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THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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DEC - 4 2014

S.C. Supreme Court

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas
Eugene C. Griffith, Circuit Court Judge

Case No. 2012-CP-36-00688

Appellate Case No. 2014-002222

Applicant for Intervention Russell L. Bauknight, as Personal Representative of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust.....Appellant.

In re Susan D. Summer,.....Plaintiff,
of whom Susan D. Summer is.....Respondent,

v.

Alan Wilson, In His Capacity as Attorney General for South Carolina.....Defendant.

RESPONSE TO MOTION TO CERTIFY

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SC Court of Appeals

Appellant Russell L. Bauknight, as Trustee of the James Brown 2000 Irrevocable Trust and as Personal Representative of the Estate of James Brown (the "Trust and Estate") submits this Response to Respondent's Motion to Certify to the South Carolina Supreme Court.

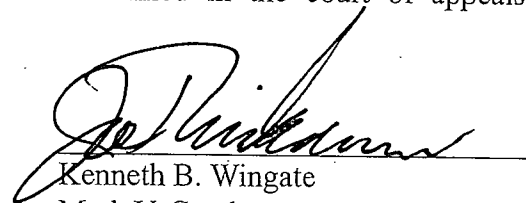
Rule 204, SCACR provides that "[c]ertification is normally appropriate where the case involves an issue of significant public interest or a legal principle of major importance." Though Respondent asserts several grounds in support of certification. The sole issue appealed to the court of appeals is whether Appellant's motion to intervene was improperly denied.

The issue of intervention pursuant to Rule 24, SCRCF is not a novel one. Pursuant to Rule 24(a), SCRCF, "anyone shall be permitted to intervene in an action . . . when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest" This Court has consistently held that "the rules of intervention should be liberally construed where judicial economy will be promoted by declaring the rights of all affected parties." Gov't Employee's Ins. Co., Ex parte, 373 S.C. 132, 138, 644 S.E.2d 699, 702 (2007); see also Berkeley Elec. Co-op., Inc. v. Town of Mt. Pleasant, 302 S.C. 186, 189, 394 S.E.2d 712, 714 (1990). The trial court's order did not address the grounds presented by Appellant's motion to intervene, but instead summarily denied the motion, both initially and after Appellant moved for reconsideration pursuant to Rule 59(e), SCRCF. Thus, none of the various grounds for certification urged by Respondent were able to be raised to or ruled upon by the lower court. Accordingly, they are not proper subjects for appellate consideration. Malloy v. Thompson, 409 S.C. 557, 561, 762 S.E.2d 690, 692 (2014).

Very simply, Appellant has asserted an interest relating to documents which are the subject of the instant action, and is so situated that the disposition of the action will impair or

impede his ability to protect that interest. The trial court did not rule upon any of the grounds for intervention asserted by Appellant, and the grounds asserted by Respondent in favor of certification to this Court are presented for the first time in her November 21, 2014 motion to this Court. The propriety of this denial in light of the clear standard set by Rule 24 is the sole issue on appeal. Intervention pursuant to Rule 24 is not a novel issue. Therefore Respondent's motion should be denied, and the pending appeal should be maintained in the court of appeals.

December 4, 2014

A handwritten signature in black ink, appearing to read 'K. Wingate', is written over a horizontal line.

Kenneth B. Wingate
Mark V. Gende
Joseph O. Thickens
Post Office Box 12129
Columbia, South Carolina 29211
(803)256-2233
(Attorneys for Appellants)

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Applicant for Intervention Russell L. Bauknight, as Personal Representative of the Estate of James Brown and Trustee of the James Brown 2000 Irrevocable Trust.....Appellant.

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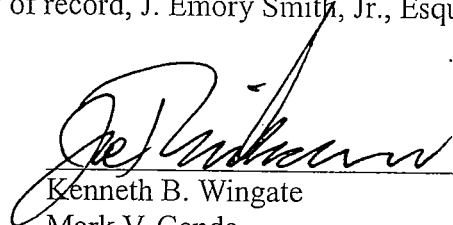
v.

Alan Wilson, In His Capacity as Attorney General for South Carolina.....Defendant.

PROOF OF SERVICE

I certify that I have served the Response to Motion to Certify on Susan D. Summer by depositing a copy of it in the United States Mail, postage prepaid, on December 4, 2014, addressed to her attorneys of record, Jay Bender, Esquire, Post Office Box 8057, Columbia, SC 29202 and Thomas H. Pope, Esquire, P.O. Box 190, Newberry, SC 29108 and The Honorable Alan Wilson by depositing a copy of it in the United States Mail, postage prepaid, on December 4, 2014, addressed to his attorney of record, J. Emory Smith, Jr., Esquire, P. O. Box 11549, Columbia, SC 29211-1549.

December 4, 2014



Kenneth B. Wingate
Mark V. Gende
Joseph O. Thickens
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(803)256-2233
(Attorneys for Appellants)



SWEENEY WINGATE & BARROW, P.A.

DATE: 12/5/14

December 5, 2014

Reply to: Main Office

Joseph O. Thickens
(803) 256-2233 x7123
jot@swblaw.com

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201

RE: Susan D. Summer V. Alan Wilson, In His Capacity as Attorney General of SC
Civil Action No.: 2012-CP-36-00688
Our File: 4077-7389.001

Dear Ms. Kitchings:

Enclosed for filing please find a copy of a Response to Motion to Certify which was filed with the Supreme Court of South Carolina on December 4, 2014.

Should you have any questions or concerns, please do not hesitate to give me a call.

Yours truly,

SWEENEY, WINGATE & BARROW, P.A.

Joseph O. Thickens

JOT/ljm
Enclosure

cc: Jay Bender, Esquire, Baker, Ravenel & Bender, LLP
Thomas H. Pope III, Pope & Hudgens, P.A.
J. Emory Smith, Jr., Esquire, Office of the Attorney General

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SWEENEY WINGATE & BARROW P.A.

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SC Court of Appeals

The Honorable Jenny Abbott Kitchings
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Columbia, South Carolina 29201

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