

RECEIVED

Aug 24 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Appellate Case Number: 2021-000053

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &
HUTCHESON, INC.....Respondents.

RECORD ON APPEAL

Jarrel L. Wigger, Esq.
Wigger Law Firm, Inc.
8086 Rivers Avenue, Ste A
North Charleston, SC29406
(843) 553-9800
Attorney for the Appellant

J.J. Anderson, Esq.
W. Coleman Lawrimore, Esq.
Anderson Reynolds & Stephens, LLC
P.O. Box 87
Charleston, SC 29402
(843) 723-0185
Attorneys for the Respondent South Carolina
Department of Transportation

INDEX

Affidavits

Affidavit of Allan Abbata dated September 18, 2020.....	50
Affidavit of Arnold Blanding dated October 20, 2019.....	36

Correspondence

Correspondence from Respondent's Counsel to Appellants' Counsel dated February 28, 2020.....	38
Respondent's Responses to HLA, Inc.'s Interrogatories and Requests for Production served July 21, 2020.....	39
Correspondence from Respondent's office to Appellants' office regarding Appellants' discovery requests to Respondent on September 11, 2020.....	49

Pleadings

Summons and Complaint filed September 21, 2017	1
Amended Summons and Complaint filed October 5, 2017.....	11
Second Amended Summons and Complaint filed October 28, 2018.....	21

Motions and Notices

Respondents' Motion for Summary Judgment filed July 27, 2020	45
Appellants' Response to Respondent's Motion for Summary Judgment dated September 21, 2020.....	51
Appellant's Rule 59(e) Motion for Reconsideration filed October 2, 2020	91
Appellants' Notice of Appeal filed February 3, 2021.....	142

Orders

Order Granting Respondent's Motion for Summary Judgment signed September 22, 2020.....	88
--	----

Order Denying Appellants’ Motion for Reconsideration filed December 18, 2020.....	139
---	-----

Transcripts

Transcript of Hearing on Respondent’s Motion for Summary Judgment on September 21, 2020.....	74
--	----

TABLE OF AUTHORITIES

Cases

<i>B & B Liquors, Inc. v. O’Neil</i> , 361 S.C. 267, 270 S.E.2d 629, 631 (Ct.App.2004)	
<i>Baughman v. American Tel. and Tel., Co.</i> , 306 S.C. 101, 410 S.E.2d 537 (S.C. 1990)	
<i>Baugus v. Wessinger</i> , 303 S.C. 412, 401 S.E.2d 169 (1991)	
<i>Cel Products LLC v. Rozelle</i> , 357 S.C. 125, 591 S.E.2d 643 (S.C. App. 2004)	
<i>Doe v. Batson</i> , 338 S.C. 291, 525 S.E.2d 909 (S.C. App. 1999)	
<i>Downey v. Dixon</i> , 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct.App. 1987)	
<i>Froneberger v. Kirkland Dale Smith, Janel Elizabeth Smith, Euro Mortg. Bankers, Inc.</i> , 406 S.C. 37, 748 S.E.2d 625 (S.C. App. 2013)	
<i>Hancock v. Mid–South Mgmt. Co., Inc.</i> , 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009)	
<i>Knox v. Greenville Hosp. Sys.</i> , 362 S.C. 566, 569-70, 608 S.E.2d 459, 461 (Ct.App. 2005)	
<i>Russell v. Wachovia Bank, N.A.</i> , 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003)	
<i>Scott v. Greenville Hous. Auth.</i> , 353 S.C. 639, 652, 579 S.E.2d 151, 158 (Ct.App.2003)	
<i>Smith v. Jones (In re Estate of Smith)</i> , 419 S.C. 111, 796 D.E.2d 158 (S.C. App. 2016)	
<i>Tupper v. Dorchester County</i> , 326 S.E. 318, 487 S.E.2d 187 (1997)	

Rules and Statutes

S.C.R.C.P. 56(c)	55
S.C. Code §5-31-450.....	52, 93

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

Plaintiff,

v.

THE STATE OF SOUTH CAROLINA,
CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION, AND JOHN DOE
(ENGINEERING FIRM/ENGINEER),

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10- 4820

SUMMONS

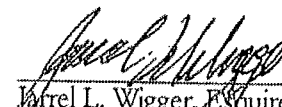
2017 SEP 21 PM 4:18
CLERK OF COURT

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and requested to answer the Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber at his office, 8086 Rivers Avenue, Suite A, North Charleston, South Carolina 29406, within thirty (30) days after service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Complaint

Respectfully submitted,

WIGGER LAW FIRM, INC.


Jarel L. Wigger, Esquire
South Carolina Bar No.: 011824
8086 Rivers Avenue, Suite A
North Charleston, SC 29406
(843) 553-9800 (telephone)
(843) 553-1648 (facsimile)
Attorney for Plaintiff

AND

North Charleston, South Carolina
This 21st day of September, 2017

I. Keith McCarty
McCarty Law Firm, LLC
1212 Wappoo Rd.
Charleston, SC 29407
(843) 793-1272
Attorney for Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Sarah Sharper,

Plaintiff,

vs.

The State of South Carolina, City of North
Charleston, County of Charleston,
Department of Health and
Environmental Control, South Carolina
Department of Transportation, and John
Doe (engineering firm/engineer),

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10- 4820

COMPLAINT
JURY TRIAL REQUESTED

2017 SEP 21 PM 4:18
CLERK OF COURT

The Plaintiff, by and through her undersigned attorney, complaining of negligent and/or reckless acts and/or omissions of the Defendants, jointly and severally, allege as follows:

PARTIES

1. The Plaintiff, Sarah Sharper, is now and was at all times herein set forth, a citizen and resident of Charleston County, South Carolina and owns the property located within the City of North Charleston, Charleston County, South Carolina in what is known as Pepperhill Subdivision.
2. The Defendant, Defendant, State of South Carolina, is now and was at all times herein set forth, a governmental entity and/or political subdivision amenable to action under the South Carolina Tort Claims Act, sect. 15-78-40, and the South Carolina Code of Laws.
3. The Defendant County of Charleston is now and was at all times herein set forth, a governmental entity and/or political subdivision, respectively of the State of South Carolina amenable to action under the South Carolina Tort Claims Act sect. 15-78-40, and the South Carolina Code of Laws.
4. The Defendant City of North Charleston is now and was at all times herein set forth, a governmental entity and/or political subdivision respectively of the State of South Carolina amenable to action under the South Carolina Tort Claims Act sect. 15-78-40 and the South Carolina Code of Laws.
5. The Defendant, South Carolina Department of Transportation (hereinafter referred to as "Defendant SCDOT") is now and was at all times herein set forth, a governmental entity and/or political subdivision, respectively of the State of South Carolina, amenable to action under the South Carolina Tort Claims Act and the South Carolina Code of Laws.

6. John Doe is, upon information and belief, an entity conducting business within Charleston County, South Carolina. At all relevant times, this entity provided civil engineering designs and consulting services associated with the development and construction of the stretch of road otherwise known as the "Palmetto Commerce Parkway".

7. This lawsuit arises out of the alleged acts, errors and omissions of the Defendants, jointly and severally, which are connected with the design and development of the Palmetto Commerce Parkway in North Charleston including civil and consulting engineering services---located in Charleston County South Carolina.

JURISDICTION

8. Based on the foregoing, this Court has jurisdiction over the parties and subject-matter jurisdiction over the causes of action pleaded herein. Venue is proper within Charleston County.

FACTS

9. The Pepperhill Subdivision was established in North Charleston, South Carolina in the 1980s.

10. At all relevant times, the Plaintiff own the property located at 7803 Peppercorn Lane, North Charleston, Charleston County, South Carolina, which she owns in the Pepperhill Subdivision, and have lived there continuously. The property consisted of a house, a lot, and various outbuildings.

11. At no time prior to the construction of the Palmetto Commerce Parkway did the Plaintiff or their neighbors suffer flooding to their property even during Hurricane Hugo which occurred in 1989.

12. Prior to construction of the Palmetto Commerce Parkway, significant wetlands existed which captured water during storm, or excess water situations and prevented water flowing onto developed land nearby.

13. In or about spring of 2016 the Defendants conceived and began construction of a four-lane highway which is now known as the Palmetto Commerce Parkway. The alleged purpose of the road was to alleviate traffic around the Boeing Plant and create attractive commercial space for business interests.

14. A significant part of the Parkway was designed to run through the above-mentioned wetlands behind the Pepperhill Subdivision where the Plaintiff's home is located.

15. At several public hearings with representatives of the Defendants in attendance, the Plaintiff and many of her neighbors in Pepperhill expressed concern over the flooding that would take place in their neighborhood should the Parkway be constructed and stated their objection to the parkway being constructed.

16. The Defendants ignored such objections despite having access to the pertinent information which showed the objections were justified.
17. As part of the Defendants' due diligence, they were required to perform studies regarding what the project would do with the water being absorbed by the wetlands, including but not limited to how it would impact neighboring properties, how it would impact wetlands, and how the project would have a water-neutral impact.
18. Defendants negligently constructed the Parkway by creating a berm through the wetland which acts as a dam and prevents water from flowing from one of the dissected area of wetlands to the other and effectively funnels water toward the Pepperhill Subdivision.
19. Defendants negligently constructed the Parkway by refusing to elevate the roadway or build appropriate culverts which would allow for free flow or drainage water throughout the dissected wetlands, which funnels water towards the Pepperhill Subdivision.
20. The Defendants repeatedly assured the Plaintiff that no such flooding would occur, and ignored the objections of the residents.
21. Defendants through their various departments and subcontractors commenced construction and eventually completed the Palmetto Commerce Parkway.
22. Coinciding with the construction of the parkway, the storm water drainage system of the Defendants Charleston County and City of North Charleston located directly behind the Property of the Plaintiff was allowed to fill with debris and were otherwise not designed, constructed or maintained by the Defendant County of Charleston or City of North Charleston, in a reasonable and adequate manner to facilitate adequate drainage thereby preventing flooding of the Plaintiff's property.
23. Residents of the Pepperhill Subdivision repeatedly contacted Defendants Charleston County and City of North Charleston and requested maintenance to the drainage running alongside the neighborhood so that it would properly drain, to no avail.
24. As a result of the Defendant's concerted actions, the Plaintiff's property continually floods during water events. The flooding is so severe that the Plaintiff is forced to vacate their homes for significant amounts of time, replace their personal belongings and make extensive and costly repairs to their structures.
25. The Defendants were notified by the Plaintiff pursuant to S.C. Code Ann. Sect. 5-31-450, requesting that the Defendants take corrective action to provide adequate and sufficient drainage to prevent flooding of their property and to restore the natural condition of the property which was destroyed by the actions of the Defendants. To date, the Defendants have failed to perform reasonable actions to repair the continued flooding and damage to the Plaintiff's property.

26. The Defendants knew or should have known that their actions in negligently constructing the Palmetto Commerce Parkway would cause the Plaintiff's property to flood. They were informed of this by the subdivision residents on numerous occasions prior to commencing construction on the road.
27. The Defendants knew or should have known that the Plaintiff's property would flood due to their negligence in designing, constructing and maintaining the drainage ditches behind the Pepperhill Subdivision.
28. In order to speed the project to completion, despite the harm to the Plaintiff, the Defendants also subverted the permitting process, failed to perform the requisite studies, and bypassed normal permitting procedures.
29. The County of Charleston and the City of North Charleston have assumed a duty and are under a responsibility under the law to design, maintain and construct adequate and reasonable storm drainage and flood control measures for the communities within their borders and particularly within the Pepperhill Subdivision.
30. As a result of the construction of the Palmetto Commerce Parkway and the insufficient drainage and flood control system for the community, the Plaintiff's home and real property have, within the past two years, sustained damage and the Plaintiff's right to the peaceful use and enjoyment of its property has been hampered. Flooding events have occurred numerous times during the period preceding the filing of this suit and despite knowledge of these occurrences; the Defendants have not performed reasonable repairs. The flooding is continuing in nature. Plaintiff avers that each flooding event is a separate occurrence and injury.
31. Plaintiff avers that the Defendants negligently breached their duty to the Plaintiff by constructing and maintaining the Palmetto Commerce Parkway in such a manner as to cause flooding of the Plaintiff's property.
32. Plaintiff avers that the Defendants chose to promote their own interests over the interests of their residents and their city based on anticipated revenues and neighboring businesses.
33. Plaintiff further avers that the Defendants negligently breached their duty to the Plaintiff by failing to construct and maintain adequate storm water drainage ditches in the rear portion of the Pepperhill Subdivision thereby causing continued flooding of the Plaintiff's property.

FOR A FIRST CAUSE OF ACTION
AS TO ALL DEFENDANTS
GROSSLY NEGLIGENT MISREPRESENTATION

34. The Plaintiff realleges and reiterates the preceding paragraphs as if fully set forth herein verbatim.
35. The Defendants jointly and severally, made false, careless, and grossly negligent statements of facts to Plaintiff as set forth above, which constitute gross misrepresentations.

36. Defendants jointly and severally, have a pecuniary interest in making the statements.
37. Defendants jointly and severally, owed a duty of care to see that they did not make such gross representations to the Plaintiff.
38. Defendants, jointly and severally, breached their above-described duties.
39. The gross representations aforesaid were false, material and made with knowledge of their falsity, or with reckless disregard for their truth or falsity; that they were made with the intent that the Plaintiff, who was ignorant of their falsity, would rely upon them to her detriment; and did in fact reasonably rely upon them to their detriment.
40. As a direct and proximate result of the foregoing grossly negligent misrepresentations, Plaintiff has suffered a pecuniary loss and is entitled to recover damages in such amount as to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENCE/GROSS NEGLIGENCE/RECKLESS INDIFFERENCE

41. The Plaintiff repeats and reiterates the foregoing allegations as though repeated herein verbatim.
42. It was reasonably foreseeable to the Defendants that the aforementioned overt, grossly negligent, and aggressive actions, inactions and conduct in designing, building, and maintaining the Palmetto Commerce Parkway in such a manner as to cause repeated destructive flooding to the Plaintiff's property and in grossly, negligently constructing and maintaining the storm-water drainage ditches at the rear of the Pepperhill Subdivision such that the flooding would be exacerbated. The Defendants therefore owed a duty to the Plaintiff to conduct herself in a manner that would not cause damage to the Plaintiff. The Defendants had actual and constructive knowledge notice of the damaging nature and/or defectiveness of their actions, inactions, and activities through their meeting(s) with the Plaintiff and the other residents of the Pepperhill Subdivision, and were required to do due diligence prior to building the Parkway, which they failed to do.
43. The Defendants were acting in a willful, wanton, reckless, negligent and grossly negligent manner in the following particulars to wit:
- a. In failing to design and maintain the Palmetto Commerce Parkway road system in such a way as to prevent flooding and damage to the Plaintiff's property.
 - b. In ignoring the warnings and complaints of the Plaintiff and other area residents that their actions would cause flooding to the Pepperhill Subdivision.
 - c. In failing to take corrective action or any other action when the flooding occurred on multiple occasions.

- d. In making false and misleading representations to the Plaintiff and other residents regarding the design and construction of the Parkway.
- e. In failing to properly construct and properly maintain the storm-water drainage ditches in and adjoining the Pepperhill Subdivision.
- f. In failing to respond to the complaints and pleas for help made by the Plaintiff and other residents of the Pepperhill Subdivision.
- g. In making false and misleading statements to the Plaintiff and other Pepperhill Subdivision residents regarding their duties and responsibilities and the maintenance of the storm-water ditches.
- h. In failing to take corrective action or any action in the wake of massive flooding events in the Pepperhill Subdivision.
- i. In failing to comply with local, state, and/or federal regulatory requirements concerning storm-water management.
- j. In placing or permitting the placement of materials, obstructions, debris and sediment in the storm-water ditches in such a manner as to allow back-up and flooding.
- k. In all other particulars revealed during the discovery process and trial.
- l. Creating a berm which effectively funneled water into the Pepperhill Subdivision.
- m. In failing to elevate the roadway.
- n. In choosing the interests of businesses over the interests of residents.

44. As a direct and proximate result of the actions of the Defendants, the Plaintiffs have suffered and will continue to suffer damages to their real and personal property.

FOR A THIRD CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENT CONSTRUCTION AND MAINTENANCE

45. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

46. The Defendants were negligent, grossly negligent, careless, reckless, willful, and wanton in the following particulars to wit:

- a. In failing to design and maintain the Palmetto Commerce Parkway road system in such a way as to prevent flooding and damage to the Plaintiff's property.
- b. In ignoring the warnings and complaints of the Plaintiff and other area homeowners that their actions would cause flooding to the Pepperhill Subdivision.
- c. In failing to take corrective action or any other action when the flooding occurred on multiple occasions.
- d. In making false and misleading representations to the Plaintiff and other residents regarding the design and construction of the Parkway.

- e. In failing to properly construct and properly maintain the storm-water drainage ditches at the rear of the Pepperhill Subdivision.
- f. In failing to respond to the complaints and pleas for help made by the Plaintiffs and other residents of the Pepperhill Subdivision.
- g. In making false and misleading statements to the Plaintiff and other Pepperhill residents regarding their duties and responsibilities regarding maintenance of the storm-water ditches.
- h. In failing to take corrective action or any action in the wake of massive flooding events in the Pepperhill Subdivision.
- i. In failing to comply with local, state, and/or federal regulatory requirements concerning storm-water management.
- j. In placing or permitting the placement of materials, obstructions, debris and sediment in the storm-water ditches in such a manner as to allow back-up and flooding.
- k. In all other particulars revealed during the discovery process and trial.

FOR A FOURTH CAUSE OF ACTION
AS TO ALL DEFENDANTS
NUISANCE/STRICT LIABILITY

47. The Plaintiff realleges and reiterates the preceding paragraphs as if fully set forth herein verbatim.

48. Defendants have substantially and unreasonably interfered with the Plaintiff's use and enjoyment of their property by causing it to be repeatedly flooded. Defendants' actions have destroyed the value of the Plaintiff's property, caused her to have to continually repair her home and replace water-damaged personal property. Further, Defendants actions have left the Plaintiff unable to sell her property due to its reputation of flooding and damage.

49. By the aforementioned actions, the Defendants have created conditions that cause material annoyance, inconvenience, and discomfort to the Plaintiff and her property. The Defendants have materially interfered and continue to interfere with the land and tenements of the Plaintiff with such interference having caused and continuing to cause damage to Plaintiff's property.

50. As a direct and proximate result of the Defendant's continuance nuisance, the Plaintiff has been deprived of the use and enjoyment of her land and the Defendants are strictly liable for the damages alleged herein.

FOR A FIFTH CAUSE OF ACTION
AS TO ALL DEFENDANTS
(S.C. Code Ann. 5-31-450)

51. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

52. Within the political boundaries of the Defendants, it is and has been necessary and/or desirable to carry off water from the areas surrounding Plaintiff's property rather than over private land. The Plaintiff as owner or having an interest in such private land have demanded that the Defendants provide sufficient drainage which is practicable and the Defendants have failed to do so and if such drainage is not practicable the Defendants have failed to institute proceedings to obtain the right of way to provide for the necessary drains.

53. As a direct and proximate result of Defendants acts and conduct, Plaintiff has suffered severe and emotional distress resulting in mental distress, fear, nervousness, and sleeplessness.

54. As a direct and sole consequence of the repeated flooding of their property, the Plaintiff has had to endure the loss of enjoyment of life that no reasonable person could be expected to endure.

55. The Plaintiff is informed and believes she is entitled to recover damages of the Defendants, both actual and punitive, as a result of their acts and conduct.

56. By reason of such conduct, the Plaintiffs have been damaged in such amount as the trier of fact may find.

FOR A SIXTH CAUSE OF ACTION
AS TO ALL DEFENDANTS
INVERSE CONDEMNATION/TAKING

57. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

57. Article I, Section 13(A) of the South Carolina Constitution provides the basis for recovery against government entities and public utilities via the theory of inverse condemnation when private property is taken or damaged for a public use without just compensation to the owner.

58. Defendants are in the business of servicing citizens of Charleston County, South Carolina

59. Defendants' conduct is tantamount to public use.

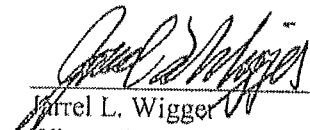
60. As a result of Defendants' failure to design and maintain the Palmetto Commerce Parkway road system in such a way to prevent flooding and damage to the Plaintiff's property, Defendants have intentionally, recklessly, willfully, and negligently, caused or contributed to the accumulation of water which enters onto and into the Plaintiff's real property. Consequently, Defendants' actions are the direct and proximate cause of the physical damage to Plaintiff's property that has rendered said property valueless and virtually unusable.

61. The acts and omissions of Defendants constitute a physical invasion of Plaintiff's real property for a public use, placing a burden on Plaintiffs that is direct, substantial, and peculiar to the property itself.

62. The exorbitant amount of interference that Defendants have caused to Plaintiff's property amounts to a taking of said property without lawful authority and without formal exercise of the power of eminent domain, resulting in inverse condemnation.

WHEREFORE, Plaintiff prays for judgment in their favor and against the Defendants, each of them, for all the causes of action in an amount which is fair, just and reasonable, in a sum to be determined by the trier of fact, actual damages, property damages, diminution in value of property, punitive damages, including prejudgment interest, costs, and attorney's fees as may be allowed by law, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,


Jarrel L. Wigger
Wigger Law Firm, Inc.
8086 Rivers Avenue, Ste A
North Charleston, SC 29406
(843) 553-9800
Counsel for Plaintiff

AND

I. Keith McCarty
McCarty Law Firm, LLC
1212 Wappoo Rd.
Charleston, SC 29407
(843) 793-1272
Co-Counsel for Plaintiff

North Charleston, South Carolina
This 21st day of September 2017.

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

Plaintiff,

v.

THE STATE OF SOUTH CAROLINA,
CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION, AND JOHN DOE
(ENGINEERING FIRM/ENGINEER),

Defendants.

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10-4820

AMENDED SUMMONS

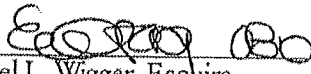
FILED
2017 OCT -5 PM 4:58
JULIE J. ARMSTRONG
CLERK OF COURT

TO THE ABOVE NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED and requested to answer the Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to said Complaint upon the subscriber at his office, 8086 Rivers Avenue, Suite A, North Charleston, South Carolina 29406, within thirty (30) days after service hereof, exclusive of the day of such service; and if you fail to answer the Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Complaint

Respectfully submitted,

WIGGER LAW FIRM, INC.


Jarrel L. Wigger, Esquire
South Carolina Bar No.: 011824
8086 Rivers Avenue, Suite A
North Charleston, SC 29406
(843) 553-9800 (telephone)
(843) 553-1648 (facsimile)
Attorney for Plaintiff

AND

North Charleston, South Carolina
This 4 day of October, 2017

I. Keith McCarty
McCarty Law Firm, LLC
1212 Wappoo Rd.
Charleston, SC 29407
(843) 793-1272
Attorney for Plaintiff

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
Sarah Sharper,)
Plaintiff,)
vs.)
The State of South Carolina, City of North)
Charleston, County of Charleston,)
Department of Health and)
Environmental Control, South Carolina)
Department of Transportation, and John)
Doe (engineering firm/engineer),)
Defendants.)

IN THE COURT OF COMMON PLEAS
NINTH JUDICIAL CIRCUIT

CASE NO.: 2017-CP-10-4820

AMENDED COMPLAINT
JURY TRIAL REQUESTED

FILED
2017 OCT -5 PM 4:58
JULIE L. HANSTRONG
CLERK OF COURT

The Plaintiff, by and through her undersigned attorney, complaining of negligent and/or reckless acts and/or omissions of the Defendants, jointly and severally, allege as follows:

PARTIES

1. The Plaintiff, Sarah Sharper, is now and was at all times herein set forth, a citizen and resident of Charleston County, South Carolina and owns the property located within the City of North Charleston, Charleston County, South Carolina in what is known as Pepperhill Subdivision.
2. The Defendant, State of South Carolina, is now and was at all times herein set forth, a governmental entity and/or political subdivision amenable to action under the South Carolina Tort Claims Act, sect. 15-78-40, and the South Carolina Code of Laws.
3. The Defendant County of Charleston is now and was at all times herein set forth, a governmental entity and/or political subdivision, respectively of the State of South Carolina amenable to action under the South Carolina Tort Claims Act sect. 15-78-40, and the South Carolina Code of Laws.
4. The Defendant City of North Charleston is now and was at all times herein set forth, a governmental entity and/or political subdivision respectively of the State of South Carolina amenable to action under the South Carolina Tort Claims Act sect. 15-78-40 and the South Carolina Code of Laws.
5. The Defendant, South Carolina Department of Transportation (hereinafter referred to as "Defendant SCDOT") is now and was at all times herein set forth, a governmental entity and/or political subdivision, respectively of the State of South Carolina, amenable to action under the South Carolina Tort Claims Act and the South Carolina Code of Laws.

6. John Doe is, upon information and belief, an entity conducting business within Charleston County, South Carolina. At all relevant times, this entity provided civil engineering designs and consulting services associated with the development and construction of the stretch of road otherwise known as the "Palmetto Commerce Parkway".

7. This lawsuit arises out of the alleged acts, errors and omissions of the Defendants, jointly and severally, which are connected with the design and development of the Palmetto Commerce Parkway in North Charleston including civil and consulting engineering services---located in Charleston County South Carolina.

JURISDICTION

8. Based on the foregoing, this Court has jurisdiction over the parties and subject-matter jurisdiction over the causes of action pleaded herein. Venue is proper within Charleston County.

FACTS

9. The Pepperhill Subdivision was established in North Charleston, South Carolina in the 1980s.

10. At all relevant times, the Plaintiff own the property located at 7803 Peppercorn Lane, North Charleston, Charleston County, South Carolina, which she owns in the Pepperhill Subdivision, and have lived there continuously. The property consisted of a house, a lot, and various outbuildings.

11. At no time prior to the construction of the Palmetto Commerce Parkway did the Plaintiff or their neighbors suffer flooding to their property even during Hurricane Hugo which occurred in 1989.

12. Prior to construction of the Palmetto Commerce Parkway, significant wetlands existed which captured water during storm, or excess water situations and prevented water flowing onto developed land nearby.

13. In or about spring of 2006 the Defendants conceived and began construction of a four-lane highway which is now known as the Palmetto Commerce Parkway. The alleged purpose of the road was to alleviate traffic around the Boeing Plant and create attractive commercial space for business interests.

14. A significant part of the Parkway was designed to run through the above-mentioned wetlands behind the Pepperhill Subdivision where the Plaintiff's home is located.

15. At several public hearings with representatives of the Defendants in attendance, the Plaintiff and many of her neighbors in Pepperhill expressed concern over the flooding that would take place in their neighborhood should the Parkway be constructed and stated their objection to the parkway being constructed.

16. The Defendants ignored such objections despite having access to the pertinent information which showed the objections were justified.
17. As part of the Defendants' due diligence, they were required to perform studies regarding what the project would do with the water being absorbed by the wetlands, including but not limited to how it would impact neighboring properties, how it would impact wetlands, and how the project would have a water-neutral impact.
18. Defendants negligently constructed the Parkway by creating a berm through the wetland which acts as a dam and prevents water from flowing from one of the dissected area of wetlands to the other and effectively funnels water toward the Pepperhill Subdivision.
19. Defendants negligently constructed the Parkway by refusing to elevate the roadway or build appropriate culverts which would allow for free flow or drainage water throughout the dissected wetlands, which funnels water towards the Pepperhill Subdivision.
20. The Defendants repeatedly assured the Plaintiff that no such flooding would occur, and ignored the objections of the residents.
21. Defendants through their various departments and subcontractors commenced construction and eventually completed the Palmetto Commerce Parkway.
22. Coinciding with the construction of the parkway, the storm water drainage system of the Defendants Charleston County and City of North Charleston located directly behind the Property of the Plaintiff was allowed to fill with debris and were otherwise not designed, constructed or maintained by the Defendant County of Charleston or City of North Charleston, in a reasonable and adequate manner to facilitate adequate drainage thereby preventing flooding of the Plaintiff's property.
23. Residents of the Pepperhill Subdivision repeatedly contacted Defendants Charleston County and City of North Charleston and requested maintenance to the drainage running alongside the neighborhood so that it would properly drain, to no avail.
24. As a result of the Defendant's concerted actions, the Plaintiff's property continually floods during water events. The flooding is so severe that the Plaintiff is forced to vacate their homes for significant amounts of time, replace their personal belongings and make extensive and costly repairs to their structures.
25. The Defendants were notified by the Plaintiff pursuant to S.C. Code Ann. Sect. 5-31-450, requesting that the Defendants take corrective action to provide adequate and sufficient drainage to prevent flooding of their property and to restore the natural condition of the property which was destroyed by the actions of the Defendants. To date, the Defendants have failed to perform reasonable actions to repair the continued flooding and damage to the Plaintiff's property.

