

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM BERKLEY COUNTY
Court of Common Pleas
R. Markley Dennis, Jr., Circuit Court Judge

Appellate Case No. 2017-000297
Court of Appeals Opinion No. 5454
Trial Court Case No. 2011-CP-08-2814

RECEIVED

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S.C. SUPREME COURT

Todd Olds, Petitioner,

v .

City of Goose Creek, Respondent.

Petitioner's Reply Brief

March 14, 2018

Thomas R. Goldstein, S.C. Bar #2186
Belk, Cobb, Infinger & Goldstein, P.A.
Attorneys for Appellant
P. O. Box 711121
N. Charleston, South Carolina 29415-1121
(843) 554-4291
(843) 554-5566 (fax)
E-mail: tgoldstein@cobblaw.net

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QUESTION PRESENTED

Did the Court of Appeals err in its interpretation of the term “gross income” as defined and used in the City of Goose Creek’s business license ordinance, §§ 110.001-022?

REPLY TO STATEMENT OF CASE

The respondent makes a material misstatement of fact on page 2 of its brief. There, it alleges that Petitioner did not pay fully the disputed taxes or receive a 2012 business license. In fact, the record shows Petitioner paid the 2012 taxes in full, including alleged penalties, and the City sent Petitioner his 2012 business license. The City's acknowledgement of the disputed amount due in 2012 is found in the record at page 540 (Vol. II) of the Appendix. There, the Court will find Petitioner's April 22, 2012, check, #11186, in the amount of \$3,500.84. On the same page are the City's two acknowledgements of payment, one for check #11186 and a second one for \$351.88. After Petitioner paid \$3,500.84 on April 22, 2012, the City contended additional penalties were due! The Petitioner paid these on May 2, 2012. (Appendix page 540) The first receipt is dated April 23, 2012, the day the City posted check #11186. The second receipt, also on page 540, is dated May 2, 2012, and represents the Petitioner's additional payment for the alleged penalties. The City's Tax reporting form is found twice in the record at pages 297 and 539. Both receipts state: "Business License Payment." For a convenient summary of the entire dispute, see pages 297 or 539, where Petitioner enters the tax calculations on the City's form, using the City's "Gross Receipts" formula in the left column (labeled "City") and the correct "Gross Income" formula (labeled "Olds") in the right column. Both the City's Finance Director and the City's Administrator signed off on the tax computation form, and Petitioner paid the amount of the City's calculation, "gross receipts," under protest. For the City to contend otherwise is a material misrepresentation of fact.

REPLY ARGUMENTS

Reply to Respondent's Introduction

On page 4, Respondent asserts a straw man argument by mischaracterizing Petitioner's argument. According to Respondent: "This Court should not look to federal law" to decide this case. First, no one can review this record and fail to comprehend that Petitioner's argument is that, by the City's own definition, the municipal ordinances of Goose Creek impose a business license tax on "gross income." Or, as Professor Gutting put it: ". . . it is unclear the reason 'gross receipts' is defined as the term 'gross receipts' is never again used in the Goose Creek Code. . . . Two things are important about this definition [of 'gross receipts']: (1) it does not link to any other section in Chapter 110 of the Goose Creek Code in regards to the business license fee or the definition of gross income and (2) assuming a link can be established, it is inapplicable as it pertains to Mr. Olds, as he is selling real property not personal property." Appendix page 358 (Vol. II). Goose Creek, as demonstrated in Petitioner's opening brief, carefully delineated the business license tax, and Goose Creek requires that the "gross income" reported to the City match the gross income reported to the I.R.S. and the Department of Revenue. The law requires that Goose Creek apply its ordinances as written, and Petitioner's legal argument on this point has not changed. Therefore, it is misleading to allege "Petitioner Olds takes the position federal income tax law should influence the definition," because Goose Creek drafted its ordinance to require its conformity with the I.R.S. regulations on gross income. Petitioner's expert witness, Professor Gutting, makes this point as clear as is humanly possible in her affidavit. Appendix, Vol. II, pages 353-359. Not only does Respondent attempt to mischaracterize

