

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	NINTH JUDICIAL CIRCUIT
BOARD OF FIELD OFFICERS OF THE FOURTH BRIGADE, MARK CALHOUN, F. PRESTON WILSON, ANDREW PICKENS CALHOUN Petitioners, vs. MEMBERS OF CITY COUNCIL OF THE CITY OF CHARLESTON, SOUTH CAROLINA, CAROLINE PARKER, KEVIN SHEALY, JASON SAKRAN, ROBERT M. MITCHELL, KARL L. BRADY, JR., STEPHEN BOWDEN, PETER SHAHID, JR., MICHAEL S. SEEKINGS, PERRY K. WARING, WILLIAM DUDLEY GREGORIE, and ROSS A. APPEL AND THE CITY OF CHARLESTON, SOUTH CAROLINA, THE HONORABLE ALAN WILSON, ATTORNEY GENERAL OF THE STATE OF SOUTH CAROLINA, AND THE HONORABLE JOHN TECKLENBURG, MAYOR OF THE CITY OF CHARLESTON, SOUTH CAROLINA Respondents	CASE NO: 2022-CP-10- SUMMONS

TO THE RESPONDENTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to serve your reply to the Petition attached hereto and served herewith upon the subscriber, at his office at 1408 Russell Street, Suite 11, Orangeburg, SC 29115, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Petition within the time aforesaid, Petitioners will apply to the Court for default judgment and the relief demanded in the Petition.

(Signature Page To Follow)

BILL CONNOR LAW FIRM, LLC.

s/ William M. Connor, V

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Board of Field Officers

Orangeburg, South Carolina
November 4, 2022

STATE OF SOUTH CAROLINA	IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	NINTH JUDICIAL CIRCUIT
BOARD OF FIELD OFFICERS OF THE FOURTH BRIGADE, MARK CALHOUN, F. PRESTON WILSON, ANDREW PICKENS CALHOUN Petitioners, vs. MEMBERS OF CITY COUNCIL OF THE CITY OF CHARLESTON, SOUTH CAROLINA, CAROLINE PARKER, KEVIN SHEALY, JASON SAKRAN, ROBERT M. MITCHELL, KARL L. BRADY, JR., STEPHEN BOWDEN, PETER SHAHID, JR., MICHAEL S. SEEKINGS, PERRY K. WARING, WILLIAM DUDLEY GREGORIE, and ROSS A. APPEL AND THE CITY OF CHARLESTON, SOUTH CAROLINA, THE HONORABLE ALAN WILSON, ATTORNEY GENERAL OF THE STATE OF SOUTH CAROLINA, AND THE HONORABLE JOHN TECKLENBURG, MAYOR OF THE CITY OF CHARLESTON, SOUTH CAROLINA Respondents	CASE NO: 2022-CP-10- PETITION

COMES NOW YOUR PETITIONERS, by and through their undersigned attorney
of record, and would respectfully show unto this Honorable Court as follows:

INTRODUCTION

1. This is an action by concerned citizens of South Carolina, particularly residents of the
city of Charleston, and descendants of the family of John C. Calhoun to protect and

preserve an important piece of the state's history, a monument erected of the great South Carolina statesman John Caldwell Calhoun (hereinafter sometimes referred to as the "Calhoun Monument").

2. As set forth herein, the City of Charleston has illegally and unlawfully removed the Calhoun Monument from the place where it has stood in Charleston since 1898; the base and pedestal of stone were destroyed, and the statue of Calhoun has been taken by the city. The City of Charleston previously threatened to illegally and unlawfully remove the Calhoun Monument from the jurisdiction of the South Carolina Courts and the South Carolina Attorney General by transferring possession of same to a museum located in Los Angeles, California.
3. Petitioners file this action requesting that this Court issue the following relief:
 - (a) A declaration that the City of Charleston's action in removing the Calhoun Monument without specific authorization from the South Carolina legislature violates the Heritage Act, South Carolina Statutes Annotated § 10-1-165;
 - (b) A declaration that the City of Charleston holds the Calhoun Monument as a charitable trust for the benefit of the public citizenry of South Carolina;
 - (c) A declaration that the Attorney General of the State of South Carolina, Respondent Alan Wilson, is one of the persons who have an obligation under South Carolina Statutes Annotated § 62-7-405(c) to enforce the terms of the charitable trust by which the City of Charleston holds the Calhoun Monument;
 - (d) A writ of mandamus against Attorney General Alan Wilson, ordering him to take action to protect the public by enforcing the terms of the charitable trust by which the City of Charleston holds the Calhoun Monument;

