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Aug 24 2026

S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

IN ITS ORIGINAL JURISDICTION

Appellate Case No. 2026-_____

OFFICE OF THE GOVERNOR,Petitioner,

v.

TIKTOK INC.; TIKTOK LLC; TIKTOK PTE. LTD.; TIKTOK, LTD.; BYTEDANCE INC.; and
BYTEDANCE LTD.,..... Respondents.

COMPLAINT

The Office of the Governor brings this action against TikTok Inc.; TikTok LLC; TikTok Pte. Ltd.; TikTok, Ltd.; ByteDance Inc.; and ByteDance Ltd., and respectfully shows the Court as follows:

INTRODUCTION

1. This “Court is the final arbiter of South Carolina law.” *Wells Fargo Bank, N.A. v. Fallon Properties S.C., LLC*, 422 S.C. 211, 219 n.4, 810 S.E.2d 856, 860 n.4 (2018). This Court should assert that authority now and declare that the Office of the Governor enjoys executive privilege and that its staff is protected from deposition by the apex doctrine.

2. Respondents seek to take a Rule 30(b)(6) deposition of the Office on 14 topics as part of an unfair trade practices case that the State brought against Respondents.

3. That deposition would violate both executive privilege and the apex doctrine. It would violate executive privilege because it seeks to inquire into the internal deliberations and decisionmaking of the Office and the Governor. It would violate the apex doctrine because Respondents cannot show that the information they seek cannot be obtained from sources other than high-ranking government officials.

4. Despite law on executive privilege and the apex doctrine being well established in other jurisdictions, this Court has not yet issued any published decisions on those topics. This case presents an opportunity to do so.

THE PARTIES

5. The Office of the Governor serves under the control and at the pleasure of the Governor. *See* S.C. Const. art. IV, § 1 (Executive Vesting Clause); H. 5126, Part 1A, § 92A, 126th Gen. Assemb. (2026) (funding the Office for the current fiscal year).

6. TikTok Inc. is a California corporation with its principal place of business at 5800 Bristol Parkway, Culver City, California 90230.

7. TikTok LLC is a Delaware limited liability company with its principal place of business at 5800 Bristol Parkway, Culver City, California 90230. TikTok LLC wholly owns TikTok Inc.

8. TikTok Pte. Ltd. is a company incorporated in Singapore with its principal place of business in Singapore at 1, Raffles Quay, #26-10, Singapore 048583.

9. TikTok, Ltd. is a company incorporated in the Cayman Islands with its principal place of business in Shanghai, China. TikTok, Ltd. wholly owns TikTok LLC and TikTok Pte. Ltd. TikTok Ltd. is wholly owned by ByteDance Ltd.

10. ByteDance Inc. is a for-profit Delaware Corporation with a principal place of business at 250 Bryant Street, Mountain View, California, 94041, and is a direct or indirect wholly owned subsidiary of ByteDance Ltd.

11. ByteDance Ltd. is a holding company organized and existing under the laws of the Cayman Islands, with a registered address of Grand Pavilion, Hibiscus Way 802 West Bay Road, Grand Cayman KY1-1205. TikTok Inc., TikTok Ltd., TikTok Pte. Ltd., and ByteDance Inc. are direct or indirect wholly owned subsidiaries of ByteDance Ltd.

12. All Respondents in this case are defendants in *State ex rel. Wilson v. TikTok Inc.*, No. 2024-CP-40-06018 (S.C. Comm. Pls.).

JURISDICTION AND VENUE

13. Jurisdiction and venue are proper in this Court pursuant to article V, section 5 of the South Carolina Constitution; S.C. Code Ann. § 14-3-310; and Rule 245, SCACR.

BACKGROUND

14. The State, through Attorney General Alan Wilson, sued Respondents in circuit court, alleging violations of the South Carolina Unfair Trade Practices Act. *See State ex rel. Wilson v. TikTok Inc.*, No. 2024-CP-40-06018 (S.C. Comm. Pls.).

15. In discovery in that case, Respondents served a subpoena on the Office of the Governor on July 13, 2026, demanding a Rule 30(b)(6) deposition. (The subpoena was misdated “2025,” rather than “2026.”) That notice included 14 topics, including subjects related to the Office’s internal deliberations and decisionmaking and subjects involving any activity related to social media platforms since August 2018. *See* Ex. 1.

