THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM OCONEE COUNTY
Court of Common Pleas

R. Lawton McIntosh, Circuit Court Judge

Case No. 2019-001648

David T. Stokes Appellant,

v.

Oconee County, Wayne McCall, and Edda Cammick Respondents.

FINAL BRIEF OF RESPONDENT WAYNE MCCALL

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STATEMENT OF THE CASE

I. Procedural History

Appellant filed this action on May 31, 2017, asserting a claim of slander *per se* against Respondents Wayne McCall, Edda Cammick, and Oconee County and a claim for wrongful termination against Oconee County. (R. pp. 34-36.) In their Answers, Respondents denied the allegations, and McCall and Cammick asserted counterclaims against Appellant for abuse of process and violation of the Frivolous Proceedings Act. (R. pp. 37-57.) On August 9, 2017, Appellant filed a motion to dismiss the violation of the Frivolous Proceedings Act counterclaim. (R. pp. 70-72.) On September 27, 2017, the trial court held a hearing on the motion, and on October 3, 2017, the court issued an order granting that motion. (R. pp. 1-3.)

On December 4, 2018, Oconee County and Cammick moved for summary judgment as to Appellant's claims against them. (R. p. 90.) On February 28, 2019, McCall filed his motion for summary judgment. (R. p. 496-97.) On March 26, 2019, Cammick and McCall filed a motion for summary judgment as to their counterclaims. (R. pp. 583-85.) On May 28, 2019, a hearing was held on all pending motions. (R. p. 16.)

After the hearings and two years after filing suit, on June 4, 2019, Appellant belatedly filed a motion to amend his Complaint. (R. pp. 717-18.) On June 14, 2019, the court issued an Order granting Respondents' motions for summary judgment as to the slander *per se* claim, denying as premature Oconee County's motion for summary judgment as to the wrongful termination claim,

and denying Cammick's and McCall's motion for summary judgment as to their counterclaim for abuse of process. (R. pp. 4-6.) On August 1, 2019, the court again issued an order denying Cammick's and McCall's motion for summary judgment as to their counterclaim for abuse of process. (R. pp. 7-12.)

On August 6, 2019, the court held a hearing on Appellant's motion to amend, and on August 9, 2019, the court issued an Order denying the motion. (R. pp. 13-15.) On September 19, 2019, the court issued an Order granting Respondents' motions for summary judgment as to Appellant's claim for slander *per se* and denying as premature Oconee County's motion for summary judgment as to the wrongful termination claim. (R. pp. 16-25.) On September 24, 2019, the court also issued an Order denying Plaintiff's motion to amend. (R. pp. 26-29.) Accordingly, Appellant's claim for wrongful termination against Oconee County and the claim for abuse of process of Respondents Cammick and McCall are still pending. Appellant's notice of appeal followed on September 26, 2019. (Sept. 26, 2019 Notice of Appeal.)

II. Factual Background

Oconee County hired Appellant as Building Codes Division Manager in December of 2011. (R. pp. 538, 575.) Appellant oversaw the Building Codes Department. (R. p. 559.) As Building Codes Division Manager, Appellant was tasked with "ensur[ing] that proper code is followed in the design, construction, and maintenance of buildings and structures within Oconee County." (R. p. 32.) Plaintiff was terminated from his employment with Oconee County on May 1, 2017. (R. p. 537.)

At the time of the events at issue, Respondent Wayne McCall was an elected member of Oconee County Council who sat on several Committees of County Council, including the Budget, Finance, and Administration Committee. (R. p. 501.) McCall was self-employed, operating

McCall Welding & Machine Works. (R. p. 500.) Respondent Edda Cammick was also an Oconee County councilmember who was a member of the Budget, Finance, and Administration Committee. (R. p. 517.) She also worked as a biology instructor at Anderson University. (R. p. 517.)

A. Complaints Regarding the Building Codes Department

As Appellant admitted, there were numerous complaints about the Building Codes Department. (R. pp. 542, 543, 568.) Complaints included:

- Telephone calls from builders complaining that the Building Codes Department was "making the rules up." (R. pp. 504-05.)
- Complaints that Building Codes inspectors failed to timely appear for inspections. (R. p. 505.)
- A Complaint that the Building Codes Department failed to inspect a house after a complaint had been filed about the house. (R. pp. 521-22.)
- Complaints that the Building Codes Department took too long to issue building permits. (R. p. 527.)
- Complaints of inconsistent application of inspection rules. (R. p. 529.)
- Complaints regarding the Building Codes Department's requirement for a permit for carports. (R. pp. 505, 528.)
- "[C]omplaints [that a lady in Building Codes Department] was funneling people to [a certain vendor]." (R. pp. 505, 527, 528.)

