

No. 2015-0604

IN THE SUPREME COURT OF OHIO

ORIGINAL ACTION FOR WRIT OF PROHIBITION

STATE ex rel. CHESTER TOWNSHIP, ET AL.,

Relators,

v.

**THE HONORABLE TIMOTHY J. GRENDELL, JUDGE
Geauga County Court of Common Pleas, Probate Division**

Respondent.

**MOTION OF AMICUS CURIAE CHESTER TOWNSHIP PARK
DISTRICT FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT**

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Pursuant to S. Ct. Prac. R. 17.06(A)(2), Amicus Curiae Chester Township Park District, by and through undersigned counsel, respectfully moves this Court for leave to participate in oral argument, if such is granted by this Court. Amicus supports Relators' Motion for Oral Argument because of the significance of this matter for probate courts and Park Districts created under R.C. Chapter 1545. Amicus requests to be allotted 5 minutes of argument time, in addition to the time allotted to Respondent, in order to allow the Park District to protect its interests, which would be uniquely jeopardized by exclusion of the Park District from oral argument. Specifically, Amicus requests this time to advance the most significant argument in its brief: Respondent's actions were in response to Relator's improper appropriation of the funding source granted to Amicus by R.C. 1545.20, and therefore that Respondent's actions were appropriate to protect the rights and duties of the separate legal and political entity that is the Amicus Park District. *See* Brief of Amicus Chester Township Park District, 10-16 (June 30, 2015). Participation by Amicus would be helpful to the Court by allowing Amicus to elaborate on the distinct perspective set forth in its brief.

Amicus Chester Township Park District's participation in oral argument is warranted in light of two compelling factors. First, Amicus Chester Township Park District has a unique status in this case. Although not a party to the case, Amicus has been involved in this case from the beginning, and the parties' actions with regard to Amicus have resulted in the present case. The unique status of Amicus alone should be considered a most extraordinary circumstance under S. Ct. Prac. R. 17.06(A)(2). This status has been recognized by other courts in granting leave for amici to participate in oral argument. *See, e.g., The Pocket Veto Case*, 279 U.S. 655 (1929) (leave to participate in oral argument granted to a member of the House Judiciary Committee in a case dealing with that legislative chamber's constitutional interests); *Renne v.*

Geary, 501 U.S. 312 (1991) (counsel for California Democratic Party permitted to argue as amicus in suit by others challenging state constitutional provision banning parties from endorsing candidates for nonpartisan offices); *Chevron Mining, Inc. v. NLRB*, 684 F.3d 1318 (D.C. Cir. 2012) (leave to participate in oral argument granted to a union whose actions had sparked the litigation).

Second, the Park District has a significant and distinct interest in this matter. While Relators and Respondent focus on the questions of statutory interpretation surrounding R.C. Chapter 1545 and the extent of probate court authority, Amicus is in the unique position of having its funding source removed by Relators, creating a significant financial interest in this matter. Br. of Amicus Chester Township Park District, 1. Even though the actions in question came about as a direct result of the improper appropriation of the Park District's funding source, a significant risk exists that this issue will be neglected by the parties to this case. As such, even though the Park District has a significant financial interest in the outcome of this case, the status quo would deny the Park District any way to adequately protect its interests. In keeping with the established practice of permitting amici to participate in oral argument where they have a significant and distinct interest in a matter, this Court should grant leave for Amicus to participate in oral argument. Because the rights and duties of Amicus, a separate legal and political entity, are at stake, extraordinary circumstances under S. Ct. Prac. R. 17.06(A)(2) exist which justify this participation.

In light of the unique status and the significant, distinct interest which Amicus has in this case, Amicus respectfully submits that participation in oral argument is essential in order to protect its rights under R.C. Chapter 1545 and that such participation would be materially helpful to the Court. Accordingly, Amicus Chester Township Park District respectfully moves this

Court for leave to participate through counsel in oral argument, if such is granted, and to allot 5 minutes to address the argument that Respondent's actions were in response to Relator's improper appropriation of the funding source granted to Amicus by R.C. 1545.20, and therefore that Respondent's actions were appropriate to protect the rights and duties of the separate legal and political entity that is Amicus Chester Township Park District. Because this is a distinct argument which may not be addressed by the parties, Amicus requests that this argument time be granted in addition to, and not be deducted from, the time to which Respondent would otherwise be entitled.

For the foregoing reasons, Amicus respectfully urges the Court to grant this Motion for Leave to Participate in Oral Argument and to grant Relators' Motion for Oral Argument.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Merit Brief of Amicus Curiae Chester Township Park District was served by electronic mail on this 23th day of July, 2015, upon the following counsel:

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