

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

Pressley Stutts, Walter Horin, and Nicole  
Kazmarski,

Plaintiffs,

v.

THE SOUTH CAROLINA REPUBLICAN  
PARTY; DREW MCKISSICK, as Chairman  
of the South Carolina Republican Party; THE  
GREENVILLE COUNTY REPUBLICAN  
PARTY; JENNIFER BLACK, as Chairman of  
the Greenville County Republican Party, and  
RANDY PAGE, as Executive Committeeman  
for the Greenville County Republican Party,

Defendants.

IN THE COURT OF COMMON PLEAS

Case No. 2021-CP-\_\_ - \_\_\_\_

**SUMMONS**

**TO THE ABOVE-NAMED DEFENDANTS:**

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to the said Complaint on the subscriber at her office at, within thirty (30) days after the service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

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May 7, 2021

Bluffton, South Carolina  
**STATE OF SOUTH CAROLINA**

**COUNTY OF GREENVILLE**

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Kazmarski,

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Defendants.

**IN THE COURT OF COMMON PLEAS**

**Case No. 2021-CP-\_\_ - \_\_\_\_**

**TEMPORARY RESTRAINING  
ORDER, MOTION FOR PRELIMINARY  
INJUNCTION, AND COMPLAINT FOR  
DECLARATORY AND INJUNCTIVE  
RELIEF**

PLAINTIFFS hereby respectfully show unto the Court as follows:

1. This case is made necessary due to the failure of the Defendants, all of whom are associated with the unincorporated associations known as the South Carolina Republican Party and the Greenville County Republican Party, to follow South Carolina law, the Republican Party’s own rules, and the South Carolina Constitution by convening a convention at a single location for the purposes of reorganization of the party at state level. The result of that failure is that the Plaintiffs, all of whom are South Carolina Republicans who have registered and paid membership filing fees for the right to participate in the convention - will be effectively deprived of their ability to convene with other delegates from across the state and participate in the

statewide reorganization of the party as required by law. Plaintiffs accordingly bring this lawsuit to enforce their rights under South Carolina law, under the rules of the South Carolina Republican Party (which are judicially enforceable under South Carolina law) and the South Carolina Constitution.

2. Under South Carolina law, a major political party must hold a state convention “at a location in this state determined by the state committee to have adequate facilities during a thirteen-month period ending May fifteenth of every general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting.” S.C. Code Ann. § 7–9–100. South Carolina requires a political party to follow its own party rules, to the extent that those rules do not conflict with state or federal law. S.C. Code Ann. § 7–11–20. The South Carolina Constitution’s Due Process Clause likewise compels political parties to follow their own rules before depriving members of the right to vote in a primary election. *See S.C. Const. art. I, § 3; Rice v. Elmore*, 165 F.2d 387, 391 (4th Cir. 1947) (“When [party] officials participate in what is a part of the state’s election machinery, they are election officers of the state de facto if not de jure, and as such must observe the limitations of the Constitution.”).

3. The rules of the South Carolina Republican Party specify a process for calling a convention in compliance with state law: “The state convention shall meet at a location in this state determined by the state committee to have adequate facilities during the month of May of every non-general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting. In presidential election years, that state

convention shall be held after the presidential preference primary and no less than five (5) days following the Congressional district conventions. The State Chairman shall also give written notice to each member of the State Executive Committee and each County Chairman of the date, time, and place of the Convention. The State Committee shall include in the call to convention available accommodations convenient to the convention site” S.C. GOP Rule 7(a)(1).

4. Rather than complying with clear state law, however, the Defendants and other elected leaders of the South Carolina Republican Party have announced a procedure whereby there will not be a single convention, but separate conventions throughout the state connected “virtually” (see Section D below for a copy of this announcement).

5. The failure by the Defendants to hold a single convention violates their own rules, South Carolina Election law, and the South Carolina Constitution.

6. The Plaintiffs have been effectively disenfranchised by their own political party and have no other remedy than this action to protect their right to participate in a state-wide party convention. Accordingly, Plaintiffs now turn to this Court to enforce the democratic safeguards guaranteed by party rules, state law, and the South Carolina Constitution.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction over the subject matter of this case pursuant to Article V, Section 11 of the South Carolina Constitution, which gives the Circuit Courts general jurisdiction over civil cases.

