

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Hope Brown and Thomas Lott, on behalf of themselves and all others similarly situated,)

Plaintiff,)

vs.)

South Carolina Public Service Authority (also known as Santee Cooper) and SCANA Corporation,)

Defendants.)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2017-CP - 40 - 02409

Submitted By: A. Camden Lewis
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NOTE: The coversheet 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 coversheet 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 Court Annexed Alternative Dispute Resolution Rules.
- This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
- This case is exempt from ADR. (Proof of ADR/Exemption 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"/> General (130) <input type="checkbox"/> Breach of Contract (140) <input type="checkbox"/> Fraud/Bad Faith (150) <input type="checkbox"/> Failure to Deliver/Warranty (160) <input type="checkbox"/> Employment Discrim (170) <input type="checkbox"/> Employment (180) <input checked="" 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) Previous Notice of Intent Case # 20__-NI-____- <input type="checkbox"/> Notice/ File Med Mal (230) <input type="checkbox"/> Other (299) | <p>Torts - Personal Injury</p> <ul style="list-style-type: none"> <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"/> Wrongful Death (360) <input type="checkbox"/> Assault/Battery (370) <input type="checkbox"/> Slander/Libel (380) <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"/> Mandamus (520) <input type="checkbox"/> Habeas Corpus (530) <input type="checkbox"/> Other (599) <p>Constitutional Taking</p> | <p>Administrative Law/Relief</p> <ul style="list-style-type: none"> <input type="checkbox"/> Reinstate Drv. License (800) <input type="checkbox"/> Judicial Review (810) <input type="checkbox"/> Relief (820) <input type="checkbox"/> Permanent Injunction (830) <input type="checkbox"/> Forfeiture-Petition (840) <input type="checkbox"/> Forfeiture-Consent Order (850) <input type="checkbox"/> Other (899) | <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"/> Transfer of Structured Settlement Payment Rights Application (760) <input type="checkbox"/> Confession of Judgment (770) <input type="checkbox"/> Petition for Workers Compensation Settlement Approval (780) <input type="checkbox"/> Other (799) | <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"/> Public Service Comm. (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"/> Other (699) <input type="checkbox"/> Sexual Predator (510) <input type="checkbox"/> Permanent Restraining Order (680) | <ul style="list-style-type: none"> <input type="checkbox"/> Pharmaceuticals (630) <input type="checkbox"/> Unfair Trade Practices (640) <input type="checkbox"/> Out-of-State Depositions (650) <input type="checkbox"/> Motion to Quash Subpoena in an Out-of-County Action (660) <input type="checkbox"/> Pre-Suit Discovery (670) | | |

2017 SEP 8 PM 3:30

Submitting Party Signature: _____

Date: September 8, 2017

SCANNED

EXHIBIT A

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRPC, Rule 1, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

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

Pursuant to the ADR Rules, you are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs.
4. Cases 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. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. 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 has 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)
)
 COUNTY OF RICHLAND)
)
 Hope Brown and Thomas Lott, on)
 Behalf of themselves and all others)
 Similarly situated,)
)
 Plaintiffs,)
)
 v.)
)
 South Carolina Public Service)
 Authority (also known as Santee)
 Cooper) and SCANA Corporation,)
)
 Defendants.)

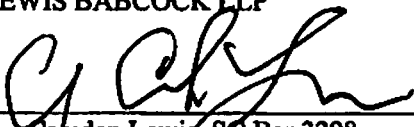
IN THE COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

SUMMONS

2017 SEP -8 PM 3:16
 COURT OF COMMON PLEAS
 FIFTH JUDICIAL CIRCUIT

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is hereby served upon you, and to serve a copy of your Answer to said Complaint on the subscriber at their offices, 1513 Hampton Street, Post Office Box 11208, Columbia, South Carolina, 29211, within Thirty (30) days after the service hereof, exclusive of the date 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.

LEWIS BABCOCK LLP

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 Ariail E. King, SC Bar 8952
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Attorneys for Plaintiffs

Columbia, South Carolina
 September 8, 2017.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS
FOR THE FIFTH JUDICIAL CIRCUIT
CIVIL ACTION NO. _____

Hope Brown and Thomas Lott,)
on behalf of themselves and all others)
similarly situated,)

Plaintiffs,)

v.)

