

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

AUG 07 2018

In the Original Jurisdiction of the Supreme Court **S.C. SUPREME COURT**

The Senate of the State of South Carolina, by and through its
President *Pro Tempore*, the Honorable Hugh K. Leatherman, Sr. Petitioner,

v.

His Excellency Henry D. McMaster, in his official capacity as
Governor of the State of South Carolina, and Charles M. Condon Respondents.

PETITION FOR ORIGINAL JURISDICTION

Petitioner the Senate of the State of South Carolina, by and through its President *Pro Tempore* the Honorable Hugh K. Leatherman, Sr., (the “Senate”) does hereby petition this Court to take original jurisdiction of the matters alleged in the accompanying Complaint pursuant to Rule 245 of the South Carolina Appellate Court Rules, S.C. Code Ann. § 14-3-310, and S.C. Const. art. V, § 5. This Petition and the accompanying Complaint seek declaratory and injunctive relief declaring invalid Respondent His Excellency Henry D. McMaster’s (“the Governor”) purported interim appointment, pursuant to S.C. Code Ann. § 1-3-210, of Respondent Charles M. Condon (“Mr. Condon”) to the public office of Chair of the Board of Directors for the Public Service Authority (“Santee Cooper”).

As explained further below and in the Complaint (attached as Exhibit 1), this case involves matters of great public interest, and the Senate's constitutional authority of advice and consent to the appointment of the Chair of the Board of Santee Cooper will be materially prejudiced if the Court does not grant original jurisdiction. Accordingly, the Senate requests that the Court exercise its authority and grant this Petition for Original Jurisdiction. Furthermore, due to the time-sensitive nature of actions and effect of the interim appointment that is the subject of this Petition, the Senate respectfully requests the Court conduct an expedited review of this matter.

INTRODUCTION

This case concerns separation of constitutional powers and protecting the balance of power between the executive and legislative branches of our State government. Our system is not one where the Governor has inherent and independent powers of appointment or may exercise such appointment power as he has unchecked. Instead, "any appointment made *must be grounded* in either the Constitution or statutes." 19 SOUTH CAROLINA JURISPRUDENCE, Constitutional Law § 26 (emphasis added) (citing *Elledge v. Wharton*, 89 S.C. 113, 71 S.E. 657 (1911) ("Appointment to office not being inherently an executive prerogative, it is competent for the Legislature in conferring the power of appointment to attach such limitation and conditions to its exercise as may be deemed proper.")).

The vast number of offices appointed by the Governor, including that of directors of Santee Cooper, require "the advice and consent of the Senate." *See* S.C. Code Ann. § 58-31-20 (2015). The Legislature has made provision for appointments when it is in recess, and it has carefully circumscribed this power as follows:

During the recess of the Senate, vacancy which occurs in an office filled by an appointment of the Governor with the advice and consent of the Senate may be filled by an interim appointment of the Governor. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session.

If the Senate does not advise and consent thereto prior to sine die adjournment of the next ensuing regular session, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.

S.C. Code Ann. § 1-3-210 (2005) (emphasis added).

The recess appointment statute effectuates two balanced goals of the Legislature. First, it allows the Governor to appoint an interim member when the Legislature is in the recess in which the vacancy initially occurs. Second, it prevents any appointee from serving in hold over status when that appointee has been considered by the Senate but not approved. In this case, the Governor seeks to extend the authority granted by the first prong of the statute to a second recess while at the same time denying the restriction of the second prong. The Senate respectfully requests this Court correct this imbalance under the unique facts of this case and require compliance with the statutory limitations the Legislature has seen fit to place on the Governor's recess appointment power.

FACTUAL BACKGROUND

This matter arises over the attempt of the Governor to exercise his interim appointment power, pursuant to S.C. Code § 1-3-210, to install Mr. Condon as Chair of the Board of Directors of Santee Cooper.

On December 29, 2017, Mr. W. Leighton Lord, III resigned as Chair of Santee Cooper's Board of Directors amid criticism of the board's handling of the failed construction of two new

nuclear reactors at the V.C. Summer site in Fairfield County. Mr. Lord's resignation created a vacancy in the office of Chair of Santee Cooper's Board of Directors during the recess of the General Assembly. Mr. Lord's resignation letter is attached as Exhibit A to the Complaint.

Nearly two weeks later, at noon on January 9, 2018, the General Assembly convened for its 2018 regular session. At that time, the Governor had not attempted to fill the vacancy created by Mr. Lord's resignation.

On March 13, 2018, the Senate received a letter from the Governor nominating Mr. Condon as Chair of Santee Cooper's Board of Directors. (Exhibit B to the Complaint) On the same date, the Lieutenant Governor referred this nomination to the Senate Judiciary Committee for consideration. The Senate Judiciary Committee held two confirmation hearings concerning Mr. Condon's appointment. At each hearing, Mr. Condon testified to the Judiciary Committee concerning his nomination and answered questions from the members of the committee.

On June 28, 2018, the General Assembly adjourned its 2018 regular session pursuant to H. 5383, the *Sine Die* Resolution. The *Sine Die* Resolution provided that the formal appointment could be considered until June 28, 2018. See H. 5383(c)(8). Only amendment of the *Sine Die* Resolution by 2/3 of both bodies could revive the formal appointment at this point. As of that date the Senate had taken no final action in regard to Mr. Condon's appointment. The *Sine Die* Resolution allows the bodies of the General Assembly to be called back into session only for limited purposes in subsection D of the *Sine Die* Resolution before November 11, 2018.

After the Senate adjourned without giving its consent to Mr. Condon, the Governor transmitted a letter to Lieutenant Governor Kevin Bryant and the members of the Senate on July 23, 2018, purportedly exercising his interim appointment power to install Mr. Condon as Chair of Santee Cooper's Board of Directors. (Exhibit C to the Complaint)

The Governor's attempt to circumvent Senate consent and install Mr. Condon as Chair of Santee Cooper's Board of Directors drew an immediate, negative response from the Senate. A letter from Senator Luke Rankin, Chair of the Senate Judiciary Committee, and a letter co-signed by the President *Pro Tempore* Hugh K. Leatherman, Majority Leader Senator Shane Massey, and Minority Leader Senator Nikki Setzler were delivered to the Governor. The Senators, in both letters to the Governor, objected to the Governor's attempt at interim appointment of Mr. Condon and expressed their collective opinion that the Governor lacked the authority to make an interim appointment of Mr. Condon in this instance. Senator Rankin's letter is attached as Exhibit D to the Complaint, and the letter co-signed by the President *Pro Tempore* Senator Leatherman, Majority Leader Senator Massey, and Minority Leader Senator Setzler is attached as Exhibit E to the Complaint.

