

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND)

William R. Folks, individually and on behalf of)
all others similarly situated)

CIVIL ACTION COVERSHEET

Plaintiff(s))

2017 - CP - 40 - 04819

vs.)

The South Carolina House of Representatives;)
The South Carolina Senate; The Honorable)
James H. Lucas, Speaker of the South Carolina)
House of Representatives; The Honorable Hugh)
K. Leatherman, Sr., President Pro Tempore of)
the South Carolina Senate; and The State of)
South Carolina)

Defendant(s))

(Please Print)
Submitted By: Helen Ann Thrower
Address: 3924 Forest Drive, Suite 1
Columbia, SC. 29204

SC Bar #: 16734
Telephone #: 803-603-2179
Fax #:
Other:
E-mail: hathrower@comcast.net

JEANNETTE W. MCBRIDE
C.C.P. & S.
2017 AUG 11 AM 10:11
RICHLAND COUNTY
FILED

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- JURY TRIAL demanded in complaint. NON-JURY TRIAL demanded in complaint.
- This case is subject to ARBITRATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Circuit Court Alternative Dispute Resolution Rules.
- This case is exempt from ADR (certificate attached).

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|---|
| <p>Contracts</p> <ul style="list-style-type: none"> <input type="checkbox"/> Constructions (100) <input type="checkbox"/> Debt Collection (110) <input type="checkbox"/> Employment (120) <input type="checkbox"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Other (199) _____ | <p>Torts - Professional Malpractice</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dental Malpractice (200) <input type="checkbox"/> Legal Malpractice (210) <input type="checkbox"/> Medical Malpractice (220) <input type="checkbox"/> Other (299) _____ | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assault/Slander/Libel (300) <input type="checkbox"/> Conversion (310) <input type="checkbox"/> Motor Vehicle Accident (320) <input type="checkbox"/> Premises Liability (330) <input type="checkbox"/> Products Liability (340) <input type="checkbox"/> Personal Injury (350) <input type="checkbox"/> Other (399) _____ | <p>Real Property</p> <ul style="list-style-type: none"> <input type="checkbox"/> Claim & Delivery (400) <input type="checkbox"/> Condemnation (410) <input type="checkbox"/> Foreclosure (420) <input type="checkbox"/> Mechanic's Lien (430) <input type="checkbox"/> Partition (440) <input type="checkbox"/> Possession (450) <input type="checkbox"/> Building Code Violation (460) <input type="checkbox"/> Other (499) _____ |
| <p>Inmate Petitions</p> <ul style="list-style-type: none"> <input type="checkbox"/> PCR (500) <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) _____ | <p>Judgments/Settlements</p> <ul style="list-style-type: none"> <input type="checkbox"/> Death Settlement (700) <input type="checkbox"/> Foreign Judgment (710) <input type="checkbox"/> Magistrate's Judgment (720) <input type="checkbox"/> Minor Settlement (730) <input type="checkbox"/> Transcript Judgment (740) <input type="checkbox"/> Lis Pendens (750) <input type="checkbox"/> Other (799) _____ | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Driver's License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture (840) <input type="checkbox"/> Other (899) _____ | <p>Appeals</p> <ul style="list-style-type: none"> <input type="checkbox"/> Arbitration (900) <input type="checkbox"/> Magistrate-Civil (910) <input type="checkbox"/> Magistrate-Criminal (920) <input type="checkbox"/> Municipal (930) <input type="checkbox"/> Probate Court (940) <input type="checkbox"/> SCDOT (950) <input type="checkbox"/> Worker's Comp (960) <input type="checkbox"/> Zoning Board (970) <input type="checkbox"/> Administrative Law Judge (980) <input type="checkbox"/> Public Service Commission (990) <input type="checkbox"/> Employment Security Comm (991) <input type="checkbox"/> Other (999) _____ |
| <p>Special/Complex /Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> Environmental (600) <input type="checkbox"/> Automobile Arb. (610) <input type="checkbox"/> Medical (620) <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input checked="" type="checkbox"/> Other (699) _____ | | <p><u>Unconstitutional legislation</u></p> | |