(e) A declaration that Petitioners have standing to enforce the terms of the charitable trust in light of the Attorney General's default on his responsibility to enforce same;

(f) An Order prohibiting the City of Charleston from transferring possession of the Calhoun Monument to any party outside of the jurisdiction of the State of South Carolina and/or outside of the jurisdiction of the Attorney General to oversee and enforce same; and

(g) A writ of mandamus against the City of Charleston, ordering the City to replace the Calhoun Monument within City limits.

PARTIES

4. Petitioner Board of Field Officers of the Fourth Brigade (successor in interest in 2021 to 'the Washington Light Infantry and Sumter Guards Board of Officers') ("Board of Field Officers") was originally known as either the Board of Field Officers of the Charleston Regiments and/or the Board of Field Officers of the Fourth Brigade and/or the Board of Field Officers of Fourth Battalion. Under its various names, the Petitioner has been in continuous existence and has owned the land commonly known as "Marion Square" in Charleston, South Carolina, since approximately 1834.
5. Petitioner, F. Preston Wilson, is a resident of South Carolina, and is the direct descendant of the Vice President of the Ladies' Calhoun Monument Association, Mrs. Henry W. Conner (Julia Courtney), elected to said office on March 7, 1855, and that Mrs. Julia Conner was the mother of James Conner, who was the father of Henry W. Conner, who was the father of Adele Petigru Conner Simons, who was the mother of

Adele Wilson, who was the mother of Petitioner F. Preston Wilson, and the interest of the said association, and therefore the interest of Petitioner, will be further explained below.

6. Petitioners Mark Calhoun, a resident of the city of Charleston and a descendent of the Calhoun family, and Andrew Pickens Calhoun, former Calhoun representative on the board of Clemson University for historic preservation for a quarter-century, and a descendant of the Calhoun family, have a familial interest in the Statue as a memorial honoring their ancestor as an iconic and honored South Carolinian.
7. Respondent, City of Charleston, South Carolina, is a municipality, and a body corporate and politic of the State of South Carolina located primarily within the County of Charleston, State of South Carolina, and is the county seat for the County of Charleston, State of South Carolina.
8. Respondent, the Honorable Alan Wilson, is the duly elected and installed Attorney General for the State of South Carolina.
9. Respondent, the Honorable John Tecklenburg, is the duly elected and installed Mayor of the City of Charleston, South Carolina.
10. Respondents, the Members of the City Council of Charleston, South Carolina, are the duly elected and installed governing officials voting on executive actions, including those of this lawsuit.

BACKGROUND

11. In 1834, the City Council of Charleston conveyed to the Board of Field Officers of the Charleston Regiments, at Deed Book H 10, Page 382, on file with the Charleston

County Register of Deeds Office, the land commonly known as “Marion Square” in Charleston, South Carolina.

12. The Board of Field Officer’s holdings on Marion Square were subsequently enlarged, and/or made more definite and certain, as follows: (i) in 1835, at Deed Book K 10, Page 245, from the City Council of Charleston to the Board of Field Officers of the Fourth Brigade; (ii) in 1856, at Deed Book V 13, Page 161, from Henry Boylston to the Board of Field Officers, (iii) also in 1856, Deed Book V 13, Page 268, from the City Council of Charleston to the Board of Field Officers; (iv) in 1866, at Deed Book A 14, Page 7-442, to the Board of Field Officers of the Fourth Brigade to the City Council of Charleston; and (v) in 1877, at Deed Book G 17, Page 136, from the City Council of Charleston to the Board of Field Officers of the Fourth Brigade SC; all of which are also on file with the Charleston County Register of Deeds.
13. During the latter part of the nineteenth century, a group of South Carolina ladies formed an unincorporated association known as the Ladies’ Calhoun Monument Association for the sole purpose of erecting a monument to John Caldwell Calhoun, the former U.S. Vice-President, U.S. Secretary of War and U.S. Senator.
14. This aforesaid unincorporated association was known as the Ladies’ Calhoun Monument Association.
15. Eventually, the Ladies’ Calhoun Monument Association raised sufficient money to procure and erect the aforesaid Calhoun Monument, which stood upon Marion Square in the City of Charleston, State of South Carolina.