16. The Office objected to the subpoena on multiple grounds, including (importantly for this case) executive privilege and the apex doctrine. *See* Ex. 2.

17. After conferring about the Office’s objections, Respondents declined to withdraw the subpoena.

CLAIMS FOR RELIEF

Count I **(Executive Privilege)**

18. The Office realleges the allegations in each of the preceding paragraphs as if fully recited here.

19. “The supreme executive authority of this State” is “vested in” the Governor. S.C. Const. art. IV, § 1.

20. No other branch of government may invade this executive authority. *See id.* art. I, § 8; *see also Greir v. Taylor*, 15 S.C.L. 206, 209 (S.C. Ct. App. L. & Eq. 1827) (per curiam) (agreeing that the judiciary has no “power to invade the province of the executive”).

21. Executive privilege is a necessary concomitant to executive power.

22. Thus, there is a “valid need for protection of communications between high Government officials and those who advise and assist them in the performance of their manifold duties.” *United States v. Nixon*, 418 U.S. 683, 705 (1974).

23. Executive privilege applies to both the Governor and “his immediate advisers.” *United States v. Navarro*, 182 F.4th 1005, 1021 (D.C. Cir. 2026); *see also In re Sealed Case*, 121 F.3d 729, 757 (D.C. Cir. 1997).

24. Any records and communications generated, solicited, received, or maintained by the Office of the Governor that reflect advice, recommendations, deliberations, or other communications undertaken in aid of the Governor’s decisionmaking or deliberative functions are presumptively privileged.

25. This presumption can be overcome only by showing (1) a specific, demonstrated need for the particular information and (2) the information is unavailable from any other source, and (3) only after a court’s in camera review.

26. The Court should declare that the Office of the Governor enjoys this executive privilege.

Count II **(Apex Doctrine)**

27. The Office realleges the allegations in each of the preceding paragraphs as if fully recited here.

28. Rule 26(c), SCRCR, allows a court to protect a “person from annoyance, embarrassment, oppression, or undue burden by expense” by precluding certain discovery.

29. One type of annoyance, embarrassment, oppression, or undue burden by expense is attempting to depose high-level officials unnecessarily. *See, e.g., Est. of Valentine by & through*

Grate v. South Carolina, No. CV 3:18-00895-JFA, 2020 WL 12783948, at *2 (D.S.C. Aug. 13, 2020).

30. The unnecessary deposition of high-ranking government officials also “implicates serious separation of powers concerns.” *In re Musk*, 169 F.4th 445, 448 (4th Cir. 2026).

31. So “absent extraordinary circumstances, top-level executive officials should not be called to testify or deposed regarding their reasons for taking official action.” *Crook v. S.C. Election Comm’n*, No. 2025-001777, 2025 WL 2630725, at *3 (S.C. Sept. 11, 2025).

32. Top-level officials should not be called to testify or deposed unless the deposing party can show they have “unique knowledge or information about th[e] matter that cannot be obtained elsewhere.” *Id.*

33. The apex doctrine applies to the Governor. *See, e.g., Est. of Valentine*, 2020 WL 12783948, at *2.

34. The apex doctrine applies to the Governor’s staff. *See Rogers v. United States Dep’t of Health & Hum. Servs.*, No. 6:19-CV-01567-JD, 2021 WL 11747920, at *5 (D.S.C. Nov. 4, 2021).

35. High-ranking government officials deserve even greater protection under the apex doctrine than corporate officers.

36. Litigants cannot use a Rule 30(b)(6) deposition to “do[] indirectly what they cannot do directly.” *Id.*

37. The 14 deposition topics in Respondents’ subpoena are such that adequate organizational testimony would necessarily require either designation of the Office’s high-ranking officials protected by the apex doctrine or substantial involvement by such officials in preparing a designee to testify about their protected decisionmaking.

38. The Court should declare that the apex doctrine protects the staff of the Office of the Governor from being deposed unless (1) the information they possess cannot be obtained elsewhere and (2) extraordinary circumstances warrant allowing their deposition.

