

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

CEPHALON, INC.,  
Appellant,

v.

ALAN WILSON, in his capacity  
as Attorney General for the State of South Carolina  
Respondent,

Case No. 2014-001465

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Appeal from Richland County  
Court of Common Pleas, Fifth Judicial Circuit  
G. Thomas Cooper, Jr., Circuit Court Judge

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UNOPPOSED MOTION BY THE CHAMBER OF COMMERCE OF THE  
UNITED STATES OF AMERICA AND PHARMACEUTICAL RESEARCH AND  
MANUFACTURERS OF AMERICA FOR LEAVE TO FILE BRIEF AS *AMICI*  
*CURIAE*

Pursuant to South Carolina Appellate Court Rule 213, the Chamber of Commerce of the United States of America (“the Chamber”) and Pharmaceutical Research and Manufacturers of America (“PhRMA”) hereby move for leave to file a brief as *amici curiae* in this action.<sup>1</sup> The above matter addresses issues of substantial concern to the Chamber, PhRMA and the numerous businesses and professional organizations that they represent.

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<sup>1</sup> The State has consented to the filing of *amici*'s brief.

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S.C. Supreme Court

As explained in the brief filed conditionally with this motion, the central issue in this case is whether it is constitutionally impermissible for the South Carolina Attorney General to enter into a contingency-fee arrangement in which it delegates responsibility to prosecute quasi-criminal actions for penalties under the South Carolina Unfair Trade Practice Act to private counsel whose fees would be tied directly to the amount of recovery obtained on behalf of the State. Both the Chamber and PhRMA have a strong interest in this question, as their members are being targeted with increasing frequency by private contingency-fee lawyers prosecuting civil-penalty and other enforcement actions on behalf of state and local governments across the country. The Chamber and PhRMA maintain that such arrangements are generally unconstitutional in that they violate the defendant's due process right to a neutral prosecutor. In addition, the specific contingency-fee arrangement at issue in this case, which provides that the South Carolina Attorney General may retain 10% of private counsel's fee award for itself instead of remitting that money to the State of South Carolina's general fund, violates the separation of powers doctrine by depriving the legislature of its authority over state spending.

For the foregoing reasons, the Chamber and PhRMA respectfully request that the Court grant leave to file a brief as *amici curiae*. A copy of the proposed *amici curiae* brief is attached hereto, and is being filed conditionally with this motion in accordance with South Carolina Appellate Court Rule 213.

Respectfully submitted,



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THE STATE OF SOUTH CAROLINA

In The Supreme Court

APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas

G. Thomas Cooper, Jr., Circuit Court Judge Name

Appellate Case No. 2014-001465

Cephalon, Inc..... Appellant,

v.

Alan Wilson, in his capacity as  
Attorney General for the State of South Carolina.....Respondent.

PROOF OF SERVICE

I certify that I have served the foregoing *Unopposed Motion by the Chamber of Commerce of the United States of America and Pharmaceutical Research and Manufactures of America for Leave to File Brief as Amici Curiae* on Appellant Cephalon, Inc.'s counsel of record and on Respondent's, Alan Wilson, counsel of record, by depositing a copy of same in the United States mail, postage prepaid, on November 24, 2014, addressed to their attorneys of record:

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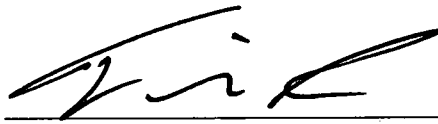
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A handwritten signature in black ink, appearing to read "Travis J. Iams", written over a horizontal line.

Travis J. Iams