

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas

Diane S. Goodstein, Circuit Court Judge

Appellate Case No. 2023-001601

Portfolio Recovery Associates, LLC
Assignee of Synchrony Bank/HH Gregg,
Petitioner

v.

Jennifer Campney, Respondent

and

Jennifer Campney, Third-Party Plaintiff

v.

Cooling & Winter, LLC, Third-party Defendant,
of whom Jennifer Campney is the Respondent

RETURN TO ACA MOTION FOR LEAVE TO FILE AMICUS BRIEF

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S.C. SUPREME COURT

Respondent Jennifer Campney (“Campney”) files this Return to the ACA Motion for Leave to File an Amicus Brief (“Motion”) and opposes that Motion for the following reasons:

1. **ACA’s Motion is premature.** In addition to Rule 213, SCACR regarding the filing of an amicus brief, since this Motion is being filed regarding a Petition for Writ of Certiorari (“Petition”), Rule 242, SCACR must also be considered. Rule 242(i) makes it clear that briefing by the parties is only allowed **if** the appellate court grants the Petition, not before that time. If this Court chooses to deny the Petition, as Campney has requested, the parties will not be allowed to file briefs. An amicus should not be allowed to do something that the parties themselves cannot do under the rules.
2. **ACA’s Motion is presumptuous.** Rule 242(i) also states that briefing is only allowed on such issues as the appellate court allows. A party may not choose which issues to brief. Only the appellate court may do that. By addressing issues in its brief that the Supreme Court has not allowed to be addressed, ACA presumes that the Court will allow argument on all of these issues, but only the Court can make that determination, not ACA. An amicus should not be allowed to do something that the parties themselves cannot do under the rules.
3. **ACA’s Motion is contrary to the doctrine of judicial economy.** Premature briefing before the appellate court allows it is against the interests of judicial economy since it unnecessarily requires the parties and the court to expend time and money responding to briefs and issues that the appellate court may not allow to be addressed.
4. **ACA’s brief goes beyond the issues raised by the parties.** Rule 213, SCACR states that an amicus “brief shall be limited to argument of the issues on appeal as presented by the parties.” ACA’s brief goes beyond those issues and even includes arguments on issues such as the economic costs resulting from the decision of the Court of Appeals that would take extensive discovery and expert testimony to counter, which isn’t possible at this stage of the case. Rule 208(b)(1)(B), SCACR states that “[o]rdinarily, no point will be considered which is not set forth in the statement of the issues on

appeal.” ACA’s brief includes issues such as the one mentioned above that are not stated in PRA’s statement of the issues on appeal. In addition, Campney has argued in her Return to PRA’s Petition that most of the issues in PRA’s statement of issues on appeal are not properly preserved, and ACA should not be allowed to brief issues that PRA may be prevented from briefing.

5. **Campney’s counsel should be protected from having to further respond to ACA’s Motion at this time.** In the alternative, if for any reason this Court chooses not to deny ACA’s Motion at this time, Campney’s counsel should be protected from that start of any deadlines to further respond to any document filed by PRA, ACA or any other persons until such reasonable time after her counsel returns from a scheduled vacation, which begins today and continues until his return to the office from outside this state on December 26, 2023. Due to the New Year’s holiday, her counsel would prefer that no response deadlines start to run until after the first of next year, but he plans to be back in the office on December 26, 2023.

CONCLUSION

Based on the appellate court rules indicated above, Campney respectfully requests that this Court deny ACA’s Motion at this time and not allow another amicus curiae motion to be filed unless this Court grants PRA’s Petition, in which case the Court should limit any amicus brief to such issues as the Court may allow to be addressed by the parties. Campney’s counsel should also be protected from any required responses to any documents filed in this case or the start of any deadlines until such reasonable time after his return from his scheduled vacation as indicated above.

Dated this November 21, 2023.

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