PRAYER FOR RELIEF

WHEREFORE, the Office of the Governor requests that the Court:

A. Declare that the Governor and the Office of the Governor enjoy executive privilege that can be overcome only by showing (1) a specific, demonstrated need for the particular information and (2) the information is unavailable from any other source, and (3) only after a court's in camera review;

B. Declare that the Governor and the Office of the Governor are protected by the apex doctrine from being deposed unless (1) the information they possess cannot be obtained elsewhere and (2) extraordinary circumstances warrant allowing their deposition;

C. Enjoin Respondents from attempting to enforce the July 13, 2026 subpoena they served on the Office of the Governor; and

D. Grant any further relief that the Court deems just and proper.

Respectfully submitted,
s/Wm. Grayson Lambert
Wm. Grayson Lambert
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Counsel for the Office of the Governor



State of South Carolina

In the Court of Common Pleas

County of Richland

Fifth Judicial Circuit

RECEIVED

Aug 24 2026

Plaintiff(s): The State of South Carolina ex rel. Alan Wilson, in his official capacity as Attorney General of the State of South Carolina, Plaintiffs

v.

Defendant(s): TikTok Inc., TikTok LLC, TikTok PTE Ltd., TikTok, Ltd., ByteDance Inc., and ByteDance Ltd., Defendants.

Case Number. 2024-CP-40-06018

S.C. SUPREME COURT

Pending in Richland County

SUBPOENA IN A CIVIL CASE

TO: S.C. Office of the Governor
ATTN: Grayson Lambert, Office of the General Counsel
State House
1100 Gervais Street
Columbia, SC 29201

☐ YOU ARE COMMANDED to appear in the above-named court at the place and time specified below to testify in the above case.

PLACE OF TESTIMONY:

[Fill in Address or Location for Testimony] _____

COURTROOM: [Fill in Courtroom Name or Number] _____

DATE: [Fill in Testimony Date] _____

TIME: [Fill in Testimony Time] _____ [Fill in A.M. or P.M.] _____

☒ YOU ARE COMMANDED to appear at the place, date, and time specified below to testify at the taking of a deposition in the above case. *See Exhibit A, attached hereto, Instructions and Topics of the Examination.*

PLACE OF DEPOSITION:

Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Columbia, SC 29201

DATE: [Fill in Deposition Date] September 1, 2026

TIME: [Fill in Deposition Time] 10:00am EST



☐ YOU ARE COMMANDED to produce and permit inspection and copying of the following documents or objects in your possession, custody or control at the place, date and time specified below (list documents or objects): [Fill in List of Documents and / or Objects] _____

PLACE:

[Fill in Address or Location of Document / Object Production and Inspection] _____

DATE: [Fill in Document / Object Production & Inspection Date] _____

TIME: [Fill in Document / Object Production & Inspection Time] _____ [Fill in A.M. or P.M.] _____

☐ YOU ARE COMMANDED to permit inspection of the following premises at the date and time specified below.

PREMISES:

[Fill in Address or Location of Premises to be Inspection] _____

DATE: [Fill in Premise Inspection Date] _____

TIME: [Fill in Premise Inspection Time] _____ [Fill in A.M. or P.M.] _____

ANY SUBPOENAED ORGANIZATION NOT A PARTY TO THIS IS HEREBY DIRECTED TO RULE 30(b)(6), SOUTH CAROLINA RULES OF CIVIL PROCEDURE, TO FILE A DESIGNATION WITH THE COURT SPECIFYING ONE OR MORE OFFICERS, DIRECTORS, OR MANAGING AGENTS, OR OTHER PERSONS WHO CONSENT TO TESTIFY ON ITS BEHALF, SHALL SET FORTH, FOR EACH PERSON DESIGNATED, THE MATTERS ON WHICH HE WILL TESTIFY OR PRODUCE DOCUMENTS OR THINGS. THE PERSON SO DESIGNATED SHALL TESTIFY AS TO MATTERS KNOWN OR REASONABLY AVAILABLE TO THE ORGANIZATION.

I CERTIFY THAT THE SUBPOENA IS ISSUED IN COMPLIANCE WITH RULE 45(c)(1), AND THAT NOTICE AS REQUIRED BY RULE 45(a)(4) HAS BEEN GIVEN TO ALL PARTIES.

