THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas
The Honorable J. C. Nicholson, Jr., Circuit Court Judge

Case No. 2009-CP-10-7399
Appellate Case No. 2014-002118

Lynne Vicary, Kent Prause, and South Carolina Coastal Conservation League ..... Petitioners,

v.

Town of Awendaw, and EBC, LLC..... Respondents,

LYNNE VICARY, KENT PRAUSE, AND SOUTH CAROLINA COASTAL CONSERVATION LEAGUE'S PETITION FOR WRIT OF CERTIORARI

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CERTIFICATE OF COUNSEL

Counsel for Petitioners certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on September 23, 2016.

QUESTIONS PRESENTED

1. Did the Court of Appeals err in refusing to find that Petitioners had public importance standing to challenge deceitful and nefarious government conduct in contravention of controlling South Carolina Supreme Court precedent allowing such standing in similar cases under the S.C. Uniform Declaratory Judgment Act?

2. In a question of first impression, do the South Carolina Supreme Court holdings of *St. Andrews* and *Town of Yemassee* apply when no 100% annexation petition was ever filed and the government engaged in deceitful and nefarious conduct?

3. In a question of first impression, did *St. Andrews* and *Town of Yemassee* judicially create a "statutory standing" class that excludes all other standing when the South Carolina annexation statute is silent on standing?

STATEMENT OF THE CASE

This case concerns the Town of Awendaw's ("the Town") deceitful attempt to annex property within a federally-protected national forest – the Francis Marion National Forest – by falsely asserting that a proper petition for annexation was filed by the United States Forest Service ("Forest Service"), when the Forest Service never requested such an annexation. The Town has annexed property in a similar manner in the past and plans to continue this sort of fraudulent annexation in the future so long as no court rules it illegal. (App., at 184, 211.) (Wallace Dep. 73:23-74:7.)

Petitioners Lynne Vicary, Kent Prause, and the South Carolina Coastal Conservation League filed an action pursuant to the South Carolina Uniform Declaratory Judgment Act ("Declaratory Judgment Act") seeking a declaration that the purported annexations were absolutely void because the Town had never received a valid petition requesting annexation, and had publicly lied by claiming that it had received a petition. The trial court ruled in Petitioners'

favor. It found that Petitioners had standing to bring their claims under the public importance exception and as taxpayers challenging government action under the Declaratory Judgment Act. (App., at 20-25, 28.) In the words of the trial court, Petitioners had standing because "there is a strong public interest in allowing taxpayers ... to bring suit to prevent the expenditure of public funds to support *ultra vires* acts" and because "this is a matter that is of such public importance as to require resolution for future guidance." (App., at 22, 25.) The trial court further concluded that the Town of Awendaw's actions were illegal: the Town never received a petition for annexation from the U.S. Forest Service, and the purported annexations were void and of no effect.

The Town then appealed, and the Court of Appeals heard oral argument on February 11, 2016. In its August 3, 2016 ruling, the Court of Appeals reversed on the sole ground that Petitioners lacked standing to challenge any annexations under *St. Andrews Pub. Serv. Dist. v. City Council of City of Charleston,* 349 S.C. 602, 564 S.E.2d 647 (2002) and *Ex parte State ex rel. Wilson v. Town of Yemassee*, 391 S.C. 565, 707 S.E. 2d 402 (2011), cases that involved good faith annexations made by municipalities pursuant to the S.C. Annexation Statute, S.C. Code § 5-3-150. The Court of Appeals concluded that because the Town "purportedly us[ed] the 100% petition method" for annexation outlined in S.C. Code § 5-3-150(3), only those with "proprietary interests or statutory rights" or the State could file actions challenging the annexations under *St. Andrews* and *Town of Yemassee. See Vicary v. Town of Awendaw*, No. 2014-002118, 2016 WL 4123978 at *1, *4 (S.C. Ct. App. Aug. 3, 2016), *reh'g denied* (Sept. 23, 2016) (App., at 486). The Court refused to consider whether Petitioners had standing based on the well-recognized public importance exception or on the basis of taxpayer standing, implicitly reasoning that *St. Andrews* and *Town of Yemassee* rendered those doctrines inoperable.

