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**Jun 15 2023**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM CHARLESTON COUNTY  
Court of Common Pleas  
Mikell R. Scarborough, Master-In-Equity

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Appellate Case No. 2022-001165

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Michael D. Royal, Appellant,

v.

Free Kindergarten Association of Charleston, Respondent,

The Attorney General of the State of South Carolina, and  
The Charleston County School District, Intervenors/Respondents.

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**APPELLANT’S MOTION TO EXCEED PAGE LIMIT FOR REPLY BRIEF  
AND MEMORANDUM IN SUPPORT**

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Appellant Michael D. Royal (“Appellant”), by and through his undersigned counsel, respectfully moves this Court, pursuant to Rules 208(b)(5) and 240, SCACR, for permission to submit a single reply brief that exceeds the permitted page limit in lieu of submitting multiple reply briefs, as permitted under Rule 208(a)(3), SCACR. Specifically, Appellant requests that this Court enlarge the page limitation for the single reply brief to allow for an additional twenty-five (25) pages, such that the total limit is equivalent to that of two reply briefs. The grounds for this motion are as follows:

1. Appellant filed and served his amended initial brief on March 10, 2023, and served a copy of the same on even date on Respondent Free Kindergarten Association of Charleston

(“FKAC”), Intervenor/Respondent The Attorney General of the State of South Carolina (“AG”), and Intervenor/Respondent The Charleston County School District (“CCSD”) (collectively, “Respondents”).

2. Thereafter, each of the Respondents obtained two extensions of their initial brief deadlines. The AG filed his brief on June 9, 2023, serving a copy on even date on Appellant and CCSD, and served FKAC on June 13, 2023, after his deadline for the same. CCSD filed and served its initial brief on June 12, 2023. FKAC filed and served its joinder in the AG’s initial brief on June 12, 2023.

3. Rule 208(a)(3), SCACR, permits Appellant to file a reply brief to each Respondents’ initial brief. By rule, each reply brief may not exceed twenty-five pages.

4. On the afternoon of June 12, 2023, prior to CCSD filing its initial brief, Appellant’s counsel spoke via telephone with Jacklyn Orr in the South Carolina Court of Appeals’ office to confirm this Court’s requirements and inquire as to an efficient approach to Appellant’s reply brief(s) in this case. Therein, Appellant’s counsel was advised that Appellant is allowed to file a brief in reply to each of the briefs of Respondents, including FKAC’s joinder.

5. In the interests of judicial economy, and the simplification of briefing, Appellant seeks the Court’s permission to file one (1) consolidated reply brief, not exceeding fifty (50) pages, as opposed to three reply briefs, not exceeding twenty-five (25) pages each (a total of seventy-five (75) pages).

6. No prejudice will result from granting this request, as the requested total is equivalent to the page limit for two briefs, as permitted under Rule 208(a)(3), SCACR. In addition, good cause exists for extending the page limitation.

7. The number of significant issues and the broad scope of facts implicated in this appeal, as well as the lengths of Respondents' briefs, necessitates a brief in reply that exceeds the permitted 25-page limit. Additionally, Respondents' briefs raise numerous arguments not previously presented or ruled upon in this case, including, *inter alia*, those raised regarding their contentions as to the applicability of the South Carolina Nonprofit Corporation Act of 1994 ("1994 Act"), S.C. Code Ann. §§ 33-31-101, *et seq.*, purported evidence of the contract parties' bargaining power, and the AG's alleged role and actions in this case. Finally, the plethora of extra-jurisdictional common law and other authorities relied upon in Respondents' briefs requires additional pages for Appellant to adequately reply to the issues raised.

8. Every effort will be made to condense the content of the brief to present only the most relevant and compelling arguments, but a satisfactory reply to the briefs of Respondents necessitates permission to exceed the allotted page limit.

9. As set forth herein, good cause exists for extending the page limitation for Appellant's reply brief. Accordingly, Appellant respectfully requests that this Court enter an Order granting him permission to file a single reply brief that exceeds the permitted limit by twenty-five (25) pages.

10. Granting this motion would promote the interests of justice and judicial economy, as well as preserve Court resources. This Motion is supported by the grounds set forth herein and the South Carolina Appellate Court Rules.

11. Appellant further requests that this appeal be held in abeyance should this motion remain pending on the current date his reply brief(s) and Designation(s) of Matter are due.

