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S.C. SUPREME COURT

***Owens v. Stirling*, No. 2022-001280**

Exhibit 1 to Petition for Rehearing

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

**FREDDIE EUGENE OWENS;
BRAD KEITH SIGMON; GARY
DUBOSE TERRY; and RICHARD
BERNARD MOORE,**

Plaintiffs,

v.

**BRYAN P. STIRLING in his
official capacity as Director of
the South Carolina Department
of Corrections, and SOUTH
CAROLINA DEPARTMENT OF
CORRECTIONS,**

Defendants.

and

**HENRY McMASTER in his
official capacity as Governor of
the State of South Carolina,**

Intervenor-Defendant.

IN THE COURT OF COMMON
PLEAS FOR THE FIFTH JUDICIAL
CIRCUIT

C/A No. 2021-CP-40-02306

**PLAINTIFFS' DISCOVERY
REQUESTS TO DEFENDANT
HENRY McMASTER
PURSUANT TO
SUPREME COURT ORDER
OF JANUARY 26, 2023**

INTERROGATORIES

The following interrogatories are submitted by the Plaintiff to Defendant Henry McMaster (“Defendant”) pursuant to Rule 33 of the South Carolina Rules of Civil Procedure.

Each interrogatory shall be answered separately and fully in writing under oath unless the Defendant objects to the request. If there is an objection, the reasons for the objection shall be stated instead of an answer. The answers should be signed by the person making them and the objections signed by the attorney making them. The Defendant should serve a copy of these answers and objections, if there are any, within 30 days of the date of service of these interrogatories.

These interrogatories continue from the time of service to the time of trial

or hearing on this matter. If the information requested comes into the knowledge of the party, her representative, or her attorney after the original answers have been submitted, that information shall be promptly delivered to the Plaintiff.

1. Please list the names and addresses of any persons known to the Defendant or his counsel who may be witnesses concerning the facts of this case. Indicate whether written or recorded statements have been taken from any witness and who has possession of any statements.
2. Please provide a list of photographs, plats, sketches, or other prepared documents in possession of the Defendant that relate to the claims or defenses in this case.
3. Please identify in complete detail each person whom Defendant expects to call as an expert witness at the trial or hearing in this matter. For each expert provide the following information:
 - a. Name, occupation, title, business address, area of specialization, if any, and professional relationship to the Defendant or Defendant's attorney.
 - b. How the person became familiar with the facts of this case.
 - c. The subject matter or area in which the person plans to testify.
 - d. The substance of the facts and opinions to which the person plans to testify.
 - e. A summary of the grounds or basis for each opinion and fact.
 - f. A list of books, treatises, articles, and other works which the person regards as authoritative on the subject matter to which the person plans to testify.
4. For each person the Defendant or counsel believes will be a witness concerning the facts of the case, please set forth either a summary sufficient to inform the other party of the important facts known to or observed by the witness or provide a copy of any written or recorded statements taken from

the witness.

5. Please describe Defendant's efforts to obtain lethal injection drugs. To the extent those efforts involved communication with any other individual or entity please identify the other individual or entity and describe the manner, date, and contents of such communication.
6. Please list each person in the Governor's Office who has been involved in efforts to obtain lethal injection drugs, including their title and the nature of their involvement in such efforts.
7. Please list each person involved in the creation of the current lethal injection protocol and their role in the creation of that protocol.
8. To the extent there are no documents in response to any Request for Production please explain whether such documents ever existed and why they are no longer in the possession of the Defendant.
9. For any document requested which the Defendant does not possess but knows that the document exists and is possessed by another individual or entity, please identify the document and the individual or entity which possesses the document.

REQUESTS FOR PRODUCTION

The following requests to produce documents are submitted by the Plaintiffs to Defendant, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure.

These are requests to produce and/or inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained or translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect, copy, test or sample any tangible things which constitute or contain matters within the scope of Rule 26 and which

are in the possession, custody or control of the party upon whom the request is served.

The response to these requests shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection will be stated. Items produced by the Defendant shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the request.

The responses to these requests shall be served within 30 days of the date of service of this request. These requests shall be deemed continuing from the time the request is made to the time of trial or hearing on this matter.

All references to Interrogatories are a reference to the Interrogatories served with these Requests to Produce.

1. Please produce all documents, correspondence, or other material provided to any expert or received from any expert you have retained in this matter.
2. Please produce all materials you intend to introduce at the trial of, or hearing in, this case.
3. Please produce all materials you intend to rely on or introduce at any depositions in this case.
4. Please produce any document you relied on or referenced in your answer to Plaintiffs' Interrogatories.
5. Please produce all documents related to lethal injection maintained by the Defendant.
6. Please produce all documents related to Defendant's attempts to procure lethal injection drugs, including any emails, written or typed notes, written or typed memoranda, and any call logs, documenting communications between the Governor and other Governors, departments of corrections, pharmaceutical companies, compounding pharmacies, and other medical

or pharmaceutical providers.

