

The State of South Carolina
In the Supreme Court

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Appeal from Georgetown County
Benjamin H. Culbertson, Circuit Court Judge

AUG 23 2016

S.C. SUPREME COURT

Case No. 2012-CP-22-00558
Appellate Case No. 2016-001300
Opinion No. 5374 (S.C. Ct. App. filed Jan. 6, 2016)

David M. Repko, Respondent,

v.

County of Georgetown, Petitioner.

RETURN TO PETITION FOR WRIT OF CERTIORARI

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COUNTER-STATEMENT OF THE QUESTIONS PRESENTED

1. No “special and important reasons” exist and none of the considerations governing review under Rule 242(b), SCACR, apply to warrant review by writ of certiorari.
2. County owes a special duty under § 3-1 to Repko, as a lot purchaser, with respect to the County’s management of the financial guaranty that permitted the developer’s sale of lots to him.
3. South Carolina Tort Claims Act expressly preempts County’s ordinance § 3-1 language disclaiming all liability.
4. Repko’s claim is not barred by Tort Claims Act’s statute of limitations because the conflicting evidence on when he should have discovered he had a claim against the County yields more than one inference, and thus, is a question of fact for a jury.
5. Court of Appeals correctly reversed the trial court on grounds properly before it, and not barred by the law of the case doctrine.
6. Court of Appeals’ decision is not in conflict with this Court’s prior decision in *Brady Dev. Co., Inc. v. Town of Hilton Head Island*, 312 S.C. 73, 439 S.E.2d 266 (1993) because *Brady* is distinguishable from this case and the operative ordinances differ.

Pursuant to Rule 242(f), SCACR, Respondent David Repko (“Repko”) respectfully submits this Return opposing the Petition for a Writ of Certiorari of Petitioner County of Georgetown (“County”).

COUNTER-STATEMENT OF THE CASE

The County seeks certiorari to review a decision of the Court of Appeals which reversed the trial court’s grant of a directed verdict to County. This Court should deny certiorari.

Contrary to the County’s statement, this case is materially distinguishable from the case decided by this Court in *Brady v. Dev. Co., Inc. v. Town of Hilton Head Island*, 213 S.C. 73, 439 S.E.2d 266 (1993). Because of this, the Court of Appeals correctly reversed the trial court’s erroneous ruling that *Brady* necessarily compelled the conclusion that the County did not owe a special duty to Repko. Now, the County seeks this Court’s review of the Court of Appeals’ decision claiming that the decision “misconstrued,” “effectively overruled,” “reached the opposite result,” “erroneously distinguished,” and “illogically limited” this Court’s opinion in *Brady*. (Pet. Cert. 1, 4, 13-15). As shown below, this argument is meritless as the *Brady* ordinance is plainly different from the County’s ordinance.

Repko filed a civil action against the County in the Georgetown County Court of Common Pleas. (R. 17-24). Repko is the owner of two undeveloped lots in Phase D-1 of the West Stewart Subdivision in Harmony Township, a planned development in Georgetown County. Because of the County’s negligence and gross negligence in handling a financial guarantee posted by

the subdivision's developer, most of the funds that were to be used in building the subdivision's infrastructure were completely lost. Failing to complete the infrastructure, the developer went bankrupt. Yet there were insufficient funds with which to complete the infrastructure due to the County's gross negligence in repeatedly permitting reduction after reduction in the letter of credit. The letter of credit was a "financial guarantee" securing completion of the infrastructure without which the developer could not have sold undeveloped lots. As the lack of infrastructure reduced his property value to "zero," Repko sought to recover "past and future actual damages" in this action. (R. 23, ¶16).

The County's Answer denied liability and asserted affirmative defenses as applicable to the claims, including immunity provisions of the South Carolina Tort Claims Act ("TCA"), specifically Sections 15-78-60(1), (2), (4), (5), (12), and (13) of the South Carolina Code. (R. 28, ¶19).

At trial, the County moved for a directed verdict at the close of Repko's case. The trial court granted the County's motion. (R. 249, ll. 9-10). Repko filed a Motion for Reconsideration and New Trial. The trial court denied Repko's motion. Repko appealed.

On appeal, the Court of Appeals issued a unanimous opinion reversing the trial court. The Court of Appeals denied the County's petition for rehearing. The County now seeks a writ of certiorari. It should be denied.