16. That on September 16, 1885, by virtue of a Quit Claim Deed recorded at Deed Book D 20, Page 467 in the Charleston County R.O.D. Office, the Board of Field Officers granted to the “Ladies’ Calhoun Monument Association” (an unincorporated South Carolina association) a thirty-six (36’) x thirty-six (36’) feet plot of land in Marion Square. This grant was also supported by virtue of a second Quit Claim Deed recorded at Deed Book D 20, Page 469 in the Charleston County R.O.D. Office, given by the City Council of Charleston to the Ladies’ Calhoun Monument Association, on or about October 16, 1885.
17. That by virtue of its September 16, 1885, Quit Claim Deed to the Ladies’ Calhoun Monument Association described above, the Board of Field Officers specifically reserved: “that at any time hereafter should the said lot, piece or tract of land cease to be used for the purposes aforesaid there for and thereafter” then “all the right[,] title in trust[,] or claim of every kind and nature whatsoever of the said Ladies’ Calhoun Monument Association ... shall cease ... as though this deed had never been executed.”
18. The only purpose of the Ladies’ Calhoun Monument Association was to raise funds for, and procure for the public, the monument in question.
19. With its purpose accomplished, the Ladies’ Calhoun Monument Association resolved to disband.
20. At that time, the Ladies’ Calhoun Monument Association sought an entity to which it could entrust the custody and maintenance of the monument.

21. With the unanimous consent of the Mayor of the City of Charleston, and the City Council of the City of Charleston, the Ladies' Calhoun Monument Association decided to entrust the monument to the City of Charleston.
22. The intent was manifest in one letter which has been preserved in the Minutes of the City Council for the City of Charleston, from a special meeting of 18 July 1898.
23. The letter in whole is as follows:

Charleston, S.C. July 7, 1898

To the Hon J. Adger Smyth, Mayor of Charleston - Sir:

You are, of course, aware that after vicissitudes and efforts extending over many years the Ladies' Calhoun Monument Association has at length accomplished the sacred object of its existence. It has erected a statue-worthy, at least, to remind us all of the great Carolina statesman.

Association is now about to dissolve and disband, and should, therefore, commit to the charge of some one, for all time, the custody, control and care of the monument and spot upon which it stands. Into no more loyal hands could this be entrusted than those which guide and direct our city's life and welfare.

Permit us, therefore, to ask you, as the representative and head of the City Council of Charleston, to receive from us this sacred trust, and to accept the custody, control and care of the Calhoun monument and the grounds around it.

We evidence this by presenting, through you, to the City Council this key to the enclosure, as symbolizing the possession and custody, and ask that the Council preserve and guard it, and all that it represents, so dear to every citizen of this State.

With respect we remain yours truly,

Mrs. Joseph Blackman, corresponding secretary; Miss K. E. DeSaussure, recording secretary, Ladies' Calhoun Monument Association, (hereinafter "the Blackman DeSaussure Letter").

24. Upon the reading of the dedication to the City Council, Alderman Zimmerman Davis proposed the following resolution:

Whereas, the Ladies' Calhoun Monument Association, "after vicissitudes and efforts extending over many years, has at length accomplished the sacred object of Its existence," by the erection in Marion square of the magnificent monument to South Carolina's greatest son, John Caldwell Calhoun; and whereas, the Association is now about to dissolve and disband, and desires to place the monument under the control and care of the City of Charleston for all time, and has placed In the hands of the Mayor of the city the key to the enclosure, "as symbolizing Its possession and "custody;"

Resolved, That the City Council gratefully accepts the high honor and the responsibilities which It Involves, and pledges the faith of the city to watch over and keep it as a priceless treasure and sacred trust.