REASONS FOR TAKING ORIGINAL JURISDICTION

A dispute between the legislative and executive branches of government concerning the exercise by the executive of powers purportedly granted it by the legislature is a matter of the most serious and sensitive public concern. Our system of checks and balances is implicated – and indeed threatened – by the conduct at issue here. As such, this case is well suited for this Court's exercise of original jurisdiction.

Under Rule 245 of the South Carolina Appellate Court Rules, this Court may assume jurisdiction when “the public interest is involved, or if special grounds of emergency or other good reasons exist why the original jurisdiction of the Supreme Court should be exercised” Rule 245, SCACR; *see also* S.C. Const. art. V, § 5; *Key v. Currie*, 305 S.C. 115, 406 S.E.2d 356 (1991). “Rule 245 is concerned with whether a case should be resolved by this Court in the first instance because of the public interest involved and the need for prompt resolution” *Carnival Corp. v.*

Ansonborough Neighborhood Ass'n, 407 S.C. 67, 80, 753 S.E.2d 846, 853 (2014). In this case, original jurisdiction is appropriate to determine whether the Governor's purported appointment of Mr. Condon as Chair of Santee Cooper's Board of Directors was a valid exercise of his interim appointment authority pursuant to S.C. Code Ann. § 1-3-210. The matter is of significant public importance, and it is in the interest of the public that a final resolution of the question be made expeditiously.

The recess appointment statute, S.C. Code Ann. § 1-3-210, provides for a very distinct set of circumstances and a limited time during which the Governor may exercise his interim appointment power. In the attached Complaint, the Senate contends that the Governor's actions are in violation of those statutory requirements and the separation of powers. It is in the public interest for this Court to determine whether the Governor acted beyond his statutory authority in his attempt to install Mr. Condon as Chair without the advice and consent of the Senate.

The validity of the Governor's actions requires prompt resolution because any delay in this matter could lead to a situation in which Mr. Condon exercises, or attempts to exercise, powers and duties vested in the Chair. Any action that he takes in that regard would then immediately be suspect and subject to subsequent legal challenges, thus casting a pall over Santee Cooper and any actions its Board takes that will have to be resolved by the courts of this State. Accordingly, the S.C. Senate respectfully requests that this Court accept this matter in its original jurisdiction and address these issues in an expedited manner.

ARGUMENT

I. The Plain Language of the Statute Limits the Governor's Power to Make Interim Appointments and Does Not Allow Him to Appoint Mr. Condon.

The Governor invoked his interim appointment power seven months too late in this matter, attempting a wrongful end-run around the Senate's right to advise and consent to

Respondent Condon's appointment to the Santee Cooper Board. The interim appointment statute provides as follows:

During the recess of the Senate, vacancy which occurs in an office filled by an appointment of the Governor with the advice and consent of the Senate may be filled by an interim appointment of the Governor. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session.

If the Senate does not advise and consent thereto prior to sine die adjournment of the next ensuing regular session, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.

S.C. Code Ann. § 1-3-210 (2005).

Several salient points are clear from the statute's plain language. First, the power to make an interim appointment has a temporal limitation: it must be exercised, if at all, "[d]uring the recess of the Senate" when the "vacancy . . . occurs." *Id.* (emphasis added). Second, the power to make the interim appointment has a check. The interim appointment must be forwarded to the Senate for consideration as a permanent appointment, and if not approved before the sine die adjournment of the Senate, the office is once again vacant. *Id.*

Provided the Governor exercised his initial interim appointment power "during the recess" when the vacancy occurred, he may appoint "a different person," who serves only until the Senate reconvenes the following January. Stated succinctly, if the interim appointment power is *not* used during the recess when the office first becomes vacant, there is no other authority to make an interim appointment for the first time during another recess. The interim appointment power dies and cannot be resurrected in a subsequent recess, months after the recess when the vacancy first occurred.

Under the facts before the Court, the Governor lacks the authority to appoint Mr. Condon as interim chair to Santee Cooper's Board of Directors pursuant to S.C. Code Ann. § 1-3-210. Mr. Lord's resignation created a vacancy while the Senate was in recess last year. The Respondent then had an opportunity to utilize § 1-3-210 to appoint a replacement for Mr. Lord but chose not to do so before the new General Assembly convened on January 9, 2018. At that point, "*the* recess" that triggered the Respondent's ability to make an interim appointment ended, and the Respondent's opportunity to make a recess appointment likewise ended. That did not, of course, foreclose the Governor's ability to appoint Mr. Condon to Santee Cooper's Board of Directors. In fact, the Governor nominated Mr. Condon pursuant to S.C. Code Ann. § 58-31-20 in the ordinary course. The Senate simply did not consent to the nomination prior to *sine die* adjournment. The office now remains vacant, as it has been since December 29, 2017, and the Governor lacks power under § 1-3-210 to make an interim appointment of anyone to that office (whether Mr. Condon or someone else), having chosen not to exercise his power "during *the* recess" in which the vacancy occurred.

"If a statute's language is plain and unambiguous, and conveys a clear and definite meaning, there is no need to employ rules of statutory interpretation, and the court has no right to look for or impose another meaning." *Richland County Sch. Dist. Two v. S.C. Dep't of Educ.*, 335 S.C. 491, 496, 517 S.E.2d 444, 447 (Ct. App. 1999). Here the statute's plain language permits interim appointments only during the recess in which the vacancy occurs, and the power to make a subsequent appointment is conditioned upon the Governor's initial exercise of the power during the first recess.

