

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

G. Thomas Cooper Jr., Circuit Court Judge

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Appellate Case No.: 2018-000794

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**RECEIVED**  
AUG 22 2019  
SC Court of Appeals

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

Appellants,

v.

Richland County,

Respondent,

and

Central Midlands Regional Transit Authority

Intervenor/Respondent.

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**INTERVENOR/RESPONDENT CENTRAL MIDLANDS REGIONAL  
TRANSIT AUTHORITY'S RESPONSE IN OPPOSITION TO SOUTH  
CAROLINA DEPARTMENT OF REVENUE'S MOTION FOR LEAVE TO  
FILE BRIEF OF AMICUS CURIAE**

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Pursuant to Rule 240(e) of the South Carolina Appellate Court Rules, Respondent/  
Intervenor Central Midlands Transit Authority ("CMRTA") hereby submits this Response in  
Opposition to the South Carolina Department of Revenue ("SCDOR")'s Motion for Leave to File  
a Brief of Amicus Curiae. Because SCDOR has failed to identify a compelling interest that would  
make its brief desirable for the Court to review, the Court should deny its Motion for Leave to File  
a Brief of Amicus Curiae.

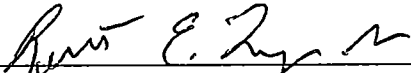
SCDOR has not stated an interest that merits the Court considering its brief. In its motion, SCDOR argues that it “has an interest in clarifying its position on the import of the Circuit Court’s Temporary Injunction” filed in *Richland County v. South Carolina Department of Revenue* (the “DOR Case”). The Court does not need assistance in understanding the terms of the temporary injunction filed in the DOR Case. The documents filed in the DOR Case speak for themselves and the court can take judicial notice of all documents filed in that action. Further, the import or legal effect that the documents filed in DOR Case have on issues before the Court in this appeal is a matter of law that the Court will determine. The SCDOR’s desire for how these documents should be treated is not a factor that should impact the Court’s analysis on this issue. Accordingly, the interest identified by SCDOR—to “clarify[] its position on the import of the Circuit Court’s Temporary Injunction”—does not merit the Court’s attention.

Moreover, SCDOR’s interests in this case are those of a litigant, not a “friend of the court.” Generally, a “friend of the court” appears to educate the Court of about a subject matter involved in an appeal or to inform the Court about the practical impact that a ruling could have on other similarly situated matters. The proposed brief submitted by SCDOR does not fit this description; rather, SCDOR is attempting to weigh in on the merits of legal issues in this appeal. If SCODR wanted to participate in this litigation, it could have and should have intervened. SCDOR should not be permitted to interject arguments into a case to which it is not a party.

Finally, to the extent that SCDOR takes exception with the terms of the temporary injunction in the DOR Case, it should have appealed the order that entered that injunction. SCDOR cannot use this appeal as a backdoor to having this Court reconsider whether the guidelines adopted by that injunction, which were issued by another Judge in another case and consented to by SCDOR, comply with the Penny Tax Statute.

For these reasons, the Court should deny SCDOR's Motion for Leave to File a Brief of Amicus Curiae.

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August 22, 2019



**ROBINSON  
GRAY**

Litigation + Business

August 22, 2019

**Via Hand Delivery**

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

Re: South Carolina Public Interest Foundation, et al. v. Richland County, et al.  
Appellate Case No. 2018-000794  
File No. 6908/1500

Dear Ms. Kitchings:

I enclose for filing the original and seven copies of the Response in Opposition to South Carolina Department of Revenue's Motion for Leave to File Brief of Amicus Curiae of Intervenor/Respondent and Proof of Service.

I would appreciate your filing as appropriate and returning the clocked-in copies via our courier.

By copy of this letter and as evidenced by the Certificate of Service, we are serving all counsel of record with a copy of same.

Sincerely,

Robert E. Tyson, Jr.

Enclosures

cc: James G. Carpenter, Esquire  
Andrew F. Lindemann, Esquire

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