26. The Defendants knew or should have known that their actions in negligently constructing the Palmetto Commerce Parkway would cause the Plaintiff's property to flood. They were informed of this by the subdivision residents on numerous occasions prior to commencing construction on the road.
27. The Defendants knew or should have known that the Plaintiff's property would flood due to their negligence in designing, constructing and maintaining the drainage ditches behind the Pepperhill Subdivision.
28. In order to speed the project to completion, despite the harm to the Plaintiff, the Defendants also subverted the permitting process, failed to perform the requisite studies, and bypassed normal permitting procedures.
29. The County of Charleston and the City of North Charleston have assumed a duty and are under a responsibility under the law to design, maintain and construct adequate and reasonable storm drainage and flood control measures for the communities within their borders and particularly within the Pepperhill Subdivision.
30. As a result of the construction of the Palmetto Commerce Parkway and the insufficient drainage and flood control system for the community, the Plaintiff's home and real property have, within the past two years, sustained damage and the Plaintiff's right to the peaceful use and enjoyment of its property has been hampered. Flooding events have occurred numerous times during the period preceding the filing of this suit and despite knowledge of these occurrences; the Defendants have not performed reasonable repairs. The flooding is continuing in nature. Plaintiff avers that each flooding event is a separate occurrence and injury.
31. Plaintiff avers that the Defendants negligently breached their duty to the Plaintiff by constructing and maintaining the Palmetto Commerce Parkway in such a manner as to cause flooding of the Plaintiff's property.
32. Plaintiff avers that the Defendants chose to promote their own interests over the interests of their residents and their city based on anticipated revenues and neighboring businesses.
33. Plaintiff further avers that the Defendants negligently breached their duty to the Plaintiff by failing to construct and maintain adequate storm water drainage ditches in the rear portion of the Pepperhill Subdivision thereby causing continued flooding of the Plaintiff's property.

FOR A FIRST CAUSE OF ACTION
AS TO ALL DEFENDANTS
GROSSLY NEGLIGENT MISREPRESENTATION

34. The Plaintiff realleges and reiterates the preceding paragraphs as if fully set forth herein verbatim.
35. The Defendants jointly and severally, made false, careless, and grossly negligent statements of facts to Plaintiff as set forth above, which constitute gross misrepresentations.

36. Defendants jointly and severally, have a pecuniary interest in making the statements.
37. Defendants jointly and severally, owed a duty of care to see that they did not make such gross representations to the Plaintiff.
38. Defendants, jointly and severally, breached their above-described duties.
39. The gross representations aforesaid were false, material and made with knowledge of their falsity, or with reckless disregard for their truth or falsity; that they were made with the intent that the Plaintiff, who was ignorant of their falsity, would rely upon them to her detriment; and did in fact reasonably rely upon them to their detriment.
40. As a direct and proximate result of the foregoing grossly negligent misrepresentations, Plaintiff has suffered a pecuniary loss and is entitled to recover damages in such amount as to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENCE/GROSS NEGLIGENCE/RECKLESS INDIFFERENCE

41. The Plaintiff repeats and reiterates the foregoing allegations as though repeated herein verbatim.
42. It was reasonably foreseeable to the Defendants that the aforementioned overt, grossly negligent, and aggressive actions, inactions and conduct in designing, building, and maintaining the Palmetto Commerce Parkway in such a manner as to cause repeated destructive flooding to the Plaintiff's property and in grossly, negligently constructing and maintaining the storm-water drainage ditches at the rear of the Pepperhill Subdivision such that the flooding would be exacerbated. The Defendants therefore owed a duty to the Plaintiff to conduct herself in a manner that would not cause damage to the Plaintiff. The Defendants had actual and constructive knowledge notice of the damaging nature and/or defectiveness of their actions, inactions, and activities through their meeting(s) with the Plaintiff and the other residents of the Pepperhill Subdivision, and were required to do due diligence prior to building the Parkway, which they failed to do.
43. The Defendants were acting in a willful, wanton, reckless, negligent and grossly negligent manner in the following particulars to wit:
- a. In failing to design and maintain the Palmetto Commerce Parkway road system in such a way as to prevent flooding and damage to the Plaintiff's property.
 - b. In ignoring the warnings and complaints of the Plaintiff and other area residents that their actions would cause flooding to the Pepperhill Subdivision.
 - c. In failing to take corrective action or any other action when the flooding occurred on multiple occasions.

- d. In making false and misleading representations to the Plaintiff and other residents regarding the design and construction of the Parkway.
- e. In failing to properly construct and properly maintain the storm-water drainage ditches in and adjoining the Pepperhill Subdivision.
- f. In failing to respond to the complaints and pleas for help made by the Plaintiff and other residents of the Pepperhill Subdivision.
- g. In making false and misleading statements to the Plaintiff and other Pepperhill Subdivision residents regarding their duties and responsibilities and the maintenance of the storm-water ditches.
- h. In failing to take corrective action or any action in the wake of massive flooding events in the Pepperhill Subdivision.
- i. In failing to comply with local, state, and/or federal regulatory requirements concerning storm-water management.
- j. In placing or permitting the placement of materials, obstructions, debris and sediment in the storm-water ditches in such a manner as to allow back-up and flooding.
- k. In all other particulars revealed during the discovery process and trial.
- l. Creating a berm which effectively funneled water into the Pepperhill Subdivision.
- m. In failing to elevate the roadway.
- n. In choosing the interests of businesses over the interests of residents.

44. As a direct and proximate result of the actions of the Defendants, the Plaintiffs have suffered and will continue to suffer damages to their real and personal property.

FOR A THIRD CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENT CONSTRUCTION AND MAINTENANCE

45. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

46. The Defendants were negligent, grossly negligent, careless, reckless, willful, and wanton in the following particulars to wit:

- a. In failing to design and maintain the Palmetto Commerce Parkway road system in such a way as to prevent flooding and damage to the Plaintiff's property.
- b. In ignoring the warnings and complaints of the Plaintiff and other area homeowners that their actions would cause flooding to the Pepperhill Subdivision.
- c. In failing to take corrective action or any other action when the flooding occurred on multiple occasions.
- d. In making false and misleading representations to the Plaintiff and other residents regarding the design and construction of the Parkway.

- e. In failing to properly construct and properly maintain the storm-water drainage ditches at the rear of the Pepperhill Subdivision.
- f. In failing to respond to the complaints and pleas for help made by the Plaintiffs and other residents of the Pepperhill Subdivision.
- g. In making false and misleading statements to the Plaintiff and other Pepperhill residents regarding their duties and responsibilities regarding maintenance of the storm-water ditches.
- h. In failing to take corrective action or any action in the wake of massive flooding events in the Pepperhill Subdivision.
- i. In failing to comply with local, state, and/or federal regulatory requirements concerning storm-water management.
- j. In placing or permitting the placement of materials, obstructions, debris and sediment in the storm-water ditches in such a manner as to allow back-up and flooding.
- k. In all other particulars revealed during the discovery process and trial.

FOR A FOURTH CAUSE OF ACTION
AS TO ALL DEFENDANTS
NUISANCE/STRICT LIABILITY

47. The Plaintiff realleges and reiterates the preceding paragraphs as if fully set forth herein verbatim.

48. Defendants have substantially and unreasonably interfered with the Plaintiff's use and enjoyment of their property by causing it to be repeatedly flooded. Defendants' actions have destroyed the value of the Plaintiff's property, caused her to have to continually repair her home and replace water-damaged personal property. Further, Defendants actions have left the Plaintiff unable to sell her property due to its reputation of flooding and damage.

49. By the aforementioned actions, the Defendants have created conditions that cause material annoyance, inconvenience, and discomfort to the Plaintiff and her property. The Defendants have materially interfered and continue to interfere with the land and tenements of the Plaintiff with such interference having caused and continuing to cause damage to Plaintiff's property.

50. As a direct and proximate result of the Defendant's continuance nuisance, the Plaintiff has been deprived of the use and enjoyment of her land and the Defendants are strictly liable for the damages alleged herein.

FOR A FIFTH CAUSE OF ACTION
AS TO ALL DEFENDANTS
(S.C. Code Ann. 5-31-450)

51. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

52. Within the political boundaries of the Defendants, it is and has been necessary and/or desirable to carry off water from the areas surrounding Plaintiff's property rather than over private land. The Plaintiff as owner or having an interest in such private land have demanded that the Defendants provide sufficient drainage which is practicable and the Defendants have failed to do so and if such drainage is not practicable the Defendants have failed to institute proceedings to obtain the right of way to provide for the necessary drains.

53. As a direct and proximate result of Defendants acts and conduct, Plaintiff has suffered severe and emotional distress resulting in mental distress, fear, nervousness, and sleeplessness.

54. As a direct and sole consequence of the repeated flooding of their property, the Plaintiff has had to endure the loss of enjoyment of life that no reasonable person could be expected to endure.

55. The Plaintiff is informed and believes she is entitled to recover damages of the Defendants, both actual and punitive, as a result of their acts and conduct.

56. By reason of such conduct, the Plaintiffs have been damaged in such amount as the trier of fact may find.

FOR A SIXTH CAUSE OF ACTION
AS TO ALL DEFENDANTS
INVERSE CONDEMNATION/TAKING

57. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

57. Article I, Section 13(A) of the South Carolina Constitution provides the basis for recovery against government entities and public utilities via the theory of inverse condemnation when private property is taken or damaged for a public use without just compensation to the owner.

58. Defendants are in the business of servicing citizens of Charleston County, South Carolina

59. Defendants' conduct is tantamount to public use.

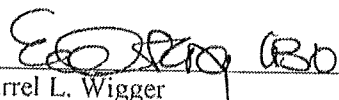
60. As a result of Defendants' failure to design and maintain the Palmetto Commerce Parkway road system in such a way to prevent flooding and damage to the Plaintiff's property, Defendants have intentionally, recklessly, willfully, and negligently, caused or contributed to the accumulation of water which enters onto and into the Plaintiff's real property. Consequently, Defendants' actions are the direct and proximate cause of the physical damage to Plaintiff's property that has rendered said property valueless and virtually unusable.

61. The acts and omissions of Defendants constitute a physical invasion of Plaintiff's real property for a public use, placing a burden on Plaintiffs that is direct, substantial, and peculiar to the property itself.

62. The exorbitant amount of interference that Defendants have caused to Plaintiff's property amounts to a taking of said property without lawful authority and without formal exercise of the power of eminent domain, resulting in inverse condemnation.

WHEREFORE, Plaintiff prays for judgment in her favor and against the Defendants, each of them, for all the causes of action in an amount which is fair, just and reasonable, in a sum to be determined by the trier of fact, actual damages, property damages, diminution in value of property, punitive damages, including prejudgment interest, costs, and attorney's fees as may be allowed by law, and for such other and further relief as this Court deems just and proper.

Respectfully submitted,


Jarrel L. Wigger
Wigger Law Firm, Inc.
8086 Rivers Avenue, Ste A
North Charleston, SC 29406
(843) 553-9800
Attorney for Plaintiff

North Charleston, South Carolina
This 12 day of October 2017.

IN THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

Plaintiff,

v.

CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION, BANKS
CONSTRUCTION COMPANY, UNITED
CONTRACTORS, INC, BANKS/UNITED
JOINT VENTURE AND HLA, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-10-4820

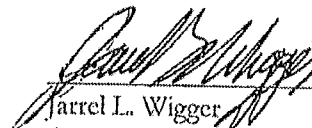
**SECOND AMENDED SUMMONS
(JURY TRIAL REQUESTED)**

FILED
2018 SEP 28 PM 2:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

TO THE ABOVE NAMED DEFENDANTS:

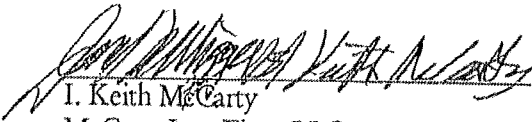
YOU ARE HEREBY SUMMONED and requested to answer the Second Amended Complaint in this action of which a copy is herewith served upon you, and to serve a copy of your Answer to said Second Amended Complaint upon the subscriber at his office, 8086 Rivers Avenue, Suite A, North Charleston, SC 29406, within thirty (30) days after service hereof, exclusive of the day of such service; and if you fail to answer the Second Amended Complaint within the time aforesaid, the Plaintiff will apply to the Court for the relief demanded in the Second Amended Complaint.

WIGGER LAW FIRM, INC.


Jarrel L. Wigger
Attorney for the Plaintiff
8086 Rivers Avenue
N. Charleston, SC 29406
Phone No.: (843) 553-9800
Fax No.: (843) 553-1648
Email: jwigger@wiggerlawfirm.com

North Charleston, South Carolina
this 27th day of September, 2018.

AND

A handwritten signature in black ink, appearing to read "I. Keith McCarty", is written over a horizontal line.

I. Keith McCarty
McCarty Law Firm, LLC
1212 Wappoo Rd.
Charleston, SC 29407
(843) 793-1272
Attorney for Plaintiff

IN THE STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

Plaintiff,

v.

CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION, BANKS
CONSTRUCTION COMPANY, UNITED
CONTRACTORS, INC, BANKS/UNITED
JOINT VENTURE AND HLA, INC.,

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CASE NUMBER: 2017-CP-10-4820

SECOND AMENDED COMPLAINT
(JURY TRIAL REQUESTED)

FILED
2018 SEP 28 PM 2:55
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

The Plaintiff, by and through her undersigned attorney, complaining of negligent and/or reckless acts and/or omissions of the Defendants, jointly and severally, allege as follows:

PARTIES

1. The Plaintiff, is now and was at all times herein set forth, a citizen and resident of Charleston County, South Carolina and rents the property located within the City of North Charleston, Charleston County, South Carolina in what is known as Pepperhill Subdivision.
2. The Defendant County of Charleston is now and was at all times herein set forth, a governmental entity and/or political subdivision, respectively of the State of South Carolina amenable to action under the South Carolina Tort Claims Act sect. 15-78-40, and the South Carolina Code of Laws.
3. The Defendant City of North Charleston is now and was at all times herein set forth, a governmental entity and/or political subdivision respectively of the State of South Carolina amenable to action under the South Carolina Tort Claims Act sect. 15-78-40 and the South Carolina Code of Laws.
4. The Defendant, Department of Health and Environmental Control (hereinafter referred to as "Defendant SCDHEC") is now and was at all times herein set forth, a governmental entity and/or political subdivision, respectively of the State of South Carolina, amenable to action under the South Carolina Tort Claims Act and the South Carolina Code of Laws.
5. The Defendant, South Carolina Department of Transportation (hereinafter referred to as "Defendant SCDOT") is now and was at all times herein set forth, a governmental entity and/or

political subdivision, respectively of the State of South Carolina, amenable to action under the South Carolina Tort Claims Act and the South Carolina Code of Laws.

6. The Defendant, Banks Construction Company, previously identified as John Doe (engineering firm/engineer) upon information and belief, a domestic corporation conducting business within Charleston County, South Carolina. At all relevant times, ther entity provided building designs and consulting services associated with the development and construction of the stretch of road otherwise known as the "Palmetto Commerce Parkway".

7. The Defendant, United Contractors, Inc., previously identified as John Doe (engineering firm/engineer) upon information and belief, a domestic corporation conducting business within Charleston County, South Carolina. At all relevant times, ther entity provided civil engineering designs and consulting services associated with the development and construction of the stretch of road otherwise known as the "Palmetto Commerce Parkway".

8. The Defendant Banks/United Joint Venture, previously identified as John Doe (engineering firm/engineer) upon information and belief, a domestic corporation conducting business within Charleston County, South Carolina. At all relevant times, ther entity provided civil engineering designs and consulting services associated with the development and construction of the stretch of road otherwise known as the "Palmetto Commerce Parkway".

9. The Defendant, HLA, Inc., previously identified as John Doe (engineering firm/engineer) upon information and belief, a domestic corporation conducting business within Charleston County, South Carolina. At all relevant times, ther entity provided civil engineering designs and consulting services associated with the development and construction of the stretch of road otherwise known as the "Palmetto Commerce Parkway".

10. Ther lawsuit arises out of the alleged acts, errors and omissions of the Defendants, jointly and severally, which are connected with the design and development of the Palmetto Commerce Parkway in North Charleston including civil and consulting engineering services---located in Charleston County South Carolina.

JURISDICTION

11. Based on the foregoing, ther Court has jurisdiction over the parties and subject-matter jurisdiction over the causes of action pleaded herein. Venue is proper within Charleston County.

FACTS

12. The Pepperhill Subdivision was established in North Charleston, South Carolina in the 1970s.

13. At all relevant times, the Plaintiff rent the property located at 7803 Peppercorn Lane, North Charleston, Charleston County, South Carolina, which he rents in the Pepperhill Subdivision, and have lived there continuously. The property consisted of a house, a lot, and various outbuildings.

14. At no time prior to the construction of the Palmetto Commerce Parkway did the Plaintiff or their neighbors suffer flooding to their property even during Hurricane Hugo which occurred in 1989.
15. Prior to construction of the Palmetto Commerce Parkway, significant wetlands existed which captured water during storm, or excess water situations and prevented water flowing onto developed land nearby.
16. In or about spring of 2006 the Defendants conceived and began construction of a four-lane highway which is now known as the Palmetto Commerce Parkway. The alleged purpose of the road was to alleviate traffic around the Boeing Plant and create attractive commercial space for business interests.
17. A significant part of the Parkway was designed to run through the above-mentioned wetlands behind the Pepperhill Subdivision where the Plaintiff's home is located.
18. At several public hearings with representatives of the Defendants in attendance, the Plaintiff and many of her neighbors in Pepperhill expressed concern over the flooding that would take place in their neighborhood should the Parkway be constructed and stated their objection to the parkway being constructed.
19. The Defendants ignored such objections despite having access to the pertinent information which showed the objections were justified.
20. As part of the Defendants' due diligence, they were required to perform studies regarding what the project would do with the water being absorbed by the wetlands, including but not limited to how it would impact neighboring properties, how it would impact wetlands, and how the project would have a water-neutral impact.
21. Defendants negligently planned, designed and constructed the roadway and negligently failed to account for drainage run off and containment.
22. Defendants negligently planned, designed and constructed the Parkway by creating a berm through the wetland which acts as a dam and prevents water from flowing from one of the dissected area of wetlands to the other and effectively funnels water toward the Pepperhill Subdivision.
23. Defendants negligently constructed the Parkway by refusing to elevate the roadway or build appropriate culverts which would allow for free flow or drainage water throughout the dissected wetlands, which funnels water towards the Pepperhill Subdivision.
24. The Defendants repeatedly assured the Plaintiff that no such flooding would occur, and ignored the objections of the residents.
25. Defendants through their various departments and subcontractors commenced construction and eventually completed the Palmetto Commerce Parkway.
26. Coinciding with the construction of the parkway, the storm water drainage system of the Defendants Charleston County and City of North Charleston located directly behind the Property of

the Plaintiff was allowed to fill with debris and were otherwise not designed, constructed or maintained by the Defendant County of Charleston or City of North Charleston, in a reasonable and adequate manner to facilitate adequate drainage thereby preventing flooding of the Plaintiff's property.

27. Residents of the Pepperhill Subdivision repeatedly contacted Defendants Charleston County and City of North Charleston and requested maintenance to the drainage running alongside the neighborhood so that it would properly drain, to no avail.

28. As a result of the Defendant's concerted actions, the Plaintiff's property continually floods during water events. The flooding is so severe that the Plaintiff is forced to vacate their homes for significant amounts of time, replace their personal belongings and make extensive and costly repairs to their structures.

29. The Defendants were notified by the Plaintiff pursuant to S.C. Code Ann. Sect. 5-31-450, requesting that the Defendants take corrective action to provide adequate and sufficient drainage to prevent flooding of their property and to restore the natural condition of the property which was destroyed by the actions of the Defendants. To date, Defendants CITY OF NORTH CHARLESTON, DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC, BANKS/UNITED JOINT VENTURE AND HLA, INC. have failed to perform reasonable actions to repair the continued flooding and damage to the Plaintiff's property pursuant to S.C. Code Ann. Sect. 5-31-450.

30. The Defendants knew or should have known that their actions in negligently planned, designed and constructed the Palmetto Commerce Parkway would cause the Plaintiff's property to flood. They were informed of this by the subdivision residents on numerous occasions prior to commencing construction on the road.

31. The Defendants knew or should have known that the Plaintiff's property would flood due to their negligence in designing, constructing and maintaining the drainage ditches behind the Pepperhill Subdivision.

32. In order to speed the project to completion, despite the harm to the Plaintiff, the Defendants also subverted the permitting process, failed to perform the requisite studies, and bypassed normal permitting procedures.

33. The County of Charleston and the City of North Charleston have assumed a duty and are under a responsibility under the law to design, maintain and construct adequate and reasonable storm drainage and flood control measures for the communities within their borders and particularly within the Pepperhill Subdivision.

34. As a result of the design, planning and construction of the Palmetto Commerce Parkway and the insufficient drainage and flood control system for the community, the Plaintiff's home and real property have, within the past two years, sustained damage and the Plaintiff's right to the peaceful use and enjoyment of its property has been hampered. Flooding events have occurred numerous times during the period preceding the filing of their suit and despite knowledge of these occurrences;

the Defendants have not performed reasonable repairs. The flooding is continuing in nature. Plaintiff avers that each flooding event is a separate occurrence and injury.

35. Plaintiff avers that the Defendants negligently breached their duty to the Plaintiff by negligently designing, constructing and maintaining the Palmetto Commerce Parkway in such a manner as to cause flooding of the Plaintiff's property.

36. Plaintiff avers that the Defendants chose to promote their own interests over the interests of their residents and their city based on anticipated revenues and neighboring businesses.

37. Plaintiff further avers that the Defendants negligently breached their duty to the Plaintiff by negligently designing, constructing and maintaining adequate storm water drainage ditches in the rear portion of the Pepperhill Subdivision thereby causing continued flooding of the Plaintiff's property.

FOR A FIRST CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENT MISREPRESENTATION

38. The Plaintiff realleges and reiterates the preceding paragraphs as if fully set forth herein verbatim.

39. The Defendants jointly and severally, made false, careless, and negligent statements of facts to Plaintiff as set forth above, which constitute misrepresentations.

40. Defendants jointly and severally, have a pecuniary interest in making the statements.

41. Defendants jointly and severally, owed a duty of care to see that they did not make such representations to the Plaintiff.

42. Defendants, jointly and severally, breached their above-described duties.

43. The representations aforesaid were false, material and made with knowledge of their falsity, or with disregard for their truth or falsity; that they were made with the intent that the Plaintiff, who was ignorant of their falsity, would rely upon them to her detriment; and did in fact reasonably rely upon them to her detriment.

44. As a direct and proximate result of the foregoing negligent misrepresentations, Plaintiff has suffered a pecuniary loss and is entitled to recover damages in such amount as to be determined by the trier of fact.

FOR A SECOND CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENCE/ GROSS NEGLIGENCE AND RECKLESS INDIFFERENCE

45. The Plaintiff repeats and reiterates the foregoing allegations as though repeated herein verbatim.

46. It was reasonably foreseeable to the Defendants that the aforementioned overt, negligent, grossly negligent and aggressive actions, inactions and conduct in planning, designing, building, and maintaining the Palmetto Commerce Parkway in such a manner as to cause repeated destructive flooding to the Plaintiff's property and in grossly, negligently constructing and maintaining the storm-water drainage ditches at the rear of the Pepperhill Subdivision such that the flooding would be exacerbated. The Defendants therefore owed a duty to the Plaintiff to conduct himself in a manner that would not cause damage to the Plaintiff. The Defendants had actual and constructive knowledge notice of the damaging nature and/or defectiveness of their actions, inactions, and activities through their meeting(s) with the Plaintiff and the other residents of the Pepperhill Subdivision, and were required to do due diligence prior to building the Parkway, which they failed to do.

47. The Defendants were acting in a willful, wanton, reckless, grossly negligent manner in the following particulars to wit:

- a. In failing to plan, design and maintain the Palmetto Commerce Parkway road system in such a way as to prevent flooding and damage to the Plaintiff's property.
- b. In ignoring the warnings and complaints of the Plaintiff and other area residents that their actions would cause flooding to the Pepperhill Subdivision.
- c. In failing to take corrective action or any other action when the flooding occurred on multiple occasions.
- d. In making false and misleading representations to the Plaintiff and other residents regarding the design and construction of the Parkway.
- e. In failing to properly plan, design, construct and properly maintain the storm-water drainage ditches in and adjoining the Pepperhill Subdivision.
- f. In failing to respond to the complaints and pleas for help made by the Plaintiff and other residents of the Pepperhill Subdivision.
- g. In making false and misleading statements to the Plaintiff and other Pepperhill Subdivision residents regarding their duties and responsibilities and the maintenance of the storm-water ditches.
- h. In failing to take corrective action or any action in the wake of massive flooding events in the Pepperhill Subdivision.
- i. In failing to comply with local, state, and/or federal regulatory requirements concerning storm-water management.
- j. In placing or permitting the placement of materials, obstructions, debris and sediment in the storm-water ditches in such a manner as to allow back-up and flooding.
- k. In all other particulars revealed during the discovery process and trial.
- l. Creating a berm which effectively funneled water into the Pepperhill Subdivision.
- m. In failing to elevate the roadway.
- n. In choosing the interests of businesses over the interests of residents.

48. As a direct and proximate result of the actions of the Defendants, the Plaintiffs have suffered and will continue to suffer damages to their real and personal property.

FOR A THIRD CAUSE OF ACTION
AS TO ALL DEFENDANTS
NEGLIGENT PLANNING, DESIGNING AND CONSTRUCTION AND
MAINTENANCE

49. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

50. The Defendants were negligent, grossly negligent, careless, reckless, willful, and wanton in the following particulars to wit:

- a. In failing to design and maintain the Palmetto Commerce Parkway road system in such a way as to prevent flooding and damage to the Plaintiff's property.
- b. In ignoring the warnings and complaints of the Plaintiff and other area homeowners that their actions would cause flooding to the Pepperhill Subdivision.
- c. In failing to take corrective action or any other action when the flooding occurred on multiple occasions.
- d. In making false and misleading representations to the Plaintiff and other residents regarding the design and construction of the Parkway.
- e. In failing to properly construct and properly maintain the storm-water drainage ditches at the rear of the Pepperhill Subdivision.
- f. In failing to respond to the complaints and pleas for help made by the Plaintiffs and other residents of the Pepperhill Subdivision.
- g. In making false and misleading statements to the Plaintiff and other Pepperhill residents regarding their duties and responsibilities regarding maintenance of the storm-water ditches.
- h. In failing to take corrective action or any action in the wake of massive flooding events in the Pepperhill Subdivision.
- i. In failing to comply with local, state, and/or federal regulatory requirements concerning storm-water management.
- j. In placing or permitting the placement of materials, obstructions, debris and sediment in the storm-water ditches in such a manner as to allow back-up and flooding.
- k. In all other particulars revealed during the discovery process and trial.

FOR A FOURTH CAUSE OF ACTION
AS TO DEFENDANTS CITY OF NORTH CHARLESTON, DEPARTMENT OF
HEALTH AND ENVIRONMENTAL CONTROL, SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION, BANKS CONSTRUCTION COMPANY,
UNITED CONTRACTORS, INC, BANKS/UNITED JOINT VENTURE AND HLA,
INC. (S.C. Code Ann. 5-31-450)

51. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

52. Within the political boundaries of the Defendants, it is and has been necessary and/or desirable to carry off water from the areas surrounding Plaintiff's property rather than over private land. The Plaintiff as owner or having an interest in such private land have demanded that the Defendants provide sufficient drainage which is practicable and the Defendants have failed to do so and if such drainage is not practicable the Defendants have failed to institute proceedings to obtain the right of way to provide for the necessary drains.