Complaints about the Building Codes Department escalated. (R. pp. 550, 551.) As McCall recalled, "[A]t one point, apparently [the complaints] reached a boiling point and all these builders showed up at my shop. The parking lot was full . . . ." (R. p. 504.) McCall called Oconee County

Administrator Scott Moulder, who "came out and met with them in [McCall's] shop and [took] notes." (R. p. 504.) Appellant admitted that Moulder spoke to him about this encounter. (R. 551.)

On another occasion, a plumber came to McCall's shop to complain that the Department was "making the rules up" and that he was afraid to "buck" the Department for fear that he would "'never get another project done without harassment.'" (R. p. 505.) Again, a builder called McCall to complain that a Building Codes Department inspector refused to wait for a concrete delivery; the inspector rescheduled the inspection and then failed to appear at the rescheduled time. (R. 506.) Appellant also admitted that Cammick spoke to him about this complaint. (R. 552-53.)

B. Meeting of the Budget, Finance, and Administration Committee

On April 25, 2017, the Budget, Finance, and Administration Committee met. (R. pp. 550, 696, 703.) One purpose of the meeting was to "provide better customer service because government tends to react very slowly . . . ." (R. p. 526.) Accordingly, McCall mentioned the Building Codes Department and the many complaints that council members had received. (R. pp. 550, 696-98, 703-06.) Cammick testified, "Mr. McCall felt that . . . after years of . . . complaints and complaints," the County Council should "try and slow down some of those complaints coming in or try and do a better job." (R. p. 526.) It is uncontested that McCall stated:

> **McCall:** the other thing . . . one of the other things I wanted to bring up . . . is the Building Codes Department.
>
> All of us getting complaints. People come by the shop . . . .
>
> The last Easter Weekend . . . Lets make a specific instances.
>
> . . . . Get a call. Well we were set up to pour footing . . . foundation. And the building inspector shows up. And the concrete truck says he's going to be an hour late. Well, he said 'I ain't waiting. I'm leaving, you just reschedule for Monday.'
>
> Well these people call me up and I said 'Awww gosh' so I can't get a hold of, can't get a hold . . . so I call Katie and said 'Try to get a hold of David. Scott is

out of town.' She can't get a hold of him. Finally, she got a hold of Edda. And Edda investigated.

. . . Edda called. . . the head of the Building Codes and his excuse was, and Edda was right, it was a lame excuse. 'I had a flat tire'.

Even Mr. Moulder said 'my fourteen year old kid can change a tire'. He just didn't wanna drive that only vehicle. He said 'what was going on here'.

The Building Codes . . . now here's what I'm getting into.

. . . I've talked to plumbers, electricians, everybody . . . I said 'why don't you complain, why don't you go to the administrator. I don't handle personnel problems. It's not my job.' He said 'well if you complain . . . they will come after you. You'll never get another inspection again.'

I talked to a plumber today at lunch. He said 'noooo I'm not saying a word. Cause if you make em' mad, they will make life miserable for you.'

. . . . [Y]ou're on the phone with one them electrician . . . we don't even follow the National Electric Code.

It's like we make up the rules as we go and I asked Mr. Moulder for a cost-benefit analysis of Building Codes. And I'm going to get into this a little bit further.

Are they just here to embarrass the entire Council? Are they making up the rules, or is this a power play they are instituting. They forget, they work for the people of Oconee County. The people of Oconee County, the builders, don't work for them. They have to be available for the builder because they serve the building community.

The next thing . . . Carports and car sheds are temporary structures. They . . . they're not . . . you buy them, it's like buying a tent or whatever, it ain't permanent. After about 3 or 4 years you'll find out how not permanent they are 'cuz they fall apart.

