

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2012-CP-36-688

Susan D. Summer, Respondent,

v.

Alan Wilson, in his capacity as Attorney General of South Carolina. . . . Appellant,
and Applicant for Intervention Russell L. Bauknight, as Person Representative of the Estate of
James Brown and Trustee of the James Brown 2000 Irrevocable Trust. Cross-Appellant.

REPLY TO SUMMER's RETURN TO MOTION FOR LEAVE, Etc.

Respondent Summer misunderstands the relief sought and the applicable law. Although the
the Appellant Attorney General reserves the right to seek a stay of the Orders of July 8 and
September 19, 2014, a stay of the Order is not the basis of his request nor is he seeking a lifting of
of any such stay. A motion for stay of the orders or for lifting a stay addresses whether the Circuit
Circuit Court orders take effect. Instead, Appellant's motion addresses Rules 205 and 241 which
which provide that, regardless of a stay of the Orders, the Circuit Court may only proceed on matters
matters not affected by the appeal. The Circuit Court's conducting a hearing regarding the
exemptions and attorney's fees is affected by the appeal under those rules because the orders
regarding them are being appealed. Therefore, the Appellant seeks authorization under Rule 205 for

RECEIVED

NOV 06 2014

SC Court of Appeals

for the Circuit Court to consider the remaining matters. Although Ms. Summer has asked the Judge Judge to defer a ruling on the amount of fees, the Court could still rule on whether she is entitled to to fees, excluding the amount, based upon his findings as to the document production.

As noted in the Appellant's motion, a ruling from the Circuit Court on the remaining matters would serve judicial economy in that an appeal from any such order could be consolidated with the instant appeal. The opposition of Plaintiff to this Motion is surprising because it seeks what she wants which is for the Circuit Court proceedings to continue.

Therefore, the Appellant respectfully requests that this Court grant the following relief:

1. Give the Circuit Court leave to determine the remaining matters in this case, subject to all claims and defenses of the Defendant and right of appeal from any ruling that the Circuit Court makes.
2. Stay the instant appeal and all deadlines herein until final judgment in the Circuit Court and any appeal is taken from that judgment.
3. Hold deadlines in abeyance while the Court of Appeals considers this motion.

Respectfully submitted,

ALAN WILSON
Attorney General

ROBERT D. COOK
Solicitor General
S.C. Bar. No. 1373

[Signature block on next page]

J. EMORY SMITH, JR.
Deputy Solicitor General
Post Office Box 11549
Columbia, SC 29211
(803) 734-3680
S.C. Bar No. 5262

BY: 

ATTORNEYS FOR THE DEFENDANT
ATTORNEY GENERAL

November 6, 2014

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Eugene C. Griffith, Jr., Circuit Court Judge

Case No. 2012-CP-36-688

Susan D. Summer, Respondent,

v.

Alan Wilson, in his capacity as Attorney General of South Carolina. . . . Appellant,
and Applicant for Intervention Russell L. Bauknight, as Person Representative of the
Estate of James Brown and Trustee of the James Brown 2000 Irrevocable
Trust. Cross-Appellant.

CERTIFICATE OF SERVICE

I hereby certify that I have served the Respondent and Applicant for Intervention with the Appellant's Reply to Return to Motion for Leave, by mailing copies to each of their attorneys at the addresses below via the United States Mail this November 6, 2014.

Thomas H. Pope, III, Esquire
Pope and Hudgens, P.A.
P.O. Box 190
Newberry, SC, 29108

Jay Bender, Esquire
Baker Ravenel & Bender, LLP
P.O. Box 8057
Columbia, SC 29202

RECEIVED

NOV 06 2014

SC Court of Appeals

CERTIFICATE OF SERVICE

November 6, 2014

Page 2

Mark V. Gende, Esquire
Sweeny Wingate & Barrow, P.A.
P.O. Box 12129
Columbia, SC 29211

A handwritten signature in black ink, appearing to read "J. Emory Smith, Jr.", is written over a horizontal line.

J. EMORY SMITH, JR.
Deputy Solicitor General
Bar No. 5262
Attorney for the Attorney General



ALAN WILSON
ATTORNEY GENERAL

November 6, 2014

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
HAND DELIVERED

Re: Summer v. Wilson 2012-CP-36-00688

Dear Ms. Kitchings:

Enclosed for filing with your Office are the original and six copies of the Appellant's Reply to Return to Motion for Leave, etc. together with a certificate of service.

Sincerely,

J. Emory Smith, Jr.
Deputy Solicitor General
Counsel for Defendant Attorney General

Enclosures

cc: Thomas H. Pope, III, Esquire
Jay Bender, Esquire
Mark V. Gende, Esquire

RECEIVED

NOV 06 2014

SC Court of Appeals