

THE STATE OF SOUTH CAROLINA  
IN THE SUPREME COURT

RECEIVED

AUG 23 2018

---

APPEAL FROM Horry COUNTY  
COURT OF COMMON PLEAS

S.C. SUPREME COURT

THE HONORABLE EDWARD B. COTTINGHAM, CIRCUIT COURT JUDGE

---

Appellate Case No. 2016-000594

---

South Carolina Department of Transportation,.....Respondent,

v.

David Franklin Powell, .....Petitioner.

---

**SOUTH CAROLINA ASSOCIATION OF COUNTIES  
NOTICE OF MOTION AND MOTION FOR LEAVE  
TO FILE AN *AMICUS CURIAE* BRIEF**

---

Robert E. Lyon, Jr., General Counsel  
John K. DeLoache, Sr. Staff Attorney  
South Carolina Association of Counties  
Post Office Box 8207  
Columbia, South Carolina 29202  
803-252-7255  
Attorneys for *Amicus Curiae*

Pursuant to Rule 213 of the South Carolina Appellate Court Rules, the South Carolina Association of Counties (Association) respectfully submits this Motion for Leave to File a Brief of *Amicus Curiae* on behalf of South Carolina Department of Transportation (SCDOT).

### **I. INTEREST OF *AMICUS CURIAE***

The Association is an instrumentality of the forty-six (46) counties of the State of South Carolina. Act No. 1383, 1968 Acts at 3193. The case before this Court will greatly impact each of South Carolina's forty-six (46) counties in matters pertaining to the vital need for counties to protect their citizen's health, safety, and welfare. The Association represents the collective interests of South Carolina Counties, so that they may speak with one voice. The Association's interest in this case is to provide this Court with the collective insights of the Counties of the State pertaining to the issues in this matter, and to more fully develop the arguments of the individual parties.

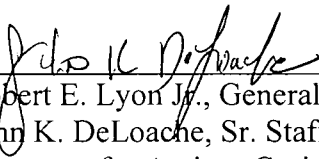
### **II. DESIRABILITY OF BRIEF OF *AMICUS CURIAE***

The safety and welfare of a county's citizens from the dangers of unsafe and inefficient road networks is a vital police power authorized pursuant to the South Carolina Home Rule Act. Thoughtful roadway design is an important power possessed by counties in South Carolina. The participation of the Association will provide the Supreme Court with the insight and thoughts of the Association and its members which will be directly impacted by this Court's decision. By allowing the Association to file an *Amicus Curiae* brief, this Court will preclude the need for numerous individual counties to request leave to file individual *Amicus Curiae* briefs.

WHEREFORE, Counsel for the South Carolina Association of Counties prays  
this Court enter its Order permitting the Association leave to file its *Amicus Curiae* brief.

Respectfully submitted,

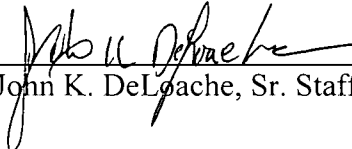
SOUTH CAROLINA  
ASSOCIATION OF COUNTIES

  
\_\_\_\_\_  
Robert E. Lyon Jr., General Counsel  
John K. DeLoache, Sr. Staff Attorney  
Attorneys for Amicus Curiae

August 23, 2018

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the above Notice of Motion and Motion for Leave to File an Amicus Curiae Brief was mailed this 23rd day of August, 2018 via United States Postal Service, First Class Postage Prepaid, to the following counsel of record:

  
\_\_\_\_\_  
John K. DeLoache, Sr. Staff Attorney

### Attorneys for Respondent SC DOT

Beacham O. Booker, Jr.  
754 Kilbourne Rd.  
Columbia, SC 29205

William C. Dillard, Jr.  
PO Box 96  
Columbia, SC 29202

### Attorneys for Petitioner David F. Powell

Howell V. Bellamy, Jr.  
Robert S. Shelton  
1000 29<sup>th</sup> Avenue North  
Myrtle Beach, SC 29577

John B. McCutcheon  
PO Box 1740  
Conway, SC 29528