ARGUMENTS

- I. The Petition for Writ of Certiorari should be denied because the decision of the Court of Appeals does not warrant review and no “special and important reasons” exist to warrant the issuance of a writ of certiorari.**

Rule 242(b), SCACR, sets forth general factors considered by this Court in determining whether issues require review on certiorari. The County’s Petition does not even attempt to apply the Rule 242(b), SCACR, factors. And there is a good reason for that: none apply.

First, the decision of the three-judge panel in the Court of Appeals was unanimous—there was no dissenting opinion. Second, the decision of the Court of Appeals does not conflict with any prior decision of this Court. Third, this case does not involve a constitutional issue. Fourth, this case does not involve a novel question of law. Finally, the decision by the Court of Appeals does not create confusion in the law.

Tellingly, the County made absolutely no reference to Rule 242(b), SCACR, let alone any reference to the “special and important reasons” outlined in Rule 242(b) in considering whether granting a writ of certiorari is warranted. The County offers no legitimate basis for a writ of certiorari to be granted, and certainly no “special and important reasons.”

Furthermore, the Court of Appeals’ decision does not end this litigation. It simply reverses and remands Mr. Repko’s case to trial by a jury. The parties will still have the opportunity to argue their case. The history of this litigation is already protracted, and granting certiorari only delays a final adjudication.

In short, the Court of Appeals got this case right. There is no need for this Court to speak here and, specifically, there is no conflict in authority for this Court to resolve. Indeed, no “special and important reasons” are present. *See* Rule 242(b), SCACR (“writ of certiorari is not a matter of right . . . and will be granted *only* where there are special and important reasons.”) (emphasis added). Based on this and the arguments set forth below, there is simply no need for this Court to review the decision of the Court of Appeals.

II. The Court of Appeals properly held that the County owes a duty of care to Repko.

The County contends it owes no duty. (Pet. Cert. 3-4, 6-15). In granting the County a directed verdict, the trial court relied on the County’s ordinance provision, Article V, Section 3-1: “Acceptance of a financial guarantee by Georgetown County shall not be construed as an obligation to any other agency, utility or property owner within affected developments.” (R. 4). The trial court misconstrued this sole provision in Section 3-1 to effectively provide the County with complete immunity for accepting and then mismanaging a financial guarantee.

Reversing the trial court, the Court of Appeals’ decision found the County owes to Repko a “special duty,” and that it may not, with language in its local ordinance, disclaim its tort liability impermissibly beyond our State’s Tort Claims Act. So, too, the trial court’s construction of this disclaimer language in Section 3-1 is unenforceable, as it is preempted expressly by the Tort Claims Act. The Court of Appeals rightly applied this Court’s well-

established six-element special duty test as an exception to the public duty rule, impeccably reasoning that Repko satisfied all six-elements. The Court of Appeals found the County's ordinance is materially different from the ordinance in *Brady* and, thus, the trial court's reliance on *Brady* in finding no duty was in error. The decision of the Court of Appeals is correct.

- A. County wants this Court to construe one phrase in its local ordinance to absolutely disclaim its tort liability beyond our State's Tort Claims Act provisions.

As governmental entities, counties are expressly preempted from altering their liability by ordinance because the General Assembly clearly stated its intent—in express terms—that counties be held liable “only to the extent provided” within the Tort Claims Act:

(b) The General Assembly in this chapter intends to grant the State, its political subdivisions, and employees, while acting within the scope of official duty, immunity from liability and suit for any tort except as waived by this chapter. The General Assembly additionally intends to provide for liability on the part of the State, its political subdivisions, and employees, while acting within the scope of official duty, only to the extent provided herein.

S.C. Code Ann. § 15-78-40(b) (emphases added). Our legislature reaffirmed this principle by enacting the exclusive remedy provision proclaiming the Act to be the exclusive remedy for a tort of a government employee “notwithstanding any other provision of law.” S.C. Code Ann. § 15-78-200. If a county injures a person by negligently mishandling funds entrusted to it by its own ordinance, the injured person's sole and exclusive remedy in tort is within this State's Tort Claims Act.

In granting directed verdict, the trial court erroneously construed the disclaimer language to operate as an additional layer of protection—above and beyond that of this State’s Tort Claims Act. Under this erroneous construction, when the County would otherwise be liable under the provisions of our Tort Claims Act, the County’s disclaimer language effectively precluded all liability of the County by disclaiming any duty from its accepting a financial guarantee. The plain language of the Tort Claims Act, however, expressly prohibits construction in such a manner.