This limitation stands to reason. If the Governor could "take a pass" on the initial interim appointment – thereby avoiding any Senate check on an interim nominee – then let the ensuing

Senate session pass without making an appointment, he could nominate someone the day of *sine die* adjournment, effectively using dilatory tactics for strategic reasons to maximize the amount of time an interim appointment could be in office without the Senate having a say. As written, the law forces the Governor to act (or choose not to act), and face the natural consequence of Senate oversight if he chooses to act. The statute does not, however, permit the strategic use of a vacancy and dilatory tactics to evade Senate oversight for the maximum amount of time. Indeed, the law could have been written – but was not – like the statute addressing vacancies in county offices, which provides that “[i]n the event of a vacancy *at any time* in any of the offices of any county of the State, the Governor may appoint some suitable person” S.C. Code Ann. § 4-11-20.

The plain language of § 1-3-210 prevents the Governor from acting here as he did. The power of the Governor to make an interim appointment ended when the legislature convened for its 2018 session.

II. Section 1-3-210 Should Not Be Interpreted to Permit an Absurd Result.

The plain language of § 1-3-210 does not permit the Governor to exercise his interim appointment power any longer, but if this Court determines the statute contains some ambiguity in this regard, the language cannot be interpreted to permit the Governor to do an end-run around the legislature and appoint a person the Senate has considered and not approved. That would be an absurd result.

This Court has repeatedly made clear that “the cardinal rule of statutory interpretation is to ascertain and effectuate the legislative intent whenever possible. *Mitchell v. City of Greenville*, 411 S.C. 632, 634, 770 S.E.2d 391, 392 (2015). Furthermore, where a statute’s language is plain and unambiguous, “the text of a statute is considered the best evidence of the legislative intent or will.” *Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (quoting Norman J. Singer,

Sutherland Statutory Construction § 46.03, at 94 (5th ed. 1992)). In construing an ambiguous statute, however, this Court has counselled that

If the statute is ambiguous . . . courts must construe the terms of the statute. A statute as a whole must receive practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of lawmakers. In interpreting a statute, the language of the statute must be read in a sense that harmonizes with its subject matter and accords with its general purpose. Any ambiguity in a statute should be resolved in favor of a just, equitable, and beneficial operation of the law. Courts will reject a statutory interpretation that would lead to a result so plainly absurd that it could not have been intended by the Legislature or would defeat the plain legislative intention.

Town of Mt. Pleasant v. Roberts, 393 S.C. 332, 342–43, 713 S.E.2d 278, 283 (2011) (citations and internal quotation marks omitted).

By enacting S.C. Code Ann. § 1-3-210, the General Assembly acknowledged that, while not meeting in regular session, exigent circumstances could arise as the result of vacancies in offices filled by gubernatorial appointment that require the advice and consent of the Senate. In order to allow for those exigencies to be addressed quickly and thereby to maintain the continuity of operations within the affected agency, the General Assembly provided the Governor with a limited interim appointment authority. This power was subject to a legislative check, however, in that the interim appointment would face review by the Senate at the next session; and if not approved, the appointee could not be appointed a second time. *See* S.C. Code § 1-3-210 (“A subsequent interim appointment of *a different person* to a vacancy . . .”). The clear intent of the statute was that a nominee that did not receive Senate approval could not continue to serve.

To interpret the statute here to allow the Governor to appoint a nominee considered by the Senate in regular session and not approved flies in the face of legislative intent, and it also yields an absurd result. In passing § 1-3-210 the legislature meant to allow for interim office holding; it

did not mean to minimize its own role in providing “advice and consent,” or create a means for the Governor to evade a legislative check.

Consider what would have resulted had the Governor exercised his power to make an interim appointment of Mr. Condon after Mr. Lord’s resignation and prior to the legislature’s 2018 session. That appointment would have been forwarded to the Senate during the 2018 session, as § 1-3-210 requires, and presumably would have met the same fate as the appointment the Governor made of Mr. Condon during the Senate’s term. The statute then would have required the Governor to appoint “a different person” if he chose to exercise his interim appointment power after the Senate’s *sine die* adjournment. Having tried and failed to gain the Senate’s consent to Mr. Condon’s nomination during the Senate’s session, the Governor should not be permitted to bend the language of § 1-3-210 to an absurd end, achieving the same goal but avoiding the Senate’s check on his power.

Also consider that if an interim appointment of Mr. Condon had been made during the same recess in which the vacancy occurred, then Mr. Condon could not be an interim appointment at this point in any event because the law clearly does not allow any hold overs for the same public office appointment in a subsequent recess and notwithstanding any other provision of law. Thus, the Governor cannot do indirectly and by circumventing the limited exception to the Senate’s advice and consent – as he is attempting with this interim appointment – that which he cannot do by direct action under the plain reading of the statute.

III. The Balance of Power Between the Executive and Legislative Branches is at Stake.

The Governor's attempt to install Mr. Condon under the guise of an interim appointment pursuant to S.C. Code Ann. § 1-3-210 is an attempt to circumvent Senate confirmation of his nominee and violates the separation of powers doctrine.

Article I, Section 8 of the South Carolina Constitution provides, "the legislative, executive, and judicial powers of the government shall be forever separate and distinct from each other, and no person or persons exercising the functions of one of said departments shall assume or discharge the duties of any other." S.C. Const. art. I, §8. Furthermore, "[t]he principle is universally recognized that the Governor of a state has no inherent power of appointment to office, and that his power must be found in the Constitution and statutes of the state." *Heyward v. Long*, 178 S.C. 351, 183 S.E. 145, 156 (1935) (citing *Elledge v. Wharton*, 89 S.C. 113, 71 S.E. 657 (1911)). "Since this supreme law which confers on the Governor the power of appointment expressly limits and conditions that power on the advice and consent of the Senate, it is clear beyond controversy that an appointment . . . without the advice and consent of the Senate is beyond the power of the governor and without effect." *State v. Bowden*, 92 S.C. 393, 75 S.E. 866, 870 (1912).

