

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

---

RECEIVED

MAR 15 2018

S.C. SUPREME COURT

APPEAL FROM RICHLAND COUNTY  
Alison Renee Lee, Circuit Court Judge

---

Appellate Case No. 2016-001932  
Lower Court Case No. 2011-CP-40-2096

---

South Carolina Insurance Reserve Fund, ..... Respondent,

v.

East Richland County Public Service District  
and Coley Brown, are ..... Defendants,

of Whom, East Richland County Public Service District, is ..... Petitioner,

and Coley Brown, is ..... Respondent.

---

**JOINT MOTION TO DISMISS APPEAL  
AND VACATE PRIOR OPINION OF  
SOUTH CAROLINA COURT OF APPEALS**

---

The Petitioner East Richland County Public Service District (“District”) and the Respondent South Carolina Insurance Reserve Fund (IRF”) hereby jointly move the South Carolina Supreme Court for a dismissal of this appeal and the writ of

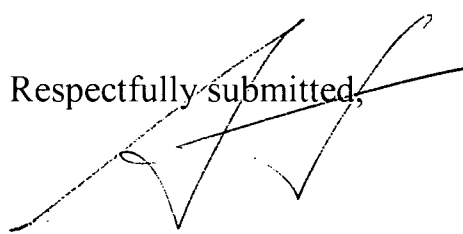
certiorari issued on August 25, 2018. The parties have reached a full and complete settlement of this litigation, but that settlement is conditioned pursuant to Rule 261(d), SCACR, upon this Court's vacation of the prior opinion issued by the South Carolina Court of Appeals in this case. *See, South Carolina Insurance Reserve Fund v. East Richland County Public Service District*, 417 S.C. 149, 789 S.E.2d 63 (Ct. App. 2016).

This is a declaratory judgment action brought by the Respondent IRF to determine whether it owes a duty to defend or a duty to indemnify to the Petitioner East Richland County Public Service District with respect to the underlying civil action captioned *Brown v. East Richland County Public Service District*, Civil Action Number 2010-CP-40-5616. The underlying civil action has been full settled between Brown and the District for a total of \$10,000. Therefore, only the insurance coverage dispute remains.

The IRF and the District have also now reached a settlement of the current declaratory judgment action. The terms of the settlement require the IRF to reimburse the District for the settlement amount paid to Coley Brown in settlement of Civil Action Number 2010-CP-40-5616 and also require the IRF to consent to the vacation of the Court of Appeals' opinion in this case. The IRF has accepted those terms and hereby consents to the vacation of the Court of Appeals' opinion. In exchange, the District has agreed to the dismissal of this appeal and specifically the writ of certiorari previously issued by this Court. Therefore, the settlement

between the parties, which will fully resolve this litigation and moot the issues on appeal, is contingent on this Court agreeing to vacate the Court of Appeals' opinion. The parties agree to the vacation of that opinion and specifically request that the Court grant that relief so that the parties' settlement may be consummated and this dispute ended as agreed to by the parties.

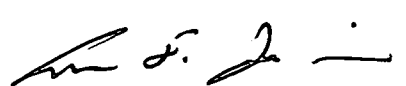
Respectfully submitted,



---

SCOTT ELLIOTT #1872  
Elliott & Elliott, P.A.  
1508 Lady Street  
Columbia, South Carolina 29201  
(803) 771-0555

*Counsel for Petitioner East Richland County  
Public Service District*



---

ANDREW F. LINDEMANN #13030  
Lindemann, Davis & Hughes, P.A.  
5 Calendar Court, Suite 202  
Post Office Box 6923  
Columbia, South Carolina 29202  
(803) 806-8222

*Counsel for Respondent South Carolina  
Insurance Reserve Fund*

March 9, 2018

---

CERTIFICATE OF SERVICE

---

RECEIVED

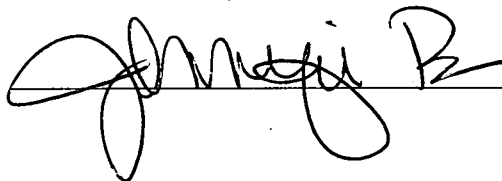
MAR 15 2018

S.C. SUPREME COURT

The undersigned employee of Lindemann, Davis & Hughes, P.A., counsel for the Respondent South Carolina Insurance Reserve Fund, does hereby certify that service of the **Joint Motion to Dismiss Appeal and Vacate Prior Opinion of South Carolina Court of Appeals** was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 15th day of March 2018:

Scott Elliott, Esquire  
Elliott & Elliott, P.A.  
1508 Lady Street  
Columbia, South Carolina 29201

Kenneth E. Berger, Esquire  
Law Office of Kenneth E. Berger, LLC  
5205 Forest Drive - Suite Two  
Columbia, South Carolina 29206



---