RECEIVED
Apr 10 2023
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

---

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

---

Appellate Case No. 2023-000104

---

Paul Roy Osmundson..... Appellant,

vs.

School District 5 of Lexington and Richland Counties..... Respondent.

---

# INITIAL BRIEF OF APPELLANT

---

Thomas William McGee, III
SC Bar No. 11317
Nelson Mullins Riley & Scarborough LLP
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
billy.mcgee@nelsonmullins.com
(803) 799-2000

Joel W. Collins, Jr.
SC Bar Number: 1341
Collins & Lacy, P.C.
Post Office Box 12487
Columbia, SC 29211
jcollins@collinsandlacy.com
(803) 256-2660

Attorneys for Appellant Paul Roy Osmundson

## TABLE OF CONTENTS

**Page(s)**

## TABLE OF AUTHORITIES

**Page(s)**

**Cases**

**Statutes**



**Rules**



**Other Authorities**

## STATEMENT OF ISSUES ON APPEAL

I. Whether the circuit court erred in granting Respondent's Motion to Dismiss based on the fact that a hearing on Appellant's claim for injunctive relief was not held within ten days of service on all parties.

II. Whether the circuit court erred in denying Appellant's Motion for Reconsideration.

## STATEMENT OF THE CASE

On July 23, 2021, Appellant Paul Roy Osmundson ("Osmundson") initiated the underlying action in the Court of Common Pleas for Richland County, South Carolina. (Compl. p. 1, R. __). Osmundson subsequently filed an Amended Summons and Amended Complaint on August 16, 2021, which was served upon Respondent School District 5 of Lexington and Richland Counties (the "School District"). (Amended Compl. p. 1, R. __). The School District filed its Answer to the Amended Complaint on September 21, 2021.

Osmundson's Amended Complaint alleged the School District violated the South Carolina Freedom of Information Act, S.C. Code Ann. § 30-4-10, *et seq*. ("FOIA") (Amended Compl. pp. 3–9, R. __). Based on these violations, Osmundson asserted claims seeking declaratory judgment and equitable relief including an: (1) injunction requiring the School District to conduct all Board of Trustees and meetings and meetings of Board Officers openly and in compliance with FOIA, (2) imposing of a civil fine pursuant to S.C. Code Ann. § 30-4-110; (3) and an award of attorney's fees and costs pursuant to S.C. Code Ann. § 30-4-100. (*Id*. at ___, R. __).

Several dispositive motions were filed in the case, but the basis of this appeal is the School District's Motion to Dismiss Pursuant to Rule 41(b), SCRCP ("Motion to Dismiss"), which was filed on February 24, 2022. (*See* Motion to Dismiss, R. __). In its Motion to Dismiss, the School District argued that Osmundson failed to adequately prosecute the case based on the fact that the Chief Administrative Judge for the Fifth Judicial Circuit had not conducted an initial hearing

within ten days of service on all parties of the Amended Complaint as required by S.C. Code Ann. § 30-4-100(A).

Osmundson filed a Memorandum of Law in Opposition to the Motion to Dismiss on March 10, 2022. In opposing the School District's Motion to Dismiss, Osmundson argued, among other things, that he had actively prosecuted the case, that he lacked the power to unilaterally schedule a hearing, that South Carolina courts faced a substantial backlog of cases and motions as a result of the then-ongoing Covid-19 pandemic, and that there was no legal support for the School District's contention that the trial court's failure to conduct a hearing amounted to a failure on Osmundson's part to prosecute the case, thereby warranting dismissal pursuant to Rule 41(b), SCRCP.

On March 16, 2022, the School District filed a Memorandum of Law in Support of Rule 41(b) SCRCP Motion to Dismiss. (Memorandum in Support, R. __). In the Memorandum of Support, the School District argued that S.C. Code Ann. § 30-4-100(A) implicitly imposed an obligation on Osmundson to ensure a hearing was timely held by the Chief Administrative Judge and that the case should be dismissed because such a hearing was not conducted within the time provided in the statute.

On July 18, 2022, a hearing was conducted before Judge Alison Renee Lee on the pending dispositive motions.[1] The arguments related to the School District's Motion to Dismiss focused almost entirely on the fact that an initial hearing was not held within ten days of service as required by S.C. Code Ann. § 30-4-100(A). (*See* Hearing Transcript at pp. 32-42, R. __). During the hearing,

[1] In addition to the Motion to Dismiss at issue in this appeal, the parties filed cross-motions for summary judgment which were argued at the July 18, 2022 hearing before Judge Lee. (Osmundson's Motion for Summary Judgment, R. __; School District's Motion for Summary Judgment, R.__).