53. As a direct and proximate result of Defendants acts and conduct, Plaintiff has suffered severe and emotional distress resulting in mental distress, fear, nervousness, and sleeplessness.

54. As a direct and sole consequence of the repeated flooding of their property, the Plaintiff has had to endure the loss of enjoyment of life that no reasonable person could be expected to endure.

55. The Plaintiff is informed and believed he is entitled to recover damages of the Defendants, both actual and punitive, as a result of their acts and conduct.

56. By reason of such conduct, the Plaintiffs have been damaged in such amount as the trier of fact may find.

FOR A FIFTH CAUSE OF ACTION
AS TO DEFENDANTS CITY OF NORTH CHARLESTON, COUNTY OF
CHARLESTON, DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
INVERSE CONDEMNATION/TAKING

57. The Plaintiff realleges and incorporates by reference the allegations contained hereinabove as if fully set forth herein.

57. Article I, Section 13(A) of the South Carolina Constitution provides the basis for recovery against government entities and public utilities via the theory of inverse condemnation when private property is taken or damaged for a public use without just compensation to the owner.

58. Defendants are in the business of servicing citizens of Charleston County, South Carolina

59. Defendants' conduct is tantamount to public use.

60. As a result of Defendants' failure to design and maintain the Palmetto Commerce Parkway road system in such a way to prevent flooding and damage to the Plaintiff's property, Defendants have intentionally, recklessly, willfully, and negligently, caused or contributed to the accumulation of water which enters onto and into the Plaintiff's real property. Consequently, Defendants' actions are the direct and proximate cause of the physical damage to Plaintiff's property that has rendered said property valueless and virtually unusable.

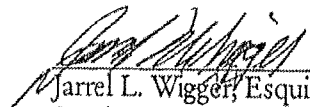
61. The acts and omissions of Defendants constitute a physical invasion of Plaintiff's real property for a public use, placing a burden on Plaintiffs that is direct, substantial, and peculiar to the property itself.

62. The exorbitant amount of interference that Defendants have caused to Plaintiff's property amounts to a taking of said property without lawful authority and without formal exercise of the power of eminent domain, resulting in inverse condemnation.

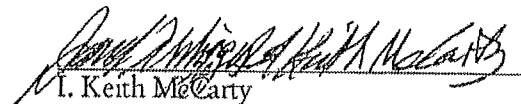
WHEREFORE, Plaintiff prays for judgment in their favor and against the Defendants, each of them, for all the causes of action in an amount which is fair, just and reasonable, in a sum to be determined by the trier of fact, actual damages, property damages, diminution in value of property, punitive damages, including prejudgment interest, costs, and attorney's fees as may be allowed by law, and for such other and further relief as the Court deems just and proper.

Respectfully submitted,

WIGGER LAW FIRM, INC.


Jarrel L. Wigger, Esquire
South Carolina Bar No.: 011824
8086 Rivers Avenue, Suite A
North Charleston, SC 29406
(843) 553-9800 (telephone)
(843) 553-1648 (facsimile)
Attorney for Plaintiff

AND


I. Keith McCarty
McCarty Law Firm, LLC
1212 Wappoo Rd.
Charleston, SC 29407
(843) 793-1272
Attorney for Plaintiff

North Charleston, South Carolina
This 27th day of September, 2018.

EXHIBIT A

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Sarah Sharper,

Plaintiff,

v.

The State of South Carolina, City of North
Charleston, County of Charleston, Department
of Health and Environmental Control, South
Carolina Department of Transportation and
John Doe (engineering firm/engineer),

Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

Affidavit of Allan A. Abbata, PE

CONSOLIDATED CASE NUMBER 2017-
CP-10-4820

OTHER INCLUDED CASE NUMBERS:

2017-CP-10-4821
2017-CP-10-4822
2017-CP-10-4823
2017-CP-10-4824
2017-CP-10-4825
2017-CP-10-4826
2017-CP-10-4827
2017-CP-10-4835
2017-CP-10-4836
2017-CP-10-4837
2017-CP-10-4838
2017-CP-10-4839
2017-CP-10-4840
2017-CP-10-4841
2017-CP-10-4842
2017-CP-10-4845
2017-CP-10-4847
2017-CP-10-4891
2017-CP-10-4892
2017-CP-10-4893
2017-CP-10-4894
2017-CP-10-4895
2017-CP-10-4896
2017-CP-10-4897
2017-CP-10-4898
2017-CP-10-4899
2017-CP-10-4900
2017-CP-10-4901
2017-CP-10-4903
2017-CP-10-4904
2017-CP-10-4905
2017-CP-10-4906
2017-CP-10-4923
2017-CP-10-4924
2017-CP-10-4925
2017-CP-10-4926

2017-CP-10-4927
2017-CP-10-4928
2017-CP-10-4928
2017-CP-10-4929
2017-CP-10-4930
2017-CP-10-4931
2017-CP-10-5108

PERSONALLY APPEARED BEFORE ME, Allan A. Abbata, PE, being first duly sworn,
deposes and says as follows:

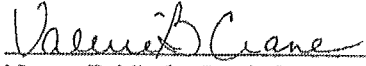
1. MY name is Allan A. Abbata, I am over 18 years of age and am fully competent to testify to the matters stated in this affidavit,
2. I am a licensed professional engineer who is licensed by the State of South Carolina. I am actively engaged in the practice of civil engineering. I have regularly engaged as a professional engineer for more than Forty (40) years. Accordingly, I possess actual knowledge and experience as a design and construction management professional in the field of road construction. A copy of my current curriculum vitae is attached.
3. I have reviewed quite a bit of material including a project specific drainage study regarding the construction of the Palmetto Parkway, which is the subject of this litigation. In addition, I have conducted a site investigation.
4. The Defendants failed in their responsibilities to recognize well established principles of construction in the design and building of the Palmetto Parkway.
5. I reserve the right to amend or alter my opinion based on review of additional materials.
6. In my professional opinion, the construction and engineering performed by Defendants in designing and building the Palmetto Parkway breached the standard of care for construction projects.

FURTHER AFFLANT SAYS NOTHING.



Allan A. Abbata, PE

SWORN to before me this 25th
day of September 2018.



Notary Public for South Carolina

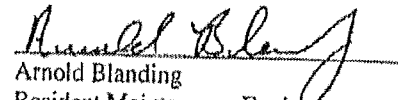
My Commission Expires: 6/04/2023

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Sarah Sharper	)	
	)	CONSOLIDATED CASE
Plaintiff,	)	NUMBER FOR AFFIDAVIT OF ARNOLD
	)	BLANDING
vs.	)	2017-CP-10-4820
	)	
The State of South Carolina, City of North	)	OTHER INCLUDED CASE NUMBERS:
Charleston, County of Charleston,	)	2017-CP-10-4821
Department of Health and Environmental	)	2017-CP-10-4822
Control, South Carolina Department of	)	2017-CP-10-4823
Transportation and John Doe (engineering	)	2017-CP-10-4824
firm/engineer),	)	2017-CP-10-4825
	)	2017-CP-10-4826
Defendants.	)	2017-CP-10-4827
	)	2017-CP-10-4835
	)	2017-CP-10-4836
	)	2017-CP-10-4837
	)	2017-CP-10-4838
	)	2017-CP-10-4839
	)	2017-CP-10-4840
	)	2017-CP-10-4841
	)	2017-CP-10-4842
	)	2017-CP-10-4845
	)	2017-CP-10-4847
	)	2017-CP-10-4891
	)	2017-CP-10-4892
	)	2017-CP-10-4893
	)	2017-CP-10-4894
	)	2017-CP-10-4895
	)	2017-CP-10-4896
	)	2017-CP-10-4897
	)	2017-CP-10-4898
	)	2017-CP-10-4899
	)	2017-CP-10-4900
	)	2017-CP-10-4901
	)	2017-CP-10-4903
	)	2017-CP-10-4904
	)	2017-CP-10-4905
	)	2017-CP-10-4906
	)	2017-CP-10-4907
	)	2017-CP-10-4923
	)	2017-CP-10-4924
	)	2017-CP-10-4925
	)	2017-CP-10-4926
	)	2017-CP-10-4927
	)	2017-CP-10-4928
	)	2017-CP-10-4929
	)	2017-CP-10-4930
	)	2017-CP-10-4931
	)	2017-CP-10-5108

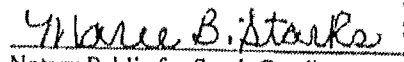
PERSONALLY APPEARED BEFORE ME the undersigned Arnold Blanding, who first being duly sworn, deposes and states as follows:

1. I am South Carolina Department of Transportation's (hereinafter "SCDOT") District Six, Resident Maintenance Engineer for Charleston County. District Six includes Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper Counties. I have held this position since May of 2017.
2. Incident to my position, I oversee the inspection and maintenance of all SCDOT maintained roads in Charleston County.
3. The Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties. If the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case.
4. SCDOT's only interaction with the Parkway is with regard to where the Parkway terminates at or "ties into" SCDOT owned and maintained roads at Ladson Road to the North and Ashley Phosphate Road to the South. The "tie in" extends 60 feet from the centerline of Ashley Phosphate Road onto Palmetto Commerce Parkway, and 24.38 meters from the centerline of Ladson Road onto Palmetto Commerce Parkway.
5. It is my understanding that the locations where the Parkway "ties into" Ladson Road and Ashley Phosphate Road are not at issue in this matter.

FURTHER AFFIANT SAYETH NAUGHT!


Arnold Blanding
Resident Maintenance Engineer
SCDOT District Six
Affiant

SWORN TO BEFORE ME)
UNDER PENALTY OF PERJURY)
this 29th day of October, 2019)


Notary Public for South Carolina)
My Commission Expires: 04-17-2024

From: JJ Anderson <janderson@arslawsc.com>
Sent: Friday, February 28, 2020 4:07 PM
To: keith mccarty <ikeithmccarty@gmail.com>; Jerry Wigger <jwigger@wiggerlawfirm.com>
Cc: Felicity J. Moore <fmoore@arslawsc.com>; Cole Lawrimore <clawrimore@arslawsc.com>
Subject: Pepperhill v. SCDOT

Gentlemen: I hope this e-mail finds you well. Attached is a proposed stipulation of dismissal for SCDOT and a supporting affidavit from the District 6 Engineer concerning the jurisdiction and responsibility that SCDOT has over Palmetto Commerce Parkway. As I am sure you know that the construction was a County of Charleston project under the penny tax program a/k/a pennywise program. SCDOT was not involved in the project and asserts no jurisdiction or responsibility over the parkway **except** at the tie in at Ashley Phosphate and Ladson Road as detailed by the attached affidavit. It is requested that you voluntarily dismiss SCDOT without prejudice from these lawsuits and save us all the time and trouble of a motion for summary judgment. Please let me know if you are willing to sign the stipulation of dismissal. If you do not like the language of the stipulation please make your desired changes and return it to me for consideration. Thank you and have a great weekend.

J. J. Anderson



Anderson Reynolds & Stephens, LLC

37 1/2 BROAD STREET, POST OFFICE BOX 87, CHARLESTON, SOUTH CAROLINA 29402
E-MAIL janderson@arslawsc.com | TEL. 843-723-0185 | DIRECT 843-576-2070 | CELL 843-324-8604

Confidentiality Notice:

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify our office immediately either by phone (843-723-0185) or reply to this e-mail and delete all copies of this message.

ANDERSON REYNOLDS & STEPHENS, LLC

ATTORNEYS AT LAW
37 ½ BROAD STREET
POST OFFICE BOX 87
CHARLESTON, SOUTH CAROLINA 29402

JONATHAN J. ANDERSON
LISA A. REYNOLDS
SHANNA M. STEPHENS
W. COLEMAN LAWRIEMORE
JONATHAN L. ANDERSON

TEL. 843-723-0185
FAX. 843-405-0313
DIRECT. 843-576-2070
email: landerson@arslawsc.com

July 21, 2020

VIA ELECTRONIC MAIL ONLY

Robert T. Lyles, Jr
Rose Beth Grossman Smith
Lyels & Associates, LLC
1037 Chuck Dawley Blvd, Ste G100
Mt Pleasant, SC 29464-4162
rtl@lylesfirm.com
rbgs@lylesfirm.com

Re: Pepperhill Subdivision
IRF Claim Number: B3977
AR&S Number: 20170.48

2017-CP-10-4931 Darryl Beech v. SCDOT
2017-CP-10-5108 Henry and Anjenette Bennett v. SCDOT
2017-CP-10-4924 Diane Blazer as Guardian of Charles Eichmann v.
SCDOT
2017-CP-0-4897 Elizabeth Bright v. SCDOT
2017-CP-10-4835 Kaye Brown v. SCDOT
2017-CP-10-4930 Kevin Drayton v. SCDOT
2017-CP-10-4892 Tanya Driggers v. SCDOT
2017-CP-10-4929 Renotia Fludd v. SCDOT
2017-CP-10-4907 Roberta Frasier v. SCDOT
2017-CP-10-4841 Bob Frederking v. SCDOT
2017-CP-10-4827 Latosha Gadsden v. SCDOT
2017-CP-10-4839 Clair Gallagher v. SCDOT
2017-CP-10-4823 Jason Gardner v. SCDOT
2017-CP-10-4903 Oglivia Gibson v. SCDOT
2017-CP-10-4842 Milton and Myrtle Green v. SCDOT
2017-CP-10-4901 Otis and Angela Green v. SCDOT
2017-CP-10-4893 Franklin and Delores Griffin v. SCDOT
2017-CP-10-4826 Jesse and Patricia Frazier v. SCDOT
2017-CP-10-4925 Leigh Hemingway v. SCDOT
2017-CP-10-4837 Ismael and Anjenette Hernandez v. SCDOT
2017-CP-10-4822 Gail Holmes v. SCDOT

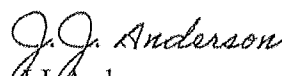
Robert T. Lyles, Jr.
Rose Beth Grossman Smith
July 21, 2020
Page 2 of 2

2017-CP-10-4847 Virginia and Lonnie Ivery v. SCDOT
2017-CP-10-4899 Kelvin Jackson v. SCDOT.
2017-CP-10-4891 Alex and Virginia James v. SCDOT
2017-CP-10-4825 Maczell Jefferson v. SCDOT
2017-CP-10-4824 Theresa Jenkins v. SCDOT
2017-CP-10-4927 Rebecca Kapperman-Brown v. SCDOT
2017-CP-10-4906 Tuan Le v. SCDOT
2017-CP-10-4845 Mabel Livingston v. SCDOT
2017-CP-10-4905 Tammy McCall v. SCDOT
2017-CP-10-4838 James and Katie Miller v. SCDOT
2017-CP-10-4900 Robert Mixon & Mixon Rental Properties, LLC v.
SCDOT
2017-CP-10-4840 Willie Moore v. SCDOT
2017-CP-10-4928 Valerie Pearson v. SCDOT
2017-CP-10-4898 Geneva Ravenel v. SCDOT
2017-CP-10-4923 Mellany Robinson v. SCDOT
2017-CP-10-4836 Sullay Sesay v. SCDOT
2017-CP-10-4820 Sarah Sharper v. SCDOT
2017-CP-10-4904 Darlene Taylor-William v. SCDOT
2017-CP-10-4894 Kevin Thompson v. SCDOT
2017-CP-10-4895 Constance Verge v. SCDOT
2017-CP-10-4821 Melissa Washington v. SCDOT
2017-CP-10-4926 Allison Wells v. SCDOT
2017-CP-10-4896 Brenda Wrighton v. SCDOT

Dear Counselors:

Please find enclosed, Defendant South Carolina Department of Transportation's Answers and Responses to HLA, Inc.'s First Set of Interrogatories and Requests for Production of documents in the above-referenced case. I am

Sincerely yours,


J.J. Anderson

JJA/fjm
Enclosures

cc: All counsel of record (*via electronic mail only*)

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

Sarah Sharper, et al

Plaintiffs,

vs.

City of North Charleston, County of
Charleston, Department of Health and
Environmental Control, South Carolina
Department of Transportation, Banks
Construction Company, United
Contractors, Inc., Banks/United Joint
Venture, and HLA, Inc.,

Defendants,

Banks Construction Company, United
Contractors, Inc., Banks/United Joint
Venture,

Third-Party Plaintiffs,

vs.

Coleman-Snow Consultants, LLC, and
ICA Engineering, Inc. f/k/a Florence &
Hutchinson, Inc.

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2017-CP-10-4820

**DEFENDANT SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION'S
ANSWERS TO HLA, INC.'S FIRST SET OF
INTERROGATORIES AND REQUESTS
FOR PRODUCTION**

TO: HLA, INC. AND THEIR ATTORNEYS ROBERT T. LYLES, JR., ESQUIRE AND
ROSE BETH G. SMITH, ESQUIRE:

Pursuant to Rule 33 and 34 of the South Carolina Rules of Civil Procedure, Defendant South Carolina Department of Transportation ("SCDOT") serves the following answers and objections to Plaintiffs' Interrogatories.

I. RESERVATION OF RIGHTS:

1. SCDOT does not waive any objections which may be appropriate either to (a) use by SCDOT of any answer to those interrogatories and requests for production for any purpose

or (b) the materiality of any of the interrogatories and requests for production to any issue in the case.

2. SCDOT specifically reserves all rights to objections which may otherwise be available to them and further states that no response should be deemed as an admission of relevancy, materiality, or admissibility of any particular interrogatory and/or request for production or the response thereto. SCDOT further reserves the right to alter or amend their answers to be more accurate if the information becomes available to them at a subsequent time.
3. The answers herein are subject to the rights of SCDOT to object and not be bound at any time to a demand for a further response to these or other interrogatories and requests for production or other discovery procedures.

II. GENERAL OBJECTIONS:

1. SCDOT objects to responding to any interrogatory or request for production that seeks information which constitutes confidential attorney-client communications or which falls within the scope of the attorney-work product doctrine.
2. SCDOT objects to responding to any interrogatory or request for production that exceeds the scope and limits of discovery set forth in Rule 33 of the South Carolina Rules of Civil Procedure. Subject to the foregoing reserved rights and objections, SCDOT responds to Plaintiffs' Interrogatories as follows:

III. ANSWERS TO INTERROGATORIES:

1. Give the names and addresses of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

- Arnold Blanding
Resident Maintenance Engineer
SCDOT District Six
c/o Anderson Reynolds & Stephens, LLC

Counsel for SCDOT is in possession of an Affidavit from Arnold Blanding indicating that SCDOT had no participation in this project. The Affidavit is produced herewith.

2. Set forth a list of photographs, plats, sketches or other prepared documents in possession of the party that relate to the claim or defense in the case.

ANSWER: SCDOT had no participation in this project and therefore has no responsive documents. See answer to Interrogatory #1.

3. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim(s) and set forth the number or numbers of the policies involved and the amount or amounts of liability coverage provided in each policy.

ANSWER: SCDOT had no participation in this project. See answer to Interrogatory #1.

4. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained by the party.

ANSWER: No claim has been made by SCDOT.

5. List the names and addresses of any expert witnesses whom the party proposes to use as a witness at the trial of the case. Also include the following:

- a. The basis upon which he/she qualifies as an expert on the subject matter to which he/she is expected to testify;
- b. The substance of the facts and opinions the expert may offer or otherwise testify to in this action;
- c. All documents, materials, reports, articles, treatises or other information the expert will rely upon in forming opinions; and
- d. A summary of the expert's prior history of consultation and/or testimony in legal matters.

ANSWER: SCDOT had no participation in this project. See answer to Interrogatory #1.

6. For each person known to the parties or counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform the other party of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

ANSWER: See answer to Interrogatory #1.

7. To the extent you have reached any settlement agreement with any other party to this action, set forth the terms of that agreement and the date it was entered.

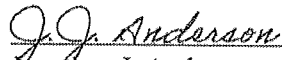
ANSWER: SCDOT had no participation in this project. See answer to Interrogatory #1.

IV. ANSWERS TO REQUESTS FOR PRODUCTION

1. All documents in your possession, which relate in any way to the Property, the Project, Defendant HLA, Inc., or to any claim or defense asserted in this case, including settlement agreements.

RESPONSE: SCDOT had no participation in this project and therefore has no responsive documents. See answer to Interrogatory #1.

ANDERSON REYNOLDS & STEPHENS, LLC



Jonathan J. Anderson
SC Bar # 383
W. Coleman Lawrimore
SC Bar # 100668
37 ½ Broad Street
P.O. Box 87
Charleston, SC 29401
(843) 723-0185 —phone
(843) 405-0313 —fax
janderson@arslawsc.com
clawrimore@arslawsc.com

*Attorneys for Defendant South Carolina
Department of Transportation*

July 21, 2020
Charleston, South Carolina

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
	)	
Sarah Sharper	)	
	)	CONSOLIDATED CASE
Plaintiff,	)	NUMBER: 2017-CP-10-4820
	)	
vs.	)	NOTICE OF MOTION AND MOTION FOR
	)	SUMMARY JUDGMENT OF DEFENDANT
The State of South Carolina, City of North	)	SOUTH CAROLINA DEPARTMENT OF
Charleston, County of Charleston,	)	TRANSPORTATION
Department of Health and Environmental	)	
Control, South Carolina Department of	)	
Transportation and John Doe (engineering	)	
firm/engineer),	)	
	)	
Defendants.	)	

TO: ALL PLAINTIFFS IN THESE CONSOLIDATED PROCEEDINGS BY AND THROUGH THEIR COUNSEL OF RECORDS I. KEITH McCARTY AND JARREL L. WIGGER

YOU WILL PLEASE TAKE NOTICE that the Defendant, South Carolina Department of Transportation (hereinafter "SCDOT"), by and through its undersigned attorneys, will move before the presiding Judge of the Ninth Judicial Circuit in the Charleston County Courthouse, Charleston, South Carolina, on the tenth (10th) day after service of this Motion, or at such other time as they may be heard, for an Order awarding summary judgment in SCDOT's favor as to the claims of all Plaintiffs in these consolidated proceedings pursuant to Rule 56(b), SCRCP.

SCDOT would show, as evidenced by Affidavit of Arnold Blanding (attached a "Exhibit A"), that SCDOT does not own or maintain the Palmetto Commerce Parkway ("Parkway") that is the subject of these consolidated proceedings. Further, there is no genuine issue or dispute as to the fact that SCDOT does not own or maintain the Parkway. Accordingly, SCDOT is entitled to judgment in its favor as a matter of law.

This Motion shall be based upon the South Carolina Rules of Civil Procedure, applicable statutory and decisional law, the pleadings in this matter, such supporting memoranda of fact and law as may be presented at or before the hearing on this Motion, the arguments of counsel at the time of hearing.

ANDERSON REYNOLDS & STEPHENS, LLC

/s/ Jonathan J. Anderson

Jonathan J. Anderson

SC Bar # 383

W. Coleman Lawrimore

SC Bar # 100668

37 ½ Broad Street

P.O. Box 87

Charleston, SC 29401

(843) 723-0185 –phone

(843) 405-0313 –fax

janderson@arslawsc.com

clawrimore@arslawsc.com

*Attorneys for Defendant South Carolina
Department of Transportation*

July 27, 2020
Charleston, South Carolina

"Exhibit A"

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Sarah Sharper

Plaintiff,

vs.

The State of South Carolina, City of North
Charleston, County of Charleston,
Department of Health and Environmental
Control, South Carolina Department of
Transportation and John Doe (engineering
firm/engineer),

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)
)
)

) **CONSOLIDATED CASE**
) **NUMBER FOR AFFIDAVIT OF ARNOLD**
) **BLANDING**
) **2017-CP-10-4820**
)

) **OTHER INCLUDED CASE NUMBERS:**

) 2017-CP-10-4821
) 2017-CP-10-4822
) 2017-CP-10-4823
) 2017-CP-10-4824
) 2017-CP-10-4825
) 2017-CP-10-4826
) 2017-CP-10-4827
) 2017-CP-10-4835
) 2017-CP-10-4836
) 2017-CP-10-4837
) 2017-CP-10-4838
) 2017-CP-10-4839
) 2017-CP-10-4840
) 2017-CP-10-4841
) 2017-CP-10-4842
) 2017-CP-10-4845
) 2017-CP-10-4847
) 2017-CP-10-4891
) 2017-CP-10-4892
) 2017-CP-10-4893
) 2017-CP-10-4894
) 2017-CP-10-4895
) 2017-CP-10-4896
) 2017-CP-10-4897
) 2017-CP-10-4898
) 2017-CP-10-4899
) 2017-CP-10-4900
) 2017-CP-10-4901
) 2017-CP-10-4903
) 2017-CP-10-4904
) 2017-CP-10-4905
) 2017-CP-10-4906
) 2017-CP-10-4907
) 2017-CP-10-4923
) 2017-CP-10-4924
) 2017-CP-10-4925
) 2017-CP-10-4926
) 2017-CP-10-4927
) 2017-CP-10-4928
) 2017-CP-10-4929
) 2017-CP-10-4930
) 2017-CP-10-4931
) 2017-CP-10-5108

"Exhibit A"

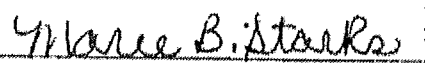
PERSONALLY APPEARED BEFORE ME the undersigned Arnold Blanding, who first being duly sworn, deposes and states as follows:

1. I am South Carolina Department of Transportation's (hereinafter "SCDOT") District Six, Resident Maintenance Engineer for Charleston County. District Six includes Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper Counties. I have held this position since May of 2017.
2. Incident to my position, I oversee the inspection and maintenance of all SCDOT maintained roads in Charleston County.
3. The Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties. If the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case.
4. SCDOT's only interaction with the Parkway is with regard to where the Parkway terminates at or "ties into" SCDOT owned and maintained roads at Ladson Road to the North and Ashley Phosphate Road to the South. The "tie in" extends 60 feet from the centerline of Ashley Phosphate Road onto Palmetto Commerce Parkway, and 24.38 meters from the centerline of Ladson Road onto Palmetto Commerce Parkway.
5. It is my understanding that the locations where the Parkway "ties into" Ladson Road and Ashley Phosphate Road are not at issue in this matter.

FURTHER AFFIANT SAYETH NAUGHT!


Arnold Blanding
Resident Maintenance Engineer
SCDOT District Six
Affiant

SWORN TO BEFORE ME)
UNDER PENALTY OF PERJURY)
this 29th day of October, 2019)


Notary Public for South Carolina)
My Commission Expires: 04-17-2024

FILED FROM NCALY FILED - 2020 OCT 22 1:26 PM - CHARLESTON - COMMON PLEAS - CASE#2017GP1004620

Cc: JJ Anderson <janderson@arslawsc.com>; Cole Lawrimore <clawrimore@arslawsc.com>
Subject: RE: Sharper, et al. v. HLA, Inc., et al. (Pepperhill Matter) - 30(b)(6) Topics Below

Hi Rebecca,

Can you tell me when the discovery requests were served upon DHEC and SCDOT? We have produced discovery to HLA and the production will be the same.

Please be advised we are now serving all written discovery and pleadings by e-mail only. Should you prefer service via U.S. mail pursuant to the SCRPC, please let me know and I will send you a hard copy.

Sincerely,

Felicity Moore

Paralegal to J.J. Anderson, W. Coleman Lawrimore, and Jonathan L. Anderson



Anderson Reynolds & Stephens, LLC

Street Address: 37 1/2 Broad Street Charleston, SC 29401

Mailing Address: P.O. Box 87 Charleston, SC 29402

Email: fmoore@arslawsc.com

Phone: 843-723-0185

Fax: 843-405-0313

Confidentiality Notice:

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify Felicity J. Moore immediately either by phone (843-723-0185) or reply to this e-mail and delete all copies of this message.

