

THE STATE OF SOUTH CAROLINA  
In the Supreme Court

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APPEAL FROM PICKENS COUNTY  
Court of Common Pleas

DEC 30 2014

The Honorable Doyet A. Early, III

S.C. Supreme Court

Appellate Case No. 2014-000642

Julie Freeman Hair,

Plaintiff/Appellant-Respondent

v.

J.L.H. Investments, LP, a/k/a Hendrick Honda of Easley,

Defendant/Respondent-Appellant

**DICK DYER & ASSOCIATES, INC.'S  
MOTION FOR LEAVE TO FILE BRIEF AS  
AMICUS CURIAE**

Dick Dyer & Associates, Inc. ("Dick Dyer") is an automobile dealership in Columbia, South Carolina. It previously moved to intervene in this appeal. That motion was denied, but the Court denied the motion without prejudice to Dick Dyer's ability to seek leave to appear as amicus curiae.

Pursuant to Rule 213, SCACR, Dick Dyer now moves the Court for leave to appear as amicus curiae. Dick Dyer is one of the original defendants in this case. During the first six years of this litigation, Dick Dyer, Respondent-Appellant J.L.H. Investments, LP, a/k/a Hendrick Honda of Easley ("Hendrick"), Appellant-Respondent Julie Freeman Hair ("Freeman"), and Michael Blease, the Plaintiff in the Dick Dyer

matter, were parties to the same case. The trial court ruled on motions jointly filed by the defendants, including: (1) Defendants' Motion to Dismiss dated July 31, 2007; (2) Plaintiff's Rule 41(A) Motion to Voluntarily Dismiss Certain Defendants; and (3) Defendants' Rule 59(E) Motion to Reconsider the Denial of Their Motions to Dismiss on Certain Grounds dated January 31, 2008.

These orders are currently on appeal before the Court. Because Dick Dyer was a party to the motions which generated these orders, and because the trial court denied the relief sought by Dick Dyer, Dick Dyer is aggrieved by these orders. Dick Dyer should be permitted to appear as *amicus curiae* because it has a direct interest in this Appeal. If this Appeal does not resolve all pending cases, Dick Dyer is one of two dealers whose cases may be the next to reach trial.

This Appeal is also a case of public interest. Between this case and companion cases filed by Freeman's counsel, over 300 dealers across the state have been sued regarding assessment of closing fees. This case will have a significant impact on the entirety of the South Carolina automobile industry. In such cases, courts liberally accept assistance from *amicus curiae*.

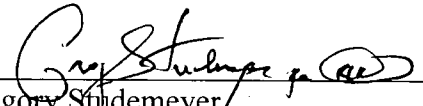
Here, Dick Dyer can provide the Court with valuable insight. It is intimately familiar with the case because it was a party to the original proceedings, but it can provide a different perspective. Unlike Hendrick, Dick Dyer is a single, family-owned dealership located in Columbia, South Carolina. It has been in business for 45 years.

Dick Dyer respectfully requests leave to file a brief as *amicus curiae* and to address the Court at oral argument. Alternatively, Dick Dyer requests permission to

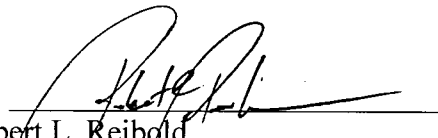
submit a brief as amicus curiae. The proposed brief is conditionally filed herewith as permitted by Rule 213, SCACR.

Respectfully submitted,

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Professional Corporation

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Attorneys for Dick Dyer & Associates

December 30, 2014

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Julie Freeman Hair,

Plaintiff/Appellant-Respondent

v.

J.L.H. Investments, LP, a/k/a Hendrick Honda of Easley,

Defendant/Respondent-Appellant

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**BRIEF IN SUPPORT OF MOTION FOR LEAVE  
TO FILE BRIEF AS AMICUS CURIAE BY  
DICK DYER & ASSOCIATES, INC.**

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Dick Dyer & Associates, Inc. ("Dick Dyer") is an automobile dealership in Columbia, South Carolina. It previously moved to intervene in this Appeal. The motion was denied, but the Court specifically stated that its denial was without prejudice to Dick Dyer's ability to seek leave to appear as amicus curiae.