The Governor's attempted installation of Mr. Condon on June 23, 2018, was no doubt a reaction to his frustration that the Senate chose not to confirm Mr. Condon's appointment by the end of the General Assembly's 2018 regular session. Had the Governor appointed Mr. Condon pursuant to the interim appointment statute before the General Assembly's convening of the 2018 regular legislative session, then the Senate's decision not to act would have ended his service on the Board of Directors already. Because the Governor chose to nominate Mr. Condon pursuant to S.C. Code Ann. § 58-31-20, the regular method of appointment for Santee Cooper's Board of Directors, the Senate's decision not to act on his appointment means that the Governor's

appointment “is without effect.” *See State v. Bowden*, 92 S.C. 393, 75 S.E. 866, 870 (1912). The Governor’s subsequent attempt to avail himself of the interim appointment statute at this late juncture to install Mr. Condon on the Santee Cooper Board of Directors is an unsupported attempt to circumvent the Senate’s advice and consent role in the appointment process and has been done despite the fact that the Senate chose not to consent to Mr. Condon’s appointment prior to the adjournment of the 2018 regular session of the General Assembly. Allowing the Governor to utilize this tactic to install Mr. Condon on the Santee Cooper Board of Directors violates the constitutional separation of powers between the executive and legislative branches by tilting the appointment process decidedly in the favor of the executive despite settled law, reason, and longstanding practice to the contrary.

Providing advice and consent to a gubernatorial nominee is a prerogative that falls solely to the Senate. The Senate’s solemn duty to review and consent to a gubernatorial appointment is an important check on the executive authority. Through the advice and consent process, the citizens of this state are assured that those chosen by the Governor will receive a thorough examination to determine their fitness to serve. Additionally, this important check on executive authority acts as a restraint on the type of executive control expressly prohibited by the separation of powers doctrine in the South Carolina Constitution. *See* S.C. Const. art. I, § 8. Consequently, allowing Mr. Condon to act as Chair of Santee Cooper’s Board of Directors at this point without Senate confirmation would weaken a key aspect of the constitutional balance of power provided by the Constitution. This Court should prohibit the Governor’s attempt to evade Senate confirmation because it usurps the clear and unambiguous authority possessed by the Senate to review and consent to gubernatorial appointees to Santee Cooper’s Board of Directors and violates

the separation of powers between the executive and legislative branches of our government where the initial appointment is not approved by the Senate after consideration.

CONCLUSION

For the reasons stated above, the Senate respectfully asks this Court to grant this Petition for Original Jurisdiction, expedite these proceedings, and issue an Order (1) voiding the attempt to install Mr. Condon as Chair of Santee Cooper’s Board of Directors without the advice and consent of the Senate; (2) declaring that the Chair of Santee Cooper’s Board of Directors is vacant and that the Vice Chair should continue to act as Chair; and (3) declaring that the Governor may only fill that vacancy at this point through an appointment pursuant to S.C. Code Ann. § 58-31-20.

Respectfully submitted,

WYCHE, P.A.



John C. Moylan, III (S.C. Bar No. 11227)
Matthew T. Richardson (S.C. Bar No. 15647)
801 Gervais St., Ste. B
Columbia, SC 29201
Phone: 803-254-6542

Wade S. Kolb, III (S.C. Bar No. 100379)
P.O. Box 728
Greenville, SC 29601
Phone: 864-242-8200

Email: jmoylan@wyche.com
mrichardson@wyche.com
wkolb@wyche.com

ATTORNEYS FOR PETITIONER
The Senate of the State of South Carolina, by
and through its President Pro Tempore, the
Honorable Hugh K. Leatherman, Sr.

August 7, 2018

EXHIBIT 1

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

In the Original Jurisdiction of the Supreme Court

The Senate of the State of South Carolina, by and through its
President *Pro Tempore*, the Honorable Hugh K. Leatherman, Sr. Petitioner,

v.

His Excellency Henry D. McMaster, in his official capacity as
Governor of the State of South Carolina, and Charles M. Condon Respondents.

COMPLAINT FOR DECLARATORY JUDGMENT

Petitioner, the Senate of the State of South Carolina, by and through its President *Pro Tempore* the Honorable Hugh K. Leatherman, Sr., (the “Senate”) complaining of Respondents His Excellency Henry D. McMaster, in his official capacity as Governor of the State of South Carolina (the “Governor”), and Charles M. Condon (“Mr. Condon”) before the Supreme Court of South Carolina in its original jurisdiction, would show the Court as follows:

1. Petitioner the Senate is the upper house of the South Carolina General Assembly and is composed of 46 Senators, including its President *Pro Tempore* Hugh K. Leatherman who is elected and empowered to act on its behalf.
2. Respondent Governor McMaster is the Governor of the State of South Carolina and is named in his official capacity as Governor.

3. Respondent Mr. Condon is a citizen of the State of South Carolina.
4. This Court possesses jurisdiction under Rule 245, SCAR; S.C. Const. art. III, 17; and S.C. Code Ann. § 15-53-10, *et. seq.*
5. The Senate has standing to bring this declaratory judgment action because the Governor's attempt to install Mr. Condon as interim Chair of the Public Service Authority's (herein after "Santee Cooper") Board of Directors injures the Senate in that it usurps the Senate's statutory and constitutional role in the appointment process of members to the Santee Cooper Board of Directors.
6. On December 29, 2017, Mr. W. Leighton Lord, III resigned as Chair of Santee Cooper's Board of Directors. *See Exhibit A.*
7. Mr. Lord's resignation created a vacancy in the office of Chair of Santee Cooper's Board of Directors during recess of the General Assembly.
8. At noon on January 9, 2018, the General Assembly convened for its 2018 regular session.
9. The Governor had not acted to fill the vacancy created with Mr. Lord's resignation when the General Assembly convened for its 2018 regular session on January 9, 2018.
10. On March 13, 2018, the Senate received a message from the Governor making a formal appointment of Mr. Condon as the permanent Chair of Santee Cooper's Board of Directors. *See Exhibit B.* The Lieutenant Governor, as President of the Senate, referred Mr. Condon's formal appointment to the Senate Judiciary Committee for consideration.
11. The Senate Judiciary Committee held two confirmation hearings concerning Mr. Condon's formal appointment. At each hearing Mr. Condon testified to the Judiciary Committee concerning his appointment and answered questions from the members of the committee.

12. On June 28, 2018, the General Assembly adjourned its 2018 regular session pursuant to H. 5383, the *Sine Die* Resolution.

13. The Senate has taken no final action in regard to Mr. Condon's formal appointment at the time of adjournment.

14. On July 23, 2018, the Governor transmitted a letter to the Lieutenant Governor and the members of the Senate purportedly exercising his interim appointment power to install Mr. Condon as Chair of Santee Cooper's Board of Directors. *See* Exhibit C.

