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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

Honorable R. Ferrell Cothran, Jr., Circuit Court Judge

Appellate Case No. 2016-000774

Case No. 2012-CP-43-2030

RECEIVED

FEB 19 2019

SC Court of Appeals

Win Myat,Appellant,

v.

Tuomey Regional Medical Center,Respondent,

PRISMA HEALTH TUOMEY AND
SOUTH CAROLINA HOSPITAL ASSOCIATION'S
MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF

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Pursuant to Rule 213, SCACR, Prisma Health Tuomey and the South Carolina Hospital Association respectfully move for leave to file an *amici curiae* brief in support of Respondent Tuomey Regional Medical Center. As permitted by Rule 213, SCACR, the *amici curiae* brief is being conditionally filed with this motion.

Interest of Amici Curiae

Prisma Health is the largest and most comprehensive integrated health care system in the Midlands. Prisma Health Tuomey, one of its affiliates, operates the Prisma Health Tuomey Hospital in Sumter. Both Prisma Health and Prisma Health Tuomey are tax-exempt organizations, pursuant to 26 U.S.C. § 501(c)(3). Prisma Health Tuomey has been sued in the Court of Common Pleas in Sumter County based on the judgment that is on appeal in this lawsuit.

Founded in 1921 to serve as the collective voice of the state's hospital community, the South Carolina Hospital Association is a private, nonprofit organization made up of about 100 member hospitals and health systems and about 900 personal members associated with its institutional members. The Association strives to support its member hospitals in creating a world-class health care delivery system for the people of South Carolina by fostering high-quality patient care and serving as effective advocates for the hospital community. The issues raised in this appeal about the Solicitation of Charitable Funds Act will impact the Association's nonprofit members.

Desirability of *Amici Curiae* Brief

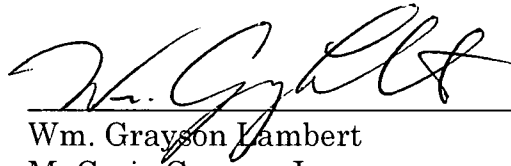
This case raises an important issue regarding the cap on damages against a charitable organization under S.C. Code § 33-56-180(A). Myat urges this Court to reject the statute's bright-line rule for determining whether this cap applies in this case. But a case-by-case approach to application of the charitable cap causes unnecessary and harmful uncertainty for charitable organizations, and this approach undermines the cap's goal of protecting charitable organizations.

First, Myat's case-by-case approach lacks the predictability of a bright-line rule. Predictability is critical for charitable organizations, which must manage their limited resources wisely. Uncertainty causes things like insurance premiums, loans, mergers, or acquisitions to be more expensive, and it makes litigation to be more costly, as charitable organizations cannot simply point to the Internal Revenue Service's determination of their tax-exempt status to prove that the cap applies.

Second, the rules of statutory construction and case law from our Supreme Court support a bright-line rule. An analysis of the plain language of this statute and its history is included in the *amici curiae* brief, which would be useful for the Court as it examines the meaning of § 33-56-170 and § 33-56-180(A).

Ultimately, these policy and statutory-construction arguments both lead to the same conclusion: a bright-line rule should apply to determine whether an organization is protected by § 33-56-180(A)'s cap. And that bright line should be whether the Internal Revenue Service has determined that an organization is tax exempt under 26 U.S.C. § 501(c)(3)—the very thing to which the Solicitation of Charitable Funds Act points.

Respectfully Submitted,



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February 19, 2019
Columbia, SC

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CERTIFICATE OF SERVICE


This Motion for Leave to File *Amici Curiae* Brief was served on all counsel of record via first class U.S. Mail, postage prepaid, on February 19, 2019:

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February 19, 2019

Via Courier

Honorable Jenny Abbott Kitchings
Clerk of Court
S.C. Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

**Re: Myat v. Ruomey Regional Medical Center
Appellate Case No. 2016-000774**

Dear Ms. Kitchings:

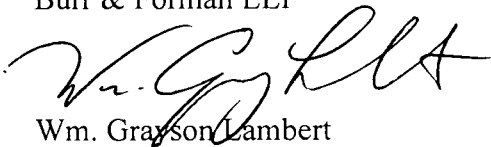
Enclosed for filing, please find the original and five copies of Prisma Health Tuomey and South Carolina Hospital Association’s Motion for Leave to File *Amici Curiae* Brief and the original and five copies of the *Amici Curiae* Brief in the above case. I have also enclosed this firm’s check for filing in the amount of \$50. I would appreciate it if you would file the motion and brief and return the file stamped extra copies to me via our courier.

By copy of this letter, I am herewith serving counsel of record with a copy of the brief.

Thank you for your assistance in this matter.

Respectfully yours,

Burr & Forman LLP



Wm. Grayson Lambert

WGL:lg
Enclosures
cc: William R. Padget, Esq. (w/enc.)
David C. Holler, Esq. (w/enc.)

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