

THE STATE OF SOUTH CAROLINA
In The Supreme Court

RECEIVED

MAY 29 2013

APPEAL FROM GREENVILLE COUNTY
Court of Common Pleas

S.C. Supreme Court

D. Garrison Hill, Circuit Court Judge

Case No. 2011-CP-23-5359
Appellate Case No. 2011-204246

Sue Taylor Colson Widenhouse Respondent,

v.

Tammy Batson Colson.Appellant.

**MOTION OF STATE OF SOUTH CAROLINA
FOR LEAVE TO FILE AN AMICUS BRIEF, MEMORANDUM
OR LETTER RETURN**

Pursuant to Rule 213, SCACR, the State of South Carolina moves for permission to file an amicus curiae brief in this case on the issue of the constitutionality of the public policy exception in section S.C. Code Ann. § 15-35-960 in the Enforcement of Foreign Judgments Act (“the provisions of this article do not apply to foreign judgments based on claims which are contrary to the public policies of this State.”) The State proposes to file the brief in the form of a letter return or short memorandum but will file it in the form of a brief if the Court prefers.

Oral argument was held in this case on May 14, 2013. The Office of the Attorney General was apparently first informed of the constitutional challenge by letter from the

Court dated May 6, 2013. The letter did not reach the office of counsel Emory Smith, Assistant Deputy Attorney General, until May 13 when he was in Richmond for an oral argument the next day at the Court of Appeals for the Fourth Circuit.

After researching the constitutional issue and reviewing the briefs of the parties, the OAG would like to file a short amicus brief, memorandum or letter return for the State respectfully urging the Court to decide the pertinent issues in this case on the narrowest possible grounds to avoid the necessity of addressing the constitutional issue. The State would cite authority to this court from other jurisdictions which would support a conclusion that enforcement of the monetary judgment at issue in this case would not violate state public policy under §15-35-960. Neither party to the appeal has advocated such a position and neither party has defended the constitutionality of the statute although Appellant argued that the Constitution's Full Faith and Credit Clause does not require enforcement of the North Carolina judgment because it violates South Carolina policy.

The State has an interest in this matter and an amicus brief would be desirable because the constitutionality of a State statute is at issue, no State officer or agency is currently a party to this case, and no party is defending the statute at issue. *Cf.* Rule 4(d)(4)(B), SCRCP.¹ A ruling on the constitutional issue could impact many foreign judgments other than the judgment at issue in the instant case.

The State could file this brief, memorandum or letter, in whichever format the

¹ This Rule provides that a copy of the summons and complaint shall be mailed to the Attorney General when the constitutionality of a State statute is attacked and the State, an officer or an agency is not a party.

Court prefers, within five business days or less of the Court's order authorizing the filing. The document will be short. The State, of course, consents to the filing of returns to the brief by the parties to the appeal.

Undersigned counsel has contacted counsel for the parties, and reports that counsel for the Appellant opposes this motion and counsel for Respondent does not oppose the motion but would reserve the right to respond to the amicus filing if necessary.

Respectfully submitted,

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Attorney General

ROBERT D. COOK
Deputy Attorney General

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By: 
ATTORNEYS FOR THE STATE OF SOUTH
CAROLINA

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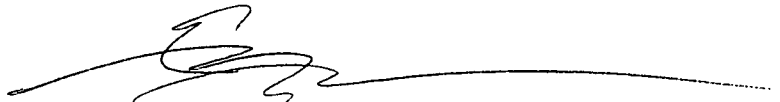
Tammy Batson Colson.Appellant.

CERTIFICATE OF SERVICE

I hereby certify that I have served the State's Motion for Leave to File Amicus Brief upon counsel for the other parties by mailing copies to them at the addresses below via the United States Mail this May 29, 2013:

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