The Court of Appeals set forth a sweeping new rule that conflicts with controlling Supreme Court precedent and creates absurd, unjust results that the General Assembly never intended. Under the Court of Appeals ruling, so long as a municipality merely claims to have conducted a 100% method annexation – whether this is true or, as here, patently false – only the State or those with undefined "proprietary interests or statutory rights" can challenge such conduct, however arbitrary and deceptive it might be. Indeed, the greater the municipal deception and more brazen its intent to repeat it, the *less* reviewable the action will become, in flat contradiction to long standing principles of South Carolina judicial review.

This Court should grant certiorari to review the Court of Appeals' failures to adhere to Supreme Court precedent allowing public importance and taxpayer standing to citizens challenging unlawful government acts of public importance, such as those at issue here, under the Declaratory Judgment Act. The Court should also grant certiorari to consider important questions of law regarding standing to challenge fraudulent annexations in South Carolina. Without review by this Court, the Court of Appeals ruling will strip citizens of this State of their right to challenge any nefarious government conduct related to an annexation, a result that was not intended by the Legislature.

ARGUMENT

I. The Court of Appeals Opinion Conflicts With Supreme Court Precedent Allowing Public Importance or Taxpayer Standing to Citizens Challenging Corrupt Government Conduct.

The Court should grant certiorari because the Court of Appeals opinion abruptly departs from a long line of Supreme Court cases finding that citizens have standing to challenge just the sort of deceptive or unlawful government conduct at issue here.

This Court has repeatedly found that standing is "not inflexible," and may be conferred upon a party when an issue is of such public importance as to require its resolution for future guidance. *Sloan v. Dep't of Transportation*, 365 S.C. 299, 618 S.E.2d 876 (2005) (finding citizen had standing to bring actions for alleged violation of statutory bidding violations by the Department of Transportation); *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005) (holding citizen had standing to challenge legislative enactment); *Sloan v. Sanford*, 357 S.C. 431, 593 S.E.2d 470 (2004); *Baird v. Charleston Cty.*, 333 S.C. 519, 531, 511 S.E.2d 69, 75 (1999); *Thompson v. South Carolina Comm'n on Alcohol and Drug Abuse*, 267 S.C. 463, 229 S.E.2d 718 (1976) (holding that the plaintiffs had standing because the questions involved were of such wide concern, both to law enforcement personnel and to the public); *Berry v. Zahler*, 220 S.C. 86, 66 S.E.2d 459 (1951). This Court has also repeatedly recognized that citizens may have standing based on their status as taxpayers. *See, e.g., Brown v. Wingard*, 285 S.C. 478, 330 S.E.2d 301 (1985) (discussing taxpayer standing in South Carolina). In the words of the Court of Appeals, "[a] taxpayer's standing to challenge unauthorized or illegal governmental acts has been repeatedly recognized in South Carolina." *Sloan v. School Dist. of Greenville County*, 342 S.C. 515, 520, 537 S.E.2d 299, 301 (Ct. App. 2000) (holding that taxpayer had standing to bring declaratory judgment action challenging whether Department of Transportation properly authorized emergency procurement for road construction project since issue was of great public importance and taxpayer alleged misuse of government authority).

This Court has also repeatedly held that public importance standing is particularly appropriate in cases challenging illegal government action. For example, in *Baird v. Charleston County,* doctors alleged that the Charleston County government had committed an illegal act by issuing hospital bonds beyond the County's statutory authority. 333 S.C. 519, 524-26, 511

S.E.2d 69, 72 (1999). The Court found that this allegation was sufficient to establish public importance standing because allegations of illegal government action are of public importance. *Id.* at 531, 75; s*ee also South Carolina Public Interest Foundation v. South Carolina Trans. Infrastructure Bank*, 403 S.C. 640, 646, 744 S.E.2d 521, 524 (2013). There the issuance of illegal hospital bonds was of public importance because it affected public health and welfare. *Id.*

Like *Baird*, it is hard to imagine a case that would better fit the public importance exception to standing than the present one. First, allegations of illegal government action are "the precise instance where the public importance exception should apply." *S.C. Pub. Interest Found.*, 403 S.C. at 646. Petitioners argued precisely this sort of illegal government action in the Town's purported annexation of a federally-protected forest when no annexation petition was ever received. Likewise, resolution of Petitioners' claims is needed to conserve rare, nationally important public resources in the Francis Marion National Forest, as the trial court recognized. (App., Vol. I at 24) ("resolution of plaintiffs' claims is necessary to protect unique flora and fauna contained in the National Forest, which is owned, maintained, and conserved for the benefit of all Americans"). And this issue is of great public importance because the Town has brazenly stated that it intends to continue its pattern of nefarious conduct unless stopped by a court. (App., Vol. I at 211.)

