

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Cynthia Graham Howe, Master-in-Equity

Appellate Case No. 2018-001590

RECEIVED

Sep 17 2020

SC Court of Appeals

Andrew Waldo; Jane Zheng; and SC Coast Properties, LLC
d/b/a Keller Williams RealtyRespondent,

v.

Michael Cousins; Founders Five, LLC d/b/a Sperry Van Ness
Founders Group; and South Carolina Association of REALTORS.....Appellant.

**NATIONAL ASSOCIATION OF REALTORS®
MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF**

Pursuant to Rule 213, SCACR, the National Association of REALTORS® (NAR) respectfully moves for leave to file an *amicus curiae* brief in support of the South Carolina Association of REALTORS®. As permitted by Rule 213, the Association is conditionally filing its *amicus curiae* brief with this motion.

INTEREST OF THE NATIONAL ASSOCIATION OF REALTORS®

In 1908, NAR was founded to promote and encourage the highest and best use of the land, to protect and promote private ownership of real property, and to advance the professional competence of real estate licensees in their rendering of services to the public and their interaction with each other. NAR is a nonprofit professional association of persons engaged in all phases of the real estate business, including brokerage, appraisal, management, and counseling. Its

membership is comprised of 54 state and territorial associations of Realtors®; approximately 1,400 local associations of Realtors®; and approximately 1.3 million Realtor® and Realtor–Associate® members. The local associations are given the right to provide services to their members and the public. But NAR also imposes upon local associations the obligation to enforce the strict Realtors® Code of Ethics. The Realtors® Code of Ethics, to which all NAR members agree to adhere, requires Realtors® to resolve real estate related controversies with other Realtors® through arbitration rather than litigation.

Indeed, NAR is an ardent proponent of arbitration of disputes among members. Courts have repeatedly recognized that the duty to arbitrate imposed upon Realtors® is reasonable, consistent with due process, and a source of significant judicial economy. From NAR’s perspective, arbitration of disputes between members offers at least three benefits. First, arbitration affords Realtors® an opportunity to resolve disputes in a forum that is substantially faster and less expensive than litigation. Second, arbitration protects consumers of real estate services provided by Realtors® from being drawn into costly and time-consuming court battles between real estate professionals. Third, arbitration facilitates and encourages cooperation between Realtors® in the sale of properties by eliminating the risk of litigation related to disputes between them. This cooperation enhances the marketing of properties, the effectiveness of services provided to buyers and sellers, and the satisfaction of all parties to a real estate transaction.

This case is far more than an intramural dispute between two real estate firms over entitlement to a portion of a commission earned on the sale of a golf course. Given the breadth of NAR’s membership and its mission to advance the professional competence of Realtors® rendering services to the public, NAR has a strong interest in this case, which has the potential to curb the laudable aims of arbitration and, consequently, the quality of these services. To that end,

NAR wishes to submit this brief as *amicus curiae* in support of the South Carolina Association of REALTORS®. NAR believes it can provide a useful voice as the Court considers whether the master-in-equity exceeded the scope of its authority in reviewing the arbitration award.

DESIRABILITY OF AMICUS CURIAE BRIEF

As explained in NAR’s brief, arbitrating disputes between its members affords great benefit both to those members and the public at large. The unwarranted intrusion of the courts into the arbitration process will have a considerable adverse impact on Realtors® and the customers and clients they serve. Here, the master-in-equity erred in employing a *de novo* review, instead of strictly limiting its review to the statutorily prescribed bases for reviewing an arbitration award, and in considering the merits of the arbitration award. Failure to apply the rules for appellate review properly and consistently will undercut the value of arbitration—which serves the interest of Realtors®, their customers, and their clients—and waste precious judicial resources. That will burden NAR’s members, their customers, and their clients with the time and cost of full-blown litigation for cases that should not be in court at all.

Accordingly, as the Court decides this appeal, NAR believes its *amicus curiae* brief offers a detailed analysis of the reasoning behind and ultimate benefits of arbitration.

(Signature page to follow)

Respectfully submitted,

ROBINSON GRAY STEPP & LAFFITTE, LLC

By: s/Elizabeth Van Doren Gray
Elizabeth Van Doren Gray
SC Bar No. 2434
Vordman Carlisle Traywick, III
SC Bar No. 102123
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
egray@robinsongray.com
ltraywick@robinsongray.com

*Attorneys for Amicus Curiae National Association
of REALTORS®*

Columbia, South Carolina

September 17, 2020

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM HORRY COUNTY
Court of Common Pleas
Cynthia Graham Howe, Master-in-Equity

Appellate Case No. 2018-001590

RECEIVED
Sep 17 2020
SC Court of Appeals

Andrew Waldo; Jane Zheng; and SC Coast Properties, LLC
d/b/a Keller Williams RealtyRespondent,

v.

