

VIA HAND DELIVERY

August 2, 2022

Supreme Court of North Carolina
Attn: The Honorable Grant Buckner, Clerk
2 East Morgan Street
Raleigh, NC 27601-1428

Re: Hoke County Bd. Of Educ., *et al.* v. State of North Carolina, *et al.*,
Case No. 425A21-2

Honorable Clerk Buckner:

On July 27, 2022, an amicus brief was filed in the above referenced case purporting to represent the positions of numerous individual North Carolina business leaders, each of whom ostensibly agree with all of the particulars of the lower court's November 10, 2021 and April 26, 2022 orders now under review by this Court. I write today to inform the Court that the inclusion of at least one of those individuals was wrong and without authorization, and to respectfully request that the Court ensure that its records reflect the deletion of that individual's name and any suggestion that the NC Chamber or its officers have taken a position in this matter.

In an addendum that appears on page 37 of the "Brief of North Carolina Business Leaders as Amici Curiae," the authors of the brief list those they assert "submit" the brief and to whom the authors of the brief represent to the Supreme Court they were engaged and serve as their "counsel." The list includes the following:

Sepi Asefnia
President & CEO, Sepi Engineering, Inc.
Chair, NC Chamber.

Ms. Sepi Saidi is the President and CEO of Sepi Engineering & Construction, Inc. She is the current Chair of the NC Chamber. I write on her behalf as well as in my role as General Counsel to the NC Chamber.

Ms. Saidi does not use the surname Asefnia, as readily available filings maintained by the NC Secretary of State make clear. Unfortunately, not only was the name used to reference Ms. Saidi inaccurate, so was her inclusion in the project in the first place. Ms. Saidi had a single, five-to-six-minute conversation with Mr. Tom Bradshaw on June 29, 2022. Her principal observation was that Mr. Bradshaw was looking for financial support of an initiative to support education. She did not engage, nor ever even speak with legal counsel, nor did she authorize participation in a legal filing, much less one in which the novel and profoundly important issue at stake is whether as few as four Justices of the NC Supreme Court on Morgan Street may appropriate taxpayer funds, an authority heretofore exclusively the province of our 170 elected legislators on Jones Street.

Equally as troubling is the inclusion of reference to Ms. Saidi's role as Chair of the NC Chamber. The inclusion of this title seems calculated to create confusion for the Court, if not outright

misrepresentation. The NC Chamber had expressly stated to those organizing the amici effort that the NC Chamber would not appear in the case.

On or about the week of July 11, Mr. Bradshaw spoke directly with Debra Derr, the NC Chamber's education lead and longtime lobbyist, about this case. Ms. Derr informed him the NC Chamber would not participate. On July 18, 2022, Ms. Derr e-mailed representatives of the NC Public School Forum with that same communication, careful to copy Mr. Bradshaw at his preferred e-mail address:

From: Debra Derr
Sent: Monday, July 18, 2022 8:28 AM
To: Mary Ann Wolf <mawolf@ncforum.org>
Cc: Marisa Bryant <mbryant@ncforum.org>; twbradshawjr@aol.com
Subject: RE: checking in

Good morning,

Tom Bradshaw spoke with me last week regarding the request for the Chamber to be a signatory on the business Amicus brief. Unfortunately, we will not be able to have our name included on the document. As you probably could surmise, we have been asked to weigh in on this topic by others with disparate opinions. We were unable to oblige.

I will introduce you and Meredith Archie, president of the Foundation, in a separate e-mail.

With kind regards,

Debra

Three days later, on July 21, 2022, without any introduction, Gerry Hancock, one of multiple attorneys on the amicus brief, and a person unknown to Ms. Saidi, sent her an e-mail which reads as follows:

Ms. Asefnia,

Good afternoon! I am helping to coordinate the filing of the Business Leaders Amicus Brief in the Leandro case and was delighted to hear from Tom Bradshaw that we may add your name to the list of supporters. The Robinson Bradshaw law firm is preparing the brief and expects to file it with the NC Supreme Court on Monday. It will provide strong support for the continuing effort to assure a sound basic education for all children.

We want to be sure that we have listed your name correctly. If the following is not correct, please let me know as soon as possible:

Sepi Asefnia, President & CEO, Sepi Engineering, Inc., Chair, NC Chamber

Tom also mentioned your offer to contribute \$1,000 to support the legal fees for the brief. That is most generous, and you may send your check, payable to

Robinson Bradshaw, to this address: Robinson Bradshaw, c/o John R. Wester,
101 N. Tryon St., Suite 1900, Charlotte, NC 28246.

Thank you again for your support of quality schools for all children.

Gerry

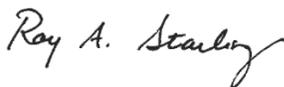
The proposed brief was not attached to the e-mail, nor did Ms. Saidi respond to it. Yet counsel for the amici barreled on. They ignored the communication from Ms. Derr only three days earlier and failed to undertake even the most menial attempt to clarify the NC Chamber's desire to participate, and ultimately wrongly asserted to the Court that they represented Ms. Saidi based on a short conversation with a lay person and an email from a stranger.

The NC Chamber is North Carolina's leading business advocacy organization. We work in the legislative, regulatory, and political arenas to proactively drive positive change, ensuring that North Carolina is one of the best places in the world to do business, creating wealth and opportunity for all North Carolinians. The NC Chamber's Legal Institute is a nonpartisan, nonprofit affiliate of the North Carolina Chamber, and serves as the North Carolina business community's organized voice for legal policy development and analysis, frequently appearing before this and other appellate courts. My role as General Counsel for the NC Chamber is a fact made clear on our organization's website, and I am heavily involved in any instance in which the NC Chamber participates in litigation. I also serve as President of the NC Chamber Legal Institute (the CLI), which is governed by a separate board with specific processes in place for determining when and if the CLI will appear as amicus or otherwise participate in litigation. No amici party or counsel contacted me – ever – regarding the NC Chamber or CLI's participation in this case.

In conclusion, the NC Chamber, and Ms. Saidi respectfully request that any references to them be struck from the brief. Both Ms. Saidi and the NC Chamber are capable of appearing before the Court when we desire to do so, and we have copied counsel to amici here in an attempt to avoid any future confusion.

Thank you for your attention to this matter and for your service to our state as Supreme Court Clerk.

Sincerely,



Ray A. Starling
General Counsel to the NC Chamber
President of the NC Chamber Legal Institute

Cc: Gary Salamido, President of the NC Chamber (gsalamido@ncchamber.com)
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