THE STATE OF SOUTH CAROLINA
In the Supreme Court

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SC Court of Appeals

APPEAL FROM BARNWELL COUNTY
Court of Common Pleas
J. Martin Harvey, Special Referee

Appellate Case No. 2016-001214
Circuit Court Civil Action No. 2015-CP-06-00070

Quicken Loans, Inc., Appellant,

v.

Wayne D. Wilson; Calvin O. Wilson, III; Any other Heirs-in-Law or devisees of Ezekiel (Ellen) T. Wilson, deceased, their heirs, personal representatives, administrators, successors and assigns, and all other persons entitled to claim through them; all unknown persons with any right, title or interests in the real estate described herein; also any persons who may be in a class designated as John Doe; any unknown minors or persons under a disability being a class designated as Richard Roe; Park Sterling Bank,

Respondents.

BRIEF OF RESPONDENT
Wayne D. Wilson as Personal Representative of the Estate of Ezekiel T. (Ellen) Wilson
Rule 211, SCACR

Steven W. Hamm *S.C. Bar 2634*
C. Bradley Hutto *S.C. Bar 6436*
Daniel Webster Williams *S.C. Bar 10233*
Charles L. Dibble *S.C. Bar 1674*

Attorneys for Respondent
(addresses appear following the signature page)

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STATEMENT OF ISSUES ON APPEAL

I. Whether the Special Referee correctly ruled in finding that Appellant violated the South Carolina attorney preference statute.

II. Whether the Special Referee correctly ruled in finding that Appellant's actions in violating the South Carolina attorney preference statute rose to the level of unconscionability.

STATEMENT OF THE FACTS

On November 4, 2011, Ezekiel Wilson and her husband, Calvin Wilson, spoke over the telephone with a Quicken Loans' representative regarding refinancing their existing loan. A copy of the application was then provided to the Wilsons. **ROA 341-244** Also provided to the Wilsons was an Attorney/Insurance Preference Checklist ("AIP Checklist"). **ROA 183** The AIP Checklist was substantially similar to the form issued by the South Carolina Department of Consumer Affairs. **ROA 181** The Wilsons signed the attorney form confirming their preference of State Farm as their insurance agent. No preference was indicated for an attorney to represent the borrower in the proposed mortgage loan transaction. At the time the AIP Checklist was presented to the Wilsons, it had already been completed to state that "I/We will not use the services of legal counsel."

Carlton Robinson, a South Carolina attorney, witnessed the closing of the loan on December 14, 2011. At the closing, Mr. and Mrs. Wilson signed an updated loan application. **ROA 383** The final page of the updated application confirmed that State Farm was the Wilsons' preferred insurance agent and that Carlton Robinson was their closing attorney. The Wilsons executed a note in favor of Quicken Loans secured by a mortgage on their home in Williston, South Carolina. **ROA 193**

The Wilsons were both over 80 years old at the time of the closing. Mr. Wilson died shortly thereafter, followed by Mrs. Wilson. The loan went into default, and foreclosure proceedings were commenced.

ARGUMENT

S.C. Code § 37-10-102, the "attorney preference" statute, does more than mandate that the lender ascertain the preferences of a prospective borrower: the statute also spells out what the borrower's lawyer is expected to do. The General Assembly envisaged that legal counsel would be ". . . employed to represent the debtor in all matters of the transaction relating to the closing of the transaction ...." To repeat:

- "represent the debtor"
- "in all matters of the transaction"
- "relating to the closing of the transaction"

Quicken did not ascertain the preference of the borrower. This was not an inadvertent failure, a mere oversight that would have allowed the lender to seek protection under the "safe harbor" provisions of S.C. Code § 37-10-105(B):

> "(B) No creditor may be held liable in an action brought under this section for a violation of this chapter if the creditor shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid the error."

The Record demonstrates that there were indeed procedures in place at Quicken. But they were not adapted to avoid errors; rather the procedures were designed to circumvent the requirements of the attorney preference statute.