Well they got a sweet deal going. They're recommending that you gotta go down to a certain other builder or seller of carports and sheds, and he's the only person that can stamp the drawings. I asked Mr. Moulder, I said 'well, why don't you go to the Board of Licenses in South Carolina, find out what this guy got a PEW. He's claiming to be structural engineer.' As of this meeting, no such number exists. Uh . . . I'm looking through some papers right now, but Building Codes is funneling people down to his office.

. . . .

> But this is . . . this is . . . its embarrassing for us that are elected because the people that elected us . . . and then these Building Codes is making up rules . . . not serving . . . they say 'well you gotta . . . you'll just have to reschedule'. Well, heck if the concrete truck is on the way, you can't stop time, tide, or the guy driving the concrete truck. You can't do it. You're going to pay for that concrete regardless. And there's no reason . . . it's not Scott's problem for being out of town. . . .

(R. pp. 504, 505, 506, 550, 696, 703-04.) Cammick concluded, "I think Mr. Moulder gets the general idea that . . . [the] Department needs some work." (R. pp. 550, 698, 706.) McCall testified that he believed that Cammick did not need to get a building permit but that the Building Codes Department had "sold" her one. (R. p. 506.) His testimony also reveals that he believed that the Building Codes Department was "making up the rules" and that it was recommending a certain vendor of metal carports. (R. pp. 505, 510.)

Although Appellant suggests otherwise, there is no evidence that McCall made any statements to the press. To the contrary, the evidence is that the press attends meetings and that meetings are posted to the County Council's website. (R. 593, 708-10.) Appellant admitted that he was not aware of any direct communication between McCall and the press but that the press received its information by being present at the meeting or watching the video of the meeting. (R. p. 564.)

C. Appellant's Termination

On May 1, 2017, Moulder terminated Appellant. (R. pp. 34, 537.) Moulder terminated Appellant pursuant to Oconee County Code of Ordinances § 6-81, which provides, "The codes department shall be headed by a building official who shall be appointed by and serve at the pleasure of the chief administrative officer." (R. p. 564.) Moulder also terminated him pursuant to Oconee County policy, which provided that Appellant's employment was "at will" and that he could be terminated "at any time with or without cause." (R. pp, 541, 555, 695, 700.) On May 16, 2018, Appellant appealed his termination to the Oconee County Grievance Committee. (R.

pp. 564, 701-02.) The Grievance Committee recommended that Oconee County either reinstate Appellant as Building Codes Division Manager or submit evidence to the Grievance Committee supporting Appellant's termination. (R. pp. 564, 701-02.) Moulder upheld Appellant's termination. (R. pp. 554, 699.)

ARGUMENT

I. The Trial Court Properly Granted McCall's Motions for Summary Judgment

A. There Is No Evidence of Slander

1. McCall Did Not Mention Appellant

Appellant ignores the fact that McCall *never* complained about Appellant. South Carolina law is clear: to prove slander, Appellant "must establish that the [Respondent's defamatory] statement referred to some *ascertainable person* and that [Appellant] was the person to whom the statement referred." Burns v. Gardner, 328 S.C. 608, 615, 493 S.E.2d 356, 359 (Ct. App. 1997) (citing Neeley v. Winn-Dixie Greenville, Inc., 255 S.C. 301, 308, 178 S.E.2d 662, 665 (1971)). Further, "where defamatory statements are made against an aggregate body of persons, an *individual member* not specially imputed or designated ***cannot*** maintain an action." Id. at 615, 493 S.E.2d at 360 (quoting Hosp. Care Corp. v. Commercial Cas. Ins. Co., 194 S.C. 370, 379, 9 S.E.2d 796, 800 (1940)).

At no point during the discussion at the Budget, Finance, and Administration Committee meeting did McCall mention Appellant by name, by title, or otherwise, nor was any derogatory statement made regarding Appellant. To the contrary, McCall referred to the Building Codes Department in the aggregate: "the Building Codes Department," "Building Codes," "They," "that Department." (R. pp. 550, 696-98, 703-06.) Indeed, there was no *reference* to any wrongdoing

by Appellant. Accordingly, the trial court properly held that Appellant cannot maintain an action for slander and its ruling should be affirmed.

