

**THE STATE OF SOUTH CAROLINA**  
**IN THE COURT OF APPEALS**

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The School District of Greenville County ..... Appellant,

v.

Lee C. P. and Nelle S. P., as Guardians ad Litem for  
Lee P., a minor ..... Respondents.

**Case No. 2013-CP-23-03447**

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**Appeal from Greenville County  
Court of Common Pleas  
Edward W. Miller, Circuit Court Judge**

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RECEIVED  
JUL 10 2014  
SC Court of Appeals

**RESPONDENTS' RESPONSE TO MOTION FOR  
LEAVE TO FILE A BRIEF AMICI CURIAE**

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Respondents Lee C. and Nelle S. P., as guardians ad litem for Lee P., a minor, object to the Motion of Jeremy B., Geriann B., David B., Harrison S., Susan S., and Russell S. ("Proposed Amici") for Leave to File a Brief Amici Curiae.

Proposed Amici's motion should be denied because they were aware of and could have asked to intervene in the case at the Circuit Court level and chose not to do so. Their attempt to interject themselves into the case at this time is untimely. Furthermore, their attempt to insert into this appeal factual information and arguments not presented to the Circuit Court is inappropriate. For example, Proposed Amici allege that the students referenced in their motion are currently second and third in the class at Southside High School. That is alleged factual information that was not presented to the Circuit Court. Furthermore, it is not relevant to this Court's review of the

Circuit Court's decision, which is focused solely on whether the School District properly applied South Carolina law in transferring Lee P.'s grades and only his grades.

The purpose of amicus curiae briefs is to allow the Court to obtain legal briefs from non-parties who do not have a direct interest in the case. In this matter, Proposed Amici have demonstrated that they have a direct interest in the case in that they claim to represent two students who are alleged to be second and third in the class ranking due to the Court's Order. The Proposed Amici attempt to overcome their failure to intervene at the Circuit Court level by now masquerading as amici.

Proposed Amici do not provide any additional substantive analysis *as to the issues properly before the Court of Appeals*. Proposed Amici adopt Appellant's Statement of Issues on Appeal and Statement of the Case and then proceed to offer the same legal arguments already presented to the Circuit Court and this Court in Appellant's Brief *as to the issues Appellant has properly raised on appeal*. Proposed Amici's legal argument *as to the issues Appellant has properly raised on appeal* is redundant.

Proposed Amici, in addition to their improper attempt to interject facts not presented to the Circuit Court, also improperly attempt to raise new arguments not allowable on appeal. Proposed Amici argue positions that were not presented at the Circuit Court level. An amicus curiae brief "shall be limited to argument of the issues on appeal as presented by the parties." Rule 213, S.C.A.C.R. Here, Proposed Amici have fashioned their own issues. A cursory review of the listed "Argument" title in each of Appellant's and Proposed Amici's briefs shows that Proposed Amici have attempted to reframe the issues on appeal in a manner different from that of Appellant. This violates Rule 213, S.C.A.C.R.

Respondents' counsel was not consulted before Proposed Amici filed their motion. While Proposed Amici have asserted that they "attempted to consult with counsel for the Respondents . . . but have not at this time received consent for this motion," the undersigned counsel for

Respondents is aware of no attempt by Proposed Amici or their counsel to contact him or his staff. Proposed Amici Motion at 3. Proposed Amici was required to consult with Respondents' counsel before filing the motion, and their failure to do so is grounds to deny their motion.

Proposed Amici also assert that they should be appointed guardians ad litem for Jeremy B. and Harrison S; however, because these assertions are first made at the appellate level, neither the Circuit Court nor Respondents have had an opportunity to vet the appropriateness of those appointments. What information we do have regarding Harrison S. is that his mother, Susan S., stated in an email to the Southside High School principal and guidance counselor that her pursuit of this issue with Southside High School and the Greenville County School District should be kept secret from her son because it is not what he would want. The attached email calls into serious question whether Susan S. and Russell S. are on a quest of their own adverse to their son in this matter and therefore are not suitable candidates to be appointed as his guardians ad litem. *See* Exhibit A. Because no attempt was made by Jeremy B. to intervene in the Circuit Court, it is unknown whether his proposed guardians are likewise adverse to him. What we do know, however, is that the process to appoint a guardian ad litem for a person 14 years of age or older requires that the minor sign the petition for the guardian ad litem. Rule 17, S.C.R.C.P. Proposed Amici purport to represent minors Jeremy B. and Harrison S., both seniors in high school and over age 14, but neither of them has submitted an executed petition for appointment of a guardian ad litem. For all we know, neither Jeremy B. nor Harrison S. even knows what is happening in their names.