The Court of Appeals ruling conflicts with this Court's repeated and explicit adoption of the concept of public importance and taxpayer standing allowing citizens to challenge just the sort of nefarious government action at issue here. The Court of Appeals ruling also conflicts with the very purpose of public importance standing, which recognizes that "[c]itizens must be afforded access to the judicial process to address alleged injustices." *ATC South, Inc. v. Charleston Co.,* 380 S.C. 191, 199, 669 S.E. 2d 337, 341 (2008) (quoting *Sloan*, 357 S.C. at 434,

593 S.E.2d at 472). Similarly, the ruling conflicts with the purpose of taxpayer standing, which allows taxpayers who are directly affected by government conduct to bring challenges to that conduct when there is some overriding public purpose or concern and a need for future guidance. *See, e.g., Sch. Dist. of Greenville Cty.*, 342 S.C. at 522, 537 S.E.2d at 303 (allowing taxpayer standing to challenge allegedly illegal government contracts). The Court should grant certiorari on this basis alone.

II. This Case Presents Novel Questions of Law Regarding the Applicability of *St. Andrews* and *Town of Yemassee* to Challenges to Deceptive and Void Annexations.

Next, this Court should grant certiorari to review the applicability of *St. Andrews* and *Town of Yemassee* to annexations such as this made in bad faith. Contrary to the Court of Appeals holding, these cases have no applicability to the present facts, where no annexation was validly initiated pursuant to the 100% method.

The "100% petition method allows a municipality to annex property upon the signature of all persons who own real estate in the annexed area." *Town of Yemassee*, 391 S.C. at 570, 707 S.E. 2d at 405. The 100% annexation method is a unique process that "provides neither an express notice provision nor an authorization for third parties to challenge the annexation." *Id.* at 572, 707 S.E. 2d at 406. As explained in *Town of Yemassee*, these restrictions on notice and the ability to challenge 100% annexations are "readily understood in light of the requirement that **all** property owners in the annexed area consent by signing the annexation petition." *Id.* (emphasis in original). "In sum, the 100% petition method is a 'fast track' for annexation that may be used only when all of the property owners consent." *Id.*

St. Andrews and *Town of Yemassee* articulate specific requirements for establishing standing to challenge 100% method annexations made in good faith by municipalities. Both

cases ultimately hold that citizens must allege a sufficient infringement of their "proprietary interests" or "statutory rights" to have standing and "that the only non-statutory party which may challenge a municipal annexation is the State, through a quo warranto action." *St Andrews*, 349 S.C. at 605, 564 S.E. 2d at 648; *Town of Yemassee*, 391 S.C. at 573-4, 707 S.E. 2d at 406-407. The Court of Appeals applied these holdings to conclude that Petitioners had not suffered any infringement of their own proprietary interests or statutory rights and thus could not have standing.

But *St. Andrews* and *Town of Yemassee* are not applicable here. This case does not concern procedural defects in a properly initiated 100% annexation, such as whether the proper signatures were obtained on an otherwise valid or partially valid annexation petition. *See, e.g., Town of Yemassee*, 391 S.C. at 404, 707 S.E. 2d at 569 (challenging lack of State signature on annexation petition signed by other owners). Instead, this case involves a situation where there was never a valid petition for annexation in the first place – and where there was deceptive, nefarious government conduct that goes beyond the realm of mistake and into the world of malfeasance. Here, the annexation process was never commenced because the petition that was misleadingly said to initiate it did not, in fact, exist.

The Court of Appeals was well aware that the Forest Service never initiated an annexation. (App., Vol. I at 240) (Feb.16, 2011 Letter from Paul Bradley (Forest Service) to Samuel Robinson (Town) ("[T]he Forest Service did not intend for the letter of May 3, 1994, to constitute 'a petition of the federal government' to annex National Forest lands ...."); (App., Vol. I at 202) (Wallace Dep. 40:9-11). Indeed, the Court found that that the Town "purportedly" used the 100% petition method, *Vicary,* 2016 WL 4123978 at *1; noted the "Town's admission that the Forest Service did not provide them anything in writing expressing their desire that the Ten-

