

**IN THE COURT OF APPEALS OF TENNESSEE
MIDDLE SECTION, AT NASHVILLE**

THE METROPOLITAN	§	
GOVERNMENT OF NASHVILLE	§	
AND DAVIDSON COUNTY, <i>et al.</i> ,	§	
	§	
<i>Petitioners-Appellees,</i>	§	M2021-00723-COA-R3-CV
	§	
<i>v.</i>	§	Trial Court Case No.: 21-0472-IV
	§	
THE DAVIDSON COUNTY	§	
ELECTION COMMISSION,	§	
	§	
<i>Respondent-Appellant.</i>	§	

**AMICUS CURIAE’S REPLY TO APPELLANT’S RESPONSE IN
OPPOSITION TO MOTION OF AMICUS CURIAE NASHVILLE
AREA CHAMBER OF COMMERCE FOR LEAVE TO FILE BRIEF
IN SUPPORT OF APPELLEES**

I. INTRODUCTION

Comes now *amicus curiae* the Nashville Area Chamber of Commerce, by and through undersigned counsel, and respectfully replies to the response of the Appellant in opposition to its motion for leave to file its conditionally filed brief. For the reasons detailed below, the Appellant misconstrues Rule 31, and the Motion should be granted.

II. ARGUMENT

The one and only function of an *amicus curiae* brief is to “assist the appellate court.” *See* Tenn. R. App. P. 31(a). Thus, Rule 31 is not—as the Appellant imagines—designed to preserve some perceived advantage to an appellant arising from “hav[ing] the last word.” *See* Appellant’s

Resp. at 3. Nor would the Appellant even be deprived of that opportunity. As the Appellant is presumably aware, the Appellant may press the perceived merits of its claims during oral argument, while the undersigned sits silently in the gallery.

Given this context, the “gate-keeping role” that the Appellant imagines does not exist. *Id.* Thus, amicus briefs may even be filed *after oral argument has occurred*, see **Exhibit #1**—something with which parties who are confident in the merits of their position do not take issue.

With this context in mind, the Appellant’s visible concern that the brief of *amicus curiae* is so persuasive that it would unfairly cause this Court to rely on it and reject the contrary position that the Appellant has advanced is not persuasive. Instead, the Appellant makes a strong case not only that this Court should consider *amicus curiae*’s brief, but that the brief is sufficiently persuasive that the Court should consider it carefully. Regardless, because the Appellant has not made any plausible case that the brief of *amicus curiae*—a similar version of which the trial court actually relied upon below in rejecting the Appellant’s position—would not “assist the appellate court” in adjudicating the issues presented in this case, see Tenn. R. App. P. 31(a), the Nashville Area Chamber of Commerce’s motion for leave should be granted.

III. CONCLUSION

For the foregoing reasons, this Court should grant the Nashville Area Chamber of Commerce leave to file its conditionally filed brief as *amicus curiae*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this the 13th day of December, 2021, a copy of the foregoing was sent via the Court's electronic filing system and/or via email to the following parties:

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