THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Court Judge

Civil Action No. 2022-CP-21-01980

Appellate Case No. 2025-002541

Veon, on behalf of himself and All others similarly situated.....Respondent,

v.

Richard James Schueler, A/K/A "Richard Heart,".....Defendant,

Benjamin DuBard .....Proposed Intervenor/Appellant

RESPONDENT'S INITIAL BRIEF

Andrew S. Radeker
S.C. Bar No. 73743
Radeker Law, P.A.
6511 Dare Circle
Columbia, South Carolina 29206
(803) 500-0891
drew@radekerlaw.com
and
Graham L. Newman
S.C. Bar No. 72845
William S. Detwiler
S.C. Bar No. 106673
Chappell, Chappell & Newman
Post Office Box 61170
Columbia, South Carolina 29260
(803) 233-7050
graham@chappell.law
will@chappell.law
Attorneys for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases **Page(s)**

Rules

Other Authorities

STATEMENT OF ISSUES

I. Did the trial court judge abuse his discretion and commit reversible error by denying a proposed intervenor's motion to intervene?

STATEMENT OF THE CASE

This is an appeal by Benjamin DuBard of the denial of his motion to intervene in this action. (R. pp. _____; order denying motion to intervene.) This suit is a class action that seeks relief related to the defendant, Richard Schueler, also known as "Richard Heart," who is presently an international fugitive and who has defaulted this lawsuit. (R. pp. ___; entry of default; complaint; transcript June 10, 2025, hearing p. 14 ln. 17-20.) The lawsuit seeks to declare that the HEX cryptocurrency token the defendant sold is an unregistered security and seeks the relief to which the class representative and the class members (HEX buyers during a specified period) are entitled to receive. (R. pp. ___; complaint.)

On the eve of a hearing set on the plaintiff's motion to certify the class, DuBard filed a motion for a continuance, a motion to intervene, and a proposed intervenor's pleading. (R. pp. ____; motion to intervene; proposed intervenor's pleading; motion for continuance.) The proposed pleading made no allegations or factual assertions; it purported, rather, to deny allegations in the complaint that the plaintiff has made against the defendant. (R. pp. ___; proposed intervenor's pleading.) At no point did DuBard file any affidavit or any other factual material about himself. At no point did DuBard file any affidavit or any other factual material about what will happen, is likely to happen, or might happen with regard to DuBard, the HEX tokens he argued that he owns, or anything else if the plaintiff obtains the default judgment the plaintiff seeks.

After almost a year of delays, the Honorable Michael Nettles, the judge assigned to the case, heard DuBard's motion to intervene and denied it. (R. pp. ____; order denying motion to intervene; transcript June 10, 2025, hearing.) DuBard moved for reconsideration of that

ruling. (R. pp. ____; motion to reconsider denial of motion to intervene.) Judge Nettles denied that motion. (R. pp. ____; order and correct order denying motion to reconsider.)

This appeal followed.

STATEMENT OF FACTS

Noah Veon filed this case in September of 2022. (R. pp. ___; summons and complaint.) Literally the afternoon before a hearing of the plaintiff's motion to certify the case as a class action was set, DuBard (a previously unknown person to the Plaintiff) filed a motion to intervene in the case and a motion to continue the certification motion. (R. pp. ____; motion to intervene; proposed intervenor's pleading; motion for continuance.)

DuBard, now the appellant to this court, is a HEX investor and relatively active promoter of the HEX cryptocurrency token on social media platforms such as YouTube[1] and Twitter.[2] (R. pp. ___; memorandum in opposition to motion to intervene.) DuBard holds himself out to the public as a "crypto tutor" on social media[3] and on his website, https://thecryptoacademy.win/. (R. pp. ___; memorandum in opposition to motion to intervene.)

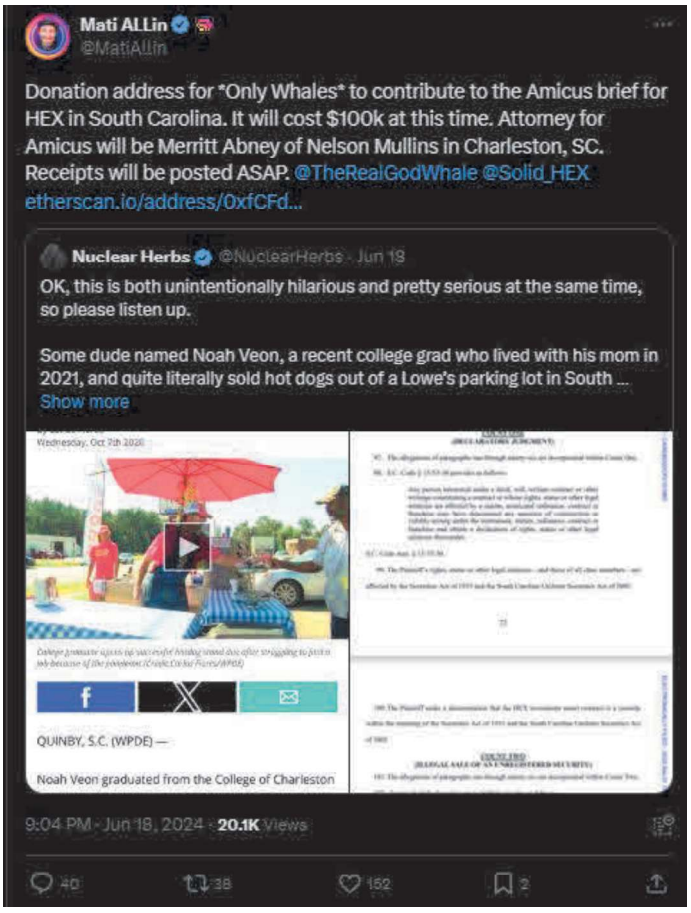
DuBard claims the following interest in this litigation.

