



WHEN IT'S WORTH FIGHTING FOR

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December 10, 2019

The Honorable Jenny Abbott Kitchings
Clerk of SC Court of Appeals
PO Box 11629
Columbia, SC 29211

RECEIVED
DEC 13 2019
SC Court of Appeals

Re: *South Carolina Public Interest Foundation et al. vs. Richland County, et al.*
Appellate Case Number 2018-000794

Dear Ms. Kitchings:

Appellants write pursuant to SCACR 208(b)(7) to advise the Court of authorities that have come to their attention since the filing of the briefs:

In *Pope v. Wilson*, 427 S.C. 377, 831 S.E.2d 442 (Ct. App. 2019), this Court addressed a citizen's FOIA requests to a Public Body when the citizen had other litigation against that same public body:

[W]hen a citizen in litigation with a governmental agency directs a FOIA request to that agency, the agency must show the applicability of a specific FOIA exemption to each requested public record. If the government invokes the exemption in section 30-4-40(a)(4), "[m]atters *specifically* exempted from disclosure by statute or law," to seek protection under discovery rules, it must point to the specific language of a discovery rule that expressly prohibits disclosure of a particular type of record rather than vaguely referencing "discovery rules" or the "South Carolina Rules of Civil Procedure."

Id., 427 S.C. 377, 388-89, 831 S.E.2d 442, 448 (Ct. App. 2019) (footnotes omitted).

This Court also ruled:

"This is *not* to suggest that respondent's rights are in any way *diminished* by its being a private litigant, but neither are they enhanced by respondent's particular, litigation-generated need for these materials." [*NLRB v. Robbins Tire and Rubber Co.*, 437 U.S. 214, 242, 98 S.Ct. 2311, 57 L.Ed.2d 159 (1978)] n. 23 (emphases added).

Id., 427 S.C. 377, 387, 831 S.E.2d 442, 447 (Ct. App. 2019).

This Court concluded:

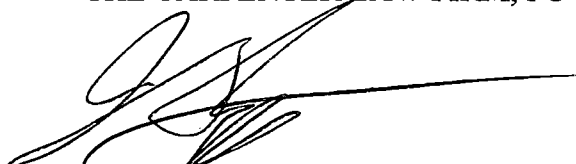
In sum, we decline to depart from precedent by imposing a blanket prohibition on disclosure whenever the person seeking public records is simultaneously being sued by the public body in possession of those records.

Id., 427 S.C. 377, 389, 831 S.E.2d 442, 448 (Ct. App. 2019).

This supplemental authority relates to Appellants' Brief, pp. 14-17 and Appellants' Reply Brief, pp. 15-16, addressing Appellants' FOIA requests to Respondent.

If you need anything else, please telephone me. Thank you very much.

Sincerely yours,
THE CARPENTER LAW FIRM, PC



James G. Carpenter

CC: Andrew Lindemann
Rob Tyson



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