Petitioner's argument, but also the City of Goose Creek changes its legal position on appeal because throughout this case, the City of Goose Creek **agreed with Petitioner** that the City's definition of "gross income" harmonizes with the definition delineated in I.R.S. Code § 61. See pages 395-396 of the Appendix where the **City**, speaking through its brief to the City of Goose Creek says:

Furthermore, the City's definition of gross income is in accord with the Internal Revenue Code ("IRC"). IRC Section 61 defines gross income. IRC Section 61(a) states that '[e]xcept as otherwise provided in this subtitle, gross income means all income from whatever source derived,' which is consistent with the broad definition of 'total revenue' used by the City's ordinance. (emphasis added)
Appendix, Vol. 2, pages 395-396, City's August 30, 2011, Brief to City of Goose Creek

This quotation is taken from the City's brief to Goose Creek.

Finally, the Respondent errs both logically and historically when it asserts "Case law demonstrates over 100 years of business license fees and privilege license fees interchangeably using the terms "gross income," total receipts" and "total revenue of a business." (Respondent's brief at page 4) As a logical construct, it is a fallacious appeal to authority, like saying the 19th Amendment is invalid because we got along fine for hundreds of years without women having the right to vote. Aside from being logically invalid, the precedent of South Carolina case law invalidates the argument on historical legal grounds. One need look no further than the Court of Appeals' reliance on *Bogan v. Bogan*, 298 S.C. 139, 378 S.E.2d 608 (Ct. App. 1989), which has **nothing** to do with the statutory construction legal issue now before the Court. As discussed throughout the briefs, Dr. Bogan tried to convince a Family Court judge that it should exclude his contributions to his retirement and car allowance as income in calculating his financial obligations to his ex-wife.

Reply Argument I Two Wrongs Do Not Make A Right

The Respondent's Argument I is another appeal to weaker authority. The City argues this Court should look to the Municipal Association to instruct it how cities collect business license taxes, and, by the way, 25 other municipalities allegedly are overreaching their taxpayers too. What other municipalities do is of no consequence to the legal issue before the Court. The only question here is whether the City of Goose Creek properly interprets and properly applies the term "gross income" as defined and used in the City's business license ordinance. First, there is no evidence in this record that any other municipality defines and distinguishes "gross receipts" and "gross income" as defined and used in the City's business license ordinance and as applied to Petitioner who is taxed on the "gross income" from the sale of real property. There is no evidence in this record that Goose Creek treats any other taxpayer in Goose Creek in the manner it treats Todd Olds. Thus, the City's statement that it applies the same definition of "gross income" to everyone is pure self-serving speculation. If the City of Goose Creek treats other taxpayers in the manner it has treated this Petitioner, this fact is nothing more than a measure of Goose Creek's unlawfulness. It is hardly a defense, for example, to excuse excessive force by saying: "Well, we beat everybody." Second, and more importantly, even if Goose Creek could identify another taxpayer in any municipality who has been treated as Petitioner has been treated here, such an identification does nothing to shed light on the legal issue before the Court. No criminal may assert undetected crimes as justification to commit a new one. Logicians call this reasoning a *tu quoque* [you also] fallacy:

A person is guilty of the fallacy two wrongs make a right (also called the *tu quoque* fallacy) when he answers a charge of wrongdoing, not by showing that no wrong was

committed, but rather by claiming that others do the same thing. The erroneous rationale behind this fallacy is that if “they” do it, so can we.
Howard Kahane, *Logic and Philosophy* (Wadsworth Publishing, 1973), page 236

