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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

L. Casey Manning, Circuit Court Judge

Appellate Case No. 2017-001638

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DEC 18 2017

SC Court of Appeals

South Carolina Public Interest Foundation and
Edward S. Sloan, Jr., individually, and on behalf of
all others similarly situated, Appellants,

v.

The South Carolina House of Representatives, The South Carolina Senate,
The Honorable James H. "Jay" Lucas, as Speaker of the South Carolina
House of Representatives, The Honorable Hugh K. Leatherman,
in his capacity as President Pro Tempore of the South Carolina Senate,
and, The State of South Carolina, Respondents.

INITIAL RESPONDENTS' BRIEF OF RESPONDENTS THE SOUTH CAROLINA HOUSE
OF REPRESENTATIVES AND THE HONORABLE JAMES H. "JAY" LUCAS, AS
SPEAKER OF THE HOUSE OF REPRESENTATIVES

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HOUSE OF REPRESENTATIVES AND THE HONORABLE
JAMES H. "JAY" LUCAS, AS SPEAKER OF THE SOUTH
CAROLINA HOUSE OF REPRESENTATIVES

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STATEMENT OF ISSUES

1. THE CIRCUIT COURT DID NOT ERR IN FINDING APPELLANTS FAILED TO STATE A CLAIM UNDER ARTICLE III § 17 OF THE SOUTH CAROLINA CONSTITUTION.
2. THE CIRCUIT COURT DID NOT ERR IN FINDING APPELLANTS LACK STANDING TO MAINTAIN A CLAIM UNDER ARTICLE III § 17 OF THE SOUTH CAROLINA CONSTITUTION.

STATEMENT OF THE CASE

Appellants filed this suit for declaratory judgment alleging Act 275 of 2016 “relates to more than one subject, and thereby violates S.C. Constitution Article III § 17.” (Complnt, p. 3, ¶ 14, R. ____). Appellants initially petitioned for original jurisdiction in this Court, but the petition was denied by this Court on February 13, 2017. (Order, R. pp. ____).

On January 27, 2017, which was prior to the denial of the petition for original jurisdiction Appellants filed the action in circuit court. (Complnt., R. ____). Appellants served the Summons and Complaint on each Respondent after the order denying original jurisdiction in this Court was issued. (Complnt., R. ____).

The South Carolina House of Representatives and the Honorable James H. “Jay” Lucas, as Speaker of the South Carolina House of Representatives, filed a motion to dismiss on March 3, 2017. (Mot to Dismiss, R. ____). The South Carolina Senate and the Honorable Hugh Leatherman, as President *Pro Tempore* of the South Carolina Senate, filed their motion to dismiss on March 14, 2017. (Mot to Dismiss, R. pp. ____). The State of South Carolina, filed its motion to dismiss on or about March 17, 2017. (Mot to Dismiss, R. ____).

The circuit court granted the motions to dismiss on July 6, 2017. (Order Granting Motion to Dismiss, R. ____). The circuit court held that Appellants failed to properly plead any valid basis for the standing necessary to maintain the action, and Appellants failed to state a claim because

Act 275 does not violate the “One Subject Rule” of Article III, § 17. (Order, R. ____). Appellants did not file a Rule 59(e) motion.

Appellants appealed the circuit court order to the South Carolina Court of Appeals on or about July 25, 2017. (Notice of Appeal, R. ____). This matter was transferred from the Court of Appeals to the South Carolina Supreme Court on December 4, 2017. (Order, R. ____).

ARGUMENT

I. **The circuit court properly dismissed Appellants’ claim alleging Act 275 of 2016 violated the “One Subject Rule.”**

Plaintiffs filed this declaratory judgment action alleging Act 275 of 2016 is in violation of the “One Subject Rule” set forth in the South Carolina Constitution, Article III § 17. The entire text of Article III § 17 is as follows:

Every Act or resolution having the force of law shall relate to but one subject, and that shall be expressed in the title.

The circuit court properly granted Respondents’ respective motions to dismiss because (1) Appellants improperly relied on *South Carolina Public Interest Foundation v. Lucas*, 416 S.C. 269, 786 S.E.2d 124 (2016), (2) the allegations in Appellants’ Complaint demonstrated that Act 275 relates to one subject, and (3) Act 275 relates to but one subject.