Submitting Party Signature: Walter S. Jowers

Date: August 10, 2017

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Florence, Horry, Lexington, Richland, Greenville**, and Anderson**

** Contact Respective County Clerk of Court for modified ADR Program Rules

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral within 210 days of filing of this action, and the Plaintiff shall file a “Stipulation of Neutral Selection” on or before the 224th day after the filing of the action. If the parties cannot agree upon the selection of the neutral within 210 days, the Plaintiff shall notify the Court by filing a written “Request for the Appointment of a Neutral” on or before the 224th day after the filing of this action. The Court shall then appoint a neutral from the Court-approved mediator/arbitrator list.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Case are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Cases which are appellate in nature such as appeals or writs of certiorari;
 - c. Post Conviction relief matters;
 - d. Contempt of Court proceedings;
 - e. Forfeiture proceedings brought by the State;
 - f. Cases involving mortgage foreclosures; and
 - g. Cases that have been submitted to mediation with a certified mediator prior to the filing of this action.
4. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference had been concluded.

Please Note: You must comply with the Supreme Court Rules regarding ADR. Failure to do so may affect your case or may result in sanctions.

STATE OF SOUTH CAROLINA)
)
 RICHLAND COUNTY)
)
 William R. Folks III, individually and on behalf of)
 all others similarly situated,)
 Plaintiff)
)
 vs.)
)
 The South Carolina House of Representatives;)
 The South Carolina Senate; The Honorable James)
 H. Lucas, Speaker of the South Carolina House of)
 Representatives; The Honorable Hugh K.)
 Leatherman, President Pro Tempore of the South)
 Carolina Senate; and the State of South Carolina)
 Defendant.)

IN THE CIRCUIT COURT FOR THE
 FIFTH JUDICIAL CIRCUIT

CERTIFICATE OF EXEMPTION
 FROM ADR

DOCKET NO. 17-CP-

RICHLAND COUNTY
 FILED
 27 AUG 11 AM 10:11
 JIMMIE E. W. MCBRIDE
 C.C. & G.S.

I certify that this action is exempt from ADR because:

- this is a special proceeding or action seeking extraordinary relief such as mandamus, habeas corpus of prohibition;
- this action is appellate in nature;
- this is a post-conviction relief matter;
- this is a contempt of court proceeding;
- this is forfeiture proceeding brought by the State;
- this is a case involving a mortgage foreclosure; or
- the parties submitted the case to voluntary mediation with a certified mediator prior to the filing of this action.

William R. Folks III
 Plaintiff/Attorney(s) for Plaintiff(s)

 Defendant/Attorney(s) for Defendant(s)

Date: August 10, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

William R. Folks, individually, and on behalf of all others similarly situated,
Plaintiff,

v.

The South Carolina House of Representatives; The South Carolina Senate; The Honorable James H. Lucas, Speaker of the South Carolina House of Representatives; The Honorable Hugh K. Leatherman, Sr., President Pro Tempore of the South Carolina Senate; and The State of South Carolina,
Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 17-CP-40- _____

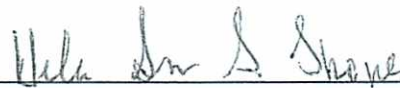
SUMMONS

RICHLAND COUNTY
FILED
2017 AUG 11 AM 10:11
JEANNETTE W. MCBRIDE
C.C.P. & G.S.

TO THE DEFENDANT:

You are hereby summoned and required to serve upon the attorney at the address below and Answer to the attached Complaint within 30 days of the date of service hereof. If you failed to do so, judgment by default will be entered against you for the relief demanded in the Complaint.

