

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM AIKEN COUNTY
Court of Common Pleas

S.C. SUPREME COURT

The Honorable William P. Keesley, Circuit Court Judge

Appellate Case No. 2023-000442

Mark Gregory Thompson and Jane Page Thompson,
Individually and on behalf of all those similarly situated,..... Appellants,

v.

Clay Killian, in his official capacity as Aiken County Administrator,
Jason Goings, in his official capacity as Treasurer of Aiken County,
Aiken County Council, Aiken County, City of Aiken, Aiken Council,
and Stuart Bedenbaugh, in his official capacity as City Manager of Aiken..... Respondents.

**MOTION OF HORRY COUNTY AND FLORENCE COUNTY
FOR LEAVE TO FILE AN AMICI CURIAE BRIEF
IN SUPPORT OF RESPONDENTS AND THE CIRCUIT COURT’S ORDERS
DISMISSING APPELLANTS’ CASE**

Horry County and Florence County (together, “Amici Counties”) respectfully move, pursuant to Rule 213 of the South Carolina Rules of Appellate Procedure, for leave to file an amici curiae brief in support of Respondents and the underlying orders of the circuit court dismissing Appellants’ claims.

Horry County is a defendant in a related case, *Baylis Griffin Hyman, individually and on behalf of all others similarly situated v. Horry County, et al.*, Case No. 2021-CP-26-7309 (the “Horry County Case”), involving substantively identical claims brought on behalf of a purported class seeking a refund of all payments ever made to Horry County for its road maintenance fee.

Just as the claims against Respondents in this case were dismissed by the Honorable William P. Keesley, the claims against Horry County and its codefendants were dismissed in their entirety by South Carolina Circuit Court Judge Kristi F. Curtis on May 9, 2022. The plaintiff in the related case against Horry County filed a notice of appeal to this Court on January 2, 2025, and that appeal has been assigned Appellate Case No. 2025-00012.

Judge Curtis dismissed the claims against Horry County on the ground that they are barred by S.C. Code § 12-60-80(C), which prohibits class actions against political subdivisions, such as Horry County. This same issue—whether § 12-60-80(C) bars class actions against political subdivisions in accordance with its plain language—is on appeal in this case as well as the appeal of the Horry County case.¹

Florence County is also a defendant in another case in which substantively identical claims are asserted in the same manner for a putative class, *Steven Biggs, on behalf of himself and all others similarly situated v. Florence County, et al.*, Case No. 2021-CP-21-01560 (the “Florence County Case”), which is currently pending in circuit court. The plaintiff in the Florence County Case has filed his motion for class certification, and the parties have filed supporting and opposing memoranda. The issues briefed and pending with respect to that motion include the same issue ruled on in both this case and in the Horry County Case.

Therefore, resolution of the instant appeal has the potential to be dispositive of the related appeal in the Horry County Case and of the Florence County Case pending in circuit court. As a result, Amici Counties have a strong interest in this matter.

¹ The other arguments that Horry County presented to Judge Curtis in support of its motion to dismiss—failure to exhaust administrative remedies under the Revenue Procedures Act and the inapplicability of S.C. Code § 8-21-30 to the plaintiff’s claims—are also at issue in this appeal and have been joined in the complaint and answer in the Florence County Case.

Permitting Amici Counties to file an amicus brief in this appeal is desirable to ensure that all arguments regarding the issues on appeal are fully briefed and before the Court given the public importance of the issues at stake and the severe negative consequences that a reversal in this case would bring. In addition to the cases against Aiken and Horry Counties, there are numerous related cases, including the Florence County Case, that have been brought against other counties on behalf of purported classes seeking refunds of all payments made in connection with similar road maintenance fees. The plaintiffs in each of the related cases are seeking damages of hundreds of millions of dollars that would bankrupt each of the counties, as well as any other counties that might be subject to similar claims in the future. Because the disposition of this appeal could be determinative of each of the related cases, this appeal is a matter of significant public importance.

Accordingly, Horry County and Florence County respectfully request permission to file an amicus curiae brief. A copy of Amici Counties' proposed amicus brief is attached and is being conditionally filed with this Motion pursuant to Rule 213, SCACR.

Respectfully submitted,

s/John C. Moylan, III

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