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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA  
In The Supreme Court

APPEAL FROM THE ADMINISTRATIVE LAW COURT  
Ralph King Anderson, III, Chief Administrative Law Judge

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Appellate Case No. 2019-001706

Trial Court Case No. 17-ALJ-17-0238-CC  
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Amazon Services, LLC, ..... Appellant,

v.

South Carolina Department of Revenue, ..... Respondent.  
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**MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF**

Pursuant to Rule 213, South Carolina Appellate Court Rules, Professor Hayes Holderness hereby moves for leave to file an amicus curiae brief in this action. Professor Holderness is a Professor of Law at the University of Richmond who writes and teaches in the areas of tax law, policy, and administration, with a particular focus on the area of state and local taxation. He has regularly written commentary and submitted Amicus briefs in cases concerning state and local tax law, including issues regarding sales and use taxation. As more fully explained in the brief being filed with this motion, Professor Holderness is particularly concerned with presenting why arguments for an expansive interpretation and application of the tax laws are misplaced.

For the foregoing reasons, Professor Holderness respectfully requests this Honorable Court grant leave to present an *amicus curiae* brief. A copy of the Professor Holderness's

proposed *amicus curiae* brief is attached hereto and is being conditionally filed with this motion in accordance with Rule 213, South Carolina Appellate Court Rules.

*Amicus curiae* is a Latin phrase for ‘friend of the court,’ as distinguished from an advocate before the court. *Allen v. County School Board of Prince Edward County*, 28 F.R.D. 358 (E.D.Va.1961); *Clark v. Sandusky*, 205 F.2d 915 (7th Cir. 1953). An amicus can serve the court by making suggestions that an advocate cannot and thus insuring a complete and plenary presentation of difficult issues so that the court may reach a proper decision. *Clark v. Sandusky*, *supra*; *City of Winter Haven, Fla. v. Gillespie*, 84 F.2d 285 (5th Cir. 1936), *cert. denied sub nom, Hartridge Cannon Co. v. Gillespie*, 299 U.S. 606, 57 S.Ct. 232, 81 L.Ed. 447 (1936); *Robinson v. Lee*, 122 F. 1010 (C.C.D.S.C.1903), *affirmed*, 196 U.S. 64, 25 S.Ct. 180, 49 L.Ed. 388 (1904); *Banco Nacional de Cuba v. Sabbatino*, 307 F.2d 845 (2d Cir. 1962), *rev’d on other grounds*, 376 U.S. 398, 84 S.Ct. 923, 11 L.Ed.2d 804 (1964).” *Alexander v. Hall*, 64 F.R.D. 152, 155 (D.S.C. 1974).

“[A] friend of the court interested in a particular outcome can contribute in clear and distinct ways, by, for example: . . .

- Highlighting factual, historical, or legal nuance . . . ;
- Explaining the broader regulatory or commercial context in which a question comes to the court;
- Providing practical perspectives on the consequences of potential outcomes . . . .”

*Prairie Rivers Network v. Dynegy Midwest Generation, LLC*, 976 F.3d 761, 763 (7th Cir. 2020).

Professor Holderness seeks to demonstrate to this Court that the Court of Appeals’ ruling below contradicts well-established tax law principles. Professor Holderness offers this Court a unique and useful perspective demonstrating that the Court of Appeals’ decision is drastic

departure from both South Carolina state law and Supreme Court precedent. *Prairie Rivers Network v. Dynege Midwest Generation, LLC*, 976 F.3d 761 (7th Cir. 2020); *Ryan v. Commodity Futures Trading Comm'n*, 125 F.3d 1062 (7th Cir. 1997). His brief also serves to directly refute an amicus brief that the Court of Appeals relied upon in reaching its decision below.

Professor Holderness has limited time and resources to expend on filing amicus briefs, and he only spends it in forums in which he has determined he can make a difference and offer ideas or analysis not already provided by others. The proposed amicus brief provides a unique perspective on the impact of the Court of Appeals' ruling on South Carolina tax administration and the danger of accepting the broad authority it grants the Department.

For the foregoing reasons, Professor Holderness respectfully requests this Honorable Court grant leave to present an *amicus curiae* brief. A copy of the proposed *amicus curiae* brief is attached hereto and is being conditionally filed with this motion in accordance with Rule 213, South Carolina Appellate Court Rules.

May 17, 2024

Respectfully Submitted,

/s/ Jennifer Butler Routh  
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