> Specifically, DuBard seeks to ensure that Plaintiff's expansive view of the federal and state securities laws does not improperly interfere with the rights, financial interests, and legal activities of HEX owners like himself. Moreover, DuBard asserts that a determination by the Court that HEX is a security would adversely impact the value of his financial position in HEX tokens.

[1] https://www.youtube.com/@CryptoWithBen
[2] https://x.com/Crypto_With_Ben
[3] https://www.linkedin.com/in/ben-dubard-70960324a

(R. pp. ___; motion to intervene p. 2.) DuBard states that he "has owned HEX tokens continuously since 2020, and he has purchased HEX tokens within three years before Plaintiff filed this action." (R. pp. ___; motion to intervene p. 4.)

Word of a potential intervention in this case first spread on social media on Tuesday, June 18, 2024. (R. pp. ___; memorandum in opposition to motion to intervene.) The user of the Twitter handle "@MatiALLin" referenced by this tweet, stating he had "been putting in work talking to lawyers in SC[.]" (R. pp. ___; memorandum in opposition to motion to intervene.) That Twitter account is controlled by an Illinois resident named Matthew Picchietti. (R. pp. ___; memorandum in opposition to motion to intervene.) Picchietti, a well-known HEX "influencer" who has hosted numerous conferences for HEX investors, provided the referenced "donation address" in the tweet, below.



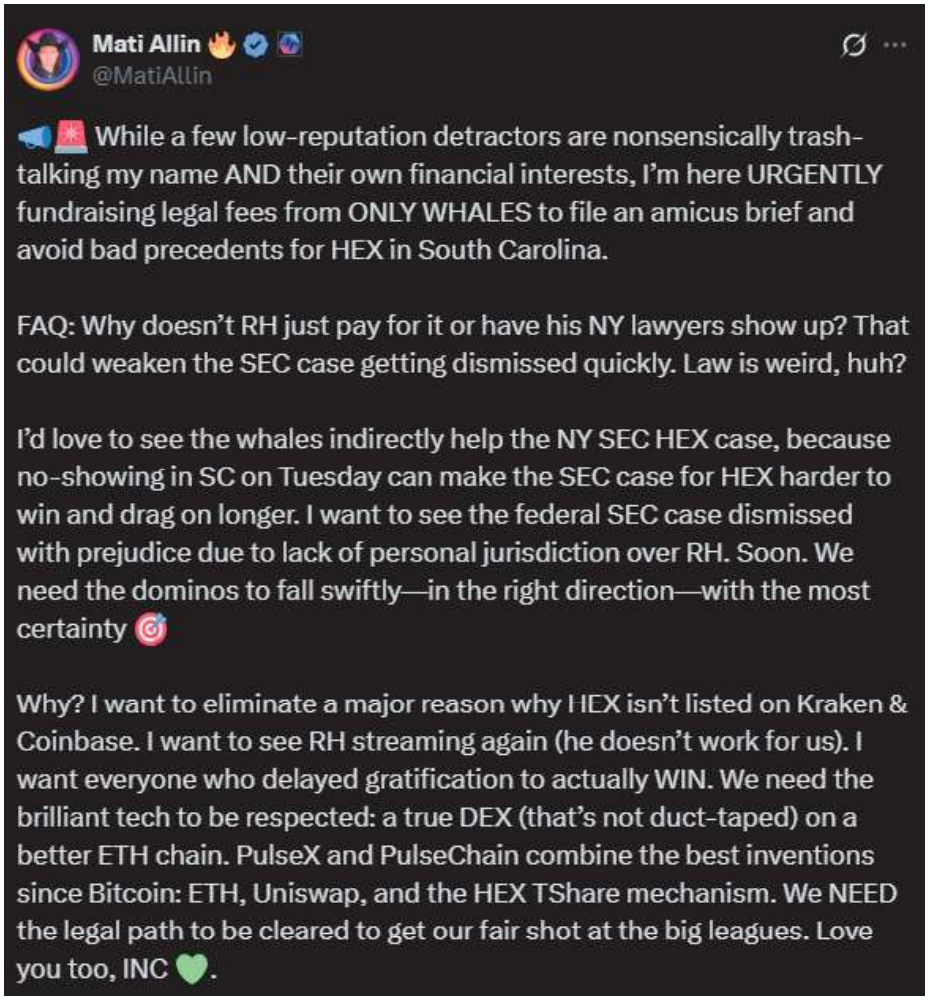
(R. pp. ___; memorandum in opposition to motion to intervene.) See https://x.com/MatiAllin/status/1803232237262967170. The publicly disclosed cryptocurrency address is as follows:

0xfCFdf912F6387e8cc14774418D9456C493c9BF5E

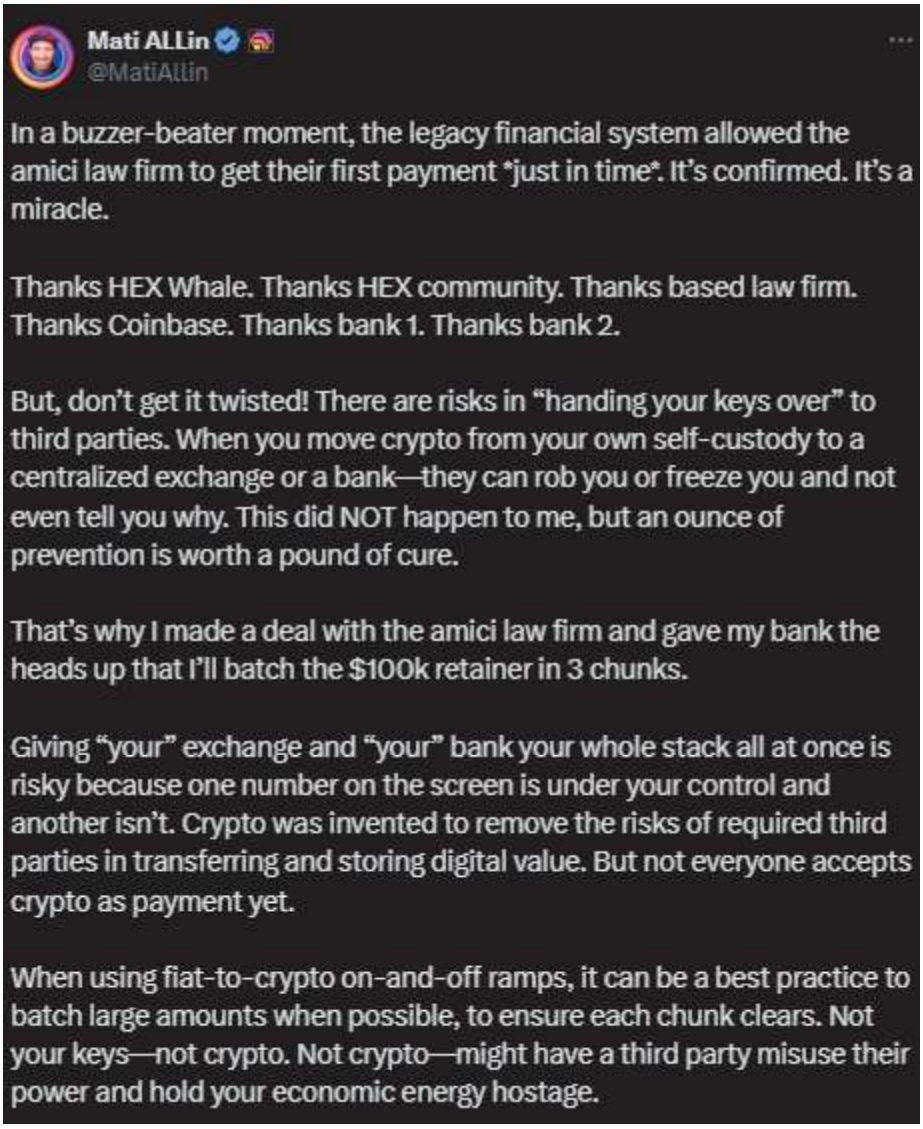
(R. pp. ___; memorandum in opposition to motion to intervene.)

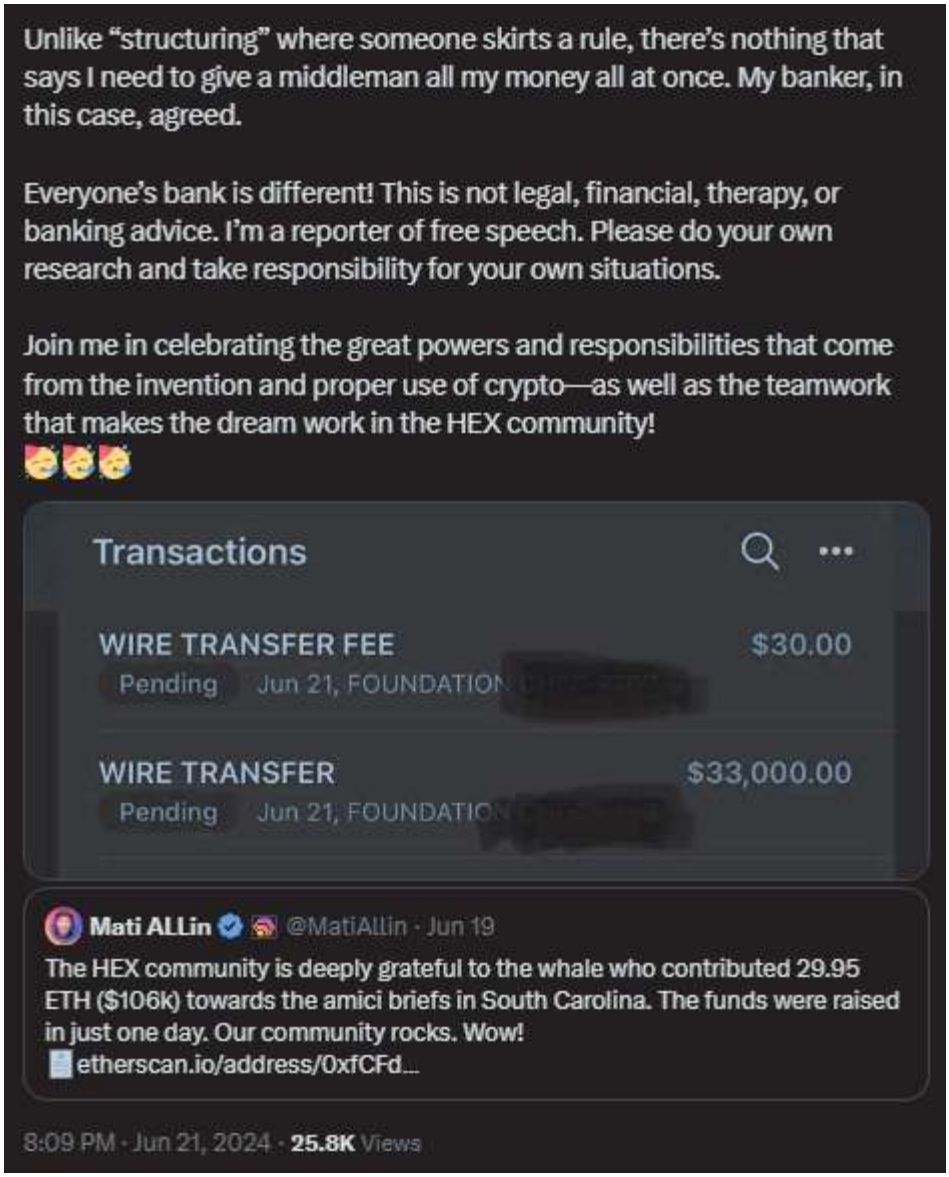
Picchietti's suggested "donation" faced criticism on Twitter, in part because of questions of why the Defendant would not fund his own defense to the class certification motion. (R. pp. ___; memorandum in opposition to motion to intervene.) Via tweet on June 19, 2024, at 3:27 PM EST, Picchietti explained that this "could weaken the SEC case getting dismissed quickly." (R. pp. ___; memorandum in opposition to motion to intervene.) He further argued,