Respectfully submitted,



Helen Ann S. Thrower, Attorney
S.C. Bar No. 16734
3924 Forest Drive, Suite 1
Columbia, SC 29204
(803) 603-2179
Attorney for the Plaintiff

August 10, 2017

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

William R. Folks III, individually, and on behalf of all others similarly situated,
Plaintiff,

v.

The South Carolina House of Representatives; The South Carolina Senate; The Honorable James H. Lucas, Speaker of the South Carolina House of Representatives; The Honorable Hugh K. Leatherman, President Pro Tempore of the South Carolina Senate; and The State of South Carolina,
Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO: 17-CP-40 _____

**COMPLAINT FOR
DECLARATORY JUDGMENT**

JENNIFER W. MCBRIDE
C.C.P. & G.S.

2017 AUG 11 AM 10:11

RICHLAND COUNTY
FILED

Plaintiff, complaining of the Defendants would show unto the Court:

1. Plaintiff William R. Folks III is a citizen, resident, taxpayer, and registered elector of the State of South Carolina. He brings this action individually on his behalf and on behalf of all others similarly situated.
2. Defendants include the South Carolina House of Representatives, the South Carolina Senate and the State of South Carolina.
3. This Court possesses jurisdiction under South Carolina Constitution Article III § 17; S.C. Code Ann. § 15-53-10 *et seq.*, known as the Uniform Declaratory Judgment Act; and the following decisions: *South Carolina Public Interest Foundation v. South Carolina Transportation Infrastructure Bank*, 403 S.C. 640, 744 S.E.2d 521 (2013), *American Petroleum Institute v. S.C. Dep't of Revenue*, 382 S.C. 572, 677 S.E.2d 16 (2009), *South Carolina Public Interest Foundation v. Harrell*, 378 S.C. 441, 663 S.E.2d 52 (2008), *Sloan v. Department of Transportation*, 379 S.C. 160, 666 S.E.2d 236 (2008), *Sloan v. Hardee*, 357 S.C. 495, 640 S.E.2d 457 (2007); *Cornelius v. Oconee County*, 369 S.C.

531, 633 S.E.2d 492 (2006); *Sloan v. Department of Transportation*, 365 S.C. 299, 618 S.E.2d 876 (2005), *Sloan v. Wilkins*, 362 S.C. 430, 608 S.E.2d 579 (2005); *Sloan v. Sanford*, 357 S.C. 431, 593 S.E.2d 470 (2004); *Sloan v. Greenville County*, 356 S.C. 531, 590 S.E.2d 338 (Ct. App. 2003), *Sloan v. School District of Greenville County*, 342 S.C. 515, 537 S.E.2d 299 (Ct. App. 2000), *Baird v. Charleston County*, 333 S.C. 519, 511 S.E.2d 69 (1999), *Newman v. Richland County Historic Preservation Commission*, 325 S.C. 79, 480 S.E.2d 72 (1997).

4. Plaintiff has standing under the public importance exception and will show this matter surpasses a purely private matter and is of such public importance that its resolution is required for future guidance and is needed to implement the legislation at issue. *Bodman v. State*, 403 S.C. 60, 742 S.E.2d 363, 367 (2013). *ATC South, Inc., v. Charleston Cnty.*, 380 S.C. 191, 669 S.E.2d 337 (2008).
5. Plaintiff possesses standing as a citizen, resident, taxpayer, and registered elector of the State of South Carolina.
6. On May 25, 2017, the General Assembly enacted Act 40 of 2017.
7. Plaintiff will show Act 40 violates Article III, § 17 of the South Carolina Constitution in that it relates to more than one subject. As a result, Act 40 is vulnerable to a constitutional challenge; if not by Plaintiff, then by another granted standing. Plaintiff will support a “claim that casts a cloud of illegitimacy” over the legislation which could jeopardize the State’s actions in complying with the Act. *South Carolina Public Interest Foundation v. South Carolina Transportation Infrastructure Bank*, 403 S.C. 640, 744 S.E.2d 521, 524 (2013).

