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October 23, 2012

The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
1231 Gervais Street
Columbia, South Carolina 29201

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S.C. SUPREME COURT

Re: John S. Rainey v. Nikki R. Haley
Appellate Case No. 2012-211048

Dear Mr. Shearouse:

We write with respect to the Appellant's Reply Brief, which we received at the end of last week. In that filing, the Appellant argues for the first time that the General Assembly unconstitutionally created administrative tribunals to resolve alleged violations of the State Ethics Code. According to the Appellant, the existence of Legislative Ethics Committees amounts to a separation-of-powers violation because the General Assembly should not be permitted to resolve any dispute. (Appellant's Reply Br. at 4-11.)

Respectfully, this issue is not properly preserved for appellate review, as it was never raised (1) to the circuit court, (2) in opposition to the Respondent's Petition for a Writ of Prohibition, (3) in the Appellant's statement of the issues on appeal, or (4) in any discussion in the Appellant's opening brief. *See, e.g., Herron v. Century BMW*, 395 S.C. 461, 465, 719 S.E.2d 640, 642 (2011) ("Constitutional arguments are no exception to the preservation rules, and if not raised to the trial court, the issues are deemed waived on appeal.").

Even if the Court believes that this issue has been appropriately presented, the Appellant is simply incorrect as to the limitations of the Legislature's authority. For instance, South Carolina Code § 7-17-250 commits sole appellate jurisdiction over election protests regarding seats in the General Assembly to the respective chambers, and this Court has enforced this statute in the past. *E.g., Stone v. Leatherman*, 343 S.C. 484, 541 S.E.2d 241 (2001). Here, the State Constitution specifically vests the Legislature with the authority to "determine its rules of procedure" and to "punish its members for disorderly behavior." S.C. Const. art. III, § 12. Accordingly, the General Assembly constitutionally established the Legislative Ethics Committees and vested them with authority to regulate the conduct of members. The Appellant is incorrect in his belated argument on this point.

We appreciate your consideration of this letter. If we can provide the Court with any additional materials or information, please do not hesitate to call on us.

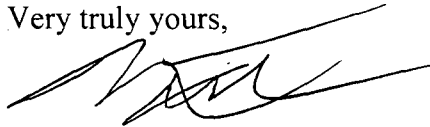
The Honorable Daniel E. Shearouse

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With kind regards, I remain

Very truly yours,

A handwritten signature in black ink, appearing to read "M. Todd Carroll", with a long horizontal flourish extending to the right.

M. Todd Carroll

cc: Christopher P. Kenney, Esq.