> no-showing in SC on Tuesday can make the SEC case for HEX harder to win and drag on longer. I want to see the federal SEC case dismissed with prejudice due to lack of personal jurisdiction on RH. Soon. We need the dominos to fall swiftly—in the right direction—with the most certainty.


Mati Allin
@MatiAllin
📣🚨 While a few low-reputation detractors are nonsensically trash-talking my name AND their own financial interests, I'm here URGENTLY fundraising legal fees from ONLY WHALES to file an amicus brief and avoid bad precedents for HEX in South Carolina.
FAQ: Why doesn't RH just pay for it or have his NY lawyers show up? That could weaken the SEC case getting dismissed quickly. Law is weird, huh?
I'd love to see the whales indirectly help the NY SEC HEX case, because no-showing in SC on Tuesday can make the SEC case for HEX harder to win and drag on longer. I want to see the federal SEC case dismissed with prejudice due to lack of personal jurisdiction over RH. Soon. We need the dominos to fall swiftly—in the right direction—with the most certainty 🎯
Why? I want to eliminate a major reason why HEX isn't listed on Kraken & Coinbase. I want to see RH streaming again (he doesn't work for us). I want everyone who delayed gratification to actually WIN. We need the brilliant tech to be respected: a true DEX (that's not duct-taped) on a better ETH chain. PulseX and PulseChain combine the best inventions since Bitcoin: ETH, Uniswap, and the HEX TShare mechanism. We NEED the legal path to be cleared to get our fair shot at the big leagues. Love you too, INC 💚.

(R. pp. ___; memorandum in opposition to motion to intervene.) See https://x.com/MatiAllin/status/1803510009814458846. Picchietti got what he wanted, as 30 Ether (worth approximately $105,000) was transferred to the "donation address" in a single transaction by an unknown individual at 5:32 PM EST on the same day. (R. pp. ___; memorandum in opposition to motion to intervene.) Picchietti later detailed his transfer of the $100,000 on Twitter. (R. pp. ___; memorandum in opposition to motion to intervene.)


Mati ALLin
@MatiAllin
In a buzzer-beater moment, the legacy financial system allowed the amici law firm to get their first payment *just in time*. It's confirmed. It's a miracle.
Thanks HEX Whale. Thanks HEX community. Thanks based law firm. Thanks Coinbase. Thanks bank 1. Thanks bank 2.
But, don't get it twisted! There are risks in "handing your keys over" to third parties. When you move crypto from your own self-custody to a centralized exchange or a bank—they can rob you or freeze you and not even tell you why. This did NOT happen to me, but an ounce of prevention is worth a pound of cure.
That's why I made a deal with the amici law firm and gave my bank the heads up that I'll batch the $100k retainer in 3 chunks.
Giving "your" exchange and "your" bank your whole stack all at once is risky because one number on the screen is under your control and another isn't. Crypto was invented to remove the risks of required third parties in transferring and storing digital value. But not everyone accepts crypto as payment yet.
When using fiat-to-crypto on-and-off ramps, it can be a best practice to batch large amounts when possible, to ensure each chunk clears. Not your keys—not crypto. Not crypto—might have a third party misuse their power and hold your economic energy hostage.