2. Appellant Fails to Show Actual Malice

Appellant admits that he is a public official, but does not really address the trial court's appropriate finding that there is no evidence of actual malice. (Appellant's Initial Resp. Br. 3 n.2.) Appellant can only prevail if he proves that the allegedly defamatory statement was made with constitutional actual malice. Elder v. Gaffney Ledger, 341 S.C. 108, 113, 533 S.E.2d 899, 899 (2000). To show actual malice, a "public official [must] prove by clear and convincing evidence that the defamatory falsehood was made with the knowledge of its falsity or with reckless disregard for its truth." Id. (citing New York Times Co. v. Sullivan, 376 U.S. 254, 280 (1964); Botchie v. O'Dowd, 315 S.C. 126, 130, 432 S.E.2d 458, 461 (1993) (finding that defendant "may have been mistaken" in his statements to the plaintiff, but "there [was] simply no evidence that the statement was uttered with malice")).

In Elder v. Gaffney Ledger, Wayne Elder, Chief of Police for the town of Blacksburg, sued a local newspaper that he alleged printed a libelous article about him. Id. at 112-113, 533 S.E.2d at 899. The article was an opinion piece submitted anonymously for the "What's Your Beef?" column, where readers could express their opinions by leaving messages on the newspaper's answering machine. Id. at 113 n.2, 533 S.E.2d at 899. The article was entitled "Are the drug dealers paying?" and asked whether other readers believed that Elder was taking bribes from drug dealers. Id.

The editor of the newspaper chose to print the article and chose the title. Id. The editor testified that he believed that the article could be true because Elder knew drug dealers and had not stopped them from selling drugs. Id. at 118, 533 S.E.2d at 899. Elder submitted evidence that

the editor had ill will toward Elder because the editor had pled guilty to manufacturing marijuana several years earlier and had been rude to Elder's wife. Id. at 117, 533 S.E.2d at 899. Elder also showed that the editor failed to investigate the truth of the article before publishing. Id.

Even under those facts, the Supreme Court of South Carolina held that the plaintiff failed to show actual malice. Elder's evidence tending to show ill will was not part of the test to show actual malice. Id. As to the evidence that the editor failed to investigate, the Court stated, "Failure to investigate before publishing, even when a reasonably prudent person would have done so, is not sufficient to establish reckless disregard." Id. (citations omitted). Rather, Elder needed to prove that the editor "purposefully avoided the truth." Id. at 114, 533 S.E.2d at 899 (citations omitted). Not only did Elder fail to prove this, but also the evidence tended to show that the editor believed that the article "could be true." Id. at 118, 533 S.E.2d at 899. Accordingly, the Court held that the evidence was "patently insufficient to establish clear and convincing evidence of constitutional actual malice." Id. at 119, 533 S.E.2d at 899.

Here, there is no evidence of constitutional actual malice. Like in Elder, Appellant failed to show any evidence that McCall *knew* that any statement that he made about the Building Codes Department was false or that McCall "purposefully avoided the truth." Id. at 114, 533 S.E.2d at 899. Therefore, like Elder, Appellant has failed to prove actual malice.

Moreover, not only does Appellant fail to present evidence of actual malice, but like in Elder, the evidence shows that McCall believed that the complaints "could be true." Id. at 118, 533 S.E.2d at 899. Indeed, McCall's testimony reveals that he believed that Cammick did not need a permit and that the Building Codes Department had a "sweet deal going" by wrongfully sending customers to a vendor. (R. pp. 505, 510.) Moreover, Appellant does not dispute that numerous complaints were made to McCall about the Building Codes Department and that these

complaints directly support McCall's statements in the meeting. Accordingly, Appellant failed to present evidence to support his slander clam and the Court properly granted McCall's motions for summary judgment.

B. McCall Is Entitled to Legislative Immunity

Even if Appellant presented evidence supporting his claim that McCall slandered him and any evidence of actual malice, Appellant cannot prevail because McCall is entitled to absolute legislative immunity. The South Carolina Supreme Court held, "[A]n absolute privilege is recognized as to defamatory statements made by legislators in the course of their functions, if such statements are *connected with*, or *relevant* or material to, the matter under inquiry." Richardson v. McGill, 273 S.C. 142, 146, 255 S.E.2d 341, 343 (1979); see also South Carolina Pub. Interest Found. v. Courson, 420 S.C. 120, 125 801 S.E.2d 185, 187-88 (Ct. App. 2017) (finding that state senators were protected by legislative immunity and noting that public policy reinforces legislative immunity because the "public good is undermined by any restriction placed on a legislator's ability to exercise legislative discretion, including the fear of personal liability") (citations omitted).