From: Rebeca Powell <rpowell@wiggerlawfirm.com>

Sent: Friday, September 11, 2020 10:09 AM

To: Bower, Amy <abower@hsblawfirm.com>; Phillip Ferderigos <pferderigos@barnwell-whaley.com>; Emily Gifford Lucey <egiffordlucey@richardsonplowden.com>; 'Teresa Winter' <Teresa@maybanklaw.com>; Jerry Wigger <jwigger@wiggerlawfirm.com>; Harvey, Jeslyn <jharvey@hsblawfirm.com>; Felicity J. Moore <fmoore@arslawsc.com>; Gaye DuPre <gdupre@barnwell-whaley.com>; 'Chase, Catherine' <CChase@ycrlaw.com>; 'Kaylee Maxey-Negrin' <KMN@lylesfirm.com>; Brittney Cribb <bcribb@wiggerlawfirm.com>; 'ikeithmccarty@gmail.com' <ikeithmccarty@gmail.com>; Cole Lawrimore <clawrimore@arslawsc.com>; Amanda Maybank <Amanda@maybanklaw.com>; Roy Maybank <Roy@maybanklaw.com>; 'howard.vandine@nelsonmullins.com' <howard.vandine@nelsonmullins.com>; 'maria.keeve@nelsonmullins.com' <maria.keeve@nelsonmullins.com>; Tiller, John <jtiller@hsblawfirm.com>; Moody, Mary <mmoody@hsblawfirm.com>; Frank Smith <FSmith@RichardsonPlowden.com>; Carol Howes <CHowes@RichardsonPlowden.com>; Beth Tobul <BTobul@RichardsonPlowden.com>; 'Highfield, Duke' <dhighfield@ycrlaw.com>; Keith McCarty <ikeithmccarty@gmail.com>; Robert Lyles <rtl@lylesfirm.com>; 'Court Walsh' <court.walsh@nelsonmullins.com>; 'Justman, Aimee' <AJustman@ycrlaw.com>; 'Bates, Tiffany' <tbates@ycrlaw.com>; JJ Anderson <janderson@arslawsc.com>; 'Jonathan.knicely@nelsonmullins.com' <jonathan.knicely@nelsonmullins.com>; Rose Beth G. Smith <RBGS@lylesfirm.com>; Lisa Shumpert <lisa.shumpert@nelsonmullins.com>

Cc: Moody, Mary <mmoody@hsblawfirm.com>

Subject: RE: Sharper, et al. v. HLA, Inc., et al. (Pepperhill Matter) - 30(b)(6) Topics Below

Importance: High

STATEMENT OF ALLAN ABBATA, P.E.

I, Allan Abbata, P.E. hereby state as follows:

I have been retained by the Wigger Law Firm, Inc. as an expert witness for the Plaintiffs in the Sarah Sharper v. SCDOT, et al (Consolidated Pepperhill Matters: 2017-CP-10-04820).

It is my understanding that the SCDOT is responsible for some areas of the Palmetto Parkway and water would have come through those areas. Also, SCDOT is in charge of approval and permitting and there were shortcuts in the process.

It would be helpful to have the benefit of depositions to see who did what before I could render more opinions.

SWORN TO THIS 16th DAY OF September, 2020.



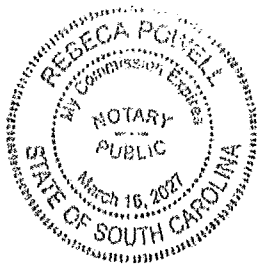
Allan Abbata, P.E.

SWORN TO BEFORE ME THIS
16th DAY OF September, 2020.



NOTARY PUBLIC FOR SOUTH CAROLINA

MY COMMISSION EXPIRES: March 16, 2027



STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

PLAINTIFF,

V.

THE STATE OF SOUTH CAROLINA,
CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION AND JOHN DOE
(ENGINEERING FIRM/ENGINEER),

DEFENDANTS.

COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CONSOLIDATED CASE
NUMBER.: 2017-CP-10-4820

**PLAINTIFFS' RESPONSE TO
DEFENDANT SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION'S
MOTION FOR SUMMARY JUDGMENT**

Defendant South Carolina Department of Transportation filed their motion for summary judgment in this matter on July 27, 2020, and the Plaintiffs respectful respond to the Defendant's motion as follows:

I. STATEMENT OF CASE

In or about spring of 2016 the Defendants conceived and began construction of a four-lane highway which is now known as the Palmetto Commerce Parkway. The alleged purpose of the road was to alleviate traffic around the Boeing Plant and create attractive commercial space for business interests. A significant part of the Parkway was designed to run through the above-mentioned wetlands behind the Pepperhill Subdivision where each of the Plaintiffs' homes are located. At the numerous public hearings with representatives of the Defendants in attendance, the Plaintiffs' and many of their neighbors in Pepperhill expressed concern over the flooding that would take place in their neighborhood should the Parkway be constructed and stated their objections to the parkway

being constructed, fearing their homes would flood in the event of a significant weather system coming through area. The Defendants ignored such objections despite having access to the pertinent information which showed the objections were justified.

As part of the Defendants' due diligence, they were required to perform studies regarding what the project would do with the water being absorbed by the wetlands, including but not limited to how it would impact neighboring properties, how it would impact wetlands, and how the project would have a water-neutral impact. Defendants negligently constructed the Parkway by creating a berm through the wetland which acts as a dam and prevents water from flowing from one of the dissected area of wetlands to the other and effectively funnels water toward the Pepperhill Subdivision. Defendants negligently constructed the Parkway by refusing to elevate the roadway or build appropriate culverts which would allow for free flow or drainage water throughout the dissected wetlands, which funnels water towards the Pepperhill Subdivision. The Defendants repeatedly assured the Plaintiffs that no such flooding would occur and ignored the objections of the residents.

Despite the residences' objections, the Defendants continued with their construction of Palmetto Parkway through the wetlands and there were shortcuts taken and ultimately just as the residents warned, the Plaintiffs' residences were flooded due to the Defendants shortcuts and inadequate construction of Palmetto Parkway.

As a result of the Defendant's concerted actions, the Plaintiffs' property continually floods during water events. The flooding is so severe that the Plaintiffs are forced to vacate their homes for significant amounts of time, replace their personal belongings and make extensive and costly repairs to their structures.

The Defendants were notified by the Plaintiffs pursuant to S.C. Code Ann. Sect. 5-31-450, requesting that the Defendants take corrective action to provide adequate and sufficient drainage to prevent flooding of their property and to restore the natural condition of the property which was

destroyed by the actions of the Defendants. To date, the Defendants have failed to perform reasonable actions to repair the continued flooding and damage to the Plaintiffs' property.

As a result of the construction of the Palmetto Commerce Parkway and the insufficient drainage and flood control system for the community, the Plaintiffs' homes and real property have, within the past two years, sustained damage and the Plaintiffs' right to the peaceful use and enjoyment of their property have been hampered. Flooding events have occurred numerous times during the period preceding the filing of this suit and despite knowledge of these occurrences; the Defendants have not performed reasonable repairs. The flooding is continuing in nature. Plaintiffs aver that each flooding event is a separate occurrence and injury.

II. STATUS OF CASE

Procedurally, in this case, there was a pre-suit mediation in this case and the matter did not resolve at mediation. Because the matter did not resolve at mediation, the case was filed. There was another case (same flooding event and Defendants) that was initially part of the present case and once it was determined the Plaintiff's property was in Dorchester County. That matter was transferred to Dorchester County and that matter is now settled. Based on representations by the Defendant's counsel, once that case settled, they would take over and for the expert's deposition and conduct mediation to try to resolve the other cases. Additionally, the Plaintiff's have an expert witness, Mr. Allan Abbata who is prepared to render opinions about the Defendant's negligent construction and disregard of the significant water issue in the case. Defendant SCDOT have failed to provide any discovery at present. Merely from his looking at the documents FOIA'd, he has set out areas where the DOT failed in the attached affidavit, (SEE EXHIBIT B). Defendants should not be allowed to pursue a dismissal until they have participated in discovery.

There are 45 Plaintiffs in this matter and due to COVID 19, the expert witness for the Plaintiffs deposition was has been rescheduled several times and has not been able to be taken at this

time. The last time was on August 23rd and 24th. After a review of the file, there are only some of the Defendants that have turned over their discovery responses to the Plaintiffs. SCDOT has failed to turn over their discovery responses, despite being served with the Plaintiff's discovery requests since 2/1/2018 (SEE EXHIBIT C). Considering this case has had minimal discovery turned over by the Defendants in this matter and there has not been one deposition taken, we would agree that the Defendant's Motion is premature. Plaintiffs feel that it is too early in the process to dismiss any Defendant in this matter until all the discovery is submitted and depositions are taken. As such, Plaintiffs object to the dismissal of this Defendant.

III. SUMMARY JUDGMENT STANDARD

South Carolina is now a scintilla of evidence State. *Froneberger v. Smith* (S.C. App. 2013) Opinion Number 5168. The court concluded that the Fronebergers presented sufficient evidence to establish an agency relationship at trial. "However, given the minimal amount of discovery the parties had conducted at the time summary judgment was granted, we find the Smiths' answers created a mere scintilla of evidence that precluded summary judgment." South Carolina has now universally adopted this standard.

"Summary judgment is inappropriate when reasonable minds can differ as to any material fact." *Williams v. Chesterfield Lumber Co.*, 267 S.C. 607, 230 S.E.2d 447, 448 (1976). "Summary Judgment must be denied if there is any genuine dispute between the parties." *Hammond v. Scott*, 268 S.C. 137, 232 S.E.2d 336, 339 (1977). Summary Judgment should not be granted as the Defendant has not turned over his discovery responses since being served February 2018. Additionally, no depositions have been taken in this case at this time. "Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." *Tupper v. Dorchester County*, 326 S.E. 318, 487 S.E.2d 187 (1997); *Baugus v. Wessinger*, 303 S.C. 412, 401 S.E.2d 169 (1991). Even if the only dispute is how to draw

conclusions or determinations from undisputed facts, summary judgment should be denied. *Tipper, supra*. At the summary judgment stage, the Plaintiffs need not prove their case, only that there is a genuine issue of material fact regarding the merits of their claims. For summary judgment to be granted, it must be perfectly clear no issue of facts is involved. *Piedmont Engineers, Architects and Planners, Inc. v. First Hartford Realty Corp.*, 278 S.C. 195, 293 S.E.2d 706 (1982).

Summary Judgment may only be granted where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." Rule 56(c), SCRPC; *Russell v. Wachovia Bank, N.A.*, 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003); *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 569-70, 608 S.E.2d 459, 461 (Ct.App. 2005); *B & B Liquors, Inc. v. O'Neil*, 361 S.C. 267, 270 S.E.2d 629, 631 (Ct.App.2004). In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party. *Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 59, 518 S.E.2d 301, 304 (Ct.App.1999). "At the summary judgment stage of the proceedings, it is only necessary for the nonmoving party to submit a scintilla of evidence warranting determination by a jury for summary judgment to be denied. *Hill v. York County Sheriff's Department*, 313 S.C. 303, 437 S.E.2d 179, 182 (Ct. App.1993). Here, there are only pleadings from the Defendant SCDOT. They have answered no interrogatories or requests for production, nor stood for any depositions.

IV. ARGUMENT

SCDOT's argument is that SCDOT does not own or maintain the Palmetto Commerce Parkway that is the subject of these consolidated proceedings as stated in Affidavit of Arnold Blanding.

A. SCDOT is a Proper Defendant

The defense uses Arnold Blanding's affidavit in support of their position that SCDOT is not responsible for maintaining the Palmetto Commerce Parkway. Mr. Blanding, for instance, states in

his affidavit for SCDOT that "the Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties and that if the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case. We contend that within the political boundaries of the Defendants, it is and has been necessary and/or desirable to carry off water from the areas surrounding Plaintiffs' property rather than over private land. The Plaintiffs as owners or having an interest in such private land have demanded that the Defendants provide sufficient drainage which is practicable and the Defendants have failed to do so and if such drainage is not practicable the Defendants have failed to institute proceedings to obtain the right of way to provide for the necessary drains.

Defendant SCDOT's counsels email dated 2/28/2020 states:

"SCDOT was not involved in the project and asserts no jurisdiction or responsibility over the parkway except at the tie in at Ashley Phosphate and Ladson Road as detailed by the attached affidavit." (SEE EXHIBIT A).

This is also substantiated by the attached Affidavit of Arnold Blanding, submitted by Defendant SCDOT. The Plaintiffs contend that Exhibit A shows an admission of responsibility on the part of Defendant SCDOT. If they admit that they had a portion of Palmetto Parkway under their responsibility and control, then they admit that there was a portion that they were responsible for and should have discovered and prevented the flooding issue at hand in this case.

The attached statement from the Plaintiffs' expert, Allan Abbata, also reiterates the Plaintiffs' position as Mr. Abbata states:

"It is my understanding that the SCDOT is responsible for some areas of the Palmetto Parkway and water would have come through those areas. Also, SCDOT is in charge of approval and permitting and there were shortcuts in the process. It would be helpful to

have the benefit of depositions to see who did what before I could render more opinions.”

(SEE EXHIBIT B).

As a direct and proximate result of Defendants acts and conduct, Plaintiffs have suffered property damage, depreciation of their property, severe and emotional distress resulting in mental distress, fear, nervousness, and sleeplessness. As a direct and sole consequence of the repeated flooding of their property, the Plaintiffs have had to endure the loss of enjoyment of life that no reasonable person could be expected to endure. Some of the Plaintiffs have lost their homes. The Plaintiffs were informed and believe they are entitled to recover damages of the Defendants, both actual and punitive, as a result of their acts and conduct. Article I, Section 13(A) of the South Carolina Constitution provides the basis for recovery against government entities and public utilities via the theory of inverse condemnation when private property is taken or damaged for a public use without just compensation to the owner. Defendants are in the business of servicing citizens of Charleston County, South Carolina. Defendants' conduct is tantamount to public use. As a result of Defendants' failure to design and maintain the Palmetto Commerce Parkway road system in such a way to prevent flooding and damage to the Plaintiffs' property, Defendants have intentionally, recklessly, willfully, and negligently, caused or contributed to the accumulation of water which enters onto and into the Plaintiffs' real property. Consequently, Defendants' actions are the direct and proximate cause of the physical damage to Plaintiffs' property that has rendered said property valueless and virtually unusable. The acts and omissions of Defendants constitute a physical invasion of Plaintiffs' real property for a public use, placing a burden on Plaintiffs that is direct, substantial, and peculiar to the property itself. The exorbitant amount of interference that Defendants have caused to Plaintiffs' property amounts to a taking of said property without lawful authority and without formal exercise of the power of eminent domain, resulting in inverse condemnation.

V. CONCLUSION

Based on the facts and law as set out in this memorandum, the Plaintiffs respectfully request this Honorable Court to deny the Defendant's Motion for Summary Judgment and direct the Defendants to refile once they have participated in discovery.

WIGGER LAW FIRM, INC.

s/ Jarrel L. Wigger

Jarrel L. Wigger, Esq.

S.C. Bar No. 011824

Attorney for the Plaintiffs

8086 Rivers Avenue, Suite A

North Charleston, SC 29406

843-553-9800

jwigger@wiggerlawfirm.com

North Charleston, South Carolina

This 21st day of September 2020.

EXHIBIT A

STATEMENT OF ALLAN ABBATA, P.E.

I, Allan Abbata, P.E. hereby state as follows:

I have been retained by the Wigger Law Firm, Inc. as an expert witness for the Plaintiffs in the Sarah Sharper v. SCDOT, et al (Consolidated Pepperhill Matters: 2017-CP-10-04820).

It is my understanding that the SCDOT is responsible for some areas of the Palmetto Parkway and water would have come through those areas. Also, SCDOT is in charge of approval and permitting and there were shortcuts in the process.

It would be helpful to have the benefit of depositions to see who did what before I could render more opinions.

SWORN TO THIS 18th DAY OF September, 2020.



Allan Abbata, P.E.

SWORN TO BEFORE ME THIS
18th DAY OF September, 2020.



NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: March 16, 2027



EXHIBIT B

From: JJ Anderson <janderson@arslawsc.com>
Sent: Friday, February 28, 2020 4:07 PM
To: keith mccarty <ikeithmccarty@gmail.com>; Jerry Wigger <jwigger@wiggerlawfirm.com>
Cc: Felicity J. Moore <fmoore@arslawsc.com>; Cole Lawrimore <clawrimore@arslawsc.com>
Subject: Pepperhill v. SCDOT

Gentlemen: I hope this e-mail finds you well. Attached is a proposed stipulation of dismissal for SCDOT and a supporting affidavit from the District 6 Engineer concerning the jurisdiction and responsibility that SCDOT has over Palmetto Commerce Parkway. As I am sure you know that the construction was a County of Charleston project under the penny tax program a/k/a pennywise program. SCDOT was not involved in the project and asserts no jurisdiction or responsibility over the parkway **except** at the tie in at Ashley Phosphate and Ladson Road as detailed by the attached affidavit. It is requested that you voluntarily dismiss SCDOT without prejudice from these lawsuits and save us all the time and trouble of a motion for summary judgment. Please let me know if you are willing to sign the stipulation of dismissal. If you do not like the language of the stipulation please make your desired changes and return it to me for consideration. Thank you and have a great weekend.

J. J. Anderson



Anderson Reynolds & Stephens, LLC

37 1/2 BROAD STREET, POST OFFICE BOX 87, CHARLESTON, SOUTH CAROLINA 29402
E-MAIL: janderson@arslawsc.com | TEL. 843-723-0185 | DIRECT 843-576-2070 | CELL 843-324-8604

Confidentiality Notice:

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify our office immediately either by phone (843-723-0185) or reply to this e-mail and delete all copies of this message.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Sarah Sharper

Plaintiff,

vs.

The State of South Carolina, City of North
Charleston, County of Charleston,
Department of Health and Environmental
Control, South Carolina Department of
Transportation and John Doe (engineering
firm/engineer),

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)
)

) **CONSOLIDATED CASE**
) **NUMBER FOR AFFIDAVIT OF ARNOLD**
) **BLANDING**
) **2017-CP-10-4820**
)

) **OTHER INCLUDED CASE NUMBERS:**

) 2017-CP-10-4821

) 2017-CP-10-4822

) 2017-CP-10-4823

) 2017-CP-10-4824

) 2017-CP-10-4825

) 2017-CP-10-4826

) 2017-CP-10-4827

) 2017-CP-10-4835

) 2017-CP-10-4836

) 2017-CP-10-4837

) 2017-CP-10-4838

) 2017-CP-10-4839

) 2017-CP-10-4840

) 2017-CP-10-4841

) 2017-CP-10-4842

) 2017-CP-10-4845

) 2017-CP-10-4847

) 2017-CP-10-4891

) 2017-CP-10-4892

) 2017-CP-10-4893

) 2017-CP-10-4894

) 2017-CP-10-4895

) 2017-CP-10-4896

) 2017-CP-10-4897

) 2017-CP-10-4898

) 2017-CP-10-4899

) 2017-CP-10-4900

) 2017-CP-10-4901

) 2017-CP-10-4903

) 2017-CP-10-4904

) 2017-CP-10-4905

) 2017-CP-10-4906

) 2017-CP-10-4907

) 2017-CP-10-4923

) 2017-CP-10-4924

) 2017-CP-10-4925

) 2017-CP-10-4926

) 2017-CP-10-4927

) 2017-CP-10-4928

) 2017-CP-10-4929

) 2017-CP-10-4930

) 2017-CP-10-4931

) 2017-CP-10-5108

PERSONALLY APPEARED BEFORE ME the undersigned Arnold Blanding, who first being duly sworn, deposes and states as follows:

1. I am South Carolina Department of Transportation's (hereinafter "SCDOT") District Six, Resident Maintenance Engineer for Charleston County. District Six includes Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper Counties. I have held this position since May of 2017.

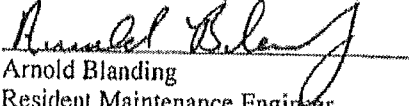
2. Incident to my position, I oversee the inspection and maintenance of all SCDOT maintained roads in Charleston County.

3. The Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties. If the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case.

4. SCDOT's only interaction with the Parkway is with regard to where the Parkway terminates at or "ties into" SCDOT owned and maintained roads at Ladson Road to the North and Ashley Phosphate Road to the South. The "tie in" extends 60 feet from the centerline of Ashley Phosphate Road onto Palmetto Commerce Parkway, and 24.38 meters from the centerline of Ladson Road onto Palmetto Commerce Parkway.

5. It is my understanding that the locations where the Parkway "ties into" Ladson Road and Ashley Phosphate Road are not at issue in this matter.

FURTHER AFFIANT SAYETH NAUGHT!


Arnold Blanding
Resident Maintenance Engineer
SCDOT District Six
Affiant

SWORN TO BEFORE ME)
UNDER PENALTY OF PERJURY)
this 29th day of October, 2019)

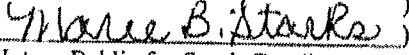

Notary Public for South Carolina)
My Commission Expires: 04-17-2024

EXHIBIT C

Wigger Law Firm, Inc.

ATTORNEYS AT LAW

8086 Rivers Avenue, Suite A
North Charleston, SC 29406

JARREL L. WIGGER*

JOSHUA T. HOWLE
BRICE E. RICKER
EMILY H. TONG
STEPHEN J. RYAN

(843) 553-9800
(843) 553-1648 Fax

Summerville
(843) 851-9900

West Ashley
(843) 203-1500

*Board Certified Civil Trial Specialist
By National Board of Trial Advocacy

February 1, 2018

VIA REGULAR MAIL AND EMAIL:

Jonathan J. Anderson, Esquire
Anderson Reynolds & Stephens, LLC
37 1/2 Broad Street
Charleston, SC 29401

Phillip Ferderigos, Esquire
Barnwell Whaley
288 Meeting Street, Suite 200
Charleston, SC 29402

Drew Hamilton Butler, Esquire
Richardson, Plowden & Robinson, P.A.
P.O. Box 21203
Charleston, SC 29413

RE: Plaintiff's Discovery Requests; Pepperhill Actions

Dear Counsel:

Enclosed, please find for service upon the Defendants Plaintiff's Interrogatories, Request for Production and Request for Admissions for the following actions filed in the Charleston County Court of Common Pleas:

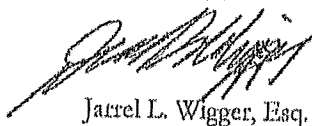
2017-CP-10-4931	Darryl Beech v. City of North Charleston, et al.
2017-CP-10-5108	Henry and Anjenette Bennett v. City of North Charleston, et al.
2017-CP-10-4924	Diane Blazer as Guardian of Charles Eichmann v. City of North Charleston, et al.
2017-CP-10-4897	Elizabeth Bright v. City of North Charleston, et al.
2017-CP-10-4835	Kaye Brown v. City of North Charleston, et al.
2017-CP-10-4930	Kevin Drayton v. City of North Charleston, et al.

2017-CP-10-4892	Tanya Driggers v. City of North Charleston, et al.
2017-CP-10-4929	Renotia Fludd v. City of North Charleston, et al.
2017-CP-10-4907	Roberta Frasier v. City of North Charleston, et al.
2017-CP-10-4841	Bob Frederking v. City of North Charleston, et al.
2017-CP-10-4827	Latosha Gadsden v. City of North Charleston, et al.
2017-CP-10-4839	Clair Gallagher v. City of North Charleston, et al.
2017-CP-10-4823	Jason Gardner v. City of North Charleston, et al.
2017-CP-10-4903	Oglivia Gibson v. City of North Charleston, et al.
2017-CP-10-4842	Milton and Myrtle Green v. City of North Charleston, et al.
2017-CP-10-4901	Otis and Angela Green v. City of North Charleston et al.
2017-CP-10-4893	Franklin and Delores Griffin v. City of North Charleston, et al.
2017-CP-10-4826	Jesse and Patricia Frazier v. City of North Charleston, et al.
2017-CP-10-4925	Leigh Hemingway v. City of North Charleston, et al.
2017-CP-10-4837	Ismael and Anjenette Hernandez v. City of North Charleston, et al.
2017-CP-10-4822	Gail Holmes v. City of North Charleston, et al.
2017-CP-10-4847	Virginia and Lonnie Ivery v. City of North Charleston, et al.
2017-CP-10-4899	Kelvin Jackson v. City of North Charleston, et al.
2017-CP-10-4891	Alex and Virginia James v. City of North Charleston, et al.
2017-CP-10-4825	Maezell Jefferson v. City of North Charleston, et al.
2017-CP-10-4824	Theresa Jenkins v. City of North Charleston, et al.
2017-CP-10-4927	Rebecca Kapperman-Brown v. City of North Charleston, et al.
2017-CP-10-4906	Tuan Le v. City North Charleston, et al.
2017-CP-10-4845	Mabel Livingston v. City of North Charleston, et al.
2017-CP-10-4905	Tammy McCall v. City of North Charleston, et al.
2017-CP-10-4838	James and Katie Miller v. City of North Charleston, et al.
2017-CP-10-4900	Robert Mixon and Mixon Rental Properties, LLC v. City of North Charleston, et al.
2017-CP-10-4840	Willie Moore v. City of North Charleston, et al.
2017-CP-10-4928	Valerie Pearson v. City of North Charleston, et al.
2017-CP-10-4898	Geneva Ravenel v. City of North Charleston, et al.
2017-CP-10-4923	Mellany Robinson v. City of North Charleston, et al.
2017-CP-10-4836	Sullay Sesay v. City of North Charleston, et al.
2017-CP-10-4820	Sarah Sharper v. City of North Charleston, et al.
2017-CP-10-4904	Darlene Taylor-William v. City of North Charleston, et al.
2017-CP-10-4894	Kevin Thompson v. City of North Charleston, et al.
2017-CP-10-4895	Constance Verge v. City of North Charleston, et al.
2017-CP-10-4821	Melissa Washington v. City of North Charleston, et al.

2017-CP-10-4926	Allison Wells v. City of North Charleston, et al.
2017-CP-10-4896	Brenda Wrighton v. City of North Charleston, et al.

I would propose the cases be consolidated for discovery. If anyone objects, please give me a call, if not we will prepare a consent order.

Respectfully yours,



Jarrel L. Wigger, Esq.

TO: THE ABOVE NAMED DEFENDANTS:

The Plaintiffs hereby require the Defendants, within thirty (45) days after service hereof, to answer the Interrogatories hereinafter set forth in accordance with the Federal Rules of Civil Procedure Rule 33(b). These Interrogatories shall be deemed to continue until time of the trial of this case pursuant to Rule 33(b).

ONE: List the names and addresses of the persons known to the party or counsel to be a witness concerning the facts of this case and indicate whether or not written or recorded statements have been taken. If so, indicate who has possession of such statements.

TWO: Set forth a list of photographs, plats, sketches and other prepared documents in the possession of the party that relate to the claim of the defense in this case.

THREE: List the names and addresses of all insurance companies, which have liability insurance coverage relating to the claim. Give the number(s) of the policy or policies involved and the amount(s) of the liability coverage provided in each policy.

FOUR: List the names and addresses of any expert witnesses the party proposes as a witness at the trial of this case.

FIVE: For each person known to the parties or counsel to be a witness concerning the facts of this case, set forth a summary sufficient to inform the other party of the important facts known or observed. Such witness shall provide a copy of any written or recorded statements taken from such witness.

SIX: List the names and addresses of all contractors, sub-contractors, employees and/or former employees of the Defendants who participated in the storm water runoff analysis for this matter, including companies and individuals.

SEVEN: List the names and addresses of all contractors, sub-contractors, employees and/or former employees of the Defendants who participated in the construction in the wetlands related to the Palmetto Commerce Parkway.

EIGHT: List any and all State, Federal and Municipal rules, regulations, or guidelines the Defendant is required to adhere to during construction with regard to water drainage, run-off, storm water drainage, etc. in performing business as a builder, contractor, subcontractor, or other employee involved in the aforementioned construction.

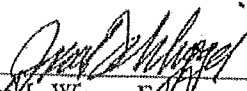
NINE: List all required steps taken to ensure that the Plaintiffs' property would not be affected by water drainage, before pumping, redirecting, or otherwise from the construction by the Defendants.

TEN: A list of the specific tasks that the Defendants are/were responsible for in the development of the property at or adjacent to the Palmetto Commerce Parkway.

ELEVEN: A complete description of the types of soil and/or water testing performed on the Palmetto Commerce Parkway development site prior to the beginning of construction.

TWELVE: Please state whether there were any delays in the project once construction started, and state the reasons for the delays.

THIRTEEN: On behalf of the Defendants, list the name, address and title of the person present at the public hearing meetings before the project began.