Most importantly, this Court directed the parties to brief the issue of whether Goose Creek is or is not collecting its business license tax **in accordance with its own ordinance**. Therefore, what another municipality **might** be doing is irrelevant. As set forth in Petitioner’s opening brief, Goose Creek does did not assess the Petitioner a tax on “gross income” as required by its ordinance. In reply, Respondent cites *Hosp. Assn of S.C. v. City of Charleston*, 320 S.C. 219, 227 S.E.2d 113 (1995) for reasons Petitioner does not comprehend. In that case, the Supreme Court held that municipalities and counties have the authority to enact a 2% hospitality tax on hotel rooms, *etc.* which furnish rooms or campsites or other overnight accommodations to persons for less than 30 days. As the Respondent correctly concedes, § 5-7-30, S. C. Code, ann. grants municipalities the right to impose a business’s license tax on “gross income.” (Respondent’s Brief at page 4)

Because the City is not conforming its tax collection to the plain and ordinary meaning of its ordinance (or of § 5-7-30), the City seeks to divert this Court’s attention away from what it is doing to what someone else **might** be doing. The City “doubles down” on its “two wrongs make a right” argument by alleging “over 25 municipalities which have language where “gross income” is based on “total income.” (Respondent’s brief at page 6) Again, the City refuses to acknowledge that under **its** ordinance, the gross income reported to the Town must match the gross income reported to the State Department of Revenue and the I.R.S., and as every accountant (and taxpayer) in America uniformly agree, the “gross income” on the sale of real property is the “gain” received from the sale: Sales Price – Basis = Gross Income. Since the

City of Goose Creek does not issue Treasury Regulations or provide Department of Revenue Tax Reporting Forms, or federal form 1040, Schedule C, *etc.*, any taxpayer seeking to conform to Goose Creek's ordinance requirements is going to make sure his or her return matches the "gross income" reported to the State and the federal government **as required by Goose Creek's ordinance**. As Goose Creek's ordinance warns taxpayers: the Town will check to make sure that the gross income figures reported to the City match the gross income figures reported to the State. The Petitioner understands that the gross income he reports to Goose Creek must match what he reports to the Department of Revenue and the I.R.S. because that is what Goose Creek's ordinance requires.

When reporting income, every taxpayer in America reports his or her income taxes on forms provided (and required) by the State and the I.R.S.. Taxpayers do not make the rules—they follow the rules the I.R.S. gives them. Thus, the "gross income" reported to the State and "gross income" reported to the I.R.S. is calculated by conforming to the instructions provided by the mandatory form and putting the true numbers in the form. By following the instructions, the application leads a taxpayer to the correct—and not "flexible"—calculation for "gross income" with no room for error. (See pages 565-570 for Tax Forms.) There is nothing "flexible" about this exercise, and the Court of Appeals erred in holding that "gross income" is a flexible term. Thus, by following instructions, the taxpayer computes the amount of "gross income" that the Goose Creek ordinance requires a taxpayer to report to the Town. If a taxpayer follows the instructions of the I.R.S. and of the Department of Revenue, then she will arrive at the correct result for "gross income," and this figure is the figure that Goose Creek requires be reported and requires to be a match.

The respondent's final argument is that a taxpayer should follow the model provided by the Municipal Association. In a search for the correct interpretation of Goose Creek's ordinance as applied to Petitioner, a fair-minded investigator is more likely to arrive at the correct answer by resorting to South Carolina law than by resorting to the opinions of a registered lobbyist. As of the date of filing of this brief, the State Election Commission lists eight registered lobbyists representing the Municipal Association and its clients. Nonetheless, if the City wishes to cite the Municipal Association as an alleged authority on the definition of "gross income," then this is what the Municipal Association says in its Municipal Handbook on gross income:

Gross Income

Basis for Tax

The general statutory basis for levying a business license tax requires it to be measured by gross income. SC Code Sections 4-9-30(12) and 5-7-30. The number of employees, capital invested, net income or losses and taxable income may not be used to calculate the business license tax. As noted in Part I (page 4), certain businesses are subject to state statutory provision requiring business license taxes be levied on population, gross premiums or with limitations as to what revenue is included in gross income and limitations on rates.