South Carolina Public Service Authority)
(also known as Santee Cooper) and)
SCANA Corporation,)

Defendants.)

COMPLAINT
(Jury Trial Demanded)

2017 SEP -8 PM 3:16
ADAM R. M. JONES
CCLP/2017

The Plaintiffs, Hope Brown and Thomas Lott, complaining of the Defendants herein, would respectfully show unto this Court as follows:

THE PARTIES

1. Plaintiff Hope Brown is a citizen and resident of Florence County, South Carolina, and is a customer of Defendant South Carolina Public Service Authority.
2. Plaintiff Thomas Lott is a citizen and resident of Richland County, South Carolina, and is a customer of SCE&G, SCANA's wholly owned subsidiary.
3. The governmental Defendant is the statutorily-created South Carolina Public Service Authority ("SCPSA" or "Santee Cooper").
4. Defendant SCANA Corporation was created and exists under the laws of the State of South Carolina and is headquartered in Richland County, South Carolina.

JURISDICTION AND VENUE

5. Jurisdiction and venue are proper in the instant case under Article V, § 11, of the South Carolina Constitution and South Carolina Code Annotated § 14-1-80.

6. This case centers upon a Constitutional taking. As described by United States Supreme Court Justice Oliver Wendell Holmes, laws and regulations that go too far will be recognized as a taking. *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393 (1922).

PLAINTIFF CLASS

7. Plaintiffs bring this action on behalf of themselves and, pursuant to Rule 23 of the South Carolina Rules of Civil Procedure, as representatives of a class defined as follows:

All South Carolina customers of Santee Cooper or SCANA, receiving electric service, directly or indirectly, who have been charged (and who will continue to be charged) for the costs of the Virgil C Summer Nuclear Generating Station (V.C. Summer) Units 2 and 3 project, which has now been abandoned with no services rendered.

8. The members of the class are a “captured class” in that Defendants are the only options for the basic necessity of electricity.

9. Members of the plaintiff class are so numerous as to make joinder of all members impracticable. Plaintiff Class is informed and estimates that that class membership will be approximately one million (1,000,000) persons.

10. There are questions of law and fact that are common to Plaintiffs and to all members of the Plaintiff Class; and these questions predominate over questions, if any, that may affect only individual plaintiffs or individual members of Plaintiff Class inasmuch as the unlawful and unconstitutional activity alleged herein is of a character that is generally applicable to the Plaintiffs and Plaintiff Class members. Among the questions of law and fact common to Plaintiffs and the Class they represent are:

- (a) Whether Defendant Santee Cooper's actions in taking the class's monies for nothing constitute a taking in violation of the South Carolina and United States Constitutions;
- (b) Whether Defendant Santee Cooper has violated the class's rights to due process in violation of the South Carolina and United States Constitutions by taking money for nothing;
- (c) Whether Defendant Santee Cooper acted under color of law to deprive the class of their constitutional rights to be protected against takings without just compensation and/or violations of due process, in contravention to 42 U.S.C.A § 1983;
- (d) Whether Defendants have conspired to deprive the class of their property rights guaranteed by the South Carolina and United States Constitutions.

11. Plaintiffs' claims are typical of the claims of the members of the Plaintiff Class that they represent, as Plaintiffs and members of the Plaintiff Class will lose clearly ascertainable amounts of money in excess of One Hundred Dollars (\$100.00) by paying Defendants the illegal rates charged each month.

12. Plaintiffs will fairly and adequately protect the interest of the Plaintiff Class that they represent. The interests of the Plaintiffs are coincident with, and not antagonistic to, those of the Plaintiff Class. Plaintiffs are represented by counsel who are experienced and competent in the prosecution of complex class action litigation.

13. Class action treatment of the matters at issue in this controversy is superior to the alternatives, if any, for the fair and efficient adjudication of such issues, because such treatment will permit a larger number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence,

effort, and expense that numerous individual actions would entail. Class action treatment in this case will have the added virtue of permitting the adjudication of what may be relatively small claims by certain members of the Plaintiff Class, for whom it would otherwise not be financially feasible to litigate their claims as individual actions against the Defendants.