8. This Court also has “jurisdiction to hear and determine all questions, actions and controversies, other than those involving rates of public service companies for which specific procedures for review are provided in Title 58, affecting boards, commissions and agencies of this State, and officials of the State in their official capacities in the circuit where such question, action or controversy shall arise.” S.C. Code Ann. § 15–77–50.

9. Venue is proper in this Court because the two of the individual defendants, Jennifer Black and Randy Page, are upon information and belief citizens and residents of Greenville County, and a substantial part of the events giving rise to this cause of action have also occurred in Greenville County. The remaining defendants in this case (as well as other members of the Executive Committee who may be involved in the events complained of, are members of unincorporated associations which may be sued without naming the individual members of the organization pursuant to S.C. Code Ann. § 15–5-160.

### **PARTIES**

10. Plaintiff Pressley Stutts is a citizen and resident of Greenville County, South Carolina. He has held the offices of Precinct Vice President, Precinct President, and Precinct Executive Committeeman, and he currently holds the position within the Greenville County REpublican Party of Riverwalk Precinct Executive Committeeman and State Delegate to the SCGOP Convention.

11. Plaintiff Walter Horin is a citizen and resident of Greenville County, South Carolina. He has in the past held the position of Executive Committeeman within the Greenville County Republican Party, and he currently holds the positions of delegate to the South Carolina Republican Party state convention.

12. Plaintiff Nicole Kazmarski is a citizen and resident of Laurens County, South Carolina. She has previously held the positions of Delegate and Alternate from Lexington County in prior conventions, and she currently serves as a Laurens County Officer, Precinct Executive Committeeman, and delegate to the South Carolina Republican State Party Convention.

13. Defendant South Carolina Republican Party (sometimes known and referred to as “the S.C. G.O.P.,” is an unincorporated political organization, certified by the South Carolina State Election Commission as a political party pursuant to S.C. Code Ann. § 7–9–10. *See Aff. of Karen Floyd ¶ 2, Greenville Cty. Republican Party Exec. Comm. v. South Carolina*, No. 6:10-cv-1407 (D.S.C. Feb. 10, 2011), ECF No. 28-4.

14. Defendant Drew McKissick is the State Chairman of the South Carolina Republican Party. Upon information and belief, he is a resident of Richland County. By means of holding that position Defendant McKissick participates in deliberations and decisions of the Executive Committee and the Republican Party of South Carolina which are complained of in this action.

15. Defendant Greenville County Republican Party is upon information and belief an unincorporated political organization with headquarters on Wade Hampton Boulevard in Greenville County, South Carolina.

16. Defendant Jennifer Black is, upon information and belief, a citizen and resident of Greenville County, South Carolina, and is the Chairman of the unincorporated association known as the Greenville County Republican Party. By means of holding that position Defendant Black participates in deliberations and decisions of the Executive Committee of the Republican Party of South Carolina which are complained of in this action.

17. Defendant Randy Page is, upon information and belief, a citizen and resident of Greenville County, South Carolina, and is the Executive Committeeman for the unincorporated association known as the Greenville County Republican Party. By means of holding that position Defendant Page participates in deliberations and decisions of the Executive Committee of the Republican Party of South Carolina which are complained of in this action.

## **LEGAL AND FACTUAL BACKGROUND**

### **A. The Organization of Political Parties in South Carolina**

18. In South Carolina, political parties are organized under and regulated by the South Carolina Election Law, codified at Title 7 of the South Carolina Code. *See* S.C. Code Ann. §§ 7-1-10 et seq.

19. Chapter 9 of Title 7 governs the organization of political parties.

20. Section 7–9–10 provides that political parties must be certified by the South Carolina State Election Commission.

21. Section 7–9–90 requires that each certified political party have a state committee and delineates the composition of the state committee. The state committee may appoint officers, and it is responsible for nominating presidential electors and filling vacancies in the state ticket of electors and the national committee of a party. *Id.*

22. Section 7–9–100 requires that each certified political party convene a state convention “during a thirteen-month period ending May fifteenth of every general election year.” The state convention is composed of delegates elected by county conventions. *Id.* Parties may adopt or amend party rules at the state convention, as well as nominate candidates.