15. On July 23, 2018, Senator Luke Rankin, Chair of the Senate Judiciary Committee, sent a letter to Governor McMaster objecting to the Governor's attempted exercise of his interim appointment power. *See* Exhibit D.

16. On July 23, 2018, the leaders of the Senate, including President *Pro Tempore* Hugh Leatherman, Minority Leader Senator Nikki G. Setzler, and Majority Leader Senator A. Shane Massey, sent a letter to the Governor objecting to the Governor's attempted exercise of his interim appointment power. *See* Exhibit E.

17. Nevertheless, the Governor has maintained he has the authority to make an interim appointment of Mr. Condon, despite the circumstances and that his formal appointment has not received consent of the Senate.

For a First Cause of Action

18. The Senate repeats and restates the preceding paragraphs as if restated herein.

19. S.C. Code Ann. 1-3-210 provides that:

During the recess of the Senate, vacancy which occurs in an office filled by an appointment of the Governor with the advice and consent of the Senate may be filled by an interim appointment of the Governor. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session.

If the Senate does not advise and consent thereto prior to sine die adjournment of the next ensuing regular session, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.

20. The Governor's failure to make an interim appointment to fill the vacancy caused by Mr. Lord's resignation prior to the General Assembly convening for its regular session on January 9, 2018, or to make any appointment for more than two months after the vacancy, extinguished his authority to make an interim appointment pursuant to S.C. Code Ann. § 1-3-210.

21. The Governor's July 23, 2018 letter attempting to make an interim appointment of Mr. Condon as Chair of the Santee Cooper Board was in violation of S.C. Code Ann. § 1-3-210 and thus had no force and effect.

22. Pursuant to S.C. Code Ann. §§ 15-53-10 *et seq.*, Rule 245(b) SCACR, and the inherent equitable powers of this Court, this Court has the power to declare the rights of the parties pursuant to S.C. Code Ann. § 1-3-210.

23. Accordingly this Court should hear this matter in its original jurisdiction and issue an order

- a. declaring that the Governor's attempt to install Mr. Condon as interim Chair of Santee Cooper's Board of Directors without the advice and consent of the Senate is void;
- b. declaring that the Chair of Santee Cooper's Board of Directors is vacant and that the Vice Chair should continue to act as the Chair; and

- c. declaring that the Governor may fill that vacancy at this point only through a formal appointment and after consent by the Senate, pursuant to S.C. Code Ann § 58-31-20.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays the Court:

1. Declare the Governor's attempt to install Mr. Condon as interim Chair of Santee Cooper's Board of Directors is void;
2. Declare that the Chair of the Santee Cooper Board of Directors is vacant; and
3. Declare that the Governor may only fill the vacancy through a formal appointment and after consent by the Senate, pursuant to S.C. Code Ann. 58-31-20.

Respectfully submitted,

WYCHE, P.A.



John C. Moylan, III (S.C. Bar No. 11227)
Matthew T. Richardson (S.C. Bar No. 15647)
801 Gervais St., Ste. B
Columbia, SC 29201
Phone: 803-254-6542

Wade S. Kolb, III (S.C. Bar No. 100379)
P.O. Box 728
Greenville, SC 29601
Phone: 864-242-8200

Email: jmoylan@wyche.com
mrichardson@wyche.com
wkolb@wyche.com

ATTORNEYS FOR PETITIONER
The Senate of the State of South Carolina, by
and through its President Pro Tempore, the
Honorable Hugh K. Leatherman, Sr.

August 7, 2018

EXHIBIT A



W. Leighton Lord III
Chairman
Board of Directors

December 29, 2017

The Honorable Henry McMaster
Attn: Richele Keel Taylor, Esquire
Thomas A. Limehouse, Jr., Esquire
Counsel to the Governor
State House
1100 Gervais Street
Columbia, SC 29201

RE: W. Leighton Lord III, as Chairman of the Board of Directors of the South Carolina Public Service Authority v. Henry Dargan McMaster, as Governor of the State of South Carolina

Dear Governor Henry McMaster:

Thank you for the time you and your staff provided to us so we could better explain our process for producing documents and materials requested by your office. I am confident everyone now understands that at no time did I, the Santee Cooper Board or Santee Cooper staff withhold documents or information from your office. Santee Cooper has nothing to hide, however we are always open to improving the process.

Everyone at Santee Cooper, including myself, deeply regrets we had to make the decision to suspend construction of VC2 and VC3. It was one of the hardest decisions our Board has had to make. It was, however, the right decision. While we deeply regret the loss of dollars and jobs, the decision prevented untenable rate increases that would have hurt our customers. We had to act to protect our customers from future harm.

In the midst of this challenging time, I am proud of the recent work accomplished by the Santee Cooper team. We have delayed a rate increase, passed a budget that even the Post and Courier newspaper praised and received a positive upgrade from one of the major utility rating agencies. I promise you that the Santee Cooper Board and the good people who work at Santee Cooper remain dedicated to protecting their customers, selling low cost and reliable electricity and creating jobs through Santee Cooper's economic development efforts.

With a very capable interim CEO in place, a very capable board and a cost cutting budget approved, now is the time for me to end my service to Santee Cooper. Please accept this letter as my formal resignation as Chairman of the South Carolina Public Service Authority.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Leighton Lord III', written over a horizontal line.

W. Leighton Lord III

EXHIBIT B



HENRY McMASTER
GOVERNOR

March 7, 2018

Mr. President and Members of the Senate,

I am transmitting herewith an appointment for review by the Public Utilities Review Committee "PURC" and confirmation. This appointment is to fulfill the term of the vacant, At-Large, Chairman position ending on 5/19/2018. I am also reappointing Mr. Condon to the subsequent term beginning 5/19/2018 and ending 5/19/2025. This appointment is made upon review of PURC and with advice and consent of the Senate and is therefore submitted for your consideration.

STATEWIDE APPOINTMENT

South Carolina Public Service Authority Board of Directors

Term Commencing: 5/19/2018

Term Expiring: 5/19/2025

Seat: Chairman

Vice: W. Leighton Lord, III

Home Information:

Mr. Charles M. Condon

835 Middle Street

Sullivans Island, South Carolina 29482

843.884.8146

RECEIVED

MAR 13 2018

Yours very truly,

A handwritten signature in cursive script, appearing to read "Henry McMaster".