Gross Income Defined

Gross income may be defined by the license ordinance and generally means all revenue reviewed from the business operation without any deductions for such things as cost of goods, overhead, salaries or costs of sale. **It should conform to the gross figure reported on the business' federal income tax return. Section 61(a) of the Internal Revenue Code defines gross income as "all income from whatever source derived."** Although there are no allowable deductions from gross income for business license purposes, there are certain receipts customarily included on the income tax return in gross income and later deducted that are not business income. These receipts are considered exempt income for business license purposes because the funds are not retained by the business and do not constitute actual income.

Appendix, Vol. II at page 474 (emphasis added)

The best that can be said for the Municipal Association on this issue is that like Goose Creek, it picks out a sentence of I.R.S. Section 61 that it likes and pretends the rest does not exist, which is something like editing the *Declaration of Independence* to read: “In human events, it becomes necessary to dissolve the bonds which have connected them with nature’s God.” One thing is beyond dispute, and that is if a taxpayer has a question about how to file her returns, she will not turn to the Municipal Association, but instead she will consult a competent tax preparer, such as Professor Gutting, to make sure the gross income figures she reports to the municipality match the gross income figures reported to Goose Creek as required by its ordinance!

Reply Argument II
Business License taxes are required to be calculated uniformly.

The City’s entire argument is a sleight of hand. The City is compounding the Court of Appeals’ error when that Court relied on *Bogan v. Bogan*, 298 S.C. 139, 378 S.E.2d 606 (Ct. App. 1989) for the proposition that: “The term ‘gross income’ does not carry the same definite and inflexible meaning under all circumstances and where used.” This is not an erroneous statement of law in *Bogan* because the issue there was a physician trying to convince a Family Court judge to ignore his contributions to his retirement and car allowance when calculating the marital estate. However, the Court of Appeals statement is an erroneous statement of law in taxation law because *Bogan v. Bogan* dealt with an entirely different, *i.e.* **not taxation**, problem. Whether a divorcing spouse can get away with not including his retirement and automobile allowance in computing the value of the marital estate has nothing to do with the issue here, and it is surprising the Court of Appeals

conflated the two, which is something like applying the rules of football to baseball. Moreover, the Court of Appeals' statement refutes itself. One intuitively accepts the proposition that one dollar carries the same definite and inflexible meaning at Publix as it does at Krispy Kreme even though a dollar at Publix can yield something healthy but not at Krispy Kreme. Lawyers call that principle: "fungible." A dollar can be in pennies, nickels, dimes, quarters, half-dollars, coins or paper, but a dollar is equal to a dollar. Likewise, the rules governing the collection of income taxation are uniform and not chaotic. We do not live in a world of solipsistic taxation where "gross income" means one thing to the State Department of Revenue and something different to the Internal Revenue Service. (That was the scam Dr. Bogan tried to pull off and failed.) Because Goose Creek's ordinance requires that Olds' gross income reported to it match the gross income reported to the I.R.S., *et. al.*, Petitioner does not understand how this is even a dispute. Taxpayers are required to file taxes on forms provided by the Government, and following the rules of tax reporting, every taxpayer, given the same economic circumstances, will arrive at the same uniform gross income. It could not be any other way without embracing chaos.