The Court of Appeals correctly ruled that the trial court’s construction of Section 3-1 was in error because the County, a governmental entity, “cannot override application of the TCA through language in a local ordinance disclaiming all liability.” (Appx. 9). Thus, under the Tort Claims Act’s express terms, the County is liable for its torts in the same manner and to the same extent as a private individual, subject to the limitations and exemptions contained in the Tort Claims Act. Stated differently, a private person, under like circumstances as the County, would be liable to Repko for negligently handling financial guarantees.

In direct contradiction, the County argues for a construction of Section 3-1 that the County is *not* liable to Repko, or anyone for that matter, for such tortious conduct. The County contends it can unilaterally limit its liability for torts far beyond the limitations and exemptions contained in our State’s Tort

Claims Act. Notably, the Tort Claims Act does not provide counties any specific immunity or exemption for this conduct.

At trial and before the Court of Appeals, Repko argued that the trial court's construction of Section 3-1 is erroneous because such a construction and its effect is preempted by the Tort Claims Act. Thus, Repko's argument was preserved for review by the Court of Appeals. And, correctly, the Court of Appeals reversed the trial court on this point. No further review of this is necessary, and the County's petition for certiorari should be denied.

B. County owes a "special duty" to Repko under § 3-1.

This Court has long applied the well-established special duty test as an exception to the public duty rule. In fact, this Court has specifically ruled and affirmed time-and-time again that "the special duty analysis is in itself an attempt to determine legislative intent." *Jensen v. Anderson County Dept. of Social Services*, 304 S.C. 195, 201, 403 S.E.2d 615, 618 (1991). Inexplicably, the County contends that the well-established special duty test is irrelevant to determining legislative intent here. The trial court granted directed verdict to the County, ruling the second and third elements of this Court's six-part test unsatisfied.¹

¹ The trial court did not address elements one, four, five, and six of the special duty test. The County did not argue these elements were unsatisfied; Repko argued they were satisfied. The Court of Appeals ruled these elements are conceded by the County. (Appx. 11, n.4). The County did not challenge this in its petition for rehearing at the Court of Appeals. (Appx. 29-31). Similarly, the County does not argue these elements were not met in its petition for rehearing at the Court of Appeals. (Appx. 29-31).

The essential purpose of the ordinance “was to ensure that if someone like Mr. Repko purchased raw land in a development to be built that the monies would be there to ensure that the infrastructure would be there if the developer failed to go forward.” (R. 242, ll. 15-19). Testimony indicates Section 3-1 exists precisely to protect lot buyers from developers who sell lots to them, but then fail to complete basic infrastructure necessary to make the lot suitable for building. Further, the County’s own witnesses testified that is the essential purpose of the ordinance. The County Attorney admitted, in a 2008 email to Harmony Holdings, that: “the whole point behind the letter of credit . . . is to protect owners who purchase property and are made promises that are not kept.” (R. 76, l. 23; R. 77, l. 1, and ll. 9-12). He also testified that he advised another lot owner in 2009 that, with respect to the management of letter of credit funds, the County owed the lot owner a fiduciary duty. (R. 69, l. 24–R. 70, l. 7). Further, the County’s Planning Department Director admitted the ultimate beneficiaries of the letter of credit were “the people living on the road who purchased the property.” (R. 152, ll. 20-22).

The County has conceded this point. (*See* n.1, *supra*). In the trial court, the County did not dispute the essential purpose of the ordinance was to protect lot buyers, nor did the County present any other purpose underlying the ordinance. Instead, the County argued the “no duty” ground in its motion based solely on the preempted, unenforceable disclaimer in Section 3-1 and *Brady*. (R. 224, l. 11 – R. 227, l. 19). However, as Repko argued below at the

trial court and the Court of Appeals, the *Brady* court found the essential purpose of the ordinance was preventing overbuilding—not to protect lot purchasers or owners. The County has conceded Repko satisfied this element.