14. As to each class member, the amount in controversy exceeds One Hundred Dollars (\$100.00) as set forth above.

15. Plaintiffs are aware of no difficulty in the management of this action that would preclude it from being maintained as a class action.

GENERAL ALLEGATIONS

16. Plaintiffs are all customers of Defendants Santee Cooper or SCANA and are exclusively tied to Defendants as there are no other options for electrical service. Defendants Santee Cooper and SCANA are engaged in the business of selling and transmitting electric power in South Carolina. Defendant Santee Cooper sells/transmits electric power directly to customers and to South Carolina's electric cooperatives throughout the State. Defendant SCANA sells/transmits electricity to customers through its wholly-owned subsidiary, SCE&G.

17. Starting in or around 2007, Defendants began charging Plaintiffs and their other customers the fictitious costs of constructing non-existent nuclear reactors known as the V.C. Summer project ("the Project"). Before construction began, Defendants charged their customers money in order to raise money and avoid carrying the burden for the fictitious Project construction costs. Plaintiffs were forced to pay for the alleged Project without receiving any benefit at any time. Instead, Plaintiffs' monies were taken from them by Defendants.

18. Defendants knew for years that the Project was doomed to fail because, inter alia: no detailed engineering design had ever been completed, which affects the performance of

procurement and construction; the plans and schedules for the Project did not reflect actual project circumstances; the construction contract was not aligned with Project goals; the construction designs were often “not constructible” which caused significant changes and delays; and that there was a lack of shared vision, goals, and accountability among Defendants. In addition, Defendants did not adequately manage the Project and had no team to assess or verify contractors’ progress reports. Despite knowledge of the imminent failure of the Project, Defendants failed to resolve the problems and continued to use the Project as a cash cow. In other words, Defendants collected billions of “fees for nothing” from their customers.

19. Defendants have now charged Plaintiffs and the putative class over \$9 billion dollars under the color of state law, without ever getting the Project functioning and now plan to charge Plaintiffs for the cost of abandonment and to recoup additional funds for the Project in the future. In other words, Plaintiffs have paid money for nothing and will continue to pay money for nothing.

20. Defendants took Plaintiffs’ property (their money) without just compensation and have provided no benefit to the Plaintiffs and thus, the Defendants’ actions serve as an unconstitutional taking; a violation of due process; a violation of 42 U.S.C.A. § 1983; and a conspiracy to deprive Plaintiffs of their constitutional property rights.

FOR A FIRST CAUSE OF ACTION
(Unlawful Taking as to Defendant Santee Cooper)

21. The allegations of Paragraphs 1 through 20 above are incorporated herein by reference as if set forth herein verbatim.

22. The Fifth Amendment of the United States Constitution provides that private property shall not be taken for public use without just compensation. The South Carolina

Constitution also prohibits the taking of private property for public use without just compensation. S.C. Const. art. I, § 13(A).

23. Defendant Santee Cooper is an arm of the State. Defendant Santee Cooper has taken Plaintiffs' property (their money) without just compensation. This illegal taking is disguised as a payment for the Project but is merely a confiscation of its customers' money for which Plaintiffs will receive nothing in return.

24. Defendant Santee Cooper's actions violated the protections afforded all citizens against unlawful takings contained in both the United States and South Carolina Constitutions.

25. As a result of Defendant Santee Cooper's actions, Plaintiffs are entitled to damages in an amount to be more specifically proven at trial and/or the proceeds of a sale of SCE&G and/or Santee Cooper as a refund to the customers (and thereafter to the State and shareholders).

FOR A SECOND CAUSE OF ACTION
(Violation of 42 U.S.C.A. § 1983 as to Defendant Santee Cooper)

26. The allegations of Paragraphs 1 through 25 above are incorporated herein by reference as if set forth herein verbatim.

27. Defendants' charges required Plaintiffs and the lass to pay for the construction of the Project (and later the abandonment of the Project) even before Santee Cooper had incurred any debt for such Project and even though Plaintiffs have not and will not receive any benefit from these required payments.