By citing *Town of Hilton Head Island v. Kilgre, Inc.*, 408 S.C. 647 S.C. 647, 760 S.E.2d 103 92014) or *Eli Witt Co. v. City of W. Columbia*, 309 S.C. 555, 425 S.E.2d 16 (1992) or *Carter v. Linder*, 303 S.C. 119, 3999 S.E.2d 423 (1990), the City is either being obtuse, or trying to divert the Court from the legal issue this Court required the parties to brief, or both. For example, in *Carter*, the Supreme Court said: "On June 16, 1987, Richland County Council enacted Ordinance No. 162687 . . . which requires business within the incorporated areas of Richland County . . . to pay annual license fees based upon classification and **gross**

income.” That is exactly what Petitioner argues. All three cases involved constitutional challenges to the collection of business license taxes. The present case does not raise a constitutional challenge, so Petitioner does not understand why the City cites them. The issue before the Court is so simple: Goose Creek requires that a taxpayer report the same gross income to it as the gross income reported to the State and the federal government. At the risk of sounding obsessively repetitive, it cannot be any other way. First, § 5-7-30 requires it, and even if it did not, Goose Creek’s ordinance, by definition, requires it, informing the taxpayer that “The GROSS INCOME income for business license purposes may be verified by inspection of returns and reports filed with the Internal Revenue Service, the South Carolina Department of Revenue, the South Carolina Department of Insurance, or other governmental agency.” § 110.001 (This provision, by the way, is adopted *verbatim* from the Municipal Associations’ “model ordinance.”)

It gets worse. The City cites *United States Fidelity & Guaranty Co. v. City of Newberry*, 253 S.C. 197, 169 S.E.2d 599 (1969), which is a case involving the proper method of valuing insurance premiums. Petitioner does not sell insurance. In *Columbia v. Niagara Fire Ins. Co.*, 249 S.C. 388, 154 S.E.2d 674 (1967), the Court also took up the method of computing “gross income” for insurance premiums. None of these cases generate a solitary watt of illumination on the issue the Court directed the parties to brief, which is the City’s definition of gross income as it relates to the sale of real property. The Petitioner has already addressed the authority of § 61 of the *Internal Revenue Code*, the treasury regulations thereunder, the Goose Creek ordinance requirement that the gross income figures reported match, and Professor Gutting’s detailed, cogent, and authoritative affidavit explains it as

precisely as is humanly possible.

There is nothing “historical” about Goose Creek refusing to apply its ordinance as written to the Petitioner. The ordinance levies a tax on “gross income,” and the regulations governing the reporting of income tax lead every taxpayer to a specific and correct number, which, contrary to the Court of Appeals’ reasoning is the opposite of “flexible.”

Reply Argument III

The “federal tax code” is the only “analogue” for the definition of gross income because the South Carolina General Assembly adopted it, and the City of Goose Creek’s ordinance requires that the reporting be the same.

The City’s third argument refutes itself. On the one hand the City asserts “the federal income tax code is not a good comparison to find support for a municipal business license definition of ‘gross income.’” (Respondent’s brief at 12), On the other hand, the City fails to explain where the taxpayer will find a definition other than under § 61, I.R.C., especially because, as explained by Professor Gutting (Appendix page 355, Vol. II), the General Assembly adopted § 61: “Furthermore, certain IRC code sections were specifically not adopted in South Carolina, but IRC § 61 was not one of those provisions. See S. C. Code Ann. § 12-6-60.” The State of South Carolina specifically adopted Section 61 and the Treasury Regulations thereunder. Meanwhile, Goose Creek’s definition follows Section 61 and makes sure its taxpayers know that the figures they report to the Town must match the figures reported to the State and the Intercanal Revenue Service.

The City then makes perhaps its most frivolous argument to date, comparing the Petitioner to a manufacturer! Leaving aside the obvious flaw in the City’s reasoning that the