Henry McMaster

HM/tw

JUD

MAR 13 2018

EXHIBIT C



HENRY McMASTER
GOVERNOR

July 23, 2018

The Honorable Kevin L. Bryant
President of the Senate
State House, First Floor, East Wing
Columbia, South Carolina 29201

Dear Mr. President and Members of the Senate:

Enclosed please find correspondence confirming my interim appointment of Charles M. Condon, Esquire to serve as chairman of the Board of Directors of the South Carolina Public Service Authority ("Santee Cooper") pursuant to sections 1-3-210 and 58-31-20 of the South Carolina Code of Laws. As required by section 58-31-20(B) of the South Carolina Code of Laws, Mr. Condon has been screened and deemed qualified by the State Regulation of Public Utilities Review Committee ("PURC"). A copy of the PURC's written report confirming the same is enclosed herewith for your records.

The present interim appointment is to fill the vacancy created by the departure of W. Leighton Lord, III, Esquire, who tendered his resignation as chairman of Santee Cooper's Board of Directors on or about December 29, 2017. In accordance with section 1-3-210 of the South Carolina Code of Laws, I will forward a formal appointment to the Senate for consideration at its next regular session.

Yours very truly,

A handwritten signature in cursive script, appearing to read "Henry McMaster".

Henry McMaster

Enclosures
HM/tl

State Regulation of Public Utilities Review Committee

Sen. Thomas C. Alexander, Chairman
Rep. William E. Sandifer, III, Vice Chairman
Margaret Bluestein, Esquire
Rep. P. Michael Forrester
Sen. C. Bradley Hutto
Dan Jones
Rep. David J. Mack, III
Gregg Morton
Sen. Luke A. Rankin, Sr.
John S. Simmons, Esquire



Heather Anderson
Committee Counsel
Steve Davidson
Committee Counsel

Post Office Box 142
Columbia, South Carolina 29202
(803) 212-6208

MEMORANDUM

TO: The Honorable Jeff Gossett, South Carolina Senate

FROM: Senator Thomas C. Alexander, Chairman

DATE: May 4, 2018

RE: Screening of Candidates for Appointment to the Santee Cooper Board of Directors

The Governor submitted the names of the candidates shown below for the Senate's consideration for appointment to the Board of Directors of the South Carolina Public Service Authority (Santee Cooper). The appointments were referred to the Senate Judiciary Committee.

Chairman, At-Large Seat:	Charles M. Condon
Fifth Congressional District Seat:	Charles H. Leaird

Pursuant to Section 58-3-530(14), the State Regulation of Public Utilities Review Committee (Review Committee) is charged with the duty "to review candidates for appointment to the South Carolina Public Service Authority Board of Directors as submitted by the Governor to determine whether the candidates meet the qualifications set forth in Section 58-31-20."

Section 58-31-20(C) provides that Santee Cooper directors "must possess abilities and experience that are generally found among directors of energy utilities serving this State and that allow him to make valuable contributions to the conduct of the authority's business." These abilities include:

- (1) general knowledge of the history, purpose, and operations of the Public Service Authority and the responsibilities of being a director of the authority;
- (2) the ability to interpret legal and financial documents and information so as to further the activities and affairs of the Public Service Authority;
- (3) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations including, but not limited to, Chapter 4 of Title 30 as they relate to the activities and affairs of the Public Service Authority; and
- (4) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of the Public Service Authority.

Additionally, pursuant to Section 58-31-20, directors representing the counties of Berkeley, Georgetown, and Horry must reside in those counties and be customers of Santee Cooper.

Section 58-31-55 requires that a Santee Cooper director must discharge his duties in good faith, with the care of an ordinarily prudent person and in a manner he reasonably believes to be in the best interests of Santee Cooper (“best interests” are determined by balancing three factors: customer interest, economic development of service area, and preservation of financial integrity of Santee Cooper). Directors are subject to personal liability for violating Section 58-31-55, and wholesale and retail customers of Santee Cooper (including indirect customers of Santee Cooper through electric cooperatives) are authorized to bring suit against any director alleging a breach of fiduciary duties.

A Board of Directors has a general duty to act in the best interests of a corporation. Such fiduciary duties include the duty of loyalty and the duty of care.¹ The duty of loyalty provides that directors and officers must remain loyal to the corporation, acting at all times in the best interests of the corporation and its shareholders whose interests must take precedence over any self-interest of the director, officer, or controlling shareholder that is not shared by the stockholders generally. The duty of loyalty includes the duty to avoid conflicts of interest and prohibit faithlessness and self-dealing. The duty of care requires a director to act in good faith and with the level of care of an ordinarily prudent person in similar circumstances.

The Santee Cooper Screening Subcommittee of the Review Committee sent Mr. Condon and Mr. Leaird a set of questions to elicit information with respect to their respective knowledge as an initial appointee of the operations of Santee Cooper, knowledge of best practices for boards of directors, and knowledge of the Freedom of Information Act (FOIA). Mr. Leaird appeared before the Subcommittee on March 29, 2018 and answered further questions from the Subcommittee on those issues and others. Mr. Condon appeared before the Subcommittee on April 26, 2018 and answered further questions from the Subcommittee. The transcripts of these hearings

¹ In the typical corporate setting, these duties extend to the shareholders, as owners of the corporation. Santee Cooper, as a public utility, is a quasi-state agency; thus, the board owes duties not to shareholders, but to its customers and bondholders, as well as to the people of South Carolina by way of the people’s elected representatives in the General Assembly and the Governor.

are appended to this report by reference. The candidates' responses to the Subcommittee's written questions are included in the Subcommittee hearing transcript. The transcripts are posted online at:

www.scstatehouse.gov/CommitteeInfo/PublicUtilitiesReviewComm/2018SanteeCooperScreening.php.

The Review Committee met on May 2, 2018, to consider the Subcommittee's report, to further question the candidates, and to make a determination regarding the candidates' qualifications.

CHARLES H. LEAIRD
SANTEE COOPER BOARD OF DIRECTORS
SEAT: FIFTH CONGRESSIONAL DISTRICT
TERM: MAY 19, 2016 THROUGH MAY 19, 2023

Review Committee's Findings: Qualified

1) Constitutional and Statutory Qualifications

Mr. Leaird meets the general qualifications prescribed by law for service as a Director for Santee Cooper. Mr. Leaird is a resident of Sumter, South Carolina. He has been a resident of South Carolina for at least the immediate past five years and is a qualified elector of this State. Mr. Leaird also has substantial experience on an electric cooperative board.