Thus, the County contends that the Court of Appeals erred in finding Repko satisfied the second and third element of the special duty test. The second element of the special duty test says that the statute, either directly or indirectly, imposes on a specific public officer a duty to guard against or not cause that harm. *See Steinke v. S.C. Dep't of Labor, Licensing, and Reg.*, 336 S.C. 373, 520 S.E.2d 142 (1999). The third element of the special duty test says that the class of persons the statute intends to protect is identifiable before the fact. *Id.*

As to the second element, the County's decision to accept a financial guarantee is imposed on a specific public officer of the Planning Department as provided in the ordinance. (R. 243, l. 24 – R. 244, l. 8). Additionally, as provided in Section 3-5, the County's granting of reductions of a financial guarantee is imposed on the Planning Department, and subsequently, to the Department of Public Works. Contrary to the County's argument and the trial court's finding, South Carolina case law clearly provides that the second element is satisfied when the statute identifies a specific agency or specific employees of that agency. *See Steinke*, 336 S.C. at 390, 520 S.E.2d at 151 (1999); *see also Jensen*, 304 S.C. at 203, 403 S.E.2d at 619 (1991). Here, the ordinance "directly" states both the Planning Department and the Department

of Public Works. This satisfies clearly established case law from this Court. Also, the County cites no authority in support of its argument that two specific departments fail to meet the requirement of a specific agency or specific employees of that agency. The County's argument should not be considered, and its petition for certiorari denied.

Repko has also satisfied the third element because the class of persons the ordinance intended to protect was identifiable before the fact. As to the third element, the trial court solely relied on the disclaimer language in finding it was not satisfied. As shown above, the trial court's construction of the disclaimer language is unenforceable. So, too, the trial court's reliance thereon was error. The property owners in the development at issue here are the obvious class intended to be protected. The County states in its petition that "providing for the completion of the infrastructure benefits the County (i.e., the public at large) in numerous ways, including but not limited to: (1) increasing property tax revenues; (2) preventing "blighted" property in the county; and (3) increased spending in the local economy, which also generates increased sales tax revenues." (Pet. Cert. 13). Although not an argument, this bald statement does not appear to have support in the record nor is it appropriate for consideration here. The County's petition should be denied.

C. This case is not the same as the one this Court decided in *Brady*.

In an attempt to get this Court to grant certiorari, the County contends that the Court of Appeals decision effectively overruled this Court's prior

decision in *Brady*. (Pet. Cert. 13-15). This argument is meritless. This case is quite different from the one decided by this Court in *Brady*.

The *Brady* holding did not “compel” the trial court’s finding of no duty. To the contrary, and as the Court of Appeals correctly noted, *Brady* is materially distinguishable because: (1) the essential purpose of the County’s ordinance, unlike the ordinance in *Brady*, is for the protection of lot owners—not to protect the public from the dangers of overdevelopment; (2) the County’s ordinance contains no express language declaring its purpose, unlike the ordinance in *Brady*; and (3) the public policy concerns of *Brady* are not implicated. Because *Brady* is inapposite, the satisfaction of all six elements of the special duty test establishes that the ordinance created a special duty owed by the County to Repko which was not barred by virtue of the public duty rule. Because the evidence compels the recognition of such a duty, the judgment of the trial court must be reversed and the case remanded for trial. The Court of Appeals reversed and remanded the case. This is a correct application of this Court’s case law and *Brady*. The petition for certiorari should be denied because further review is not needed.

III. The Court of Appeals correctly reversed the trial court’s erroneous ruling that the Tort Claims Act provided the County immunity from Repko’s negligence action as a matter of law.

The County complains that Repko’s trial counsel did not formally argue gross negligence as exceptions to subsection (4) and (5) in response to the directed verdict. Again, it is clear from the record that Repko’s trial counsel argued that the County had acted in a grossly negligent manner and this

argument was sufficient to apprise the trial court that the subsections (4) and (5) did not apply as a matter of law. Of course, our courts have repeatedly held that an issue is preserved for appellate review when the nature of the issue is clear from the argument made in the record, even upon failure to use correct legal terminology. *See State v. Russell*, 345 S.C. 128, 132, 546 S.E.2d 202, 204 (Ct. App. 2001) (finding argument in motion for directed verdict preserved for appeal even though movant omitted “corpus delicti” from argument); *State v. James*, 362 S.C. 557, 562, 608 S.E.2d 455, 458 (Ct. App. 2004) (finding argument in motion for directed verdict as preserved for appeal even though movant argued “insufficient evidence” instead of “substantial circumstantial evidence”); *State v. Guillebeaux*, 362 S.C. 270, 274 n.1, 607 S.E.2d 99, 101 n.1 (Ct. App. 2004) (finding argument improperly stated as “motion for mistrial” nevertheless preserved a “motion for a new trial” for appellate review). No specific or “magic language” is required to preserve an issue for appellate review. Also, gross negligence was raised as an exception in the motion for reconsideration. (R. 266, ll. 5-13)(arguing that because the County raised subsection (12) as a defense, the court was required to construe the remaining immunity provisions as also containing a gross negligence exception). The trial court’s failure to do so was an error of law. The Court of Appeals correctly reversed based on this error.