Attorney / Issuing Officer's Signature
Attorney for Defendants

July 13, 2025
Date

Merrit G. Abney, Esq.
Print Name

Attorney's Address: Nelson Mullins Riley & Scarborough LLP
PO Box 1806
Charleston, SC 29402

Attorney's
Telephone Number:

(843) 853-5200

Clerk of Court / Issuing Officer's Signature

Date

Print Name



Proof of Service

SERVED DATE _____

SERVED PLACE _____

FEES AND MILEAGE TO BE
TENDERED TO WITNESS
UPON DAILY ARRIVAL _____
[Fill in Yes or No]

TENDERED AMOUNT _____
[Fill in Tendered Amount in Dollars]

SERVED ON (PRINT
NAME) _____
[Fill in Name of Person(s) or Entity Served]

MANNER OF SERVICE _____
[Fill in the Way Service was Completed]

SERVED BY (PRINT NAME) _____
[Fill in Name of Person Who Completed the Service]

TITLE _____
[Fill in Title / Position of the Person that Completed the Service]

Declaration of Server

I certify that the forgoing information contained in the Proof of Service is true and correct.

Executed On [Fill
in Execution Date]

Signature of Server

Server Address [Fill in Server Address]



Rule 45, South Carolina Rules of Civil Procedures, Parts (c) and (d):

(c) Protection of Persons Subject to Subpoenas.

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated electronically stored information, books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial. A party or an attorney responsible for the issuance and service of a subpoena for production of books, papers and documents without a deposition shall provide to another party copies of documents so produced upon written request. The party requesting copies shall pay the reasonable costs of reproduction.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises—or to producing electronically stored information in the form or forms requested. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time in the court that issued the subpoena for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued, or regarding a subpoena commanding appearance at a deposition, or production or inspection directed to a non-party, the court in the county where the non-party resides, is employed or regularly transacts business in person, shall quash or modify the subpoena if it:

(i) fails to allow reasonable time for compliance; or

(ii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to travel more than 50 miles from the county where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held; or

(iii) requires disclosure of privileged or otherwise protected matter and no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) If a subpoena:

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or

(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party nor an officer, director or managing agent of a party, nor a general partner of a partnership that is a party, to incur substantial expense to travel from the county where that person resides, is employed or regularly transacts business in person, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

(d) Duties in Responding to Subpoena.

(1)(A) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.



(B) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) A person responding to a subpoena need not produce the same electronically stored information in more than one form.

(D) A person responding to a subpoena need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or to quash, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(6)(B). The court may specify conditions for the discovery.

(2)(A) When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

(B) If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified, the receiving party must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

RE: THE STATE OF SOUTH CAROLINA, ex rel. Alan Wilson, in his capacity as Attorney General of the State of South Carolina v. TIKTOK INC., TIKTOK LLC, TIKTOK PTE LTD, TIKTOK, LTD, BYTEDANCE INC., AND BYTEDANCE LTD (Civil Action No.: 2024-CP-40-06018)

EXHIBIT A

DEFINITIONS

The following definitions, which have been included in alphabetical order for ease of reference, apply to each of the following Instructions and Topics for Examination. To the extent any definition references language used in the Complaint, the definition does not endorse or accept any allegation or characterization in the Complaint.

1. “Action” means the action captioned *State of South Carolina ex rel. Alan Wilson, in his capacity as Attorney General of the State of South Carolina v. TikTok Inc. et al.*, No. 2024-CP-40-06018, pending in the Court of Common Pleas, Fifth Judicial Circuit.
2. “Actions” means any formal legal action commenced by the Office of the Attorney General of South Carolina, Including Civil Investigative Demands issued by the Office of the Attorney General of South Carolina.
3. “Communication(s)” means any disclosure, transfer, or exchange of information or opinion, however made.
4. “Complaint” means the Complaint filed by the State of South Carolina against Defendants in this Action, Including the original complaint and any amended complaint that is permitted by the Court.
5. “Concerning” means relating to, referring to, describing, consisting of, comprising, showing, commenting on, tending to support or tending to refute, or in any way logically or factually connected with the matter that is the subject of the Topic of Examination (“Topic”).
6. “Defendants” means TikTok Inc., TikTok LLC, TikTok Pte. Ltd., TikTok, Ltd., ByteDance Inc., and ByteDance Ltd.
7. “Document(s)” means each and every writing or record, however produced or reproduced, whether draft or final, original or reproduction, paper or electronic, signed or unsigned, that is in Your possession, custody, or control or to which You otherwise have access, regardless of where located (e.g., paper, device, compact disk, computer disk and drive, etc.), Including any Communication (Including all forms of information transference written, oral, recorded, printed, typed or other graphic matter of any nature, or electronic, Including meetings, conferences, conversations, discussions, proposals, solicitations,