Code specifically addresses “dealings in property,” it is impossible to understand what part of “income” the City does not comprehend. The most frustrating part is that Internal Revenue Code § 61, which the Town and the Municipal Association cite as authoritative, does it for us: “Except as otherwise provided in this subtitle, gross income means all income from whatever source derived, including (but not limited to) the following items: . . . (3) Gains from dealings in property.” Throughout its brief, the City criticizes Petitioner for relying on this definition, but what definition does the City identify other than its unsupported, circular reasoning? The General Assembly specifically adopted the § 61 definition in § 12-6-60, S. C. Code of laws. See South Carolina Form 1040 Individual Income Tax Return, line 1, directing the taxpayer to enter on Line 1 “federal taxable income from your federal form.” See affidavit of Professor Gutting, page 355, Appendix Vol. II. Even the City concedes that § 61 controls. See City’s memorandum to the City at page 396 of Appendix, Vol. II: “Furthermore, the City’s definition of gross income is in accord with the Internal Revenue Code (“IRC”). IRC Section 61 defines gross income.” Even the Municipal Association concedes § 61 controls. See quotation from Handbook quoted above at page 11. Thus, the City’s assertion that “the federal tax code is not a good analogue for local business licenses” (Respondent’s brief at page 12) is unsupported by any authority from any source and represents a shift in the City’s legal position.

Reply Argument IV

State law requires that Goose Creek adhere to the powers granted to it, and the rules of statutory construction require that Goose Creek’s ordinance be applied straightforwardly.

The City’s argument here is a corruption of *inclusio unius (est) exclusio alterius*. The

City argues that because Goose Creek's ordinance uses and defines the term "gross receipts" and uses and defines the term, "gross income," then it must have meant that "gross receipts" = "gross income." Professor Gutting addressed this specifically in her affidavit, explaining that the definition of "gross receipts" is mere surplusage, for, as she explained: "Interestingly, the term 'gross receipts' is defined in Chapter 110 of the Goose Creek Code. See Goose Creek Code § 110.001. Two things are important about this definition: (1) it does not link to any other section in Chapter 110 of the Goose Creek Code in regard to the business license fee or the definition of gross income, and (2) assuming a link can be established, it is inapplicable as it pertains to Mr. Olds, as he is selling real property not personal property." (Appendix, Vol. II, page 358)

Professor Gutting's first point relates to the rules governing statutory construction. Her second point relates to the undisputed point that the computation of "gross income" on the sale of real estate is universally determined by subtracting the cost basis of the property from the sales price to derive the "gain," or "gross income." As discussed throughout the briefs to the Court of Appeals and to this Court, the General Assembly authorized Goose Creek to collect a business license tax on "gross income." The Court of Appeals got around this limitation by concluding that gross income is a flexible term and means different things in different contexts, such as in *Bogan*. What the Court of Appeals overlooked, and what the City refuses to acknowledge, is that the term, "gross income," is a precise definition in the area of income tax, and it does not matter if the income tax is being imposed at the federal, state, or local level—as Goose Creek's ordinance requires, the figures must match. To argue to this Court that the figures need not match is to argue for an absurdity. Since the ordinance

instructs taxpayers that the City intends to compare the figures reported to the municipality with the figures reported to the State and to the I.R.S., the municipality's intention could not be clearer.

The City's final argument is that the City can inspect "any of these [governmental] sources to verify gross income." (Respondent's brief at page 16) This assertion offers no support for the City's position, but it does make Petitioner's argument for him. Since this record shows the extraordinary lengths the City of Goose Creek undertook to examine Petitioner's conduct, this Court requires no imagination to foresee the outcome when the City discovers Petitioner's "gross income" figures reported to the City do not match the "gross income" figures reported to the State or to the I.R.S. While there was at least one taxpayer who savored the prospect of going toe-to-toe with the I.R.S. or the Department of Revenue for sport, most taxpayers prefer their returns be filed correctly and without further controversy. (One of South Carolina's most beloved lawyers, professor, and judge, Tommy Kemmerlin, took great joy in carefully preparing his returns to provoke audits, even deducting 100% of cat food and 50% of dog food on his return. When those deductions drew the predicted inquiry from the I.R.S., Professor Kemmerlin patiently explained that because he was a farmer; he required the cats to keep the mice out of the hay and the dogs to protect the livestock. He followed up this explanation by informing the humorless I.R.S. agent that he deducted only one-half of the dog food because: "I will pet a dog.")