[SIGNATURE FOLLOWS]

Respectfully submitted,

s/Evan P. Williams

Jeffrey S. Tibbals S.C. Bar No. 72628

jst@bybeetibbals.com

Evan P. Williams S.C. Bar No. 101981

ewilliams@bybeetibbals.com

BYBEE & TIBBALS, LLC

735 Johnnie Dodds Blvd., Suite 104 (29464)

P.O. Box 1542

Mt. Pleasant, SC 29465

Telephone: 843.881.1623

*COUNSEL FOR APPELLANT*

*MICHAEL D. ROYAL*

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The Charleston County School District, Intervenors/Respondents.

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**PROOF OF SERVICE**

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I certify that I have served Appellant's Motion to Exceed Page Limit for Reply Brief and Memorandum in Support on the above-named Respondent and Intervenors/Respondents via email to their respective counsel of record, on June 15, 2023, containing the above-referenced documents as an attachment in .pdf, sent to the addresses shown below.

Warren W. Ariail, Esq.  
warren@ariaillaw.com  
Ariail Law Firm, LLC  
A. Bright Ariail, Esq.  
bright@brightariaillaw.com  
Law Office of A. Bright Ariail, LLC  
125 Wappoo Creek Drive  
Building E, Suite 202  
Charleston, SC 29412

*Counsel for Intervenor/Respondent The  
Charleston County School District*

Mary Frances Jowers, Esq.  
Assistant Deputy Attorney General  
mfjowers@scag.gov  
Kristin Simons, Esq.  
Assistant Attorney General  
ksimons@scag.gov  
Office of the South Carolina Attorney General  
P.O. Box 11549  
Columbia, SC 29211

*Counsel for Intervenor/Respondent The Attorney  
General of the State of South Carolina*

Patrick F. Stringer, Esq.  
753 Folly Road  
P.O. Box 12370  
Charleston, SC 29422-2370  
pfstringer@yahoo.com

*Counsel for Respondent Free  
Kindergarten Association of  
Charleston*

Joseph Kevin Qualey, Esq.  
Qualey Law Firm  
37 Broad Street  
Charleston, SC 29401  
joequaley@qlawfirm.com  
wzsmith@qlawfirm.com

*Court-Appointed Receiver for Respondent Free  
Kindergarten Association of Charleston*

Respectfully submitted,

s/Evan P. Williams

Jeffrey S. Tibbals S.C. Bar No. 72628  
jst@bybeetibbals.com

Evan P. Williams S.C. Bar No. 101981  
ewilliams@bybeetibbals.com

BYBEE & TIBBALS, LLC  
735 Johnnie Dodds Blvd., Suite 104 (29464)  
P.O. Box 1542  
Mt. Pleasant, SC 29465  
Telephone: 843.881.1623

*Counsel for Appellant Michael D. Royal*

# BYBEE & TIBBALS

735 Johnnie Dodds Blvd. Suite 104  
Mount Pleasant, SC 29464

843.881.1623

[bybeetibbals.com](http://bybeetibbals.com)

Evan P. Williams  
ewilliams@bybeetibbals.com  
843.513.1036

June 15, 2023

## VIA E-MAIL

The Honorable Jenny Abbott Kitchings  
Clerk, South Carolina Court of Appeals  
1220 Senate Street  
Columbia, SC 29201  
ctappfilings@sccourts.org

**Re: *Michael D. Royal v. Free Kindergarten Association of Charleston, et al.*  
Appellate Case No. 2022-001165**

Dear Ms. Kitchings:

Please find enclosed for filing, on behalf of Appellant Michael D. Royal (“Appellant”), Appellant’s Motion to Exceed Page Limit for Reply Brief and Memorandum in Support, as well as the Proof of Service of the same.

By copy of its counsel of record on the filing transmittal e-mail, Respondent and Intervenor/Respondents in this case are served with Appellant’s Motion to Exceed Page Limit for Reply Brief and Memorandum in Support.

A check for the filing fee of \$50.00 is being mailed to the Court under separate cover.

Yours Sincerely,



Evan P. Williams

Enclosures

cc (via e-mail only): A. Bright Ariail, Esq.  
Warren W. Ariail, Esq.  
Mary Frances G. Jowers, Esq.  
Kristin M. Simons, Esq.  
Patrick F. Stringer, Esq.  
Joseph Kevin Qualey, Esq.  
William Z. Smith, Esq.

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