Resolved, That his Honor the Mayor be requested to express to the ladies of this Association the thanks of the city and of the entire State for their untiring labors and heroic endurance In the face of many obstacles and difficulties In the completion of such a handsome and imposing monument to the great statesman.

Resolved, That this action of the City Council be suitably engrossed and sent to the Ladies' Calhoun Monument Association.

25. Zimmerman Davis' resolution passed City Council unanimously.

26. But for the promise of the erection of the Calhoun Monument on the spot as well as the City of Charleston's willingness and commitment to accept and maintain the monument, the property would not have been granted at all.
27. Since 18 July 1898, the City of Charleston (hereinafter "City of Charleston") has been a faithful steward of the trust placed in it by the Ladies' Calhoun Monument Association.

CREATION OF THE TRUST UNDER SOUTH CAROLINA LAW

28. The South Carolina Uniform Trust Code as set forth in Article 7 of Title 62 of the South Carolina Code of Laws applies to the construction of all trusts prior to the effective date of 1 January 2014 to the extent that there is a "clear indication of a contrary intent in the terms of the governing instrument... ." South Carolina General Assembly 2013 Act No. 100, § 4.
29. No such contrary intent is evidenced by either the Blackman DeSaussure Letter or the Zimmerman Davis resolution.
30. Under South Carolina law, the existence of a trust hinges upon a declaration creating the trust; a *trust res*; and designated beneficiaries. *Whetstone v. Whetstone*, 309 S.C. 227, 231, 420 S.E.2d 877, 879 (Ct. App. 1992).
31. There is no requirement for a settlor of a Trust to employ or use the word "Trust" in forming a valid trust under the Law of the State of South Carolina. S. Alan Medlin, *Estate Planning in South Carolina: The Law of Wills and Trusts* § 501.1 (2002).

32. The Ladies' Calhoun Monument Association did, in fact, in the Blackman DeSaussure Letter, demonstrate an unambiguous intent to establish not only a trust but for the City of Charleston "to receive from us this sacred trust."
33. The Blackman DeSaussure Letter constitutes a writing.
34. The Blackman DeSaussure Letter constitutes a declaration.
35. The Blackman DeSaussure Letter designates and constitutes the "Calhoun monument and the grounds around it" as the *res* of the Trust.
36. The Blackman DeSaussure Letter designates the public as the beneficiaries of the Trust, as the Calhoun Monument was designed for the benefit of reminding "us all of the great Carolina statesman."
37. Under South Carolina Law, a settlor of a trust need not name the beneficiaries specifically, nor must the settlor identify the beneficiaries at the time of the making or execution of the instrument of trust. South Carolina Code Annotated § 62-7-402(c).
38. Under South Carolina Law, a beneficiary is not required to be designated at all if the trust is a charitable trust. South Carolina Code Annotated § 62-7-402(a)(3)(A).
39. The Blackman DeSaussure Letter evidences an intent to convey the *res* subject to a trust rather than an outright conveyance in fee simple.
40. The Ladies' Calhoun Monument Association intentionally declined to use such words as "grant" or "deeds" or "gives" because they did not intend an unrestricted gift to the City of Charleston in fee.
41. The Ladies' Calhoun Monument Association intentionally employed words such as "custody, control and care" and "possession and custody" to emphasize that the

transaction was not an outright gift or conveyance without restrictions, but rather an entrustment for the charitable benefit of the public.

42. Words such as “custody, control and care” and “possession and custody” do clearly emphasize a transaction quite short of an outright grant or gift and must either be a trust or bailment.
43. The Blackman DeSaussure Letter constitutes a declaration of trust to the City of Charleston as Trustee over the Calhoun Monument and the grounds underneath it. The unanimously approved resolution proposed by Alderman Zimmerman Davis constitutes acceptance of the Blackman DeSaussure declaration of trust.
44. Under the South Carolina Uniform Trust Code, a “charitable trust” means a trust, or portion of a trust, created for a charitable purpose described in South Carolina Code Annotated § 62-7-405(a).
45. Under the immediately aforesaid Code provision, a charitable trust under § 62-7-405(a) a “charitable trust may be created for the relief of distress or poverty, the advancement of education or religion, the promotion of health, scientific, literary, benevolent, governmental or municipal purposes, or other purposes, the achievement of which purposes is beneficial to the community.”
46. The people of South Carolina are the charitable beneficiaries of the instant trust and its *res*.
47. The stated purpose of the trust is to take “custody, control and care of the monument and spot upon which it stands” and to “preserve and guard It, and all that It represents... .”

