

IN THE
Supreme Court of the United States

A.R. THANE RITCHIE, RITCHIE RISK-LINKED
STRATEGIES, LLC, RITCHIE PARTNERS, LLC,
RITCHIE CAPITAL MANAGEMENT, LLC

Petitioners,

v.

HUIZENGA MANAGERS FUND, LLC

Respondent.

On Petition for a Writ of Certiorari to the
Supreme Court of Illinois

**RESPONDENT HUIZENGA MANAGERS FUND LLC'S
RESPONSE TO MOTION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE***

November 27, 2017

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Respondent Huizenga Managers Fund, LLC¹ requests that the Court deny the November 22, 2017 Motion for Leave to File Brief of *Amici Curiae* for two reasons. First, the proposed brief was paid for by Petitioners and authored by Petitioners' lawyers. Second, the *amici curiae* failed to provide 10 days' notice of their intention to file the brief, as required by this Court's Rule 37.2(a).

Footnote 1 of the proposed brief acknowledges that (1) "Petitioners funded the preparation of this brief," and (2) "the undersigned counsel, who authored the whole of this brief...also represent the Petitioners in litigation in the State of Delaware." The second disclosure bears further explanation.

First, in the Illinois state court matter underlying the Petition for a Writ of Certiorari (the "Illinois Action"), Counsel of Record for the *amici curiae* attempted to submit a legal "opinion letter" to the Illinois Supreme Court in support of Petitioners (defendants/appellants in the Illinois Action). In his letter, counsel supported Petitioners by presenting the same arguments now contained in the proposed *amici curiae* brief—e.g., opining that "a Delaware court, applying Delaware law, would find that the [Delaware Securities Act] is inapplicable to this litigation."²

¹ Pursuant to Rule 29.6 of the Rules of this Court, Respondent Huizenga Managers Fund, LLC states that it has no parent company and no publicly held company owns 10% or more of Huizenga Managers Fund, LLC's stock.

² See Opinion of Myron T. Steele, Former Chief Justice of the Delaware Supreme Court at pp. 1-2, attached as Exhibit A to Proposed Amicus Brief of Jeffrey W. Bullock, Delaware Secretary of State, and Peter C. Schwartzkopf, Speaker of the Delaware House of Representatives, Supporting Appellants A.R. Thane Ritchie, *et al.*, *Huizenga Managers Fund, LLC v. A.R. Thane Ritchie, et al.*, Case No. 121989 (Ill. Sup. Ct.) (filed March 10, 2017) ("I have been asked to opine on certain issues in the action captioned *Huizenga Managers Fund, LLC v. A.R. Thane Ritchie, et al.*, pending in the Circuit Court of Cook County, Illinois County Department, Chancery Division.").

Second, the pending “litigation in the State of Delaware” in which Counsel of Record currently represents Petitioners is an action Petitioners filed against Respondent, involving the same subject matter as the Petition for a Writ of Certiorari. Specifically, Petitioners sued Respondent in the Superior Court of the State of Delaware, claiming, “the Illinois courts disregarded Delaware precedent directly on point,” and asking the court to “remedy...the Illinois courts’ disregard of the Delaware Supreme Court as the authoritative source of Delaware law.”³

Additionally, the *amici curiae* provide no explanation for their failure to provide 10 days’ notice of their intention to file a brief, as required by Rule 37.2(a). Instead, they argue only that “Respondent has suffered no prejudice....” Mot. at 2. Rule 37.2(a) does not contain a “no prejudice” exception. Furthermore, when Petitioners initially asked Respondent for blanket consent, they never disclosed that they intended to fund an “amicus curiae” brief in support of themselves and written by their own lawyers. Had they done so, Respondent never would have initially granted blanket consent.

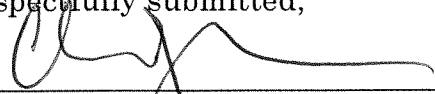
Finally, the Petition for a Writ of Certiorari contains 6,226 words and the proposed brief of *amici curiae* funded by Petitioners and authored by their counsel contains 3,407 words. Accepting the proposed brief despite the failure to comply with Rule 37.2(a) would effectively allow Petitioners to exceed the 9,000 word limit

³ See Plaintiffs’ Answering Brief in Opposition to Defendant’s Motion to Dismiss or Stay at pp. 3 & 7, *A.R. Thane Ritchie, et al. v. Huizenga Managers Fund, LLC*, Case No. N17C-05-598 MMJ CCLD (Del. Super. Ct.) (filed Aug. 30, 2017).

imposed by Rule 33.1(g). For all of these reasons, Respondent respectfully requests that the Court deny the motion.

Date: November 27, 2017

Respectfully submitted,



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