7. Please produce all documents related to Defendant's attempts to purchase the bulk components for lethal injection drugs to have them compounded.
8. Please produce all documents related to Defendant's attempts to, or investigation into, create or upgrade its own compounding pharmacy to have drugs for lethal injection compounded at SCDC.
9. Please produce all written correspondence, notes, memos, electronic mail, text messages, or other documentation related to your efforts to obtain lethal injection drugs as described in Interrogatory 5.

Respectfully submitted,

s/ Joshua Snow Kendrick
Joshua Snow Kendrick (SC Bar 70453)
KENDRICK & LEONARD, P.C.
506 Pettigru Street (29601)
Post Office Box 6938
Greenville, SC 29606
(864) 760-4000
Josh@KendrickLeonard.com

Greenville, South Carolina
January 27, 2023

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

**FREDDIE EUGENE OWENS;
BRAD KEITH SIGMON; GARY
DUBOSE TERRY; and RICHARD
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Plaintiffs,

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official capacity as Director of
the South Carolina Department
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IN THE COURT OF COMMON
PLEAS FOR THE FIFTH JUDICIAL
CIRCUIT

C/A No. 2021-CP-40-02306

**PLAINTIFFS' DISCOVERY
REQUESTS TO DEFENDANTS
STIRLING AND SOUTH
CAROLINA DEPARTMENT
OF CORRECTIONS
PURSUANT TO
SUPREME COURT ORDER
OF JANUARY 26, 2023**

INTERROGATORIES

The following interrogatories are submitted by the Plaintiff to Defendants Bryan P. Stirling and South Carolina Department of Corrections ("SCDC") (Defendants") pursuant to Rule 33 of the South Carolina Rules of Civil Procedure.

Each interrogatory shall be answered separately and fully in writing under oath unless the Defendants object to the request. If there is an objection, the reasons for the objection shall be stated instead of an answer. The answers should be signed by the person making them and the objections signed by the attorney making them. The Defendants should serve a copy of these answers and objections, if there are any, within 30 days of the date of service of these interrogatories.

These interrogatories continue from the time of service to the time of trial

or hearing on this matter. If the information requested comes into the knowledge of the party, her representative, or her attorney after the original answers have been submitted, that information shall be promptly delivered to the Plaintiff.

1. Please list the names and addresses of any persons known to the Defendants or their counsel who may be witnesses concerning the facts of this case. Indicate whether written or recorded statements have been taken from any witness and who has possession of any statements.
2. Please provide a list of photographs, plats, sketches, or other prepared documents in possession of the Defendants that relate to the claims or defenses in this case.
3. Please identify in complete detail each person whom Defendants expect to call as an expert witness at the trial or hearing in this matter. For each expert provide the following information:
 - a. Name, occupation, title, business address, area of specialization, if any, and professional relationship to the Defendants or Defendants' attorney.
 - b. How the person became familiar with the facts of this case.
 - c. The subject matter or area in which the person plans to testify.
 - d. The substance of the facts and opinions to which the person plans to testify.
 - e. A summary of the grounds or basis for each opinion and fact.
 - f. A list of books, treatises, articles, and other works which the person regards as authoritative on the subject matter to which the person plans to testify.
4. For each person the Defendants or counsel believe will be a witness concerning the facts of the case, please set forth either a summary sufficient to inform the other party of the important facts known to or observed by the witness or provide a copy of any written or recorded statements taken from

the witness.

5. Please describe Defendants' efforts to obtain lethal injection drugs. To the extent those efforts involved communication with any other individual or entity please identify the other individual or entity and describe the manner, date, and contents of such communication.
6. Please list each person who has been involved in efforts to obtain lethal injection drugs, including their title and the nature of their involvement in such efforts.
7. Please list each person involved in the creation of the current lethal injection protocol and their role in the creation of that protocol.
8. To the extent there are no documents in response to any Request for Production please explain whether such documents ever existed and why they are no longer in the possession of the Defendants.
9. For any document requested which the Defendants does not possess but knows that the document exists and is possessed by another individual or entity, please identify the document and the individual or entity which possesses the document.

REQUESTS FOR PRODUCTION

The following requests to produce documents are submitted by the Plaintiffs to Defendants, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure.

These are requests to produce and/or inspect and copy any designated documents (including writings, drawings, graphs, charts, photographs, phonorecords, and other data compilations from which information can be obtained or translated, if necessary, by the respondent through detection devices into reasonably usable form), or to inspect, copy, test or sample any tangible things which constitute or contain matters within the scope of Rule 26 and which

are in the possession, custody or control of the party upon whom the request is served.

