

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM LEE COUNTY
COURT OF COMMON PLEAS

Thomas W. Cooper, Jr., Circuit Court Judge

Appellate Case No. 2007-065159

RECEIVED

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S.C. Supreme Court

Abbeville County School District, et al., Appellants-Respondents,

v.

The State of South Carolina, et al., of whom Hugh K.
Leatherman, Sr., as President Pro Tempore of the Senate
and as a representative of the South Carolina Senate, and
James H. Lucas, as Speaker of the House of
Representatives and as a representative of
the South Carolina House of Representatives, are Respondents-Appellants

and

State of South Carolina, Nikki R. Haley, as
Governor of the State of South Carolina, are, Respondents.

**REPLY IN SUPPORT OF APPELLANTS-RESPONDENTS'
MOTION FOR ENTRY OF A SUPPLEMENTAL ORDER**

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Appellant-Respondents (hereinafter referred to as "Plaintiffs" or "Plaintiff Districts") respectfully submit this Reply in Support of their Motion for Entry of a Supplemental Order.

Throughout the twenty-one year history of this lawsuit, the State has repeatedly argued that separation of powers precludes this Court from enforcing a remedy and that, given time and independence, the State will reform the education system as needed. These arguments have been repeatedly raised and rejected, and nothing in the Returns filed by the Respondents-Appellants (hereinafter referred to as "the State") warrants yet another consideration of the issue. The Court struck the appropriate balance between legislative and judicial functions in its November 12, 2014 opinion when it declared that the State's system of public education was constitutionally infirm and directed the parties to work together to identify a solution and to return to the Court, within a reasonable time, with a plan to remedy the constitutional violation. Plaintiffs have done that. The State objects to Plaintiffs' proposal, but has submitted no alternative.

Plaintiffs' proposal does not purport to usurp the General Assembly's prerogative to choose educational policy and programs. Consistent with the experience of courts and legislatures in other states, Plaintiffs respectfully submit that court-imposed deadlines are necessary to ensure prompt, meaningful legislative action and to obviate the need for long-term involvement by the Court in education reform. Plaintiffs agree with the State that eighteen months is a reasonable time to achieve constitutional compliance, and the Plaintiffs' proposal provides exactly that. Plaintiffs' proposed timeline also includes interim deadlines that are appropriate considering the important interests at stake.

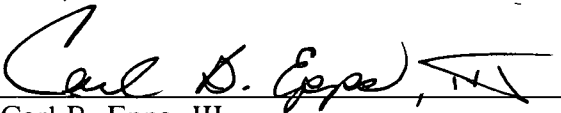
Further, Plaintiffs' proposal calls for a panel of experts to serve in an advisory capacity. Although the General Assembly is not required to accept the recommendations of the

expert panel, the panel's sole purpose is to provide dedicated expertise that can only further the ultimate goal that all parties should embrace equally – to create educational opportunity for the children who are constitutionally entitled to receive it. The Court is likewise not required to accept the panel's recommendations. The doctrine of separation of powers in no way prevents the Court from considering the recommendations of experts acting solely in an advisory capacity to aid in the Court's assessment of whether the State has presented a viable plan for reform.

For these and the reasons stated in the Plaintiff Districts' Motion, the Plaintiff Districts respectfully request that this Court grant their Motion for a Supplemental Order.

Respectfully submitted,

NELSON MULLINS RILEY & SCARBOROUGH LLP

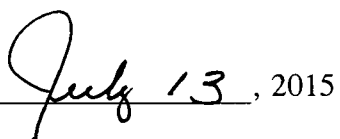
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Columbia, South Carolina

CERTIFICATE OF SERVICE

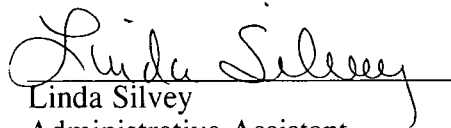
I, the undersigned of the law offices of Nelson Mullins Riley & Scarborough L.L.P., attorneys for Appellants-Respondents, do hereby certify that I have served all counsel in this action with a copy of the pleading(s) hereinbelow specified by **electronic mail and U.S. Mail** to the following address(es):

Pleadings: Reply in Support of Appellants-Respondents' Motion for Entry of a Supplemental Order

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July 13, 2015