Richardson v. McGill is instructive here. In that case, Plaintiff Richardson was Director of the Williamsburg County Recreation Department and sued McGill, a member of the Williamsburg County Legislative Delegation. Id. at 144, 255 S.E.2d 342. Richardson alleged that McGill made defamatory statements during "a joint meeting between the [Williamsburg County Legislative] Delegation and the [Williamsburg County Recreation] Commission," which directly supervised Richardson's department. Id. Specifically, McGill stated that "people [were] dissatisfied with [Richardson], that he [was] incompetent," and that he used inappropriate hiring tactics. Id. The trial court granted McGill's motion for summary judgment, and the South Carolina Supreme Court affirmed. Id. at 143, 148, 255 S.E.2d at 342, 344. The Court found that, "as a

member of the legislative delegation from Williamsburg County, [McGill] had an official interest in the proper operation of the county government and its agencies, including that of the Williamsburg County Recreation Commission." Id. at 146, 255 S.E.2d at 343. Accordingly, the Court held that McGill's statements were privileged. Id. at 147-48, 255 S.E.2d at 344.

Here, McCall's statements are likewise absolutely privileged. Just as McGill made his statements as a legislative member with "an official interest in the proper operation of the county government," McCall made the allegedly defamatory statement as a member of County Council who plainly had an official interest in the proper operation of Oconee County government. Id. at 146, 255 S.E.2d at 343. Moreover, like McGill when he voiced citizen concerns regarding Richardson's job performance, McCall voiced citizen concerns regarding the operation of the Building Codes Department. In addition, McCall voiced these concerns at a meeting of the Budget, Finance, and *Administration* Committee—the responsiveness and efficiency of a county department is undeniably "connected with, or relevant" to county administration. Id. In sum, the trial court properly found that McCall is entitled to immunity and that his statements are absolutely privileged. This finding should be affirmed.

C. McCall's Statements Are Protected by Qualified Privilege

McCall's statements are protected by qualified privilege. Qualified privilege protects "defamatory matter concerning another . . . if (1) the matter is published upon an occasion that makes it conditionally privileged, and (2) the privilege is not abused." Fountain v. First Reliance Bank, 398 S.C. 434, 444, 730 S.E.2d 305, 310 (2012) (citing Swinton Creek Nursery v. Edisto Farm Credit, ACA, 334 S.C. 469, 484, 514 S.E.2d 126, 134 (1999)).

> The essential elements of a conditionally privileged communication may accordingly be enumerated as good faith, an interest to be upheld, a statement limited in its scope to this purpose, a proper occasion, and publication in a proper manner and to proper parties only. The privilege arises from the necessity of full

> and unrestricted communication concerning a matter in which the parties have an interest or duty, and *is not restricted within any narrow limits*.

Manley v. Manley, 291 S.C. 325, 331, 353 S.E.2d 312, 315 (Ct. App. 1987) (quoting Conwell v. Spur Oil Co. of Western S.C., 240 S.C. 170, 178, 125 S.E.2d 270, 274-75 (1962); Duckworth v. First National Bank, 254 S.C. 563, 571, 176 S.E.2d 297, 301 (1970)) (emphasis added). "While abuse of privilege is ordinarily an issue for the jury, . . . **in the absence of a controversy as to the facts** . . . it is for the court to say in a given instance whether or not the privilege has been abused or exceeded." Fountain, 398 S.C. at 444, 730 S.E.2d at 310 (quoting Woodward v. S.C. Farm Bureau Ins. Co., 277 S.C. 29, 32-33, 282 S.E.2d 599, 601 (1981)) (emphasis in original).

Here, McCall's statements are protected by qualified privilege. He spoke in good faith relaying citizen complaints and did so pursuant to his duty as a member of the Oconee County Council. His statements were limited to the perceived problems with the Building Codes Department and were voiced at a forum where Council discussed government efficiency and administration. Moreover, he spoke properly as a representative voicing the concerns of his constituents to fellow councilmembers. In sum, McCall's statements were made in furtherance of his duties as councilmember and, therefore, are protected by qualified privilege.

