exceptional importance — confirms that only this Court can settle it: by allowing a more informed citizenry to develop through the Court's consideration and reversal.

II. The decision conflicts with this Court's FOIA precedent requiring liberal construction toward disclosure and narrow construction of exemptions.

Rule 242(b)(3) is satisfied when the Court of Appeals' decision conflicts with a prior decision of this Court. The decision below cannot be reconciled with this Court's settled command that FOIA be construed to favor disclosure in service of § 30-4-15.

This Court has held that FOIA "is remedial in nature and should be liberally construed to carry out the purpose mandated by the legislature." *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 547 S.E.2d 862 (2001); *S.C. Dep't of Mental Health v. Hanna*, 270 S.C. 210, 241 S.E.2d 563 (1978). Its exemptions "are to be narrowly construed" so as "to not provide a blanket

prohibition of disclosure," and "the government has the burden of proving that an exemption applies." *Evening Post Publ'g Co. v. Berkeley Cty. Sch. Dist.*, 392 S.C. 76, 82–83, 708 S.E.2d 745, 748 (2011); *City of N. Charleston*, 363 S.C. at 457, 611 S.E.2d at 499. This Court has read § 30-4-15's "minimum cost or delay" language as a substantive directive, awarding fees to give public bodies "an impetus . . . to comply with a FOIA request." *Sloan v. Friends of Hunley, Inc.*, 393 S.C. 152, 156–58, 711 S.E.2d 895, 897–98 (2011). And absent an applicable exemption, "no public policy . . . overrides the goals of FOIA." *Soc'y of Profl Journalists v. Sexton*, 283 S.C. 563, 567, 324 S.E.2d 313, 315 (1984).

The decision below departs from each of these principles. On the Documents Requests, the court weighed only the Lottery's volume and cost and sustained a blanket refusal — the "blanket prohibition" this Court has cautioned against — without the case-by-case, disclosure-favoring analysis § 30-4-15 requires. And this very dispute began with this Court's instruction, in *S.C. Lottery Comm'n v. Glassmeyer*, that the Lottery bears the burden on any exemption and that disclosure questions turn on a developed factual record. 433 S.C. at 251–52, 857 S.E.2d at 892–93. The published opinion stands in conflict with that body of precedent and, if left undisturbed, will dilute it for every future requester.

III. The settlement/impossibility holding overlooks that the only § 30-4-30 determination was already made by the parties' agreement, and misapplies the doctrine of impossibility.

The winners'-names issue presents a second novel and recurring question: when a public body's contractual duty is keyed to the *receipt* of a qualifying request, may the body escape that duty by delaying its response until a later change in law? The Court of Appeals answered yes,

fixing the operative date at the July 5 determination and excusing performance as impossible. That reasoning misapplies settled law and overlooks the role of the agency's statutory determination.

The Court of Appeals treated FOIA's ten-day determination window, § 30-4-30(C), as the moment the Lottery's duty accrued, reasoning that the Lottery "was required to act in accordance with the law as it existed on the date it issued its determination." But the court overlooked that, for purposes of § 30-4-30, the Lottery had already determined what records it would provide when it received this request. The determination the statute contemplates is a determination of "the public availability of the requested public record." § 30-4-30(C). Here, that determination was not an open question the Lottery needed the statutory window to resolve; it had been made — by the parties' settlement agreement — before the request ever arrived. The Lottery had agreed in writing that, absent legislation by May 31, 2023, it "will provide the full names, cities, and states of lottery prize claimants in response to FOIA requests after that date." R. p. 78; Settlement Agreement 2. The availability of the winners' names was thus settled by contract. The Lottery had no § 30-4-30 determination left to make that a later change in law could overtake; upon receipt of the qualifying request, its only remaining task was to produce. The ten-day window of § 30-4-30(C) exists to give a public body time to decide availability — not to manufacture a grace period during which a pre-committed disclosure can be defeated by supervening legislation.

That distinction is dispositive, and it defeats the impossibility rationale. The settlement agreement conditioned the Lottery's promise on a single event — a qualifying request received after May 31, 2023 — not on the date the Lottery later chose to answer. *See McGill v. Moore*, 381 S.C. 179, 185, 672 S.E.2d 571, 574 (2009) (unambiguous language controls). The Lottery received that request on June 21, 2023, while disclosure was still lawful; Proviso 3.5 did not take effect until July 1. The duty therefore matured, and could have been performed, before the law changed.

