

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BERKELEY COUNTY
Court of Common Pleas
The Honorable R. Markley Dennis, Jr.

Docket No. 2011-CP-08-2814
Appellate Case No. 2014-002393

RECEIVED
MAY 26 2016
SC Court of Appeals

Todd Olds.....Appellant,

v.

City of Goose Creek.....Respondent.

REPLY TO APPELLANT’S RETURN TO
MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF

Appellant’s Return to the Motion for Leave to File *Amicus Curiae* Brief by the Municipal Association of South Carolina (hereinafter “Municipal Association”) represents a continuing effort by Appellant to conflate and confuse. There simply is no requirement in State or Federal law that the Federal definition of “gross income” for Federal income tax purposes must be used in a municipality’s definition of “gross income” for municipal business license tax purposes. This clearly is the relevant issue the Municipal Association, as *amicus*, wishes to present to this Court by its *Amicus Curiae* brief. Contrary to Appellant’s additional assertion in its Return, the Municipal Association’s Business License Handbook (R.O.A. at 159) does not give Appellant authority to utilize the Federal income tax definition of “gross income” or subtract its costs of goods from its total revenue:

Gross income may be defined by the license ordinance and generally means all revenue received from the business operation without any deductions for such things as cost of goods, overhead, salaries or costs of sale.

Appellant's Return also presents arguments alleging "sharp practice" and "misrepresentation" by the Municipal Association and its attorneys that are unworthy of Appellant's counsel or of presentation to this Court. Appellant plainly argues outside the Record with citations to purported statements from Municipal Association employees. Despite the representations of Appellant as to the content and import of these communications, the Municipal Association does not support Appellant's asserted view of the definition of "gross income" for purposes of the municipal business license tax.

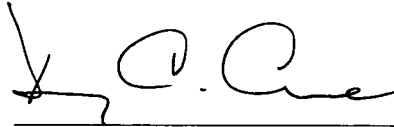
Additionally, the Municipal Association's request to file an *amicus* brief is not a part of any effort to become involved in the State legislative process on business license legislation. There is no grand design involving H. 5109 and this case. Furthermore, it is worth noting H. 5109 is not intended as a change in the computation of "gross income" from the existing practice of South Carolina municipalities. The Bill also specifically requires that the measure be revenue neutral.

The timeliness of a motion for leave to file an *amicus* brief is a matter for the discretion of this Court. Rules 213 and 240, SCAR, provide no deadlines for filing and, contrary to Appellant's arguments, no requirements for pre-motion consultation or pre-motion discovery depositions. There is no strategy of "lying low" to ambush Appellant. Rather, the Municipal Association wishes to provide supplemental information, as *amicus*, to this Court for its consideration. The Municipal Association is not asking to be named as a party or to present oral argument. It merely seeks to present the official position of the Association in regard to the term "gross income" for business license taxes.

CONCLUSION

The Municipal Association respectfully requests that the Court grant leave for it to appear as *amicus curiae* and that the Court accept its conditionally filed and served *amicus* brief.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D.C. Crowe', written over a horizontal line.

Danny C. Crowe, Esq.
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*Attorneys for Amicus Curiae
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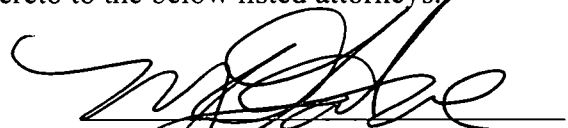
Todd Olds.....Appellant,

v.

City of Goose Creek.....Respondent.

PROOF OF SERVICE

I certify that I have this 26th day of May 2016, mailed a copy of the Municipal Association's Reply to Appellant's Return to Motion for Leave to File an *Amicus Curiae* Brief to the following via U.S. Mail with sufficient postage thereto to the below listed attorneys.



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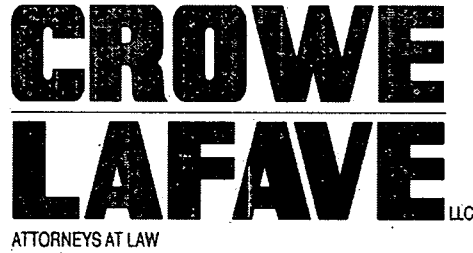
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VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
1220 Senate Street
Columbia, SC 29201

RE: Todd Olds v. City of Goose Creek
Docket No. 2011-CP-08-2814
Appellate Case No. 2014-002393

Dear Ms. Kitchings:

Please find enclosed for filing the original and one copy of the Reply to Appellant's Return to Motion for Leave to File Amicus Curiae Brief. Also enclosed for filing is the Proof of Service for the Reply.

Once filing is complete, I would appreciate you returning a clocked copy of each document to the person hand delivering this envelope.

By copy of this correspondence to the attorneys for the Appellants and Respondent, I am hereby serving a copy of this Reply upon them.

Thanking you in advance, I am

Yours very truly,

A handwritten signature in black ink, appearing to read "Mary D. LaFave". The signature is fluid and cursive, written over the typed name "Mary D. LaFave".

Mary D. LaFave

MDL/dmb
Enclosure

cc: Thomas R. Goldstein, Esquire
Timothy A. Domin, Esquire