8. Plaintiff will show that if Act 40 is challenged and found unconstitutional at some point in the future, the implications are so great that guidance is needed now in order to comply with Act 40. Given the potential for constitutional challenge, and the implications of the legislation being struck down, Act 40 is of such public importance that resolution of its constitutionality is needed for future guidance.
9. Plaintiff will show Act 40 establishes the Infrastructure Maintenance Trust Fund. Act 40 amends S.C. Code Ann. § 57-11-20(A) to authorize funds within the Infrastructure Maintenance Trust Fund to be used for the payment of principal or interest on state highway bonds. If the Act is held unconstitutional, there will be no Infrastructure Maintenance Fund. The Court's guidance is needed to determine the constitutionality of the Act, if there will be a Infrastructure Maintenance Fund, and whether those funds can be used for the stated purposes.
10. Plaintiff will show Act 40 establishes the Safety Maintenance Fund and amends S.C. Code Ann. § 12-6-3780(B)(1) to establish a refundable income tax credit for preventative maintenance on vehicles and provides the credit will be offset by funds in the newly established Safety Maintenance Fund. The Court's guidance is needed to determine the constitutionality of the Act and if there will be a Safety Maintenance Fund to offset tax credits that may be claimed.
11. Plaintiff will show there is confusion as to how to proceed with implementing the legislation given the uncertainty of its constitutionality, and the Court's guidance is needed immediately for the State to implement the legislation and its purported purpose.
12. Plaintiff will show Act 40 violates Article III, § 17 of the South Carolina Constitution in that it relates to more than one subject. S.C. Constitution Article III, § 17 states, "Every

Act . . . shall relate to but one subject, and that shall be expressed in the title.” The purpose of this is “to prevent deception of the public and to prevent insertion of matters not germane to the general subject.” *Dantzler v. Callison*, 94 S.E.2d 177, 185 (S.C. 1956). It is not enough that the Act state in its preamble that it is intended to accomplish one goal.

13. For example, in the preamble, Act 40 states: “This act strikes an appropriate balance between the needs of our transportation infrastructure and the needs of the taxpayers by providing targeted tax relief that will stimulate economic growth, which, in turn, will general revenue growth from the sales of motor vehicles, from the sale of fuel for motor vehicles, and from other provisions contained in this act.” Presumably, this language is an attempt to justify the inclusion of completely unrelated subjects.
14. Plaintiff will show Act 40, SECTION 5, amending S.C. Code Ann. § 56-3-627(E)(1)(b) requiring the Department of Motor Vehicles to transfer twenty percent of every fee collected on motor vehicles pursuant to subsections (B) and (C) to the South Carolina Education Improvement Act of 1984 Fund is not related to the subject or stated purpose of Act 40: “a comprehensive approach to address the effect that the deteriorating transportation infrastructure system has on our state and its residents, tourists, and economy;”
15. Plaintiff will show Act 40, SECTION 16, amending S.C. Code Ann. § 12-6-3632 to establish a tax credit to individuals is not related to the subject or stated purpose of Act 40 “expressed in the title” as required by Article III, § 17.
16. Plaintiff will show Act 40, SECTION 18, amending S.C. Code Ann. § 12-6-3385(A)(1)(a) to increase the refundable individual income tax credit for students from 25% to 50% with a cap increased from \$350.00 to \$1,500.00 is not related to the subject or stated purpose of Act 40 “expressed in the title” as required by Article III, § 17.

