

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
G. Thomas Cooper, Jr., Circuit Court Judge

Appellate Case No. 2018-000794
Case No. 2016-CP-40-2875

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AUG 27 2019
SC Court of Appeals

South Carolina Public Interest Foundation, Edward D. Sloan,
Jr., and William B. DePass, Jr., individually, and on behalf of
all others similarly situated,..... Appellants,

v.

Richland County,..... Respondent,

and

Central Midlands Regional Transit Authority,..... Intervenor-Respondent.

**RESPONDENT RICHLAND COUNTY'S RETURN TO
SOUTH CAROLINA DEPARTMENT OF REVENUE'S
MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

The South Carolina Department of Revenue (“SCDOR”) has filed a Motion
for Leave to File Brief of Amicus Curiae in this appeal. The Respondent Richland
County opposes that motion.

By way of background, the case at bar is a taxpayer lawsuit that is duplicative of the action currently pending between the Respondents and SCDOR, in which the Supreme Court has already heard and adjudicated an interlocutory appeal. *See, Richland County v. South Carolina Department of Revenue*, 422 S.C. 492, 811 S.E.2d 758 (2018). That SCDOR litigation remains pending in the Circuit Court. In that litigation, the Supreme Court and the Circuit Court have implemented a temporary injunction, and “Guidelines” as required by the Supreme Court have been adopted by the Circuit Court to govern the Respondents’ expenditure of the Penny Tax revenues as part of that temporary injunction.

SCDOR was never a party in the Circuit Court in the present taxpayer-initiated litigation, nor should they be permitted at this late date to become a party or even an *amicus* in this litigation. “*Amicus curiae* is a Latin phrase for ‘friend of the court’ as distinguished from an advocate before the court.” *Alexander v. Hall*, 64 F.R.D. 152, 155 (D.S.C. 1974). SCDOR ostensibly appears to seek the status of an *amicus*, but in reality as borne out by the motion and the conditional brief submitted, SCDOR seeks to be an advocate in this case. SCDOR is attempting to impact issues that are currently being litigated on remand from the Supreme Court in the separate pending Circuit Court action, but that is not the proper role of an *amicus curiae*. Moreover, this request by SCDOR just furthers the County’s

position that the current taxpayer-litigation is duplicative in nature and was properly dismissed against the County on that additional basis.

For these reasons, the Respondent Richland County opposes the SCDOR's motion to be named an *amicus curiae* and to file a brief ostensibly as a "friend of the court" but in actuality as an advocate trying to impact a different pending lawsuit.

Respectfully submitted,

LINDEMANN, DAVIS & HUGHES, P.A.

BY: 

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Counsel for Respondent Richland County

August 22, 2019

CERTIFICATE OF SERVICE

The undersigned employee of Lindemann, Davis & Hughes, P.A., counsel for the Respondent Richland County, does hereby certify that service of **Respondent Richland County's Return to South Carolina Department of Revenue's Motion for Leave to File Amicus Curiae Brief** was made upon all counsel of record by placing copies in the United States Mail, first class postage prepaid, at the below listed addresses clearly indicated on said envelopes this the 22nd day of August 2019:

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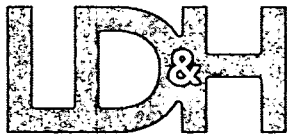
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A handwritten signature in cursive script, appearing to read 'L. J.', positioned above a horizontal line.



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RE: South Carolina Public Interest Foundation, Edward D. Sloan, Jr., and William B. DePass, Jr., individually, and on behalf of all others similarly situated v. Richland County
Appellate Case Number: 2018-000794
Civil Action Number: 2016-CP-40-2875
Claim Number: Legal
Our File Number: 314.9965

Dear Ms. Kitchings:

Please find enclosed for filing the original and seven copies of **Respondent Richland County's Return to South Carolina Department of Revenue's Motion for Leave to File Amicus Curiae Brief** in the above referenced matter. Please file the original and return a clocked-in copy to me in the enclosed envelope. By copy of this letter, I am serving copies on all counsel of record.

Thank you for your assistance in this matter. If you have any questions, please advise.

Sincerely,

LINDEMANN, DAVIS & HUGHES, P.A.

Andrew F. Lindemann

AFL/jmb
Enclosures

The Honorable Jenny Abbott Kitchings
August 22, 2019
Page Two

cc: (w/ Enclosure)

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