### **B. The Election Law’s Democratic Safeguards**

23. The South Carolina Legislature has placed democratic safeguards around the party primary process to ensure that party insiders cannot subvert the will of party members. This case centers primarily on two of those democratic safeguards: Sections 7–9-100 and 7–11–20 of the South Carolina Election Law.

24. Section 7–11–20 provides: “party conventions or party primary elections . . . must be conducted in accordance with . . . party rules[.]” Stated otherwise, a party’s state executive committee cannot break the party rules that a party adopts at its convention when setting statewide conventions.



25. Section 7-9-100 provides: “The state convention shall meet **at a location in this state** determined by the state committee to have adequate facilities during a thirteen-month period ending May fifteenth of every general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting. The state committee shall notify the delegates to the state convention of the accommodations that are available for the delegates during the convention. This listing must be as complete as practicable and **must include the accommodations in close proximity to the convention site as well as any other accommodations that are chosen by the state committee.** This notice must include the name and location of the accommodations, the cost per day, and any discounts or surcharges that are applicable during the period of the convention. Should the state committee fix the date for the state convention in a nongeneral election year, it must be held for the purpose of reorganization only...” (emphasis added )

26. As a result, a major South Carolina political party cannot simply choose not to convene an in-person convention at a single location whenever the party’s state executive committee wants to; under state law there is no discretion whatsoever: the convention must meet at “a” - which means “single” location in this state, and that notice of that meeting location must be given at least ten days before the meeting, and must include information as to accommodations in close proximity to the convention site.

27. Taken together, sections 7-11-20 and 7-9-100 impose the clear limitation that the party’s state convention must be held at a single location within South Carolina and that

notice of at least ten days must be given as to that location and the accommodations available at that location.

### **C. The South Carolina Republican Party's Organizational Safeguards**

28. As noted above, the South Carolina Republican Party is an unincorporated political organization, certified by the South Carolina State Election Commission as a political party pursuant to section 7-9-10 of the South Carolina Code. *Aff. of Karen Floyd ¶ 2, Greenville Cty. Republican Party Exec. Comm. v. South Carolina*, No. 6:10-cv-1407 (D.S.C. Feb. 10, 2011), ECF No. 28-4.

29. On top of the democratic safeguards required by South Carolina's Election Law, the South Carolina Republican Party's own rules impose their own democratic safeguards on the party's holding of statewide conventions. See S.C. GOP, *The Rules of the South Carolina Republican Party* (May 13, 2017) ("S.C. GOP Rules").<sup>1</sup> And South Carolina law requires that the party follow its own rules. See S.C. Code Ann. § 7-11-20.

30. The S.C. GOP's current party rules were adopted at the party's 1962 state convention and have been amended twenty-two times since, including, most recently, at the 2017 state convention. See S.C. GOP Rules at 1.

31. Rule 7(a)(1) provides that, "The state convention shall meet at a location in this state determined by the state committee to have adequate facilities during the month of May

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<sup>1</sup> Available as of May 5, 2021, at <https://www.sc.gop/about/rules/>

of every non-general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting. In presidential election years, that state convention shall be held after the presidential preference primary and no less than five (5) days following the Congressional district conventions. The State Chairman shall also give written notice to each member of the State Executive Committee and each County Chairman of the date, time, and place of the Convention. The State Committee shall include in the call to convention available accommodations convenient to the convention site.”

32. No other provision of the S.C. GOP Rules permits the State Executive Committee to unilaterally decide not to convene a state-wide in-person convention.

33. Rule 7(a)(1) requires the South Carolina Republican Party to hold a statewide convention at a single location, and precludes its State Executive Committee from unilaterally deciding not to conduct such a convention. This rule is legally binding on the party by operation of S.C. Code Ann. § 7–11–20.

34. Pursuant to the affidavits of the Plaintiffs, the failure of the South Carolina Republican Party to hold an in-person convention at a single location would deprive the plaintiffs of their right to participate effectively in the selection of officers and setting of polity for the state organization.