Foot Strip be annexed," *id.*; and that "none of the strips described in the 1994 letter were the Ten-Foot Strip at issue in this case." *Id.* But after making these factual conclusions – which show that an annexation petition was never filed, and annexation procedures were never invoked – the Court of Appeals went on to apply caselaw applicable when a 100% petition has been filed. But there was no 100% petition filed. *St. Andrews* and Town of *Yemassee* do not apply.[1]

Pursuant to the Court of Appeals ruling, a municipality need only pronounce that it is conducting an annexation pursuant to the 100% method – no matter whether this is true or patently false – and it is insulated from challenge by anyone except the State in a *quo warranto* action. This is so even when a municipality has engaged in a pattern of falsification and deception and no annexation ever occurred as a matter of law – and even when the municipality announces that, unless stopped by a court, it intends on repeating these actions in the future. In sum, unlike *St. Andrews* and *Town of Yemassee*, this is not a case involving an irregularity or good-faith error in accepting an annexation petition or quibbling over whether an annexation was made through the 75% or 100% petition method. The Court should grant certiorari to clarify that *St. Andrews* and *Town of Yemassee* do not apply to this situation or similar ones that will arise in the future.

[1] When the Town argued in their motion for summary judgment that Petitioners lacked standing (and that their challenge was untimely), Judge Harrington agreed that this case was distinguishable from *St. Andrews* and *Town of Yemassee.* In her ruling, she wrote, "[t]he statutory provisions governing standing and timing exist to serve as shields for legitimate annexation attempts. No case supports [the Town's] efforts to transform them instead into a sword that municipalities can wield to eviscerate the strict limitations on municipal authority delineated by the General Assembly." (App., Vol. I at 6.)

III. The Court of Appeals Ruling Conflicts with Supreme Court Precedent Allowing Plaintiffs to Establish Standing through Multiple Means, And Review by this Court is Necessary to Resolve Important Issues of South Carolina Law regarding "Statutory" Standing.

In related errors, the Court of Appeals refused to consider alternative bases for Petitioners' standing (as discussed above in section I), and erroneously created a rule requiring "statutory" standing to challenge deceptive municipal annexations, when the S.C. annexation statute itself does not contain language creating standing for challenges to 100% annexations. The Court of Appeals holding is not only erroneous, but also creates absurd results.

A. The Court of Appeals Opinion Conflicts with Supreme Court Precedent Holding that Plaintiffs Can Establish Standing Through Multiple Means

This Court has made clear that "[s]tanding may be acquired: (1) by statute; (2) through the rubric of 'constitutional standing'; *or* (3) under the 'public importance' exception." *ATC S.*, 380 S.C. at 195, 669 S.E.2d at 339 (emphasis added). Supreme Court precedent routinely considers whether a plaintiff has standing on any of these three bases. *See, e.g., Freemantle v. Preston*, 398 S.C. 186, 192, 728 S.E. 2d 40, 43 (2012).

Yet here, the Court of Appeals ended its inquiry after deciding that Petitioners did not have what it termed "statutory standing." *Vicary*, 2016 WL 4123978 at *3. The Court of Appeals held that because Petitioners had not shown an infringement of their "proprietary interests or statutory rights" and were not the State of South Carolina, "they are prohibited from challenging the Town's annexations pursuant to *St. Andrews* and *Yemassee.*" 2016 WL 4123978 at *4. In so ruling, the Court of Appeals created a rule whereby plaintiffs are barred from establishing constitutional or public importance standing if there is a statute that arguably provides some basis for standing. This result is inconsistent with *ATC S.* and *Freemantle*, and is all the more egregious here because, as discussed below, the relevant statute, S.C. Code Ann §§

5–3–150(3), does not contain language providing for statutory standing. Rather the "proprietary interests or statutory rights" language was judicially-created in *St. Andrews* and *Town of Yemassee* and cannot deprive Petitioners of their right to establish standing through other means.

B. This Case Involves Novel Questions of Law Regarding "Statutory Standing" to Challenge Annexations

As noted above, neither *St. Andrews* nor *Town of Yemassee* dictates a conclusion that Petitioners lack standing on the facts presented here. The Court of Appeals' reliance on these cases to bar Petitioners from establishing standing through the public importance exception or taxpayer standing just because there was "purportedly" a 100% annexation was erroneous. But even if *St. Andrews* and *Town of Yemassee* are construed to preclude Petitioners' standing here, these cases are wrong in their conclusion that there is an *exclusive* "statutory standing test for challenges to 100% annexations." *St. Andrews*, 349 S.C. at 605, 564 S.E. 2d at 648.