A. **Appellants’ cannot state a claim under *South Carolina Public Interest Foundation v. Lucas*, 416 S.C. 269, 786 S.E.2d 124 (2016), because Act 275 is not a general appropriations act.**

Appellants’ entire “claim” against Respondents is set forth in five paragraphs of the Complaint. (Complaint, p. 3, paras. 10-14, R. ____). Appellants attempted to summarize Act 275 in Paragraphs 10-12. Paragraph 13 cited *South Carolina Public Interest Foundation v. Lucas*, 416 S.C. 269, 786 S.E.2d 124 (2016), as the legal lynchpin of Appellants’ entire claim.

Paragraph 13 of the Complaint states as follows:

The Supreme Court ruled that changing the Governor's appointment power over the Secretary of Transportation is not "reasonably and inherently related to the raising and spending of tax monies." *South Carolina Public Interest Foundation v. Lucas*, 416 S.C. 269, 277, 786 S.E.2d 124, 129 (2016).

Paragraph 14 of the Complaint stated a single legal conclusion that the Act "relates to more than one subject, and thereby violates S.C. Constitution Article III § 17" (Complaint, p. 3, R. ___).

The circuit court found that Appellants relied in error upon *Lucas* in the Complaint. (Order, p. 5, R. ___). The circuit court also noted that Appellants cannot state a cause of action by merely citing to legal opinion without alleging any facts to support how the opinion applies to the present case. (Order, p. 5, R. ___). More significantly, the circuit court found that *Lucas* is not applicable to this case because its holding was limited to constitutional challenges to general appropriations acts.¹ (Order, p. 5, R. ___). Act 275 was not the general appropriations act of 2016.

Lucas involved a one subject challenge to a proviso included in the general appropriations act for that year. 416 S.C. at 270, 786 S.E.2d at 125. The proviso affected the Governor's appointment power over the Secretary of Transportation. *Id.*, at 126. This Court held in *Lucas* that the subject proviso was in violation of the One Subject Rule because "the suspension of the appointment authority in Proviso 84.10 does not 'reasonably and inherently' relate to the raising or spending of tax money and is therefore not germane to the purpose of the appropriations act." *Id.* at 127-28 (emphasis added). Here, Act 275 is not the general appropriations act of 2016, and the circuit court properly found that *Lucas* did not apply.

¹ The *Lucas* Court relied on the "test" set forth in *S.C. Tax Comm'n v. York Elec. Coop.*, 275 S.C. 326, 270 S.E.2d 626 (1980) and *Hercules, Inc. v. S.C. Tax Comm'n*, 274 S.C. 137, 262 S.E.2d 45 (1980). That test was summarized in *Maner v. Maner*, 278 S.C. 377, 382, 296 S.E.2d 533, 536 (1982) as follows: "The test applied in *York* and *Hercules*, both of which involved appropriations acts, was whether the challenged legislation was reasonably and inherently related to the raising and expenditure of tax monies." *Id.* (emphasis added).

Due to their improper reliance on *Lucas*, Appellants mistakenly alleged in their Complaint that the Act violates the One Subject Rule of Article III § 17 because some portion of the Act does not “reasonably and inherently relate to the raising and spending of tax monies.” (*See* Complaint, p. 3, para. 13, R. ___). This misunderstanding of the *Lucas* case and its holding is fatal to Appellants’ pleading. Appellants’ allegations and the facts and the inferences reasonably deducible from them show that Appellants could not prevail on any theory of their case. Appellants’ Complaint was properly dismissed pursuant to Rule 12(b)(6).

On appeal, Appellants have all but abandoned their reliance on *Lucas*. Appellants devote two sentences to *Lucas* in their brief. (Applnt Brief, p. 6). Appellants argue on appeal for the first time that the holding of *Lucas* indicates that “structural changes [to Act 275] in Part I (restructuring) do not ‘relate to’ the same subject as Part II (the funding).” (Applnt Brief, p. 6). Because Appellants did not present this argument to the circuit court or obtain a ruling from the circuit court on this argument, it is not preserved for appeal. *I’On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 422, 526 S.E.2d 716, 724 (2000) (appellant must present his argument and obtain a ruling from the lower court in order to seek appellate review, because appellant cannot keep an “ace card up his sleeve” and present it to the appellate court “in hope that an appellate court will . . . give him another opportunity to prove his case.”).