Judge Lee stated, "please don't think that I'm trying to cast aspersions on anyone or that I'm considering dismissal because there was no ten-day hearing. I'm not." (Hearing Transcript at 46:7-9, R. __). However, on October 20, 2022 – over three months after the hearing, Judge Lee issued an order granting the School District's Motion to Dismiss (the "Order of Dismissal"). (*See* Order of Dismissal, R. __). Without addressing the merits of Osmundson's arguments or addressing the factors governing failure to prosecute under Rule 41(b), SCRCP, the Order of Dismissal simply found that because no hearing was held within the time period required by S.C. Code Ann. § 30-4-100(A), the School District was entitled to a dismissal of the Amended Complaint. (*Id*.)

Osmundson timely filed a Motion to Reconsider pursuant to Rule 59(e), SCRCP, on October 31, 2022. (Motion to Reconsider, R. __). On January 6, 2023, Judge Lee issued an Order denying the Motion to Reconsider (the "Reconsideration Order"), finding that Osmundson failed to provide a copy of the Motion to Reconsider the trial judge within ten days of filing as specified by Rule 59(g), SCRCP. (*See* Reconsideration Order, R. __).[2]

On January 24, 2023, Osmundson timely filed and served the School District with the Notice of Appeal. (Notice of Appeal, R. __). As stated in the Notice of Appeal, Osmundson appeals the lower court's Order of Dismissal granting the School District's Motion to Dismiss as well as the Reconsideration Order. (*See id*.).

## STANDARD OF REVIEW

The Order of Dismissal was based solely on the trial court's interpretation and application of S.C. Code Ann. § 30-4-100(A). It should therefore be reviewed *de novo*.[3] *See Rhame v.*

[2] Osmundson filed the Motion to Reconsider via the electronic filing system.

[3] Appellant acknowledges that the South Carolina Supreme Court has held that a trial court's order granting dismissal for failure to prosecute pursuant to Rule 41(b), SCRCP, is reviewed under an abuse of discretion standard because it involves a multifactorial, fact-intensive inquiry. *See McComas v. Ross*, 368 S.C. 59, 63, 626 S.E.2d 902, 904-05 (Ct. App. 2006) (identifying four

*Charleston Cnty. Sch. Dist.*, 412 S.C. 273, 275, 772 S.E.2d 159, 160 (2015). "In a case raising a novel issue of law regarding the interpretation of a statute, the appellate court is free to decide the question with no particular deference to the lower court." *Lambries v. Saluda Cnty. Council*, 409 S.C. 1, 7–8, 760 S.E.2d 785, 788 (2014) (quoting *Sloan v. S.C. Bd. of Physical Therapy Exam'rs*, 370 S.C. 452, 466, 636 S.E.2d 598, 605 (2006)). "The appellate court is free to decide the question based on its assessment of which interpretation and reasoning would best comport with the law and public policies of this state and the Court's sense of law, justice, and right." *Lambries*, 409 S.C. at 8, 760 S.E.2d at 788 (quoting *Sloan*, 370 S.C. at 467, 636 S.E.2d at 605–06).

With respect to the trial court's Reconsideration Order, "[t]he decision to grant or deny a motion for relief from judgment lies within the sound discretion of the trial court and will not be disturbed on appeal absent an abuse of discretion." *Stearns Bank Nat'l Ass'n v. Glenwood Falls, LP*, 373 S.C. 331, 336, 644 S.E.2d 793, 795 (Ct. App. 2007). "An abuse of discretion arises where the judge issuing the order was controlled by an error of law or where the order is based on factual conclusions that are without evidentiary support." *Id*.

