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**The State of South Carolina
In the Supreme Court**

S.C. SUPREME COURT

ON CERTIFICATION FROM AN APPEAL IN THE
UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

Appellate Case No. 2016-002398

THEODORE G. HARTSOCK, JR. as Personal Representative of the
Estate of Sarah Mills Hartsock,
Plaintiff-Appellee,

v.

GOODYEAR DUNLOP TIRES NORTH AMERICA LTD., a foreign corporation;
and THE GOODYEAR TIRE & RUBBER COMPANY, a foreign corporation,
Defendants-Appellants.

**MOTION FOR LEAVE TO FILE BRIEF OF *AMICUS CURIAE*
RUBBER MANUFACTURERS ASSOCIATION**

**In Support of Appellants Goodyear Dunlop Tires North America Ltd.,
and The Goodyear Tire & Rubber Company**

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**COUNSEL FOR *AMICUS CURIAE*
RUBBER MANUFACTURERS ASSOCIATION**

The Rubber Manufacturers Association (“RMA”), pursuant to Rule 213, SCACR, by and through its undersigned counsel, respectfully moves the Court for permission to file an *amicus curiae* brief in support of the Final Brief of Appellants Goodyear Dunlop Tires North America Ltd.,¹ a foreign corporation; and The Goodyear Tire & Rubber Company, a foreign corporation. The RMA’s proposed brief is attached to this motion.

INTERESTS OF PROPOSED AMICUS CURIAE

1. The RMA is the primary trade association representing the interests of the tire and rubber industry in the United States. The RMA’s membership includes all of the country’s major tire manufacturers. The Goodyear Tire & Rubber Company is a member of the RMA. The RMA’s tire company members employ over 100,000 people throughout the United States, with manufacturing facilities in 15 states, including 39 tire manufacturing plants, as well as distribution centers. South Carolina, where the underlying case is pending, represents the largest tire manufacturing state, with nine tire manufacturing plants and two corporate headquarters, along with thousands of wholesale/retail outlets.

2. In 2016 alone, the RMA members’ domestic manufacturing plants produce nearly 166 million passenger, light truck, and commercial truck tires. Annual tire sales in North America currently approximate \$45 billion. The tire

¹ Goodyear Dunlop Tires North America Ltd. is now known as Sumitomo Rubber USA, LLC.

industry is a critical supplier to the nation's motor vehicle industry, which includes not only automobiles, but also trucks, buses, industrial, agricultural and military vehicles.

3. The RMA is vitally interested in this case because it raises the issue of whether South Carolina law provides an evidentiary privilege for trade secrets under the South Carolina Trade Secrets Act, S.C. Code Ann. §§ 39-8-10 through 39-8-130, the determination of which will govern trade secret protections in federal court in diversity cases. This question is of great importance to trade secret protections in general, and to tire manufacturers in particular, whose competitive products are used in South Carolina and throughout the nation.

ARGUMENTS TO BE ADVANCED BY AMICUS RMA

4. The interpretation of South Carolina's Trade Secrets Act, S.C. Code Ann. §§39-8-10, *et seq.* ("the Trade Secrets Act") as an evidentiary privilege applicable in a discovery dispute involving a manufacturer's trade secrets involves an important property right that is of interest to the promotion of business in South Carolina. The RMA proposes to argue that there are sound public policy reasons for interpretation of the Trade Secrets Act as a clear, unmistakable, and stringent privilege for the discovery of trade secrets. Given the valuable nature of trade secret intellectual property and its vulnerability to improper trade secret disclosures or theft, especially in the highly competitive tire manufacturing industry, the

application of the wrong legal standard for disclosure of trade secrets presents a significant threat to the intellectual property rights of the RMA's members. Accordingly, the RMA argues that this Court should find that the Trade Secrets Act, as interpreted by this Court in *Laffitte v. Bridgestone Corp.*, 674 S.E.2d 154 (S.C. 2009), constitutes an evidentiary privilege and sets forth the proper legal standards for disclosure of trade secrets.

5. The RMA also proposes to argue that courts across the country have considered requests similar to the requests here for information related to tire compound formulas and tire design manuals and found the information to be a protected trade secret that is not to be disclosed in discovery. Moreover, South Carolina's unique and detailed statutory scheme establishes stringent standards protecting trade secrets. Courts in multiple states have also embraced the policy reasons for protecting trade secrets and have imposed a heightened burden of proof that must be met before disclosure of trade secrets is allowed.

GROUND FOR GRANTING THE MOTION

6. The attached brief contains analysis relevant to the disposition of the case and is likely to be useful to the Court in resolving these issues, as it provides policy insights and examples from courts across the country regarding the importance of protecting trade secrets.

7. Counsel for the RMA has reviewed the Defendants-Appellants brief and has sought to minimize any overlap of arguments.

WHEREFORE, the RMA respectfully requests that this Court grant the Motion for Leave to File an *Amicus Curiae* Brief in support of Defendants-Appellants Goodyear Dunlop Tires North America Ltd., a foreign corporation; and The Goodyear Tire & Rubber Company, a foreign corporation.

Respectfully submitted,

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Defendants-Appellants.

PROOF OF SERVICE

I certify that on the 18th day of April, 2017, I served a copy of the Motion for Leave to File Brief of *Amicus Curiae* in Support of the Final Brief of Appellants Goodyear Dunlop Tires North America Ltd. and The Goodyear Tire & Rubber Company upon each counsel of record in this appeal via first class mail addressed to the following:

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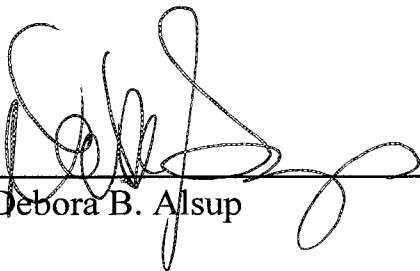
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