

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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S.C. SUPREME COURT

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas
D. Garrison Hill, Circuit Judge

Appellate Case No. 2019-00816
Case No. 2013-CP-42-3915

Angie Keene, Individually and as Personal
Representative of the Estate of Dennis Seay, Deceased,
and Linda Seay,..... Respondents,

v.

CNA Holdings, LLC,..... Petitioner.

**MOTION FOR LEAVE TO FILE AN *AMICUS CURIAE* BRIEF ON BEHALF OF THE
SOUTH CAROLINA MANUFACTURERS ALLIANCE IN SUPPORT OF
PETITIONER’S PETITION FOR REHEARING**

Pursuant to Rule 213 of the South Carolina Appellate Court Rules (“SCACR”), the South Carolina Manufacturers Alliance (“SCMA”), by and through undersigned counsel, respectfully requests leave to file an *amicus curiae* brief in support of Petitioner CNA Holdings, LLC’s Petition for Rehearing and to address the issues identified in the Court’s October 11, 2021 Order.

INTEREST OF *AMICUS CURIAE*

SCMA is a tax-exempt organization under section 501(c)(6) of the Internal Revenue Code and is the only statewide association dedicated exclusively to the interests of manufacturers, serving as the manufacturing industry’s government liaison for over one hundred years. SCMA’s membership ranges from small businesses to global operations, spanning numerous industry sectors. SCMA’s goal is to be the voice of these manufacturers to the state’s legislative and

regulatory branches of government, as well as to promote and preserve the economic health of manufacturers in South Carolina by seeking positive action in state government. SCMA emphasizes that maintaining strong manufacturing industries in the state will foster and promote the strength of South Carolina’s economy. There are more than 6,000 manufacturing facilities in the state and the manufacturing sector employs—directly or indirectly—more than 700,000 individuals, accounting for approximately 30% of all jobs in South Carolina.¹

The instant action is of significant interest to SCMA because its members require a clear understanding of the state’s workers’ compensation laws to make myriad business and contracting decisions. SCMA shares in the concerns of the Petitioner and the other *amici curiae* that the majority opinion in this case has created significant uncertainty with respect to the future application of these laws to manufacturers and workers. This uncertainty negatively impacts current manufacturers as well as South Carolina’s ability to attract new manufacturers (and the associated jobs) to the state. SCMA, on behalf of its members, therefore, supports the granting of the Petition for Rehearing so that clarification as to the status of—and the standard applicable to—the statutory employment doctrine in South Carolina can be obtained.

DESIRABILITY OF BRIEF OF *AMICUS CURIAE*

SCMA will provide a unique perspective on the issues in this case and specifically those issues identified by the Court in its October 11, 2021 Order. SCMA will provide additional information about the potential “consequences of the opinion’s...analysis” and the “negative outcomes in the marketplaces” the majority’s opinion could produce. SCMA will explain the impact on not only manufacturers—both large and small—but also manufacturing industry subcontractors and their employees. SCMA also will address how the majority’s new test for

¹ <https://myscma.com/sc-manufacturing-facts/>

determining whether an individual is a statutory employee is inconsistent with the purposes of the workers' compensation laws and how its focus on a "modern economy" limited to Amazon or Uber-like business models does not account for the significant portion of the current South Carolina economy based on manufacturing businesses.

CONCLUSION

For the reasons explained above, we respectfully request that the Court grant SCMA's motion for leave to file an *amicus curiae* brief in this case.

Respectfully submitted,

s/John W. Roberts

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Columbia, South Carolina
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