The County argues that there is no applicable gross negligence exception to subsection (4) and (5) because the trial court found that the County was not

entitled to a directed verdict under subsection (12). This argument is meritless. This Court has ruled that, when a government entity *asserts* various exceptions to the waiver of immunity, a gross negligence standard is read into all immunity provisions. There is no requirement that a plaintiff must *lose* on his subsection (12) argument before he gets the benefit of this rule. *See Steinke*, 336 S.C. at 395-96, 520 S.E.2d 142 (1999) (“[t]his Court and the Court of Appeals previously have recognized that the correct approach, when a governmental entity *asserts* various exceptions to the waiver of immunity, is to read exceptions that do not contain the gross negligence standard in light of exceptions that do contain the standard”). The County unequivocally asserted this as a defense in its Answer. The County unequivocally asserted and argued this as a basis for directed verdict. (R. 233, ll. 2-8) (“[S]ubsection 12 talks about licensing powers, when the power and function is exercised in a grossly negligent manner, this is essentially a licensing function. ***That’s what we’re doing. We’re licensing or permitting the developer to move forward with his platted subdivision plat and sell lots. So we contend that subsection 12 applies*** as well”). It was asserted. Failure of the trial court to read the gross negligence exception in subsection (12) into the other subsections was an error of law warranting reversal. With the evidence viewed in the light most favorable to Repko, Sections 15-78-60(4), (5), and (13) do not provide the County with immunity as a matter of law in light of the gross negligence exception in subsection (12). The Court of Appeals correctly

reversed the trial court because this error of law controlled the directed verdict in favor of the County. This does not justify further review. The County's petition for certiorari should be denied.

IV. Rejecting the County's additional sustaining ground argument, the Court of Appeals correctly found the trial court's denial of the County's directed verdict motion on the statute of limitations defense was not in error because questions of fact exist.

The County argues, as an additional sustaining ground, the trial court's order should be affirmed because the statute of limitations barred Repko's claim as a matter of law entitling it to a directed verdict on that basis. (Pet. Cert. 1, Question 3; Pet. Cert. 22-24). Contrary to County's assertion, when the evidence is viewed in the light most favorable to Repko—as it must be for purposes of a directed verdict—there clearly exists a question of fact as to when he should have discovered he had a claim against the County. The trial judge and a unanimous Court of Appeals ruled that this question of fact exists and that it is a question for the jury. (R. 11; Appx. 16, n.7). Yet another review of this by a court is not warranted; it is for a jury. The petition for another layer of review should be denied.

After the trial court denied the County's motion for summary judgment on this statute of limitations ground, the County renewed the same argument in support of its directed verdict motion. Again, the trial court denied the County's motion for directed verdict on the statute of limitations grounds. Ruling from the bench, the trial judge explained that "I am not granting the directed verdict motion on the statute of limitations argument . . . I'm kind of

inclined to believe that that might have been a factual issue to be determined by the . . . jury.” (R. 250, ll. 17-18, ll. 21-23); *see also* (R. 11).

Viewing the evidence in the light most favorable to Repko, the Court of Appeals correctly ruled that the trial court did not err in denying the County’s motion for directed verdict on statute of limitations grounds. An action against a government entity is forever barred unless an action is commenced within two years after the date the loss was or should have been discovered. *See* S.C. Code Ann. § 15-78-110. The “loss” at issue here is the County’s loss of a substantial sum from the financial guarantee for Phase 2-D-1 of the Harmony Township project, without these sums being applied to the infrastructure for this phase. Repko testified that he first determined that he potentially had a claim against the County for improperly disbursing the financial guarantee in March 2012 when a friend forwarded an email to him that alerted him to the County’s mishandling of the financial guarantees:

Q. Okay, at what point did you ever determine that you might potentially have a claim against Georgetown County?

A. It was in March of 2012.

Q. And how did that come about?

A. An email was forwarded to me.

(R. 193, ll. 23-25; R. 194, ll. 1-2).

Q. Was it at that point that you were put on notice that there may have been a problem with the County’s . . . handling of these financial guarantees?

A. Yes.

Q. In March of 2012?

A. Yes.

(R. 194, ll. 22-25; R. 195, ll. 1-2); *see also* (R. 330).

