

The Supreme Court of the State of South Carolina

ANGELA D. KEENE, INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE
OF THE ESTATE OF DENNIS SEAY, DECEASED, AND LINDA SEAY,
RESPONDENTS,

v.

CNA HOLDINGS, LLC,
PETITIONER.

RECEIVED

OCT 04 2021

S.C. SUPREME COURT

*APPEAL FROM SPARTANBURG COUNTY
COURT OF COMMON PLEAS
HON. D. GARRISON HILL, CIRCUIT COURT JUDGE*

**MOTION OF SOUTH CAROLINA CHAMBER OF COMMERCE
FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE*
IN SUPPORT OF REHEARING**

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Under South Carolina Appellate Court Rule 213, the South Carolina Chamber of Commerce seeks the Court's leave to file an *amicus* brief in support of the petition for rehearing in this case. A copy of the proposed brief is attached to this motion.

The South Carolina Chamber of Commerce is the State's largest business trade and commerce organization. It represents businesses, industries, professions, and associations of all sizes and types with a unified voice, and promotes the development and expansion of new and existing businesses and industries in the State. Its efforts, in turn, benefit the public, raising the standard of living for South Carolina's citizens. The S.C. Chamber aims to protect the interests of South Carolina's business community by identifying and addressing issues that may impair economic development. It routinely participates in state litigation as an *amicus*. See, e.g., *State ex rel. Wilson v. Ortho-McNeil-Janssen Pharms., Inc.*, 414 S.C. 33, 89, 777 S.E.2d. 176, 206 (2015); *Mathis v. Brown & Brown of S.C., Inc.*, 389 S.C. 299, 318 n.3, 698 S.E.2d 773, 783 n.3 (2010).

The Chamber has a significant interest in this action, and the proposed brief provides a unique perspective on the issues before the Court. The proper interpretation of South Carolina's workers' compensation law is a matter of great importance to the Chamber and its members, many of whom participate as employers in that system. As explained in more detail in the proposed brief, many businesses

in this State have relied on the existing legal framework governing the statutory employee doctrine, a framework that represented an accumulation of 80 years of precedent. They made business decisions and contracts that assumed the application of the traditional three-part test for deciding statutory employee questions. The majority's new test threatens those significant reliance interests, putting into jeopardy contractual arrangements made over the last eight decades.

The majority's new test could also lead to the demise of the statutory employee doctrine itself, for it suggests that no owner who contracts out work will be a statutory employer. If that is correct, businesses in this State face tremendous uncertainty and significant risks of eight-figure tort judgments, instead of the stable, predictable environment that is the goal of the workers' compensation system. The majority's rule would put South Carolina's businesses at a competitive disadvantage.

Finally, there is no question 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").

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

Respectfully submitted,

s/ Christopher Mills

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