---

factors espoused by the Fourth Circuit to be considered when determining whether dismissal for failure to prosecute is warranted and noting, "dismissals for failure to prosecute are fact-intensive issues.") (citing *Hillig v. Comm'r of Internal Revenue*, 916 F.2d 171, 174 (4th Cir. 1990)). Here, however, no such inquiry was undertaken in the trial court's order of dismissal. Although nominally captioned as a Motion to Dismiss under Rule 41(b), it is apparent the School District sought, and the trial court granted, dismissal based solely on an interpretation and application of S.C. Code Ann. § 30-4-100(A). (Motion to Dismiss p. 2, R. __; 10/20/2022 Order of Dismissal p. 1, R. __); *see, e.g., Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 303, 705 S.E.2d 475, 478 (Ct. App. 2011) (courts should focus on the substance and effect of a motion or order for purposes of determining appealability, "not the label given to the motion or to the order granting it.") (citing *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 114–15, 682 S.E.2d 871, 874 (Ct. App. 2009) (analyzing a "motion to strike" which actually challenges a theory of recovery as a motion to dismiss under Rule 12(b)(6) rather than as a motion to strike)). Regardless, even if an abuse of discretion standard is applied, the Order of Dismissal should still be reversed because the trial judge clearly abused her discretion in interpreting the statute in a manner wholly unsupported by law or fact.

## ARGUMENT

### I. The Trial Court Erred in Granting Respondent's Motion to Dismiss.

#### A. The Trial Court Committed Reversible Error by Interpreting S.C. Code Ann. § 30-4-100(A) to Require Dismissal of Osmundson's FOIA Claim.

The trial court committed a clear error of law by reading S.C. Code Ann. § 30-4-100(A) to impose an obligation on Osmundson—a private litigant without any authority to control a hearing roster—to ensure an initial hearing was scheduled within ten days of service on all parties and by dismissing Osmundson's Amended Complaint when it was not. This interpretation added a new and substantial obligation on parties seeking to enforce a FOIA claim where no such language existed. Moreover, this erroneous interpretation violated the fundamental tenets of statutory interpretation while also undermining the General Assembly's legislative intent behind FOIA.

The South Carolina Supreme Court has held that the state's courts "cannot construe a statute without regard to its plain and ordinary meaning, and . . . may not resort to subtle or forced construction in an attempt to limit or expand a statute's scope." *New York Times Co. v. Spartanburg Cnty. Sch. Dist. No. 7*, 374 S.C. 307, 310, 649 S.E.2d 28, 29–30 (2007) (citing *City of Columbia v. Am. Civ. Liberties Union of South Carolina, Inc.*, 323 S.C. 384, 388, 475 S.E.2d 747, 749 (1996)). In construing a statute, a court examines and enforces the statutory language as written. "It is axiomatic that statutory interpretation begins (and often ends) with the text of the statute in question. Absent an ambiguity, there is nothing for a court to construe, that is, a court should not look beyond the statutory text to discern its meaning." *Smith v. Tiffany*, 419 S.C. 548, 555–56, 799 S.E.2d 479, 483 (2017) (internal citations omitted). "'[T]here is no occasion for employing rules of statutory interpretation and the court has no right to look for or impose another meaning' unless a statutory provision is ambiguous." *Id*. at 556, 779 S.E.2d at 483 (quoting *Paschal v. State Election Comm'n*, 317 S.C. 434, 436, 454 S.E.2d 890, 892 (1995)). Moreover, when interpreting a statute,

the court's "primary purpose is to ascertain the intent of the legislature." *New York Times Co.*, 374 S.C. at 310, 649 S.E.2d at 30 (citing *Beattie v. Aiken County Dept. of Soc. Serv.*, 319 S.C. 449, 452, 462 S.E.2d 276, 278 (1995)). "A statute as a whole must receive a practical, reasonable, and fair interpretation consonant with the purpose, design, and policy of the lawmakers." *Id*.

First, the trial court erred in determining that Section 30-4-100(A) imposed an obligation on Osmundson, as a party and litigant, to ensure the hearing was conducted. The plain and ordinary meaning of Section 30-4-100(A) provided no basis for the trial court to impose an obligation on Osmundson to ensure that the initial hearing was conducted within the ten days of service on all parties. Rather, S.C. Code Ann. § 30-4-100(A) provides:

> A citizen of the State may apply to the circuit court for a declaratory judgment, injunctive relief, or both, to enforce the provisions of this chapter in appropriate cases if the application is made no later than one year after the date of the alleged violation or one year after a public vote in public session, whichever comes later. Upon the filing of the request for declaratory judgment or injunctive relief related to provisions of this chapter, **the chief administrative judge of the circuit court must schedule an initial hearing within ten days of the service on all parties**. If the hearing court is unable to make a final ruling at the initial hearing, the court shall establish a scheduling order to conclude actions brought pursuant to this chapter within six months of initial filing. The court may extend this time period upon a showing of good cause. The court may order equitable relief as it considers appropriate, and a violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists. (Emphasis added).

