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THE STATE OF SOUTH CAROLINA
In the Supreme Court

May 23 2025

Appellate Case No. 2023-001601

S.C. SUPREME COURT

APPEAL FROM DORCHESTER COUNTY
Court of Common Pleas
Diane Goodstein, Circuit Court Judge

Case No. 2018-CP-18-00729
Appellate Case No. 2020-000935

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 RESPONDENT'S MOTION FOR SANCTIONS
AGAINST ACA INTERNATIONAL**

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Amicus curiae ACA International (ACA) respectfully files this Return to Respondent Jennifer Campney's Motion for Sanctions (the Motion). In further support of this return, ACA states as follows:

ARGUMENT

There is nothing sanctionable about requesting leave from the Court to submit a filing. Yet, Respondent requests four categories of sanctions based on his accusation that ACA's motion for leave to file an amicus brief violated Rules 242 and 213, SCACR, because it was filed before the Court granted the Petition for Certiorari and allegedly raised issues beyond the Petition. Neither is true, and certainly not a violation of the Rules.

Respondent contends that Rule 242(i) precluded ACA from filing a brief unless the Petition for Certiorari was granted. Rule 242(i) sets forth the deadlines for briefs from the petitioner and respondent once certiorari is granted; it does not mention amicus filings at all. Nothing in that Rule (or Rule 213 governing motions for leave for amicus briefs) prohibits an amicus from seeking leave to file a brief at the certiorari stage or otherwise restricts the time within which leave may be sought. In fact, this Court has accepted amicus briefs before certiorari was decided in other appeals. While this case was pending, for example, the Court accepted five amicus briefs before certiorari was granted in *Amazon Services, LLC v. South Carolina Department of Revenue*, Appellate Case No. 2024-000625 (S.C. Sup. Ct. filed Apr. 17, 2024) (Docket Sheet from South Carolina Case Management System, <https://ctrack.sccourts.org/public/caseView.do?csIID=80467>, attached as

Exhibit A).¹ After the Court granted certiorari in that case, it then allowed each of the five amici to file *additional* briefs on the merits. Accordingly, the timing of ACA’s motion for leave—in which it sought to provide reasons why the Court should grant certiorari—did not violate Rules 213 or 242, much less in a manner that justifies sanctions.

Nor did ACA’s proposed brief go beyond the “issues” presented by the Petition for Certiorari. The issue that ACA addressed was why this Court should grant certiorari, and it simply explained the broader impact of the Court of Appeals’ decision on the statement of issues presented by the Petition for Certiorari—an impact it was uniquely positioned to assess given the breadth and depth of its membership. That is precisely the role of an amicus. *See Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1063 (7th Cir. 1997) (“An amicus brief should normally be allowed when . . . the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.”). In fact, in the *Amazon Services* appeal before this Court, *supra*, that’s exactly what the amicus briefs filed prior to certiorari did. For instance, the U.S. Chamber explained how the decision would affect

¹ This “court can take judicial notice of its own records, files and proceedings for all proper purposes including facts established in its records.” *S.C. Dep’t of Soc. Servs. v. Janice C.*, 383 S.C. 221, 227, 678 S.E.2d 463, 467 (Ct. App. 2009) (quoting *Freeman v. McBee*, 280 S.C. 490, 494, 313 S.E.2d 325, 327 (Ct. App. 1984)).

predictability of laws; and the National Retail Federation outlined the implications on retailers throughout the state (attached collectively as Exhibit B). ACA's proposed brief provided the same type of arguments regarding why it believed the Court should grant certiorari. Its request for leave to file the brief was not a violation of the Rules and certainly was not sanctionable.

It is difficult to fathom how *requesting permission* to file something could ever be sanctionable. The Court either grants permission or denies it. Here, there was nothing about the timing or content of ACA's filing that violated any Rules. The fact that the Court did not find its proposed brief helpful in making its decision to initially grant certiorari does not somehow convert ACA's request for leave into improper conduct. Accordingly, the Motion is due to be denied.

CONCLUSION

For the reasons stated above, the Court should deny the Motion.

Respectfully submitted on this the 23rd day of May, 2025.

/s/ J. Christina Boardman Kuklinski
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