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IN THE STATE OF SOUTH CAROLINA
In the Supreme Court

NOV - 6 2015

S.C. Supreme Court

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
The Honorable G. Thomas Cooper
The Honorable J. Ernest Kinard

Docket No. 2011-CP-40-6705
Appellate Case No. 2014-000032

Joseph S. Azar, Frank J. Cumberland, Jr., and
Michael A. Letts, individually and as Class Representatives,

Appellants,

v.

City of Columbia,

Respondent.

AMICUS CURIAE REPLY TO APPELLANTS RETURN

The Municipal Association of South Carolina (“MASC”) filed a Motion for Leave to File *Amicus Curiae* Brief together with its conditional *Amicus Curiae* Brief in this matter on October 19, 2015. Appellants filed their return opposing MASC’s motion on October 30, 2015. Appellants argue that the Court should deny MASC’s motion. Pursuant to Rule 240(f), MASC files this reply and argues that this Court should reject Appellants request for denial for the following reasons.

THE BRIEF OF *AMICUS CURIAE* IS APPROPRIATE AND NECESSARY

A. MASC represents all towns and cities in South Carolina, including the approximately 190 such municipalities operating water utility systems and approximately 100 municipalities operating sewer utility systems. The role of MASC is to serve and protect the municipalities of the State of South Carolina. The original opinion of this Court will create

unintended, unnecessary and adverse impacts on many municipalities in South Carolina and these impacts deserve further consideration and review by this Court. MASC and its member institutions should be provided an opportunity to respond to this Court, state their objections and clarify certain positions advanced in the opinion.

B. Appellants state that “*Amicus* wants to continue to allow its members to collect water and sewer fees and use them without regard to South Carolina law.” See Return, p. 1 (footnote 1). Appellants fundamentally misunderstand the laws of municipal finance and utility law in South Carolina. The *amicus* brief filed by MASC represents and summarizes nearly a century of constitutional, statutory, case and common law in South Carolina. Appellants wish to disregard this history by dismissing and misapprehending seminal cases governing municipal utility systems and municipal finance in this State. See Return, p. 2.

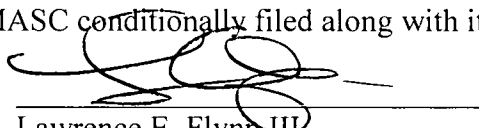
THE BRIEF OF *AMICUS CURIAE* IS NOT UNTIMELY

Appellants contend that MASC’s motion for leave to file a brief of *amicus curiae* is untimely due to its late filing. See Return, p. 5. Research reveals that the Court has accepted *amicus* briefs even after the Court has filed a decision but granted rehearing. See, e.g., *Bone v. U.S. Food Service*, 404 S.C. 67, 744 S.E.2d 552 (2013) (Court accepted *amicus* of the South Carolina Defense Trial Attorneys’ Association after the Court granted rehearing); *James v. Anne’s Inc.*, 390 S.C. 188, 190 n. 1, 701 S.E.2d 730, 731 n. 1 (2010) (Court noted “[t]hree organizations, the South Carolina Association for Justice, the South Carolina Injured Workers’ Advocates, and the South Carolina Appleseed Legal Justice Center, filed a joint Brief of *Amici Curiae* in support of the petition for rehearing, and we granted their motion to participate in oral argument. An *Amicus* Brief opposing the petition was filed by the South Carolina Self-Insurers Association, Inc.”); *Crossmann Communities of North Carolina, Inc. v. Harleysville Mut. Ins. Co.*, 395 S.C. 40, 717

S.E.2d 589 (2011) (Court received “numerous *amici* briefs” following its initial decision in the case); *In re Michael H.*, 360 S.C. 540, 542, 602 S.E.2d 729, 730 (2004) (Court stated it filed an opinion but “subsequently, we granted the State’s petition for rehearing and a motion by the South Carolina Victim’s Assistance Network to file an *amicus* brief.”).

CONCLUSION

The Court should not be swayed to reject the *amicus* brief on the ground that the brief is untimely. Instead and for the reasons stated herein, MASC requests that this Court grant its motion and accept the brief of *amicus curiae* that MASC conditionally filed along with its motion.



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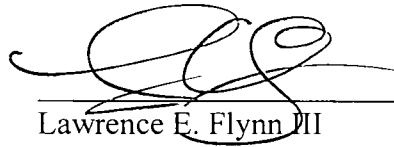
CERTIFICATE OF SERVICE

I certify that Respondent City of Columbia has served upon Appellants' counsel Respondent's **Amicus Curiae's Reply to Appellants** by depositing a copy of it in the United States Mail, postage prepaid, and by electronic mail, on November 6, 2015, addressed to counsel of record, as follows:

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