In the Supreme Court of South Carolina

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

Request for Expedited Consideration

South Carolina Public Interest Foundation; **James Weninger**, *Petitioners*, v. **Henry McMaster**, in his official capacity as Governor of the State of South Carolina; **Major General Robin B. Stilwell**, in his official capacity as Adjutant General of the South Carolina National Guard; *Respondents*.	)	CASE NO.

PETITION FOR ORIGINAL JURISDICTION

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INTRODUCTION

On November 26, 2025, Governor McMaster sent 300 South Carolina National Guard personnel to police routine street crime in the District of Columbia. Because the deployment exceeded the Governor's authority under South Carolina law, Petitioners seek declaratory and injunctive relief.[1]

The Governor's authority as commander-in-chief is not unchecked. Ninety-one years ago, in *Hearon v. Calus*, 178 S.C. 381, 183 S.E. 13 (1935), this Court used its original jurisdiction to construe and enforce the legal limits on the Governor's authority over the state's military forces. Today, Petitioners ask this Court to do it again. Consistent with the Court's role within our constitutional structure, the Court should accept this important matter under its original jurisdiction, examine the General Assembly's limits on National Guard deployments under S.C. Code § 25-1-1840, and then vindicate those limits by declaring the deployment to be in excess of the Governor's lawful authority and to issue a permanent injunction vacating Governor McMaster's agreement to the Title 32 deployment.

Unquestionably, this case carries sharp political valence. Some political leaders have applauded the deployment of National Guard troops to Washington D.C., while others have condemned it. But make no mistake: this case asks a purely legal question. Petitioners are entitled to relief because the deployment is unlawful, not because it is unwise.

[1] Rather than seeking preliminary injunctive relief, Petitioners respectfully ask that the Court order expedited briefing and argument on the merits of their claim. The Governor does not object to the Court ordering expedited briefing on this Petition.

BACKGROUND

I. Types of National Guard Deployments

The National Guard is a hybrid military force that is governed by both federal and state law. It is a reserve component that is subject to the commands of both the President and state governors.

National Guard troops may be deployed in any of three ways.

First, the Guard can be called into federal service by the President under Title 10 of the United States Code. *See* 10 U.S.C. § 12301, *et seq*. In a Title 10 deployment, governors have no discretion over whether to comply: the National Guard personnel are immediately federalized and become members of the United States Army Reserve or Air Force Reserve. Title 10 is the legal mechanism by which President Trump has federalized, for example, the California, Oregon, and Illinois National Guards. *See, e.g.*, *Newsom v. Trump*, 786 F.Supp.3d 1235 (N.D. Cal. 2025), administrative stay granted on other grounds, 141 F.4th 1032 (9th Cir. 2025), denying rehearing en banc, 158 F.4th 984 (9th Cir. 2025).

In the other two types of deployments, the National Guard is not federalized under Title 10 and instead stays "under the command of the state Governor." *Ass'n of Civilian Technicians, Inc. v. United States*, 603 F.3d 989, 993 (D.C. Cir. 2010). These two types of deployments are: a traditional state deployment (such as assisting with in-state disaster recovery), or a deployment under Title 32 of the United States Code. Under Title 32, the Guard is deployed under the command of the state governor, but "at the *request* of the President or Secretary of Defense." 32 U.S.C. § 502(f) (emphasis added). Governors are not required to consent to Title 32 requests, and their decisions concerning whether to agree are constrained by their respective state law. "In other words, Title 32 covers those activities performed by state National Guard units when they remain under the control of their own state

governors and generals but receive federal funding to assist with a federal mission." *District of Columbia v. Trump*, No. 25-cv-3005 (JMC), 2025 WL 3240331, at *3 (D.D.C. Nov. 20, 2025), injunction stayed administratively on other grounds, 2025 WL 3673674 (D.C. Cir. Dec. 17, 2025). *See also* Brief of Amici Curiae States of South Carolina, West Virginia, and 21 Additional States in Support of Defendants' Opposition to Plaintiff's Motion for Preliminary Injunction, *District of Columbia v. Trump*, 2025 WL 3089667, § II(b) (Sep. 16, 2025) ("The President requested assistance from the States . . . – a request which the Governors of the States did not have to yield to[.]"); *id.* ("*Amici* States . . . are in the best position to speak to the actions and intentions behind the deployment; the troops were deployed pursuant to their Governors' orders under Title 32 status.").

