

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

RECEIVED

JUN 06 2011

S.C. SUPREME COURT

IN THE ORIGINAL JURISDICTION
OF THE SUPREME COURT

Glenn F. McConnell, President *Pro Tempore* of the South
Carolina Senate,..... Petitioner,

v.

Nikki R. Haley, Governor of the State of South Carolina,..... Respondent.

**MOTION TO INTERVENE AND
JOIN GOVERNOR HALEY'S OPPOSITION BRIEF**

Pursuant to Rule 24 of the South Carolina Rules of Civil Procedure, the following members of the South Carolina General Assembly move to intervene in this matter as Respondents to ensure that their interests are adequately represented:

Senators

The Honorable Lee Bright
The Honorable Kevin L. Bryant
The Honorable Ronnie W. Cromer
The Honorable Greg Gregory
The Honorable Harvey S. Peeler, Jr.
The Honorable Michael T. Rose
The Honorable W. Greg Ryberg
The Honorable David L. Thomas

Representatives

The Honorable Rita Allison
The Honorable Nathan Ballentine
The Honorable Eric J. Bikas
The Honorable Kenneth A. Bingham

The Honorable William M. Chumley
The Honorable Alan D. Clemmons
The Honorable Thomas D. Corbin
The Honorable Tracy R. Edge
The Honorable Shannon S. Erickson
The Honorable Marion B. Frye
The Honorable Daniel P. Hamilton
The Honorable Chip Huggins
The Honorable Phillip D. Lowe
The Honorable James H. Lucas
The Honorable James H. Merrill
The Honorable Wendy K. Nanney
The Honorable Ralph W. Norman
The Honorable Andrew S. Patrick
The Honorable Thomas E. Pope
The Honorable William E. Sandifer, III
The Honorable J. Gary Simrill

To intervene as a matter of right under Rule 24(a)(2), a party must: (1) establish timely application; (2) assert an interest relating to the property or transaction that is the subject matter of the action; (3) demonstrate that it is in a position such that without intervention, disposition of the action may impair or impede its ability to protect that interest, and (4) demonstrate that its interest is inadequately represented by other parties. *In re Horry County State Bank*, 361 S.C. 503, 604 S.E.2d 723 (Ct. App. 2004). The Interveners readily satisfy these criteria.

The first criterion is straightforward, as this Motion is filed on the same day that this suit was commenced. The second is similarly clear: the subject matter of this litigation directly implicates Interveners' ability to perform their roles as members of the General Assembly.

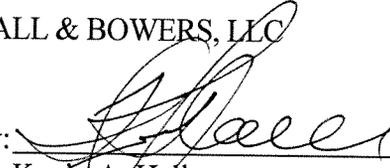
Regarding the third and fourth criteria, this litigation, in its current posture, appears to pit the General Assembly against the Governor with respect to the Governor's authority to reconvene the legislature pursuant to Article IV, § 19 of the South Carolina

Constitution. Many legislators, however, recognize that exercising this constitutional power rests in the Governor's sound discretion and do not believe that this Court has jurisdiction to review the Governor's judgment. Interveners are ready and willing to reconvene and set about fulfilling their roles as legislators. By moving to intervene in this case, these members of the General Assembly are making the Court aware that, with respect to the issues presented, the Petitioner does not represent the viewpoint of every member of the legislative branch.

If this Motion is granted, the intervening legislators respectfully join and adopt by reference the Governor's Return in Opposition to the Petition for Original Jurisdiction and to Dismiss Complaint pursuant to Rule 208(b)(6) of the South Carolina Appellate Court Rules.

Respectfully submitted,

HALL & BOWERS, LLC

By: 

Kevin A. Hall
SC Bar No. 15063
Email: kevin.hall@hallbowers.com
Karl S. Bowers, Jr.
SC Bar No. 16141
Email: butch.bowers@hallbowers.com
M. Todd Carroll
SC Bar No. 74000
Email: todd.carroll@hallbowers.com
1329 Blanding Street
Columbia, SC 29201
(803) 454-6504

Attorneys for Interveners

June 6, 2011
Columbia, South Carolina

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

IN THE ORIGINAL JURISDICTION
OF THE SUPREME COURT

Glenn F. McConnell, President *Pro Tempore* of the South
Carolina Senate, Petitioner,

v.

Nikki R. Haley, Governor of the State of South Carolina, Respondent.

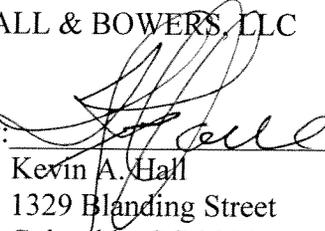
PROOF OF SERVICE

I, the undersigned Attorney of the law offices of Hall & Bowers, LLC, attorneys for Interveners, do hereby certify that I have served the below parties in this action with a copy of the pleading(s) hereinbelow specified by hand-delivering a copy of the same to the following address(es):

Pleading: Motion to Intervene and Join Governor Haley's
Opposition Brief

Parties Served: Michael R. Hitchcock, Esquire
South Carolina Senate
301 Gressette Building
Columbia, SC 29201

HALL & BOWERS, LLC

By: 

Kevin A. Hall
1329 Blanding Street
Columbia, SC 29201
(803) 454-6504

Attorneys for Interveners

June 6, 2011