RECEIVED
JUN 20 2014
S.C. Supreme Court

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Marion County
Court of Common Pleas

Michael G. Nettles, Presiding Judge

Opinion No. 5010 (S.C. Ct. App. Filed July 25, 2012)

South Carolina Department of Transportation..... Respondent

vs.

Janell P. Revels and R.J. Poston, Jr..... Landowners

and

John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title or interest in or to, or lien on the lands described herein, including all unknown heirs of Reamer J. Poston, Sr. a/k/a R.J. Poston, Sr., deceased.....Unknown Claimants

Of Whom Janell P. Revels and R.J. Poston, Jr. are ..... Petitioners

---

BRIEF OF PETITIONERS

Gene M. Connell, Jr., S.C. Bar No. 1358
KELAHER, CONNELL & CONNOR, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net
Attorney for Petitioners

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Other Authorities

STATEMENT OF ISSUES ON APPEAL

I. Is this Opinion contra to other Opinions issued by the Court of Appeals including *South Carolina Department of Transportation v. Willie T. Hucks.* (Unpublished Opinion No. 03-UP-114 filed February 13, 2003) where the Court of Appeals specifically approved a one-third attorney's fee and found such to be reasonable under the Eminent Domain Procedure Act?

II. Did the Court of Appeals err in finding that attorney's fees were controlled by *Layman v. State*, 376 S.C. 434, 658 S.E.2d 320 (2008) when S.C. Code § 28-2-510 provides the exclusive remedy in condemnation actions?

III. Is the Opinion of the Court of Appeals in this case contra to established case law, specifically *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997)?

IV. Did the Court of Appeals err in failing to determine whether or not a contingency attorney's fee was reasonable under S.C. Code § 28-2-510(c)?

V. Did the Court of Appeals err in failing to look to other states in determining whether a contingent attorney's fee was reasonable in a condemnation case?

VI. Did the Court of Appeals err in holding that that the Eminent Domain Procedure Act is similar to S.C. Code § 15-77-300, the error being that S.C. Code Ann. § 15-77-300 does not involve issues of just compensation for a constitutional taking of real property?

VII. Did the Court of Appeals err in finding that S.C. Code Ann. § 28-2-510 does not allow for a reasonable contingent attorney's fee since Michigan, Oklahoma and Wisconsin have construed similar statutes to allow for such an attorney's fee award?

STATEMENT OF THE CASE

This appeal rises from the condemnation of property by the South Carolina Department of Transportation (hereinafter referred to as "SCDOT" or "Condemnor") which is owned by R.J. Poston and Janell P. Revels. On August 6, 2007, SCDOT filed its Notice of Condemnation against Landowners R.J. Poston and Janell P. Revels. The case was tried to a jury in Marion County and a verdict in the amount of $125,000.00 was entered on June 5, 2009. Thereafter, counsel for the Landowners, pursuant to § 28-2-510(B)(1), filed an Application for attorney's fees in the amount of 33-1/3% of the gross amount collected over $40,300.00 (the amount offered to the Landowners). The Circuit Court denied the request for a contingent attorney's fee and on motion for reconsideration affirmed its denial holding that any attorney's fees should be awarded pursuant to *Layman v. State*, 376 S.C. 434 658 S.E.2d 320 (2008).

On July 25, 2012, the Court of Appeals issued its Opinion No. 5010 affirming the circuit court and denying Appellants relief. On October 18, 2012, the Court of Appeals issued its final Order denying Appellants' Petition for Rehearing. On May 23, 2014, this Court grant a Petition for Writ of Certiorari to review the Court of Appeals decision as to Petitioners' Arguments I, II, III, IV, VI, VII and VIII. The Petition was denied as to arguments V and IX.

ARGUMENT

I. The Opinion in this case is inconsistent with prior opinions of the Court of Appeals.

The Court of Appeals has considered in an unpublished decision, *South Carolina Department of Transportation v. Willie T. Hucks* (Unpublished Opinion No. 03-UP-114 filed February 13, 2003) the issue of a contingent attorney's fee. In that case, then Chief Judge Hearn ruled that a contingent attorney's fee was appropriate in a condemnation case. Petitioners respectfully suggest that the current opinion of the Court of Appeals is contra and in conflict with the unpublished opinion. See also *Global Protection Corp. v. Halbersberg*, 332 S.C. 149, 161, 503 S.E.2d 483, 489 (Ct.App. 1998) (affirming an award of reasonable attorney fees based on a contingent fee agreement rather than the time expended and normal hourly rates). Further, the Court of Appeals affirmed a contingent attorney's fee in *Vick v. S.C. Dept. of Trans.*, 347 S.C. 470, 556 S.E.2d 693 (Ct.App. 2001).

