

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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JUL 24 2018

ON CERTIORARI TO THE COURT OF APPEALS

S.C. SUPREME COURT

APPEAL FROM CHARLESTON COUNTY

Court of Common Pleas
J.C. Nicholson, Jr., Circuit Judge

Appellate Case No. 2017-000640
Common Pleas Case Nos. 2010-CP-10-9096 & 2011-CP-10-8840

Frank Gordon, Jr., Individually and as Trustee of the Dorothy S.
Gordon (Deceased) Trust,.....Respondent,

v.

Donald W. Lancaster,.....Petitioner.

REPLY OF ADRIANE LIVINGSTON RADEKER TO RESPONDENT'S RETURN
TO MOTION
TO FILE BRIEF AS *AMICUS CURIAE*

Andrew S. Radeker
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Attorney for Proposed *Amicus Curiae*
Adriane Livingston Radeker

Proposed *amicus curiae* Adriane Livingston Radeker hereby submits this reply to the return of the Respondent to her motion to file a brief as *amicus curiae* in this case.

Respondent contends this motion was not timely filed. First, to the undersigned's knowledge, there is no statute or appellate court rule that sets a time frame for the making of a motion to submit a brief as *amicus curiae*. Respondent cites no South Carolina authority for the proposition that there is a deadline for the same. This Court has allowed *amici* to submit briefs at various stages of the progress of cases before it, including as late as on proceedings for rehearing. Doe v. McMaster, 355 S.C. 306, 585 S.E.2d 773 (2003) (*amici* admitted during rehearing proceedings).

Second, Mrs. Radeker was not aware that certiorari had been granted in this case until after oral argument had been held. She moved expeditiously once that was discovered.

Respondent also contends that Mrs. Radeker's motion does not state the reasons why her *amicus* brief is desirable. As the following quotation from Mrs. Radeker's motion sets out, as does the brief conditionally filed with her motion, Mrs. Radeker seeks to offer the court a perspective on the state of the law concerning Linda Mc Co. v. Shore, 390 S.C. 543, 703 S.E.2d 499 (2010), a decision central to the Court of Appeals' treatment of the instant case, and how this Court's interpretation and treatment of that decision will affect people beyond the litigants involved in the instant case:

As further detailed in her brief, Mrs. Radeker is the sole devisee of her father and the personal representative of his estate. Her father died during the pendency of a lawsuit seeking to have land sold to enforce a judgment

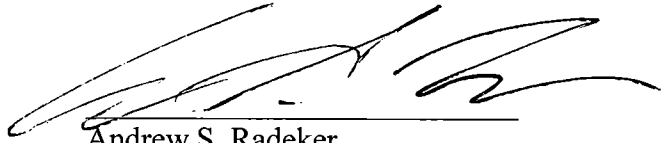
against him that is over ten years old. To maintain its argument that it can prosecute such an action, the plaintiff in that lawsuit has relied upon a broad reading of a narrow exception to the ten-year limitation on judgment collection that was announced by a majority of this Court in Linda Mc Co. v. Shore, 390 S.C. 543, 703 S.E.2d 499 (2010). In the instant case, the Court of Appeals' opinion also read this narrow exception broadly.

Mrs. Radeker has an interest in the outcome of these certiorari proceedings reviewing the Court of Appeals' decision in Gordon v. Lancaster, 419 S.C. 48, 795 S.E.2d 857 (Ct. App. 2016). Mrs. Radeker – along with an unknown number of people throughout this state who find themselves facing proceedings in which an opposing party is attempting to force collection of a judgment more than ten years old – is very interested in this case insofar as it involves how this Court treats the very limited exception made in Linda Mc, 390 S.C. at 553-55, to the 10-year limitation on judgment collection and the Court of Appeals' expansion of that exception. Gordon, 419 S.C. at 58.

Finally, Respondent asserts that Mrs. Radeker's *amicus* brief is merely duplicative of Petitioner's arguments. This is plainly not so. Mrs. Radeker's brief even goes so far as to assert grounds on which the Court could affirm the Court of Appeals' decision as modified – something that certainly does not echo the arguments of the Petitioner, who seeks reversal.

WHEREFORE Adriane Livingston Radeker prays for an order granting her leave to submit a brief as *amicus curiae* to this Court in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Andrew S. Radeker', written over a horizontal line.

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PROOF OF SERVICE

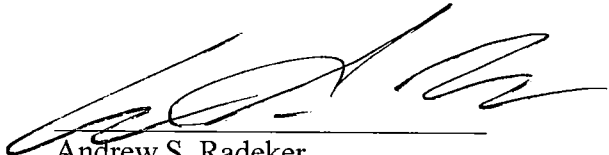
I certify that I served the foregoing reply to return to motion for leave to file a brief as *amicus curiae* and its accompanying conditionally filed brief in this case by depositing a copy thereof on the date shown below in the United States Mail, postage prepaid, addressed as follows:

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