

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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APPEAL FROM SUMTER COUNTY
Court of Common Pleas

S.C. SUPREME COURT

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,

SOUTH CAROLINA HOSPITAL ASSOCIATION'S
MOTION FOR LEAVE TO FILE *AMICI CURIAE* BRIEF
IN SUPPORT OF TUOMEY REGIONAL MEDICAL CENTER

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

Interest of Amicus Curiae

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 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 Amicus 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 reverse that decision 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 *amicus* 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 *amicus curiae* brief discusses these issues in more detail and demonstrates how the Court of Appeals interpreted § 33-56-170(1) correctly and why its judgment should be affirmed.

Moreover, this Court indicated that an *amicus curiae* brief is desirable when the Court allowed the Association to file an *amicus curiae* brief at the certiorari stage. It should allow the Association to file an *amicus curiae* brief at the merits stage too.

Respectfully Submitted,

s/ Wm. Grayson Lambert
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