II. Attorney's fees in condemnation cases must be considered under S.C. Code § 28-2-510 only.

Appellant also asserts that S.C. Code Ann. § 15-77-300 and the *Layman* case are not applicable and the reason those are not applicable is that this is a condemnation case and the exclusive remedy for attorney's fees is the Eminent Domain Procedure Act. In contrast, S.C. Code Ann. § 15-77-300 states the circuit court may award attorney fees to the prevailing party in an action involving the State. Also, S.C. Code Ann. § 15-77-300(B) specifically provides attorney's fees allowed pursuant to subsection (A) must be limited to a reasonable time expended at a reasonable rate.

The language in S.C. Code Ann. § 28-2-510 is markedly different. In subsection (B)(1) the term reasonable litigation expenses is defined along with the following elements

to award an attorney's fee: (1) the fee charged, (2) the basis thereof, (3) the actual time expended. These provisions of S.C. Code Ann. § 28-2-510 are different from the elements found in S.C. Code Ann. § 15-77-300.

The reason that the two code sections are different is that S.C. Code Ann. § 28-2-510 is the exclusive procedure for a person whose land is being condemned to obtain just compensation. Thus, Petitioners are entitled to every benefit of the constitutional requirements and of S.C. Code Ann. § 28-2-510 which makes clear that the landowner in a condemnation case is to be made whole from an involuntary taking of his land by the state.

S.C. Code Ann. § 28-2-510(B)(1) defines reasonable litigation defenses as:

> The reasonable fees, charges, disbursements and expenses necessarily incurred from and after service of a Condemnation Notice....

This section is solely concerned with the landowner obtaining just compensation and with the procedure in obtaining such compensation. Surely, under those circumstances, the attorney fee in such a case can be a contingency fee. In this case, the landowner was offered $40,300.00 for his property. Counsel accepted the case from the client on a one-third contingency fee above the offer of $40,300.00. This is and was a reasonable fee and consistent with S.C. Code Ann. § 28-2-510(B)(1). It is also consistent with the Court of Appeal's previous ruling in *South Carolina Department of Transportation v. Willie T. Hucks*, Unpublished Opinion No. 03-UP-114 filed February 13, 2003; and *Vick v. S.C. Dept. of Trans.*, 347 S.C. 470, 556 S.E.2d 693 (Ct.App. 2001). Accordingly, the Court of Appeals should have first construed whether or not the requested fee was reasonable and such construction is required by S.C. Code Ann. § 28-2-510 and by the previous case law of this Court.

III. The Court erred in relying on *Layman* as authority in this case since the Eminent Domain Procedure Act is the exclusive remedy.

The Court of Appeals cited *Layman* for authority that a contingency fee could not be earned in a condemnation case. Petitioners respectfully submit that *Layman* does not overrule S.C. Code Ann. § 28-2-510(B)(1) (2007). To allow *Layman* and its progeny to trump the plain language of S.C. Code Ann. § 28-2-510(B)(1) would in effect mean that *Layman* was overruling the right of the person whose land is condemned by the State to obtain just compensation. Here, Appellants were attempting to enforce their constitutional rights to just compensation under the Eminent Domain Procedure Act. *Layman* only addresses S.C. Code Ann. § 15-77-300. The Eminent Domain Procedure Act directly addresses the procedure for determining litigation expenses and requires the trial court to determine the reasonableness of the landowner's attorney's fees. There is no limitation in the Eminent Domain Procedure Act as to the factors the trial court may review in making the determination. In fact, the Court of Appeals must only determine whether or not the fee charged and the basis thereof is a "reasonable litigation expense." These key words are not found in S.C. Code Ann. § 15-77-300. S.C. Code Ann. § 15-77-300 specifically limits the recovery of attorney's fees to a "reasonable time expended at a reasonable rate." This language is not found in S.C. Code Ann. § 28-2-510 and the Court of Appeals erred in grafting it onto the condemnation procedure based on *Layman*.