28. Defendants have oppressively, arbitrarily, capriciously and unreasonably deprived Plaintiffs of their money under the color of law and charged Plaintiffs money for a fictitious project. As such, Defendant Santee Cooper has deprived Plaintiffs of their rights to due process under the Fourteenth Amendment and their rights to just compensation for a takings under the Fifth Amendment, and therefore, Defendants have violated 42 U.S.C.A. § 1983.

FOR A THIRD CAUSE OF ACTION
(Violation of Due Process as to Defendant Santee Cooper)

29. The allegations of Paragraphs 1 through 28 above are incorporated herein by reference as if set forth herein verbatim.

30. The Fourteenth Amendment of the United States Constitution provides that no state shall deprive any person of life, liberty or property without due process of law. Art. 1 § 3 of the South Carolina Constitution also contains such a provision.

31. Defendant Santee Cooper has no oversight for their actions in building the Project, as demonstrated by the Report of Bechtel Power Corporation, dated February 2016, in which it noted that there was: a lack of shared vision, goals, and accountability by Santee Cooper (and SCANA/SCE&G); that the plans and schedules were not reflective of actual project circumstances; that a detailed engineering design had never been completed; that SCANA's oversight approach had failed to allow for real-time appropriate cost and schedule mitigation; and that the design was often not constructible. At all times, it was clear to Defendants they were charging, and Plaintiffs were paying, for nothing.

32. As a result of Santee Cooper's actions (or inactions), Plaintiffs are being deprived of the use and enjoyment of their property without due process of law in violation of the South Carolina and United States Constitutions.

FOR FOURTH CAUSE OF ACTION
(Conspiracy under 42 U.S.C.A § 1983 as to all Defendants)

33. The allegations of Paragraphs 1 through 32 above are incorporated herein by reference as if set forth herein verbatim.

34. Defendants, through their agents and/or employees, conspired for the purpose of depriving, either directly or indirectly, the Plaintiffs' property rights guaranteed to Plaintiffs under the United States and South Carolina Constitutions.

35. In furtherance of this conspiracy, Defendants charged money for nothing. In other words, Defendants charged, and Plaintiffs paid, for the construction of a fictitious project thereby allowing Defendants to hide their misdeeds and take Plaintiffs' monies.

36. Defendants acted under color of state law and authority, and the acts done in furtherance of the conspiracy resulted in an injury to Plaintiff's property in an amount to be further proven at trial.

37. The conduct of Defendants was willful, wanton, and reckless and therefore warrants the imposition of all allowable charges or penalties.

FOR A FIFTH CAUSE OF ACTION
(Unjust Enrichment as to All Defendants)

38. The allegations of Paragraphs 1 through 37 above are incorporated herein by reference as if set forth herein verbatim.

39. Plaintiffs conveyed a benefit to Defendants by paying monies to Defendants for the Project.

40. Defendants accepted these benefits but failed to provide a complete and functional Project. It would be inequitable to allow Defendants to retain this benefit since they have provided nothing to Plaintiffs.

41. Defendants should be required to disgorge all monies Plaintiffs paid for the Project. In addition, Defendants should be required to sell their assets and provide the proceeds to Plaintiffs until such time as the Plaintiffs are made whole.

FOR A SIXTH CAUSE OF ACTION
(Money Had and Received as to All Defendants)

42. The allegations of Paragraphs 1 through 41 above are incorporated herein by reference as if set forth herein verbatim.

43. Defendants have charged Plaintiffs and the putative class over \$9 billion dollars under the color of state law, and continue to charge Plaintiffs for a failed Project.

44. Plaintiffs have paid money to Defendants, and Defendants have provided nothing to Plaintiffs.

45. In equity and good conscience this money belongs to Plaintiffs because Defendants have provided nothing in exchange to Plaintiffs.

WHEREFORE, Plaintiffs pray for an Order from this Court certifying the class, designating Plaintiffs as class representatives and below-signed counsel as class counsel, awarding damages to Plaintiffs and the Plaintiff Class as to all causes of action in an amount to be determined at trial, punitive damages if permitted by law, attorneys' fees and costs, as well as such further relief as the Court deems just and appropriate.



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Attorneys for the Plaintiffs

Columbia, South Carolina
September 8, 2017