II. South Carolina's Limits on National Guard Deployment

The South Carolina Constitution designates the Governor as commander-in-chief of the state militia. S.C. Const., art. IV, § 13. But the Governor may only activate and deploy the Guard within the constraints set by the Legislature, and legislative limits in South Carolina (and many other states) have been in place for decades. *See District of Columbia v. Trump*, 2025 WL 3240331, at *12 (D.D.C. Nov. 20, 2025) ("A brief survey of state law demonstrates that state constitutions and statutes often have separate provisions (1) designating the governor as commander in chief and (2) listing the situations in which the governor can deploy the state militia."), injunction stayed administratively on other grounds, 2025 WL 3673674 (D.C. Cir. Dec. 17, 2025).

The South Carolina Legislature has enacted two Sections of the South Carolina Code that cabin the Executive Branch's power to activate and to deploy the National Guard: Sections 25-1-1820 and 25-1-1840.

Section 25-1-1820 provides the circumstances under which the South Carolina National Guard can be called to active duty:

> The National Guard shall not be subject to active duty other than training duty, except (a) in case of war, (b) in event or danger of invasion by a foreign nation, (c) there is a rebellion or danger of rebellion against the authority of the government of the United States, (d) the President issues orders to execute the laws of the United States, (e) for preventing, repelling or suppressing invasion, insurrection or riot, (f) for aiding civil officers in the execution of the laws, in which cases the Governor or local commander as provided for in Sections 25-1-1840 to 25-1-1880 shall order out for active service, by draft or otherwise, as many of the National Guard as necessity demands, or (g) during natural disaster or local emergency whenever the lives and property of the State's citizens are threatened.

S.C. Code Ann. § 25-1-1820.

Section 25-1-1840 authorizes the Governor to deploy active-duty National Guard personnel:

> [i]n the event of (a) war, insurrection, rebellion, invasion, tumult, riot or a mob, (b) a body of men acting together by force with intent to commit a felony, to offer violence to persons or property or by force and violence to break and resist the laws of this State or of the United States, (c) in case of the imminent danger of the occurrence of any such events or (d) in the event of public disaster[.]

S.C. Code Ann. § 25-1-1840.

South Carolina law also permits the deployment of National Guard personnel outside the state, when requested, to assist with "natural disasters, technological hazards, man-made disasters, civil emergency aspects of resources shortages, community disorders, insurgencies, or enemy attacks," through the Emergency Management Assistance Compact (EMAC). *See* S.C. Code § 25-9-420. But the deployment ongoing in Washington, D.C., is a Title 32 deployment, not an EMAC

deployment. *See infra* Background, Part III. Therefore, EMAC is not relevant here. *See also infra* Grounds for Relief, Part I.C.

III. Governor McMaster's National Guard Deployments to D.C.

In August 2025, during hurricane season, Governor McMaster deployed 200 National Guard personnel to the District of Columbia in response to President Trump's request for military support to "restore law and order" to the Capital.[2] A video montage of that first deployment shows the South Carolina National Guard personnel strolling down empty sidewalks, working out at the gym, and doing target practice a the shooting range.[3] According to the Defense Visual Information Distribution Service ("DVIDS"), South Carolina's troops worked to "ensure[ ] Washington, D.C. remains safe and beautiful" by "mak[ing] efforts to prevent and intervene in criminal activity, provide immediate medical aid to people in need, and instill a general feeling of ease."[4] That deployment lasted more than a month, with troops returning home in mid-September.[5]

Then, on November 26, 2025, Governor McMaster announced that "over 300 SC Guardsmen will be returning to Washington, DC."[6] The Governor stated that the deployment was in response to an "open-ended" request from the U.S. Secretary

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[2] Office of the Governor, *Gov. Henry McMaster Authorizes Deployment of National Guard to Washington, D.C.,* SC.Gov (Aug. 16, 2025), https://perma.cc/2TRK-SJXH.