Section 30-4-100(A) unambiguously requires the "chief administrative judge of the circuit court" to schedule the statutorily required hearing—not the party seeking relief under FOIA. In fact, Osmundson's Complaint and Amended Complaint specifically requested "an initial hearing be set within ten days of service on all parties pursuant to § 30-4-100(A)."

Nowhere in the statute does the legislature place the burden on the parties to ensure this hearing is conducted. Indeed, apart from requiring citizens to apply to the circuit court and serve their request on all parties as a prerequisite for obtaining relief, Section 30-4-100(A) imposes no further requirements on the parties. Instead, Section 30-4-100(A) prescribes certain procedural

obligations which the circuit court must follow upon the filing of a claim for violation of FOIA, and outlines the relief which can be awarded by the court.

The trial court's Order of Dismissal not only ignored the plain language of the statute, it also interpreted S.C. Code Ann. § 30-4-100(A) to impose an affirmative obligation on Osmundson to ensure the hearing was conducted within the specified timeframe. In doing so, the Order of Dismissal violated fundamental tenets of statutory interpretation under South Carolina law. Given the plain wording and clear meaning of Section 30-4-100(A), there was no statutory ambiguity for the trial court to resolve and certainly no basis for the trial court to interpret Section 30-4-100(A) as imposing an obligation on Osmundson with respect to the initial hearing.

This legal error was compounded by the trial court's determination that S.C. Code Ann. § 30-4-100(A) further mandated dismissal of Osmundson's Amended Complaint because the initial hearing was not conducted within the required timeframe. (Order of Dismissal p. 1, R.__). Not only does Section 30-4-100(A) not impose an obligation on a plaintiff to ensure the initial hearing is conducted in a timely manner, it does not mandate dismissal of such a claim if the initial hearing is not timely conducted. While Section 30-4-100(A) does state that a hearing "must" be scheduled, it does not require or direct the dismissal of a FOIA claim if such a hearing is not scheduled. Moreover, no other provision of FOIA provides for dismissal of a claim for failure to comply with the procedural requirements of Section 30-4-100(A). Nevertheless, the trial court read such an obligation into Section 30-4-100(A) and, as a result, punished Osmundson, the litigant, for the failure of the chief administrative judge to timely schedule an initial hearing, something only the court has the authority to do.

The trial court's interpretation of Section 30-4-100(A) undermines the clear legislative intent behind FOIA and is wholly inconsistent with the General Assembly's stated findings and purposes in establishing the rights afforded under the South Carolina Freedom of Information Act:

> The General Assembly finds that it is vital in a democratic society that public business be performed in an open and public manner so that citizens shall be advised of the performance of public officials and of the decisions that are reached in public activity and in the formulation of public policy. Toward this end, provisions of this chapter **must be construed** so as to make it possible for citizens, or their representatives, to learn and report fully the activities of their public officials at a minimum cost or delay to the persons seeking access to public documents or meetings.

S.C. Code Ann. § 30-4-15 (emphasis added).

Consistent with the General Assembly's stated purpose, South Carolina courts have held that FOIA "is remedial in nature and **should be liberally construed** to carry out the purpose mandated by the legislature." *New York Times Co.*, 374 S.C. at 311, 649 S.E.2d at 30 (citing *Quality Towing, Inc. v. City of Myrtle Beach*, 345 S.C. 156, 161, 547 S.E.2d 862, 864–865 (2001)) (emphasis added). The trial court's Order of Dismissal disregards the remedial purpose of the law, and the statute's instructions regarding how it should be construed, particularly given that Osmundson did all that was required of him under Section 30-4-100(A). In both the original and Amended Complaint, Osmundson specifically and explicitly sought an "initial hearing within ten days of service on all parties pursuant to § 30-4-100(A)." (Compl. p. 9, R.__; Am. Compl. p. 10, R.__). Having sought an initial hearing in his pleading and properly filed that pleading with the Richland County Clerk of Court, Osmundson reasonably concluded that he had done all he was required to do in order to comply with Section 30-4-100(A). After all, no litigant has the power or ability to ensure that an initial hearing be scheduled as required by Section 30-4-100(A). Yet, at the July 18, 2022, hearing, Judge Lee advised the parties that they cannot "file a complaint and then expect the Court to realize you're asking for injunctive relief or some type of hearing in order

for that to take place," while also acknowledging that "many attorneys probably don't know that." (Hrg. Trans. 44:2-5, 46:15-16, R.__).

