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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM ANDERSON COUNTY
Court of Common Pleas

Roger L. Couch, Circuit Court Judge

Case No. 2013-002499

RECEIVED

JUN 14 2017

SC Court of Appeals

Anderson County..... Appellant,

vs.

Joey Preston and The South Carolina Retirement System Respondents.

**PETITION FOR REHEARING OF APPELLANT
ANDERSON COUNTY**

J. Theodore Gentry (No. 64038)
Troy A. Tessier (No. 13354)
Alice W.W. Parham (No. 13459)
Wade S. Kolb III (No. 100379)
WYCHE, P.A.
44 East Camperdown Way
Greenville, SC 29601
864-242-8200

**ATTORNEYS FOR APPELLANT
ANDERSON COUNTY**

Pursuant to SCACR 221(a), Appellant Anderson County respectfully petitions the Court for rehearing of the following aspects of the Court's Opinion in this matter No. 5490, filed May 31, 2017, on the basis that each of the following grounds was overlooked or misapprehended by the Court. Arguments in support of this petition are set forth in a memorandum in support hereof.

1. Rather than remanding, the Court of Appeals should have fashioned a remedy, including placing a constructive trust on the flow of pension funds secured with Anderson County's money.
2. This Court should clarify that Anderson County did not violate the Severance Agreement, and no fee award is available to Preston, whether or not the Severance Agreement is voided.
3. The Court should rule in the alternative that Anderson County may amend its Complaint to seek invalidation of the Severance Agreement on the basis of lack of a quorum, in case future proceedings call into question the ruling the Severance Agreement is null and void for lack of a quorum.
4. The Severance Agreement is void because it was a product of fraud and abuse of power, it was unreasonable and capricious, and it violated public policy.
5. The tainted votes cast in favor of the Severance Agreement require its rescission.
6. Preston had a duty to disclose the facts that required disqualification of Thompson and Ron Wilson, and Preston breached his fiduciary duty, and engaged in fraud, constructive fraud, and negligent misrepresentation when he did not do so.
7. Rescission is available in this case.

Anderson County respectfully requests rehearing on each of the foregoing grounds.

Respectfully submitted,

By: J. Theodore Gentry
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Troy A. Tessier (No. 13354)
Alice W.W. Parham (No. 13459)
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ANDERSON COUNTY**

June 14, 2017

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Anderson County, Appellant,

v.

Joey Preston and The South Carolina Retirement System, Respondents.

PROOF OF SERVICE

The undersigned counsel for Appellant certifies that the **PETITION FOR REHEARING OF APPELLANT ANDERSON COUNTY and MEMORANDUM IN SUPPORT THEREOF** have been served upon all other counsel of record addressed as follows:

By Hand Delivery

Lane W. Davis, Esquire
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By U.S. Mail, postage prepaid

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Respectfully submitted,



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Attorneys for Appellant

June 14, 2017
Greenville, South Carolina

W Y C H E

Attorneys at Law

By Hand Delivery

June 14, 2017

Hon. Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: *Anderson County v. Joey Preston and The South Carolina Retirement System; Appellate Case No. 2013-002499*

Dear Ms. Kitchings:

Enclosed please find for filing with the Court the original and seven copies each of Petition for Rehearing of Appellant Anderson County, Memorandum in Support of Petition for Rehearing of Appellant Anderson County, and Proof of Service in connection with the above-referenced matter. Please return file-stamped copies to our courier. We have also enclosed our firm check in the amount of \$25.00 to cover the motion filing fee.

By copy of this letter we are serving our Petition for Rehearing of Appellant Anderson County, Memorandum in Support of Petition for Rehearing of Appellant Anderson County, and Proof of Service on counsel of record.

Thank you for your assistance.

With highest regards,



J. Theodore Gentry
864-242-8270
tgentry@wyhce.com

Enclosures

c: Lane W. Davis, Esquire
Candy M. Kern-Fuller, Esquire
Justin Werner, Esquire

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SC Court of Appeals

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