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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM SUMTER COUNTY
Court of Common Pleas

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

Appellate Case No. 2019-001757

Case No. 2012-CP-43-2030

Win Myat, Appellant,

v.

Tuomey Regional Medical Center, Respondent,

PRISMA HEALTH, PRISMA HEALTH TUOMEY, AND
SOUTH CAROLINA HOSPITAL ASSOCIATION'S
MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF
IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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Pursuant to Rule 213, SCACR, Prisma Health, 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 and in opposition to the petition for a writ of certiorari. 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 healthcare system in South Carolina, with multiple hospitals in the Midlands and the Upstate. 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 circuit court in Sumter County based on the judgment that is on appeal in this lawsuit.¹

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 healthcare-delivery system for the people of South Carolina by fostering high-quality patient care and

¹ Tuomey Regional Medical Center, the Respondent in this appeal, owned and operated Tuomey Hospital before selling that hospital to Prisma Health Tuomey. That sale occurred after the trial in this litigation. Tuomey Regional is independent of Prisma Health and Prisma Health Tuomey.

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

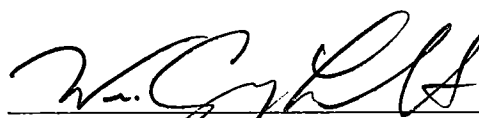
The Solicitation of Charitable Funds Act imposes a cap on damages against a “charitable organization,” which the Act defines as an organization that “is exempt from taxation pursuant to Section 501(c)(3)” of the Internal Revenue Code. S.C. Code § 33-56-170(1). The Court of Appeals held that a “charitable organization” protected by this cap is “any organization that is tax exempt by the IRS pursuant to Section 501(c)(3).”

Myat asks this Court to grant a writ of certiorari because (he says) the Court of Appeals interpreted § 33-56-170(1) incorrectly. According to Myat, that section requires a trial court to determine, without any deference to an IRS decision, whether an organization “should be” exempt under 26 U.S.C. § 501(c)(3).

Myat's interpretation of § 33-56-170(1) is wrong, and adopting it would have serious consequences for the *amici* and other charitable organizations in this State. Myat's interpretation contradicts the plain language of § 33-56-170(1). Under federal law, the IRS decides who “is exempt” under 26 U.S.C. § 501(c)(3). His interpretation would also create uncertainty and thereby drain the resources of both charitable organizations and our judicial system.

This *amici curiae* brief discusses these issues in more detail and demonstrates how the Court of Appeals interpreted § 33-56-170(1) correctly and why a writ of certiorari does not need to be granted.

Respectfully Submitted,



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December 2, 2019
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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 December 2, 2019:

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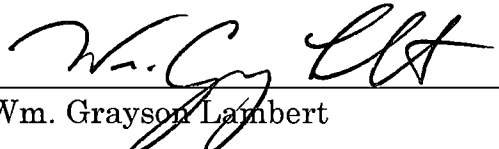
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