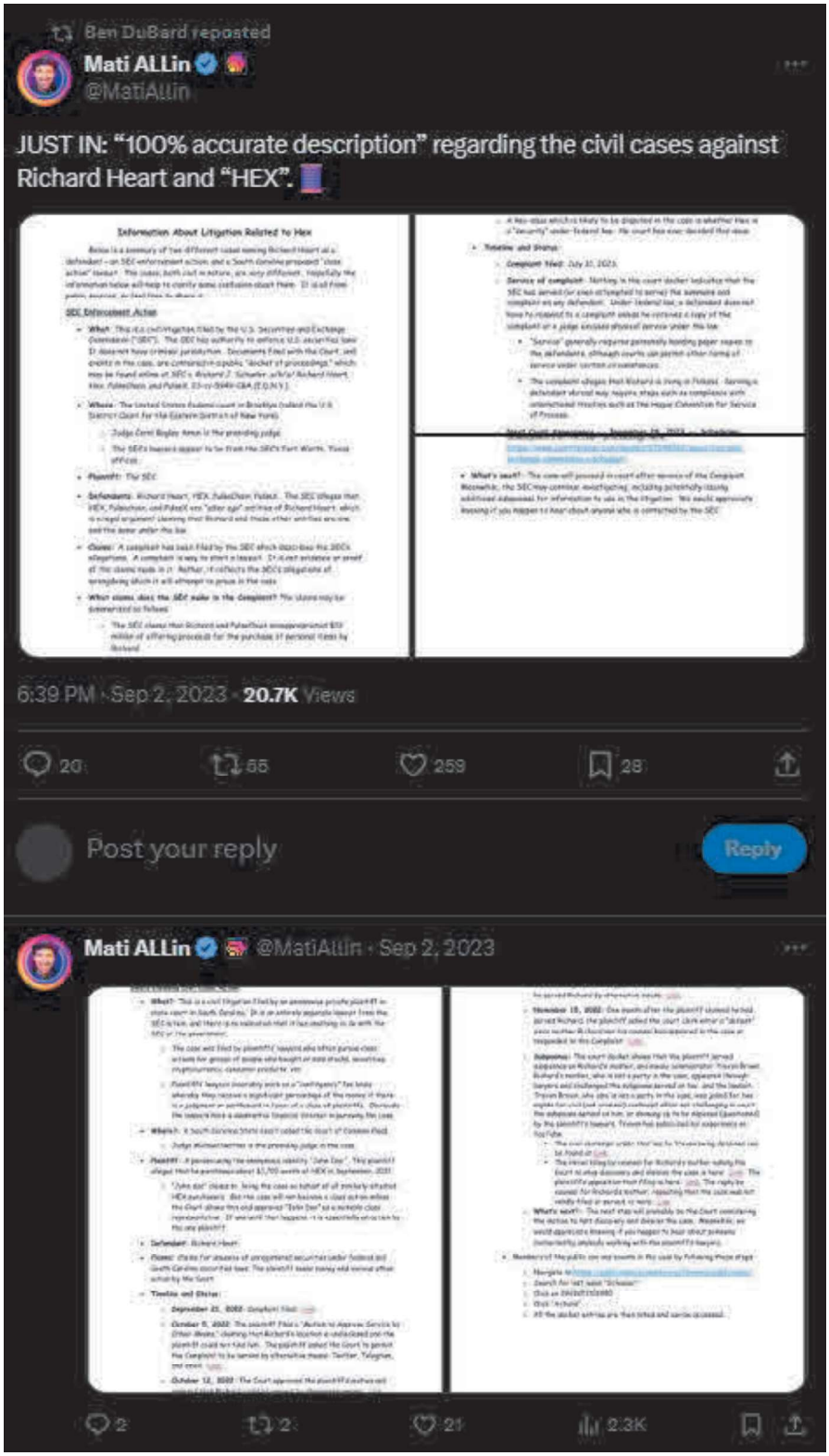


(R. pp. ___; memorandum in opposition to motion to intervene.) See https://twitter.com/MatiAllin/status/1804305649523904743. Two days later, June 23, 2024, the plaintiff's counsel received notice that DuBard's counsel had been retained. The next day, June 24, 2024, the pending motion to intervene was filed on behalf of DuBard.

DuBard admits that he "became aware that a lawsuit was filed against Richard Schueler related to HEX shortly after the litigation commenced in 2022." (R. pp. ___; motion to intervene p. 3.) Nevertheless, DuBard insists that he "was unaware until the week of June 17,

2024, that Plaintiff sought a declaratory judgment that HEX is a security or that any procedure existed pursuant to which DuBard could become personally involved in the action." (R. pp. ___; motion to intervene p. 3.) By contrast, DuBard's retweeted bulletin of September 2, 2023 discussed, in detail, both this litigation and the parallel federal action pending in New York. (R. pp. ___; memorandum in opposition to motion to intervene Exh. A.) The bulletin discussed the lawyers involved, the judge assigned to the case, the basic factual allegations, and the procedural history of the case. (R. pp. ___; memorandum in opposition to motion to intervene Exh. A.) The bulletin describes this case as "claims for issuance of unregistered securities under federal and South Carolina securities law." (R. pp. ___; memorandum in opposition to motion to intervene Exh. A p. 4.) The bulletin contained hyperlinks to the documents filed in this case as well as instructions on how to access the documents through the public index. (R. pp. ___; memorandum in opposition to motion to intervene Exh. A.)

