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**Aug 04 2021**

**S.C. SUPREME COURT**

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM RICHLAND COUNTY

R. Kirk Griffin, Circuit Court Judge

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Supreme Court Case No. 2021-000472

Court of Appeals Case No. 2021-000343

Lower Court Case No. 2020-CP-40-04063

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South Carolina Public Interest Foundation, and John Crangle, Individually  
and on behalf of all others similarly situated, Appellants,

v.

Alan Wilson, Attorney General for the State of South Carolina,  
Willoughby & Hoefler, P.A., and Davidson, Wren & DeMasters, P.A., Respondents.

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**AMENDED DESIGNATION OF MATTER  
TO BE INCLUDED ON THE RECORD ON APPEAL**

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Appellants propose the following to be included in the Record on Appeal:

1. Order Certifying Case for Review, July 6, 2021
2. Order Granting Motions to Dismiss, March 5, 2021
3. Order Denying Plaintiffs' Motion to Alter or Amend, December 17, 2020
4. Order Denying Plaintiffs' Motion for Preliminary Injunction, October 14, 2020
5. Order extending Temporary Restraining Order until October 14, 2020, October 9, 2020
6. Ex Parte Temporary Restraining Order, Judge Alison Renee Lee, October 1, 2020

7. Order Granting Temporary Injunction Pendente Lite, signed by Judge Debra R. McCaslin on September 29, 2020 and entered on September 30, 2020
8. Summons and Complaint, September 25, 2020 (without exhibits)
9. Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, September 25, 2020
10. Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, September 29, 2020
11. Exhibit 1 to Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, Agreement for Dismissal, State of South Carolina v. United States, No. 19-2324 (Fed. Ct. Sept. 29, 2020), ECF No. 45
12. Exhibit 2 to Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, S.C. Dept. of Administration Executive Budget Office Payment Approval with attached email thread between K. Buckley and L. Wright discussing approval, September 25, 2020
13. Exhibit 3 to Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, Order Granting Defendant's Motion for Summary Judgment, Cephalon, Inc. v. Alan Wilson, No. 2012-CP-40-07317 (Richland Cnty. Ct. Comm. Pleas June 6, 2014)
14. Amended Summons and Amended Complaint, September 30, 2020
15. Amended Complaint Exhibit A, Affidavit of James M. Griffin ("Griffin September 30, 2020 Affidavit"), September 30, 2020
16. Griffin September 30, 2020 Affidavit Exhibit 1, Settlement Agreement, South Carolina v. United States, Fed. Cir. No. 19-2324, August 28, 2020
17. Griffin September 30, 2020 Affidavit Exhibit 2, Governor Henry McMaster letter to Alan M. Wilson, S.C. Attorney General, August 30, 2020
18. Griffin September 30, 2020 Affidavit Exhibit 3, Solicitor David M. Pascoe letter to Alan M. Wilson, S.C. Attorney General, September 10, 2020
19. Griffin September 30, 2020 Affidavit Exhibit 4, Order, South Carolina v. United States et al., Civil Action No. 1:16-cv-00391-JMC (D.S.C. Feb. 7, 2017), ECF No. 76
20. Griffin September 30, 2020 Affidavit Exhibit 5, Opinion & Order, South Carolina v. United States, Case No. 1:18-cv-00038-MMS (Fed. Ct. Aug. 20, 2019), ECF No. 32