Viewing the evidence in the light most favorable to Repko, his testimony establishes the date he discovered “the loss.” The County’s claim that he “knew of his loss no later than November 3, 2008” is meritless. (Pet. Cert. 23-24); *see also* (Resp. Br. 31). The only question is whether, viewing the evidence in the light most favorable to Repko, the loss “should” have been discovered more than two years from the April 20, 2012 filing date. (Pet. Cert. 23). The “discovery date” is determined as when “the circumstances of the case would put a person of common knowledge and experience on notice that some right of his has been invaded, or that some claim against another party might exist.” *Hackworth v. Greenville County*, 371 S.C. 99, 103, 637 S.E.2d 320, 322 (Ct. App. 2006). This question is quintessentially one for a jury to decide where as here the record is replete with evidence that is conflicting as to this issue. (Appx. 16, n.7) (citing *Logan v. Cherokee Landscaping & Grading Co.*, 389 S.C. 611, 618, 698 S.E.2d 879, 883 (Ct. App. 2010)).

Ignoring that the evidence and inferences must be viewed in the light most favorable to Repko, the County insists once more that the date is “no later than November 3, 2008” because he knew the developer was in bankruptcy, knew the infrastructure had not been installed, and believed that his property had no value because of the absence of infrastructure. (Pet. Cert. 23). This

argument is absolutely meritless because these facts do not remotely permit an inference that the County lost the financial guarantee and no longer had the ability to complete the infrastructure by itself. Nothing in the letter he received about the bankruptcy filing put him on notice that the County was repeatedly drawing down the letters of credit. (R. 222, ll. 2-4).

Asserting this argument again, the County continues to ignore that after the developer stopped working on the project, a new owner took over the project. The new owner hired its own contractor and requested the County release funds for payment to the contractor after work was completed. (R. 64, ll. 14-20). The County's Attorney testified that the County released funds "quite a few times and maybe for a year after that." (R. 64, ll. 23-25; 65, l. 1). The County determined the new owner of Harmony was not trustworthy and stopped releasing funds. (R. 65, ll. 3-11). The new developer walked off the job. (R. 74, ll. 16-22). The record does not provide full details of precisely when the second developer walked off the job, or when, if ever, Repko discovered that the second developer also stopped working. Regardless, the evidence in the record yields no inference that a reasonable person would have known of the County's mishandling of the financial guarantee based on the second developer's withdrawal from the project.

County's argument that the bankruptcy of the first developer placed Repko on constructive knowledge of mishandling of the financial guarantee also ignores the effect of the automatic stay of the Bankruptcy Code. When a

debtor files for bankruptcy, the filing operates as an automatic stay against, *inter alia*, “any act to obtain possession of property of the estate or of property from the estate or to exercise control over property of the estate.” 15 U.S.C. § 362(c). No evidence was submitted nor any argument made that the financial guarantee was *not* part of the developer’s bankruptcy estate, or that the County obtained relief from the stay that enabled it to exercise control over the financial guarantee. Resultantly, a person of common knowledge and experience would not necessarily conclude from the mere bankruptcy filing and absence of infrastructure that the County had lost the financial guarantee. Rather, such person would reasonably conclude that the funds were frozen by the bankruptcy and that the County could not access the funds until the bankruptcy concluded, or the County obtained relief from the stay.

This is a question of fact for the jury to determine in any event. This was ruled a question of fact by both the trial court and a unanimous Court of Appeals. Denial of County’s directed verdict motion on the statute of limitations was required in light of conflicting evidence yielding more than one reasonable inference. This issue should be submitted to a jury—not a third determination by the courts. This Court should deny the County’s petition.

CONCLUSION

The Court of Appeals was correct. Respondent David Repko respectfully requests that this Court deny Petitioner County of Georgetown’s Petition for a Writ of Certiorari and permit the Court of Appeals to remit this matter to the trial court for further proceedings consistent with its decision.

Respectfully submitted,



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August 19, 2016

The State of South Carolina
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David M. Repko,..... Respondent,

v.

County of Georgetown, Petitioner.

CERTIFICATE OF SERVICE

I, the undersigned employee of Goldfinch Winslow, LLC, certify that on the date indicated below, I served counsel for Petitioner with a copy of Respondent's Return to Petition for a Writ of Certiorari by mailing copies by United States Mail, first class postage prepaid, addressed to:

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August 19, 2016



GOLDFINCH WINSLOW, LLC