DuBard's retweeted bulletin was originally tweeted by none other than Matthew Picchietti, the self-professed leader of this motions practice. (R. pp. ___; memorandum in opposition to motion to intervene.)



See https://x.com/MatiAllin/status/1698103370710433823. (R. pp. ___; memorandum in opposition to motion to intervene.)

Judge Nettles recognized what is apparent to anyone reading the file in this case: DuBard is just the latest proxy litigant to get involved in this case for the purpose of opposing a complaint the defendant has chosen not to contest.

STANDARD OF REVIEW

"The decision to grant or deny a motion to . . . intervene in an action pursuant to Rule 24, SCRCP, lies within the sound discretion of the trial court." Ex parte Builders Mut. Ins. Co., 431 S.C. 93, 98, 847 S.E.2d 87, 90 (2020). An appellate court reviews the appeal of the denial of a motion to intervene under the abuse of discretion standard. Id. The appellate court "will not disturb the trial court's decision absent a manifest abuse of discretion that results in an error of law. Moreover, the error of law must be so opposed to the trial court's sound discretion as to amount to a deprivation of the legal rights of the party." Id. at 98-99.

ARGUMENT

I. DuBard failed to establish that the premise of his motion – that his intervention was needed to guard against some adverse effect on him – is backed up by fact. Indeed, he has failed to show any of his contentions are supported by fact.

DuBard made below and now makes to this court numerous times the contention that a default judgment in the plaintiff's favor in this case would have some negative effect on DuBard in the future by reducing the value of his HEX tokens. This is a naked contention. No factual material was put before the court tending to indicate that this contention is correct. What effect on DuBard such a judgment would have or even could have is not shown by the record in this case. All that DuBard has said about that is simply unsupported argument outside the record. The arguments a person makes are not evidence in support of that person's position. Trivelas v. S.C. Dept. of Transportation, 348 S.C. 125, 141, 558 S.E.2d 271, 279 (Ct. App. 2001); Higgins v. MUSC, 326 S.C. 592, 599, 486 S.E.2d 269, 272 (Ct. App. 1997); Historic

Charleston Foundation v. Krawcheck, 313 S.C. 500, 508 n. 7, 443 S.E.2d 401, 406 n. 7 (Ct. App. 1994); Gilmore v. Ivey, 290 S.C. 53, 58, 348 S.E.2d 180, 183 (Ct. App. 1986).

DuBard never argued from evidence. It seems he believes he did not have to make a factual record to support what he was saying. He apparently contends, without any supporting South Carolina authority or attempt at logical persuasion, that the trial court was required to treat the allegations of his proposed pleading as true for the motion's purposes. First, that makes no sense; a motion to intervene is not a reckoning of the sufficiency of a pleading like a motion to dismiss. See Stiles v. Onorato, 318 S.C. 297, 300, 457 S.E.2d 601 (1995) (discussing analysis of a Rule 12(b)(6) motion). To go along with this view of the law would require trial courts receiving motions to intervene to shut their eyes to the facts and simply accept whatever the proposed intervenor says in his proffered pleading, no matter how outlandish, as truth. Given that the purpose of an intervention motion is not to test the sufficiency of a pleading like a motion to dismiss would, Stiles, 318 S.C. at 300, such a standard would appear to be at cross-purposes to a reality-grounded evaluation of whether a non-party should be allowed to enter a case.

Further, even if this were the law, it would not help DuBard here. DuBard's proposed intervenor's pleading does not contain any allegations that could be treated as true, because it does not contain any allegations at all. (R. pp. ____; proposed intervenor's pleading.) It contains no assertions of fact of any kind. (R. pp. ____; proposed intervenor's pleading.) It certainly does not contain any statements about the impact on DuBard of the entry of a judgment in this case against the defendant. (R. pp. ____; proposed intervenor's pleading.)

DuBard's claim that he only learned of what might happen in this suit just before he made his motion to intervene is similarly naked, entirely unsupported by affidavit or other factual material. (R. pp. ____; motion to intervene p. 3.)

Just as importantly, DuBard's claim that he will suffer some negative effect absent his intervention does not make sense in light of what *is* in the record. The damages the plaintiff is seeking would be paid by the defendant—not by DuBard. (R. pp. ___; complaint.) DuBard asserts that he "has owned HEX tokens continuously since 2020" and "therefore has an interest in the outcome of this action." (R. pp. ____; motion to intervene p. 4.) DuBard's ownership interest in his HEX tokens will not be altered by any outcome of this case. As his proposed answer demonstrates, DuBard's primary legal "interest" appears to be denying "that the HEX contract is a security as defined within the Securities Act of 1933 and the South Carolina Uniform Securities Act of 2005." (R. pp. _____; motion to intervene Exh. 1 at ¶ 2.) South Carolina courts, however, reject motions to intervene when the "main reason for seeking intervention is to affect any legal precedent that may result from the case. This alone is an insufficient basis for intervention." S.C. Tax Comm'n v. Union Cnty. Treasurer, 295 S.C. 257, 260, 368 S.E.2d 72, 74 (Ct. App. 1988) (citing 3B J. Moore, Moore's Federal Practice Section 24.07[2] (2d ed. 1987)). In light of the complete absence of any evidence that a judgment against the defendant in default would or even could have a deleterious effect on DuBard, the only showing of an interest in the outcome DuBard has made is that he wants to affect any precedent that might flow from such a judgment – no particular or personal interest, just a general interest in the law in this area.