**D. Overriding Democratic Safeguards, The State Executive Committee Unilaterally Cancels Its 2021 In-Person Statewide Convention**

35. Notwithstanding South Carolina's Election Code and the S.C. GOP's own rules, on May 4, 2021, the Defendants have announced in the following form that the state convention at a single location would not be held, but replaced by multiple local meetings:



#### OFFICIAL CALL TO 2021 SCGOP STATE CONVENTION

In accordance with South Carolina Republican Party Rules, it is our pleasure to announce the convening of the 2021 South Carolina Republican Party State Convention.

Due to issues still surrounding COVID-19 and venue capacity for our large number of Delegates and Alternates, the State Executive Committee voted to host an in-person hybrid State Convention. Counties will host their individual delegation bodies in locations determined by the County Party Chair. Ballots will be cast using paper ballots and there will be *no proxy voting*. All voting Delegates must be present in order to cast their ballot. The location of your delegation in-person meeting will be sent to each voting State Delegate and Alternate by county.

**The 2021 State Convention will be held Saturday, May 15 with registration beginning at 10 a.m. and convening of the Credentials Report at 11 a.m.**

The registration fee for State Convention is \$20 - OR \$10 if you are a member of the Elephant Club. If you are a current member of the Elephant Club, or if you join before Friday May 14 at 5 p.m. (<https://www.sc.gop/elephant-club/>), please contact Viktoria at 803-988-8440 or email [viktoria@scgop.com](mailto:viktoria@scgop.com) to receive your reduced registration.

**All State Delegates/Alternates are required to register online via Eventbrite and MUST BE REGISTERED by 5 p.m. on Friday, May 14 in order to be credentialed in the next morning at their county location.**

If you wish to run for a state party office, you must declare your candidacy by *Friday, May 7 at 5 p.m.* by notifying the SCGOP in writing via email sent to [conventionhelp@scgop.com](mailto:conventionhelp@scgop.com).

Should you have any questions regarding State Convention, please contact the SCGOP at 803-988-8440 or [conventionhelp@scgop.com](mailto:conventionhelp@scgop.com). You may also contact your County Party Chairman for additional details.

36. In making this announcement the Defendants have announced their intention to disregard and violate both state law and their own party rules.

### **FIRST CLAIM FOR RELIEF**

#### **Violation of SC Code Ann Section 7-11-20**

37. Plaintiffs reallege and incorporate by reference all other paragraphs above as if fully set forth herein.

38. Section 7–11–20(A) of the South Carolina Code requires that state party conventions be conducted “in accordance with . . . party rules not in conflict with the provisions of this title or of the Constitution and laws of this State or of the United States.”

39. The South Carolina Republican Party rules provide that “The state convention shall meet at a location in this state determined by the state committee to have adequate facilities during the month of May of every non-general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting.” S.C. GOP Rule 7(a)(1).

40. No other provision of the S.C. GOP Rules permits the State Executive Committee to unilaterally cancel the statewide inperson convention at a single location.

41. Defendants therefore violated the S.C. GOP Rules and section 7–11–20 of the South Carolina Code in purporting to hold a convention that is not in-person at a single location.

42. Plaintiffs are harmed by the Defendants' unlawful act, as they are Republicans in South Carolina who intended to—and still hope to— participate in the 2021 statewide convention to select state officers and debate and vote on resolutions, but will be prevented from doing so without relief from this Court.

43. Unless enjoined by the Court, defendants, and those acting in concert with them, will continue to violate S.C. Code Ann. § 7-11-20 and inflict irreparable harm on Plaintiffs by denying plaintiffs the ability to participate in a statewide in-person convention at a single location.

## **SECOND CLAIM FOR RELIEF**

### **Violation of SC Code Ann Section 7-9-100**

44. Plaintiffs reallege and incorporate by reference all other paragraphs above as if fully set forth herein.

45. Chapter 9 of Title 7 of the South Carolina Code governs “Party Organization.” Section 7-9-100 identifies the “State Convention.” It states that “The state convention shall meet at a location in this state determined by the state committee to have adequate facilities during a thirteen-month period ending May fifteenth of every general election year on a day and at a time fixed by the state committee and announced publicly at least ten days before the meeting.” *Id.* It does not permit any other method of convening a state convention, including the model currently proposed by the state Executive Committee.

