

THE STATE OF SOUTH CAROLINA
In the Supreme Court

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

S.C. SUPREME COURT

Appellate Case No. 2019-000816
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.

**NOTICE OF INTENT TO REQUEST LEAVE
TO FILE AN AMICUS CURIAE BRIEF**

LITTLER MENDELSON, P.C.
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The National Association of Manufacturers*

INTEREST OF AMICUS CURIAE

The National Association of Manufacturers (“NAM”) hereby files this Notice of its intent to request leave to file an *amicus curiae* brief should this Court grant Petitioner CNA Holdings, LLC’s Petition for Rehearing and, in so doing, respectfully urges the Court to grant the Petition for Rehearing.

The NAM is the largest manufacturing association in the United States, representing small and large manufacturers in every industrial sector, including numerous South Carolina-based manufacturers as well as global manufacturers with substantial presence in the State of South Carolina. Manufacturing employs more than 12 million people, contributes roughly \$2.35 trillion to the U.S. economy annually, has the largest economic impact of any major sector, and accounts for nearly two-thirds of private-sector research and development in the nation. The NAM is the voice of the manufacturing community and the leading advocate for a policy agenda that helps manufacturers compete in the global economy and create jobs across the nation.

The NAM is compelled to file this Notice to make the Court aware of the significant destabilizing impact on the manufacturing sector should the Court’s apparent construction of the “statutory employer doctrine” not be reconsidered. The NAM strongly agrees with Petitioner’s contention that the doctrine must be construed in the broadest manner possible in order to extend workers’ compensation coverage to South Carolina workers, which we respectfully submit is the clear intent of the General Assembly for enacting it: “to prevent owners and contractors from subcontracting out their work to avoid liability for injuries incurred in the course of employment.” *Glass v. Dow Chem. Co.*, 325 S.C. 198, 201 n.1, 482 S.E.2d 49, 50 n.1 (1997).

That legislative intent is best served by making “upstream” contractors and business owners potentially responsible for providing workers’ compensation benefits, not by removing that intended protection in service of the uncertainty of tort liability.

The Court’s decision will further severely undermine the strength of South Carolina’s essential manufacturing industry by depriving responsible manufacturers who have heretofore complied with their obligations under the Workers’ Compensation Law to ensure that they, and their subcontractors, have procured sufficient workers’ compensation coverage for all workers, often at the upstream manufacturer’s overall expense.

In sum, if allowed to stand, the Court’s decision will prove harmful to South Carolina workers, manufacturers, the health of the State’s economy and economic development efforts, as well as South Carolina’s ability to retain and recruit manufacturers to employ South Carolina workers.

For these reasons, the NAM respectfully submits that this Court should grant Petitioner’s Petition for Rehearing and, in the event said Petition is granted, the NAM will timely seek relief from the Court to file an *amicus curiae* brief on behalf of its South Carolina members in support of Petitioner.

(signature page follows)

Respectfully submitted,

/s/ William H. Foster

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