interviews, surveys, reports, articles, correspondence, text messages, all other electronic messages and notes, as well as memoranda and records of communications), correspondence, word processing files, records saved as .pdf or other electronic files, emails, instant messages, electronic information, data, letters, screenshots, screen time data or information, social-media communications, spreadsheets, graphs, drawings, images, presentations, application files, executable files, log files, mechanical and electrical sound recordings or transcripts of those recordings, disks, computer data, transcripts, clippings, memoranda of telephone or personal conferences or conversations, personal journals, telephone diaries, location information, search histories, journals, photographs, tape recordings, video recordings or posts, movies, other data compilations from which information can be obtained, all materials similar to any of the foregoing, and all other Documents and things subject to production under South Carolina Rules of Civil Procedure. All copies and versions of any Document that contain any notation, erasure, obliteration, marking, or writing of any kind different from the original shall be treated as an original Document. The term “Document(s)” Includes “ESI” as defined below.

8. “Electronically Stored Information” or “ESI” is used consistent with how the term is defined and construed under South Carolina law and Includes without limitation all electronic data stored in a medium from which information can be reasonably obtained.
9. “Including” or “Includes” means “including but not limited to,” and shall be interpreted without limitation so as to identify a non-exhaustive set of examples and to expand the meaning or interpretation of a term or question rather than limit any Topic to the specified examples.
10. “South Carolina Youth” means South Carolina residents under the age of 18.
11. “Mental Health” is used consistently with the term’s use in the Complaint.
12. “Person(s)” means any individual, corporation, firm, partnership, joint venture, unincorporated association, trade association, governmental entity, dealer group, council or other incorporated or unincorporated entity, business entity or group of individuals or entities, singular or plural, as the content may require.
13. “Platform(s)” means an online or application-based entertainment platform that offers functionality similar in material respects to TikTok and allows for the hosting and distribution of short form, user generated video content, including, for example, Facebook, Instagram, Roblox, Snapchat, X (formerly Twitter), and YouTube.
14. “Relating to” means and Includes referring to, concerning, referencing, mentioning, associated with, constituting, discussing, containing, embodying, recording, reflecting, identifying, summarizing, incorporating, or dealing with or pertaining to in any way.

15. “Relevant Time Period” means the time period from August 2, 2018 to the present.
16. “Third Party” or “Third Parties” means any Person other than Plaintiff or Defendants, as well as any current or former employee, officer, appointee, representative, or agent of any such Person.
17. “TikTok” or the “TikTok Platform” means the online entertainment platform, which is provided by TikTok Inc. in the United States.
18. “You,” or “Your” means the South Carolina Office of the Governor, Including the South Carolina Office of the Governor’s officials, directors, departments, divisions, commissions, agents, boards, instrumentalities, administrators, and other Persons or entities acting on behalf of the South Carolina Office of the Governor, or under its direction, authorization, or control.

INSTRUCTIONS

1. This notice is governed by Rule 30(b)(6) of the South Carolina Rules of Civil Procedure, and the applicable provisions of the Protective Order in this Action.
2. Pursuant to Rule 30(b)(6) of the South Carolina Rules of Civil Procedure, You shall produce one or more individuals to testify on Your behalf. The representative or representatives produced shall testify on Your behalf concerning the topics identified below as the Topics for Examination. The designated representative must testify about information known or reasonably available to You.
3. To the extent Your designated representative or representatives review or rely upon Documents not produced in this Action in preparing to testify concerning the Topics for Examination, You shall produce such Documents no later than 48 hours before such representative or representatives appear.
4. Unless otherwise specified, the Relevant Time Period pertaining to the Topics for Examination is August 2, 2018 to the present.
5. These Topics for Examination seek non-privileged, factual information. You may assert privilege/work-product but must describe the nature of the information withheld sufficient to assess the claim.