46. Defendants now purport to adopt convention procedures which violate the clear terms of Section 7-9-100, and thus the Defendants are in violation of said law. The Defendants are not empowered to take away the party members' rights to a statewide convention at a single location. The Defendants must follow the law, which absent intervention by this Court they clearly intend to violate.

47. Plaintiffs are harmed by the Defendants' unlawful act, as they are Republicans in South Carolina who intended to—and still hope to— participate in the 2021 statewide convention to select state officers and debate and vote on resolutions, but will be prevented from doing so without relief from this Court. As described in the affidavits of the Plaintiffs filed herewith, and incorporated herein by reference, the failure of the Defendants to convene all delegates in a single location effectively deprives them of the ability to perform the functions and duties of delegates that they were elected, as contemplated by party rules and by state law, to perform.

48. Unless enjoined by the Court, Defendants and those acting in concert with them in the unincorporated association will continue to violate S.C. Code Ann. § 7-11-20 and inflict irreparable harm on Plaintiffs by denying them their right under party rules and state law to convene at a single location.

### **THIRD CLAIM FOR RELIEF**

#### **Violation of South Carolina Constitution Due Process Clause, Article I, § 3**

49. Plaintiffs reallege and incorporate by reference all other paragraphs above as if fully set forth herein.

50. When political parties represent themselves to be lawful participants in the state's political process, they are subject to the same constitutional bounds as state actors. See, e.g., *Beaufort Cty*, 395 S.C. at 379 n.5, 718 S.E.2d 432 at 439 n.5 (Hearn, J., concurring in part and dissenting in part) (observing that parties' presidential preference primaries "are elections and accordingly are subject to state and federal laws concerning the electoral process"); see also *N.Y. State Bd. of Elections v. Lopez Torres*, 552 U.S. 196, 203 (2008) (parties must abide by the constitution when they play a role in the election process); *Rice*, 165 F.2d at 391 ("When [party] officials participate in what is a part of the state's election machinery, they are election officers of the state de facto if not de jure, and as such must observe the limitations of the Constitution.").

51. The Defendants in their various roles as part of the South Carolina Republican Party unincorporated association, which is one of the two major parties in this state intimately involved in virtually every election of significance in this state, are therefore subject to the bounds of South Carolina's Constitution when they fail convene a statewide convention.

52. South Carolina's Due Process Clause provides that no person "shall . . . be deprived of life, liberty, or property without due process of law." S.C. Const. art. I, § 3. It protects a person from being deprived of cognizable life, liberty or property interests for "arbitrary reasons." *Worsley Cos., Inc. v. Town of Mount Pleasant*, 339 S.C. 51, 56, 528 S.E.2d 657, 660 (2000).



53. Once granted, the right to participate in the electoral process is a “liberty interest” protected by the Due Process Clause. Cf. *Anderson v. Celebrezze*, 460 U.S. 780, 787 (1983) (explaining that the right to vote is a liberty interest protected by the Fourteenth Amendment). The Defendants are essentially state actors in this context, and must follow their own rules before depriving individuals of liberty interests. See *Triska v. Dep’t of Health & Envtl. Control*, 292 S.C. 190, 194, 355 S.E.2d 531, 533 (1987); see generally *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954).

54. By violating Rule 7(a)(1) of its party rules and failing to hold an in-person statewide convention at a single location, the Defendants are violating South Carolina’s Due Process Clause.

55. Plaintiffs are harmed by the Defendants’ unlawful act, as they are Republicans in South Carolina who intended to—and still hope to— participate in the 2021 statewide convention to select state officers and debate and vote on resolutions, but will be prevented from doing so without relief from this Court. As described in the affidavits of the Plaintiffs filed herewith, and incorporated herein by reference, the failure of the Defendants to convene all delegates in a single location effectively deprives them of the ability to perform the functions and duties of delegates that they were elected, as contemplated by party rules and by state law, to perform.