Even if preserved for appellate review, Appellants’ attempt to stretch the holding in *Lucas* fails because, as set forth above, *Lucas* applies only to challenges to appropriations acts. This Court has succinctly explained that “[t]he *subject* of an appropriations bill is solely to make appropriations to meet the ordinary expenses of state government and to direct the manner in which the funds are to be expended.” *Ex parte Georgetown County Water & Sewer Dist.*, 284 S.C. 466, 469, 327 S.E.2d 654, 656 (1985) (*emphasis added*)(citations omitted). Therefore, “[t]he test to be applied to provisions

of an appropriations act is whether the challenged legislation reasonably and inherently relates to the raising and spending of tax monies.” *Id.* (citing *Hercules, Inc. v. S.C. Tax Cmm’n*, 274 S.C. 137, 262 S.E.2d 45 (1980)).

Act 275 is not an appropriations act. Therefore, it is not proper to analyze Act 275 under the *Lucas* test of whether all parts of Act 275 relate to the raising and spending of tax monies. As discussed more fully below, the subject of Act 275 is transportation and improving the state’s transportation infrastructure system.² All sections of Act 275 relate to that subject and, therefore, Act 275 does not violate the One Subject Rule of Article III, §17.

B. Plaintiffs’ conclusory statements about Act 275, even taken as true, demonstrate that the Act relates to “one subject.”

Appellants’ attempted to summarize Parts I, II and III of Act 275 in paragraphs 10-12 of their Complaint. (See Complaint, p. 3, R. ____). Appellants’ summaries state as follows:

10. Part I of Act 275 restructures the governance of the Department of Transportation and the State Transportation Infrastructure Bank
11. Part II of Act 275 addresses the funding of the **Department of Transportation** and provides for the issuance of \$2.2 billion of new bond funding for the DOT.
12. Part III makes other structural changes including transferring the Chief Internal Auditor of the **Department of Transportation**, all of his associated support staff, and all associated appropriations to the State Auditor’s Office.

(emphasis added). Appellants hoped to demonstrate that the three parts of Act 275 relate to different subjects.

The circuit court was not persuaded. In fact, the circuit court found that it was clear from Appellants’ Complaint that each section of Act 275 is related to only one subject. (Order, p. 6, R.

² Act 275 states in Section 89 that the subject of the Act is “improving the state’s transportation infrastructure system.”

___). Moreover, the circuit court found that Appellants' Complaint demonstrates that Appellants could not prevail on any theory of their case. (Order p. 6, R. ___).

On appeal Appellants now attempt to set forth a list of "at least nine different subjects" to which Act 275 relates. (Applnt Brief, pp. 4-5). Appellants' new effort to summarize Act 275 fails for the same reason as the summaries set forth in the Complaint. Article III, § 17 does not preclude the legislature from dealing with several branches of one general subject in a single act. *See, e.g., Keyserling v. Beasley*, 322 S.C 83, 470 S.E.2d 100 (1996). It is complied with if the title of an act expresses a general subject and the body provides the means to facilitate accomplishment of the general purpose. *See, e.g., Id.*

Here, Appellants' Complaint and Initial Brief demonstrate that each part of the Act relates to the Department of Transportation and one general subject: improving the state's transportation infrastructure system. Because the Act is not the general appropriations act of 2016, it is not necessary that each section of the Act relate to the raising and spending of tax money as asserted by Appellants. The lower court properly found that the express subject of the Act is the improvement of the state's transportation infrastructure system.

Pursuant to long-standing and established law in South Carolina, Article III, § 17 is to be liberally construed so as to uphold an Act if practicable. *See, e.g., McCollum v. Snipes*, 213 S.C. 254, 49 S.E.2d 12 (1948). Doubtful or close cases are to be resolved in favor of upholding an Act's validity. *See, e.g., Alley v. Daniel*, 153 S.C. 217, 150 S.E. 691 (1929). Appellants' own allegations and the facts and the inferences reasonably deducible from them show that Appellants cannot prevail on any theory of their case. Therefore, Appellants' Complaint was properly dismissed by the circuit court and should be affirmed.

C. No justiciable controversy exists because Act 275 relates to only one subject.

There is no justiciable controversy presented by Appellants' Complaint. Appellants argue that Act 275 relates to more than one subject. Appellants are simply wrong. Act 275 relates to only one "subject" and, therefore, does not violate Article III, § 17.