[3] Defense Visual Information Distribution Service (DVIDS), *South Carolina National Guard Supports D.C. Safe and Beautiful Mission* (Oct. 23, 2025) (available at https://www.dvidshub.net/video/985357/south-carolina-national-guard-supports-dc-safe-and-beautiful-mission).

[4] NVIDS, "National Guard Soldiers Promote Cleanliness, Beauty and Mission Readiness" (Oct. 21, 2025), https://perma.cc/UXH9-7ZK7.

[5] *South Carolina National Guard members return from Washington, DC*, WYFF4 (Sep. 21, 2025), https://perma.cc/6MEJ-9KZS.

[6] Gov. Henry McMaster (@henrymcmaster), X, (Nov. 26, 2025), https://perma.cc/JSN5-4S93.

of the Army.[7] In the days that followed, Governor McMaster told news reporters: "They are ready to go. They're pleased to go; they're serious about it, and they'll do their job."[8] Governor McMaster has made no attempt to justify these extraterritorial deployments under South Carolina law, and the duration of the present deployment is undetermined.

Like the August deployment, the November deployment is being funded by the federal government under Title 32.[9] As a result, the troops are not "federalized" and remain under the command of Governor McMaster. The Mayor of Washington, D.C., who is the District's authorized representative under the EMAC, opposes the deployment of National Guard troops in the District and has sued the federal government to halt it. *See* D.C. Code § 7-2332; *see also District of Columbia v. Trump*, 2025 WL 3240331.

IV. Circumstances in the District of Columbia

When Governor McMaster first deployed National Guard personnel to Washington, the Capital's violent crime rate was at a 30-year low. Guard members deployed to the city have repeatedly refuted the existence of any emergency,[10] and in the absence of critical Guard duties, Guardsmen and Guardswomen have been

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[7] Marley Bassett, *'Happy to do it': McMaster explains S.C. National Guard members' return to D.C.*, WRDW (Dec. 2, 2025, at 4:50am), https://perma.cc/DJ4A-3Q9B.

[8] Jessica Holdman, *SC sends 300 National Guard troops to DC in second deployment rotation*, S.C. Daily Gazette (Dec. 5, 2025, at 9:18am), https://perma.cc/8H5N-2Q8J.

[9] Marley Bassett, *'Happy to do it': McMaster explains S.C. National Guard members' return to D.C.*, WRDW (Dec. 2, 2025, at 4:50am), https://perma.cc/JQ84-PGPU.

[10] *See, e.g.*, Carla Babb, *Troops in DC Encounter Few Crises, But Plenty of Walking and Yard Work*, Military Times (Sep. 12, 2025), https://perma.cc/JW2C-NF4M ("Have I seen [an emergency]? I'd better not answer that," one deployed Guard member said while shaking his head. "Besides people falling off the steps, not really."); *see also id.* ("I think it could be nice to work here," said another Guard member).

assigned to other tasks: picking up trash, spreading mulch, and painting fences. *Id.* In October, "officials boasted that troops cleared 1,150 bags of trash, spread 1,045 cubic yards of mulch, removed 50 truckloads of plant waste, cleared 7.9 miles of roadway, painted 270 feet of fencing and pruned 400 trees." Konstantin Tropin, "DC National Guard Deployment in the Nation's Capital Ordered by Trump is Extended to Feb. 28," Konstantin Toropin, *DC National Guard Deployment in the Nation's Capital Ordered by Trump Is Extended to Feb. 28*, Military Times (Nov. 6, 2025), https://perma.cc/8U7U-WQXU.

GROUNDS FOR ORIGINAL JURISDICTION

South Carolina Appellate Court Rule 245 authorizes this Court to "entertain matters in its original jurisdiction . . . [i]f the public interest is involved, or if special grounds of emergency or other good reasons exist." *See also* S.C. Const. art. V, § 5. In essence, "Rule 245 is concerned with whether a case should be resolved by this Court in the first instance because of the public interest involved and the need for prompt resolution." *Carnival Corp. v. Hist. Ansonborough Neighborhood Ass'n*, 407 S.C. 67, 80, 753 S.E.2d 846, 853 (2014).