48. The trust in question is designed for the advancement of the education of the public as to of one of its most noted statesmen as well as South Carolina history which are benevolent purposes that are deemed beneficial to the community, and which more specifically were deemed by the City of Charleston to be beneficial to the community at the time of the acceptance of the entrustment.

THE CITY OF CHARLESTON THREATENS TO VIOLATE THE TERMS
OF THE CHARITABLE TRUST

49. Under the South Carolina Uniform Trust Act, the trustee of a charitable trust is obligated to operate faithfully and loyally to the terms of the trust and not its own self-interest.
50. The City of Charleston cannot unilaterally modify the terms of the trust, and the terms may not be modified unless the modifications comport to the exigencies and strictures set forth in South Carolina Code Annotated § 62-7-413, which they do not, and this includes transferring possession of said monument when that would violate the purpose of the trust, as would be the case in transferring the monument to said exhibition in California.
51. It is clear by the terms of the transfer of custody of control by the Ladies' Calhoun Monument Association of the "spot on which it stands" to the City of Charleston, that the intent of the Settlor of the Trust for the Calhoun Monument was perpetual maintenance of the Calhoun Monument on the spot it sat, which was the obligation that the City Council of Charleston unanimously pledged itself to by its acceptance of the terms of the trust.

52. Moreover, the Board of Field Officers had specifically reserved in their Quit Claim deed [recorded in Book D 20, Page 467 in the Charleston County R.O.D. Office]: “that at any time hereafter should the said lot, piece or tract of land cease to be used for the purposes aforesaid there for and thereafter” then “all the right[,] title in trust[,] or claim of every kind and nature whatsoever of the said Ladies’ Calhoun Monument Association ... shall cease ... as though this deed had never been executed.” **Thus, it could be alternatively argued that the John C. Calhoun statue is now the property of the Board of Field Officers.**
53. That at or around the time the City executed February 17, 2021, Quit Claim Deed, recorded on or about February 28, 2022, at Book 1082, Page 804 in the Charleston County R.O.D. office [in which the City gave, donated, remised and released and forever quit-claimed back to Board of Field Officers the original thirty-six (36’) x thirty-six (36’) square feet originally given in 1885 to the Ladies’ Calhoun Monument Association] the City also made an oral promise to the Board of Field Officers to give it the “right to be heard” as to the ultimate disposition of the John C. Calhoun Monument, which was memorialized by a June 22, 2020 email between Board of Field Officers’ former counsel and the Corporation Counsel for the City of Charleston.
54. Notwithstanding the clear terms of the trust by which the City of Charleston holds the Calhoun Monument – as well as its promise to the Board of Field Officers – the City of Charleston unilaterally decided to remove the monument from its current position and had considered the transfer of possession to a Los Angeles, California museum exhibit which appears purposed to denigrate and demean figures such as John C.

Calhoun it associates with what it calls the 'lost cause'. It still reserves this right to this day.

55. If the City of Charleston in fact transfers possession of the Calhoun Monument to any out-of-area museum or third-party anywhere outside the area – the residents of Charleston and the State of South Carolina – who are the intended beneficiaries of the Calhoun Monument – will be deprived of their enjoyment of same.
56. If the City of Charleston in fact transfers possession of the Calhoun Monument to any out-of-state museum or third-party anywhere – the Calhoun Monument will no longer be in the jurisdiction of South Carolina and the Attorney General of South Carolina will lose the power to supervise the charitable *res* for which the people of the State of South Carolina are the only intended beneficiaries.