This was not a one-time-only occurrence, unique to Wilson loan transaction. Rather this is how Quicken handles all its South Carolina mortgage loan transactions. **ROA 225-255 (testimony of Jeffrey Campbell, Senior Corporate Counsel at Quicken Loans, esp. ROA 237, lines 6-8,9-13, ROA 244-245)** There is an intentional and systemic failure on the part of Quicken

to ascertain the preference of the South Carolina borrower that results in the attorney at the closing table not being selected by the borrower, a practice that deprives the South Carolina borrower of a statutorily guaranteed right. This is a process that results in approximately 95 percent of the loans being steered to Title Source, Quicken's sister company, and generating fees for Title Source. **ROA 257-259 (testimony of Jennifer Randall, Divisional VP at Quicken Loans).**

In his Order granting summary judgment[1], the Special Referee discusses the Quicken procedures in detail. **ROA 006-008.** The Special Referee concludes:

> "I therefore conclude as a matter of law that Quicken, in pre-populating the form, eviscerates the very purpose of § 37-10-102 and renders it meaningless. Thus, Quicken fails to ascertain the borrower's attorney preference under the statute. Quicken's action also constitutes an attempt to elicit a waiver, which is expressly not permissible under the code."
> Order at 8 **ROA 008.**

In *Simpson v MSA of Myrtle Beach, Inc. d/b/a Addy's Harbor Dodge et al.*, 373 S.C. 14, 644 S.E.2d 663 (2007), the Supreme Court examined a contract whereby Simpson traded in her 2001 Toyota for a new 2004 Dodge. The Court found unconscionability due to both an absence of meaningful choice and oppressive, one-sided terms. The car dealer ("Addy") relied on *Carolina Care Plan v. United HealthCare Services, Inc.*, 361 S.C. 544, 606 S.E.2d 752 (2004), a case where "both parties were sophisticated business interests in an arms-length negotiation." The *Simpson* court concluded that Addy's comparison to *Carolina Care Plan* "falls short." 373 S.C. at 671. The *Simpson* case required that the analysis be taken "one step further" because the clause in question "goes beyond...." Providing this analysis, the Court concluded:

1. Order Granting Defendant's Motion for Summary Judgment and Denying Plaintiff's Motion for Summary Judgement, filed May 13, 2016 ("Order"). **ROA 001-023.**

> "The general rule is that courts will not enforce a contract which is violative of public policy, statutory law, or provisions of the Constitution. *Carolina Care Plan*, 361 S.C. at 555, 606 S.E.2d at 758. In our opinion, this rule has two applications in the present case. First, this arbitration clause violates statutory law because it prevents Simpson from receiving the mandatory statutory remedies to which she may be entitled in her underlying SCUTPA and Dealers Act claims. Second, unconditionally permitting the weaker party to waive these statutory remedies pursuant to an adhesion contract runs contrary to the underlying statutes' very purposes of punishing acts that adversely affect the public interest. Therefore, under the general rule, this provision in the arbitration clause is unenforceable.
>
> "Accordingly, we find the provision prohibiting double and treble damages to be oppressive, one-sided, and not geared toward achieving an unbiased decision by a neutral decision-maker. In conjunction with Simpson's lack of meaningful choice in agreeing to arbitrate, this provision is an unconscionable waiver of statutory rights, and therefore, unenforceable."
> 373 S.C. at 671 (emphasis added)

The parallels to the instant case are striking. *Quicken Loans* is not merely a case of failing to ascertain the borrower's preference. If the inquiry stopped there, the analysis would "fall short." Rather, it is necessary to go "one step further" because Quicken's conduct "goes beyond" mere failure to ascertain the borrower's preference.

- First, Wilson is never presented a choice. This is a fatal deficiency that runs counter to the underlying statute's very purpose.
- Second, the completion of the attorney preference form before it is presented to the borrower affirmatively prevented Wilson from exercising the statutory rights mandated by the statute.

- Third, the rendering of legal advice – *"I/We will not use the services of legal counsel"* – was yet another affirmative act on the part of Quicken to discourage Wilson from exercising her statutory rights under § 37-10-102[2].
- Fourth, by completing Part 1(b) of the preference form with "*Not Applicable*," Quicken in another affirmative act further discouraged Wilson from exercising her statutory rights under § 37-10-102, as discussed fully by the Special Referee. Order **ROA 008**.
- Fifth, the procedures that lead to the waiver of the borrower's preference rights by Wilson – "the weaker party" – not only run counter to the "very purposes" for which the preference statute was enacted but also constitute a blatant violation of the waiver prohibition set forth in the South Carolina Consumer Protection Code, § 37-1-107.