Challenges to the Governor's authority over the National Guard are properly resolved in the Court's original jurisdiction. *See, e.g.*, *Hearon v. Calus*, 183 S.E. 13 (1935). As it was in *Hearon* (which this Court also heard in its original jurisdiction), Petitioners' challenge to Governor McMaster's extraterritorial deployment of the National Guard is both important and urgent enough to warrant the Court's jurisdiction.

I. This case raises an important question of public interest.

Even the highest office in South Carolina comes with limits on its power. The Governor's authority is carefully constrained by the Constitution and by the duly

enacted laws of the legislature. The nature, extent, and enforceability of those limits are of exceeding importance to our state, its citizens, and to the rule of law.

This Court has often used its original jurisdiction to resolve challenges to highly consequential assertions of gubernatorial authority. In *Senate by and through Leatherman v. McMaster*, 425 S.C. 315, 821 S.E.2d 908 (2018), for example, the Court exercised its original jurisdiction to examine the governor's authority to make recess appointments. Likewise, in *Amisub of South Carolina, Inc. v. South Carolina Department of Health & Environmental Control*, 407 S.C. 583, 757 S.E.2d 408 (2014), the Court exercised its original jurisdiction to examine the scope of the governor's authority to issue line-item vetoes.

So too here. Deploying South Carolina National Guard personnel beyond our borders (and into a jurisdiction whose officials have opposed it) weakens the South Carolina National Guard, deprives our citizens of its services locally, and raises serious federalism and comity concerns. *See, e.g.*, *Drs. Hosp. of Augusta, L.L.C. v. CompTrust AGC Workers' Comp. Tr. Fund*, 371 S.C. 5, 8, 636 S.E.2d 862, 863 (2006). Indeed, sending armed forces into a state or territory of "equal dignity and authority," *Pennoyer v. Neff*, 95 U.S. (5 Otto) 714, 722 (1877), risks unsettling the delicate, federalist structure of our Nation. *See* Michael Bahar, *The Presidential Intervention Principle: The Domestic Use of the Military and the Power of the Several States*, 5 Harv. Nat'l Sec. J. 537, 575 (2014) (explaining, through several examples of federal intervention into state affairs, that "[c]onsultation and comity are critical, even when consent is not required").

Whether such a deployment is permissible under South Carolina law is undoubtedly a question of paramount public and legal importance, and a question properly answered by this Court in the first instance.

II. This matter demands prompt resolution.

This matter is time-sensitive, and requiring that it proceed through the lower courts will thwart Petitioners' bid for relief. The harms at stake in this case are ongoing, and they compound every day that the unlawful deployment continues. The end date for the deployment is currently indeterminate. Furthermore, the federal government has indicated that it intends to continue and to expand the practice of using National Guard personnel to police street crime (or for even more mundane tasks, such as raking leaves and painting fences), raising the possibility that the Governor might send the South Carolina National Guard to yet more states. Unless this Court addresses Governor McMaster's illegal deployment quickly, the present unlawful deployment will continue, and future deployments might occur before this case reaches this Court in the normal course. *See Carnival Corp*, 753 S.E.2d at 853 (noting that Rule 245 considers, in part, "the need for prompt resolution.").

Instructively, a Tennessee chancery court recently entered a preliminary injunction against its governor's Title 32 National Guard deployment ongoing in that state. *Harris v. Lee*, No. 25-1461-I, Order on Plaintiffs' Motion for Temporary Injunction (Chan. Ct. 20th Jud. Dist., Davidson Cnty., Tenn. Nov. 17, 2025). In so doing, it held (among other things) that the public interest supported an injunction, that the case "raises important questions concerning the use of the state's military forces for domestic law enforcement purposes," and that the injunction was necessary to address "immediate and irreparable harm." *Id.* at 32. This case presents the same interests, and the Tennessee court's reasoning supports both the invocation of this Court's original jurisdiction and its expedited consideration of Petitioners' claims.

