

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

FEB 10 2020

Jennifer B. McCoy, Circuit Court Judge

S.C. SUPREME COURT

Trial Court Case No. 2015-CP-10-00955
Appellate Case No. 2019-000238

Ex Parte:

Builders Mutual Insurance Company, Nationwide Mutual Fire Insurance Company, Nationwide Mutual Insurance Company, and Nautilus Insurance Company, Appellants,

In Re:

Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc., and Jack Love, Individually, and on behalf of all others similarly situated, Plaintiffs,

v.

Island Pointe, LLC; Leonard T. Brown; Complete Building Corporation; Tri-County Roofing, Inc.; Creekside, Inc.; American Residential Services, LLC d/b/a Rescue Rooter Charleston; Andersen Windows, Inc.; Atlantic Building Construction Services, Inc. n/k/a Atlantic Construction Services, Inc.; Christopher N. Union; Builder Services Group, Inc. d/b/a Gale Contractor Services; Novus Architects, Inc. f/k/a SGM Architects, Inc.; Tallent and Sons, Inc.; W C Services, Inc., CRG Engineering, Inc.; Certainteed Corporation; Kelly Flooring Products, Inc. d/b/a Carpet Baggers and John Doe 1-60, Defendants,

Tri-County Roofing, Inc., Third-Party Plaintiff,

v.

Cornerstone Construction and Mark Malloy d/b/a Cornerstone Construction; Gutter Works, Inc. and Michael L. Segars d/b/a Gutter Works; Mr. Gutter; Litchfield Seamless Gutters & Windows, LLC and Thomas Litchfield d/b/a Litchfield Seamless Gutter; Miracle Siding, LLC and Wilson Lucas Sales d/b/a Miracle Siding, LLC; Mark Palpoint a/k/a Micah Palpoint; Elroy Alonzo Vasquez; and Chris a/k/a John Doe 61, Third-Party Defendants.

And

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Complete Building Corporation, Inc., Third-Party Plaintiff,

v.

S.C. SUPREME COURT

Alderman Construction; Stanley's Vinyl Fence Designs; Cohen's Drywall; and Mosley Concrete, Third-Party Defendants,

Of Whom Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc. and Jack Love, Individually, and on behalf of all others similarly situated, Tri-County Roofing, Inc., Stanley's Vinyl Fence Designs, and W C Services, Inc. are the Respondents.

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF OF
THE SOUTH CAROLINA ASSOCIATION FOR JUSTICE
IN SUPPORT OF:**

Respondents Palmetto Pointe at Peas Island Condo. Prop. Owners Assoc. Inc., et al.

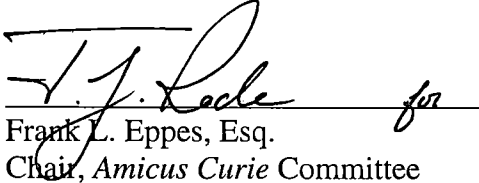
Pursuant to South Carolina Appellate Court Rule 213, The South Carolina Association for Justice (“SCAJ”) moves for leave of the Court to file an amicus brief as *amicus curiae*.

SCAJ was founded nearly sixty years ago to serve its members and those persons whom the members were sworn to protect. The Association has currently over 1,200.00 members who are lawyers and advocates for those who are harmed by the actions of others. The vast majority of members consider themselves to be trial lawyers, and members engage in litigation on behalf of these injured parties, and jury trials and insurance coverage remain an important part of litigation, especially in a complex cases, including cases involving construction, products liability, medical liability and serious personal injury, the Court’s determination of the questions presented in this appeal will impact the ability of the SCAJ members to adequately represent those clients in all types of litigation, thereby depriving individuals of their ability to have their claims fully explored by a jury in accord with the 7th Amendment of the United States Constitution.

The case at bar seeks to unfairly require plaintiffs to carry the burden to prove the scope of insurance coverage available to the defendant while simultaneously proving liability. SCAJ is especially knowledgeable on the burdens of pursuing litigation, and the burdens on recovery are already high enough. Accordingly, SCAJ requests leave to file this *amicus* brief to assist the Court with understanding and considering the interests of SCAJ members in this matter.

Respectfully submitted,

South Carolina Association for Justice


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Chair, *Amicus Curie* Committee

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S.C. SUPREME COURT

v.

Alderman Construction; Stanley's Vinyl Fence Designs; Cohen's Drywall; and Mosley Concrete,
Third-Party Defendants,Of Whom Palmetto Pointe at Peas Island Condominium Property Owners Association, Inc. and
Jack Love, Individually, and on behalf of all others similarly situated, Tri-County Roofing, Inc.,
Stanley's Vinyl Fence Designs, and W C Services, Inc. are the Respondents.

PROOF OF SERVICE

I certify that I have served the Motion for Leave to File *Amicus Curiae* Brief, and the accompanying *Amicus Curiae* Brief of South Carolina Association for Justice which are being conditionally filed with the Motion, on Other Counsel of Record by depositing a copy of it in the United States Mail, postage prepaid, on February 10, 2020 addressed to their attorneys of record, listed as follows:

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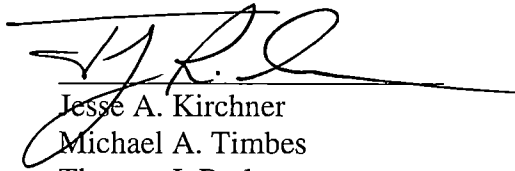
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February 10, 2020

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A handwritten signature in black ink, appearing to read 'J. Kirchner', is written over a horizontal line. The signature is fluid and cursive.

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