This Court discussed the application of the One Subject Rule in *De Loach v. Scheper*, 188 S.C. 21, 198 S.E. 409 (1938): "[T]here is a marked distinction between the object of a law and the subject of a law. Very few enactments have but one object or purpose in mind." *Id.* 188 S.C. at 28, 198 S.E. at 412. As set forth above, Article III, § 17 does not preclude the legislature from dealing with several branches of one general subject in a single act. *See, e.g., Keyserling v. Beasley*, 322 S.C. 83, 470 S.E.2d 100 (1996). An Act complies with Article III, § 17 if the topics in the body of the Act are "kindred in nature" and have a "legitimate and natural association with the subject of the title." *Hercules, Inc. v. S.C. Tax Cmm'n*, 274 S.C. 137, 141, 262 S.E.2d 45, 48 (1980).

If Appellants' argument were correct, the effect would be to require the General Assembly to pass each part of Act 275 (all of which relate to transportation) as separate legislation in a piecemeal manner. That would be nonsensical and is contrary to the requirements of Article III, § 17. This Court addressed the issue in *South Carolina Public Service Authority v. Citizens & Southern Nat'l Bank*, 300 S.C. 142, 162, 386 S.E.2d 775, 787 (1989), when it said: "It would be impractical and time-consuming to require the legislature to pass a separate act on every separate branch of a subject." Here, the General Assembly has properly addressed in Act 275 different topics all relating to the one subject of the state's transportation infrastructure system.

Moreover, Article III, § 17 is to be liberally construed so as to uphold an Act if practicable. *See, e.g., McCollum v. Snipes*, 213 S.C. 254, 49 S.E.2d 12 (1948). Doubtful or close cases are to be resolved in favor of upholding an Act's validity. *See, e.g., Alley v. Daniel*, 153 S.C. 217, 150 S.E. 691 (1929). The Supreme Court does "not sit as a superlegislature to second guess the wisdom or folly

of decisions of the General Assembly.” *Keyserling*, 322 S.C at 86, 470 S.E.2d at 101 (addressing a “One Subject” case). Here, the issue is not a close one. The circuit court correctly found that Act 275 does not violate Article III, § 17, and the circuit court should be affirmed.

Appellants also argue that the subject of Act 275 is not expressed in the title as required by Article III, § 17. Although this issue was not raised in the Complaint, Act 275 meets the requirements of Article III, § 17 regarding the title.

This Court has addressed this issue in two prior cases involving these Appellants:

The purpose of Article III, § 17 is (1) to apprise the members of the General Assembly of the contents of an act by reading the title, (2) prevent legislative log-rolling and (3) inform the people of the state of the matters with which the General Assembly concerns itself.

See Sloan v. Wilkins, 362 S.C. 430, 438, 608 S.E.2d 579, 583 (2005); *South Carolina Pub. Interest Found. v. Harrell*, 378 S.C. 441, 445 , 663 S.E.2d 52, 54 (2008). This same standard was set forth earlier in *Keyserling* as follows: “[t]he purpose of Article III, § 17 is to prevent the General Assembly from being misled into passing bills containing provisions not indicated in their titles.” 322 S.C at 86, 470 S.E.2d at 102. Article III, § 17 is “complied with if the title of an act expresses a general subject and the body provides the means to facilitate accomplishment of the general purpose.” *Harrell*, 378 S.C. at 445-46, 663 S.E.2d at 54. Article III, § 17 requires that “the topics in the body of the act [be] kindred in nature and hav[e] a legitimate and natural association with the subject of the title,” and “the title of an act must convey reasonable notice of the subject matter to the legislature and the public.” *Hercules, Inc. v. S.C. Tax Comm'n*, 274 S.C. 137, 141-42, 262 S.E.2d 45, 48 (1980).

The circuit court correctly held that “[t]he title to Act 275 clearly apprises the General Assembly of the contents of the Act and informs the people of South Carolina of the matter with which the General Assembly was concerning itself in passing Act 275.” The title is replete with

references to “Transportation” and matters directly relating to transportation, i.e., “highway fund,” “resurfacing program,” “road and bridge projects,” etc. The title to Act 275 also specifically apprises the General Assembly of the contents of the act and clearly informs the people of the state of the matters with which the General Assembly concerns itself by identifying in the title each and every statute that was to be affected or amended by Act 275. It is doubtful that the legislature could have more clearly satisfied these two requirements of Article III, § 17.

