

IN THE SUPREME COURT OF THE STATE OF NEVADA

K&P HOMES, A SERIES LLC OF DEK  
HOLDINGS, LLC, a Nevada limited  
liability company,

Appellant,

vs.

CHRISTIANA TRUST, A DIVISION  
OF WILMINGTON SAVINGS FUND  
SOCIETY, FSB, NOT IN ITS  
INDIVIDUAL CAPACITY BUT AS  
TRUSTEE OF ARLP TRUST 3

Respondent.

SUPREME COURT CASE NO.: 69966

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(A certified question from the U.S. District  
Court, District of Nevada, Case No. 2:15-  
cv-01534-RJC-VCF)

Tacie K. Lindeman  
Clerk of Supreme Court

**CHRISTIANA TRUST'S OPPOSITION TO THE MOTION FOR LEAVE TO  
FILE AMICUS BRIEF OUT OF TIME OF AMICUS CURIAE COMMUNITY  
ASSOCIATIONS INSTITUTE IN SUPPORT OF APPELLANT'S BRIEF  
(Document No. 2016-26719)**

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*Attorneys for Appellee, Christiana Trust, a Division of Wilmington Savings Fund  
Society, FSB, not in its individual capacity but as Trustee of ARLP Trust 3*

Appellee, Christiana Trust, a Division of Wilmington Savings Fund Society, FSB, not in its individual capacity but as Trustee of ARLP Trust 3 (hereinafter “Christiana Trust”), by and through its attorneys of record, Dana Jonathon Nitz, Esq., and Natalie C. Lehman, Esq., of the law firm of Wright, Finlay & Zak, LLP, hereby files an Opposition to the Motion for Leave to File Amicus Brief Out of Time of Amicus Curiae Community Associations Institute in Support of Appellant’s Brief (Document No. 2016-26719) (hereinafter, “Motion for Leave”).

On April 26, 2016, Appellant K&P Homes, a Series LLC of DEK Holdings, LLC (hereinafter, “K&P”) filed its Opening Brief. On August 11, 2016, K&P filed its Reply Brief. Pursuant to NRAP 29(f) the time for amicus curiae to file its brief is “no later than 7 days after the brief of the party being supported is filed.” Here, Amicus Curiae Community Associations Institute (hereinafter, “CAI”) filed its Motion for Leave on August 26, 2016, well after the 7 day deadline, by reference to either of Appellant’s briefs. CAI’s Motion for Leave should be denied not only because it is untimely, because precisely because its untimely submission prejudices Christiana Trust’s ability to respond to the arguments made therein. In contrast, the amicus briefs filed in support of Christiana Trust’s Answering Brief were filed prior to the time that K&P’s Reply Brief was due, allowing K&P an opportunity to respond to those arguments. Here, there is no further opportunity for Christiana Trust to respond

to CAI's arguments as no additional brief by Christiana Trust is due or permitted by the Nevada Rules of Appellate Procedure. Moreover, this case has not been scheduled for oral argument so Christiana Trust would not even have the opportunity then to respond to the arguments in the proposed amicus brief. The prejudice to Christiana Trust is clear.

For these reasons, Christiana Trust respectfully requests that CAI's Motion for Leave should be denied on the basis that it is untimely and that its untimeliness is prejudicial to Christiana Trust.

DATED this 2nd day of September, 2016.

WRIGHT, FINLAY & ZAK, LLP

/s/ Natalie C. Lehman

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capacity but as Trustee of ARLP Trust 3


### PROOF OF SERVICE

I certify that I electronically filed on the 2<sup>nd</sup> day of September, 2016, the foregoing **CHRISTIANA TRUST'S OPPOSITION TO THE MOTION FOR LEAVE TO FILE AMICUS BRIEF OUT OF TIME OF AMICUS CURIAE COMMUNITY ASSOCIATIONS INSTITUTE IN SUPPORT OF APPELLANT'S BRIEF (Document No. 2016-26719)** with the Clerk of the Court for the Nevada Supreme Court by using the CM/ECF system. I further certify that all parties of record to this appeal either are registered with the CM/ECF or have consented to electronic service.

[X] (By Electronic Service) Pursuant to CM/ECF System, registration as a CM/ECF user constitutes consent to electronic service through the Court's transmission facilities. The Court's CM/ECF systems sends an e-mail notification of the filing to the parties and counsel of record listed above who are registered with the Court's CM/ECF system.

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/s/   
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