

Aug 27 2021

S.C. SUPREME COURT

No. 2021-000883

The Supreme Court of the State of South Carolina

SHEENA BRANNON, SHANE STENCIL, TINA SULLIVAN, AND BRANDON BEATY,
PETITIONERS,

v.

HENRY DARGAN McMASTER, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF THE STATE
OF SOUTH CAROLINA, AND G. DANIEL ELLZEY, IN HIS OFFICIAL CAPACITY AS DIRECTOR
OF THE SOUTH CAROLINA DEPARTMENT OF EMPLOYMENT AND WORKFORCE,
RESPONDENTS.

*APPEAL FROM RICHLAND COUNTY
COURT OF COMMON PLEAS
HON. R. LAWTON MCINTOSH, CIRCUIT COURT JUDGE*

**UNOPPOSED MOTION OF SOUTH CAROLINA CHAMBER OF COMMERCE,
SOUTH CAROLINA RESTAURANT AND LODGING ASSOCIATION,
CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA, AND
NATIONAL FEDERATION OF INDEPENDENT BUSINESS SMALL BUSINESS
LEGAL CENTER FOR LEAVE TO FILE BRIEF AS *AMICI CURIAE* IN
SUPPORT OF RESPONDENTS**

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Under South Carolina Appellate Court Rule 213, South Carolina Chamber of Commerce, South Carolina Restaurant and Lodging Association, Chamber of Commerce of the United States of America, and National Federation of Independent Business Small Business Legal Center (“*Amici*”) seek the Court’s leave to file an *amicus* brief in support of the respondents in this case. A copy of the proposed brief is attached to this motion. *Amici* filed briefs in the court below, and the parties do not oppose this motion.

The S.C. Chamber is the state’s largest business trade and commerce organization and regularly provides the perspective of businesses as an *amicus* in South Carolina courts. The SCRLA is a statewide trade organization of over 1,300 members whose mission is to promote, protect, and educate the foodservice and lodging industries of the State and to ensure positive business growth for its members. And the U.S. Chamber and NFIB represent large and small businesses in virtually every economic sector across the United States, including in South Carolina. Each has a significant interest in this action.

All agree that this action involves significant public interests, which makes *amicus* briefs particularly appropriate. *See Ex Parte Brown*, 393 S.C. 214, 225–26 (2011); *see also Savannah Riverkeeper v. S.C. Dep’t of Health & Env’t Control*, 400 S.C. 196, 207 (2012) (Kittredge, J., dissenting) (referring to the Court’s “standard practice of accepting amici briefs”). The petitioners’ lawsuit raises pub-

lic policy questions of great importance to *amici*, their members, and the State as a whole. *Amici* support Governor McMaster's decision to end South Carolina's participation in temporary federally funded pandemic unemployment insurance programs. *Amici* believe that paying South Carolinians not to work is dampening what should be a stronger jobs market. Indeed, unfilled positions pose a very real threat to South Carolina's economic recovery from the COVID-19 pandemic. Based on *amici's* analysis, unemployment insurance benefits from the Coronavirus Aid, Relief, and Economic Security Act result in one in four recipients taking home more in unemployment than they could earn working. Therefore, because of their concern about the chilling impact the petitioners' action could have on the preservation and development of business and industry in South Carolina, *amici* respectfully request permission to file the attached brief.

The proposed brief provides a unique perspective on the issues before the Court, as *amici* provide both statistical data and on-the-ground insights relevant to the petitioners' claims. *Amici* also present several important legal arguments, including a statutory private-right-of-action argument adopted by the decision below. *Amici's* brief will also explain that Governor McMaster's decision serves the public interest by encouraging South Carolinians to return to work, which will ease the labor shortage and stimulate South Carolina's economic recovery.

For these reasons, this motion should be granted and the attached *amicus* brief filed.

Respectfully submitted,

s/ Christopher Mills

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AUGUST 27, 2021

CERTIFICATE OF SERVICE

I, Christopher E. Mills, an attorney, certify that on this day the foregoing Motion was served electronically on all parties via electronic mail.

Dated: August 27, 2021

s/ Christopher Mills
Christopher E. Mills