

NO. 124A24

TWENTY SIXTH DISTRICT

NORTH CAROLINA SUPREME COURT

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Atlantic Coast Conference,

Plaintiff-Appellee,

v.

Board of Trustees of Florida State  
University,

Defendant-Appellant.

From Mecklenburg County

\*\*\*\*\*

**UNOPPOSED MOTION BY AMICUS  
THE STATE OF FLORIDA  
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT**

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The State of Florida, *amicus curiae* in this case, respectfully moves for leave to participate in oral argument in this appeal under Rule 28.1(c) of the North Carolina Rules of Appellate Procedure. Specifically, the State seeks ten minutes of time to address the arguments the State presented in its *amicus curiae* brief. Counsel for Defendant-Appellant has agreed to cede ten minutes of Defendant-Appellant's allotted oral argument time to the State, if the

Court so permits. Counsel for Plaintiff-Appellee has informed Counsel for Defendant-Appellant that Plaintiff-Appellee does not oppose the motion.

In support of the motion, the State shows the following:

1. This Court granted the State's motion for leave to file an *amicus curiae* brief in support of Defendant Appellant on 4 December 2024, and accepted the brief that the State has filed.

2. Oral argument in this case has been calendared by the Court for 17 April 2025.

3. N.C. App. R. 28.1(c)(1) provides that "[t]he court will permit an *amicus curiae* to participate in oral argument only for good cause shown." Good cause exists here. The State's participation in oral argument will aid the Court's decision-making process. The State's brief addressed whether the State of Florida waived its sovereign immunity from suit in North Carolina's courts, through only the FSU Board's relationship with the ACC (a North Carolina unincorporated nonprofit association), in light of a North Carolina (not Florida) statute that did not even exist at the onset of that relationship. The State's interest and insight on this question go beyond the specific facts of this case to the countless other circumstances in which states may find themselves haled into each other's courts. Notably, eleven other states joined the State's *amicus* brief. As described in the State's brief, the Superior Court's order denying Defendant-Appellant's motion to dismiss on grounds of

sovereign immunity contravenes protections inherent in the federal constitutional scheme by subjugating one sovereign state to another. Taken at face value, the rule put forward therein could be the blueprint for a wholesale bypass of state sovereign immunity protections. The State's participation at oral argument will therefore assist this Court in resolving this case in a manner that not only corrects the error in this case but that also realizes the promise of the federal Constitution that each of the states are equal sovereigns.

4. Counsel for the State has contacted counsel for both Defendant-Appellant and Plaintiff-Appellee regarding this motion. Counsel for Plaintiff-Appellee has confirmed that Plaintiff-Appellee does not oppose this motion. In addition, counsel for Defendant-Appellant has agreed to cede ten minutes of Defendant-Appellant's argument time to the State, if the Court so permits. The State's participation in oral argument would therefore not entail any additional burden on the Court.

5. This motion is being filed "no later than seven days after the clerk sen[t] notice that the appeal has been calendared for oral argument." N.C. App. R. 28.1(c)(3). The State acknowledges that that this appeal may be dismissed as the parties discuss settlement, but would like to preserve the possibility of participating in oral argument if the Court so permits.

6. Undersigned counsel Allen L. Huang, Deputy Solicitor General of the State of Florida, intends to argue for the State if permitted. In accordance with N.C. App. R. 33(a), Mr. Huang is contemporaneously filing an amended signature page to personally sign the State's amicus brief.

WHEREFORE, the State respectfully requests that the Court grant it leave to participate in oral argument.

Respectfully submitted this 13th day of March 2025.

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Rule 33(b) certification: I certify that all the lawyers 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**

The undersigned certifies that a copy of the foregoing document has been served by e-mail, as permitted by Appellate Rule 26(c), to the following:

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This the 13th day of March, 2025.

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