CONCLUSION

Thus, as set forth in the appellant's briefs to the Court of Appeals, appellant's petition for rehearing to the Court of Appeals, petition for certiorari, and Petitioner's opening brief, both the lower court and the Court of Appeals failed to consider the appellant's evidence in the light most favorable to him as the party resisting summary judgment and failed to apply the mandatory rules of statutory construction to an ordinance that requires the Petitioner to pay a tax on his "gross income." The lower court never applied the "plain and ordinary" meaning to the words used by Goose Creek, let alone considered how Goose Creek's interpretation transcends the statutory limitation on a municipality's ability to tax Petitioner's income under § 5-7-30, S. C. Code, ann. The Court of Appeals did not apply the proper rules of statutory construction that require it to apply the words in the statute in their plain and ordinary meaning. In affirming the lower court, the Court of Appeals overlooked the numerous instances in which the City of Goose Creek links its definition of "gross income" to the universally accepted definition as must be reported in State and Federal tax returns as required by State and federal law. As the Supreme Court said in *Beard v. S. C. Tax Commission*, 230 S.C. 357, 95 S.E.2d 628 (1956): "Equally well settled is the rule that the word 'income' as used in a tax statute is to be taken in its ordinary sense of gain or profit." In searching the record for the existence of a genuine issue of material fact, the Court is required to read the words of the tax statute in their "plain and ordinary meaning." As set forth in its brief, the City's entire argument is its refusal to interpret the words in its ordinance in their plain and ordinary reason. For reasons that the City never explains, it contends that income derived from "dealings in property" is derived the same way as from the sale of

personal property. The City is not permitted to re-write the definitions to expand the City's powers beyond the clear import of the words used in its own ordinance or as allowed by the enabling statute, and any doubt must be resolved in the Petitioner's favor. The lower court did the opposite, and the Court of Appeals winked at the City's treatment of Petitioner. This Court has already spoken clearly about its view of municipalities torturing words to collect or misuse taxes they are not otherwise entitled to collect. *Azar v. City of Columbia*, 414 S.C. 307, 778 S.E.2d 315 (2015) The lower court substituted its interpretation of the applicable state statutes instead of adhering to the clear and unambiguous meaning of Goose Creek's ordinance. Based on the foregoing, this Court should reverse the Court of Appeals and require the City of Goose Creek to refund the Petitioner's overpayments and remand the rest of the case back to the Court of Common Pleas for a trial on the merits, including Petitioner's claim for attorney's fees for the City's wrongful collection practices.

Respectfully submitted,



March 13, 2018

Thomas R. Goldstein, #2186.
Belk, Cobb, Infinger & Goldstein, P.A.
Attorneys for Respondent
P. O. Box 711121
N. Charleston, South Carolina 29415-1121
(843) 554-4291; (843) 554-5566 (fax)
E-mail: tgoldstein@cobblaw.net

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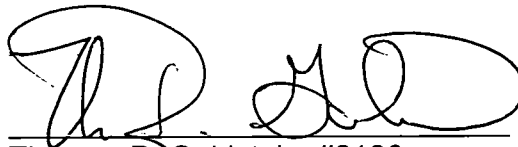
vs.

City of Goose Creek Respondent,

PROOF OF SERVICE

I certify that I have served the Petitioner's Brief on the Respondent, City of Goose Creek, by depositing a copy of it in the United States Mail, postage prepaid, on March 15, 2018, addressed to its attorney of record, Timothy A. Domin, 126 Seven Farms Drive, Suite 200, Daniel Island, S. C. 29492.

March 15, 2018



Thomas R. Goldstein, #2186
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
N. Charleston, S. C. 29415-1121
(843) 554-4291; (843) 554-5566 fax
tgoldstein@cobblaw.net
Attorneys for the Petitioner