The title of Act 275 complies with the One Subject Rule, and each of the topics in the body of Act 275 are “kindred in nature” and “branches of the general subject” of Act 275: improving the state’s transportation infrastructure system. Therefore, the circuit court properly granted the motions to dismiss and should be affirmed.

D. The motions to dismiss were not “premature”

Appellants argue on appeal for the first time that Respondents’ motions were “premature.” Appellants’ three sentence argument on this issue asserts that the motions to dismiss should have been denied because “Respondents did not even file Answers to the Complaint.” (Applnt Brief, p. 20). Appellants’ argument is frivolous, and the lower court properly granted the motions to dismiss and should be affirmed.

1. It was proper for the lower court to dismiss this action on the motions to dismiss

Each Respondent timely filed a motion to dismiss. Respondents’ motions to dismiss were properly filed before they filed a pleading in the action. Rule 12(b), SCRCF (“A motion making any of these defenses shall be made before pleading if a further pleading is permitted.”). Therefore, Appellants’ argument that the motions to dismiss were “premature” is contrary to the Rules of Civil Procedure and is simply wrong.

2. Appellants failed to preserve this issue for appeal.

Appellants raised the procedural fact at the hearing that “none of the defendants have filed an answer even.” (Transcript, p. 42-3, R. ____). However, Appellants never argued that the motions to dismiss were “premature.” More importantly, the Order from the lower court did not address whether the motions were “premature,” and Appellants did not file a Rule 59(e) motion on that issue. Therefore, even if it had been properly raised at the hearing, the alleged issue that the motions were “premature” was not preserved for appeal. *See, e.g., Fraternal Order of Police v. South Carolina Dep’t of Revenue*, 332 S.C. 496, 501, 506 S.E.2d 495,497 (1998). Therefore, this issue is not properly before this Court and the circuit court should be affirmed.

II. The circuit court properly found that Appellants failed to plead a valid basis for standing to maintain this action

Standing is a fundamental requirement in instituting any action. *See Joytime Distribs. & Amusement Co. v. State*, 338 S.C. 634, 639, 528 S.E.2d 647, 649 (1999). Although standing was a threshold issue for Appellants to maintain this suit, these Respondents have argued the merits of the One Subject issue first to demonstrate that under any circumstance the circuit court should be affirmed. These Respondents understand, however, that Appellants’ lack of standing is a threshold issue that may be logically addressed first by this Court.

There are three ways in which a party can acquire standing: “(1) by statute; (2) through what is called ‘constitutional standing’; and (3) under the public importance exception to standing.” *Bodman v. State*, 403 S.C. 60, 66-67, 742 S.E.2d 363, 366 (2013). The circuit court found that Appellants lacked any of these three types of standing to maintain the suit. The circuit court’s decision was based in large part upon the recent opinions in *ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 669 S.E.2d 337 (2008) and *Bodman v. State*, 403 S.C. 60, 742 S.E.2d 363 (2013).

Appellants argue that they have “taxpayer” and “public importance” standing. Surprisingly, Appellants do not address or even mention the *ATC* or *Bodman* cases in their brief. As set forth below, the circuit court correctly ruled that Plaintiffs lacked standing under these two grounds.

A. Appellants lack “taxpayer” standing.

Appellants alleged that Appellant Sloan “possesses standing as a citizen, resident, taxpayer, and registered elector of the State of South Carolina” (Complaint, para. 7, R. ____). On appeal Appellants argue that “All Appellants have paid County and State taxes” and, therefore, possess “taxpayer” standing. These arguments are fatally flawed and do not establish Constitutional standing. This Court has recently foreclosed the ability to obtain constitutional standing via a plaintiff’s status as a taxpayer unless he has also suffered a particularized injury. *See, e.g. ATC South, Inc. v. Charleston Cnty.*, 380 S.C. 191, 198, 669 S.E.2d 337, 340-41 (2008)

ATC further relies on its status as a taxpayer to acquire standing. The injury to ATC, however, as a taxpayer is common to all property owners in Charleston County. This feature of commonality defeats the constitutional requirement of a concrete and particularized injury. As the United States Supreme Court observed, a taxpayer lacks standing when he “suffers in some indefinite way in common with people generally.” *Frothingham v. Mellon*, 262 U.S. 447, 488, 43 S. Ct. 597, 67 L. Ed. 1078 (1923). We reject ATC’s claim of taxpayer standing under constitutional standing principles.