56. Unless enjoined by the Court, defendants, and those acting in concert with them, will continue to act in an unconstitutional manner and inflict irreparable harm on plaintiffs

by denying plaintiffs the ability to participate in a state-wide in-person convention at a single location.

#### FOURTH CLAIM FOR RELIEF

##### *Ultra Vires Action*

57. Plaintiffs reallege and incorporate by reference all other paragraphs above as if fully set forth herein.

58. The South Carolina Supreme Court has “long recognized . . . as the province of the court to see that the established principles of law and order in the conduct of party organizations be maintained, and associations or groups of individuals, although organized on a political basis and having a political nature in purpose, are subject to the jurisdiction of the courts.” *Walker v. Grice*, 162 S.C. 29, 159 S.E. 914, 917 (1931).

59. In conducting its statutory organizational responsibilities, certified political parties may exercise only those powers granted to them by law and any rules made pursuant thereto. *See Rice*, 165 F.2d at 391 (when party officials conduct elections they are subject to the same legal constraints as state actors); *Triska*, 292 S.C. at 194, 355 S.E.2d at 533 (holding that state agencies must follow their own regulations and any action taken in contravention of those regulations is null and void); *Converse Power Corp. v. S.C. Dep’t of Health & Env’t Control*, 350 S.C. 39, 54–55, 564 S.E.2d 341, 350 (S.C. Ct. App. 2002) (same); *cf. Fisher v. Shipyard Vill. Council of Co-Owners, Inc.*, 415 S.C. 256, 271, 781 S.E.2d 903, 911 (2016) (“A corporation may exercise only those powers granted to it by law, its charter or articles of incorporation, and any

bylaws made pursuant thereto.”); *Fisher v. Shipyard Vill. Council of Co-Owners, Inc.*, 409 S.C. 164, 180, 760 S.E.2d 121, 130 (S.C. Ct. App. 2014), *aff’d as modified*, 415 S.C. 256, 781 S.E.2d 903 (2016) (same); *Seabrook Island Prop. Owners Ass’n v. Pelzer*, 292 S.C. 343, 348, 356 S.E.2d 411, 414 (S.C. Ct. App. 1987) (same).

60. By violating Rule 11(b) of its party rules and canceling its primary, the State Executive Committee acted *ultra vires* in violation of the South Carolina Republican Party’s rules and state law. Therefore, the State Executive Committee’s actions are void *ab initio*.

61. Plaintiffs are harmed by the Defendants’ unlawful act, as they are Republicans in South Carolina who intended to—and still hope to— participate in the 2021 statewide convention to select state officers and debate and vote on resolutions, but will be prevented from doing so without relief from this Court.

62. Unless enjoined by the Court, defendants, and those acting in concert with them, will continue to act in an unconstitutional manner and inflict irreparable harm on plaintiffs by denying plaintiffs the ability to participate in a state-wide in-person convention at a single location.

### **PRAYER FOR RELIEF**

Plaintiffs pray for relief as follows:

- a. that the Court declare that the Defendants have violated section 7–11–20 of the South Carolina Code and their own party Rules;

- b. that the Court declare that the Defendants have violated sections 7–9-100 of the South Carolina Code;
- c. that the Court declare that the Defendants are obligated, under sections 7–11–20 and 7–9-100 of the South Carolina Code to hold a statewide in-person convention at a single location;
- d. that the Court declare the Defendants have violated the South Carolina Constitution’s Due Process Clause, art. I, § 3;
- e. that the Court declare that the Defendants are acting *ultra vires*, and their actions are void *ab initio*;
- f. that the Court order the Defendants to conduct a statewide in-person convention at a single location by May 15, 2021, or as soon as practicable thereafter; as required by the South Carolina Code sections 7–9-100, 7–11–20, and their own party Rules, and the South Carolina Constitution;
- g. that the Court award nominal damages, attorneys’ fees and litigation costs to Plaintiff’s attorneys as provided by law;
- h. that the Court preliminarily and permanently enjoin all Defendants and anyone acting in privity with the Defendants from further violations of the law; and
- i. that the Court grant all other and further relief as it may deem just and necessary.

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May 10, 2021

Bluffton, South Carolina