The Administrative Interpretation, *S.C. Dep't of Consumer Affairs, Admin. Interpretation No.* 10.102(a)–8302 (1983), **ROA 210-213** is the source of the form that Quicken decided to use in its loan transactions. This is the form recommended by the Department of Consumer Affairs, and the form *when properly used* provides a "safe harbor" for a lender when allegations of attorney preference violations arise. Indeed, Quicken even alludes to the "safe harbor" provisions in its Brief. *App.Br. 12 et seq.* However, Quicken's problems here are not ameliorated by the form. Rather this case arises out of the modifications made by Quicken – the "prepopulating" – prior to presenting it to the borrower. Quicken's unconscionable conduct is even more egregious when viewed in the light of the Quicken's obvious familiarity with the Administrative Interpretation and the procedures recommended by the Department of Consumer Affairs.

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2. The language inserted by Quicken before presenting the preference form to the borrower incorrectly suggests that a lawyer is not required "to represent the debtor in all matters of the transaction relating to the closing of the transaction." § 37-10-102. This, of course, ignores the law of South Carolina as set forth in *State v. Buyers Service Co.*, 292 S.C. 426, 357 S.E.2d 15 (1987) and the long line of cases that have followed *Buyers Service* over the past three decades. Moreover, Quicken Loan's offering of legal advice – whether correct or incorrect – violates S.C. Code 40-5-320.

The Special Reference correctly noted that "neither the language of the pre-1996 version or current version of §37-10-102 referenced 'a list of acceptable attorneys' if the borrower had no preference." However, he continued: ". . . the Legislature implicitly adopted the Administrator's 1983 findings when it set forth the methods lenders could comply with the preference requirement in §37-10-102(a)" when it amended the preference statute in 1996. The Supreme Court has also cited with approval to the form and the Administrative Interpretation. Davis v. NationsCredit Fin. Serv. Corp., 326 S.C. 83, 484 S.E.2d 471 (1997), King v. American General Finance, 386 S.C. 82, 687 S.E.2d 321 (2009). Order **ROA 006, 008.** Significant too are the rules of construction of the South Carolina Consumer Protection Code which provide: "(3) A reference to a requirement imposed by this title *[Title 37]* includes reference to a related rule of the administrator adopted pursuant to this title." § 37-1-102(3).

While the attorney preference statute exists for the protection of the consumer borrower, it is worth noting that the form is actually a device for the protection of the lender. That is why the modes of compliance require a writing. The form enables the lender to provide documentary evidence of compliance whenever a question arises about the borrower's preference:

> "The creditor may comply with this section by:
>
> "(1) including the preference information on or with the credit application so that this information shall be provided on a form substantially similar to a form distributed by the administrator; or
>
> "(2) providing written notice to the borrower of the preference information with the notice being delivered or mailed no later than three business days after the application is received or prepared. If a creditor uses a preference notice form substantially similar to a form distributed by

the administrator, the form is in compliance with this section." 37-10-102(a).

This is consistent with one of the stated purposes of the South Carolina Consumer Protection Code, namely "to conform the regulation of consumer credit transactions to the policies of the Federal Consumer Credit Protection Act...." § 37-1-102(2)(f). The federal law (Pub. L. 90-321), which includes the Truth in Lending Act (TILA), 15 U.S.C. 1601 *et seq.*, mandates that the required disclosures must be made "clearly and conspicuously" and "in writing."

When Wilson is deprived of her statutory choice under the preference statute, not through inadvertence but through affirmative acts on the part of Quicken, there is an unconscionable waiver of statutory rights. This is what happened and this is what the Special Referee found.

In South Carolina, the courts have long established and defined the elements of unconscionability. Examples of these are set forth in S.C. Code Ann. §37-5-108[3], which are at issue in this matter. The courts have held that "[u]nconscionability is defined as the absence of meaningful choice on the part of one party due to one-sided contract provisions, together with terms that are so oppressive that no reasonable person would make them and no fair and honest person would accept them." *Simpson*, 373 S.C. at 24–25, quoting *Carolina Care Plan, Inc.*, 361 S.C. at 554; *Fanning v. Fritz's Pontiac-Cadillac-Buick, Inc.*, 322 S.C. 399, 403, 472 S.E.2d 242, 245 (1996). South Carolina law further provides that "[i]f a court as a matter of law finds any clause of a contract to have