IV. It was error not to determine that the requested attorney's fees were reasonable.

This Court has repeatedly cited *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997) for the proposition that attorney's fees must be reasonable. This exact language is used in S.C. Code Ann. § 28-2-510(B)(1) in which the legislature speaks of "reasonable

litigation fees." For that reason the Court of Appeals should not have looked to *Layman*, but should have looked only to the language of S.C. Code Ann. § 28-2-510. The Supreme Court's longstanding precedence in *Jackson v. Speed, supra* requires a circuit court to look at five factors in determining attorney's fees. Appellants suggest to the Court that it was error for the Court of Appeals and the trial court to find the *Jackson* factors were not applicable in light of the plain language of S.C. Code Ann. § 28-2-510 which provides for "reasonable litigation expenses."

In sum, *Layman* cannot overrule S.C. Code Ann. § 28-2-510 and whether or not a contingency fee is a reasonable litigation expense. Litigation expenses as defined are "the reasonable fees...but not limited to reasonable attorney's fees." Appellants suggest to the Court that a one-third attorney fee over the offered amount is not only an eminently reasonable attorney fee but a beneficial agreement with the landowner rather than an hourly rate. This reading of the statute is borne out by S.C.Code Ann. § 28-2-20 which provides in pertinent part: "In the event of conflict between this Act and any other law with respect to any subject governed by this Act, this Act shall prevail." Accordingly, the Court of Appeals erred in not determining whether the requested fee was a "reasonable attorney's fee" under S.C. Code Ann. 28-2-510(B)(1) (2007). Attorney fees and how they are decided by the trial court are governed only by the Eminent Domain Procedure Act and the question of what is a reasonable attorney fee. S.C. Code Ann. § 28-2-510(B)(1) is clear that Petitioners need only show the fee charged, the basis thereof, and the actual time expended. Further, all attorney fees must be reasonable under the Act and under *Jackson*. Accordingly, the Court of Appeals erred in not determining whether or not Petitioners' contingent attorney's fee was reasonable under the Act.

V. The Court of Appeals erred in failing to determine whether or not a contingent attorney's fee was reasonable under S.C. Code Ann. § 28-2-510(C).

The Court of Appeals ruled that attorney fees in condemnation cases were subject to the Supreme Court's decision in *Layman*; however, the Court of Appeals did not consider *Kiriakides v. School District of Greenville*, 382 S.C. 8, 675 S.E.2d 439 (2009). In that case, this Court had an opportunity to consider the issue of attorney's fees after its decision in *Layman*. In *Kiriakides*, the Greenville School District withdrew its condemnation case and the plaintiff moved for attorney's fees. The school district argued that because Plaintiff had a contingency fee agreement no fees were appropriate. Significantly, this Court took the opportunity to discuss the term "litigation expenses" in S.C. Code Ann. § 28-2-30(14). In holding that *Kiriakides* was entitled to an attorney's fee, this court decided that the plaintiff was entitled to "reasonable" attorney's fees. See S.C. Code § 28-2-30(14) in finding that the attorney fees are applicable even though there was a contingency fee recovery. This Court noted " the provisions of the act are unique and thus the commencement of the condemnation action cannot be measured in terms of regular civil proceedings." 675 S.E.2d at 446. Accordingly, Petitioners suggest that the Court of Appeals erred in using *Layman* and S.C. Code Ann. § 15-77-300 to determine the issue of attorney's fees since the South Carolina Eminent Domain Procedure Act is the exclusive procedure for condemnation cases in this state. See *Kiriakides*, 675 S.E.2d at 446. Further in *Kiriakides*, the Court noted:

> Moreover, these provisions "control over the South Carolina Rules of Civil Procedure, *Id,* § 28-2-120 (In the event of conflict between this Act and the South Carolina Rules of Civil Procedure, this Act shall prevail.") 675 S.E.2d at 446.

The key holding in *Kiriakides* is that this Court reviewed the South Carolina Eminent Domain Procedure Act and awarded attorney fees despite a contingency fee

agreement based on the language in S.C. Code Ann. § 28-2-30(14) which speaks to "reasonable" attorney's fees. In doing so the *Kiriakides*, Court noted:

> We hereby overrule *Weeks* to the extent that it conflicts with §28-2-510(C) as the obvious intent of this statute is to allow a landowner to recover his expenses in event of abandonment of a condemnation proceeding...