21. Griffin September 30, 2020 Affidavit Exhibit 6, Federal Court Docket Sheets for South Carolina v. United States, Case Nos. 1:16-cv-00391-JMC, 1:17-cv-01068-MMS, and 1:18-cv-00038-MMS
22. Griffin September 30, 2020 Affidavit Exhibit 7, Litigation Retention Agreement for Special Counsel Appointed by the South Carolina Attorney General as to Economic and Impact Assistance for the Violations of 50 U.S.C.A. § 2566 Related to the Mixed Oxide (MOX) Facility
23. Griffin September 30, 2020 Affidavit Exhibit 8, Amendment to the Litigation Retention Agreement for Special Counsel Appointed by the South Carolina Attorney General as to Economic and Impact Assistance for the Violations of 50 U.S.C.A. § 2566 Related to the Mixed Oxide (MOX) Facility, June 13, 2019
24. Griffin September 30, 2020 Affidavit Exhibit 9, South Carolina v. United States, 912 F.3d 720 (2019)
25. Griffin September 30, 2020 Affidavit Exhibit 10, Petition for Writ of Certiorari, South Carolina v. United States, No. 18-1531, 2019 WL 2464930 (4th Cir. June 7, 2019)
26. Griffin September 30, 2020 Affidavit Exhibit 11, Reply Brief of Petitioner, South Carolina v. United States, No. 18-1531 (4th Cir. Sept. 24, 2019)
27. Griffin September 30, 2020 Affidavit Exhibit 12, South Carolina v. United States, 140 S. Ct. 392 (2019)
28. Griffin September 30, 2020 Affidavit Exhibit 13, Email from V. Ware to Willoughby Hoefer counsel re Injunction Hearing Sept. 30 at 10:00 A.M. Barnwell County et al. v. Alan Wilson, September 25, 2020
29. Griffin September 30, 2020 Affidavit Exhibit 14, Email from J. Carpenter to Judge Lee regarding Hearing on Temporary and Preliminary Injunction, September 25, 2020 (requesting hearing on Motion for Temporary Restraining Order and Preliminary Injunction)
30. Griffin September 30, 2020 Affidavit Exhibit 15, Email thread between Judge McCaslin law clerk and counsel for all parties re SCPIF v. Wilson 2020CP4004603, September 28, 2020 (scheduling hearing on Motion for Temporary Restraining Order and Preliminary Injunction)
31. Griffin September 30, 2020 Affidavit Exhibit 16, Email thread between B. Humphries, counsel for Plaintiffs, and E. Smith, counsel for Defendants re SCPIF v. Wilson 2020CP4004603, September 28, 2020, (agreement to accept service of Summons and Complaint)
32. Griffin September 30, 2020 Affidavit Exhibit 17, Email thread between J. Griffin, counsel for Plaintiffs, and E. Smith, counsel for Defendants re SCPIF v. Wilson

- 2020CP4004603, September 28, 2020, (discussing temporary hold on payment to counsel)
33. Griffin September 30, 2020 Affidavit Exhibit 18, Email thread between counsel for Defendant, counsel for Plaintiffs, and Judge McCaslin re SCPIF v. Wilson 2020CP4004603, September 29, 2020
  34. Griffin September 30, 2020 Affidavit Exhibit 19, Email thread between J. Griffin and Judge McCaslin and counsel re SCPIF v. Wilson 2020CP4004603 (Sept. 30, 2020) (discussing confirmation from State Treasurer that funds were wired to Willoughby & Hoefler just hours prior to hearing)
  35. Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, September 30, 2020
  36. Exhibit 4 to Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, Affidavit of Kimberly Buckley with attached email approval thread, October 1, 2020
  37. Exhibit 5 to Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, Email from J. Carpenter to Judge Lee regarding hearing on temporary and preliminary injunctions, September 25, 2020, and Email exchange between E. Smith and B. Humphries regarding acceptance of service on behalf of Attorney General
  38. Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, October 6, 2020
  39. Exhibit 1 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Letter from William H. Davidson II and Randolph R. Lowell to W. Jeffrey Young, Chief Deputy Attorney General, September 16, 2020
  40. Exhibit 3 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Affidavit of Leonidas E. Stavrinakis, October 6, 2020
  41. Exhibit 4 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Affidavit of John Freeman, October 5, 2020
  42. Exhibit 5 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Affidavit of Michael J. Virzi, October 5, 2020
  43. Exhibit 6 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Affidavit of Peter D. Protopapas, October 5, 2020 with related exhibits

44. Exhibit 7 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Affidavit of C. Bradley Hutto, October 5, 2020
45. Exhibit 8 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, IRS Form 990-PF Return of Private Foundation of South Carolina Public Interest Foundation for 2018
46. Exhibit 9 to Willoughby & Hoefler PA's Response in Opposition to Plaintiffs' Motion for Preliminary Injunction, Letter from Attorney General Wilson to Governor Henry McMaster, September 1, 2020
47. Supplemental Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, October 6, 2020
48. Exhibit D to Supplemental Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, John Monk, *Should 2 law firms get \$75M of SC's \$600M plutonium Settlement? This lawsuit says no.*, The State, Sept. 28, 2020
49. Exhibit E to Supplemental Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, Email K. Buckley to M. Simmons, September 28, 2020
50. Exhibit K to Supplemental Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, Memorandum of Attorney General in Opposition to Motion for a TRO or Temporary Injunction, Ex Parte Barnwell County et al. v. Wilson, C/A No. 2020-CP-06-00294 (Barnwell Cnty. Comm. Pleas Sept. 29, 2020)
51. Exhibit L to Supplemental Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, Affidavit of Nikki G. Setzler, October 5, 2020
52. Return of Attorney General to Supplemental Memorandum of Plaintiffs, October 6, 2020
53. (Plaintiffs' Proposed) Order Granting Preliminary Injunction, October 8, 2020
54. Proposed Order Insertion as to Attorney General, October 8, 2020
55. Willoughby & Hoefler's proposed Order Denying Motion for Preliminary Injunction, October 8, 2020
56. Davidson, Wren & DeMasters, P.A.'s Motion to Dismiss Plaintiffs' Amended Complaint, October 20, 2020
57. Willoughby & Hoefler, P.A.' Motion to Dismiss Plaintiffs' Amended Complaint, October 20, 2020