D. There Is No Evidence that Appellant Acted in His Individual Capacity

Appellant cannot recover both from McCall in his individual capacity and from McCall in his official capacity. Specifically, the State of South Carolina and its agencies and political subdivisions waived immunity for tort liability except for certain listed exemptions. S.C. Code Ann. § 15-78-40. One of these exemptions provides that the State and its agencies are not liable for an employee's conduct that "is outside the scope of his official duties or which constitutes actual fraud, actual malice, intent to harm, or a crime involving moral turpitude." Id. at § 15-78-

60(17) (emphasis added). "'Scope of official duty' . . . means (1) acting in and about the official business of a governmental entity and (2) performing official duties." Id. at § 15-78-30(i).

It is undisputed that McCall acted in the scope of his official duties: he spoke about Oconee County administration issues at the Oconee County Budget, Finance, and Administration Committee as an Oconee County councilmember sitting on that committee. There is no evidence that McCall acted with "actual malice" or any intent to harm Appellant. To the contrary, faced with growing complaints about the Building Codes Department, McCall addressed an administrative issue. There is no evidence that he intended to harm Appellant; in fact, he never mentioned Appellant. McCall's statements were supported by the numerous complaints that he had received from his constituents. There is no evidence that McCall acted outside of this role as a member of Oconee County Council or acted in any individual capacity. Accordingly, the evidence shows that McCall was acting in his official capacity and is not liable in his individual capacity.

II. The Trial Court Properly Denied Appellant's Belated Motion to Amend the Complaint

The trial court properly denied the motion to amend because it was clearly futile. In Health Promotion Specialists, LLC v. South Carolina Board of Dentistry, 403 S.C. 623, 632-33, 743 S.E.2d 808, 813 (2013), the South Carolina Supreme Court upheld a court's denial of a plaintiff's motion to amend. In that case, the Court held that amending the Complaint would be futile because "extensive discovery had been conducted," "there were no significant factual developments" since the case commenced, and "even if the amendment had been permitted, it would not have affected the grant of summary judgment to the [defendant]." Id. at 632, 743 S.E.2d at 812-13. Accordingly, **"[t]he proposed amendment . . . was clearly futile because the defendant would have been entitled to judgment as a matter of law even with the amendment."** Skydive Myrtle Beach,

Inc. v. Horry Cty., 426 S.C. 175, 191, 826 S.E.2d 585, 593 n.8 (discussing the Court's finding of futility in Health Promotion Specialists).

In a similar case, the plaintiff sought to amend his complaint to assert a claim against an attorney for violation of the Stored Communications Act. Jennings v. Jennings, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010). To prove liability under this Act, the plaintiff had to show that the attorney "actually engaged" in accessing the email account; however, the attorney had been given printed emails. Jennings, 389 S.C. at 209, 697 S.E.2d at 681. The court denied the motion to amend, finding that amendment would be futile. Id. On appeal, this Court reasoned, **"[The attorney] would have been entitled to summary judgment if he had been added as a defendant."** Id. Accordingly, this Court affirmed the court's decision. Id.

Here, as in those cases, amending the Complaint to assert a claim against McCall in his individual capacity would be clearly futile. This case was pending for ***over two years*** before Appellant sought to amend his Complaint. As in Health Promotion Specialists, extensive discovery had been conducted: the parties exchanged written discovery requests and responses, sent subpoenas, and deposed all of the parties. Also as in Health Promotion Specialists, no new significant factual developments arose that would warrant a belated amendment.

Finally, and importantly, as the courts found in both Health Promotion Specialists and Jennings, an amendment would be clearly futile because *even in his individual capacity*, McCall is entitled to summary judgment: (1) McCall only discussed the Building Codes Department *in the aggregate*; (2) there is no evidence of actual malice; and (3) McCall's statements are protected by both qualified privilege and the absolute privilege of legislative immunity. Therefore, the trial court properly denied Appellant's motion to amend and this decision should be upheld.

CONCLUSION

Based upon the foregoing arguments and authorities, Respondent Wayne McCall respectfully submits that the trial court properly granted his Motions for Summary Judgment and properly denied Appellant's Motion to Amend the Complaint, and its decision should be affirmed.

Respectfully submitted,

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CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b) of the South Carolina Appellate Court Rules.

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