Michael Cousins; Founders Five, LLC d/b/a Sperry Van Ness
Founders Group; and South Carolina Association of REALTORS®Appellant.

PROOF OF SERVICE

I hereby certify that I have served National Association of *REALTORS*® Motion for Leave to File Amicus Brief and the National Association of *REALTORS*® Amicus Brief by emailing it to counsel for the other parties at the email addresses below on September 17, 2020 (copy of email attached):

L. Sidney Connor, IV
Post Office Drawer 14547
Surfside Beach, South Carolina 29587-4547
sconnor@classactlaw.net
Attorney for Appellants,
Michael Cousins; Founders Five, LLC d/b/a
Sperry Van Ness Founders Group

Marcus A. Manos
Christopher R. Hampton
Nexsen Pruet, LLC
1230 Main Street, Suite 700
Columbia, South Carolina 29201
mmanos@nexsenpruet.com
champton@nexsenpruet.com
*Attorneys for Appellant South Carolina
Association of REALTORS®*

Douglas M. Zayicek
Holly Michelle Lusk
The Bellamy Law Firm
PO Box 357
Myrtle Beach, South Carolina 29578
dzayicek@bellamylaw.com
hlusk@bellamylaw.com
*Attorneys for Respondents,
Andrew Waldo; Jane Zheng; and SC Coast Properties, LLC
d/b/a Keller Williams Realty*

s/Elizabeth Van Doren Gray
Elizabeth Van Doren Gray
SC Bar No. 2434
Vordman Carlisle Traywick, III
SC Bar No. 102123
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211
(803) 929-1400
egray@robinsongray.com
ltraywick@robinsongray.com

*Attorneys for Amicus Curiae National Association
of REALTORS®*

From: [Cynthia D. Nygord](#)
To: sconnor@classactlaw.net; [Marcus Manos](#); champton@nexsenpruet.com; dzayicek@bellamylaw.com; husk@bellamylaw.com
Cc: [Betsy Gray](#); [Lisle Traywick](#); [Christine Skalamera](#); [Cynthia D. Nygord](#); [f8eed.imatech.com](mailto:{F263581}.Clients@f8eed.imatech.com)
Subject: National Association of REALTORS® Motion for Leave to File Amicus Brief and Amicus Brief [IMAN-CLIENTS.FID263581]
Date: Thursday, September 17, 2020 4:57:52 PM
Attachments: [image001.png](#)
[image002.png](#)
[NAR's Motion for Leave to File an Amicus Curiae Brief - For Filing\(37093056.1\).pdf](#)
[National Association of Realtors" Amicus Brief - FINAL - FOR FILING\(37092813.1\).pdf](#)
[PROOF OF SERVICE - Motion for Leave to file Amicus Brief and Amicus Brief - FINAL for Filing 9.17.20\(37093076.1\).pdf](#)

Dear Counselors:

Attached herewith for service upon you, pursuant to the Supreme Court of South Carolina Amended Order dated May 29, 2020, please find National Association of REALTORS® Motion for Leave to File Amicus Brief, National Association of REALTORS® Amicus Brief, and Proof of Service for the same. The attached will be filed with the South Carolina Court of Appeals this afternoon.

A copy of this email will be filed with the Proof of Service.

Please let us know if you have any difficulty opening the attachments.

With kindest regards,
Cyndi Nygord



CYNDI NYGORD PARALEGAL

DIRECT 803.231.7845

VCARD

ROBINSONGRAY.COM

1310 Gadsden Street
PO Box 11449 (29211)
Columbia, SC 29201



NOTICE: This e-mail is confidential and may contain information which is legally privileged or otherwise exempt from disclosure. If you received this message in error, please delete this message from your device.

During the COVID-19 pandemic, Robinson Gray is committed to providing our clients with uninterrupted, high-quality legal service in the safest environment possible. Since our technology enables all employees to work remotely through a secure cloud-based network, Robinson Gray is fully operational during the pandemic and can readily respond to your needs without compromising the safety of our attorneys and staff.

Supporting Green print wisely.

RECEIVED
Sep 17 2020
SC Court of Appeals