

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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S.C. SUPREME COURT

APPEAL FROM GEORGETOWN COUNTY
APPEAL FROM ORANGEBURG COUNTY
Court of Common Pleas
Roger M. Young, Sr., Circuit Court Judge

Appellate Case No. 2024-001481
Appellate Case No. 2025-000207

Richard A. Butts, individually and on behalf of
all others similarly situated, Respondent,

v.

Miriam Mace, in her official capacity as Treasurer of Georgetown County,
and Georgetown County, South Carolina, Appellants.

AND

Carroll Brown, individually and on behalf of
all others similarly situated, Respondent,

v.

Harold M. Young, in his official capacity as
Orangeburg County Administrator; Matt Stokes,
in his official capacity as Orangeburg County Treasurer;
Orangeburg County; and Orangeburg County Council, Appellants.

CONSENT MOTION TO CONSOLIDATE APPEALS

The parties in Appellate Case No. 2024-001481 (the “*Butts*” appeal), together with those in Appellate Case No. 2025-000207 (the “*Brown*” appeal), jointly request an Order consolidating these cases pursuant to Rule 214, SCACR.

These appeals present the same legal issue: whether the retroactivity language contained in Section 2(E) of Act No. 236¹ is constitutional. In both cases, Respondents filed putative class action lawsuits challenging Road Maintenance Fees collected by Georgetown County and Orangeburg County. While the cases were pending, the General Assembly enacted Act 236, which amends the definition of “service or user fee” contained in S.C. Code Ann. § 6-1-300(6). Section 2(E) of Act 236 states that it “applies retroactively to any service or fee imposed after December 31, 1996.”

In *Butts*, Respondent moved for partial summary judgment, requesting a declaration that Section 2(E)’s retroactivity provision is unconstitutional. The circuit court granted Respondent’s motion and later denied Appellants’ motion to alter or amend pursuant to Rule 59(e), SCRCPP. Appellants appealed the circuit court’s orders to this Court on September 9, 2024.²

In *Brown*, Appellants moved for summary judgment, requesting a declaration that Section 2(E) is constitutional. The circuit court denied Appellants’ motion based upon its analysis in *Butts*.³ However, the circuit court granted Appellants’ request for certification pursuant to Rule

¹ 2022 Act No. 236, § 2(E).

² On October 25, 2024, Appellants in *Butts* filed a motion requesting that the Court stay briefing deadlines pending the circuit court’s ruling in *Brown*. The Court denied Appellants’ motion on January 16, 2025. The Court noted that the denial was “without prejudice to Appellants’ ability to file a motion for consolidation with *Brown* if an appeal of the pending summary judgment order in that case is taken.”

³ The circuit court also rejected Appellants’ argument that the retroactivity cases relied on in *Butts*—this Court’s decisions in *Lindsay v. National Old Line Ins. Co.*, 262 S.C. 621, 207 S.E.2d 75 (1974), and *Steinke v. South Carolina Dept. of Labor, Licensing & Regulation*, 336 S.C. 373, 520 S.E.2d 142 (1999)—should be overruled.

54(b), SCRCR. The circuit court determined Rule 54(b) certification was proper “to allow for an immediate appeal to be joined or consolidated with the currently pending appeal filed in *Butts*.” Appellants appealed the circuit court’s order to this Court on February 5, 2025.

The Court may consolidate two appeals “where the same question is involved[.]” Rule 214, SCACR. The parties in *Butts* and *Brown* agree that consolidation is both appropriate and desirable in this circumstance. The parties further agree consolidation would promote judicial economy and benefit the presentation of the issues for the Court’s consideration. Therefore, the undersigned counsel respectfully request an order consolidating the *Butts* and *Brown* appeals. The undersigned further request that the briefing deadlines for the consolidated appeals be based upon receipt of the transcript in the *Brown* case or any consent schedule agreed to by counsel.

[*Signature page to follow*]

Respectfully submitted,

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