DuBard admits that he "became aware that a lawsuit was filed against Richard Schueler related to HEX shortly after the litigation commenced in 2022." (R. pp. ____; motion to

intervene p. 3.) This case was filed on September 21, 2022. (R. pp. ___; summons and complaint.) DuBard filed his motion to intervene on June 24, 2024, not just on the cusp of class certification but also in the midst of delaying activities undertaken by another third party, the defendant's mother, which appear to have been done at the defendant's behest. (R. pp. ___; Lorraine Schueler's motions to quash, to dismiss, and for reconsideration, and orders ruling on those motions.) DuBard waited approximately 20 months before seeking to intervene in this case. This lengthy wait contrasts with that found permissible in Davis v. Jennings. where the Supreme Court noted the intervenor's "motion was filed within one month of the [challenged] order." 304 S.C. 502, 504, 405 S.E.2d 601, 603 (1991).

In argument, but not by way of factual material, DuBard asserted that he was somehow both aware of the lawsuit and unaware of the relief it sought until just before he made his motion. (R. pp. ____; motion to intervene p. 3.) Not only is this at odds with his Twitter history (R. pp. ___; memorandum in opposition to motion to intervene & Exh. A), it is also an argument at odds with the law. "The legal axiom that ignorance of the law is no excuse has long been the law of this nation and state." Gregory v. Gregory, 292 S.C. 587, 589-90, 358 S.E.2d 144, 146 (Ct. App. 1987). This court has correctly called a litigant's "position that he was ignorant of the law . . . on its face untenable." Id. at 590. The reason that DuBard offers about why his motion was timely is one the law cannot accept: that he was ignorant of what the law provides might happen in the lawsuit. (R. pp. ____; motion to intervene p. 3.) He was aware of this lawsuit and is charged with knowledge of its effect. Id.

Nevertheless, DuBard insists that he "was unaware until the week of June 17, 2024, that Plaintiff sought a declaratory judgment that HEX is a security or that any procedure existed pursuant to which DuBard could become personally involved in the action." (R. pp. ____;

motion to intervene p. 3.) As discussed just above, such "ignorance of the law is no excuse[.]" Id. In addition, DuBard's contention strains credulity. DuBard's retweeted bulletin of September 2, 2023 discussed, in detail, both this litigation and the parallel federal action pending in New York. (R. pp. ___; memorandum in opposition to motion to intervene & Exh. A.) The bulletin discussed the lawyers involved, the judge assigned to the case, the basic factual allegations, and the procedural history of the case. The bulletin describes this case as "claims for issuance of unregistered securities under federal and South Carolina securities law." (R. pp. ___; memorandum in opposition to motion to intervene & Exh. A p. 4.) The bulletin contained hyperlinks to the documents filed in this case as well as instructions on how to access the documents through the public index. (R. pp. ___; memorandum in opposition to motion to intervene & Exh. A.)

DuBard also lacks claims or defenses that have questions of law or fact in common with this case, contrary to the premise of his argument for intervention that, as a member of the proposed class, he just of course has such claims and defenses.

Accusations of wrongdoing in this case have been limited to Defendant Richard Schueler.

> The typical situation for which the Rule [24, on intervention] was designed is one where the prospective intervenor might institute or be called upon to defend a separate proceeding that would substantially duplicate the one in question. With this analogy to permissive joinder, it seems clear the better rule is that permissive intervention should be allowed only where the prospective intervenor has a cause of action or defense it could bring or assert.

S.C. Tax Comm'n, 295 S.C. at 263. DuBard has made no showing that such a separate proceeding against him, seeking relief for his sale of unregistered HEX securities, is even possible.

DuBard has presented no factual material indicative of even the possibility that a judgment against the defendant in this case would devalue the HEX tokens he claims to own. What factual material supports that idea? None that is in this record. But the record does reflect the preexisting valuelessness of HEX, as discussed in the argument on this motion. (R. pp. ___; transcript June 10, 2025, hearing p. 22 ln. 19-20.) It is difficult to conceive of how a HEX token could come to be worth appreciably less than the tiny fraction of a cent at which one trades. (R. pp. ___; transcript June 10, 2025, hearing p. 22 ln. 19-20.)

To the extent DuBard fears he will be bound by the judgment in this case, this fear is a paper tiger. No one is forced to be a member of a class and, thus, be bound by a judgment in a class action. See Rule 23, SCRCP. Intervention is not required for DuBard to avoid that. When the time comes, he will be notified of how he can opt out of the class. If he does not wish to be bound by the outcome of the case, easy-peasy: just opt out of the class. There is no need for him to intervene to guard against this "danger." The potential for him to be bound by a class action judgment exists, but his intervention is not needed for him to avoid that. He can simply opt out when the time comes.

Intervention is not necessary for DuBard to protect that interest. Any interest of DuBard's in the outcome beyond that is simply interest in the general state of the law, interest in affecting precedent – which we know is not a sufficient basis to intervene. S.C. Tax Comm'n, 295 S.C. at 260.

The premise of DuBard's appeal – that the record establishes that Judge Nettles erred in denying his motion because, absent intervention, he cannot protect himself – is simply without a factual record or sound reasoning to support it.