The court further found:

> We note that on appeal the School District has challenged *Kiriakides* entitlement to attorney's fees but not challenged the reasonableness of the award. 675 S.E.2d at 448.

In light of these statements, Petitioners suggest the Court of Appeals erred in not first determining whether or not the fee request was reasonable under the statute. If Petitioners' request for attorney's fees was reasonable under the South Carolina Eminent Domain Procedure Act then the inquiry ends and it was not necessary to determine whether or not Appellant was entitled to attorney's fees under the "lodestar" formula.

The South Carolina Eminent Domain Procedure Act is the exclusive procedure for condemnation proceedings because this Court and the legislature have always been deferential to a landowner whose property is being forcibly taken by the government. In such circumstances a landowner must be fully compensated for the taking. The State's Constitution along with the federal Constitution strongly supports just compensation. This command requires that the owner be placed as fully as possible in the same position as before the government's taking.

VI. Other appellate courts allow a contingent attorney's fee.

Other courts around the country have considered whether or not a contingency attorney fee is reasonable in a condemnation case. Most Courts have considered various factors (similar to *Jackson*) as guides in determining the reasonable or excessiveness of

contingent-fee contracts in eminent domain proceeds and have approved contingent attorney's fees. *See, e.*g. [1] the time and labor required--*Long Island Pine Barrens Water Corp. v. State*, 144 Misc. 2d 665, 544 N.Y.S.2d 939 (1989); *Division of Ad., St. Dept. of Trans. v. Condominium Int.,* 317 So.2d 811, 813 (Fla. App 1975); [2] the fees customarily charged for similar services--*City of Gadsen v. Denson*, 590 So. 2d 313, 314 (Ala.Civ.App.1991); *Glenview Park Dist. v. Redemptorist Fathers of Glenview*, 89 Ill.App.3d 623, 45 Ill.Dec. 29, 412 N.E.2d 162, 166 (1980); [3] the complexity of the proceedings—*Gadsden, supra*; *Condominium, supra* at 813; *United Gas Pipe Line Co. v. Becne*l, 417 So.2d 1198, 1204 (La.App.1982), *cert.den.*, 421 So.2d 1124 (1982) *Redevelopment Agency v. Garrett*, 479 So. 2d 985, 989 (La.App. 1985); [4] the contingent nature of the fee contract—*Gadsden, supra*; *State, Dept. of Transp. & Dev. v. Frabbiele*, 391 So.2d 1364 (La.App.1980); [5] the lawyers' background and qualifications—*Community Redevelopment, Agency v. Krause*, 162 Cal.App.3d 860, 209 Cal.Rptr.1 (1984); *Condominium, supr*a at 813; *Glenview, supra*; *Frabbiele, supra*; *Gadsden, supra*; [6] the lack of evidence that the fees were unreasonable—*Krause, supra*; [7] substantial benefit to landowners from the lawyer's efforts—*Florida Power & Light Co. v. Flichtbeil*, 475 So.2d 1250, 1252 (Fla.App.1985), *review den.* 486 So.2d 597 (1986); [8] the novelty and difficulty of issues raised—*Flichtbeil, supra*; *Glenview, supra*; [9] the length of trial—*Dept. of Transp. v. Shaw*, 36 Ill.App.3d 972, 345 N.E.2d 153, 166 (1976), *aff'd in part and rev'd in part on other grounds*, 68 Ill.2d 342, 12 Ill. Dec.177, 369 N.E.2d 884 (1977); [10] the measure of success achieved—*Frabbiels*; *Missouri P.R.Co. v. Nicholson*, 460 So.2d 615 (La.App. 1984); [11] the weight of the lawyers' responsibility—*Frabbiels*; *Flichtbeil*; [12] the serious nature of expropriating an individual's property and the serious responsibility on

the lawyer to protect a client's rights in the case—*Missouri, supra*; and [13] the factors contained in the bar disciplinary rules—*Condominium, supra* at 813 (i.e., DR 2-106(B), Code of Professional Responsibility).

