

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

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Oct 15 2020

SC Court of Appeals

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

v.

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

**SOUTH CAROLINA ASSOCIATION OF REALTORS®’S REPLY IN SUPPORT OF MOTION FOR LEAVE
TO FILE *AMICUS CURIAE* BRIEF BY NATIONAL ASSOCIATION OF REALTORS®**

The Appellant, South Carolina Association of REALTORS® (“SCAR”), files this reply in support of the motion to file an *amicus curiae* brief by the National Association of REALTORS® pursuant to S.C. R. App. P. 240(f). The standard for filing an *amicus curiae* brief under either the South Carolina Rules of Appellate Procedure or the Federal Rules of Appellate Procedure is the same. Fed. R. App. P. 29; S.C. R. App. P. 213. The *amicus* must identify an interest in the case and why an *amicus curiae* brief is desirable.¹ The National Association of REALTORS® meets the

¹ When considering a South Carolina rule, which is substantially the same as a federal rule, state courts will take guidance from cases interpreting the similar federal rule. *Maybank v. BB&T Corp.*, 416 S.C. 541, 565, 787 S.E.2d 498, 510 (2016); *Gardiner v. Newsome Chevrolet-Buick, Inc.*, 304 S.C. 328, 330, 404 S.E.2d 200, 201 (1991).

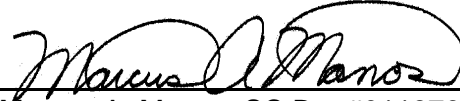
requirements for an *amicus curiae* party and the opposition of Appellee simply does not address the standard.

The Appellate Courts of South Carolina normally grant petitions for *amicus curiae* briefs in the interest of having a full discussion of all issues. *See, e.g., Savannah Riverkeeper v. South Carolina Dept. of Health and Environmental Control*, 400 S.C. 196, 207, 733 S.E.2d 903, 909 (2012) (dissent by Justice Kitteridge noting the standard practice to accept *amici* briefs). The federal appellate courts generally grant motions to file *amicus curiae* briefs even in cases that are then decided on the record and briefs without oral argument or dismissed on jurisdictional grounds. *See, e.g., Schafer v. Citibank, N.A.*, 447 Fed. Appx. 466 (4th Circuit 2011) (*amicus* brief considered and *amicus* made a party when case decided without oral argument on the record and briefs); *Barr v. Virginia Alcohol Beverage Control*, 710 Fed. Appx. 141 (4th Circuit 2018) (initial *amicus* brief accepted and *amicus* made a party despite unpublished opinion dismissing for lack of jurisdiction due to late filing of notice of appeal and rejection of *amicus* request for a reply brief).

As the record in this action and the brief of the National Association of REALTORS® (“NAR”) reflect, the NAR provides as part of its rules an arbitration process for all REALTOR® members to quickly and inexpensively resolve disputes. The arbitration process operates for all state and local REALTOR® associations and has for decades. It represents one of the earliest and broadest arbitration systems, saving parties time and money and relieving over crowded court dockets. Affirmance of the decision below would make South Carolina an outlier and increase the length, cost, and court involvement in this long successful alternative dispute resolution process.

For these reasons, the Motion to File *Amicus Curiae* Brief of NAR should be granted and NAR should be added to the caption of this appeal as an *amicus* party.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marcus A. Manos", written over a horizontal line.

Marcus A. Manos, SC Bar #011876
NEXSEN PRUET, LLC
Post Office Drawer 2426
Columbia, South Carolina 29202
(803) 771-8900
MManos@nexsenpruet.com

Attorneys for Appellant South Carolina Association
of REALTORS®

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SC Court of Appeals

Appeal from Horry County
Court of Common Pleas

Cynthia Graham Howe, Master-In-Equity, Circuit Court Judge

Case No. 2018-001590

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

v.

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

PROOF OF SERVICE

The undersigned hereby certifies that a copy of the **SOUTH CAROLINA ASSOCIATION OF REALTORS®'S REPLY IN SUPPORT OF MOTION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF** has been served upon counsel of record, via electronic mail, a copy of the same on the 15th day of October, 2020, to the addresses shown below.

Douglas M. Zayicek, Esquire – dzayicek@bellamylaw.com
Holly M. Lusk, Esquire – hlusk@bellamylaw.com
THE BELLAMY LAW FIRM
1000 29th Avenue North
Myrtle Beach, South Carolina 29578
Attorneys for Respondents

L. Sidney Connor, IV, Esquire – sconnor@classactlaw.com
KELAHER, CONNELL & CONNOR, P.C.
The Courtyard, Suite 209
1500 U.S. Highway 17 North
Surfside Beach, South Carolina 29587
*Attorneys for Appellants Michael Cousins; Founders Five, LLC d/b/a
Sperry Van Ness Founders Group*

Elizabeth Van Doren Gray, Esquire – egray@robinsongray.com
Vordman Carlisle Traywick, III, Esquire – ltraywick@robinsongray.com
ROBINSON GRAY STEPP & LAFFITTE, LLC
1310 Gadsden Street
Post Office Box 11449
Columbia, South Carolina 29211


NEXSEN PRUET, LLC

Columbia, South Carolina

October 15, 2020

VIA ELECTRONIC FILING – ctappfilings@sccourts.org

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SC Court of Appeals

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

RE: Andrew Waldo, Jane Zheng and SC Coast Properties, LLC d/b/a Keller Williams Realty vs. Michael Cousins, Founders Five, LLC d/b/a Sperry Van Ness Founders Group, and South Carolina Association of REALTORS® / Case No. 2018-001590

Dear Ms. Kitchings:

Enclosed for filing is the **Appellant South Carolina Association of REALTORS®'s Reply In Support Of Motion For Leave To File *Amicus Curiae* Brief By National Association Of REALTORS® and Proof of Service** in the above-referenced matter. The original will be placed in the mail.

By copy of this letter and as evidence by the attached Proof of Service, we are serving counsel of record with a copy of the above Reply.

Thank you for your assistance in this matter.

With best regards, I am

Very truly yours,


Marcus A. Manos

MAM/hjr

Enclosures

cc w/encl.: Douglas M. Zayicek, Esquire – Dzayicek@bellamylaw.com
Holly Michelle Lusk, Esquire – hlusk@bellamylaw.com
L. Sidney Connor, IV, Esquire – sconnor@classactlaw.net
Elizabeth Van Doren Gray, Esquire – egray@robinsongray.com
V. Carlisle Traywick, III, Esquire – ltraywick@robinsongray.com