III. The issues raised do not require development in the lower courts.

Finally, this case requires no factual development and presents a purely legal question. None of the pertinent facts can be disputed reasonably: Governor McMaster ordered the deployment, and he did so for the purpose of participating in a Title 32 operation. *See* Marley Bassett, 'Happy to do it': Gov. McMaster comments on SC National Guard members returning to DC, WIS10 (Dec. 1, 2025 at 4:18pm), https://perma.cc/4XTP-WEMZ; Donald J. Trump, *Restoring Law and Order in the District of* Columbia, The White House (Aug. 11, 2025), https://perma.cc/2U6Q-8LVK . All that this case requires from the Court is a legal determination of whether the Governor's actions exceed his legal authority, and that determination is not aided by factual or legal development in the circuit court.

GROUNDS FOR RELIEF

I. Governor McMaster's deployment of National Guard troops to Washington D.C. is *ultra vires.*

An official's action in excess of his statutory authority is *ultra vires* and unlawful. In this case, Governor McMaster's deployment exceeds the authority vested in him by Section 25-1-1840 of the South Carolina Code. Therefore, it is unlawful.

A. The Governor's discretionary deployment under Title 32 must be justified under state law.

When the President or Secretary of Defense requests that a state's governor undertake a Title 32 deployment, the state's decision is discretionary. Therefore, the decisions are cabined by state law. *See District of Columbia v. Trump*, No. 25-5418, 2025 WL 3673674, at *10 (D.C. Cir. Dec. 17, 2025) (noting that a remedy for a governor's unlawful assent to Title 32 deployment "would be a suit against that governor for violating state law.").

B. The Governor cannot satisfy any of the justifications for National Guard deployment under Section 25-1-1840.

The Governor's power to deploy the National Guard is provided by Section 25-1-1840 of the South Carolina Code. It allows the Governor to deploy the National Guard:

> [i]n the event of (a) war, insurrection, rebellion, invasion, tumult, riot or a mob, (b) a body of men acting together by force with intent to commit a felony, to offer violence to persons or property or by force and violence to break and resist the laws of this State or of the United States, (c) in case of the imminent danger of the occurrence of any of such events or (d) in the event of public disaster[.]

S.C. Code Ann. § 25-1-1840.

None of these provisions permits Governor McMaster's deployment. As an initial matter, South Carolina state law cannot authorize Governor McMaster's deployment based solely on triggering events outside the state's jurisdiction. *See, e.g.*, *Pennoyer v. Neff*, 95 U.S. (5 Otto) 714, 722 (1877) (It is "an elementary principle[] that the laws of one State have no operation outside of its territory, except so far as is allowed by comity."); *Drs. Hosp. of Augusta, L.L.C. v. CompTrust AGC Workers' Comp. Tr. Fund*, 371 S.C. 5, 8, 636 S.E.2d 862, 863 (2006) ("[T]he jurisdiction of a state is restricted to its own territorial limits.") (quoting *Ex parte First Pa. Banking & Trust Co.*, 247 S.C. 506, 507–08, 148 S.E.2d 373, 374 (1966)).

But even if it could, each provision within 25-1-1840 contemplates circumstances in which more than one person (and, more likely, a large group of people) collaborate in violence to threaten life and property on a large scale. *See id.* at (a). In contrast, Governor McMaster's deployment is simply to support routine law enforcement. Similarly, the deployment is not addressed at any "body of men acting together by force with intent to commit a felony, to offer violence to persons or property or by force and violence to break and resist the laws of this State or of

the United States," nor at any imminent risk thereof. *Id.* at (b), (c). The deployment's express purpose is to support everyday law enforcement in a foreign jurisdiction. The statute does not allow that.

C. The deployment cannot be justified under the EMAC.

Finally, the EMAC, by its plain terms, is not relevant to this case. *See* S.C. Code § 25-9-420 ("Nothing in this compact shall authorize or permit the use of military force by the National Guard of a state at any place outside that state."). And even beyond that, the EMAC requires a request for emergency assistance by the host state, and the Mayor of the District of Columbia—not the President—speaks for the District under the Compact. *See* D.C. Code § 7-2332.