VII. Michigan, Oklahoma and Wisconsin allow for contingent attorney's fees.

In *Michigan Dept. of Transp. v. Randolph*, 461 Mich. 757, 610 N.W.2d 893 (Mich. 2000), the Michigan Supreme Court reviewed facts remarkably similar to the present case. The Michigan DOT offered landowner $1,625,655.00 for the taking of his property. The landowner did not challenge the necessity of the taking but objected to the adequacy of the offered compensation. After a lengthy trial, the jury awarded just compensation in the amount of $2,724,615.00, including interest. Thereafter, the landowner filed a request for attorney fees, supported by her attorney's affidavit setting forth her legal services and the contract providing for a contingent fee of one-third of the increase over the DOT's initial offer. The trial court refused to award the fees requested and instead applied the lodestar method multiplying a reasonable number of hours worked by a reasonable hourly rate. The landowner appealed the trial court's determination.

On appeal, the Michigan Supreme Court looked directly to Mich. Comp. Laws Ann. § 213.66(3) which provides:

> If the amount finally determined to be just compensation for the property acquired exceeds the amount of the good faith written offer under section 5, the court shall order reimbursement in whole or in part to the owner by the agency of the owner's reasonable attorney's fees, but not in excess of 1/3 of the agency's written offer as defined by section 5. The reasonableness of the owner's attorney fees shall be determined by the court.

The Michigan Supreme Court held the statute gave the trial court discretion to determine the reasonableness of the landowner's attorney fees and that there were two

discretionary decisions the trial court must make. First, the trial court must determine if the landowner's fees are reasonable. The court stated "[i]n this respect, subsection 16(3) differs from other fee-shifting statutes that simply authorize the trial court to award 'reasonable attorney fees' without regard to the fees actually charged." In making this reasonableness determination, the trial court should consider the eight factors listed in MICHIGAN RULES OF PROFESSIONAL CONDUCT, Rule 1.5(a) which includes consideration of the time and labor involved, fee customarily charged, the amount involved, the reputation of counsel, and whether the fee is fixed or contingent. Second, if the trial court determines the fees are not reasonable, it should then use its discretion to determine what amounts of the owner's requested attorney fees should be reimbursed. In those cases in which the trial court finds the owner's attorney's fees to be unreasonable, the trial court has additional discretion to order reimbursement of those fees in whole or in part. *Id.; Michigan Dept. of Transp. v Randolph*, 461 Mich. at 765-767, 610 N.W.2d at 898-899.

The court rejected both the landowner's argument that a one-third contingency fee is presumptively reasonable and the DOT's argument that the lodestar method is the preferred manner of determining the reasonableness of attorney fees. Instead, the court stated:

> The trial court may take into account any number of relevant equitable considerations including, but not limited to the amount of disparity between the agency's initial good-faith offer and the jury's determination of just compensation, the strength of the evidence supporting the jury's award, the effort the case required of counsel, or whether either party acted to unnecessarily prolong the litigation or make it more difficult.

Likewise, in the present case, the trial judge should have first determined whether the attorneys' fees requested by Landowners were reasonable in accordance with the factors set forth in *Jackson v. Speed* 326 S.C. 289, 486 S.E.2d 750 (1997). In requiring Landowners to resubmit their Application for fees and costs based on a lodestar formula pursuant to

Layman, the trial judge committed an error of law because it is not contemplated by the Eminent Domain Procedure Act.

Other state courts have recognized the trial judge's authority and obligation to consider the landowner's fee agreement with his counsel as one of several factors in determining the reasonableness of attorney fees. For example, in *State of Oklahoma, ex rel. Dept. of Transp. v. Allied Tower Company, Inc.*, 136 P.3d 718 (Okla. Civ. App. 2006), the court held a landowner was entitled to attorney fees in the full amount of its contractual obligation with its attorney. The court discussed the "contractual obligation rule, " citing prior cases in which it was determined a landowner's request for reasonable attorney fees is measured by the extent of the landowner's obligation to its lawyer, unless the obligation is excessive. Id. at 720. The Court held once the landowner produced evidence on the issues of the contractual amount and its reasonableness, the condemnor challenging the fee obligation has the burden of proving the contractual obligation was unconscionable or unreasonable.

The Oklahoma Supreme Court stated the rationale for the contractual obligation rule is that landowners are constitutionally entitled to full compensation for property subjected to the government's power of eminent domain. Likewise, this Court has held the purpose of the condemnation payment is to place the Landowner in the same position as if his property had not been taken. *Blue Ridge Elec. Co-op.*, 279 S.C. at 139, 303 S.E.2d at 93. See also *South Carolina State Highway Dept. v. Wilson*, 254 S.C. 360, 175 S.E.2d 391 (1970) (*holding* the landowner is entitled to full compensation for the taking of his land and all its consequences) (*emphasis added*).