Impossibility excuses performance only where "the thing to be done cannot by any means be accomplished." *Morin v. Innegrity, LLC*, 424 S.C. 559, 568, 819 S.E.2d 131, 136 (Ct. App. 2018) (quoting *Hawkins v. Greenwood Dev. Corp.*, 328 S.C. 585, 593, 493 S.E.2d 875, 879 (Ct. App. 1997)). Disclosure *could* have been accomplished — lawfully — on June 21. Supervening illegality cannot retroactively excuse an obligation that became due, and could have been satisfied, before the law changed; it was the Lottery's own delay, not any legal impossibility, that carried performance past July 1. Whether a public body may convert its own delay into a legal excuse — after the records' availability was already determined — is a question that will recur whenever settlement agreements and FOIA deadlines intersect, and it warrants this Court's review.

IV. The signature-redaction holding decides the FPPA balance on the public-official factor the panel expressly reserved.

The signatures issue presents a further novel question of public importance: whether the Family Privacy Protection Act shields a public official's official-capacity signature on an instrument disbursing public funds. The Court of Appeals sustained redaction after finding the drawers' privacy interest "moderate" and the public interest "minimal." Yet in footnote 7 the panel expressly reserved "a different calculation" for "a public official signing a document in her official capacity" — the undisputed fact here, where the drawers are the Lottery's current and former chief financial officers signing checks that disburse public lottery funds. The court struck the balance without the reserved factor, escaping it only through a "cumulative information" rationale that the court itself held was not moot and would have "a practical legal effect on the controversy."

That rationale misapprehends the public interest. A signature authorizing the movement of public money is not cumulative to a typed name supplied by the agency's own counsel; it authenticates that public funds were disbursed by a person authorized to bind the agency. See *Burton v. York Cty. Sheriff's Dep't*, 358 S.C. 339, 352, 594 S.E.2d 888, 895 (Ct. App. 2004) (public's interest in the conduct of public officials is "large and vital"). The FPPA's definition of "personal information" lists "signature" in a general, non-exclusive list, S.C. Code Ann. § 30-2-30(1), but it does not distinguish — much less resolve — the official-capacity question the panel reserved; and the FPPA sits in Chapter 2 of Title 30, which governs an agency's collection of data, not its disclosure duties under Chapter 4. The authority the court invoked to strike the balance, *Glassmeyer v. City of Columbia*, 414 S.C. 213, 220, 777 S.E.2d 835, 839 (Ct. App. 2015), protected the home addresses and personal contact information of private job applicants — not a public official's official act. Extending it to (Title 30, Chapter 4 requests in their entirety and to) shield an official signature on a public check is a significant and unsettled expansion of the FPPA that merits this Court's review.

V. The remaining Rule 242(b) considerations.

Candor to the Court requires Petitioner to address the considerations that do not independently drive this petition. The Court of Appeals' decision was unanimous, so there is no dissent under Rule 242(b)(2); but unanimity is no barrier to review, and the full court's rejection of rehearing en banc — on a question it was told was of exceptional importance — leaves the recurring, statewide questions unresolved at the only level that can resolve them. The petition does not rest on a substantial constitutional issue under Rule 242(b)(4), nor on a federal question in conflict with a decision of the United States Supreme Court under Rule

242(b)(5); the controlling questions are ones of South Carolina statutory construction and contract law. Rule 242(b) states expressly that its enumerated considerations are "neither controlling nor fully measuring the Supreme Court's discretion," and the special and important reasons for review here lie in the novelty of the questions presented and the conflict between the published decision and this Court's FOIA jurisprudence and the Act's codified purpose.

CONCLUSION

The decision below defines the core terms of South Carolina's Freedom of Information Act for the first time, and it does so by importing a specificity requirement the General Assembly never enacted, by permitting an agency that charges no fees to withhold records on grounds of cost, by overlooking that the records' availability was already determined by contract, and by leaving unapplied the codified purpose in § 30-4-15 that this Court has made the lodestar of FOIA construction. For these reasons, Petitioner George S. Glassmeyer prays for an order granting a writ of certiorari and, upon review, reversing the judgment of the Court of Appeals and remanding for further proceedings.

Respectfully submitted,

/s/ Taylor Smith

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