The response to these requests shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which event the reasons for the objection will be stated. Items produced by the Defendants shall be produced as they are kept in the usual course of business or shall be organized and labeled to correspond with the categories in the request.

The responses to these requests shall be served within 30 days of the date of service of this request. These requests shall be deemed continuing from the time the request is made to the time of trial or hearing on this matter.

All references to Interrogatories are references to the Interrogatories served with these Requests to Produce.

1. Please produce all documents, correspondence, or other material provided to any expert or received from any expert you have retained in this matter.
2. Please produce all materials you intend to introduce at the trial of, or hearing in, this case.
3. Please produce all materials you intend to rely on or introduce at any depositions in this case.
4. Please produce any document you relied on or referenced in your answer to Plaintiffs' Interrogatories.
5. Please produce a copy of the current lethal injection protocol.
6. Please produce all documents related to lethal injection maintained by the Defendants, to include all autopsies from prior executions by lethal injection.
7. Please produce all documents related to Defendants' attempts to procure lethal injection drugs, including any emails, written or typed notes, written or typed memoranda, and any call logs, documenting communications

between SCDC and other departments of corrections, pharmaceutical companies, compounding pharmacies, and other medical or pharmaceutical providers.

8. Please produce all documents related to Defendants' attempts to purchase the bulk components for lethal injection drugs to have them compounded.
9. Please produce all documents related to Defendants' attempts to, or investigation into, create or upgrade its own compounding pharmacy to have drugs for lethal injection compounded at SCDC.
10. Please produce all documents regarding Defendants' efforts to recruit, identify, select and train individuals for carrying out an execution by lethal injection and the professional qualifications of those individuals. Names and other specific identifying information of individual execution team members may be redacted.
11. Please produce all written correspondence, notes, memos, electronic mail, text messages, or other documentation related to your efforts to obtain lethal injection drugs as described in Interrogatory 5.

Respectfully submitted,

s/ Joshua Snow Kendrick
Joshua Snow Kendrick (SC Bar 70453)
KENDRICK & LEONARD, P.C.
506 Pettigru Street (29601)
Post Office Box 6938
Greenville, SC 29606
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Intervenor-Defendant.

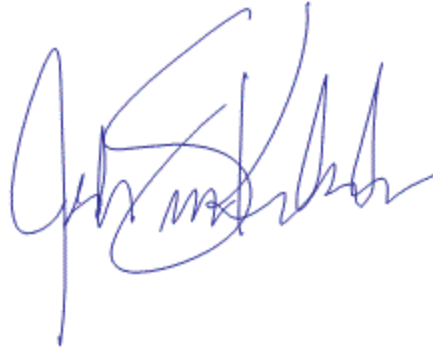
IN THE COURT OF COMMON
PLEAS FOR THE FIFTH JUDICIAL
CIRCUIT

Case No. 2021-CP-40-02306

**NOTICE OF DEPOSITION
OF
COLIE RUSHTON**

Please note counsel for the Plaintiff will take the deposition of **Colie Rushton** on **March 13, 2023, at 1:00 pm** at the **SC Department of Corrections Headquarters, Director's Conference room, 4444 Broad River Road, Columbia, SC 29201**. This deposition will be taken by oral examination pursuant to Rule 30, SCRCF, before an officer duly authorized by law to take depositions and shall continue from day to day until completed.

Respectfully submitted,



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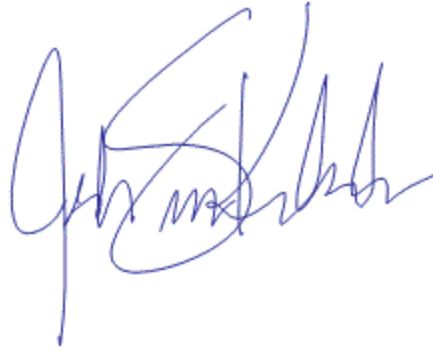
IN THE COURT OF COMMON
PLEAS FOR THE FIFTH JUDICIAL
CIRCUIT

Case No. 2021-CP-40-02306

**NOTICE OF DEPOSITION
OF
BRYAN STIRLING**

Please note counsel for the Plaintiff will take the deposition of **Bryan Stirling** on **March 13, 2023, at 10:00 am** at **the SC Department of Corrections Headquarters, Director's Conference room, 4444 Broad River Road, Columbia, SC 29201**. This deposition will be taken by oral examination pursuant to Rule 30, SCRCF, before an officer duly authorized by law to take depositions and shall continue from day to day until completed.

