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**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

OCT 02 2015

S.C. SUPREME COURT
IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

Appellate Case No. 2015-001441

**South Carolina Public Interest Foundation and Edward D. Sloan, individually, and on behalf of
all others similarly situated,Petitioners,**

v.

**James Rozier, as Chairman of the Commission of the Department of Transportation, James H.
"Jay" Lucas, as Speaker of the S.C House of Representatives, Henry D. McMaster, as President
of the S.C. Senate, and The State of South Carolina.....Respondents,**

and

**Hugh K. Leatherman, as President Pro Tempore of the South Carolina Senate....Respondent-
Intervenor.**

ANSWER OF STATE AND HENRY MCMASTER

**The Respondents Henry McMaster and the State of South Carolina, answering the
Complaint herein, allege the following:**

FOR A FIRST DEFENSE

- 1. The Respondents McMaster and State (these Respondents) deny each and every
allegation of the Complaint not hereinafter specifically admitted.**
- 2. These Respondents are without knowledge or information sufficient to form a
belief as to Paragraph 1 of the Complaint and therefore deny that paragraph except that the State**

admits, on information and belief, only that the Foundation is a not for profit organized and existing under State law.

3. These Respondents admit the first sentence of Paragraph 2 and as to the second sentence admit only that Petitioner brings this action individually. The State admits that Petitioner alleges that he brings this action in his representative capacity, but denies that he has brought this action as a class action.

4. These Respondents admit Paragraphs 3 and 4.

5. As to Paragraph 5, subject to their Fourth Defense, *infra*, these Respondents admit only that this Court has jurisdiction to consider this matter. The citations included in this paragraph address questions of law, and these Respondents are not required to admit or deny their applicability to this case.

6. As to Paragraph 6, although these Respondents do not object to the Court's hearing this case, they deny that the issues Petitioners have raised satisfy standing based upon great public importance under *ATC S., Inc. v. Charleston Cnty.*, 380 S.C. 191, 195, 669 S.E.2d 337, 339 (2008) because resolution is not needed for future guidance and for the other reasons set forth herein.

7. As to Paragraph 7, these Respondents reserve the right to take the position that the Petitioner lacks standing. They do not admit that Petitioner has standing.

8. As to Paragraphs 8 and 9, these Respondents crave reference to the cited provisions of the Constitution. They deny that Petitioners are entitled to relief in this proceeding.

9. As to Paragraph 10, these Respondents crave reference to S.C. Code Ann. §57-1-20.

10. Paragraph 11 sets forth a conclusion of law which these Respondents are not required to admit or deny. They crave reference to the cited statute and deny any allegations inconsistent therewith.

11. As to Paragraph 12, these Respondents crave reference to §57-1-410.

12. Paragraph 13 sets forth a conclusion of law which these Respondents are not required to admit or deny. To the extent that a response is necessary, they deny that the power to appoint is inherent to any one branch of government.

13. As to Paragraph 14, they crave reference to the cited statute.

14. Paragraph 15 sets forth a conclusion of law which these Respondents are not required to admit or deny. To the extent that a response is necessary, they crave reference to the cited statute and deny any allegations inconsistent therewith.

15. As to Paragraph 16, these Respondents crave reference to the cited statute.

16. Paragraph 17 sets forth a conclusion of law which these Respondents are not required to admit or deny. To the extent that a response is necessary, they crave reference to R. 127, Part 1B, §84, Proviso 84.18, 2015 S.C. Acts and deny that it is unconstitutional. They admit that Act 114, §6 is suspended as provided in Proviso 84.18, but deny that the suspension is unconstitutional. They deny the second sentence of this Paragraph.

17. As to Paragraphs 18 and 19, these Respondents crave reference to the cited statutes.

18. Paragraph 20 sets forth a conclusion of law which these Respondents are not required to admit or deny. To the extent that a response is necessary, they deny this Paragraph.

19. The Prayer for Relief sets forth conclusions of law to which no response is required. To the extent that a response is required, these Respondents deny those allegations.

FOR A SECOND DEFENSE

20. This case is not ripe because the claim as to the Commissions' appointment power regarding the Secretary are based upon allegations that have not been adjudicated in the suit *SCPIF v. Lucas*. Appellate case No. 2015-001443.

FOR A THIRD DEFENSE

21. Petitioners have failed to allege a justiciable controversy.

FOR A FOURTH DEFENSE

22. This Court lacks subject matter jurisdiction of this case.

FOR A FIFTH DEFENSE

23. Petitioners have failed to state facts sufficient to constitute a cause of action

WHEREFORE, having fully answered the Complaint, these Respondents pray as follows:

1. That judgment for them be entered as to the Complaint and that the relief sought by the Petitioners be denied.
2. For such further relief as the Court deems just and proper.

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Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar No. 1373

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BY: 

ATTORNEYS FOR HENRY MCMASTER
AND THE STATE

October 2, 2015