Jarrell L. Wigger, Esquire
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
N. Charleston, S.C. 29406
(843) 553-9800

North Charleston, South Carolina
This 2nd day of February, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy
of the foregoing pleading has been served upon
OPP, ARCS by mailing a copy properly
addressed with sufficient postage affixed thereto
this 2nd day of February, 2018


WIGGER LAW FIRM

TO THE ABOVE NAMED DEFENDANTS:

The Plaintiff, by and through her undersigned attorney, request the Defendants to Produce for inspection a copy of the following described documents and items in possession, custody and/or control of the Defendants, their attorneys and/or other representatives or agents pursuant to South Carolina Rules of Civil Procedure:

ONE: All statements, whether written, recorded or transcribed, taken of any parties or witnesses of the facts of this case.

TWO: Any and all reports prepared by experts in this case.

THREE: Copies of all insurance policies owned by the Defendants that relate to this matter or in the alternative the front page of such policies showing the amount and type of coverage.

FOUR: Copies of all photographs relating in any way to the matters referred to in the Complaint and Amended Complaint.

FIVE: Copies of any and all records, notes, electrical transmissions, files, memos, regarding the Palmetto Commerce Parkway project.

SIX: Copies of any and all documents which show the actions taken by the Defendants to comply with all required State, Federal and Municipal regulations, policies, procedures required with regard to the storm water runoff and construction of the wetlands surrounding the Palmetto Commerce Parkway, which was under construction by the Defendants.

SEVEN: Copies of any and all survey reports performed on the storm water runoff and construction of the wetlands surrounding the Palmetto Commerce Parkway, which was under construction by the Defendants.

EIGHT: Copies of any and all agreements, contracts, etc. between the Defendants.

NINE: Copies of any partnership agreements between the government and any entity involved in the construction development on the storm water runoff and construction surrounding the Palmetto Commerce Parkway.

TEN: Copies of any and all regulations, rules, code, and/or ordinances that regulate the construction development on the storm water runoff and construction in the wetlands surrounding the Palmetto Commerce Parkway.

ELEVEN: Certified copies of any and all test results regarding the soil and/or water testing performed on the wetlands for the Palmetto Commerce Parkway site prior to the beginning of construction.

TWELVE: Copies of photographs of any pumps or mechanical devices used to extract and/or disburse the water and/or other substances from said site.

THIRTEEN: Copies of photographs of the holding pond and any and all documents used to determine the size of the pond.

FOURTEEN: Copies of all logs recording water extraction and/or disbursement of water

from the construction site.

FIFTEEN: Copies of any and all environmental impact studies.

SIXTEEN: Copies of any and all elevation maps for the construction site and any and all adjacent properties.

SEVENTEEN: Copies of all statements, photographs, reports, etc. regarding the investigation of the Plaintiff's complaints.

EIGHTEEN: A detailed description of the area where the water was extracted from and a detailed description of the area where the water was disbursed throughout construction.

NINETEEN: Copies of all licenses and permits pulled prior to the project in question.

TWENTY: Copies of the entire job file, non privileged documents and field notes regarding this project.

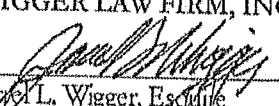
TWENTY-ONE: Copies of any and all documents received due to any FOIA requests regarding this matter.

TWENTY-TWO: Copies of the daily progress logs of the construction.

TWENTY-THREE: Copies of any and all weather analysis reports in addition to the storm water analysis performed.

TWENTY-FOUR: Copies of any and all reports prepared as a result of the public hearings on the proposed construction of the Palmetto Commerce Parkway.

WIGGER LAW FIRM, INC.

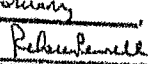

Janel L. Wigger, Esquire
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
N. Charleston, S.C. 29406
(843) 553-9800

North Charleston, South Carolina
This 2nd day of February, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon OPP. Attys by mailing a copy properly addressed with sufficient postage affixed thereto

this 2nd day of February, 2018


WIGGER LAW FIRM

TO THE ABOVE NAMED DEFENDANTS:

The Plaintiff hereby request that the Defendants admit the following:

ONE: Admit that the wetlands that existed prevented water flowing onto the Pepperhill subdivision prior to the storm event in October 2015.

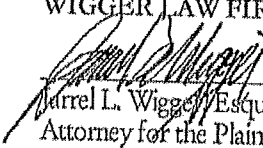
TWO: Admit that the parkway created by the Defendants funnels water towards the Pepperhill Subdivision.

THREE: Admit the Defendants were notified of the flooding issue by the residents of Pepperhill subdivision prior to beginning construction.

FOUR: Admit that city had received requests to clear the drainage ditch labeled as Pepperdam Creek, prior to October 2015.

FIVE: Admit that the city had received requests to clear the drainage ditch labeled Pepperdam Creek, prior to October 2015.

WIGGER LAW FIRM, INC.


Jarrel L. Wigger Esquire
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
N. Charleston, S.C. 29406
(843) 553-9800

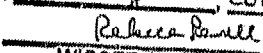
North Charleston, South Carolina
This 2nd day of February, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon

OPR. ARMS. by mailing a copy properly addressed with sufficient postage affixed thereto

this 2nd day of February, 2018


WIGGER LAW FIRM

RECEIVED

Mar 23 2021

SC Court of Appeals

1 STATE OF SOUTH CAROLINA }
2 COUNTY OF CHARLESTON } COURT OF COMMON PLEAS NONJURY
3

4 SARAH SHARPER, ET AL }
5 PLAINTIFF, } TRANSCRIPT
6 VS. } OF
7 THE STATE OF SOUTH CAROLINA, ET AL, } RECORD
8 DEFENDANT, } 2017-CP-10-4820
9

10 September 21st, 2020
11 Charleston, South Carolina

12 B E F O R E:

13 THE HONORABLE BENTLEY PRICE, JUDGE.

14 A P P E A R A N C E S:

15 JARREL L. WIGGER
16 ESQ.
17 Attorney for the Plaintiff

18 W. COLEMAN LAWIMORE
19 ESQ.
20 Attorney for the Defendant SCDOT

21 KRISTA N. CARNEY
22 Circuit Court Reporter
23

24 Transcribed by Pamela E. Green, Circuit Court Reporter
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X O F W I T N E S S E S

(WHEREUPON, there were no exhibits marked or testimony
taken during this hearing.)

1 PROCEEDINGS

2
3 THE COURT: All right. So, my understanding is that
4 this is a damages hearing.

5 Is that correct?

6 MR. LAWRYMORE: No, sir.

7 THE COURT: All right. Well, it's all on the -- on
8 the -- it's on there.

9 All right. What is it then?

10 MR. LAWRYMORE: Judge, Cole Lawrimore here on behalf of
11 SCDOT. This is DOT's motion for summary judgment.

12 THE COURT: Oh, this---

13 MR. LAWRYMORE: There may be a damages hearing on it
14 but --.

15 THE COURT: Oh, okay.

16 All right. I'll be happy to hear from you.

17 MR. LAWRYMORE: Thank you, Your Honor.

18 Again, Cole Lawrimore and J.J. Anderson here for SCDOT
19 here before the Court on our motion for summary judgment.

20 Your Honor knows the summary judgment standards. So,
21 I'm not gonna give you a string cite to belabor that issue.

22 The project at issue is the Palmetto Commerce Parkway,
23 which is not a DOT owned and maintained road. It runs
24 in-between Blaston Road and Ashley Phosphate around the City
25 of North Charleston. We've submitted Arnold Blanding's

1 affidavit in support of our motion. Arnold Blanding's a
2 resident maintenance engineer for Charleston county.

3 That affidavit boiled down -- it just says this isn't
4 DOT's road. We don't own it. We don't maintain it. We've
5 never owned it, and we've never maintained it. DOT's
6 responsibility is, as to that road, extend to the portions
7 of the Commerce Parkway that are within DOT's right of way.

8 As to this intersection with Blaston Road, that's about
9 50 feet. As to intersecting with Ashley Phosphate Road,
10 it's about 80 feet. Both of those distances measures from
11 the center line of Ashley Phosphate and Blaston Road. All
12 together that accounts for about 140 feet of a five and a
13 half mile long road. By my extremely suspect math, that's
14 about half of 1 percent.

15 There have been no allegations or evidence submitted in
16 this case thus far tending to indicate that that 140 feet of
17 road is in any way contributing to the flooding that serves
18 as the basis of the Plaintiff's Complaint.

19 We've received an affidavit from Alan Obata about two
20 and a half hours ago. We would contend that that affidavit
21 is untimely per the two day requirement set forth in Rule
22 56(c) to the Rules of Procedure. Don't believe that
23 affidavit is timely, don't believe it should be considered
24 by the Court today, and it just further emphasized the point
25 that there have been no allegations as to DOT's 140 feet of

1 right of way contributing to any of the problems that the
2 Plaintiffs are experiencing.

3 We just believe that, quite frankly, there's no
4 evidence whatsoever, after about a year and a half of
5 litigation, that DOT has any responsibilities whatsoever to
6 the Palmetto Commerce Parkway. On those grounds, we believe
7 that they're not a proper party to this action and should be
8 dismissed.

9 THE COURT: All right. Who's gonna be arguing for the
10 Plaintiff?

11 MR. WIGGER: Jarrel Wigger.

12 THE COURT: All right. Be happy to hear from you.

13 MR. WIGGER: May it please the Court.

14 We've talked a little bit about the history of the
15 case. Basically the Palmetto Parkway was designed and it
16 was, it was put up literally via Boeing and Knights Road to
17 have a shortcut to trade on board their, their goods, and
18 there were hearings before the road was put up. And the
19 sub -- the people that lived in that separate little
20 subdivision presented at those hearings and indicated that,
21 if this roadway went through, then they knew it was gonna
22 flood their neighborhood, and the hearings were on the
23 record, and we've submitted those documents that, that
24 indicate that.

25 So, when we -- when the bad storm happened in 2016, a

1 lot of the people got flooded out. Bad storm happened again
2 in 2017. People got reflooded, flooded out again. Whenever
3 bad rains were happening, they would get flooded out.

4 So, following that, we brought a lawsuit and initially
5 there were 46 plaintiffs that were involved in the lawsuit.
6 Not long after we brought the lawsuit we found out that one
7 of the Plaintiffs actually lived over the line in Dorchester
8 County, and that case was removed to Dorchester County.
9 That was the Storts case.

10 Literally everybody kind of focused on that case for a
11 bit, and there were motions and appeals and things happened
12 in that case. That case settled not too long ago.

13 After we settled that case, then everybody's attention
14 refocused back on this case, and it was our understanding
15 that the Defendants were going to take our experts
16 deposition, Alan Obata, who's a construction engineer
17 expert, and then we were gonna sit down and, and try to
18 resolve this case and mediate it.

19 So, his deposition was set, canceled, set, canceled,
20 set, canceled. The last time it was set was gonna be
21 August 26th and 27th or 27th and 28th, somewhere
22 around in there, and basically, when that happened, we said
23 look, we're coming up on the docket. We, we can't rely on
24 y'all doing this deposition and setting a mediation. We're
25 gonna get the case moving.

1 There are a number of people that have not submitted
2 discovery including the DOT. We do not have their
3 discovery. We've sent a Rule 11 letter that says we're
4 gonna come in and say that litigation's been going on all
5 this time. They haven't participated in, in the -- in
6 discovery at all. No depositions have been taken.

7 We have set a bunch of 30(b)(6) depositions because,
8 frankly, since it never -- their plan is gonna work, we're
9 gonna have to get moving and getting our case set and ready.
10 But our allegation is that the entire Palmetto Parkway
11 construction project, the (indiscernible), the drainage
12 system, all that is contributing to the flooding in our
13 neighborhood.

14 For the DOT to say there've been no allegations, that's
15 just not accurate. Our Complaint, our Complaint indicates
16 that the entire Palmetto Commerce Parkway is contributing to
17 the flooding.

18 There isn't a way to set out and say some parts of it
19 are exempt because it's movement and water. Even if it is
20 only half of one percent, that movement of water is part of
21 the flooding that is going right in our neighborhood and
22 right in our client's houses. So, it isn't accurate to say
23 that we haven't made those allegations. We have.

24 As far as Mr. Obata's affidavit, that's -- we got
25 Mr. Blanding's affidavit, and frankly Mr. Blanding admits

1 that the DOT is responsible for a portion of the Palmetto
2 Parkway. So even on their exhibit it indicates they are in
3 trouble by certain portions, and you can't tell water where
4 to go. Water just flows and it flows across the areas that
5 they have maintained and control.

6 It also -- I would point out that Mr. Obata says that
7 the permitting was very shortened and all the permitting was
8 waived. There were a lot of things that happened with the
9 permitting for this project, and the DOT is one of the
10 groups that controls that permitting.

11 So, it's not just the construction. It was the
12 permitting that was also a problem, and all of that has
13 contributed to the math regarding this (indiscernible) and
14 the situation. A lot of our people are not even able to --
15 have not been able to return to their homes after all this
16 time.

17 So, we would argue that discovery is -- its emphases,
18 despite the age of the case, that we're moving and getting
19 discovery done, and it would be premature at this point to
20 make a ruling because we don't even have DOT's answers to
21 our interrogatories or request to produce. So, without
22 that, it would be improper to dismiss them from the case
23 based on affidavits where they admit they are in charge of
24 part of the roadway that has caused the flooding, and part
25 of the project that's caused the flooding.

1 So, that would be our position. We'd ask the Judge to
2 deny the motion at this time. If the Defendants want to
3 complete discovery and come back, obviously they would have
4 that option. But, at this point, it's not -- they shouldn't
5 be able to not participate in discovery and then come back
6 and try to get dismissed based on their lack of cooperation
7 and not participating in discovery.

8 THE COURT: All right. Mr. Lawrimore.

9 MR. LAWRYMORE: Your Honor, to that end, no amount of
10 discovery is gonna change the fact that this isn't a DOT
11 owned roadway. The only portion they would have any
12 maintenance responsibility are the portions of the Parkway
13 that fall in SCDOT's right of way or they're integrated into
14 SCDOT on the roads.

15 Looking at the portions of the roadway using the all
16 mighty, all powerful Google street view, it actually appears
17 as though the Palmetto Commerce Parkway, it flows downward
18 towards the SCDOT owned roadways.

19 My understanding of water doing what it does is that it
20 flows downhill. There'd be no way for water to flow uphill
21 from DOT's road onto the Palmetto Commerce Parkway.

22 I'm gonna try to share my screen with everybody to give
23 you a feed portion of the roadway we're talking about.

24 Can everybody see what I hope is the intersection of
25 Blaston Road and the Palmetto Commerce Parkway?

1 THE COURT: Yes.

2 MR. LAWRIKORE: Okay. Your Honor, if you'll look at
3 that line that I've drawn right there in the middle, that
4 shows the area that SCDOT would have some maintenance
5 responsibility for from the center line of Blaston Road onto
6 the Palmetto Commerce Parkway. There's two dots there also
7 for your reference that I'm trying to highlight those with
8 my mouse. Notably absent from the satellite images is any
9 wetlands for water whatsoever.

10 Now we're looking at -- now we're looking at the
11 intersection of Ashley Phosphate Road where Ashley
12 Phosphate, the Palmetto Commerce Parkway line right here
13 that shows the 60 feet SCDOT would be responsible for
14 maintaining. Looks like it goes to the stop line. Again,
15 notably absent are any waterways. Again, it's kind of like
16 the Parkway flows downhill towards DOT's roads.

17 THE COURT: All right.

18 MR. LAWRIKORE: Your Honor, the discovery issue, it
19 appears to us that this case has somewhat of a tortured
20 procedural history. There were multiple motions to dismiss
21 as to our client based on improper service. Looks like the
22 discovery responses were issued about a year for -- the
23 request for that were issued about a year before with any
24 ruling on that. Somewhat up in the air as to whether those
25 responses or requests rather have been properly served on

1 DOT.

2 But, in any event, we did answer HLA's properly served
3 discovery responses. Counsel for Plaintiffs were obviously
4 served with a copy of that. DOT doesn't have any records
5 cause nobody at DOT was involved.

6 THE COURT: All right.

7 MR. LAWRYMORE: Again, this just isn't our road, and we
8 don't think we're a proper party.

9 THE COURT: All right. Anything further?

10 MR. WIGGER: Yes, Your Honor.

11 I'll -- in response, I understand Mr. Lawrimore would
12 like to testify. I would like to testify too.

13 I use to work at this intersection in regard to that
14 that was up on the, the screen, and it got flooded every
15 time it rained 30 years ago. So, I would say that if DOT is
16 out, then, as the Court is probably aware, whenever you have
17 a Tort Claims Act case, one of the things that the -- any
18 government entity gets is an automatic instruction as to the
19 responsibility and liability of anybody else that could be
20 involved in the case whether they're a party or not.

21 This is a case where the other Defendants would
22 definitely get the instruction against the DOT because, as
23 they've admitted on the record today, they control half of
24 one percent of the, of the area, and if they can get an
25 instruction as to their liability, then they definitely

1 share the responsibility.

2 So, it would be extremely prejudicial for us not to be
3 able to have them included, and yet they would be able to
4 turn around and get an instruction from the Court as to
5 their liability on this issue down the road.

6 So, again, for all these reasons, we don't agree
7 that -- with Mr. Lawrimore that that portion would not
8 contribute to the water.

9 The flooding then, you can actually go out to the area.
10 There is a hill on one side of the road and looks to be half
11 a mile up the road on the other side there's a hill where
12 the floor plan is, and that whole tile basically transports
13 water including the intersection they're talking about. You
14 can stand and see it when you're at the site.

15 So, for them to say it doesn't contribute is just not
16 accurate because all the water's flowing from both sides
17 down into the sloped area and into the neighborhood.

18 So, if---

19 THE COURT: All right.

20 MR. WIGGER: It is a small percentage but it is a
21 percentage.

22 THE COURT: All right. Anything further?

23 MR. WIGGER: Not from the Plaintiff.

24 MR. LAWIMORE: No, sir.

25 THE COURT: All right. I'll take it under advisement,

1 but, as usual, you'll have my answer by the end of the day.
2 MR. WIGGER: Sir, thank you.
3 THE COURT: All right.
4 MR. LAWRYMORE: Thank you, Your Honor.
5
6
7 * * *END OF REQUESTED TRANSCRIPT OF RECORD* * *
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Pamela E. Green, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of Common Pleas Nonjury for Charleston County, South Carolina, on the 21st day of September, 2020.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

March 12th, 2021

Pamela E. Green

PAMELA E. GREEN, Court Reporter

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF Charleston
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1004820

Sarah Sharper et al
 PLAINTIFF(S)

North Charleston City of et al
 DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendant South Carolina Department of Transportation's Motion for Summary Judgment is GRANTED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/22/2020.

Ruberta Fraser
 Tami Ly
 Tammy Abbott
 Darlene Taylor Wilson
 Cynthia G. Olson
 Angela M. Gorman
 Olin Green
 Vivian Ricketts Properties LLC
 Robert Brown
 Robert Jackson
 Robert R. Brown
 Shavonne R. Brown
 Elizabeth Wright
 Brenda Wright
 Constance Vargo
 Kevin Thompson
 Dolores Griffin
 Franklin Griffin
 Tanya Ogden
 Alex Z. Jones
 Virginia Jones
 Lorraine Berry
 Louise D. Tracy
 Angelle Barlow
 Henry Ottwell
 Cheryl Busch
 Keith Clayton
 Randall Fludd
 Valerie Pearson
 Rebecca Kaysman Brown
 Andrew J. Smith
 Alison Vicks
 Leah Stangor

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2020 Oct 02 1:25 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820
ELECTRONICALLY FILED - 2020 Sep 22 11:38 AM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820



Charleston Common Pleas

Case Caption: Sarah Sharper , plaintiff, et al VS South Carolina State of The ,
defendant, et al
Case Number: 2017CP1004820
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-09-22 09:34:34 page 3 of 3

ELECTRONICALLY FILED - 2020 Oct 02 1:25 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820
ELECTRONICALLY FILED - 2020 Sep 22 11:38 AM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

Plaintiff,
vs.

CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL,
SOUTH CAROLINA DEPARTMENT
OF TRANSPORTATION, BANKS
CONSTRUCTION COMPANY,
UNITED CONTRACTORS, INC,
BANKS/UNITED JOINT VENTURE
AND HLA, INC.,

Defendants.

BANKS CONSTRUCTION COMPANY,
UNITED CONTRACTORS, INC.,
BANKS/UNITED JOINT VENTURE,

Third-Party Plaintiffs,

v.

COLEMAN-SNOW CONSULTANTS,
LLC AND ICA ENGINEERING, INC.
F/K/A FLORENCE & HUTCHINSON,
INC.,

Third-Party Defendants.

IN THE COURT OF COMMON PLEAS
CONSOLIDATED CASE NUMBER
2017-CP-10-04820

PLAINTIFFS' MOTION FOR
RECONSIDERATION
UNDER SCRCP 59(e)
OF DEFENDANT SCDOT'S MOTION
FOR SUMMARY JUDGMENT

The Plaintiffs, by and through their undersigned counsel, pray this Court to grant relief in the interests of justice and pursuant to South Carolina Rules of Civil Procedure, Rule 59(e), by reconsidering and setting aside its Order Granting Defendant SOUTH CAROLINA

DEPARTMENT OF TRANSPORTATION'S Motion for Summary Judgment entered on September 22, 2020.

In addition, and pursuant to the South Carolina Rules of Civil Procedure, the Plaintiffs hereby request that a hearing be held before the Court regarding this motion so that the parties may present oral arguments.

PROCEDURAL HISTORY

On July 27, 2020, Defendant SCDOT filed a Motion for Summary Judgment alleging that the Plaintiff had no genuine issues as Plaintiffs' complaint. (See **Attached Exhibit A – SCDOT's Filed Motion for Summary Judgment**). The Plaintiff filed a response to SCDOT's Motion for Summary Judgment (See **Attached Exhibit B**). A WebEx hearing was held on September 21, 2020 and the court issued a filed Form 4 on September 22, 2020 granting Defendant SCDOT's Motion for summary judgment. (See **Attached Exhibit C**).

FACTS OF THE CASE

In or about spring of 2016 the Defendants conceived and began construction of a four-lane highway which is now known as the Palmetto Commerce Parkway. The alleged purpose of the road was to alleviate traffic around the Boeing Plant and create attractive commercial space for business interests. A significant part of the Parkway was designed to run through the above-mentioned wetlands behind the Pepperhill Subdivision where each of the Plaintiffs' homes are located. At the numerous public hearings with representatives of the Defendants in attendance, the Plaintiffs' and many of their neighbors in Pepperhill expressed concern over the flooding that would take place in their neighborhood should the Parkway be constructed and stated their objections to the parkway being constructed, fearing their homes would flood in the event of a significant weather system coming through area. The Defendants ignored such objections despite having access to the pertinent information which showed the objections were justified.

As part of the Defendants' due diligence, they were required to perform studies regarding what the project would do with the water being absorbed by the wetlands, including but not limited to how it would impact neighboring properties, how it would impact wetlands, and how the project would have a water-neutral impact. Defendants negligently constructed the Parkway by creating a berm through the wetland which acts as a dam and prevents water from flowing from one of the dissected area of wetlands to the other and effectively funnels water toward the Pepperhill Subdivision. Defendants negligently constructed the Parkway by refusing to elevate the roadway or build appropriate culverts which would allow for free flow or drainage water throughout the dissected wetlands, which funnels water towards the Pepperhill Subdivision. The Defendants repeatedly assured the Plaintiffs that no such flooding would occur and ignored the objections of the residents.

Despite the residences' objections, the Defendants continued with their construction of Palmetto Parkway through the wetlands and there were shortcuts taken and ultimately just as the residents warned, the Plaintiffs' residences were flooded due to the Defendants shortcuts and inadequate construction of Palmetto Parkway.

As a result of the Defendant's concerted actions, the Plaintiffs' property continually floods during water events. The flooding is so severe that the Plaintiffs are forced to vacate their homes for significant amounts of time, replace their personal belongings and make extensive and costly repairs to their structures.

The Defendants were notified by the Plaintiffs pursuant to S.C. Code Ann. Sect. 5-31-450, requesting that the Defendants take corrective action to provide adequate and sufficient drainage to prevent flooding of their property and to restore the natural condition of the property which was destroyed by the actions of the Defendants. **To date, the Defendants have failed to perform reasonable actions to repair the continued flooding and damage to the Plaintiffs' property.**

As a result of the construction of the Palmetto Commerce Parkway and the insufficient

drainage and flood control system for the community, the Plaintiffs' homes and real property have, within the past two years, sustained damage and the Plaintiffs' right to the peaceful use and enjoyment of their property have been hampered. Flooding events have occurred numerous times during the period preceding the filing of this suit and despite knowledge of these occurrences; the Defendants have not performed reasonable repairs. The flooding is continuing in nature. **Plaintiffs aver that each flooding event is a separate occurrence and injury.**

LEGAL ARGUMENT

The Filed Form 4 document filed by Judge Price granting Defendant SCDOT's Motion for Summary Judgment leaves out any explanation of his ruling. Procedurally, in this case, there was a pre-suit mediation in this case and the matter did not resolve at mediation. Because the matter did not resolve at mediation, the case was filed. There was another case (same flooding event and Defendants) that was initially part of the present case and once it was determined the Plaintiffs property was in Dorchester County. That matter was transferred to Dorchester County and that matter is now settled. Based on representations by the Defendant's counsel, once that case settled, they would take over and for the expert's deposition and conduct mediation to try to resolve the other cases. Additionally, the Plaintiffs have an expert witness, Mr. Allan Abbata who is prepared to render opinions about the Defendant's negligent construction and disregard of the significant water issue in the case. Defendant SCDOT have failed to provide any responses to Plaintiff's Interrogatories or Requests for production after being served with the Plaintiffs' requests in 2018. Merely from his looking at the documents FOIA'd, he has set out areas where the SCDOT failed in the attached affidavit. Defendants should not have been allowed to pursue a dismissal until they have participated in discovery. (See Attached Exhibit D- 10 Day letter sent to Defendant SCDOT).

Additionally, Counsel for the Plaintiffs were not aware that an in-person hearing was not scheduled until Judge Price's Law Clerk notified everyone via email soon to the hearing September 21, 2020. (See Exhibit E- Email).

To survive a motion for summary judgment Plaintiffs are required to show a genuine issue of material fact existed regarding the elements of negligence. In order to establish liability, the plaintiff must show: the (1) defendant owes a duty of care to the plaintiff; (2) defendant breached the duty by a negligent act or omission; (3) defendant's breach was the actual and proximate cause of the plaintiff's injury; and (4) plaintiff suffered an injury or damages. *Andrade v. Johnson*, Op. No. 25738 (S.C. Sup. Ct. filed October 27, 2003) (Shearouse Adv. Sh. No. 39 at 15); *Sabb v. South Carolina State Univ.*, 350 S.C. 416, 567 S.E.2d 231 (2002); *Thomasko v. Poole*, 349 S.C. 7, 561 S.E.2d 597 (2002); *Steinke v. South Carolina Dep't of Labor, Licensing and Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999); *Regions Bank v. Schmauch*, 354 S.C. 648, 582 S.E.2d 432 (Ct. App. 2003). To sustain an action for negligence, it is essential the plaintiff demonstrate the defendant breached a duty of care owed to the plaintiff. *Sabb*, 350 S.C. at 429, 567 S.E.2d at 237; *Bishop v. South Carolina Dep't of Mental Health*, 331 S.C. 79, 502 S.E.2d 78 (1998); *Parks v. Characters Night Club*, 345 S.C. 484, 548 S.E.2d 605 (Ct. App. 2001)

"Questions of negligence, proximate cause and contributory negligence are ordinarily questions of fact for the jury, as to which the trial court's only function is to inquire whether particular conclusions are or not the only reasonable inferences to be drawn from the evidence." *Garvin v. Bi-La, Inc.*, 523 S.E.2d 481 (S.C. Ct. App. 1999), *Kennedy v. Custom Ice Equipment Co., Inc.*, 271 S.C. 171, 246 S.E.2d 176 (1978) (quoting *Wilson v. Marshall*, 260 S.C. 271, 195 S.E.2d 610 (1973)).

Considering this case has had no discovery turned over by Defendant SCDOT (Except for their responses to Plaintiffs' Request for Admissions). There have been no depositions taken in this case. The Plaintiffs feel that Defendant SCDOT's Motion for Summary Judgment was premature and that it was too early in the process to dismiss any Defendant in this matter until all the discovery

is submitted and depositions are taken. As such, Plaintiffs continue their object to the dismissal of this Defendant.