Respectfully submitted,



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IN THE COURT OF COMMON
PLEAS FOR THE FIFTH JUDICIAL
CIRCUIT

C/A No. 2021-CP-40-02306

**PLAINTIFFS' NOTICE OF
DEPOSITION OF SCDC'S
DESIGNEE PURSUANT TO
SCRCP 30(b)(6) AND
SUPREME COURT ORDER
OF JANUARY 26, 2023**

TO: DANIEL C. PLYLER, ATTORNEY FOR BRYAN P. STIRLING AND SCDC:

PLEASE TAKE NOTICE, that pursuant to SCRCP 30(b)(6), the deposition of a South Carolina Department of Correction's (SCDC) designee will be taken before a qualified court reporter on March 14, 2023 at 10 am..

Pursuant to SCRCP 30(b)(6), SCDC is required to designate and fully prepare one or more officers, directors, managing agents or other persons who consent to testify on behalf of SCDC, and whom SCDC will fully prepare to testify regarding the topics listed in Schedule A and as to such information that is known or reasonably available to SCDC:

SCHEDULE A

DEFINITIONS

1. The terms “all” and “each” should be construed as “all and each.” The word “all” means “any and all,” and the word “any” means “any and all.” The connectives “and” and “or” shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope.

2. The term “including” means “including but not limited to.” The use of the singular form of any word includes the plural and vice versa. The use of any tense of any verb shall also include within its meaning all other tenses of that verb.

3. The term “communications” refers to any oral, written, or electronic utterance, notation, or statement of any nature whatsoever, draft or final, potential or actual, by and to whomever made or attempted to be made, including, but not limited to, correspondence, memoranda, conversations, dialogues, discussions, interviews, consultations, agreements, electronic messages (including electronic-mail, text messages, instant messages, and company intranet, electronic bulletin board or Internet site posting) and other understandings between two or more persons. The term “communications” specifically includes, but is not limited to, any exchange of information by any means of transmission, including, but not limited to, face-to-face conversations, mail, electronic mail, telegram, overnight delivery, telephone, facsimile, telex, text message, or any form of social media, including but not limited to LinkedIn, Facebook, or Twitter.

4. The term “concerning” means referring to, describing, evidencing, or constituting and includes any documents relating to, regarding, substantiating, purporting, embodying, establishing, identifying, listing, comprising, connected with, memorializing, recording, commenting upon, responding to, with respect to, showing, describing, analyzing, reflecting, representing, supporting, contradicting, or explaining, whether in whole or in part, a particular

subject matter. Requests for documents “concerning” any subject matter include communications concerning that subject matter.

5. The terms “document” or “media” means recorded material in any form, whether fixed in tangible medium or electronically stored on disk or tape. Documents or media shall include, by way of example and not by way of limitation, all of the following: papers, correspondence, trade letters, envelopes, memoranda, telegrams, cables, notes, messages, electronic-mails (“e-mails”), text messages, instant electronic messages, reports, studies, press releases, books, accounts, checks, audio and video recordings, pleadings, testimony, articles, bulletins, pamphlets, brochures, magazines, questionnaires, surveys, charts, newspapers, calendars, desk calendars, pocket calendars, lists, logs, publications, notices, diagrams, instructions, diaries, minutes of meetings, orders, resolutions, agendas, memorials or notes of oral communications, whether by telephone or face-to-face, contracts, agreements, drafts of or proposed contracts or agreements, memoranda of understanding, letters of intent, deal memoranda, transcriptions of audio or video recordings, computer tapes, computer diskettes or disks, or any other tangible thing on which any handwriting, typing, printing, photostatic, electronic or other form of communication or information is recorded or reproduced, together with all notations on any of the foregoing, all originals, file copies or other unique copies of the foregoing and all versions of drafts thereof, whether used or not.

6. The term “SCDC” means the South Carolina Department of Corrections, including all of its employees, officers, directors, administrators, contractors and any other agent of SCDC.

7. The term “lethal injection drugs” means any drug (including its name brand and generic forms) that SCDC has previously used or possessed for the purpose of carrying out executions by lethal injection, or any drug (including its name brand and generic forms) that SCDC

has ever considered using or purchasing for the purpose of carrying out executions by lethal injection.

8. The term “drug provider” means any person, company or entity that manufactures, creates, distributes or sells drugs, including domestic and foreign manufacturers, compounding pharmacies and individuals.

SCHEDULE A

TOPICS FOR EXAMINATION

1. All circumstances concerning SCDC’s efforts to obtain lethal injection drugs or their bulk components from any drug provider since October 1, 2013, to present.

2. All circumstances concerning SCDC’s past use of lethal injection, including:

- a. The creation of the original lethal injection protocol and any changes to that protocol over time.
- b. The circumstances of any execution carried out by lethal injection since August 18, 1995.
- c. The details concerning the selection, qualifications and training (if any) of the execution team members.
- d. The details concerning the assembly, maintenance, and testing of the equipment used in executions by lethal injection.
- e. Funds paid to any provider of lethal injection drugs.

Respectfully submitted,

s/ Joshua Snow Kendrick

Joshua Snow Kendrick (SC Bar 70453)

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