Despite this acknowledgement, the trial court's Order of Dismissal interpreted Section 30-4-100(A) to require the harsh penalty of dismissal with prejudice for the chief administrative judge's failure to conduct the initial hearing in a timely manner as requested by Osmundson. As written, the Order of Dismissal establishes a rule that, if a hearing on an alleged FOIA violation seeking declaratory or injunctive relief is not appropriately scheduled within ten days by the chief administrative judge, the case must be dismissed as a matter of law. Not only is this interpretation contradictory to the plain language of S.C. Code Ann. § 30-4-100(A), it imposes an untenable burden on Osmundson and future FOIA litigants. Under this legally unsupported interpretation of FOIA, a litigant would be forced to call the courts repeatedly and insist that a hearing be immediately scheduled. If those calls go unheeded, the litigant would presumably be forced to seek a writ from the South Carolina Supreme Court, within the original ten days of service of the FOIA claim, or risk having their FOIA claim dismissed by the circuit court with prejudice. Moreover, such an unreasonable reading of the statute would lead to unequal access to remedies under FOIA. In such a situation, a litigant's ability to seek redress under FOIA would be dependent on whether the chief administrative judge in his or her circuit was prompt in scheduling an initial hearing or not. Citizens in one circuit would be able to hold public officials to account under FOIA while those in a neighboring circuit may not.

Any interpretation of Section 30-4-100(A) that results in such an outcome would contradict the General Assembly's stated purpose of providing citizens with a legal mechanism "to learn and report fully the activities of their public officials **at a minimum cost or delay**." S.C. Code Ann. § 30-4-15 (emphasis added). In light of the General Assembly's stated purpose for enacting FOIA,

it is indisputable that the ten day hearing requirement under Section 30-4-100(A) was not intended to act as a bar to meritorious FOIA claims. Rather, the critical purpose of ensuring public transparency is why the chief administrative judge is statutorily required to schedule a timely hearing on FOIA claims. Yet, by dismissing Osmundson's claim with prejudice based only on an erroneous statutory interpretation, the Order of Dismissal accomplished exactly the opposite result while also ignoring the Supreme Court's directive that FOIA is to be construed liberally given its remedial purposes.

In sum, the Order of Dismissal violates the standards guiding courts when undertaking statutory interpretation and ignores the legislative intent behind S.C. Code Ann. § 30-4-100(A) and the South Carolina Freedom of Information Act generally. Therefore, the Court of Appeals should reverse the trial court's Order of Dismissal and remand the case for further proceedings.

### B. The Order of Dismissal contravened the Supreme Court's Guidance on Court Operations During the Covid-19 Pandemic.

In addition to the statutory interpretation and applicable grounds discussed above, the Order of Dismissal disregards the Supreme Court's then-operative orders governing court operations during the Covid-19 pandemic. This error also strongly supports the reversal of the Order of Dismissal.

During the pandemic, trial court operations were sharply curtailed, resulting in substantial challenges to judges, court staff, attorneys, and parties. Accordingly, South Carolina courts were "forced to alter normal operating procedures in the trial courts due to the dangers caused by COVID-19," which resulted in a "backlog of cases in the trial courts of this state." In-person Proceedings and Jury Trials in the Trial Courts, Order No. 2022-03-01-01 (S.C. Mar. 1, 2022). At the time Osmundson filed and served his Complaint and the Amended Complaint, the Supreme Court had issued numerous orders governing court operations during the pandemic. For example,

on June 15, 2021, the Court issued an order that stated "[w]hile the practice has been to conduct hearings on virtually all motions, this may not be possible during this emergency." *See* Operation of the Trial Courts During the Coronavirus Emergency, Order No. 2021-06-15-01 (S.C. June 15, 2021). In a subsequent order issued on August 27, 2021, the Supreme Court stated, in relevant part, "[t]he pandemic has necessarily delayed the resolution of many cases, and the response to this emergency must now focus on the resolution of these cases in a safe, timely, and just manner." *See* Operation of the Trial Courts During the Coronavirus Emergency, Order No. 2021-08-27-01 (S.C. August 27, 2021). Again, this order contemplated and authorized courts to exercise their discretion in scheduling and hearing motions as best they could under the unique and extraordinary circumstances.