Statutory standing exists, as the name implies, when a statute confers a right to sue on a party, and determining whether a statute confers standing is an exercise in statutory interpretation. *See Freemantle*, 398 S.C. at 194–95, 728 S.E. 2d at 44-45; *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 97 n. 2, 118 S.Ct. 1003, 140 L.Ed.2d 210 (1998) (stating the issue of statutory standing as "whether this plaintiff has a cause of action under the statute").

While *Town of Yemassee* and *St. Andrews* discuss "statutory standing" for challenges to 100% method annexations, the relevant statute confers no such standing on any party. Instead, the statute merely provides the method for 100% annexations, but says nothing about who may sue to challenge such an annexation. The entire statutory text governing 100% annexations reads as follows:

> [A]ny area or property which is contiguous to a municipality may be annexed to the municipality by filing with the municipal governing body a petition signed by all persons owning real estate in the area requesting annexation. Upon the

> agreement of the governing body to accept the petition and annex the area, and the enactment of an ordinance declaring the area annexed to the municipality, the annexation is complete. No member of the governing body who owns property or stock in a corporation owning property in the area proposed to be annexed is eligible to vote on the ordinance. This method of annexation is in addition to any other methods authorized by law.

S.C. Code Ann. § 5-3-150(3).[2]

Thus, contrary to the holding of *St Andrews* and *Town of Yemassee*, there is no "statutory standing" for 100% method annexations. Rather, *St. Andrews* and *Town of Yemassee* have created a jurisprudential test for standing for 100% method annexations that is not derived from the language of the statute. *See, e.g., St. Andrews*, 349 S.C. at 604, 564 S.E. 2d at 648 (holding that a challenger to a 100% petition annexation "must assert an infringement of its own proprietary interests or statutory rights."). But as discussed above, this judicially-created method of establishing standing cannot erase other methods of demonstrating standing recognized in South Carolina, including public importance or taxpayer standing. *See ATC S.*, 380 S.C. at 195, 669 S.E. 2d at 339.

C. The Court of Appeals Opinion Creates Absurd Results.

Finally, the Opinion creates absurd results, whereby unlawful government conduct that could be challenged by affected citizens in *any* context *other* than annexation now cannot be challenged by anyone but the State because the unlawfulness is related to a "purported" annexation. For example, if the deceptive government conduct here had arisen in the state

[2] By comparison, the statutory text for 75% annexations *does* provide both the method for accomplishing a 75% annexation, and statutory standing to certain parties. *See* S.C. Code Ann. § 5-3-150(1)(5) ("[T]he municipality or any resident of it and any person residing in the area to be annexed or owning real property of it may institute and maintain a suit in the court of common pleas, and in that suit the person may challenge and have adjudicated any issue raised in connection with the proposed or completed annexation."). Other provisions of the annexation statute suggest broader rights for interested persons to challenge annexations as well. *See, e.g.,* S.C. Code Ann. § 5-3-270 (setting time frame in which "person interested therein" may challenge any type of annexations).

contracting context, Petitioners would be able to challenge it via public importance standing. *See Sch. Dist. of Greenville Cty.*, 342 S.C. at 520, 537 S.E.2d at 301 ("A taxpayer's standing to challenge unauthorized or illegal governmental acts has been repeatedly recognized in South Carolina").[3] But under the Court of Appeal's ruling, Petitioners may not do so here because this involves a "purported" annexation – even though the statutory provision at issue here says nothing about limiting public importance standing or constitutional standing *or standing at all.*

The Court of Appeals' conception of *Town of Yemassee* also creates absurd results within the annexation statute itself. As noted above, "whether a statute confers standing is an exercise in statutory interpretation." *See* Youngblood v. S.C. Dept. of Social Services, 402 S.C. 312, 317 (2013). Here, the Court of Appeals interprets *Town of Yemassee* to mean that, despite silence on who has standing to challenge 100% annexations in the statute, no party but those with (judicially conjured) "proprietary interests or statutory rights" may challenge such annexations (or the State through a quo warranto action). The Court of Appeal's rationale – and *Town of Yemasssee*'s holding – would apply equally to all forms of annexations other than the 75% method, the only annexation method for which the statute provides clear, affirmative language limiting who may file a challenge. Accordingly, under the Court's logic, annexations of property owned by a corporation could only be challenged by "the stockholders of the corporation," who are the only delineated party with "statutory rights." *See* S.C. Code Ann. § 5-3-120. Neighboring property owners who alleged harm from the annexation and could satisfy the other