TOPICS FOR EXAMINATION

1. Research, testing, study, or analysis of the TikTok Platform prepared, conducted, reviewed, or commissioned by You.

2. Research, testing, study, or analysis of South Carolina Youth's use of Platforms (Including the TikTok Platform), prepared, conducted, reviewed, or commissioned by You.
3. Research, testing, study, or analysis of the Mental or behavioral health effects of the TikTok Platform on South Carolina Youth.
4. Complaints, issues, or inquiries received by You from South Carolina residents Concerning the content on, the age rating of, or the alleged addictiveness of any Platform, and any responses thereto.
5. Services, initiatives, or educational resources proposed, offered, or operated by You Relating to alleged Platform addiction or other harms caused by Platform use as alleged in the Complaint, Including Your budgeted and actual expenditures for such services, initiatives, or educational resources.
6. Public statements, advisories, educational materials, or guidance issued by You Concerning alleged risks associated with Platform use by minors.
7. Public statements made by You about the TikTok Platform or this Action, Including statements made to any member of the press.
8. Grants offered to You or received or requested by You Concerning the alleged impact of Platform use on Mental Health, Including information about when, where, why, and how any disbursements were paid.
9. Meetings, collaborations, and Communications between You and any Platform Concerning the content on the Platform, the Platform's age rating, any questionnaire responses provided by the Platform Relating to the content on the Platform, any guidelines Concerning the content permitted on the Platform, the alleged addictiveness of the Platform or its features, any alleged harm caused by the Platform, any safety or design features of the Platform, or any other topics encompassed by the Complaint in this Action.
10. Meetings, collaborations, and Communications between You and any federal, state, or local official, agency, office, department, or division Concerning the harms alleged in the Complaint in this Action.
11. Meetings, collaborations, and Communications between You and any public or private school, school board, parent-teacher association, or other educational or parent group nationally and/or in South Carolina Concerning the harms alleged in the Petition in this Action.
12. Your use of the TikTok Platform, Including to engage with the public.

13. Policies, practices, or procedures adopted or implemented by You during the Relevant Time Period regarding Your employees using the TikTok Platform or having TikTok accounts.
14. Meetings, collaborations, and Communications between You and legislators, agencies, or Third Parties regarding the drafting, enactment, or enforcement of (1) the Social Media Regulation Act (Act No. 96, H.B. 3431) and (2) the Stop Harm from Addictive Social Media Act (Act No. 237, H.B. 4591).



HENRY DARGAN McMASTER
GOVERNOR

OFFICE OF THE GOVERNOR

WM. GRAYSON LAMBERT
CHIEF LEGAL COUNSEL

ERICA W. SHEDD
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July 27, 2026

Via Email Only

Merritt G. Abney
Nelson Mullins Riley & Scarborough LLP
151 Meeting St., Sixth Floor
Charleston, SC 29401
merritt.abney@nelsonmullins.com

RE: *State of South Carolina ex rel. Alan Wilson v. TikTok Inc.*,
No. 2024-CP-40-06018 (S.C. Comm. Pls.)

Dear Mr. Abney:

On behalf of the Office of the Governor, I write to follow up on our brief telephone call on July 21, 2026, and in response to the Rule 30(b)(6) subpoena that you served on the Office in *State of South Carolina ex rel. Alan Wilson v. TikTok Inc.* The subpoena is flawed in many ways, and I ask that TikTok withdraw the subpoena. If TikTok refuses, the Office will be forced to seek judicial relief.

The subpoena invades the Governor's executive privilege

Requiring the Office to designate someone to testify about many of the topics in the deposition subpoena would violate executive privilege. Executive privilege "derive[s] from the supremacy of each branch within its own assigned area of constitutional duties." *United States v. Nixon*, 418 U.S. 683, 705 (1974). The doctrine ensures that the chief executive "and those who assist him" are "free to explore alternatives in the process of shaping policies and making decisions and to do so in a way many would be unwilling to express except privately." *Nixon*, 418 U.S. at 708. "The privilege is fundamental to the operation of Government and inextricably rooted in the separation of powers under the Constitution." *Id.*

The Governor is, of course, the "supreme executive authority of this State." S.C. Const.

art. IV, § 1. And South Carolina has a robust Separation of Powers Clause. *Id.* art. I, § 8. Internal discussions in the Governor’s Office and any communications within the executive branch generally are precisely the type of shaping and making policy that require protection. Communications among the Governor and those who advise and assist him, made in the course of formulating policy or reaching decisions, are presumptively privileged. The presumption may be overcome only by a showing of specific, demonstrated need for the particular information, that the information is unavailable from other sources, and subject to in camera review.