Five years after the *ATC* decision, this Court stated “[i]n *ATC*, we unanimously closed the door to a litigant asserting standing simply by virtue of his status as a taxpayer.” *Bodman v. State*, 403 S.C. 60, 67, 742 S.E.2d 363, 366 (2013) (denying plaintiff’s “taxpayer” standing to challenge constitutionality of statute). The *Bodman* decision further stated “[w]e reaffirm this principle today and hold that Bodman’s status as a mere taxpayer is insufficient to confer standing upon him.” 403 S.C. at 67, 742 S.E.2d at 366. Thus, it is well-established that a plaintiff’s status as a taxpayer alone is insufficient to possess standing to maintain an action.

Here, Appellants have asserted no particularized injury and cannot assert any particularized injury. Therefore, the circuit court properly found Appellants lacked taxpayer standing, and the circuit court should be affirmed.

B. Appellants have failed to plead a valid basis for “public importance” standing in order to maintain this action.

Appellants alleged that they “possess standing based on the great public importance of the issues they raise.” *See* Complaint, para. 6. Appellants failed to plead, however, the elements necessary for the public importance exception to confer standing upon them.

Appellants commence their standing argument in their brief by citing a “laundry list” of cases in which they have been granted standing in the past. Appellants then assert that “[a]ccordingly Appellants should have been granted standing” in this case as well. In other words, Appellants seem to be arguing that because standing existed for Appellants in these previous cases, standing should automatically be conferred upon Appellants in the present case. Standing is not conferred, however, upon the Appellants simply based upon their reputation and litigiousness. Appellants must meet the same standards as all other potential plaintiffs attempting to maintain an action.

This Court recently analyzed and discussed the “public importance” exception and has recognized that the lynchpin for the exception is a need for “future guidance.” *Bodman*, 403 S.C. at 68, 742 S.E.2d at 366; *ATC*, 380 S.C. at 199, 669 S.E.2d at 341. *Bodman* further addressed the holding in *ATC* and public importance standing as follows:

We tempered the application of the public importance exception somewhat in *ATC*. In doing so, we reminded the bench and bar that “[w]hether an issue of public importance exists necessitates a cautious balancing of the competing interests presented.” *ATC*, 380 S.C. at 198, 669 S.E.2d at 341. To avoid an overzealous use of [the public interest] exception, we said that “[t]he key to the public importance analysis is whether a resolution is needed for future guidance. It is this concept of ‘future guidance’ that gives meaning

to an issue which transcends a purely private matter and rises to the level of public importance.”

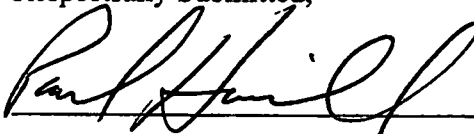
Bodman, 403 S.C. at 68, 742 S.E.2d at 367 (emphasis added)(final citation omitted).

Appellants’ cursory pleading failed to address or even mention that “resolution is needed for future guidance” of this matter. *See* Complaint, para. 6. As set forth in *ATC* and *Bodman*, that element is critical in seeking “public importance” standing. Therefore, Appellants did not properly plead the facts or elements necessary to assert standing under the public importance exception. Accordingly, the circuit court correctly found that Appellants lacked standing, and the circuit court should be affirmed.

CONCLUSION

Based on the foregoing, this Court should affirm the circuit court’s order dismissing Appellants’ Complaint.

Respectfully Submitted,



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in his capacity as President Pro Tempore of the South Carolina Senate,
and, The State of South Carolina, Respondents.

CERTIFICATE OF SERVICE


I, Ann Shuler, an employee of the McNair Law Firm, certify that I have served the *Initial Respondents' Brief of Respondents the South Carolina House of Representatives and the Honorable James H. "Jay" Lucas, as Speaker of the House of Representatives and the Designation of Matter to Be Included in the Record on Appeal* by depositing copies in the United States Mail, postage prepaid, on December 18, 2017, addressed to all attorneys of record, as follows:

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