[3] As noted above, Petitioners brought this action under the Declaratory Judgment Act seeking a declaration that the alleged annexations never occurred as a matter of law, and that the Town engaged in deceptive conduct in representing that it had received a valid petition for annexation. Petitioners' allegations and request for relief under the Declaratory Judgment Act are similar to allegations and remedies sought in the *Sloan* cases cited above. The Opinion thus conflicts with S.C. Supreme Court law allowing these types of claims to be brought pursuant to the Declaratory Judgment Act and based on public importance standing as discussed above in section II.

requirements of establishing constitutional standing would be barred from any challenge under the Court's logic. Similarly, the annexation of property within a multicounty park could only be challenged by the "State Fiscal Accountability Authority" and not broader state or public entities who could demonstrate harm from the annexation. *See* S.C. Code Ann. § 5-3-115. The judicially-created limitation of standing to "statutory" parties becomes even more unworkable when considered in the context of annexations-by-election, since those annexations involve action – and inaction – by various overlapping or disparate subgroups of citizens. *See, e.g.* S.C. Code Ann. §§ 5-3-30, 300. It defies belief to think in enacting a lengthy statute with nearly a dozen distinct procedures for different kinds of annexations meant to include – by omission – a unique and highly restrictive limitation on standing that applies to all annexations procedures (except one) regardless of the absurdities that would result.

In effect, the Court of Appeals has created a rule where all of these forms of annexation would be essentially unreviewable by harmed citizens just because each of the respective annexation sub-provisions is silent on who can file a challenge. *But see* S.C. Code Ann. § 5-3-270 (setting time frame for any "person interested" to challenge annexations). The Opinion thus deprives parties of the right to establish constitutional, public importance, or taxpayer standing because of statutory *silence*. This result flies in the face of other Supreme Court precedent allowing parties to establish constitutional standing where no statutory standing exists. *See Youngblood*, 402 S.C. at 317, 741 S.E. 2d at 518. As explained above, there is no statutory basis for removing recognized methods of establishing standing – or this absurd result – contained in S.C. Code § 5-3-150(3).

CONCLUSION

For the foregoing reasons, Petitioners respectfully request that this Court grant the Petition for Certiorari.

Respectfully submitted this 21st day of October 2016.

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Of Whom Town of Awendaw is Appellant.

CERTIFICATE OF SERVICE

I certify that I have served Petitioners Lynne Vicary, Kent Prause, and South Carolina Coastal Conservation League's Petition for Writ of Certiorari on all parties by depositing a copy in the United States Mail, postage prepaid, on October 21, 2016, addressed to their attorneys of record, as indicated below:

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This 21st day of October 2016.

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October 21, 2016

VIA U.P.S. – NEXT DAY AIR

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

Re: Lynne Vicary v. Town of Awendaw
Appellate Case No.: 2014-002118

Dear Mr. Shearouse:

Pursuant to the Clerk of Court's instructions, enclosed for filing, please find the following corrected documents regarding the above-referenced matter:

1. Original and seven (7) copies of Petitioners Lynne Vicary, Kent Prause, and South Carolina Coastal Conservation League's Petition for Writ of Certiorari and Certificate of Service; and

2. Three (3) copies of the Appendix for Petition for Writ of Certiorari (one copy unbound).

I would appreciate you kindly filing the Petition for Writ of Certiorari and Appendix with the Supreme Court and returning a stamped copy of each corrected filing to my attention.

Should you have any questions or concerns, please do not hesitate to contact me at 843-720-5270 or cdescherer@selcsc.org. Thank you kindly for your assistance with this matter.

Sincerely,

Christopher K. DeScherer

CKD/amc
Enclosures

cc: W. Jefferson Leath, Esq.
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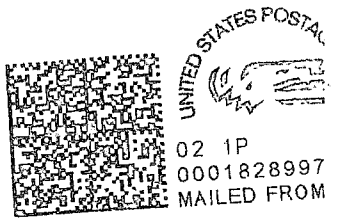

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