The deposition subpoena demands testimony that goes to the heart of executive privilege. For instance, Topic 1 seeks testimony about “[r]esearch, testing, study, or analysis of the TikTok Platform” that the Office “prepared, conducted, reviewed.” In other words, it seeks information about any work the Office did and how the Office “shap[ed] policies and ma[de] decisions.” *Nixon*, 418 U.S. at 708. Topic 2 is nothing but a subset of Topic 1, narrowing any study of TikTok to how South Carolina’s youth use TikTok. And Topic 3 is but another subset of Topic 1, asking how TikTok affects the mental health of South Carolina’s youth.

The invasion of executive privilege continues with Topic 5. Although publicly released or adopted “[s]ervices, initiatives, and educational resources” are not privileged, the process of considering, developing, and debating those things is the core of shaping and making policy.

Topic 10 sweeps broadly, and it too implicates executive privilege. Though this privilege may not cover meetings or communications with officials not within the State’s executive branch, Topic 10 expressly contemplates forcing the Office to testify about discussions within the executive branch. That is a problem. And Topic 10 also implicates other types of privileges. For example, communications with lawyers across state or local governments are also protected by a common-interest privilege and the work-product doctrine.

Topic 13 suffers from the same flaws as the earlier topics. Though official policies may not be protected once published, the development of those policies is (again) part of the shaping and making of policy that executive privilege protects.

The subpoena invades the Governor’s legislative privilege

The Governor is part of the legislative process because every bill passed by the General Assembly must “be presented to the Governor” for his signature or veto. S.C. Const. art. IV, § 21. Courts have therefore recognized that the Governor plays a role in the legislative process. *Williams v. Morris*, 320 S.C. 196, 206, 464 S.E.2d 97, 102 (1995). That has led courts to hold that decisions to sign or veto legislation are immune from challenge. *E.g.*, *Smiley v. Holm*, 285 U.S. 355, 372–73 (1932); *Smith v. Beasley*, No. 0:07-cv-1641-HFF-BM, 2007 WL 2156632, at *2 (D.S.C. July 25, 2007).

Topic 14 appears to contemplate testimony broadly on Act No. 96 and Act No. 237. The “enactment” of those laws necessarily includes the Governor’s decision to sign them, which legislative privilege protects. Any pre-signing discussions with legislators or their staff would be part of the legislative process that “sound public policy” precludes from litigation and discovery.

Richardson v. McGill, 273 S.C. 142, 146, 255 S.E.2d 341, 343 (1979).

The subpoena is unduly burdensome

A subpoena may not impose an “undue burden” on a recipient. Rule 45(c)(1), (c)(3)(A)(iv), SCRCF. But the subpoena imposes burdens in multiple ways.

For one, this lawsuit is about TikTok, but the subpoena demands that the Office testify about virtually every social media site, given the definition of “Platform” and listed examples.

For another, the definition of “You” sweeps so broadly that it covers virtually all of the State’s executive branch. As the State’s “supreme executive authority,” S.C. Const. art. IV, § 1, most state agencies are part of the Governor’s cabinet and directly answerable to him, *see* Exec. Order 2026-13 (S.C. Gov. June 22, 2026), and every agency is, in some way, subordinate to him. That gives a massive scope to “You” under the subpoena.

Then there’s the “Relevant Time Period,” which covers eight years. In the life of a gubernatorial administration, staff members come and go. Not counting the Governor, Lieutenant Governor, security detail, and dozens of interns, about 60 people have worked in the Office during these years, and most of them no longer do. Because records almost certainly do not exist from all the work that these people did during their time in the Office, no representative could be prepared to testify to all the topics that the subpoena lists. Plus, even if someone in the Office had the time to call every former employee to discuss the deposition topics with them, there’s no guarantee that each person would talk about these topics. And even if all these challenges could be overcome, the burden for a Rule 30(b)(6) designee to prepare would be incredible.

The undue burden continues in the way that the topics are written. Take Topic 1. It asks about any “[r]esearch, testing, study, or analysis” that anyone who has worked in the Governor’s Office for the past eight years merely “reviewed.” That could encompass even newspaper articles discussing TikTok. Or look at Topic 4. It would require the Office’s witness to be prepared to discuss every correspondence that anyone in the Office has ever had with any constituent about social media.