Additionally, in a prior order related to the pandemic, the Supreme Court stated in part, "…we expect the justice system, and those persons who operate within it, to react with compassion, empathy, and understanding and not take punitive actions that hinder the ability to act justly and fairly. **Our laws favor the resolution of cases on the merits and this public health crisis will not cause us to abandon that principal**." (April 24, 2020, Clarifying Order (emphasis added)).

At the time the Order of Dismissal was issued in October 2022, the trial court failed to account for the practical realities of court operations during the Covid-19 pandemic, as well as the Supreme Court's directives to exercise discretion and caution to ensure that litigants have obtained rulings on the merits. In combination with the Supreme Court's general guidance that FOIA should be liberally construed to carry out the General Assembly's purpose in enacting the remedial law, the Supreme Court's orders governing operations during the Covid-19 pandemic further militate against the harsh remedy of dismissal with prejudice as ordered by the trial court in this case.

Accordingly, the Court of Appeals should reverse the Order of Dismissal and remand this matter to the trial court for further proceedings.

## II. The Trial Court Erred in Denying Appellant's Motion for Reconsideration Under Rule 59(e).

A motion to reconsider is timely as long as it is filed within ten days of the order being reconsidered. *See* Rule 59(b), SCRCP. After Rule 59 was adopted, a new provision, Rule 59(g), was added, requiring a copy of a motion to reconsider to be sent to the trial judge within ten days of filing. *See* Rule 59(g), SCRCP. That rule "is intended to help insure that the judge is promptly notified that the motion has been filed." Rule 59, SCRCP, Note to 1998 Amendment.

The trial court denied the Motion for Reconsideration because it found that Osmundson failed to comply with Rule 59(g), by not providing a copy of the Motion to the judge within ten days after filing. Admittedly, although Osmundson timely moved to reconsider, that Motion was not sent under separate cover by hand delivery, letter, or email to the trial judge within ten days. However, the South Carolina Electronic Filing Policies and Guidelines provide that:

> Service of a pleading, motion, or other paper by NEF subsequent to the summons and complaint or other filing initiating a case is complete at the time of the submission of the pleading, motion, or other paper for E-Filing, provided an NEF is transmitted by the E-Filing System in accordance with paragraph (e)(2) of this Section. **The act of E-Filing the pleading, motion or other paper is the equivalent of depositing it in the United States Mail under Rule 5(b)(1), SCRCP**.

Section 4(e)(3), SCEF (emphasis added).

At a minimum, this rule creates understandable confusion about the need to additionally send a copy of the motion to the trial court's chambers, particularly in light of Section 11(c), SCEF, which provides that "[t]he court shall not require parties to furnish courtesy paper copies of E-Filed documents." In addition, Section 11(e), SCEF, instructs courts and e-filers that "[t]hese Policies and Guidelines shall be liberally construed to ensure substantial justice for all parties, and

that cases are disposed of on the merits." The Court of Appeals should reverse the trial court's Order denying Osmundson's Motion for Reconsideration.

## CONCLUSION

For the reasons set forth herein, the trial court's Order of Dismissal and Reconsideration Order should be reversed, and the case should be remanded for further proceedings.

Respectfully Submitted,

NELSON MULLINS RILEY & SCARBOROUGH, LLP

*/s/ Thomas William McGee, III*
Thomas William McGee, III
SC Bar No. 11317
Nelson Mullins Riley & Scarborough LLP
1320 Main Street / 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
billy.mcgee@nelsonmullins.com
(803) 799-2000

Joel W. Collins, Jr.
SC Bar Number: 1341
Collins & Lacy, P.C.
Post Office Box 12487
Columbia, SC 29211
jcollins@collinsandlacy.com
(803) 256-2660

Attorneys for Appellant Paul Roy Osmundson

RECEIVED
Apr 10 2023
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

---

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

Alison Renee Lee, Circuit Court Judge

---

Appellate Case No. 2023-000104

---

Paul Roy Osmundson..... Appellant,

vs.

School District 5 of Lexington and Richland Counties..... Respondent.

---

PROOF OF SERVICE

---

I certify that I have served the foregoing Initial Brief of Appellant on the date given below by emailing it to counsel for the Respondent at the address(es) noted below.

James Edward Bradley, Esq., at ward@mbmlawsc.com

*/s/ Thomas William McGee, III*
Thomas William McGee, III
S.C. Bar No. 11317
Attorney for Appellate

April 10, 2023