

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

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MAY 26 2016

SC Court of Appeals

APPEAL FROM ABBEVILLE COUNTY
Court of Common Pleas

Frank R. Addy, Jr., Circuit Court Judge

Trial Court Case No.: 2011-CP-01-109
Appellate Case No.: 2015-001660

Robert E. Smith, and William K. Smith Appellants

v.

Erskine College Respondent

APPENDIX TO THE RECORD ON APPEAL

James Randall Davis, Esquire
W. Joseph Maye, Esquire
DAVIS FRAWLEY, LLC
140 East Main Street (29072)
Post Office Box 489
Lexington, South Carolina 29071
Tel: (803) 359-2512

-and-

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STATE OF SOUTH CAROLINA)
)
 COUNTY OF ABBEVILLE)
)
 Robert E. Smith and William K. Smith,)
)
 Plaintiff,)
)
 vs.)
)
 Erskine College,)
)
 Defendant.)

IN THE COURT OF COMMON PLEAS
 EIGHTH JUDICIAL CIRCUIT
 CIVIL ACTION NO. 2011-CP-01-109

TRUE COPY
By Gregory W. Haselden
 ABBEVILLE COUNTY CLERK OF COURT

AFFIDAVIT OF
 GREGORY W. HASELDEN

PERSONALLY appeared before me Gregory W. Haselden, who, being duly sworn, deposes and says:

1. I am the Senior Vice President for Finance and Operations of the Defendant Erskine College, and respectfully submit this Affidavit on behalf of Erskine and its President, Dr. David A. Norman.
2. After commencement of this litigation, I and other employees of Erskine researched the archives of Erskine, and attached hereto and Bates-stamped are documents of Erskine which pertain to the issues involved in this lawsuit.
3. In 1853, Erskine's Board of Trustees adopted a Plan of Endowment, attached hereto and Bates-stamped for purposes of identification as Erskine 00004 through Erskine 00006.
4. Under the Plan, scholarships were offered in exchange for contributions to the endowment fund.

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 EIGHTH JUDICIAL CIRCUIT
 ABBEVILLE COUNTY
 2011 SEP 27 10:00 AM
 GREGORY W. HASELDEN
 CLERK OF COURT

5. The Plan provided as follows:

"1. The payment of forty dollars (\$40) shall endow a *single scholarship*, which shall entitle the subscriber to the tuition of *one student* during the term of six years.

2. The payment of sixty dollars (\$60) shall endow a Scholarship which shall entitle the subscriber to the tuition of one or more of his own sons, or of any students he may select, amounting in the aggregate to twelve years.

3. Any person paying or securing to the Trustees of said College the sum of one hundred dollars (\$100) shall be entitled to the education, free of tuition expenses, of one son or nominee for the term of *twenty-five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years.

4. No sales of limited scholarships shall be binding either on the purchaser or on the Board of Trustees, until scholarships amounting to *fifty thousand dollars* are sold, (due notice whereof shall be given in the public prints,) after which time all contracts for scholarships made previous to that date shall be binding on the parties concerned, shall become due, and bear interest. On the payment of Scholarships, subscribers or purchasers of the same shall be furnished with a certificate, signed by the President and Secretary of the Board of Trustees of the said Erskine College, guaranteeing to the said subscribers the privileges enumerated by the resolutions of the Board, according to their relative subscriptions.

...

7. Any individual, association of individuals, or congregation, who shall pay or secure to the Trustees of Erskine College, the sum of five hundred dollars (\$500), shall be entitled to a perpetual scholarship, to which the party or parties may appoint any pupil he or they may think proper."

6. As contributions were made, Scholarship Certificates were issued together with Subcertificates for the number of years of tuition to which the subscriber was entitled.

7. The time within which the Subcertificates could be used was limited.

8. Upon paying the sum of one hundred dollars (\$100), the subscriber was entitled to free tuition "of one son or nominee for the term of *twenty-five years*, or of two or more pupils at the same time, amounting in the aggregate to twenty-five years."