CONCLUSION

The Plaintiffs have presented sufficient evidence to create a genuine issue of fact for jury to consider the purposes of defeating summary judgment. At the very least, the Plaintiff has shown a duty owed and negligence and ample evidence for the question to be submitted to the jury. Based on the above, the Plaintiff respectfully requests this Honorable Court reconsider the Order granting summary judgment.

WIGGER LAW FIRM, INC.

s/ Jarrel L. Wigger

Jarrel L. Wigger, Esq.

S.C. Bar #: 011824

Attorney for the Plaintiff

8086 Rivers Avenue

North Charleston, SC 29406

Email: jwigger@wiggerlawfirm.com

North Charleston, South Carolina
this 1st day of October 2020.

EXHIBIT A

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Sarah Sharper	)	CONSOLIDATED CASE
	)	NUMBER: 2017-CP-10-4820
Plaintiff,	)	
	)	
vs.	)	NOTICE OF MOTION AND MOTION FOR
	)	SUMMARY JUDGMENT OF DEFENDANT
The State of South Carolina, City of North	)	SOUTH CAROLINA DEPARTMENT OF
Charleston, County of Charleston,	)	TRANSPORTATION
Department of Health and Environmental	)	
Control, South Carolina Department of	)	
Transportation and John Doe (engineering	)	
firm/engineer),	)	
	)	
Defendants.	)	

TO: ALL PLAINTIFFS IN THESE CONSOLIDATED PROCEEDINGS BY AND THROUGH THEIR COUNSEL OF RECORDS I. KEITH McCARTY AND JARREL L. WIGGER

YOU WILL PLEASE TAKE NOTICE that the Defendant, South Carolina Department of Transportation (hereinafter "SCDOT"), by and through its undersigned attorneys, will move before the presiding Judge of the Ninth Judicial Circuit in the Charleston County Courthouse, Charleston, South Carolina, on the tenth (10th) day after service of this Motion, or at such other time as they may be heard, for an Order awarding summary judgment in SCDOT's favor as to the claims of all Plaintiffs in these consolidated proceedings pursuant to Rule 56(b), SCRCF.

SCDOT would show, as evidenced by Affidavit of Arnold Blanding (attached a "Exhibit A"), that SCDOT does not own or maintain the Palmetto Commerce Parkway ("Parkway") that is the subject of these consolidated proceedings. Further, there is no genuine issue or dispute as to the fact that SCDOT does not own or maintain the Parkway. Accordingly, SCDOT is entitled to judgment in its favor as a matter of law.

This Motion shall be based upon the South Carolina Rules of Civil Procedure, applicable statutory and decisional law, the pleadings in this matter, such supporting memoranda of fact and law as may be presented at or before the hearing on this Motion, the arguments of counsel at the time of hearing.

ANDERSON REYNOLDS & STEPHENS, LLC

/s/ Jonathan J. Anderson

Jonathan J. Anderson

SC Bar # 383

W. Coleman Lawrimore

SC Bar # 100668

37 ½ Broad Street

P.O. Box 87

Charleston, SC 29401

(843) 723-0185 --phone

(843) 405-0313 --fax

janderson@arslawsc.com

clawrimore@arslawsc.com

*Attorneys for Defendant South Carolina
Department of Transportation*

July 27, 2020
Charleston, South Carolina

"Exhibit A"

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	
Sarah Sharper	)	CONSOLIDATED CASE
	)	NUMBER FOR AFFIDAVIT OF ARNOLD
	)	BLANDING
vs.	)	2017-CP-10-4820
	)	
The State of South Carolina, City of North	)	OTHER INCLUDED CASE NUMBERS:
Charleston, County of Charleston,	)	2017-CP-10-4821
Department of Health and Environmental	)	2017-CP-10-4822
Control, South Carolina Department of	)	2017-CP-10-4823
Transportation and John Doe (engineering	)	2017-CP-10-4824
firm/engineer),	)	2017-CP-10-4825
	)	2017-CP-10-4826
	)	2017-CP-10-4827
Defendants.	)	2017-CP-10-4835
	)	2017-CP-10-4836
	)	2017-CP-10-4837
	)	2017-CP-10-4838
	)	2017-CP-10-4839
	)	2017-CP-10-4840
	)	2017-CP-10-4841
	)	2017-CP-10-4842
	)	2017-CP-10-4845
	)	2017-CP-10-4847
	)	2017-CP-10-4891
	)	2017-CP-10-4892
	)	2017-CP-10-4893
	)	2017-CP-10-4894
	)	2017-CP-10-4895
	)	2017-CP-10-4896
	)	2017-CP-10-4897
	)	2017-CP-10-4898
	)	2017-CP-10-4899
	)	2017-CP-10-4900
	)	2017-CP-10-4901
	)	2017-CP-10-4903
	)	2017-CP-10-4904
	)	2017-CP-10-4905
	)	2017-CP-10-4906
	)	2017-CP-10-4907
	)	2017-CP-10-4923
	)	2017-CP-10-4924
	)	2017-CP-10-4925
	)	2017-CP-10-4926
	)	2017-CP-10-4927
	)	2017-CP-10-4928
	)	2017-CP-10-4929
	)	2017-CP-10-4930
	)	2017-CP-10-4931
	)	2017-CP-10-5108

"Exhibit A"

PERSONALLY APPEARED BEFORE ME the undersigned Arnold Blanding, who first being duly sworn, deposes and states as follows:

1. I am South Carolina Department of Transportation's (hereinafter "SCDOT") District Six, Resident Maintenance Engineer for Charleston County. District Six includes Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper Counties. I have held this position since May of 2017.

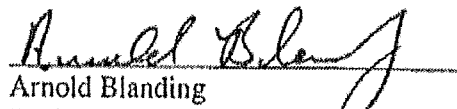
2. Incident to my position, I oversee the inspection and maintenance of all SCDOT maintained roads in Charleston County.

3. The Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties. If the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case.

4. SCDOT's only interaction with the Parkway is with regard to where the Parkway terminates at or "ties into" SCDOT owned and maintained roads at Ladson Road to the North and Ashley Phosphate Road to the South. The "tie in" extends 60 feet from the centerline of Ashley Phosphate Road onto Palmetto Commerce Parkway, and 24.38 meters from the centerline of Ladson Road onto Palmetto Commerce Parkway.

5. It is my understanding that the locations where the Parkway "ties into" Ladson Road and Ashley Phosphate Road are not at issue in this matter.

FURTHER AFFIANT SAYETH NAUGHT!


Arnold Blanding
Resident Maintenance Engineer
SCDOT District Six
Affiant

SWORN TO BEFORE ME)
UNDER PENALTY OF PERJURY)
this 29th day of October, 2019)


Notary Public for South Carolina)
My Commission Expires: 04-17-2024

EXHIBIT B

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

SARAH SHARPER,

PLAINTIFF,

V.

THE STATE OF SOUTH CAROLINA,
CITY OF NORTH CHARLESTON,
COUNTY OF CHARLESTON,
DEPARTMENT OF HEALTH AND
ENVIRONMENTAL CONTROL, SOUTH
CAROLINA DEPARTMENT OF
TRANSPORTATION AND JOHN DOE
(ENGINEERING FIRM/ENGINEER),

DEFENDANTS.

COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT

CONSOLIDATED CASE
NUMBER.: 2017-CP-10-4820

**PLAINTIFFS' RESPONSE TO
DEFENDANT SOUTH CAROLINA
DEPARTMENT OF TRANSPORTATION'S
MOTION FOR SUMMARY JUDGMENT**

Defendant South Carolina Department of Transportation filed their motion for summary judgment in this matter on July 27, 2020, and the Plaintiffs respectfully respond to the Defendant's motion as follows:

I. STATEMENT OF CASE

In or about spring of 2016 the Defendants conceived and began construction of a four-lane highway which is now known as the Palmetto Commerce Parkway. The alleged purpose of the road was to alleviate traffic around the Boeing Plant and create attractive commercial space for business interests. A significant part of the Parkway was designed to run through the above-mentioned wetlands behind the Pepperhill Subdivision where each of the Plaintiffs' homes are located. At the numerous public hearings with representatives of the Defendants in attendance, the Plaintiffs' and many of their neighbors in Pepperhill expressed concern over the flooding that would take place in their neighborhood should the Parkway be constructed and stated their objections to the parkway

being constructed, fearing their homes would flood in the event of a significant weather system coming through area. The Defendants ignored such objections despite having access to the pertinent information which showed the objections were justified.

As part of the Defendants' due diligence, they were required to perform studies regarding what the project would do with the water being absorbed by the wetlands, including but not limited to how it would impact neighboring properties, how it would impact wetlands, and how the project would have a water-neutral impact. Defendants negligently constructed the Parkway by creating a berm through the wetland which acts as a dam and prevents water from flowing from one of the dissected area of wetlands to the other and effectively funnels water toward the Pepperhill Subdivision. Defendants negligently constructed the Parkway by refusing to elevate the roadway or build appropriate culverts which would allow for free flow or drainage water throughout the dissected wetlands, which funnels water towards the Pepperhill Subdivision. The Defendants repeatedly assured the Plaintiffs that no such flooding would occur and ignored the objections of the residents.

Despite the residences' objections, the Defendants continued with their construction of Palmetto Parkway through the wetlands and there were shortcuts taken and ultimately just as the residents warned, the Plaintiffs' residences were flooded due to the Defendants shortcuts and inadequate construction of Palmetto Parkway.

As a result of the Defendant's concerted actions, the Plaintiffs' property continually floods during water events. The flooding is so severe that the Plaintiffs are forced to vacate their homes for significant amounts of time, replace their personal belongings and make extensive and costly repairs to their structures.

The Defendants were notified by the Plaintiffs pursuant to S.C. Code Ann. Sect. 5-31-450, requesting that the Defendants take corrective action to provide adequate and sufficient drainage to prevent flooding of their property and to restore the natural condition of the property which was

destroyed by the actions of the Defendants. To date, the Defendants have failed to perform reasonable actions to repair the continued flooding and damage to the Plaintiffs' property.

As a result of the construction of the Palmetto Commerce Parkway and the insufficient drainage and flood control system for the community, the Plaintiffs' homes and real property have, within the past two years, sustained damage and the Plaintiffs' right to the peaceful use and enjoyment of their property have been hampered. Flooding events have occurred numerous times during the period preceding the filing of this suit and despite knowledge of these occurrences; the Defendants have not performed reasonable repairs. The flooding is continuing in nature. Plaintiffs aver that each flooding event is a separate occurrence and injury.

II. STATUS OF CASE

Procedurally, in this case, there was a pre-suit mediation in this case and the matter did not resolve at mediation. Because the matter did not resolve at mediation, the case was filed. There was another case (same flooding event and Defendants) that was initially part of the present case and once it was determined the Plaintiff's property was in Dorchester County. That matter was transferred to Dorchester County and that matter is now settled. Based on representations by the Defendant's counsel, once that case settled, they would take over and for the expert's deposition and conduct mediation to try to resolve the other cases. Additionally, the Plaintiff's have an expert witness, Mr. Allan Abbata who is prepared to render opinions about the Defendant's negligent construction and disregard of the significant water issue in the case. Defendant SCDOT have failed to provide any discovery at present. Merely from his looking at the documents FOIA'd, he has set out areas where the DOT failed in the attached affidavit, (SEE EXHIBIT B). Defendants should not be allowed to pursue a dismissal until they have participated in discovery.

There are 45 Plaintiffs in this matter and due to COVID 19, the expert witness for the Plaintiffs deposition was has been rescheduled several times and has not been able to be taken at this

time. The last time was on August 23rd and 24th. After a review of the file, there are only some of the Defendants that have turned over their discovery responses to the Plaintiffs. SCDOT has failed to turn over their discovery responses, despite being served with the Plaintiff's discovery requests since 2/1/2018 (SEE EXHIBIT C). Considering this case has had minimal discovery turned over by the Defendants in this matter and there has not been one deposition taken, we would agree that the Defendant's Motion is premature. Plaintiffs feel that it is too early in the process to dismiss any Defendant in this matter until all the discovery is submitted and depositions are taken. As such, Plaintiffs object to the dismissal of this Defendant.

III. SUMMARY JUDGMENT STANDARD

South Carolina is now a scintilla of evidence State. *Froneberger v. Smith* (S.C. App. 2013) Opinion Number 5168. The court concluded that the Fronebergers presented sufficient evidence to establish an agency relationship at trial. "However, given the minimal amount of discovery the parties had conducted at the time summary judgment was granted, we find the Smiths' answers created a mere scintilla of evidence that precluded summary judgment." South Carolina has now universally adopted this standard.

"Summary judgment is inappropriate when reasonable minds can differ as to any material fact." *Williams v. Chesterfield Lumber Co.*, 267 S.C. 607, 230 S.E.2d 447, 448 (1976). "Summary Judgment must be denied if there is any genuine dispute between the parties." *Hammond v. Scott*, 268 S.C. 137, 232 S.E.2d 336, 339 (1977). Summary Judgment should not be granted as the Defendant has not turned over his discovery responses since being served February 2018. Additionally, no depositions have been taken in this case at this time. "Summary Judgment is not appropriate where further inquiry into the facts of the case is desirable to clarify the application of the law." *Tupper v. Dorchester County*, 326 S.E. 318, 487 S.E.2d 187 (1997); *Baugus v. Wessinger*, 303 S.C. 412, 401 S.E.2d 169 (1991). Even if the only dispute is how to draw

conclusions or determinations from undisputed facts, summary judgment should be denied. *Tipper, supra*. At the summary judgment stage, the Plaintiffs need not prove their case, only that there is a genuine issue of material fact regarding the merits of their claims. For summary judgment to be granted, it must be perfectly clear no issue of facts is involved. *Piedmont Engineers, Architects and Planners, Inc. v. First Hartford Realty Corp.*, 278 S.C. 195, 293 S.E.2d 706 (1982).

Summary Judgment may only be granted where "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that any party is entitled to a judgment as a matter of law." Rule 56(c), SCRCP; *Russell v. Wachovia Bank, N.A.*, 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003); *Knox v. Greenville Hosp. Sys.*, 362 S.C. 566, 569-70, 608 S.E.2d 459, 461 (Ct.App. 2005); *B & B Liquors, Inc. v. O'Neil*, 361 S.C. 267, 270 S.E.2d 629, 631 (Ct.App.2004). In determining whether any triable issues of fact exist, the evidence and all reasonable inferences therefrom must be viewed in the light most favorable to the non-moving party. *Vermeer Carolina's, Inc. v. Wood/Chuck Chipper Corp.*, 336 S.C. 53, 59, 518 S.E.2d 301, 304 (Ct.App.1999). "At the summary judgment stage of the proceedings, it is only necessary for the nonmoving party to submit a scintilla of evidence warranting determination by a jury for summary judgment to be denied. *Hill v. York County Sheriff's Department*, 313 S.C. 303, 437 S.E.2d 179, 182 (Ct. App.1993). Here, there are only pleadings from the Defendant SCDOT. They have answered no interrogatories or requests for production, nor stood for any depositions.

IV. ARGUMENT

SCDOT's argument is that SCDOT does not own or maintain the Palmetto Commerce Parkway that is the subject of these consolidated proceedings as stated in Affidavit of Arnold Blanding.

A. SCDOT is a Proper Defendant

The defense uses Arnold Blanding's affidavit in support of their position that SCDOT is not responsible for maintaining the Palmetto Commerce Parkway. Mr. Blanding, for instance, states in

his affidavit for SCDOT that "the Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties and that if the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case. We contend that within the political boundaries of the Defendants, it is and has been necessary and/or desirable to carry off water from the areas surrounding Plaintiffs' property rather than over private land. The Plaintiffs as owners or having an interest in such private land have demanded that the Defendants provide sufficient drainage which is practicable and the Defendants have failed to do so and if such drainage is not practicable the Defendants have failed to institute proceedings to obtain the right of way to provide for the necessary drains.

Defendant SCDOT's counsels email dated 2/28/2020 states:

"SCDOT was not involved in the project and asserts no jurisdiction or responsibility over the parkway except at the tie in at Ashley Phosphate and Ladson Road as detailed by the attached affidavit." (SEE EXHIBIT A).

This is also substantiated by the attached Affidavit of Arnold Blanding, submitted by Defendant SCDOT. The Plaintiffs contend that Exhibit A shows an admission of responsibility on the part of Defendant SCDOT. If they admit that they had a portion of Palmetto Parkway under their responsibility and control, then they admit that there was a portion that they were responsible for and should have discovered and prevented the flooding issue at hand in this case.

The attached statement from the Plaintiffs' expert, Allan Abbata, also reiterates the Plaintiffs' position as Mr. Abbata states:

"It is my understanding that the SCDOT is responsible for some areas of the Palmetto Parkway and water would have come through those areas. Also, SCDOT is in charge of approval and permitting and there were shortcuts in the process. It would be helpful to

have the benefit of depositions to see who did what before I could render more opinions.”
(SEE EXHIBIT B).

As a direct and proximate result of Defendants acts and conduct, Plaintiffs have suffered property damage, depreciation of their property, severe and emotional distress resulting in mental distress, fear, nervousness, and sleeplessness. As a direct and sole consequence of the repeated flooding of their property, the Plaintiffs have had to endure the loss of enjoyment of life that no reasonable person could be expected to endure. Some of the Plaintiffs have lost their homes. The Plaintiffs were informed and believe they are entitled to recover damages of the Defendants, both actual and punitive, as a result of their acts and conduct. Article I, Section 13(A) of the South Carolina Constitution provides the basis for recovery against government entities and public utilities via the theory of inverse condemnation when private property is taken or damaged for a public use without just compensation to the owner. Defendants are in the business of servicing citizens of Charleston County, South Carolina. Defendants' conduct is tantamount to public use. As a result of Defendants' failure to design and maintain the Palmetto Commerce Parkway road system in such a way to prevent flooding and damage to the Plaintiffs' property, Defendants have intentionally, recklessly, willfully, and negligently, caused or contributed to the accumulation of water which enters onto and into the Plaintiffs' real property. Consequently, Defendants' actions are the direct and proximate cause of the physical damage to Plaintiffs' property that has rendered said property valueless and virtually unusable. The acts and omissions of Defendants constitute a physical invasion of Plaintiffs' real property for a public use, placing a burden on Plaintiffs that is direct, substantial, and peculiar to the property itself. The exorbitant amount of interference that Defendants have caused to Plaintiffs' property amounts to a taking of said property without lawful authority and without formal exercise of the power of eminent domain, resulting in inverse condemnation.

V. CONCLUSION

Based on the facts and law as set out in this memorandum, the Plaintiffs respectfully request this Honorable Court to deny the Defendant's Motion for Summary Judgment and direct the Defendants to refile once they have participated in discovery.

WIGGER LAW FIRM, INC.

s/ Jarrel L. Wigger
Jarrel L. Wigger, Esq.
S.C. Bar No. 011824
Attorney for the Plaintiffs
8086 Rivers Avenue, Suite A
North Charleston, SC 29406
843-553-9800
jwigger@wiggerlawfirm.com

North Charleston, South Carolina
This 21st day of September 2020.

EXHIBIT A

STATEMENT OF ALLAN ABBATA, P.E.

I, Allan Abbata, P.E. hereby state as follows:

I have been retained by the Wigger Law Firm, Inc. as an expert witness for the Plaintiffs in the Sarah Sharper v. SCDOT, et al (Consolidated Pepperhill Matters: 2017-CP-10-04820).

It is my understanding that the SCDOT is responsible for some areas of the Palmetto Parkway and water would have come through those areas. Also, SCDOT is in charge of approval and permitting and there were shortcuts in the process.

It would be helpful to have the benefit of depositions to see who did what before I could render more opinions.

SWORN TO THIS 18th DAY OF September, 2020.



Allan Abbata, P.E.

SWORN TO BEFORE ME THIS
18th DAY OF September, 2020.



NOTARY PUBLIC FOR SOUTH CAROLINA
MY COMMISSION EXPIRES: March 16, 2027

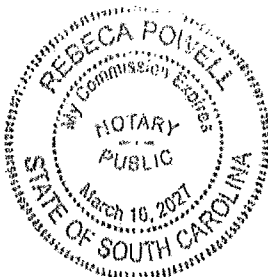


EXHIBIT B

From: JJ Anderson <janderson@arslawsc.com>
 Sent: Friday, February 28, 2020 4:07 PM
 To: keith mccarty <keithmccarty@gmail.com>; Jerry Wigger <jwigger@wiggerlawfirm.com>
 Cc: Felicity J. Moore <fmoore@arslawsc.com>; Cole Lawrimore <clawrimore@arslawsc.com>
 Subject: Pepperhill v. SCDOT

Gentlemen: I hope this e-mail finds you well. Attached is a proposed stipulation of dismissal for SCDOT and a supporting affidavit from the District 6 Engineer concerning the jurisdiction and responsibility that SCDOT has over Palmetto Commerce Parkway. As I am sure you know that the construction was a County of Charleston project under the penny tax program a/k/a pennywise program. SCDOT was not involved in the project and asserts no jurisdiction or responsibility over the parkway **except** at the tie in at Ashley Phosphate and Ladson Road as detailed by the attached affidavit. It is requested that you voluntarily dismiss SCDOT without prejudice from these lawsuits and save us all the time and trouble of a motion for summary judgment. Please let me know if you are willing to sign the stipulation of dismissal. If you do not like the language of the stipulation please make your desired changes and return it to me for consideration. Thank you and have a great weekend.

J. J. Anderson



Anderson Reynolds & Stephens LLC

37 1/2 BROAD STREET, POST OFFICE BOX 87, CHARLESTON, SOUTH CAROLINA 29402
 E-MAIL: janderson@arslawsc.com | TEL. 843-723-0185 | DIRECT 843-576-2070 | CELL 843-324-8604

Confidentiality Notice:

This message is intended exclusively for the individual or entity to which it is addressed. This communication may contain information that is proprietary, privileged, confidential or otherwise legally exempt from disclosure. If you are not the named addressee, you are not authorized to read, print, retain, copy or disseminate this message or any part of it. If you have received this message in error, please notify our office immediately either by phone (843-723-0185) or reply to this e-mail and delete all copies of this message.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Sarah Sharper

Plaintiff,

vs.

The State of South Carolina, City of North
Charleston, County of Charleston,
Department of Health and Environmental
Control, South Carolina Department of
Transportation and John Doe (engineering
firm/engineer),

Defendants.

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)
)
)

) CONSOLIDATED CASE
) NUMBER FOR AFFIDAVIT OF ARNOLD
) BLANDING
) 2017-CP-10-4820
)

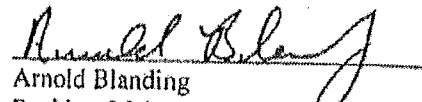
) OTHER INCLUDED CASE NUMBERS:
)

) 2017-CP-10-4821
) 2017-CP-10-4822
) 2017-CP-10-4823
) 2017-CP-10-4824
) 2017-CP-10-4825
) 2017-CP-10-4826
) 2017-CP-10-4827
) 2017-CP-10-4835
) 2017-CP-10-4836
) 2017-CP-10-4837
) 2017-CP-10-4838
) 2017-CP-10-4839
) 2017-CP-10-4840
) 2017-CP-10-4841
) 2017-CP-10-4842
) 2017-CP-10-4845
) 2017-CP-10-4847
) 2017-CP-10-4891
) 2017-CP-10-4892
) 2017-CP-10-4893
) 2017-CP-10-4894
) 2017-CP-10-4895
) 2017-CP-10-4896
) 2017-CP-10-4897
) 2017-CP-10-4898
) 2017-CP-10-4899
) 2017-CP-10-4900
) 2017-CP-10-4901
) 2017-CP-10-4903
) 2017-CP-10-4904
) 2017-CP-10-4905
) 2017-CP-10-4906
) 2017-CP-10-4907
) 2017-CP-10-4923
) 2017-CP-10-4924
) 2017-CP-10-4925
) 2017-CP-10-4926
) 2017-CP-10-4927
) 2017-CP-10-4928
) 2017-CP-10-4929
) 2017-CP-10-4930
) 2017-CP-10-4931
) 2017-CP-10-5108

PERSONALLY APPEARED BEFORE ME the undersigned Arnold Blanding, who first being duly sworn, deposes and states as follows:

1. I am South Carolina Department of Transportation's (hereinafter "SCDOT") District Six, Resident Maintenance Engineer for Charleston County. District Six includes Beaufort, Berkeley, Charleston, Colleton, Dorchester, and Jasper Counties. I have held this position since May of 2017.
2. Incident to my position, I oversee the inspection and maintenance of all SCDOT maintained roads in Charleston County.
3. The Palmetto Commerce Parkway that is the subject of this action is situated in both Charleston and Berkeley Counties. If the portion of the Parkway situated in Charleston County was maintained by SCDOT, it would fall under my authority; however, this is not the case.
4. SCDOT's only interaction with the Parkway is with regard to where the Parkway terminates at or "ties into" SCDOT owned and maintained roads at Ladson Road to the North and Ashley Phosphate Road to the South. The "tie in" extends 60 feet from the centerline of Ashley Phosphate Road onto Palmetto Commerce Parkway, and 24.38 meters from the centerline of Ladson Road onto Palmetto Commerce Parkway.
5. It is my understanding that the locations where the Parkway "ties into" Ladson Road and Ashley Phosphate Road are not at issue in this matter.

FURTHER AFFIANT SAYETH NAUGHT!


 Arnold Blanding
 Resident Maintenance Engineer
 SCDOT District Six
 Affiant

SWORN TO BEFORE ME)
 UNDER PENALTY OF PERJURY)
 this 29th day of October, 2019)
)
 Notary Public for South Carolina)
 My Commission Expires: 04-17-2024

EXHIBIT C

Wigger Law Firm, Inc.

ATTORNEYS AT LAW

8086 Rivers Avenue, Suite A
North Charleston, SC 29406

(843) 553-9800
(843) 553-1648 Fax

Summerville
(843) 851-9900

West Ashley
(843) 203-1500

JARREL L. WIGGER*

JOSHUA T. HOWLE

BRICE E. RICKER

EMILY H. TONG

STEPHEN J. RYAN

*Board Certified Civil Trial Specialist
By National Board of Trial Advocacy

February 1, 2018

VIA REGULAR MAIL AND EMAIL:

Jonathan J. Anderson, Esquire
Anderson Reynolds & Stephens, LLC
37 1/2 Broad Street
Charleston, SC 29401

Phillip Ferderigos, Esquire
Barnwell Whaley
288 Meeting Street, Suite 200
Charleston, SC 29402

Drew Hamilton Butler, Esquire
Richardson, Plowden & Robinson, P.A.
P.O. Box 21203
Charleston, SC 29413

RE: Plaintiff's Discovery Requests; Pepperhill Actions

Dear Counsel:

Enclosed, please find for service upon the Defendants Plaintiff's Interrogatories, Request for Production and Request for Admissions for the following actions filed in the Charleston County Court of Common Pleas:

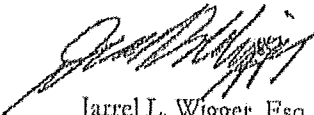
2017-CP-10-4931	Darryl Beech v. City of North Charleston, et al.
2017-CP-10-5108	Henry and Anjenette Bennett v. City of North Charleston, et al.
2017-CP-10-4924	Diane Blazer as Guardian of Charles Eichmann v. City of North Charleston, et al.
2017-CP-10-4897	Elizabeth Bright v. City of North Charleston, et al.
2017-CP-10-4835	Kaye Brown v. City of North Charleston, et al.
2017-CP-10-4930	Kevin Drayton v. City of North Charleston, et al.