3. S.C. Code Ann. §37-5-108 provides examples, but the list is not all inclusive. The Legislature specifically states and advises in the Court's determination of unconscionability "consideration must be given to applicable factors, such as [those listed in items (i) through (v)], but without limitation," S.C. Code Ann. §37-5-108(4)(a), and further provides that other factors are allowed which may not be specifically enumerated by the Code. *See also* S.C. Code Ann. §37-5-108(5).

been unconscionable at the time it was made, the court may refuse to enforce the unconscionable clause, or so limit its application so as to avoid any unconscionable result. Simpson, 373 S.C. at 24–25, citing S.C. Code Ann. § 36-2-302(1) (2003). In Simpson, the court further stated that:

> "In determining whether a contract was "tainted by an absence of meaningful choice," *id.* at 295, courts should take into account the nature of the injuries suffered by the plaintiff; whether the plaintiff is a substantial business concern; the relative disparity in the parties' bargaining power; the parties' relative sophistication; whether there is an element of surprise in the inclusion of the challenged clause; and the conspicuousness of the clause. *Id.* at 293. *See also Holler v. Holler,* 364 S.C. 256, 269, 612 S.E.2d 469, 476 (Ct.App.2005) ("A determination whether a contract is unconscionable depends upon all the facts and circumstances of a particular case." (quoting 17A Am.Jur.2d *Contracts* § 279 (2004))."
>
> 373 S.C. at 25.

In Simpson, the court analyzed the elements of a claim of unconscionability and found that the contract at issue was unconscionable (S.C. Code Ann. §37-5-108), that the parties lacked meaningful choice, that there were oppressive and one-sided terms, and that such contract and its provisions were not enforceable. First, the court reviewed the absence of meaningful choice through the lack of bargaining power in the making of the contract. The "[a]bsence of meaningful choice on the part of one party generally speaks to the fundamental fairness of the bargaining process in the contract at issue. *Simpson,* 373 S.C. at 25, citing Carlson v. General Motors Corp., 883 F.2d 287, 295 (4th Cir.1989). In the case at hand, Wilson alleges the lack of bargaining power in the transaction and points to the substantially different positions of the parties - where Wilson is the octogenarian borrower mortgaging her home and Quicken Loans is the

sophisticated national lender. Clearly there was a marked disparity in the parties' bargaining power, in their relative sophistication, and in their relative knowledge of mortgage loan transactions and the related legal documents, beginning with the loan application and the attorney preference checklist.

The next element of unconscionability is oppressive and one-side terms. *Simpson*, 373 S.C. at 24–25, quoting *Carolina Care Plan*, 361 S.C. at 554; *Fanning*, 322 S.C. at 403. Quicken's use of the prepopulated attorney preference form was oppressive and one-sided in that it stripped away the very rights that Chapter 10 of the Consumer Protection Code was intended to protect, namely the right of the borrower to select the attorney to represent him in all matters related to the transaction. Quicken took advantage of Wilson's inability reasonably to protect her interest by reason of ignorance and inability to understand the underlying transaction, beginning with the loan application and the attorney preference checklist. S.C. Code § 37-5-108(4)(a)(iv). Quicken's use of the prepopulated form further violates the public policy and statutory law of South Carolina as it (1) facilitates Quicken's contracting with Title Source to supervise the closing of the loan in violation of *Buyers Service*, (2) further facilitates Title Source, a non-lawyer corporation, furnishing and hiring lawyers to provide services for others in violation of S.C. Code § 40-5-320; (3) illegally represents to Wilson that the loan can be closed without the services of an attorney, and (4) impermissively deprives Wilson of her rights under the South Carolina Protection Code - rights that under S.C. Code § 37-1-107 cannot be waived.

Closely akin is the fact of inducement by the unconscionable conduct of Quicken, leading Wilson to enter into the mortgage loan transaction with Quicken. S.C. Code Ann. §§37-5-108 and 37-10-105.