17. Plaintiff will also show Act 40 violates Article III, § 17 of the South Carolina Constitution in that it relates to more than one subject. The Title explicitly states that Act 40 is

“relating to” the following 42 subjects:


- a) the deposit of funds with the Department of Transportation;
- b) Infrastructure Maintenance Trust Fund;
- c) the motor fuel user fee;
- d) the road tax;
- e) infrastructure maintenance fee;
- f) road use fee;
- g) the biennial registration of a motor vehicle;
- h) the maximum sales tax;
- i) exemptions from the state sales tax;
- j) casual excise tax;
- k) the crediting of certain motor vehicle tax revenues;
- l) motor carriers
- m) registration of motor vehicles;
- n) exemptions from the registration process;
- o) ad valorem taxes;
- p) the payment of registration fees;
- q) registration fees exceeding \$400;
- r) the imposition of local fees;
- s) the tax year for motor vehicles;
- t) transportation asset management plan;

- u) the issuance of tax notices;
- v) income tax credit for preventative maintenance;
- w) safety maintenance account;
- x) earned income tax credit;
- y) inspection fee revenues;
- z) motor vehicle user fee on fuel inventory;
- aa) distribution of motor fuel user fee to counties;
- bb) fees and fines credited to the State Highway Fund;
- cc) transfer of funds to the South Carolina Transportation Infrastructure Bank;
- dd) the two wage earner credit;
- ee) the income tax credit for tuition;
- ff) exemptions for property tax;
- gg) Department of Transportation Secretary's evaluation and approval of routine operation and maintenance and emergency repairs;
- hh) the Department of Transportation Commission's review of routine maintenance and emergency repair requests;
- ii) the Commission of the Department Transportation at-large member and the manner in which members are approved;
- jj) the submission of Transportation District appointments;
- kk) the oath of office for a commission member;
- ll) Joint Transportation Review Committee;
- mm) rules and procedures of the Commission of the Department of Transportation;
- nn) the Chief Internal Auditor of the Department of Transportation;

- oo) Secretary of the Department of Transportation and the preparation and publishing of certain annual reports; and
 - pp) terms of office for members of the Commission of the Department.
18. Section 27 of Act 40 states that the subject of the Act is “the effects of inadequate infrastructure financing and oversight.” This stated “subject” is not “expressed” in the Title of the Act.
19. Act 40 of 2017 does not “express” one subject in the Title, but rather expresses 42 subjects, and thereby violates S.C. Constitution Article III, § 17.
20. Furthermore, Act 40, SECTION 5, amending S.C. Code Ann. § 56-3-627(E)(1)(b) requiring the Department of Motor Vehicles to transfer twenty percent of every fee collected on motor vehicles pursuant to subsections (B) and (C) to the South Carolina Education Improvement Act of 1984 Fund is not included in the Title of Act 40 and therefore violates S.C. Constitution Article III, § 17.

WHEREFORE, Plaintiff prays the Court to declare that Act 40 violates the S.C. Constitution, Art. III, § 17 and is therefore null and void; to grant Plaintiff his costs and attorneys’ fees under S.C. Code Ann. § 15-77-300; and to grant such other and further relief as the Court deems just and proper.

Respectfully submitted,



Helen Ann S. Thrower, Attorney
S.C. Bar No.16734
3924 Forest Drive, Suite 1
Columbia, SC 29204
(803) 603-2179
Attorney for the Plaintiff

Richland County Common Pleas

Clerk : Jeanette W. McBride
 Richland County Judicial Center
 Columbia, SC 29201
 (803) 576-1999

Received From: Thrower, Helen Ann Siegling
 3924 Forest Drive
 Columbia, SC 29204

Date: 8/11/2017
 Receipt #: 226315
 Clerk: METTSB

Paying for: Folks, William R

Transaction Type: Payment
 Payment Type: Cash \$150.00
 Total Paid: \$150.00

Reference #:
 Comment:

Total Received: \$150.00

Change Due: \$0.00

Non-Refundable

Case #	Caption	Previous Balance	Amount Paid	Balance Due	S/T
2017CP4004819	William R Folks vs South Carolina House Of Representatives	\$150.00	\$150.00	\$0.00	699
Total Cases: 1		\$150.00	\$150.00	\$0.00	