2017-CP-10-4892	Tanya Driggers v. City of North Charleston, et al.
2017-CP-10-4929	Renota Fludd v. City of North Charleston, et al.
2017-CP-10-4907	Roberta Frasier v. City of North Charleston, et al.
2017-CP-10-4841	Bob Frederking v. City of North Charleston, et al.
2017-CP-10-4827	Latosha Gadsden v. City of North Charleston, et al.
2017-CP-10-4839	Chair Gallagher v. City of North Charleston, et al.
2017-CP-10-4823	Jason Gardner v. City of North Charleston, et al.
2017-CP-10-4903	Oglivia Gibson v. City of North Charleston, et al.
2017-CP-10-4842	Milton and Myrtle Green v. City of North Charleston, et al.
2017-CP-10-4901	Otis and Angela Green v. City of North Charleston et al.
2017-CP-10-4893	Franklin and Delores Griffin v. City of North Charleston, et al.
2017-CP-10-4826	Jesse and Patricia Frazier v. City of North Charleston, et al.
2017-CP-10-4925	Leigh Hemingway v. City of North Charleston, et al.
2017-CP-10-4837	Ismael and Anjenette Hernandez v. City of North Charleston, et al.
2017-CP-10-4822	Gail Holmes v. City of North Charleston, et al.
2017-CP-10-4847	Virginia and Lonnie Ivery v. City of North Charleston, et al.
2017-CP-10-4899	Kelvin Jackson v. City of North Charleston, et al.
2017-CP-10-4891	Alex and Virginia James v. City of North Charleston, et al.
2017-CP-10-4825	Maczell Jefferson v. City of North Charleston, et al.
2017-CP-10-4824	Theresa Jenkins v. City of North Charleston, et al.
2017-CP-10-4927	Rebecca Kappertman-Brown v. City of North Charleston, et al.
2017-CP-10-4906	Tuan Le v. City North Charleston, et al.
2017-CP-10-4845	Mabel Livingston v. City of North Charleston, et al.
2017-CP-10-4905	Tammy McCall v. City of North Charleston, et al.
2017-CP-10-4838	James and Katie Miller v. City of North Charleston, et al.
2017-CP-10-4900	Robert Mixon and Mixon Rental Properties, LLC v. City of North Charleston, et al.
2017-CP-10-4840	Willie Moore v. City of North Charleston, et al.
2017-CP-10-4928	Valerie Pearson v. City of North Charleston, et al.
2017-CP-10-4898	Geneva Ravenel v. City of North Charleston, et al.
2017-CP-10-4923	Mellany Robinson v. City of North Charleston, et al.
2017-CP-10-4836	Sullay Sesay v. City of North Charleston, et al.
2017-CP-10-4820	Sarah Sharper v. City of North Charleston, et al.
2017-CP-10-4904	Darlene Taylor-William v. City of North Charleston, et al.
2017-CP-10-4894	Kevin Thompson v. City of North Charleston, et al.
2017-CP-10-4895	Constance Verge v. City of North Charleston, et al.
2017-CP-10-4821	Melissa Washington v. City of North Charleston, et al.

2017-CP-10-4926	Allison Wells v. City of North Charleston, et al.
2017-CP-10-4896	Brenda Wrighton v. City of North Charleston, et al.

I would propose the cases be consolidated for discovery. If anyone objects, please give me a call, if not we will prepare a consent order.

Respectfully yours,



Jarrel L. Wigger, Esq.

TO: THE ABOVE NAMED DEFENDANTS:

The Plaintiffs hereby require the Defendants, within thirty (45) days after service hereof, to answer the Interrogatories hereinafter set forth in accordance with the Federal Rules of Civil Procedure Rule 33(b). These Interrogatories shall be deemed to continue until time of the trial of this case pursuant to Rule 33(b).

ONE: List the names and addresses of the persons known to the party or counsel to be a witness concerning the facts of this case and indicate whether or not written or recorded statements have been taken. If so, indicate who has possession of such statements.

TWO: Set forth a list of photographs, plats, sketches and other prepared documents in the possession of the party that relate to the claim of the defense in this case.

THREE: List the names and addresses of all insurance companies, which have liability insurance coverage relating to the claim. Give the number(s) of the policy or policies involved and the amount(s) of the liability coverage provided in each policy.

FOUR: List the names and addresses of any expert witnesses the party proposes as a witness at the trial of this case.

FIVE: For each person known to the parties or counsel to be a witness concerning the facts of this case, set forth a summary sufficient to inform the other party of the important facts known or observed. Such witness shall provide a copy of any written or recorded statements taken from such witness.

SIX: List the names and addresses of all contractors, sub-contractors, employees and/or former employees of the Defendants who participated in the storm water runoff analysis for this matter, including companies and individuals.

SEVEN: List the names and addresses of all contractors, sub-contractors, employees and/or former employees of the Defendants who participated in the construction in the wetlands related to the Palmetto Commerce Parkway.

EIGHT: List any and all State, Federal and Municipal rules, regulations, or guidelines the Defendant is required to adhere to during construction with regard to water drainage, run-off, storm water drainage, etc. in performing business as a builder, contractor, subcontractor, or other employee involved in the aforementioned construction.

NINE: List all required steps taken to ensure that the Plaintiffs' property would not be affected by water drainage, before pumping, redirecting, or otherwise from the construction by the Defendants.

TEN: A list of the specific tasks that the Defendants are/were responsible for in the development of the property at or adjacent to the Palmetto Commerce Parkway.

ELEVEN: A complete description of the types of soil and/or water testing performed on the Palmetto Commerce Parkway development site prior to the beginning of construction.

TWELVE: Please state whether there were any delays in the project once construction started, and state the reasons for the delays.

THIRTEEN: On behalf of the Defendants, list the name, address and title of the person present at the public hearing meetings before the project began.


Jarrell L. Wigger, Esquire
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
N. Charleston, S.C. 29406
(843) 553-9800

North Charleston, South Carolina
This 2nd day of February, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy
of the foregoing pleading has been served upon
OPM, ARMS by mailing a copy properly
addressed with sufficient postage affixed thereto

this 2nd day of February, 2018



WIGGER LAW FIRM

TO THE ABOVE NAMED DEFENDANTS:

The Plaintiff, by and through her undersigned attorney, request the Defendants to Produce for inspection a copy of the following described documents and items in possession, custody and/or control of the Defendants, their attorneys and/or other representatives or agents pursuant to South Carolina Rules of Civil Procedure:

ONE: All statements, whether written, recorded or transcribed, taken of any parties or witnesses of the facts of this case.

TWO: Any and all reports prepared by experts in this case.

THREE: Copies of all insurance policies owned by the Defendants that relate to this matter or in the alternative the front page of such policies showing the amount and type of coverage.

FOUR: Copies of all photographs relating in any way to the matters referred to in the Complaint and Amended Complaint.

FIVE: Copies of any and all records, notes, electrical transmissions, files, memos, regarding the Palmetto Commerce Parkway project.

SIX: Copies of any and all documents which show the actions taken by the Defendants to comply with all required State, Federal and Municipal regulations, policies, procedures required with regard to the storm water runoff and construction of the wetlands surrounding the Palmetto Commerce Parkway, which was under construction by the Defendants.

SEVEN: Copies of any and all survey reports performed on the storm water runoff and construction of the wetlands surrounding the Palmetto Commerce Parkway, which was under construction by the Defendants.

EIGHT: Copies of any and all agreements, contracts, etc. between the Defendants.

NINE: Copies of any partnership agreements between the government and any entity involved in the construction development on the storm water runoff and construction surrounding the Palmetto Commerce Parkway.

TEN: Copies of any and all regulations, rules, code, and/or ordinances that regulate the construction development on the storm water runoff and construction in the wetlands surrounding the Palmetto Commerce Parkway.

ELEVEN: Certified copies of any and all test results regarding the soil and/or water testing performed on the wetlands for the Palmetto Commerce Parkway site prior to the beginning of construction.

TWELVE: Copies of photographs of any pumps or mechanical devices used to extract and/or disburse the water and/or other substances from said site.

THIRTEEN: Copies of photographs of the holding pond and any and all documents used to determine the size of the pond.

FOURTEEN: Copies of all logs recording water extraction and/or disbursement of water

from the construction site.

FIFTEEN: Copies of any and all environmental impact studies.

SIXTEEN: Copies of any and all elevation maps for the construction site and any and all adjacent properties.

SEVENTEEN: Copies of all statements, photographs, reports, etc. regarding the investigation of the Plaintiff's complaints.

EIGHTEEN: A detailed description of the area where the water was extracted from and a detailed description of the area where the water was disbursed throughout construction.

NINETEEN: Copies of all licenses and permits pulled prior to the project in question.

TWENTY: Copies of the entire job file, non privileged documents and field notes regarding this project.

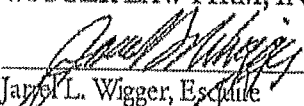
TWENTY-ONE: Copies of any and all documents received due to any FOIA requests regarding this matter.

TWENTY-TWO: Copies of the daily progress logs of the construction.

TWENTY-THREE: Copies of any and all weather analysis reports in addition to the storm water analysis performed.

TWENTY-FOUR: Copies of any and all reports prepared as a result of the public hearings on the proposed construction of the Palmetto Commerce Parkway.

WIGGER LAW FIRM, INC.

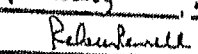

James L. Wigger, Esquire
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
N. Charleston, S.C. 29406
(843) 553-9800

North Charleston, South Carolina
This 2nd day of February, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon OPPA ATTYS by mailing a copy properly addressed with sufficient postage affixed thereto

this 2nd day of February, 2018


REBECCA PENWELL
WIGGER LAW FIRM

TO THE ABOVE NAMED DEFENDANTS:

The Plaintiff hereby request that the Defendants admit the following:

ONE: Admit that the wetlands that existed prevented water flowing onto the Pepperhill subdivision prior to the storm event in October 2015.

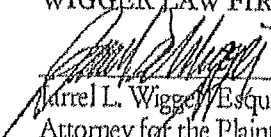
TWO: Admit that the parkway created by the Defendants funnels water towards the Pepperhill Subdivision.

THREE: Admit the Defendants were notified of the flooding issue by the residents of Pepperhill subdivision prior to beginning construction.

FOUR: Admit that city had received requests to clear the drainage ditch labeled as Pepperdam Creek, prior to October 2015.

FIVE: Admit that the city had received requests to clear the drainage ditch labeled Pepperdam Creek, prior to October 2015.

WIGGER LAW FIRM, INC.


Jarrell L. Wigger, Esquire
Attorney for the Plaintiff
8086 Rivers Avenue, Suite A
N. Charleston, S.C. 29406
(843) 553-9800

North Charleston, South Carolina
This 2nd day of February, 2018.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing pleading has been served upon OPB Army by mailing a copy properly addressed with sufficient postage affixed thereto

this 2nd day of February, 2018

Rebecca Powell
WIGGER LAW FIRM

EXHIBIT C

FORM 4

STATE OF SOUTH CAROLINA
 COUNTY OF Charleston
 IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1004820

Sarah Sharper et al
 PLAINTIFF(S)

North Charleston City of et al
 DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (*CHECK REASON*): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (*CHECK REASON*): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendant South Carolina Department of Transportation's Motion for Summary Judgment is GRANTED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/22/2020 .

Roseana Pinner
 Tuan Lo
 Tawny Mccoy
 Darlene Taylor Wynn
 Cynthia Olson
 Angela M Green
 Chia Olson
 Maxon Rental Properties LLC
 Robert Nixon
 Nelson Jackson
 Ruben Rayenel
 Ganava Macneil
 Elizabeth Bright
 Brenda Wilphoin
 Constance Vargo
 Kevin Thompson
 Debrae Griffin
 Francisco Gudin
 Tanya Ouggera
 Alex Z James
 Virginia James
 Lonnie Ivory
 Lonnea G Ivory
 Arjona Bernes
 Henry Bernes
 Daryl Beech
 Karen Drayton
 Renata Pluta
 Valerie Prazan
 Rebecca Kappmann Brenn
 Andrew Wells
 Alison Wells
 Leigh Hecox

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.

ELECTRONICALLY FILED - 2020 Oct 02 1:25 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820
ELECTRONICALLY FILED - 2020 Sep 22 11:38 AM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820



Charleston Common Pleas

Case Caption: Sarah Sharper , plaintiff, et al VS South Carolina State of The ,
defendant, et al
Case Number: 2017CP1004820
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-09-22 09:34:34 page 3 of 3

ELECTRONICALLY FILED - 2020 Oct 02 1:25 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820
ELECTRONICALLY FILED - 2020 Sep 22 11:38 AM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820

131

EXHIBIT D

Wigger Law Firm, Inc.

ATTORNEYS AT LAW

JARREL L. WIGGER*
BRICE E. RICKER
EMILY H. TONG

8086 Rivers Avenue, Suite A
North Charleston, SC 29406

(843) 553-9800
(843) 553-1648 Fax

CHRISTOPHER BOJARSKI
MARC Y. MAMBO
TIFFANY A. PALMER

Summerville
(843) 851-9900

West Ashley
(843) 203-1500

September 16, 2020

*Board Certified Civil Trial Specialist
By National Board of Trial Advocacy

VIA REGULAR MAIL AND EMAIL:

Jonathan J. Anderson, Esquire
Cole Lawrimore, Esquire
Anderson, Reynolds & Stephens, LLC
Post Office Box 87
Charleston, South Carolina 29401

RE: *Sarah Sharper v. Beech, et al (Pepperhill Matters)*
Consolidated Case No.: 2017-CP-10-4820

Dear Mr. Anderson and Mr. Lawrimore:

Please be advised that our office has yet to receive Defendants DHEC and SCDOT's Responses to Plaintiff's Interrogatories and Request for Production. Please forward the Defendant's responses within 10 days of receipt of this letter or I will have no alternative but to file a motion to compel. If you should have any questions, please feel free to call.

Yours Very Truly,



Rebeca Powell
Paralegal to Jarrel L. Wigger, Esq.

JLW/rbp

EXHIBIT E

Rebeca Powell

From: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org>
Sent: Monday, September 21, 2020 11:03 AM
To: Rebeca Powell; LChapman@charlestoncounty.org; Jerry Wigger; JJ Anderson; keith mccarty; curtmartin13@gmail.com; pferderigos@barnwell-whaley.com; Amanda Maybank; Roy Maybank; janderson@arslawsc.com; rtl@lylesfirm.com; abower@hsblawfirm.com; rbgsmith@icloud.com; fsmith@richardsonplowden.com; erik@hmp-law.com; egiffordlucey@richardsonplowden.com; cchase@ycrlaw.com; dhighfield@ycrlaw.com; Cole Lawrimore; jonathan.knicely@nelsonmullins.com; jtiller@hsblawfirm.com; court.walsh@nelsonmullins.com
Subject: RE: Motion "MSUMJM-Motion/Summary Judgment" for Case "2017CP1004820-Sarah Sharper , plaintiff, et al VS South Carolina State of The , defendant, et al" was added to a Motions Roster for 9/21/2020 at 9:30 AM

Received.

Thank you,

Aimee Intagliata
 Law Clerk to the Honorable Bentley Price The Circuit Court of South Carolina Ninth Judicial Circuit
 100 Broad Street
 Charleston, SC 29403

-----Original Message-----

From: Rebeca Powell <rpowell@wiggerlawfirm.com>
Sent: Monday, September 21, 2020 10:58 AM
To: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org>; LChapman@charlestoncounty.org; Jerry Wigger <jwigger@wiggerlawfirm.com>; JJ Anderson <janderson@arslawsc.com>; keith mccarty <ikeithmccarty@gmail.com>; curtmartin13@gmail.com; pferderigos@barnwell-whaley.com; Amanda Maybank <Amanda@maybanklaw.com>; Roy Maybank <Roy@maybanklaw.com>; janderson@arslawsc.com; rtl@lylesfirm.com; abower@hsblawfirm.com; rbgsmith@icloud.com; fsmith@richardsonplowden.com; erik@hmp-law.com; egiffordlucey@richardsonplowden.com; cchase@ycrlaw.com; dhighfield@ycrlaw.com; Cole Lawrimore <clawrimore@arslawsc.com>; jonathan.knicely@nelsonmullins.com; jtiller@hsblawfirm.com; court.walsh@nelsonmullins.com
Subject: RE: Motion "MSUMJM-Motion/Summary Judgment" for Case "2017CP1004820-Sarah Sharper , plaintiff, et al VS South Carolina State of The , defendant, et al" was added to a Motions Roster for 9/21/2020 at 9:30 AM
Importance: High

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Aimee: Please find attached the Plaintiff's Response in Opposition to SCDOT's Motion for Summary Judgment along with the Exhibits.

We were under the impression that we would be having a in person hearing, so we are submitting the attached now as we are seeing that there is a WEBEX link.

These documents were submitted to the Court for filing.

Please let me know if you need anything else at this time.

Thank you,

Rebeca Powell
Litigation Paralegal
Wigger Law Firm
8086 Rivers Avenue, Suite A
N. Charleston, SC 29406
(843)553-9800
Fax: (843)553-1648

-----Original Message-----

From: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org>
Sent: Friday, September 18, 2020 11:56 AM
To: Rebeca Powell <rpowell@wiggerlawfirm.com>; LChapman@charlestoncounty.org; Jerry Wigger <jwigger@wiggerlawfirm.com>; JJ Anderson <janderson@arlawsc.com>; keith mccarty <ikeithmccarty@gmail.com>; curtmartin13@gmail.com; pferderigos@barnwell-whaley.com; Amanda Maybank <Amanda@maybanklaw.com>; Roy Maybank <Roy@maybanklaw.com>; janderson@arlawsc.com; rtl@lylesfirm.com; abower@hsblawfirm.com; rbgsmith@icloud.com; fsmith@richardsonplowden.com; erik@hmp-law.com; egiffordlucey@richardsonplowden.com; cchase@ycrlaw.com; dhighfield@ycrlaw.com; Cole Lawrimore <clawrimore@arlawsc.com>; jonathan.knicely@nelsonmullins.com; jtiller@hsblawfirm.com; court.walsh@nelsonmullins.com
Subject: RE: Motion "MSUMJM-Motion/Summary Judgment" for Case "2017CP1004820-Sarah Sharper , plaintiff, et al VS South Carolina State of The , defendant, et al" was added to a Motions Roster for 9/21/2020 at 9:30 AM

All,

Due to the amount of parties and counsel, this hearing will be on WEBEX. I will create a link today and add you all as attendees. Please let me know if you do not receive a link shortly.

This hearing will still be on Monday September 21 at 1:30PM. It will be on WEBEX only.

Aimee Intagliata
Law Clerk to the Honorable Bentley Price The Circuit Court of South Carolina Ninth Judicial Circuit
100 Broad Street
Charleston, SC 29403

-----Original Message-----

From: Price, Bentley Law Clerk (Aimee Intagliata)
Sent: Thursday, September 17, 2020 2:46 PM
To: 'Rebeca Powell' <rpowell@wiggerlawfirm.com>; LChapman@charlestoncounty.org; Jerry Wigger <jwigger@wiggerlawfirm.com>; JJ Anderson <janderson@arlawsc.com>; keith mccarty <ikeithmccarty@gmail.com>; 'curtmartin13@gmail.com' <curtmartin13@gmail.com>; pferderigos@barnwell-whaley.com; Amanda Maybank <Amanda@maybanklaw.com>; Roy Maybank <Roy@maybanklaw.com>; 'janderson@arlawsc.com' <janderson@arlawsc.com>; rtl@lylesfirm.com; abower@hsblawfirm.com; 'rbgsmith@icloud.com' <rbgsmith@icloud.com>; fsmith@richardsonplowden.com; 'erik@hmp-law.com' <erik@hmp-law.com>; 'egiffordlucey@richardsonplowden.com' <egiffordlucey@richardsonplowden.com>; 'cchase@ycrlaw.com'

<cchase@ycrlaw.com>; dhighfield@ycrlaw.com; Cole Lawrimore <clawrimore@arslawsc.com>;
 jonathan.knicely@nelsonmullins.com; 'jtiller@hsblawfirm.com' <jtiller@hsblawfirm.com>;
 court.walsh@nelsonmullins.com

Subject: RE: Motion "MSUMJM-Motion/Summary Judgment" for Case "2017CP1004820-Sarah Sharper , plaintiff, et al VS South Carolina State of The , defendant, et al" was added to a Motions Roster for 9/21/2020 at 9:30 AM

Good afternoon all,

Please see below correspondence, Jerry Wigger has requested a hearing on the above entitled matter. The only available time slot left is a 30 minute time slot on Monday September 21 at 1:30PM. As a reminder, it will be in-person in courtroom 4B.

There can only be 6 people total in the courtroom (from both defense and plaintiff's counsel and including clients) at the hearing. Please note the count for 6 people does not include Judicial staff (Judge, Clerk, Court Reporter, etc.), the 6 count is only for parties and their attorneys.

This hearing is in-person only.

Please contact our office should you have any questions at (843) 958-4450.

Also, I believe I have included all named counsel on this email but if I have missed anyone please forward this onto them.

Thank you,

Aimee Intagliata
 Law Clerk to the Honorable Bentley Price The Circuit Court of South Carolina Ninth Judicial Circuit
 100 Broad Street
 Charleston, SC 29403

-----Original Message-----

From: Rebeca Powell <rpowell@wiggerlawfirm.com>

Sent: Thursday, September 17, 2020 2:08 PM

To: Price, Bentley Law Clerk (Aimee Intagliata) <bpricelc@sccourts.org>; LChapman@charlestoncounty.org; Jerry Wigger <jwigger@wiggerlawfirm.com>; JJ Anderson <janderson@arslawsc.com>

Subject: FW: Motion "MSUMJM-Motion/Summary Judgment" for Case "2017CP1004820-Sarah Sharper , plaintiff, et al VS South Carolina State of The , defendant, et al" was added to a Motions Roster for 9/21/2020 at 9:30 AM

Importance: High

*** EXTERNAL EMAIL: This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

Aimee: I am sorry to be getting with you now on this but Mr. Wigger has been out of the office for the past 2 weeks and we just saw this.

We would like to request a hearing. Thank you and let me know if you have any questions.

Rebeca Powell
 Litigation Paralegal
 Wigger Law Firm

8086 Rivers Avenue, Suite A
N. Charleston, SC 29406
(843)553-9800
Fax: (843)553-1648

-----Original Message-----

From: cpas@charlestoncounty.org <cpas@charlestoncounty.org>
Sent: Friday, August 28, 2020 1:21 PM
To: Jerry Wigger <jwigger@wiggerlawfirm.com>
Cc: Lchapman@charlestoncounty.org
Subject: Motion "MSUMJM-Motion/Summary Judgment" for Case "2017CP1004820-Sarah Sharper , plaintiff, et al VS South Carolina State of The , defendant, et al" was added to a Motions Roster for 9/21/2020 at 9:30 AM

Motion(s) in the above captioned case will be handled during THE WEEK OF September 21, 2020 by the Honorable Judge Bentley Price. UNLESS a WebEx hearing is requested, the motion (s) will be ruled on based upon your submitted briefs. Your briefs are due by 5PM on Friday, September 18, 2020. Please send your briefs to Judge Price's Law Clerk at the following:

bpricelc@sccourts.org IF you are requesting a hearing please be advised that the hearing will be handled via WebEx. The Link for the hearing will be provided by Judge Price's Law Clerk after you email her with your request for a hearing. Please advise if an Interpreter is needed.