Allowing Proposed Amici to participate in this matter is harmful to student relations at Southside High School and an unnecessary intrusion into Respondent Lee P.'s privacy.<sup>1</sup> The matter

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<sup>1</sup> Respondents also ask the Court to take note of the fact that Proposed Amici have kept confidential their last names and their children's' last names in this matter to protect their privacy. The record in Circuit Court shows clearly that at least Proposed Amici Susan S. seems to have had little respect for

before the Court is Lee P.'s grades. He has not challenged anyone else's grades. His concern should not be turned into a case of a handful of parents stirring up trouble and pitting parents and students against each other.

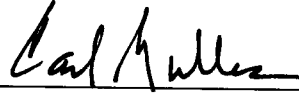
Finally, Proposed Amici attempt to represent the class of all students or some subset of all students at Southside High School without having made any attempt at the Circuit Court level to (a) certify the class, (b) establish that they are appropriate persons to represent the class, or (c) identify which students should be included and excluded from the "class." For example, other transfer students might not be appropriately included in the "class" and may in fact be adverse to the class. Furthermore, many students might strongly object to the tactics employed or the legal arguments advanced by Proposed Amici. It is easy to conceive of students and their parents objecting to Proposed Amici speaking for them without an opportunity to be excluded from the "class." As Susan S. stated in her email to Southside High School administrators, her own son would object to her actions. In fact, to use her word, he would be "horrified".

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Respondent Lee P.'s privacy. There has been an obsessiveness and secretiveness on the part of Susan S. that is concerning.

For all the foregoing reasons, Respondents respectfully request that the Court deny the Proposed Amici Motion for Leave to File a Brief Amici Curiae.

Respectfully submitted,



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Attorney for Respondents

February 27, 2014

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**IN THE COURT OF APPEALS**

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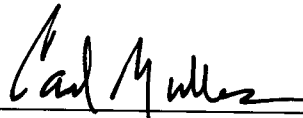
**PROOF OF SERVICE**

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The undersigned counsel hereby certifies that on February 27, 2014, he served a copy of the foregoing Respondents' Response To Motion For Leave To File A Brief Amici Curiae on the following counsel of record by depositing a copy of the same in the United States mail, first-class postage prepaid, and addressed as follows:

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**Brooks, Carlos**

**From:** Susan S [REDACTED]  
**Sent:** Thursday, October 04, 2012 8:45 AM  
**To:** Brooks, Carlos; Berman, Leigh; Henderson, Dyanmond; rs[REDACTED]@greenvilleforward.com  
**Subject:** Grading Policy for Riverside Military Academy

Mr Brooks, Ms. Berman and Ms. Henderson,

I just go off the phone with a delightful guidance counselor at Riverside Military Academy in Gainesville, GA, Corwynn Sylvester.

She confirmed a grading policy that Cannon F [REDACTED] who transferred to Southside as a Junior, has mentioned to our son. Currently all AP and Honors course grades at Riverside Military are given a 5 point bump - so if a student makes a 93 at the end of the grading period their grade is bumped to a 98.

In the year 2010/2011 (for that year only) all honors courses received a 5 point bump and all AP courses received a 10 point bump.

Ms. Sylvester says that on the right hand side of the transcript from Riverside Military it should list the 5 and 10 point "bumps"

This is their way of weighting advanced courses.

So, when Cannon transferred into Southside, his already weighted courses got another "weighting" since we weight ours a different way.

I do not believe that Cannon's GPA is accurately reflected because it seems he has been double-bumped.

Our son, Harrison, has NO IDEA we are looking into this grading issue and would be horrified to find out. We do not want him involved in this discussion in any way and we would prefer that we remain anonymous as well. Please keep this communication in utmost confidentiality.

Russell and I would like to know what can be done to "level the playing field."

Thanks you!

Susan S [REDACTED]  
[REDACTED]