Topics 6, 7, and 12 are unduly burdensome for another reason: They seek publicly available information. Indeed, these topics make that plain on their face (“public statements,” “public statements,” and “engage with the public”). Courts quash subpoenas that seek publicly available information from nonparties. *E.g.*, *United States v. White*, 280 F. App’x 317, 321 (4th Cir. 2008).

And on the subject of already available, the Office understands that TikTok has been provided with the transcript from a Rule 30(b)(6) deposition of the Governor’s Office in litigation between the State and Meta in federal court in California. To the extent that any questions TikTok has are covered in that transcript, there’s no need for the Office to answer them again.*

* The production and deposition in that Meta litigation does not waive any privilege here. First, that production was made to the Attorney General via FOIA, not produced under Rule 34 or Rule 45. Second, the deposition of a Governor’s Office employee was as a fact witness, not as a Rule 30(b)(6) designee. And third, the

The subpoena violates the apex doctrine

“[T]he Supreme Court long ago expressed concern that the District Court had required a high-ranking government official . . . to submit to a deposition.” *Lederman v. N.Y.C. Dep’t of Parks & Recreation*, 731 F.3d 199, 203 (2d Cir. 2013) (citing *United States v. Morgan*, 313 U.S. 409, 422 (1941)). Since 1941, “courts have relied on *Morgan* to hold that a high-ranking government official should not—absent exceptional circumstances—be deposed or called to testify regarding the reasons for taking official action, including the manner and extent of his study of the record and his consultation with subordinates.” *Id.* (internal quotation mark omitted); see also *Est. of Valentine by & through Grate v. South Carolina*, No. CV 3:18-00895-JFA, 2020 WL 12783948, at *1 (D.S.C. Aug. 13, 2020) (applying the apex doctrine to the Governor).

Though TikTok has noticed this as a Rule 30(b)(6) deposition such that the Governor himself need not be the deponent, the scope of the subpoena’s topics would require the Governor having to participate in preparing for the deposition, given the definition of “You.” So although the Governor may not be abused by having to give sworn testimony for however long TikTok may ask questions, he functionally suffers abuse by having to help his staff prepare, and TikTok essentially gets to do an end run around *Morgan*.

The subpoena is a backdoor attempt to obtain more documents

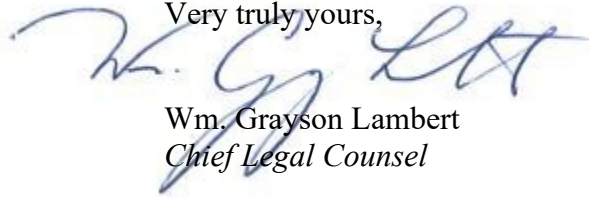
Instruction 3 demands that “[t]o the extent Your designated representative or representatives review or rely upon Documents not produced in this Action in preparing to testify concerning the Topics for Examination, You shall produce such Documents no later than 48 hours before such representative or representatives appear.” This is not a subpoena for documents. The box to produce documents on the subpoena is not checked. It is therefore not a Rule 45 subpoena. TikTok has already served a document subpoena in this case and agreed to accept the production that the Governor’s Office made in the State’s lawsuit against Meta in federal court in California. This deposition subpoena cannot be used as a second bite at the apple for documents.

* * *

The Office appreciates your attention to these issues. After review, we trust that you will recognize the subpoena is improper and will withdraw it. If you decline to withdraw it, I ask that you inform me of TikTok’s intention to pursue the deposition so that the Office may seek judicial relief.

scope of a Governor’s waiver of any privilege or right is based on his intent. See, e.g., *Sanford v. S.C. State Ethics Comm’n*, 385 S.C. 483, 497–98, 685 S.E.2d 600, 607–08 (2009). Nothing indicates that the waiver there extended beyond that case, which involved a threat from a federal magistrate judge to hold the Governor and his counsel in contempt for objecting to the magistrate judge’s conclusion that the Attorney General controlled the Governor’s documents. (The Ninth Circuit belatedly granted mandamus relief to most of the States from this order. See *In re California*, No. 25-584, 2025 WL 2427608 (9th Cir. Aug. 22, 2025).)

Very truly yours,

A handwritten signature in blue ink, appearing to read "W. Grayson Lambert". The signature is fluid and cursive, with a large initial "W" and "G".

Wm. Grayson Lambert
Chief Legal Counsel

cc: Counsel of Record (via email only)