DuBard has not shown Judge Nettles committed reversible error in denying his motion to intervene. The decision on the motion was committed to Judge Nettles' discretion, Builders Mut., 431 S.C. at 98, and DuBard has neither shown that the decision was controlled by an error of law or grounded in a misapprehension of the factual record. "An abuse of discretion occurs when the conclusions of the trial court are either controlled by an error of law or are based on unsupported factual conclusions." In re: Care and Treatment of Miller, 393 S.C. 248, 256, 713 S.E.2d 253, 257 (2011).

DuBard did not make a record that supported his motion or any of its premises, much less that supports the idea that Judge Nettles's denial of the unsupported motion was "a manifest abuse of discretion that result[ed] in an error of law" so grave that it was "so opposed to the trial court's sound discretion as to amount to a deprivation of the legal rights of the party." Builders Mut., 431 S.C. at 98-99.

II. Judge Nettles did not commit reversible error in his timeliness evaluation.

As discussed above, DuBard's argument that his motion was timely is grounded in the idea that his ignorance of the law excused his earlier inaction. That position is "on its face untenable." Gregory, 292 S.C. at 590. Even if Judge Nettles made some technical error in phrasing his ruling, two things (at least) illustrate that this was no reversible error. 1) DuBard's entire timeliness argument, grounded in his ostensible ignorance of the law, fails as a matter of law. Id. It could not have properly succeeded no matter how Judge Nettles analyzed the issues. Id. 2) DuBard has failed to illustrate that any error in the evaluation of this one factor controlled the outcome of the motion. See Miller, 393 S.C. at 256. Judge Nettles evaluated *all* the recognized factors for determining whether intervention is proper, and he found that, individually and in the aggregate, they weighed against allowing DuBard to intervene. (R. pp.

___; order denying motion to intervene.) DuBard does not reach his goal of establishing that Judge Nettles' decision was *controlled by* an error of law. See id.

III. The only evidence in the record is to the effect that DuBard's purpose in seeking intervention has been to hinder Veon's progress.

The statement of facts section above is taken from the record in this case. That factual material tends to show that DuBard's *sole* purpose in moving to intervene was to stall this case yet more. (R. pp. ____; memorandum in opposition to motion to intervene & Exh. A.) His lawyer made argument about him having some other purpose, but that is argument outside the record, supported by nothing. Trivelas, 348 S.C. at 141; Higgins, 326 S.C. at 592; Historic Charleston Foundation, 313 S.C. at 508 n. 7; Gilmore, 290 S.C. at 58.

IV. DuBard does not show that Judge Nettles abused his discretion or that DuBard has been deprived of any legal right or stands to be.

The state Supreme Court has set the bar quite high to reverse a trial court's decision on a motion to intervene, holding that an appellate court "will not disturb the trial court's decision absent a manifest abuse of discretion that results in an error of law. Moreover, the error of law must be so opposed to the trial court's sound discretion as to amount to a deprivation of the legal rights of the party." Builders Mut., 431 S.C. at 98-99.

DuBard's jump on appeal is not high enough. On this record, it never could have been. See Trivelas, 348 S.C. at 141; Higgins, 326 S.C. at 592; Historic Charleston Foundation, 313 S.C. at 508 n. 7; Gilmore, 290 S.C. at 58. Of what right has Judge Nettles' ruling deprived him? To this he makes no answer, nor would one make sense. To avoid being bound by a judgment in this action, all he needs to do is opt out of the class when the time comes. He does not have a legal right to have the value of his HEX tokens be uninfluenced by litigation to

which others are parties, but that is the only danger of which he raises a specter. He raises that specter only in argument, and not through any showing of fact.

DuBard has failed to meet the burden of an appellant here.

CONCLUSION

DuBard has not shown that the decision to deny his motion to intervene was the product of "a manifest abuse of discretion that result[ed] in an error of law" so serious that it was "so opposed to the trial court's sound discretion as to amount to a deprivation of the legal rights of the party." Builders Mut., 431 S.C. at 98-99. Judge Nettles made a well-reasoned decision, within his discretion, to deny a motion to intervene that was largely supported only by argument and not by fact.

This court should affirm.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Radeker Law, P.A.
6511 Dare Circle
Columbia, South Carolina 29206
(803) 500-0891
drew@radekerlaw.com
and
Graham L. Newman
S.C. Bar No. 72845
William S. Detwiler
S.C. Bar No. 106673
Chappell, Chappell & Newman
Post Office Box 61170
Columbia, South Carolina 29260
(803) 233-7050
graham@chappell.law
will@chappell.law
Attorneys for Respondent

May 14, 2026

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM FLORENCE COUNTY
Court of Common Pleas

Michael G. Nettles, Circuit Judge

Civil Action No. 2022-CP-21-01980

Appellate Case No. 2025-002541

Noah Veon, on behalf of himself and All others
similarly situated..... Respondent,

v.

Richard James Schueler, A/K/A "Richard Heart,"..... Defendant,

Benjamin DuBard.....Proposed Intervenor/Appellant.

PROOF OF SERVICE

I certify that I have served the foregoing initial brief on the date given below by emailing it to opposing counsel at the address(es) noted below.

Merritt G. Abney, Esq., at merritt.abney@nelsonmullins.com
Ashley N. Hawkins, Esq., at ashley.hawkins@nelsonmullins.com

.

Respectfully submitted,

/s/ Andrew S. Radeker
Andrew S. Radeker
S.C. Bar No. 73743
Attorney for Respondent

May 14, 2026