58. Plaintiffs' Motion Pursuant to Rules 52(b) and 59(a), SCRCF, to Alter or Amend Order, October 23, 2020
59. Attorney General's Motion to Dismiss Amended Complaint, October 27, 2020
60. Defendants Willoughby & Hoefler, P.A. and Davidson, Wren & DeMasters, P.A.'s proposed Order Granting Motion to Dismiss
61. Willoughby & Hoefler, P.A.'s Memorandum in Opposition to Plaintiffs' Motion to Alter or Amend Order, November 20, 2020
62. Return of Attorney General to Motion to Alter or Amend, November 23, 2020
63. Davidson, Wren & DeMasters, P.A.'s Memorandum in Opposition to Plaintiff's Motion to Alter or Amend Order, November 23, 2020
64. Memorandum in Support of Attorney General's Motion to Dismiss Amended Complaint, January 20, 2021
65. Exhibit 2 to Memorandum in Support of Attorney General's Motion to Dismiss Amended Complaint, Order, State v. Eli Lilly, 2007-CP-42-1855 (Spartanburg Cnty. Ct. Comm. Pleas Sept. 22, 2009)
66. Davidson, Wren & DeMasters, P.A.'s Memorandum in Support of Motion to Dismiss, January 20, 2021
67. Willoughby & Hoefler, P.A.'s Memorandum in Support of Motion to Dismiss, January 20, 2021
68. Plaintiffs' Memorandum in Opposition to Defendants' Motion to Dismiss, January 20, 2021
69. Exhibit E to Plaintiffs' Memorandum in Opposition to Defendants' Motion to Dismiss, Email J. Young to J. Griffin forwarding email sent to Judge McCaslin attaching confirmation of payment of fees to attorneys, September 30, 2020
70. Exhibit K to Plaintiffs' Memorandum in Opposition to Defendants' Motion to Dismiss, Email Judge Alison Lee to counsel in response to T. Rutherford email enclosing proposed order granting motion to dismiss of Willoughby & Hoefler, P.A.
71. Transcript of Record (Jan. 26, 2021)
72. Defendants' Proposed Order Granting Motions to Dismiss
73. Notice of Appeal, March 29, 2021
74. Willoughby & Hoefler, P.A.'s and Davidson, Wren & DeMasters, P.A.'s Motion for Certification, May 5, 2021

75. Willoughby & Hoefler, P.A.'s and Davidson, Wren & DeMasters, P.A.'s Memorandum in Support of Motion for Certification, May 5, 2021 (without exhibits)
76. Return of Attorney General to Motion for Certification, May 13, 2021
77. Appellants' Motion to Certify Case for Review, May 17, 2021
78. Appellants' Memorandum in Support of Motion to Certify Case for Review, May 17, 2021
79. Exhibit A to Appellants' Memorandum in Support of Motion to Certify Case for Review, J. Griffin Affidavit, May 17, 2021
80. Exhibit 8 to Exhibit A to Appellants' Memorandum in Support of Motion to Certify Case for Review, Jeff Young email exchange with Kim Buckley and Randy Lowell, September 28, 2020
81. Exhibit 34 to Exhibit A to Appellants' Memorandum in Support of Motion to Certify Case for Review, Email from Judge Young to Counsel, October 28, 2020
82. Appellants' Response to Respondents' Motion for Certification, May 17, 2021
83. Respondents Willoughby & Hoefler, P.A. and Davidson, Wren & DeMasters, PA Motion for Certification and Return to Appellants' Motion to Certify Case for Review, May 24, 2021
84. Return of Attorney General to Appellants' Motion for Certification, May 24, 2021

I certify that this designation contains no matter which is irrelevant to this appeal.

August 4, 2021

s/ James M. Griffin

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