2) Educational Background

Mr. Leaird obtained a Bachelor of Science degree in Industrial Management from Clemson College in 1961.

3) Ethical Fitness, Character, and Reputation

The Review Committee's investigation did not reveal any evidence of unethical conduct by Mr. Leaird and did not reveal evidence of any convictions or criminal allegations made against him. Mr. Leaird has good standing in his community as well as a personal history of sound business affairs.

4) Professional Experience and Training

Mr. Leaird was the CEO for the Black River Electric Cooperative from 1983-2015. From 1970-1982, he was the CEO for the Lynches River Electric Cooperative.

Mr. Leaird served in the U.S. Marine Corps from 1961-1969, and received an honorable discharge.

5) Statutory Requirements

Pursuant to Section 58-31-20(C), the Review Committee is required to determine if Mr. Leaird has:

- a) working knowledge of the activities and affairs of Santee Cooper;
- b) the ability to interpret legal and financial documents and information;

- c) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations as they relate to Santee Cooper, including the Freedom of Information Act; and
- d) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of Santee Cooper.

Mr. Leaird's responses to written and oral questions reflect he has working knowledge of the operations and activities of Santee Cooper. His experience as CEO with Lynches River Electric Cooperative and Black River Electric Cooperative indicate that he not only meets the statutory qualifications to serve, but also his commitment to serve on the board.

6) Knowledge of Current Energy Issues

Mr. Leaird understands and appreciates the challenges faced by Santee Cooper. He discussed the issues facing Santee Cooper, including the difficulties following the decision to abandon construction of V.C. Summer nuclear units 2 and 3, and the issues associated with that decision. *See Generally Tr. pgs. 8-9; 18-20; 25-27; 30-35.*

7) Knowledge of Santee Cooper's Other Roles

Mr. Leaird is knowledgeable about Santee Cooper's various roles, including economic development. *See Generally Tr. pgs. 17; 35-36.*

8) Independence

Mr. Leaird stated that as a director, he would "have a loyalty to Santee Cooper..." *See Generally Tr. pg. 21, lines 6-7; See also Generally Tr. pgs. 20-22; 27-30*

Findings as to Overall Qualification

Mr. Leaird has been nominated to be appointed as a director representing the Fifth Congressional District on the Board of Directors of Santee Cooper. The Review Committee believes Mr. Leaird possesses the depth of experience to enable him to be a successful member of the Santee Cooper Board of Directors and finds him qualified.

CHARLES M. CONDON
SANTEE COOPER BOARD OF DIRECTORS
SEAT: CHAIRMAN, AT-LARGE SEAT
TERM: INITIAL APPOINTMENT: MAY 19, 2011 THROUGH MAY 19, 2018
RE-APPOINTMENT: MAY 19, 2018 THROUGH MAY 19, 2025

Review Committee's Findings: Qualified

1) Constitutional and Statutory Qualifications

Mr. Condon meets the general qualifications prescribed by law for service as a Director for Santee Cooper. Mr. Condon is a resident of Charleston, South Carolina. He has been a resident of South Carolina for at least the immediate past five years and is a qualified elector of this State.

2) Educational Background

Mr. Condon earned a Bachelor of Arts degree from the University of Notre Dame in 1975 and his Juris Doctorate from Duke University School of Law in 1978.

3) Ethical Fitness, Character, and Reputation

The Review Committee's investigation did not reveal any evidence of unethical conduct by Mr. Condon and did not reveal evidence of any convictions or criminal allegations made against him. Mr. Condon has good standing in his community as well as a personal history of sound business affairs.

4) Professional Experience and Training

Mr. Condon worked as an Assistant Solicitor for the Charleston County Solicitor's Office from 1978-1979. From 1981-1992, he was the Ninth Circuit Solicitor. From 1992-1995, he was engaged in his own law practice. From 1995-2003, he served as the South Carolina Attorney General. He served as General Counsel for the Palmetto Surety Corporation from 2003-2004. Since 2004, he has practiced law in the Charlie Condon Law Firm.

Mr. Condon is a member of the American Bar Association, the National Association of Attorneys General, the South Carolina Association of Criminal Defense Lawyers, the National Association of Criminal Defense Lawyers, and the Charleston County Bar. He was admitted to the South Carolina Bar in 1978, the U.S. District Court for the District of South Carolina in 1978, the Fourth Circuit U.S. Court of Appeals in 1987, and the U.S. Supreme Court in 1988.

5) Statutory Requirements

Pursuant to Section 58-31-20(C), the Review Committee is required to determine if Mr. Condon has:

- a) working knowledge of the activities and affairs of Santee Cooper;
- b) the ability to interpret legal and financial documents and information;
- c) with the assistance of counsel, the ability to understand and apply federal and state laws, rules, and regulations as they relate to Santee Cooper, including the Freedom of Information Act; and
- d) with the assistance of counsel, the ability to understand and apply judicial decisions as they relate to the activities and affairs of Santee Cooper.

Mr. Condon's responses to written and oral questions reflect he has working knowledge of the operations and activities of Santee Cooper.

6) Knowledge of Current Energy Issues

Mr. Condon understands and appreciates the challenges faced by Santee Cooper. He discussed the issues facing Santee Cooper, including the difficulties following the decision to abandon construction of V.C. Summer nuclear units 2 and 3, and the issues associated with that decision. *See Generally Tr. pgs. 9; 12; 14-15; 21-24; 33-34.*

7) Knowledge of Santee Cooper's Other Roles

Mr. Condon is knowledgeable about Santee Cooper's various roles, including economic development. *See Generally Tr. pgs. 15-18*

8) Independence

Mr. Condon stated that as chairman, "the chairman's job would be strictly to do the best he or she can to lead and improve the organization, period." *Tr. pg. 29, lines 22-24. See Generally Tr. pgs. 27-30.*

Findings as to Overall Qualification

Mr. Condon has been nominated for initial appointment and reappointment as Chairman of the Board of Directors of Santee Cooper. The Review Committee believes Mr. Condon possesses the depth of experience to enable him to be a successful member of the Santee Cooper Board of Directors and finds him qualified.