Continuance requests must be received no later than Wednesday, September 16, 2020.

~~~~ CONFIDENTIALITY NOTICE ~~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.



STATE OF SOUTH CAROLINA  
COUNTY OF Charleston  
IN THE COURT OF COMMON PLEAS

## JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1004820

Sarah Sharper et al  
PLAINTIFF(S)

North Charleston City of et al  
DEFENDANT(S)

## DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled);  
☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Plaintiff's Motion for Reconsideration is denied.

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

## For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/17/2020 .

Roberto Frasier  
Tuan Lo  
Tanner Mical  
Dante Taylor Wilman  
Oglivia Olson  
Angela M Green  
Dixie Green  
Miron Rental Properties LLC  
Robert Miron  
Kelvin Jackson  
Rufus Rayonel  
Genevra Rayonel  
Elizabeth Bright  
Brenda Wrighton  
Constance Verge  
Kevin Thompson  
Delores Griffin  
Franklin Griffin  
Tanya Driggers  
Alex Z. James  
Virginia James  
Lorelio Ivory  
Lorelio O Ivory  
Arnellia Bennett  
Henry Bennett  
David Beech  
Kevin Dayton  
Ranella Fladd  
Valerie Pearson  
Rebecca Kappelman Brown  
Andrew Wells  
Allan Wells  
Lough Housings

## NAMES OF TRADITIONAL FILERS SERVED BY MAIL

**Court Reporter:**

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

---

ELECTRONICALLY FILED - 2020 Dec 18 3:38 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820



Charleston Common Pleas

**Case Caption:** Sarah Sharper , plaintiff, et al VS South Carolina State of The ,  
defendant, et al  
**Case Number:** 2017CP1004820  
**Type:** Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-12-17 11:58:04 page 3 of 3

# Wigger Law Firm, Inc.

ATTORNEYS AT LAW

JARREL L. WIGGER\*  
BRICE E. RICKER  
EMILY H. TONG

8086 Rivers Avenue, Suite A  
North Charleston, SC 29406

(843) 553-9800  
(843) 553-1648 Fax

Summerville  
(843) 851-9900

West Ashley  
(843) 203-1500

CHRISTOPHER BOJARSKI  
MARC Y. MAMBO  
TIFFANY A. PALMER

\*Board Certified Civil Trial Specialist  
By National Board of Trial Advocacy

January 14, 2021

**VIA REGULAR MAIL:**

Julie Armstrong, Clerk  
Charleston County Court of Common Pleas  
100 Broad Street, Ste. 106  
Charleston, SC 29401

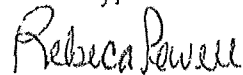
RE: Sarah Sharper, et. al. v. City of North Charleston, et al  
Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |                 |
|---------------------|-----------------|-----------------|
| Other case numbers: | 2017-CP-10-4839 | 2017-CP-10-4897 |
| 2017-CP-10-4821     | 2017-CP-10-4840 | 2017-CP-10-4898 |
| 2017-CP-10-4822     | 2017-CP-10-4841 | 2017-CP-10-4899 |
| 2017-CP-10-4823     | 2017-CP-10-4842 | 2017-CP-10-4900 |
| 2017-CP-10-4824     | 2017-CP-10-4845 | 2017-CP-10-4901 |
| 2017-CP-10-4825     | 2017-CP-10-4847 | 2017-CP-10-4903 |
| 2017-CP-10-4826     | 2017-CP-10-4891 | 2017-CP-10-4904 |
| 2017-CP-10-4827     | 2017-CP-10-4892 | 2017-CP-10-4905 |
| 2017-CP-10-4835     | 2017-CP-10-4893 | 2017-CP-10-4906 |
| 2017-CP-10-4836     | 2017-CP-10-4894 | 2017-CP-10-4907 |
| 2017-CP-10-4837     | 2017-CP-10-4895 | 2017-CP-10-4923 |
| 2017-CP-10-4838     | 2017-CP-10-4896 |                 |

Dear Ms. Armstrong:

Enclosed for filing is a Notice of Appeal in the above consolidated case.

Sincerely,



Rebeca Powell  
Paralegal to Jarrel L. Wigger

Other Counsel of Record:

**I. Keith McCarty**  
1212 Wappoo Road  
Charleston, South Carolina 29407  
[ikeithmccarthy@gmail.com](mailto:ikeithmccarthy@gmail.com)  
Co-Counsel for Appellants

**Jonathan J. Anderson**  
**Cole Lawrimore**  
Anderson, Reynolds & Stephens, LLC  
Post Office Box 87  
Charleston, South Carolina 29401  
ATTORNEYS FOR DHEC and SCDOT

**John H. Tiller**  
**Amy F. Bower**  
Haynsworth Sinkler Boyd, P.A.  
134 Meeting Street, Third Floor  
P.O. Box 340  
Charleston, SC 29402  
ATTORNEYS FOR DEFENDANTS BANKS CONSTRUCTION COMPANY,  
UNITED CONTRACTORS, INC. AND BANKS/UNITED JOINT VENTURE

**Phillip S. Ferderigos**  
Barnwell Whaley Patterson & Helms, LLC  
288 Meeting Street, Suite 200 (29401)  
P.O. Drawer H  
Charleston, South Carolina 29402  
ATTORNEY FOR CITY OF NORTH CHARLESTON

**Amanda Maybank**  
**Roy Maybank**  
Maybank Law Firm  
P.O. Box 12579  
Charleston, SC 29422  
AND

**Catherine H. Chase**  
**Duke R. Highfield**  
Young Clement Rivers, LLP  
P.O. Box 993, Charleston, SC 29402  
25 Calhoun Street, Suite 400, Charleston, SC 29401  
ATTORNEYS FOR DEFENDANT COUNTY OF CHARLESTON

Franklin J. Smith, Jr.  
P.O. Drawer 7788  
Columbia, SC 29202  
ATTORNEY FOR THIRD-PARTY DEFENDANT  
COLEMAN SNOW CONSULTANTS, LLC

Courtney E. Walsh  
Jonathan Knicely  
Nelson Mullins  
1320 Main Street  
Meridian, 17<sup>th</sup> Floor  
Columbia, SC 29201  
ATTORNEYS FOR ICA ENGINEERING, INC., f/k/a FLORENCE & HUTCHINSON,  
INC.

# Wigger Law Firm, Inc.

ATTORNEYS AT LAW

JARREL L. WIGGER\*  
BRICE E. RICKER  
EMILY H. TONG

8086 Rivers Avenue, Suite A  
North Charleston, SC 29406

(843) 553-9800  
(843) 553-1648 Fax

Summerville  
(843) 851-9900

CHRISTOPHER BOJARSKI  
TIFFANY A. ELLING

West Ashley  
(843) 203-1500

\*Board Certified Civil Trial Specialist  
By National Board of Trial Advocacy

January 14, 2021

The Honorable Bentley Price  
Charleston County Court of Common Pleas  
Clerk of Court  
100 Broad, Street, Suite 106  
Charleston, South Carolina 29401

RE: Sarah Sharper, et. al. v. City of North Charleston, et al  
Case No.: 2017-CP-10-4820 (Consolidated Case Number)

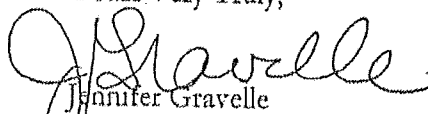
|                     |                 |                 |
|---------------------|-----------------|-----------------|
| Other case numbers: | 2017-CP-10-4839 | 2017-CP-10-4897 |
| 2017-CP-10-4821     | 2017-CP-10-4840 | 2017-CP-10-4898 |
| 2017-CP-10-4822     | 2017-CP-10-4841 | 2017-CP-10-4899 |
| 2017-CP-10-4823     | 2017-CP-10-4842 | 2017-CP-10-4900 |
| 2017-CP-10-4824     | 2017-CP-10-4845 | 2017-CP-10-4901 |
| 2017-CP-10-4825     | 2017-CP-10-4847 | 2017-CP-10-4903 |
| 2017-CP-10-4826     | 2017-CP-10-4891 | 2017-CP-10-4904 |
| 2017-CP-10-4827     | 2017-CP-10-4892 | 2017-CP-10-4905 |
| 2017-CP-10-4835     | 2017-CP-10-4893 | 2017-CP-10-4906 |
| 2017-CP-10-4836     | 2017-CP-10-4894 | 2017-CP-10-4907 |
| 2017-CP-10-4837     | 2017-CP-10-4895 | 2017-CP-10-4923 |
| 2017-CP-10-4838     | 2017-CP-10-4896 |                 |

Dear Judge Price:

Enclosed you will find the Notice of Appeal relative to the above referenced action, which I am hereby serving upon you.

With kindest regards, I am

Yours Very Truly,

  
Jennifer Gravelle  
Paralegal to Jarrel L. Wigger

/jdg

ELECTRONICALLY FILED - 2021 Feb 03 2:38 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820

145

Other Counsel of Record:

**I. Keith McCarty**  
1212 Wappoo Road  
Charleston, South Carolina 29407  
[ikeithmccarthy@gmail.com](mailto:ikeithmccarthy@gmail.com)  
Co-Counsel for Appellants

**Jonathan J. Anderson**  
**Cole Lawrimore**  
Anderson, Reynolds & Stephens, LLC  
Post Office Box 87  
Charleston, South Carolina 29401  
ATTORNEYS FOR DHEC and SCDOT

**John H. Tiller**  
**Amy F. Bower**  
Haynsworth Sinkler Boyd, P.A.  
134 Meeting Street, Third Floor  
P.O. Box 340  
Charleston, SC 29402  
ATTORNEYS FOR DEFENDANTS BANKS CONSTRUCTION COMPANY,  
UNITED CONTRACTORS, INC. AND BANKS/UNITED JOINT VENTURE

**Phillip S. Ferderigos**  
Barnwell Whaley Patterson & Helms, LLC  
288 Meeting Street, Suite 200 (29401)  
P.O. Drawer H  
Charleston, South Carolina 29402  
ATTORNEY FOR CITY OF NORTH CHARLESTON

**Amanda Maybank**  
**Roy Maybank**  
Maybank Law Firm  
P.O. Box 12579  
Charleston, SC 29422  
AND  
**Catherine H. Chase**  
**Duke R. Highfield**  
Young Clement Rivers, LLP  
P.O. Box 993, Charleston, SC 29402  
25 Calhoun Street, Suite 400, Charleston, SC 29401  
ATTORNEYS FOR DEFENDANT COUNTY OF CHARLESTON

Franklin J. Smith, Jr.  
P.O. Drawer 7788  
Columbia, SC 29202  
ATTORNEY FOR THIRD-PARTY DEFENDANT  
COLEMAN SNOW CONSULTANTS, LLC

Courtney E. Walsh  
Jonathan Knicely  
Nelson Mullins  
1320 Main Street  
Meridian, 17<sup>th</sup> Floor  
Columbia, SC 29201  
ATTORNEYS FOR ICA ENGINEERING, INC., f/k/a FLORENCE & HUTCHINSON,  
INC.

# Wigger Law Firm, Inc.

ATTORNEYS AT LAW

JARREL L. WIGGER\*  
BRUCE E. RICKER  
EMILY H. TONG

8086 Rivers Avenue, Suite A  
North Charleston, SC 29406

(843) 553-9800  
(843) 553-1648 Fax

CHRISTOPHER BOJARSKI  
MARC Y. MAMBO  
TIFFANY A. PALMER

Summerville  
(843) 851-9900

West Ashley  
(843) 203-1500

\*Board Certified Civil Trial Specialist  
By National Board of Trial Advocacy

January 14, 2021

## VIA REGULAR MAIL

Jenny Abbott Kitchings, Clerk of Court  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, South Carolina 29211

RE: SARAH SHARPER, ET AL V. CITY OF NORTH CHARLESTON, COUNTY  
OF CHARLESTON, DEPARTMENT OF HEALTH AND ENVIRONMENTAL  
CONTROL, SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION,  
BANKS CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE  
& HUTCHESON, INC  
Consolidated Case No.: 2017-CP-10-4820

Dear South Carolina Court of Appeals:

Enclosed you will find an original and three (3) copies of the following documents:

1. Notice of Appeal;
2. Proof of Service of Notice of Appeal; and
3. Form 4/Orders filed September 22, 2020 and December 18, 2020.

Also enclosed you will find our check in the amount of \$100.00 for the filing of the Notice of Appeal. I would appreciate you filing the originals and returning the filed copies to me in the self-addressed stamped envelope provided.

With kindest regards, I am

Yours Very Truly,

*Rebecca Powell*

Rebeca Powell  
Paralegal to Jarrel L. Wigger, Esq.

JLW/rbp  
Enclosures

cc:

I. Keith McCarty  
1212 Wappoo Road  
Charleston, South Carolina 29407  
[ikeithmccarthy@gmail.com](mailto:ikeithmccarthy@gmail.com)  
Co-Counsel for Appellants

Jonathan J. Anderson  
Cole Lawrimore  
Anderson, Reynolds & Stephens, LLC  
Post Office Box 87  
Charleston, South Carolina 29401  
ATTORNEYS FOR DHEC and SCDOT

John H. Tiller  
Amy F. Bower  
Haynsworth Sinkler Boyd, P.A.  
134 Meeting Street, Third Floor  
P.O. Box 340  
Charleston, SC 29402  
ATTORNEYS FOR DEFENDANTS BANKS CONSTRUCTION COMPANY,  
UNITED CONTRACTORS, INC. AND BANKS/UNITED JOINT VENTURE

Phillip S. Ferderigos  
Barnwell Whaley Patterson & Helms, LLC  
288 Meeting Street, Suite 200 (29401)  
P.O. Drawer H  
Charleston, South Carolina 29402  
ATTORNEY FOR CITY OF NORTH CHARLESTON

Amanda Maybank  
Roy Maybank  
Maybank Law Firm  
P.O. Box 12579  
Charleston, SC 29422  
AND

Catherine H. Chase  
Duke R. Highfield  
Young Clement Rivers, LLP  
P.O. Box 993, Charleston, SC 29402  
25 Calhoun Street, Suite 400, Charleston, SC 29401  
ATTORNEYS FOR DEFENDANT COUNTY OF CHARLESTON

Franklin J. Smith, Jr.  
P.O. Drawer 7788  
Columbia, SC 29202  
ATTORNEY FOR THIRD-PARTY DEFENDANT  
COLEMAN SNOW CONSULTANTS, LLC

Courtney E. Walsh  
Jonathan Knicely  
Nelson Mullins  
1320 Main Street  
Meridian, 17<sup>th</sup> Floor  
Columbia, SC 29201  
ATTORNEYS FOR ICA ENGINEERING, INC., f/k/a FLORENCE & HUTCHINSON, INC.

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |
|---------------------|-----------------|
| Other case numbers: | 2017-CP-10-4891 |
| 2017-CP-10-4821     | 2017-CP-10-4892 |
| 2017-CP-10-4822     | 2017-CP-10-4893 |
| 2017-CP-10-4823     | 2017-CP-10-4894 |
| 2017-CP-10-4824     | 2017-CP-10-4895 |
| 2017-CP-10-4825     | 2017-CP-10-4896 |
| 2017-CP-10-4826     | 2017-CP-10-4897 |
| 2017-CP-10-4827     | 2017-CP-10-4898 |
| 2017-CP-10-4835     | 2017-CP-10-4899 |
| 2017-CP-10-4836     | 2017-CP-10-4900 |
| 2017-CP-10-4837     | 2017-CP-10-4901 |
| 2017-CP-10-4838     | 2017-CP-10-4903 |
| 2017-CP-10-4839     | 2017-CP-10-4904 |
| 2017-CP-10-4840     | 2017-CP-10-4905 |
| 2017-CP-10-4841     | 2017-CP-10-4906 |
| 2017-CP-10-4842     | 2017-CP-10-4907 |
| 2017-CP-10-4845     | 2017-CP-10-4923 |
| 2017-CP-10-4847     |                 |

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC..... Respondents.

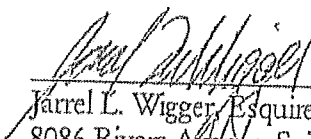
---

NOTICE OF APPEAL

---

Plaintiffs file their notice of appeal in this matter and appeal the Order of the Honorable Bentley D. Price dated September 22, 2020 and Order dated December 18, 2020. Appellant received written notice of the entry of this Order on December 18, 2020.

December 18, 2020

  
Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

Other Counsel of Record:

I. Keith McCarty  
1212 Wappoo Road  
Charleston, South Carolina 29407  
[ikeithmccarthy@gmail.com](mailto:ikeithmccarthy@gmail.com)  
Co-Counsel for Appellants

Jonathan J. Anderson  
Cole Lawrimore  
Anderson, Reynolds & Stephens, LLC  
Post Office Box 87  
Charleston, South Carolina 29401  
ATTORNEYS FOR DHEC and SCDOT

John H. Tiller  
Amy F. Bower  
Haynsworth Sinkler Boyd, P.A.  
134 Meeting Street, Third Floor  
P.O. Box 340  
Charleston, SC 29402  
ATTORNEYS FOR DEFENDANTS BANKS CONSTRUCTION  
COMPANY, UNITED CONTRACTORS, INC. AND BANKS/UNITED JOINT  
VENTURE

Phillip S. Ferderigos  
Barnwell Whaley Patterson & Helms, LLC  
288 Meeting Street, Suite 200 (29401)  
P.O. Drawer H

Charleston, South Carolina 29402  
ATTORNEY FOR CITY OF NORTH CHARLESTON

Amanda Maybank  
Roy Maybank  
Maybank Law Firm  
P.O. Box 12579  
Charleston, SC 29422  
AND

Catherine H. Chase  
Duke R. Highfield  
Young Clement Rivers, LLP  
P.O. Box 993, Charleston, SC 29402  
25 Calhoun Street, Suite 400, Charleston, SC 29401  
ATTORNEYS FOR DEFENDANT COUNTY OF CHARLESTON

Franklin J. Smith, Jr.  
P.O. Drawer 7788  
Columbia, SC 29202  
ATTORNEY FOR THIRD-PARTY DEFENDANT  
COLEMAN SNOW CONSULTANTS, LLC

Courtney E. Walsh  
Jonathan Knicely  
Nelson Mullins  
1320 Main Street  
Meridian, 17<sup>th</sup> Floor  
Columbia, SC 29201  
ATTORNEYS FOR ICA ENGINEERING, INC., f/k/a FLORENCE & HUTCHINSON,  
INC.

Proof of Service

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |
|---------------------|-----------------|
| Other case numbers: | 2017-CP-10-4891 |
| 2017-CP-10-4821     | 2017-CP-10-4892 |
| 2017-CP-10-4822     | 2017-CP-10-4893 |
| 2017-CP-10-4823     | 2017-CP-10-4894 |
| 2017-CP-10-4824     | 2017-CP-10-4895 |
| 2017-CP-10-4825     | 2017-CP-10-4896 |
| 2017-CP-10-4826     | 2017-CP-10-4897 |
| 2017-CP-10-4827     | 2017-CP-10-4898 |
| 2017-CP-10-4835     | 2017-CP-10-4899 |
| 2017-CP-10-4836     | 2017-CP-10-4900 |
| 2017-CP-10-4837     | 2017-CP-10-4901 |
| 2017-CP-10-4838     | 2017-CP-10-4903 |
| 2017-CP-10-4839     | 2017-CP-10-4904 |
| 2017-CP-10-4840     | 2017-CP-10-4905 |
| 2017-CP-10-4841     | 2017-CP-10-4906 |
| 2017-CP-10-4842     | 2017-CP-10-4907 |
| 2017-CP-10-4845     | 2017-CP-10-4923 |
| 2017-CP-10-4847     |                 |

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC..... Respondents.

---

PROOF OF SERVICE

---

I certify that I have served two copies of the Notice of Appeal on Defendants DHEC and SCDOT, by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2021, addressed to their attorneys of record Jonathan J. Anderson and Cole Lawrimore at Anderson, Reynolds & Stephens, LLC at Post Office Box 87 Charleston, South Carolina 29401.

January 14, 2021

*Steffrey Elling for Jarrel Wigger*

---

Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |
|---------------------|-----------------|
| Other case numbers: | 2017-CP-10-4891 |
| 2017-CP-10-4821     | 2017-CP-10-4892 |
| 2017-CP-10-4822     | 2017-CP-10-4893 |
| 2017-CP-10-4823     | 2017-CP-10-4894 |
| 2017-CP-10-4824     | 2017-CP-10-4895 |
| 2017-CP-10-4825     | 2017-CP-10-4896 |
| 2017-CP-10-4826     | 2017-CP-10-4897 |
| 2017-CP-10-4827     | 2017-CP-10-4898 |
| 2017-CP-10-4835     | 2017-CP-10-4899 |
| 2017-CP-10-4836     | 2017-CP-10-4900 |
| 2017-CP-10-4837     | 2017-CP-10-4901 |
| 2017-CP-10-4838     | 2017-CP-10-4903 |
| 2017-CP-10-4839     | 2017-CP-10-4904 |
| 2017-CP-10-4840     | 2017-CP-10-4905 |
| 2017-CP-10-4841     | 2017-CP-10-4906 |
| 2017-CP-10-4842     | 2017-CP-10-4907 |
| 2017-CP-10-4845     | 2017-CP-10-4923 |
| 2017-CP-10-4847     |                 |

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC..... Respondents.

---

PROOF OF SERVICE

---

I certify that I have served two copies of the Notice of Appeal on Defendants Banks Construction Company, United Contractors, Inc. and Banks/United Joint Venture, by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2021, addressed to their attorneys of record John H. Tiller and Amy F. Bower at Haynsworth Sinkler Boyd, P.A. at 134 Meeting Street, Third Floor P.O. Box 340 Charleston, SC 29402.

January 14, 2021

*S/ Jeffrey Ellery for Jarrel Wigger*

---

Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |
|---------------------|-----------------|
| Other case numbers: | 2017-CP-10-4891 |
| 2017-CP-10-4821     | 2017-CP-10-4892 |
| 2017-CP-10-4822     | 2017-CP-10-4893 |
| 2017-CP-10-4823     | 2017-CP-10-4894 |
| 2017-CP-10-4824     | 2017-CP-10-4895 |
| 2017-CP-10-4825     | 2017-CP-10-4896 |
| 2017-CP-10-4826     | 2017-CP-10-4897 |
| 2017-CP-10-4827     | 2017-CP-10-4898 |
| 2017-CP-10-4835     | 2017-CP-10-4899 |
| 2017-CP-10-4836     | 2017-CP-10-4900 |
| 2017-CP-10-4837     | 2017-CP-10-4901 |
| 2017-CP-10-4838     | 2017-CP-10-4903 |
| 2017-CP-10-4839     | 2017-CP-10-4904 |
| 2017-CP-10-4840     | 2017-CP-10-4905 |
| 2017-CP-10-4841     | 2017-CP-10-4906 |
| 2017-CP-10-4842     | 2017-CP-10-4907 |
| 2017-CP-10-4845     | 2017-CP-10-4923 |
| 2017-CP-10-4847     |                 |

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC..... Respondents.

---

PROOF OF SERVICE

---

I certify that I have served a copy of the Notice of Appeal on Defendant City of North Charleston, by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2021, addressed to their attorney of record Phillip S. Ferderigos at Barnwell Whaley Patterson & Helms, LLC at 288 Meeting Street, Suite 200 (29401) P.O. Drawer H Charleston, South Carolina 29402.

January 14, 2021

*S/ Tiffany Bellamy for Jarrel Wigger*

---

Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |
|---------------------|-----------------|
| Other case numbers: | 2017-CP-10-4891 |
| 2017-CP-10-4821     | 2017-CP-10-4892 |
| 2017-CP-10-4822     | 2017-CP-10-4893 |
| 2017-CP-10-4823     | 2017-CP-10-4894 |
| 2017-CP-10-4824     | 2017-CP-10-4895 |
| 2017-CP-10-4825     | 2017-CP-10-4896 |
| 2017-CP-10-4826     | 2017-CP-10-4897 |
| 2017-CP-10-4827     | 2017-CP-10-4898 |
| 2017-CP-10-4835     | 2017-CP-10-4899 |
| 2017-CP-10-4836     | 2017-CP-10-4900 |
| 2017-CP-10-4837     | 2017-CP-10-4901 |
| 2017-CP-10-4838     | 2017-CP-10-4903 |
| 2017-CP-10-4839     | 2017-CP-10-4904 |
| 2017-CP-10-4840     | 2017-CP-10-4905 |
| 2017-CP-10-4841     | 2017-CP-10-4906 |
| 2017-CP-10-4842     | 2017-CP-10-4907 |
| 2017-CP-10-4845     | 2017-CP-10-4923 |
| 2017-CP-10-4847     |                 |

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC.....Respondents.

---

PROOF OF SERVICE

---

I certify that I have served two copies of the Notice of Appeal on Defendant County of Charleston, by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2021, addressed to their attorneys of record:

Amanda Maybank  
Roy Maybank  
Maybank Law Firm  
P.O. Box 12579  
Charleston, SC 29422

AND

Catherine H. Chase  
Duke R. Highfield  
Young Clement Rivers, LLP  
P.O. Box 993, Charleston, SC 29402  
25 Calhoun Street, Suite 400, Charleston, SC 29401

January 14, 2021

*S/ Tiffanely for Jarrel W. Wigger*

---

Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)

|                     |                 |
|---------------------|-----------------|
| Other case numbers: | 2017-CP-10-4891 |
| 2017-CP-10-4821     | 2017-CP-10-4892 |
| 2017-CP-10-4822     | 2017-CP-10-4893 |
| 2017-CP-10-4823     | 2017-CP-10-4894 |
| 2017-CP-10-4824     | 2017-CP-10-4895 |
| 2017-CP-10-4825     | 2017-CP-10-4896 |
| 2017-CP-10-4826     | 2017-CP-10-4897 |
| 2017-CP-10-4827     | 2017-CP-10-4898 |
| 2017-CP-10-4835     | 2017-CP-10-4899 |
| 2017-CP-10-4836     | 2017-CP-10-4900 |
| 2017-CP-10-4837     | 2017-CP-10-4901 |
| 2017-CP-10-4838     | 2017-CP-10-4903 |
| 2017-CP-10-4839     | 2017-CP-10-4904 |
| 2017-CP-10-4840     | 2017-CP-10-4905 |
| 2017-CP-10-4841     | 2017-CP-10-4906 |
| 2017-CP-10-4842     | 2017-CP-10-4907 |
| 2017-CP-10-4845     | 2017-CP-10-4923 |
| 2017-CP-10-4847     |                 |

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC..... Respondents.

---

PROOF OF SERVICE

---

I certify that I have served two copies of the Notice of Appeal on Third-Party Defendant Coleman Snow Consultants, LLC, by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2021, addressed to their attorney of record Franklin J. Smith, Jr. at P.O. Drawer 7788 Columbia, SC 29202.

January 14, 2021

*Stiffey G. Wigger for Jarrel Wigger*

---

Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

Case No.: 2017-CP-10-4820 (Consolidated Case Number)  
Other case numbers: 2017-CP-10-4891  
2017-CP-10-4821 2017-CP-10-4892  
2017-CP-10-4822 2017-CP-10-4893  
2017-CP-10-4823 2017-CP-10-4894  
2017-CP-10-4824 2017-CP-10-4895  
2017-CP-10-4825 2017-CP-10-4896  
2017-CP-10-4826 2017-CP-10-4897  
2017-CP-10-4827 2017-CP-10-4898  
2017-CP-10-4835 2017-CP-10-4899  
2017-CP-10-4836 2017-CP-10-4900  
2017-CP-10-4837 2017-CP-10-4901  
2017-CP-10-4838 2017-CP-10-4903  
2017-CP-10-4839 2017-CP-10-4904  
2017-CP-10-4840 2017-CP-10-4905  
2017-CP-10-4841 2017-CP-10-4906  
2017-CP-10-4842 2017-CP-10-4907  
2017-CP-10-4845 2017-CP-10-4923  
2017-CP-10-4847

Appellate Case Number: \_\_\_\_\_

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC..... Respondents.

---

PROOF OF SERVICE

---

I certify that I have served two copies of the Notice of Appeal on Defendant ICS Engineering, Inc. f/k/a Florence & Hutchinson, Inc., by depositing a copy of it in the United States Mail, postage prepaid, on January 14, 2021, addressed to their attorneys of record Courtney E. Walsh and Jonathan Knicely at Nelson Mullins at 1320 Main Street Meridian, 17<sup>th</sup> Floor Columbia, SC 29201.

January 14, 2021

*3718849 Ely for Jarrel Wigger*

---

Jarrel L. Wigger, Esquire  
8086 Rivers Avenue, Suite A  
North Charleston, South Carolina 29406  
(843) 553-9800  
Attorney for Appellants

Form 4 / Order

(DATE: 9/22/2020)

STATE OF SOUTH CAROLINA  
COUNTY OF Charleston  
IN THE COURT OF COMMON PLEAS

FORM 4

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1004820

Sarah Sharper et al  
PLAINTIFF(S)

North Charleston City of et al  
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled);  
☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;  
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;  
☐ Other
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):  
☐ Affirmed; ☐ Reversed; ☐ Remanded;  
☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

Defendant South Carolina Department of Transportation's Motion for Summary Judgment is GRANTED.

ORDER INFORMATION

This order ☐ ends ☒ does not end the case.

☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/22/2020.

Hopkins Fraser  
Yoon Lo  
Tammy McCall  
Darlene Taylor Williams  
Dyrlis Gibson  
Angela M. Grier  
Gus Green  
Mixon Rental Properties LLC  
Robert Murch  
Kathleen Jackson  
Rufus Haveret  
Dorcas Rawlston  
Elizabeth B. Grier  
Brandi Weighon  
Constance Yerge  
Kevin Thompson  
Catherine Griffin  
Faylene Griffin  
Tanya Driggers  
Alex Z. James  
Virginia James  
Lorena Ivory  
Lorena Ivory  
Alysona Berens  
Henry Sanchez  
Dorothy Benson  
Kevin Drayton  
Hertha Plutz  
Valerie Pearson  
Rebecca Katterman Brown  
Alicia West  
Alyson West  
Lynn McCall

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCF.

---

ELECTRONICALLY FILED - 2021 SEP 23 12:38 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1904820



Charleston Common Pleas

Case Caption: Sarah Sharper , plaintiff, et al VS South Carolina State of The ,  
defendant, et al  
Case Number: 2017CP1004820  
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-09-22 09:34:34 page 3 of 3

ELECTRONICALLY FILED - 2020 SEP 23 12:38 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820

Form 4 / order

(DATED 12/18/2020)

STATE OF SOUTH CAROLINA  
COUNTY OF Charleston  
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2017CP1004820

Sarah Sharper et al  
PLAINTIFF(S)

North Charleston City of et al  
DEFENDANT(S)

## DISPOSITION TYPE (CHECK ONE)

- ☐ JURY VERDICT. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ DECISION BY THE COURT. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ☐ ACTION DISMISSED (CHECK REASON): ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit); ☐ Rule 43(k), SCRPC (Settled); ☐ Other
- ☐ ACTION STRICKEN (CHECK REASON): ☐ Rule 40(j), SCRPC; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other
- ☐ STAYED DUE TO BANKRUPTCY
- ☐ DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☒ Statement of Judgment by the Court:

The Plaintiff's Motion for Reconsideration is denied.

## ORDER INFORMATION

This order ☒ ends ☐ does not end the case.

☐ See Page 2 for additional information.

## For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 12/17/2020 .

Rebecca Ennis  
Tuan Le  
Tammy Alford  
Dorlene Taylor Wilam  
Tyrinda Gibson  
Angela M Green  
Ola Green  
Miron Rental Properties LLC  
Robert Krom  
Kathy Jackson  
Rufus Ravenel  
Benevia Ravenel  
Elizabeth Wright  
Brenda Wiggins  
Constance Varga  
Kern Thompson  
Delores Griffin  
Franklin Griffin  
Tanya Drayton  
Alex E. James  
Viviana Jones  
Lynn A. Ivory  
Larnee O. Ivory  
Adrienne Barnes  
Henry Barnett  
Darryl Bates  
Kevin Drayton  
Brenda Platt  
Valerie Pearson  
Rebecca Kesteven Brown  
Andrew West  
Ashley West  
Lashae Thompson

## NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

---

ELECTRONICALLY FILED - 2021 Feb 03 2:38 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820  
ELECTRONICALLY FILED - 2020 Dec 18 3:38 PM - CHARLESTON - COMMON PLEAS - CASE#2017CP1004820



Charleston Common Pleas

Case Caption: Sarah Sharper , plaintiff, et al VS South Carolina State of The ,  
defendant, et al  
Case Number: 2017CP1004820  
Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

Electronically signed on 2020-12-17 11:58:04 page 3 of 3

174

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

---

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

Bentley D. Price, Circuit Court Judge

---

Appellate Case Number: 2021-000053

---

**RECEIVED**

**Aug 24 2021**

**SC Court of Appeals**

SARAH SHARPER, ET AL..... Appellants,

v.

CITY OF NORTH CHARLESTON, COUNTY OF CHARLESTON,  
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, SOUTH  
CAROLINA DEPARTMENT OF TRANSPORTATION, BANKS  
CONSTRUCTION COMPANY, UNITED CONTRACTORS, INC,  
BANKS/UNITED JOINT VENTURE AND HLA, INC, COLEMAN-SNOW  
CONSULTANTS, LLC AND ICA ENGINEERING, INC. F/K/A FLORENCE &  
HUTCHESON, INC.....Respondents.

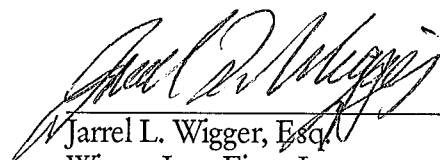
---

**CERTIFICATE OF COUNSEL**

---

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

August 24, 2021



Jarrel L. Wigger, Esq.  
Wigger Law Firm, Inc.  
8086 Rivers Avenue, Ste A  
North Charleston, SC29406  
(843) 553-9800  
Attorney for the Appellant