Sections (1) and (4)(a)(iv) of S.C. Code Ann. §37-5-108 provide:

> (1) With respect to a transaction that is, gives rise to, or leads the debtor to believe will give rise to, a consumer credit transaction, if the court as a matter of law finds:
>
> > (a) the agreement or transaction to have been unconscionable at the time it was made, or to have been induced by unconscionable conduct, the court may refuse to enforce the agreement; or
> >
> > (b) any term or part of the agreement or transaction to have been unconscionable at the time it was made, the court may refuse to enforce the agreement, enforce the remainder of the agreement without the unconscionable term or part, or so limit the application of any unconscionable term or part as to avoid any unconscionable result and award the consumer any actual damages he has sustained.
>
> * * *
>
> (4) (a) In applying subsection (1), consideration must be given to applicable factors, such as, but without limitation:
>
> * * *
>
> > (iv) the fact that the seller, lessor, or lender knowingly has taken advantage of the inability of the consumer or debtor reasonably to protect his interests by reason of physical or mental infirmities, ignorance, illiteracy, inability to understand the language of the agreement, or similar factors;

S.C. Code Ann. §§37-5-108(1)(a) and (b); (4)(a)(iv).

Section (C) of Section 37-10-105 states:

> (C) If the court finds as a matter of law that the agreement or transaction is unconscionable pursuant to Section 37-5-108 at the time it was made, or

was induced by unconscionable conduct, the court may, in an action other than a class action:

(1) refuse to enforce the agreement, or a term, or part of the agreement or transaction that the court determines to have been unconscionable at the time it was made;

(2) enforce the remainder of the agreement without the unconscionable term or part, or limit the application of the unconscionable term or part to avoid an unconscionable result;

(3) rewrite or modify the agreement to eliminate an unconscionable term, part, or result and enforce the new agreement; or

(4) award:

(a) not more than the total amount of the loan finance charge and allow repayment of the unpaid balance of the loan without any finance charge;

(b) not more than double the amount of the excess loan finance charge or other charges or fees actually received by the creditor or paid by the debtor to a third party; and

(c) attorney's fees and costs.

An action pursuant to this subsection may not be brought after the original scheduled maturity date of the debt.

S.C. Code Ann. §37-10-105(C)

* * *

It would be helpful to look to the origins of the attorney preference law. In 1982, a time of record-high interest rates, the General Assembly amended the South Carolina Consumer Protection Code (SCCPC) to relieve creditors of usury restrictions, but sought to protect consumers against predatory lending practices by reinforcing consumers' right to legal representation and insurance advice in real-estate secured transactions. The 1982 SCCPC amendments eliminated caps on the interest rates that creditors could charge for consumer credit, and authorized creditors to charge certain fees. 1982 S.C. Act 385 § 56. To safeguard consumers, the General Assembly also included a requirement that creditors

advise each consumer of his or her right to retain an attorney and insurance agent to provide professional services at the closing of real estate transactions. S.C. Code Ann. § 37-10-102 (the "preference statute").[4] Under the preference statute, the creditor was required to record on the first page of each credit application the consumer's chosen representatives. *Id.* The preference statute applies to all consumer loans secured by real estate. The General Assembly enacted the preference statute to prevent creditors from locking consumers into usurious interest rates or other unfair contract terms and securing those loans with the consumer's real estate without the consumer having the benefit of an attorney and insurance agent to give advice.

In 1996 and again in 1997, the General Assembly amended the preference statute. 1996 S.C. Act 355 § 1, 1997 S.C. Act 99 § 1. Prior to 1997, the preference statute had placed no special limits on the right of consumers to proceed against violators on a class-wide basis. *See* Tilley v. Pacesetter Corp., 508 S.E.2d 16, 21 (S.C. 1998). The statute's pre-1997 penalty provision also provided that violators could be required to forfeit the total amount of the loan finance charge, repay to the consumer double the amount of interest collected, pay costs of the action, and allow the consumer to repay the balance of the loan without any loan finance charges. *See* Tilley, 508 S.E.2d at 36 n.2. The 1997 preference statute amendments foreclosed future class actions for violations of the preference statute and established a fixed penalty range of $1,500-$7,500. §37-10-105.

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[4] In its original 1982 form Section 37-10-102(a) provided, in pertinent part: "Whenever the primary purpose of a loan that is secured in whole or in part by a lien on real estate is for a personal, family or household purpose-(a) The creditor must ascertain the preference of the borrower as to the legal counsel that is employed to represent the debtor in all matters of the transaction relating to the closing of the transaction and ... the insurance agent to furnish required hazard and flood property insurance in connection with the mortgage and comply with such preference, and the credit application on the first page thereof must contain information as is necessary to ascertain these preferences of the borrower." 1982 S.C. Act 385 § 56.