FIRST CAUSE OF ACTION:

**DECLARATORY JUDGMENT OF VIOLATION OF THE HERITAGE ACT,
SOUTH CAROLINA STATUTES ANNOTATED 10-1-165**

57. Petitioners repeat and reallege each and every allegation set forth above as if set forth fully herein.
58. The Calhoun Monument is a monument protected by the provisions of South Carolina Statutes Annotated 10-1-165.
59. The South Carolina legislature has not affirmatively acted to authorize the City of Charleston to remove, even temporarily, the Calhoun Monument.
60. Upon information and belief, the City of Charleston's transfer of possession of the Calhoun Monument to a third party located in Los Angeles, CA, or any other entity,

without affirmative authorization from the South Carolina legislature, would violate the Heritage Act, South Carolina Statutes Annotated 10-1-165.

SECOND CAUSE OF ACTION:

**DECLARATORY JUDGMENT THAT THE CALHOUN MONUMENT IS
HELD IN CHARITABLE TRUST BY THE CITY OF CHARLESTON,
AND A WRIT OF MANDAMUS FOR ATTORNEY GENERAL ALAN WILSON
TO ENFORCE THAT CHARITABLE TRUST**

61. Petitioners repeat and reallege each and every allegation set forth above as if set forth fully herein.
62. The transfer of the Calhoun Monument by the Ladies' Calhoun Monument Association in trust to be held by the City of Charleston for the benefit of all citizens of South Carolina created a charitable trust.
63. The purpose of the charitable trust created by the Ladies' Calhoun Monument Association was to preserve an important and integral part of the history of South Carolina by commemorating one of its most historically significant statesmen, John Caldwell Calhoun.
64. The trustee for the charitable trust created by the Ladies' Calhoun Monument Association was and is the City of Charleston.
65. As trustee of that charitable trust, the City of Charleston holds the Calhoun Monument in trust for the benefit of the people of South Carolina, and not for the benefit of anyone else, and Mayor Tecklenburg, as the executive of the City of Charleston, must act within the parameters of the charitable trust and the Heritage Act.

66. The City of Charleston's proposal to transfer possession of the Calhoun Monument to a museum outside the area in no way benefits the people of Charleston, nor the people of the State of South Carolina.
67. If the City of Charleston completes the transfer of possession of the Calhoun Monument to any party outside the State of South Carolina, including but not limited to the previously proposed museum in Los Angeles, California, the *res* of the charitable trust created by the Ladies' Calhoun Monument Association will be placed outside of the jurisdiction of the South Carolina courts and the South Carolina Attorney General's oversight control, thereby effectively dissipating the charitable *res* and denying it to its intended charitable beneficiaries, who are the people of South Carolina.
68. The Attorney General of South Carolina, Respondent Alan Wilson, is one of the persons with legal authority and responsibility to enforce the terms of charitable trusts within the State of South Carolina. South Carolina Code Annotated § 62- 7-405(c); *see also, Furman Univ. v. McLeod*, 238 S.C. 475, 482, 120 S.E.2d 865, 868 (1961), South Carolina Code Annotated § 1-7-130.
69. Respondent South Carolina Attorney General Alan Wilson has a legal duty to protect the *res* of the charitable trust created by the Ladies' Calhoun Monument Association and **to Defend the Monuments and Memorials protected under the Heritage Act.**
70. To date, Respondent South Carolina Attorney Alan Wilson has taken no action to protect the *res* of the charitable trust created by the Ladies' Calhoun Monument Association and held by Respondent City of Charleston.

71. The duty of the Attorney General to enforce the terms of a charitable trust is a ministerial duty and not a discretionary duty.
72. Accordingly, Petitioners request that this Honorable Court issue a writ of mandamus ordering Attorney General Alan Wilson to take action to protect the *res* of the charitable trust created by the Ladies' Calhoun Monument Association and held by Respondent City of Charleston.

