

**THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT**

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

Casey Edwards and Justin Williams,.....Petitioners,

v.

**State of South Carolina and Mark Sanford, in his Official
Capacity as Governor of the State of South CarolinaRespondents.**

and

South Carolina Association of School Administrators,.....Petitioner,

v.

**The Honorable Mark Sanford, in his official capacity
as the Governor of the State of South Carolina, and
The Honorable Jim Rex, in his official capacity as the
State Superintendent of Education of South Carolina,Respondents.**

**THE SOUTH CAROLINA EDUCATION ASSOCIATION'S
MOTION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF**

Pursuant to Rule 213, SCACR, the South Carolina Education Association moves for leave to file an *amicus curiae* brief in this action. The above matter, pending in the original jurisdiction of this Court, addresses issues of substantial concern to the South Carolina Education Association (SCEA) and its members, composed of teachers, administrators and support staff employed in the public schools throughout the State of South Carolina. The SCEA and its members have a direct interest in the operation of the public school system, maintaining and

enhancing employment and compensation of public educators, and advancing the interests of public education throughout the State.

At the heart of the pending litigation is the State's opportunity to receive and benefit from educational funds provided through the American Recovery and Reinvestment Act of 2009, P.L. 111-5, 123 Stat. 115, as amended by P.L. 111-8, 123 Stat. 524 (hereafter the "ARRA"). Specifically, the General Assembly has enacted legislation by which "the Governor has certified that (1) the State will request and use funds provided by the ARRA and, (2) the funds will be used to create jobs and promote economic growth." Part III of the State's Fiscal Year Budget (Act R.49 of 2009) (the "State Budget").

As more fully stated in the brief filed herewith, the SCEA and its members respectfully assert that the legislation adopted and subsequently ratified by override of the Governor's veto is the law of this State and fully satisfies all criteria for receipt and expenditure of educational funds available through the ARRA. See, S.C. Const. Art. IV, § 21. The SCEA and its members further assert that the Governor has a constitutional duty to execute the laws of this State and may be so compelled by mandate of this Court. See, S.C. Const. Art. IV, § 15 and Art. V, § 5.

For the foregoing reasons, the SCEA respectfully requests that the Court grant leave to present an *amicus curiae* brief. A copy of the SCEA's proposed *amicus curiae* brief is attached hereto, and is being filed with this motion in accordance with Rule 213, SCACR.

Respectfully submitted,

GERGEL, NICKLES & SOLOMON, LLC

By: _____

Richard Mark Gergel
W. Allen Nickles, III
Post Office Box 1866

1519 Richland Street
Columbia, South Carolina 29202
(803) 779-8080

Attorneys for *Amicus Curiae* SCEA

June_____, 2009
Columbia, South Carolina