However, the same amendment, which completely rewrote §37-10-105, anticipated situations where the fixed penalty would not be appropriate and thus §37-10-105(C), quoted above, was included to address such situations. Such a situation exists here where the Special Referee concluded:

> "I therefore conclude as a matter of law that Quicken, in pre-populating the form, eviscerates the very purpose of § 37-10-102 and renders it meaningless. Thus, Quicken fails to ascertain the borrower's attorney preference under the statute. Quicken's action also constitutes an attempt to elicit a waiver, which is expressly not permissible under the code." Order **ROA 008**.

Quicken's Arguments on Appeal

Quicken raises a number of arguments on appeal. Convinced that the Special Referee has adequately addressed correctly ruled on the issues in this case, Respondent believes that many of the Appellant's arguments require no further discussion.

- Quicken's first two arguments – claiming that it did not violate the attorney preference statute and claiming that "unconscionability is not a remedy" for attorney preference violations App.Br. 9-31 – are addressed in the discussion above.
- Quicken argues: "The Estate's attorney preference counterclaim under section 37-10-105(a) is time-barred." App.Br. 31-32. The Special Referee adequately addresses this assertion. Order **ROA 010-011**.
- Quicken argues: "The Special Referee erred in denying Quicken Loan's jury trial demand and Motion to Amend the Pleadings." App.Br. 32-33. The Special Referee adequately addresses these assertions. Order **ROA 018-020, 020-021**.
- Quicken also argues: "The Special Referee erred in relying upon protected testimony from a non-attorney preference case." App.Br. 34-37.

This argument mischaracterizes testimony in the case of *Vance L. Boone et al. vs. Quicken Loans, Inc. et al.*, Appellate Case No. 2013-002288 (a declaratory judgment action filed in the original jurisdiction of the South Caroline Supreme Court). Testimony was taken before Special Referee Diane Schafer Goodstein. In her Report and Recommendations, filed on December 14, 2015, she concluded that Quicken Loans, Inc. and its affiliate, Title Source, Inc. had engaged in the unauthorized practice of law. Oral argument before the Supreme Court was had on October 19, 2016. No decision has been rendered.

During the hearing before Judge Goodstein, all proceedings were public. No motion was ever made to close the proceedings, and members of the public were in and out of the courtroom at various times. The depositions which were read were the result of designations submitted by counsel for all parties. It should be noted that certain documents were reviewed by Judge Goodstein *in camera* and were placed under seal where they remain. No reference to those documents is made in the case at hand.

In 2007, the Supreme Court issued its *Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings*. The Court stated:

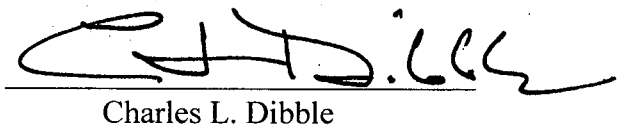
> "Under the Federal Constitution, our State Constitution, and our common law, court records are presumptively open to the public, and these records may only be sealed by a court based on specific findings that the need for secrecy outweighs the presumption of openness. *Ex parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 630 S.E.2d 464 (2006); *Davis v. Jennings*, 304 S.C. 502, 405 S.E.2d 601 (1991)."
>
> Order 2007-08-13-02 (Amended by Order 2014-04-15-02).

In the proceedings before Judge Goodstein, no motion was made to close the proceedings. No motion was made to seal any of the documents to which reference has been made in *Wilson*, the current case at hand. With the exception of the documents under seal, the records in Boone are court records and "presumptively open to the public."

CONCLUSION

Respondent respectfully urges that this Court affirm the Order of the Special Referee, including affirmance for any ground appearing on the record as provided by Rule 220(c).

Respectfully submitted,



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January 11, 2017
[Initial Brief November 7, 2016]
Columbia, South Carolina

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STATE OF SOUTH CAROLINA
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CERTIFICATE OF COUNSEL

As required by Rule 211, SCACR, the undersigned hereby certifies that the final *Brief of Respondent Wayne D. Wilson as Personal Representative of the Estate of Ezekiel T. (Ellen) Wilson* is identical to the initial brief with the exception of inclusion of citations to the Record on Appeal, insertion of page numbers, completion of the Table of Authorities, and correction of obvious typographical errors.

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January 11, 2017

Columbia, South Carolina