9. A subscriber who purchased a Scholarship Certificate for one hundred dollars (\$100) had a term of twenty-five years to use his Certificate, after which the Certificate expired.

10. For the balance of the 1850's, documents produced by Erskine indicate that the Subcertificates would be accepted in payment of tuition.


11. Erskine documents show that although the endowment funds were almost completely destroyed by the Civil War, Erskine continued to honor the 1853 Subcertificates in the late 1860's and early 1870's.

12. During this period, Erskine documents recite that the Subcertificates could be used, although on a reduced basis, in payment of tuition.

13. In the early to mid 1870's, Erskine embarked upon a second endowment plan, which included \$20 annual scholarships.

14. After 1878, a point in time twenty-five (25) years after the Subcertificates were issued, Erskine catalogs no longer referred to the 1853 Subcertificates or indicated that they may be used to pay tuition.

15. Tuition at Erskine for the 2011-2012 school year was \$26,350, and tuition at Erskine for the 2012-2013 school year was \$27,915.



Gregory W. Haselden

SWORN to and subscribed before me
this 24th day of January, 2013.

Hope J. Harris (L.S.)
Notary Public for South Carolina
My Commission Expires: 2/26/2017

Attachments to Affidavit of Gregory W. Haselden

The documents referenced as attached to the Affidavit of Gregory W. Haselden are included in the Record on Appeal as Record pages 153-320.

royanos, for whom no such as will pass readily in South Carolina.

The certificates will be signed and numbered, and let the agent or minister whose business it is to deal them out, number each Sub-Certificate with the same number found on the main certificate. On the \$100 Scholarship let 25 sub-certificates be numbered and the balance cut off and burnt, not thrown away; so on the \$66 and \$40 Scholarship, let the requisite number of sub-certificates be numbered and the balance burnt.

N. B. We would also advise the agent or minister who deals out the certificates to sign his name to each sub-certificate. This will be a small labor among so many, but rather onerous for one man.

By M. H. — (The name of the individual to whom a certificate is given and the number of his certificate, (be particular) also whether it is settled for by cash or note, and send up as soon as possible a particular account of these things to the undersigned, so that the name, number, Post Office and indebtedness of every subscriber to the endowment may be entered in a book, and thus the exact condition of the College may be known to all concerned in its welfare, and also the Plan of Endowment be strictly and faithfully carried out.

About \$50,000

This is an enlarged and more clearly legible reproduction of the relevant portion of Plaintiff's Exhibit 4, at page Record page 143. This document was also produced as part of Defendant's Exhibit 1, at Record page 160.

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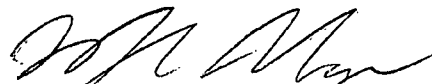
Erskine College Respondent

CERTIFICATE OF COUNSEL

I hereby certify that this Appendix to the Record on Appeal complies with Rule 210 and 212 of the South Carolina Appellate Court Rules.

Signature Block on Following Page

DAVIS | FRAWLEY, LLC



~~James Randall Davis, Esquire~~

~~W. Joseph Maye, Esquire~~

140 East Main Street

Post Office Box 489

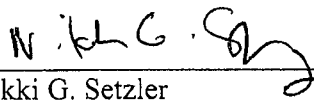
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ROBERT AND WILLIAM SMITH

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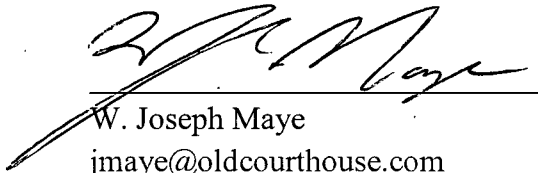
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PROOF OF SERVICE

I certify that I have served the Record on Appeal, to the attorney for the Respondent, by placing them in the U.S. postal mail, postage pre-paid on May 26, 2016, addressed to its attorney of record, Roy R. Hemphill, Esquire, P. O. Box 1547, Greenwood, SC 29648.



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