

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM GEORGETOWN COUNTY
Court of Common Pleas

Benjamin H. Culbertson, Circuit Court Judge

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NOV 26 2014

S.C. Supreme Court

Appellate Case No. 2012-213726

Erika Fabian Appellant,

v.

Ross M. Lindsay, III and Lindsay, LLC, Respondents.

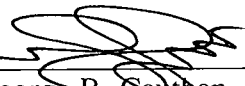
***Amicus Curiae* Reply to the Return to the Petition for Rehearing**

Pursuant to Rules 240(f) and 213 of the South Carolina Appellate Court Rules, the Nelson Mullins Pro Bono Program submits this reply to Appellant's Return to the Petition for Rehearing. In the reply, Appellant presents argument directed at *amici*, namely the unsupported claim that the *amicus* motion is "untimely." See Return p. 3 and p. 5 n. 7. This is incorrect. The Appellate Court Rules do not impose a deadline for submission of a motion for leave to file an *amicus* brief. See Rule 213, SCACR. This Court frequently entertains *amicus* input at the rehearing stage. Moreover, the concerns set forth in the *amicus* motion did not arise until this Court issued the opinion in this matter. As a result, *amici* filed its motion for leave timely within the deadline imposed by Rule 221(a), SCACR. Thus, Appellant's argument lacks merit.

The concerns raised by *amici* are not hypothetical, as alleged by Appellant. The impact of the opinion is real and substantial. Unless this Court grants rehearing, the

threat of suit against volunteer attorneys will cause termination of the Wills for Heroes program and deprive our local first responders of access to needed legal services. The Court could not have intended to curtail access to legal services and terminate worthy *pro bono* efforts by attorneys. As noted by the Supreme Court of Texas, “the greater good is served by preserving a bright-line privity rule[.]” *See Barcelo v. Elliott*, 923 S.W.2d 575 (Tex. 1996). The Wills for Heroes program is a quintessential example of “the greater good” being protected by the traditional privity rule. This Court overlooked this unintended consequence in rendering this opinion. Rehearing is warranted to eliminate this result.

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Proof of Service

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Nelson Mullins Pro Bono Program, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow by all by mailing a copy of the same by United States Mail, postage prepaid, to the following address(es):

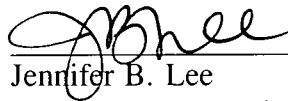
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November 26, 2014