Furthermore, an EMAC deployment and a Title 32 deployment are different creatures. *District of Columbia v. Trump*, No. 25-5418, 2025 WL 3673674, at *10 (D.C. Cir. Dec. 17, 2025) (EMAC "simply provides its signatories, including all States and the District, an avenue for independently seeking assistance from other Guard units wholly apart from any federal-law-based activation."). The operation ongoing in Washington, D.C., is a Title 32 deployment. EMAC is inapposite.

II. Petitioners are entitled to seek relief from Governor McMaster's unlawful deployment.

Both Petitioners have public importance standing to bring the claim pled in the Complaint. Additionally, Mr. Weninger has taxpayer standing and has been injured in fact.

A. All Petitioners have public interest standing to seek relief.

Both SCPIF and Mr. Weninger have public importance standing because the "issues are of significant public importance" and because the case "ensure[s] accountability and the . . . integrity of government action." *S.C. Pub. Int. Found. v. S.C. Dep't of Transp.*, 421 S.C. 110, 118, 804, S.E. 2d 854, 858–59 (2017) (citation

modified). In South Carolina, "a court may confer standing upon a party when an issue is of such public importance as to require its resolution for future guidance." *Baird v. Charleston Cnty.*, 333 S.C. 519, 531, 511 S.E.2d 69, 75 (1999). Cases of public importance may proceed "even without an allegation of particularized injury." *S.C. Pub. Int. Found. v. Wilson*, 437 S.C. 334, 341, 878 S.E.2d 891, 895 (2022); *see also S.C. Pub. Int. Found. v. S.C. Transp. Infrastructure Bank*, 403 S.C. 640, 646, 744 S.E.2d 521, 524 (2013) ("Sloan has not asserted [that] he has suffered a particularized harm or injury as a result of section 11-43-140, but we find this case fits within the public importance exception."). As the Court knows, Petitioner SCPIF (and its predecessor, Mr. Sloan) has routinely invoked public importance standing to challenge unconstitutional and/or *ultra vires* acts by South Carolina officials. *See, e.g.*, *S.C. Pub. Int. Found. v. S.C. Dep't of Transp.*, 421 S.C. 110, 119, 804 S.E.2d 854, 859 (2017) (granting public importance standing to address spending public money for private purposes); *S.C. Transp. Infrastructure Bank*, 403 S.C. at 645-46, 511 S.E.2d at 75 (granting public importance standing to address claims that DOT Commissioners were serving successive terms in violation of the authorizing statute); *Sloan v. Wilkins*, 362 S.C. 430, 437, 608 S.E.2d 579, 583 (2005), abrogated on other grounds by *Am. Petroleum Inst. v. S C. Dep't of Revenue*, 382 S.C. 572, 677 S.E.2d 16 (2009).

This case easily satisfies the Court's "public importance standing" analysis. Petitioners' argument—that Governor McMaster's deployment of the National Guard to the District of Columbia exceeds his lawful authority—raises fundamental questions of executive authority and the separation of powers. The public importance of this case is further sharpened by the effect that the Governor's extraterritorial deployment might have on interstate comity within our nation's federalist structure. This case's issue also cries out for future guidance. *See ATC S., Inc. v. Charleston Cnty.*, 380 S.C. 191, 199, 669 S.E.2d 337, 341 (2008) ("The key to

the public importance analysis is whether a resolution is needed for future guidance."). The National Guard deployment at issue in this case is Governor McMaster's second such deployment, showing a likelihood that he will continue sending National Guard personnel to participate in the ongoing Title 32 deployment in Washington, D.C., unless this Court intervenes.

Beyond those fundamental legal questions, Governor McMaster's deployment of the South Carolina National Guard expends limited resources that are critical in responding to emergencies in the state. For example, in the aftermath of Hurricane Helene, the National Guard "support[ed] road clearing, traffic control assistance, transportation, damage assessment (ground), vehicle recovery, general purpose troops for support, and security (non-armed) general purpose troops" in counties across the state.[11] Those efforts included distributing food and clean drinking water, logging more than 4,200 chainsaw hours, removing 2,525 trees, clearing 1,173 miles of roadways, and rescuing 57 people.[12] When deployed outside South Carolina, the National Guard does not retain its full capacity to address emergencies at home.