EXHIBIT D

LUKE A. RANKIN
SENATOR, Horry County
DISTRICT NO. 33

HOME ADDRESS:
201 BEATY STREET
CONWAY, SC 29526
(843) 248-2405



COMMITTEES:
JUDICIARY, CHAIRMAN
BANKING AND INSURANCE
EDUCATION
ETHICS
TRANSPORTATION

SENATE ADDRESS:
P. O. BOX 142
COLUMBIA, SC 29202
(803) 212-6410

July 23, 2018

The Honorable Henry McMaster
Governor
State House, First Floor, West Wing
Columbia SC 29201

Dear Governor McMaster:

The Clerk of the Senate is in receipt of your July 23, 2018, notice of intent to appoint Charles M. Condon to serve as chairman of the Board of Directors of the South Carolina Public Service Authority. ("Santee Cooper") to fill the vacancy created by the departure of W. Leighton Lord, III Esquire, who tendered his resignation as chairman of Santee Cooper's Board of Directors on or about December 29, 2017. South Carolina Code Section 58-31-20 requires advice and consent of the Senate as to appointments to the Santee Cooper Board. Section 1-3-210 provides an interim appointment authority in case of a vacancy which occurs when the Senate is in recess and unavailable to give advice and consent. Section 1-3-210 reads as follows:

SECTION 1-3-210. Filling vacancies when Senate not in session.

During the recess of the Senate, vacancy which occurs in an office filled by an appointment of the Governor with the advice and consent of the Senate may be filled by an interim appointment of the Governor. The Governor must report the interim appointment to the Senate and must forward a formal appointment at its next ensuing regular session.

If the Senate does not advise and consent thereto prior to sine die adjournment of the next ensuing regular session, the office shall be vacant and the interim appointment shall not serve in hold over status notwithstanding any other provision of law to the contrary. A subsequent interim appointment of a different person to a vacancy created by a failure of the Senate to grant confirmation to the original interim appointment shall expire on the second Tuesday in January following the date of such subsequent interim appointment and the office shall be vacant.

The vacancy that occurred on or about December 29, 2017, during the recess prior to the 2018 Session, would have allowed an interim appointment up until the beginning of the 2018 Legislative Session on January 9, 2018. The purpose of this interim appointment power is to allow appointed positions to be filled

until the Senate returns from recess. The interim appointment authority is only available to fill vacancies which occur during the interim in which the vacancy occurs. Since an interim appointment was not made prior to the beginning of the 2018 legislative session, no interim appointment power is available under 1-3-210 for this position.

The Senate is more than willing to work with you on issues related to Santee Cooper and looks forward to your participation in the study committee that will soon begin work. However, it is clear that Mr. Lord's former position on the Santee Cooper board cannot be filled by interim appointment.

Yours very truly,



Luke Rankin

Cc: The Honorable Hugh Leatherman
The Honorable Nikki Setzler
The Honorable Shane Massey
Mr. James Brogdon

EXHIBIT E

The Senate
State of South Carolina



401 GRESSETTE BUILDING
POST OFFICE BOX 142
COLUMBIA, SOUTH CAROLINA 29202

July 23, 2018

The Honorable Henry D. McMaster
Governor of South Carolina
State House, First Floor, West Wing
Columbia SC 29201

Dear Governor McMaster:

We are in receipt of your letter today wherein you attempt to appoint Charles M. Condon to serve as Chairman of the Board of Directors of the South Carolina Public Service Authority. According to your letter, this appointment is to fill the vacancy based on the resignation of W. Leighton Lord, who resigned his seat on December 29, 2017. Because we all agree that your attempt to appoint Mr. Condon as an interim appointment is illegal and would lead to unwanted tensions between the executive and legislative branches of government, we are asking you to reconsider this action.

As you are aware, Section 1-3-210 provides in pertinent part that “[d]uring the recess of the Senate, vacancy which occurs in an office filled by appointment of the Governor with the advice and consent of the Senate may be filled by an interim appointment of the Governor.” The clear intent of the statutory language is that an interim appointment is permissible during “the” recess in which the vacancy occurs and not a recess of the Senate nearly 8 months later. This is done so that the exigency of the vacancy can be addressed quickly and there can be continuity in operations within the executive branch and the Senate can advise and consent in the next legislative session. None of which occurred here. The vacancy occurred and your office dealt with the exigency by making and presenting an appointment to the

Senate 3 ½ months later. The appointment was also of the same person who you are attempting to appoint today and whose appointment is still pending in the Senate Judiciary Committee.

The fact that the Senate has not yet completed its work does not condone executive action that is contrary to the law and to the way appointments have been handled by Republican and Democrat Governors alike. It is an old adage but it still rings true that the ends do not justify the means. Instead of leading us down a road no one wants to go, we would hope that you reconsider this tactic and proceed in the manner our laws intended.

Thank you for your attention to this matter.

Sincerely,



Hugh K. Leatherman
President Pro Tempore



Nikki G. Setzler
Minority Leader



A. Shane Massey
Majority Leader

Cc: James Brogdon, South Carolina Public Service Authority

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

AUG 07 2018

In the Original Jurisdiction of the Supreme Court

S.C. SUPREME COURT

The Senate of the State of South Carolina, by and through its
President *Pro Tempore*, the Honorable Hugh K. Leatherman, Sr. Petitioner,

v.

His Excellency Henry D. McMaster, in his official capacity as
Governor of the State of South Carolina, and Charles M. Condon Respondents.

PROOF OF SERVICE

I hereby certify that on August 7, 2018, I have served a copy of the Notice of Petition for Original Jurisdiction and Petition for Original Jurisdiction on Respondents as follows:

Via Electronic Mail and Hand Delivery:

The Hon. Henry McMaster
Governor of South Carolina
State House, First Floor, West Wing
Columbia, SC 29201

The Hon Alan Wilson
S.C. Attorney General
1000 Assembly Street
Columbia, SC 29201

and via Electronic Mail and Commercial Delivery Service to:

Charles M. Condon
880 Johnnie Dodds Blvd., Ste 1
Mt. Pleasant, SC 29464


Matthew T. Richardson (S.C. Bar No. 15647)