

No. 86A23-2

DISTRICT 26

SUPREME COURT OF NORTH CAROLINA

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DOUG TURPIN and NICOLE	)	
TURPIN,	)	
	)	
Plaintiffs-Appellants,	)	<u>From the Court of Appeals</u>
	)	No. COA23-252
v.	)	
	)	<u>From Mecklenburg County</u>
CHARLOTTE LATIN SCHOOLS,	)	No. 22 CVS 6443
INC., <i>et al.</i> ,	)	
	)	
Defendants-Appellees.	)	

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**CONSENT MOTION FOR LEAVE TO FILE AMICUS BRIEF ON  
BEHALF OF PROPOSED AMICI CURIAE THE NORTH CAROLINA  
ASSOCIATION OF INDEPENDENT SCHOOLS AND THE SOUTHERN  
ASSOCIATION OF INDEPENDENT SCHOOLS IN SUPPORT OF  
DEFENDANTS-APPELLEES' RESPONSE IN OPPOSITION TO  
PETITION FOR DISCRETIONARY REVIEW**

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**To the Honorable Supreme Court of North Carolina:**

Proposed *amici curiae* the North Carolina Association of Independent Schools (“NCAIS”) and the Southern Association of Independent Schools (“SAIS” and, collectively with NCAIS, the “Amici Associations”) hereby move for leave to file a brief as *amici curiae*, under Rule 28.1 of the North Carolina Rules of Appellate Procedure, in support of Defendants-Appellees and in

opposition to the Appellants' Petition for Discretionary Review. Undersigned counsel have conferred with counsel for Plaintiffs-Appellants and Defendants-Appellees, each of whom consent to this Motion. Amici Associations conditionally attach their proposed brief to this Motion and state as follows in support of this Motion:

### **Nature of Applicants' Interest**

NCAIS is a nonprofit association of almost 90 independent schools across the State. Its mission is to promote educational excellence and to empower its member schools—and their students and faculty—to thrive. In support of its mission, NCAIS engages in both public and legislative advocacy to promote independent school issues and needs. NCAIS works at the State level to protect the rights of independent schools to function as self-governing, mission-driven organizations free from governmental intrusion.

Members of NCAIS include the following independent schools:

- Al-Iman School (Raleigh, NC);
- Asheville Christian Academy (Swannanoa, NC);
- Asheville School (Asheville, NC);
- B'nai Shalom Day School (Greensboro, NC);
- Bishop McGuinness Catholic High School (Kernersville, NC);
- Cannon School (Concord, NC);
- Cape Fear Academy (Wilmington, NC);
- Cary Academy (Cary, NC);
- Defendant-Appellee Charlotte Latin School (Charlotte, NC);
- Gaston Day School (Gastonia, NC);
- Hope Academy (Concord, NC);
- Montessori School of Raleigh (Raleigh, NC);
- Noble Academy (Greensboro, NC);

- Ravenscroft School (Raleigh, NC);
- Rocky Mount Academy (Rocky Mount, NC); and
- Winston Salem Christian School (Winston Salem, NC).

The members include many others who are publicly listed online on NCAIS's website. The total number of students enrolled in NCAIS member schools in 2023-2024 exceeded 40,000 students. In sum, NCAIS and its members work with all interested parties to promote the rights and interests of independent schools, including before the State legislature and on matters of public policy that implicate NCAIS's mission.

SAIS is the largest regional independent school association in the United States, with 398 member K-12 schools from sixteen states (approximately 240,000 students in total). Nearly half its schools are religious. SAIS's mission is to strengthen SAIS's member schools by providing accreditation processes, professional growth opportunities, and leadership development programs.

Unlike the Moms for Liberty groups for various counties, NCAIS and SAIS are not tied to limited ideological issues but have long and established track records of promoting education throughout the southeastern United States, including in North Carolina.

### **Why an Amicus Curiae Brief Is Desirable**

This case presents novel legal challenges by Plaintiffs-Appellants Doug Turpin and Nicole Turpin ("Appellants") to what has long been understood as a fundamental aspect of *freedom of contract*, i.e., the rights of independent

schools, like Defendant-Appellee Charlotte Latin School, Inc. (“Latin”), to manage their relationships with parents by contract. Appellants alleged sweeping legal theories that, if they proceeded, would undermine the bedrock fundamental right of freedom of contract and would lead to litigation in an area of longstanding, settled law. Appellants’ legal theories also would imperil the First Amendment’s freedom of association by inserting lawyers and courts where they do not belong.

Amici Associations seek to offer brief additional comments for this Court’s consideration of the Petition for Discretionary Review. Specifically, as friends of the Court, Amici Associations will seek to aid the Court’s analysis of the Petition for Discretionary Review, in which Appellants seek review of all of their extracontractual claims, all of which were properly dismissed by the Superior Court and affirmed unanimously by the North Carolina Court of Appeals.

### **Issue of Law to be Addressed**

The proposed brief of Amici Associations addresses the question whether the Court should review the decision of the North Carolina Court of Appeals in unanimously affirming the dismissal of all of the Appellants’ extracontractual claims. Amici Associations submit that the Court should deny the Petition for Discretionary Review, as this appeal should be decided solely on Appellants’ contract claim.

**Position of Amici Associations**

The proposed brief submitted by Amici Associations supports Defendants-Appellees and requests that this Court deny Appellants' Petition for Discretionary Review so that Appellants cannot continue to pursue their extracontractual claims against Defendants-Appellees. The trial court correctly read the contract between the parties to empower Latin to terminate its relationship with Appellants when it concluded, in its discretion, that Appellants had made their relationship with Latin irredeemable and substantially interfered with its mission. The trial court and Court of Appeals correctly concluded that long-standing freedom of contract principles compel this conclusion and that Appellants' other claims have no basis.

In 2022-2023, in North Carolina, there were 884 independent schools with over 115,000 students in North Carolina. (See N.C. Dep't Educ., <https://www.doe.nc.gov/dnpe/privateschoolreport2022-23/download?attachment>). Reversing and permitting this case to proceed would harm all our independent schools, opening their private governance to unprecedented and novel challenges which, heretofore, were barred by bedrock principles of freedom of contract and constitutional law that enable independent schools to shape their own cultures, religious teachings, and values as they see fit.

WHEREFORE, Amici Associations respectfully request that this Motion be allowed and the attached proposed amicus brief be permitted to be filed in this appeal for the Court's consideration.

This the 31st day of May, 2024.

SMITH, ANDERSON, BLOUNT, DORSETT,  
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Electronically Submitted

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I certify that all of the attorneys listed below have authorized me to list their names on this document as if they had personally signed it.

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was electronically served on all counsel of record by electronic mail, addressed as follows:

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This the 31st day of May, 2024.

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