B. Mr. Weninger has taxpayer standing and has been injured in fact.

Additionally, Mr. Weninger has taxpayer standing. "A taxpayer's standing to challenge unauthorized or illegal governmental acts has been repeatedly recognized in South Carolina." *Sloan v. Sch. Dist. of Greenville Cnty.*, 342 S.C. 515, 520, 537 S.E.2d 299, 301 (Ct. App. 2000). As this Court has explained, "[p]ublic policy demands a system of checks and balances whereby taxpayers can hold public officials accountable for their acts. Taxpayers must have some mechanism of

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[11] SCEMD, *Update to Team SC Response and Recovery After Helene*, SCEMD (Oct. 1, 2024), https://perma.cc/8N7D-5AXD.

[12] SC NationalGuard, *Hurricane Helene Response 2024*, YouTube (Nov. 26, 2024), https://www.youtube.com/watch?v=pYTO-iyEJYw.

enforcing the law." *Sloan v. Dep't of Transp.*, 379 S.C. 160, 170, 666 S.E.2d 236, 241 (2008) (quoting *Sloan*, 342 S.C. at 523, 537 S.E.2d at 303). In this case, Governor McMaster's unlawful deployment implicates the public fisc. Typically, the federal government reimburses states for their participation in a Title 32 deployment. Here, though, Governor McMaster's assent to the federal government's Title 32 request was invalid; accordingly, it is not at all clear that the federal government will reimburse South Carolina for the illegitimate deployment's costs. Given that risk, Mr. Weninger has an interest in minimizing taxpayers' exposure, which will only increase as more time passes.

Mr. Weninger, a veteran of the U.S. Armed Forces and a resident of Berkeley County, is also directly harmed by the challenged deployment. The South Carolina National Guard plays an important role in responding to emergencies in this state, especially in coastal and near-coastal counties, like Berkeley, which are routinely threatened by flooding, hurricanes, and other natural disasters. Because the unlawful deployment of 300 National Guard personnel weakens the Guard's ability to respond to crises in Berkeley County, Mr. Weninger is directly harmed by the Governor's *ultra vires* deployment.

III. It is the Court's duty to interpret and enforce the limits on the Governor's deployment authority.

In 1935, after Governor Olin Johnston called out the militia against what he deemed to be a state of "rebellion, insurrection, resistance and insurgency" in the control of the state highway department, this Court met its duty to address the legality of the deployment. *Hearon v. Calus*, 178 S.C. 381, 183 S.E. 13, 14 (1935) (quotation marks omitted). The Court heard the case in its original jurisdiction and concluded that it was incumbent to scrutinize the Governor's actions, because "[a]ny other construction of the law would lead to anarchy and revolution." *Id.* at 20. This case presents the same circumstances: a governor deploying the state's military

forces in excess of his legal authority. As in *Hearon*, this Court is duty-bound to intercede.

This is no ordinary separation of powers dispute. This case challenges whether the Governor has the authority to sidestep South Carolina law to send the state's National Guard across state borders to police citizens of another jurisdiction—a jurisdiction whose leaders have not requested South Carolina's presence. For a federal nation, comprised of a union of states, there are few issues that are so fundamental.

CONCLUSION

The Complaint submitted with this Petition seeks a declaration that the Title 32 deployment agreed to by Governor McMaster (and carried out under the authority of Adjutant General Robin B. Stilwell) is contrary to South Carolina law. The Complaint also seeks an injunction vacating Governor McMaster's deployment agreement and enjoining Adjutant General Robin B. Stilwell from further implementation of the deployment.

The Court should grant this Petition and order an expedited schedule for dispositive briefing on the Complaint. Counsel for the Governor has been consulted and consents to an expedited briefing schedule.

RESPECTFULLY SUBMITTED this Seventh day of January 2026.

/s/ Allen Chaney
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