In *Village of Shorewood v. Steinberg*, 174 Wis.2d 191, 496 N.W.2d 57 (1993), the court held:

> There is nothing inherently improper about a contingency fee arrangement in an eminent domain case. However, a court in an eminent domain case should use a contingency fee agreement as a guide only and must consider all the circumstances of the case to determine whether the contingency fee amount is a just and reasonable figure.

Id at 204, 62 (*internal citations omitted*).

The Wisconsin court further upheld the trial court's award of litigation expenses which included a claim for attorney fees for one-third the difference between the fact finder's award and the condemnor's offer, which was identical to the amount of attorney fees due under the landowner's fee agreement with his attorney. The court found the trial court's award of attorney fees was proper because the trial court, in addition to considering the fee agreement, also based its decision on other factors set forth in the applicable court rule utilized in that state to determine the reasonableness of an attorney's fee. The court further concluded the trial court's award was "in harmony" with the eminent domain statute's two purposes of discouraging the condemnor from making low jurisdictional offers and making the condemnor whole when forced to litigate in order to receive full value for his property.

Additional support for Landowners' argument that a landowner's fee agreement with his attorney should be considered as one of several factors in determining litigation expenses can be found in *City of Sioux Falls v. Kelley*, 513 N.W.2d 97 (1994); *Hoffman v. Town of Malta*, 189 A.D.2d 968, 592 N.Y. S.2d 503 (1993); *Prucka v. Papio Natural Resources Dist.* 206 Neb. 234, 292 N.W.2d 293 (1980); and *City of Wichita v. Chapman*, 214 Kan. 575, 521 P.2d 589 (1974).

CONCLUSION

Petitioners respectfully suggest that the issue in this case is whether the requested attorney's fee is reasonable. The Court of Appeals erred in considering other state statutes (S.C. Code Ann. § 15-77-300) in making its ruling. It must consider the attorney fee request under the exclusive procedure allowed for these types of cases – the Eminent Domain Procedure Act. Finally, in construing a request for attorney's fees the Court must consider that this procedure is payment for a "forced taking of land" by the State. Thus, Petitioners must be made whole to comply with the Constitutional requirement that Petitioners are entitled to just compensation so long as the fee request is reasonable, which it is in this case. Accordingly, Petitioners request this case be reversed and remanded to the trial court.

Respectfully submitted,

Gene M. Connell, Jr., S.C. Bar No. 1358
KELAHER, CONNELL & CONNOR, P.C.
The Courtyard, Suite 209
1500 U. S. Highway 17 North
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
(843) 238-5648 (phone)
(843) 238-5050 (facsimile)
gconnell@classactlaw.net
Attorney for Petitioners

June 19, 2014
Surfside Beach, South Carolina

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

Appeal from Marion County
Court of Common Pleas

Michael G. Nettles, Presiding Judge

Opinion No. 5010 (S.C. Ct. App. Filed July 25, 2012)

South Carolina Department of Transportation..... Respondent

vs.

Janell P. Revels and R.J. Poston, Jr..... Landowners

and

John Doe and Mary Roe, representing all unknown persons having or claiming to have any right, title or interest in or to, or lien on the lands described herein, including all unknown heirs of Reamer J. Poston, Sr. a/k/a R.J. Poston, Sr., deceased.....Unknown Claimants

Of Whom Janell P. Revels and R.J. Poston, Jr. are ..... Petitioners

---

PROOF OF SERVICE

PERSONALLY appeared before me, Shelia Y. McCumbee, who being duly sworn, deposes and says that she is an employee of KELAHER, CONNELL & CONNOR, P.C., Attorneys at Law, and that she has served the **Brief of Petitioner** on the Respondent, through attorneys of record, by depositing a copy of same in the United States Mail, postage prepaid, to:

Beacham O. Brooker, Jr., Esquire
South Carolina Department of Transportation
P. O. Box 191
Columbia, SC 29202-0791

DATE OF MAILING: June 19, 2014

Shelia Y. McCumbee

Shelia Y. McCumbee

SWORN AND SUBSCRIBED before me,
this 19th day of June, 2014.

Notary Public for South Carolina
My Commission Expires: 2-25-19