THIRD CAUSE OF ACTION:

DECLARATORY JUDGMENT THAT PETITIONERS MARK CALHOUN, F. PRESTON WILSON & ANDREW PICKENS CALHOUN ARE PERSONS "AMONG OTHERS" IDENTIFIED IN SOUTH CAROLINA STATUTES ANNOTATED § 62-7-405(C) THAT MAY ENFORCE THE TERMS OF THE CHARITABLE TRUST CREATED BY THE LADIES' OF CALHOUN MONUMENT ASSOCIATION

73. Petitioners repeat and reallege each and every allegation set forth above as if set forth fully herein.
74. South Carolina Code Annotated § 62-7-405(c) provides that "[t]he settlor of a charitable trust, the trustee, and the Attorney General, among others may maintain a proceeding to enforce the [terms of a charitable] trust" (emphasis supplied).
75. The intended charitable beneficiaries of the Calhoun Monument are the citizens of the State of South Carolina.
76. Petitioner F. Preston Wilson is a direct descendant of the charitable trust's settlor. Petitioner Mark Calhoun is a resident of the City of Charleston and a descendent of

the Calhoun family, and Petitioner Andrew Pickens Calhoun, former Calhoun representative on the board of Clemson University for historic preservation for a quarter-century, is a descendant of the Calhoun family with a familial interest in the Statue as a memorial honoring their ancestor as an iconic and honored South Carolinian and an interest in preserving the historical memory of their ancestor.

77. The Board of Field Officers has standing for this cause of action due to its continual presence and involvement, specifically at the time of quit claims involving (1) the city and the Ladies' Calhoun Monument Association and (2) the Ladies' Calhoun Monument Association and the Board; construction of two monuments; and the eventual return of its property.
78. Petitioners are in the class of "among others" identified in South Carolina Code Annotated § 62- 7-405 (c) who may maintain an action to enforce the terms of the charitable trust for which the Calhoun Monument is the *res*.

FOURTH CAUSE OF ACTION:

DECLARATORY JUDGMENT THAT PETITIONER

BOARD OF FIELD OFFICERS HAS A VALID CONTRACT WITH CITY

79. Petitioners repeat and reallege each and every allegation set forth above as if set forth fully herein.
80. That the oral promise to the Board of Field Officers by the city, giving it the "right to be heard" as to the ultimate disposition of the Calhoun Monument (which was memorialized by a June 22, 2020 email between Board of Field Officers' former counsel and the Corporation Counsel for the City of Charleston) constitutes a valid

and enforceable contract between it and the City, for which the consideration given by the parties was that the city would give the Board of Field Officers the right to be heard and the Board of Field Officers would not bring action against the city for moving the Calhoun Monument.

81. That the Board of Field Officers can enforce this contract against the City of Charleston, which has not followed its contractual obligations to the Board of Field Officers.

WHEREFORE, your Petitioners respectfully pray that this Honorable Court orders the following relief:

- (a) An Order declaring that the City of Charleston's action in removing the Calhoun Monument without specific authorization from the South Carolina legislature violates the Heritage Act, South Carolina Statutes Annotated § 10-1-165;
- (b) An Order declaring that the City of Charleston holds the Calhoun Monument as a charitable trust for the benefit of the public of the citizens of South Carolina;
- (c) An Order declaring that the Attorney General of the State of South Carolina, Respondent Alan Wilson, is one of the persons who have an obligation under South Carolina Statutes Annotated § 62-7-405(c) to enforce the terms of the charitable trust by which the City of Charleston holds the Calhoun Monument;
- (d) A writ of mandamus against Attorney General Alan Wilson, ordering him to take action to protect the public by enforcing the terms of the charitable trust by which the City of Charleston holds the Calhoun Monument;
- (e) An Order declaring that Petitioners, as concerned members of the public of South Carolina, have standing to enforce the terms of the charitable trust in light

of the Attorney General's default on his responsibility to enforce the charitable trust by which the Calhoun Monument is held;

(f) An Order prohibiting the City of Charleston from transferring possession of the Calhoun Monument to any party outside of the jurisdiction of the State of South Carolina and/or outside of the jurisdiction of the Attorney General to oversee and enforce same;

(g) A writ of mandamus against the City of Charleston, Ordering the City to replace the Calhoun Monument in the same location where it was before the City took it down in what appears to be in anticipation of transferring possession of same to a party outside of this jurisdiction or, in a similar location within the city of Charleston, as agreed to by the parties, and in the same manner;

(h) An Order declaring that the City must keep its oral promise (memorialized in a June 22 email) to the Board of Field Officers as a valid and enforceable contract; and

(i) Such other and further relief as this Court may deem just and proper.

(Signature Page To Follow)

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