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Jun 14 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM WILLIAMSBURG COUNTY

Court of Common Pleas

Kristi F. Curtis, Circuit Court Judge

Case No: 2014-CP-45-00132

Appellate Case No: 2021-000835

South Carolina Farm Bureau Ins. Co, Plaintiff
v.

Marion L. Driggers, Shiralee Driggers, Tammy D.
Floyd, Estate of Arthur McKenzie, The Travelers
Home and Marine Insurance Company, The
United States of America acting by and through
Its agency, The Internal Revenue Service, and
The South Carolina Tax Commission, Defendants,

Of Which Marion L. Driggers is Appellant and The Travelers
Home and Marine Insurance Company is the Respondent.

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF
SOUTH CAROLINA FARM BUREAU INS. CO. IN SUPPORT OF
APPELLANT, MARION L. DRIGGERS**

Pursuant to Rule 213, SCACR, South Carolina Farm Bureau Ins. Co. (SCFB) hereby moves that
this Court grant it leave to file its *amicus curiae* brief in this matter. The brief is being conditionally filed
according to the rule.

Like Respondent The Travelers Home and Marine Insurance Company (Travelers), SCFB carried a policy for the same period insuring the same property, and like the Appellant here, SCFB's claims at the lower court were dismissed via Summary Judgment. SCFB's appeal with Travelers is pending before this Court in Appellate Case Number 2021-000494. SCFB filed an Initial Brief in the subject action. It was dismissed per Traveler's Motion, via this Court's Order of September 6, 2022, which held that SCFB was not a party to this appeal and that SCFB could submit a brief as Amicus in this action, should the Court grant leave to do so. This Motion seeks such leave.

As an insurance carrier protecting the same property interests as Travelers in the subject property, SCFB seeks to draw the Court's attention to certain legal principals applicable to Appellant's claim for coverage under the Travelers policy. Appellant's counsel has raised issues relating to the underlying mortgage, but Appellant's position as a loss payee of the underlying mortgage raises additional legal principals important to the Court's consideration of the Travelers coverage. Because SCFB carried the Driggers policy and because this policy covered the same interests on the same property as the Travelers policy, equity and justice require this Court to consider SCFB's unique position in this matter and grant this Amicus Motion.

No rule or principal requires an Amicus to be disinterested. *Gila River Indian Community v. U.S.*, No. CV10-1993 PHX-DGC CV10-2017 PHX DKD CV10-2138 PHX MHB (D. Ariz. Dec. 14, 2010).

In deciding whether to grant leave to file an amicus brief, courts consider whether the briefing "supplement[s] the efforts of counsel, and draw[s] the court's attention to law that escaped consideration." *Miller-Wohl Co., Inc. v. Comm'r of Labor & Indus. Mont.*, 694 F.2d 203, 204 (9th Cir. 1982). An amicus brief should be permitted on behalf of a party lacking competent representation, when the amicus has an interest in some other case that may be affected by a decision in the present case, or when the amicus has unique information that could help this court beyond the assistance already provided by the parties' lawyers. *United States v. Renown Health*, 2016 WL 6803078, at *2 (D. Nev. Nov. 15, 2016) (citing *Miller-Wohl*, 694 F.2d at 204).

United States v. Paredes-Medina, 2:21-cr-00323-CDS-DJA (D. Nev. Oct. 13, 2022)

Amicus submits that there will be no prejudice to the parties by allowing its brief to be filed. Ample time remains for the parties and the Court to review the brief prior to argument.

WHEREFORE, SCFB respectfully urges the Court to allow it to participate as amicus curiae, by allowing the filing of its amicus curiae brief submitted herewith.

Respectfully Submitted,

/s/ J. Dwight Hudson

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Dated: June 14, 2023

**Attorney For Amicus Curiae,
South Carolina Farm Bureau Ins. Co.**

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South Carolina Farm Bureau Ins. Co, Plaintiff,
v.

Marion L. Driggers, Shiralee Driggers, Tammy D.
Floyd, Estate of Arthur McKenzie, Arthur McKenzie
a/k/a Arther McKenzie, The Travelers Home and Marine
Insurance Company, The United States of America acting
by and through Its agency, The Internal Revenue Service,
and The South Carolina Tax Commission, Defendants,

Of Whom Marion L Driggers is Appellant and The Travelers
Home and Marine Insurance Company is the Respondent.

***PROOF OF SERVICE RE: MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF
SOUTH CAROLINA FARM BUREAU INS. CO. IN SUPPORT OF
APPELLANT, MARION L. DRIGGERS***

I certify that on June 14, 2023, I served the **Motion For Leave To File Amicus Curiae Brief Of South Carolina Farm Bureau Ins. Co. In Support Of Appellant, Marion L. Driggers** on counsel as noted below:

Dated: June 14, 2023

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Attorney for SC Farm Bureau

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ADMITTED IN S.C. and N.C.*
United States Supreme Court*
U.S. Court of Appeals 4th Circuit*^
U.S. District Court – South Carolina*^
U.S. District Court – North Carolina*
(Eastern, Middle and Western Districts)
S.C. Supreme Court*^
N.C. Supreme Court*
S.C. Court of Appeals*^
N.C. Court of Appeals*

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June 14, 2023
Via Court of Appeals Efiling

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SC Court of Appeals

The Hon. Jenny Abbott Kitchings
Clerk, SC Court of Appeals
PO Box 11629
Columbia, SC 29211
ctappfilings@sccourts.org

Re: *SC Farm Bureau Mutual Ins Co. v. Driggers et al, Case No.: 2021-000835*

Dear Ms. Kitchings:

Enclosed for filing are the following:

1. **Motion For Leave To File Amicus Curiae Brief Of South Carolina Farm Bureau Ins. Co. In Support Of Appellant, Marion L. Driggers**
2. Proposed Amicus Brief
3. Proof of Service of the Same

By copy of this letter, the enclosures are served as per the enclosed Proof of Service.

With best regards, I remain

J. Dwight Hudson, Esq.
J. Dwight Hudson, Esq.

JDH: mag

Enclosure(s): as stated

Cc: Counsel Via AIS Registered Email