Pursuant to Rule 213, SCACR, Dick Dyer now moves the Court for leave to appear as amicus curiae. There are no strict requirements which must be established for a party to receive amicus status. *United States v. State of Louisiana*, 751 F. Supp. 608, 620 (E.D. La. 1990). Requests for such status by private individuals are treated no differently than requests made by government agencies. *Id.* Appearance as amicus

curiae is normally allowed where, as here, the amicus has an interest in some other case which may be affected by the decision in the present case, even though the interest is not sufficient to entitle the amicus to intervene. *See Jin v. Ministry of State Security*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008); *District of Columbia v. Potomac Electric Power Co.*, 826 F.Supp.2d 227, 237 (D.D.C. 2011) (the court has broad discretion to permit proposed interveners to participate as amici curiae).

Dick Dyer has an interest in another case which will undoubtedly be affected by the decision in this Appeal. During the first six years in which the case on appeal was litigated, and before the cases were severed for trial, Dick Dyer, Appellant-Respondent Julie Freeman Hair (“Freeman”), Respondent-Appellant J.L.H. Investments, LP, a/k/a Hendrick Honda of Easley (“Hendrick”), and Michael Blease, the Plaintiff in the Dick Dyer matter, were parties to the same case.

The trial court ruled on motions jointly filed by or against Dick Dyer and Hendrick, including: (1) Defendants’ Motion to Dismiss dated July 31, 2007; and (2) Plaintiff’s Rule 41(A) Motion to Voluntarily Dismiss Certain Defendants; and (3) Defendants’ Rule 59(E) Motion to Reconsider the Denial of Their Motions to Dismiss on Certain Grounds dated January 31, 2008. Orders ruling on these motions are currently before the Court. Dick Dyer was a party to the motions which generated these orders, and rulings on these orders will have a direct effect on Dick Dyer’s pending case.

More generally, Dick Dyer’s case will be affected by this Appeal because its case involves the same claims and legal theories as does the case on Appeal. Both Dick Dyer and Hendrick were initially sued in a single complaint. The Court’s rulings on statutory construction and other matters will profoundly affect Dick Dyer’s case. Dick Dyer is one

of two dealers who are next in line to face trial on similar claims if this Appeal does resolve all matters.

This case is also one of significant public interest. Between this case and companion actions, Freeman's counsel have sued over 300 dealers who charge closing fees in all corners of the State of South Carolina. The trial court's rulings expand the potential liability of these dealers far beyond what the Legislature intended. In some respects, the trial court's rulings affect even dealers who do not charge closing fees. Dealer liability under the Regulation of Manufacturers, Distributors, and Dealers Act, S.C. Code Ann. §§ 56-15-10 *et seq.* (1976) was substantively expanded without Legislative action.

The significance of this case to South Carolina's automobile industry and the thousands of people it employs supports Dick Dyer's application for leave to appear as an amicus curiae. *See Empire State Ass'n of Assisted Living, Inc. v. Daines*, 887 N.Y.S.2d 452, 455-56 (N.Y. Sup. 2009) (where a case involves questions of important public interest, leave is generally granted to file a brief as amicus curiae); 3B C.J.S., *Amicus Curiae* § 3 (Database Updated Dec. 2014) (where matters of public concern are involved, the courts exercise great liberality in granting leave to appear as amicus curiae)

Dick Dyer's motion is timely and will not delay proceedings. The final briefs of the parties to this appeal were filed on December 8, 2014, approximately three weeks ago. Oral argument has not been scheduled. Additionally, Dick Dyer can provide valuable insight. The sheer number and complexity of the issues involved will make it difficult for existing parties to address all issues in the necessary detail. Dick Dyer is intimately familiar with the case because it was a party to this proceeding before the case

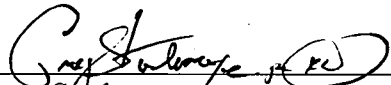
was severed for trial, and is in a position to address issues which may not have received detailed review.

Unlike Hendrick, Dick Dyer is a single, family-owned dealership located in Columbia, South Carolina. It has been in business for 45 years. It may have a different perspective on matters than does Hendrick, and, indeed, does not agree with Hendrick on all arguments presented.


Dick Dyer respectfully requests leave to file a brief as amicus curiae and to address the Court at oral argument. Alternatively, Dick Dyer requests permission to submit a brief as amicus curiae.

Respectfully submitted,

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