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JUN 13 2016  
SC Court of Appeals

**MOTION III OF APPELLANT**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

Marvin H. Dukes III, Master in Equity and Special Circuit Court Judge

APPELLATE CASE NO. 2016-000955

John Alden Bauer III

Appellant

v

Beaufort County  
School District

Respondent

**MOTION OF APPELLANT  
TO  
CONSIDER RELEVANT EVIDENCE**

John Alden Bauer III, pro se Appellant, in light of the intermingled legal practices of the the Beaufort County School District ("BCSD", "System", "District") requests that this court exercise its discretion to hear relevant exculpatory evidence that was blocked, withheld, and concealed during Appellant's School Board Hearing, April 30 - May 2, 2015.

The District should also be punished for knowingly offering and admitting false evidence into the Record, and knowingly withholding and concealing exculpatory evidence.

- *“The matter of what questions may be taken up and resolved for the first time on appeal is one left primarily to the discretion of the courts of appeals, to be exercised on the facts of individual cases.” Singleton v. Wulff, 428 U.S. 106 (1976) No. 74-1393*
- Rule 12(b)  
*“The amendment to the fourth sentence of Rule 12(b) clarifies the litigant's right to assert at trial any defenses as well as any claims he could have raised in a permissive pleading. ...”*
- Fed. R. Civ. P. 56(c)(4) *“but (the court) can consider other materials in the record in its discretion.”*

Intermingled Legal Practices (and Unlicensed Attorney)

David Duff (Hearing, 14th Judicial District, August 19, 2016, Page 27 lines 6-7)

*“... Board or the District which legally are one in the same.”*

The attorneys for the “System” (Superintendent, District, Board) intermix in their missions. This complexity led to a simple result.

Three Complexities

1. Drew Davis, titles: General Counsel for the District, General Counsel for the Board of Education “*full-time legal counsel to superintendent Jeff Moss, staff and the school board.*” *Italics* are according to Island Packet (<http://www.islandpacket.com/news/local/education/article33582642.html#storylink=cpy>)

From Moss Deposition, December 16, 2014. Page 2 Line 13:

*“FOR THE BEAUFORT COUNTY SCHOOL DISTRICT: DREW H. DAVIS, ESQUIRE”*

Page 5 line 24: *“I’m Drew Davis. I’m current general counsel for the Board of Education.”*

At Appellant’s Board Hearing (April 30-May 2, 2015) Davis, who did not overtly participate publicly in the hearing, occupied the District’s table where there was no other attorney, or other person, representing the District. Mr. Davis was not yet licensed to practice law in South Carolina. (Davis was hired as General Counsel in July 2015 and was licensed in late May 2015)

Appellant is not aware that Davis was doing anything illegal at the hearing or by giving “*unofficial*” legal advice, according to Chairman Evans, but Davis has repeatedly refused to answer generic questions about his legal work for the district. Email thread

attached, pages 8 - 12. (Last email not responded to; Ensuing letter not attached, since Mr. Davis may not yet have received the letter)

2. Childs and Halligan originally were hired *by the Board* to represent only the Superintendent, but after the Board Hearing they assumed the role of counsel for the District. The *Board* later (July 8, 2015) released Childs and Halligan and replaced them (as Counsel for the District) without consent, with David Duff, Advice Attorney to the Board, who at one time, allegedly, had been a part of Childs and Duff, now Childs and Halligan.

3. Duff, White and Turner, at one time represented the Board, but Duff then became Advice Counsel to the Board and then Counsel to the District (without consent). Consent should have been required, if there were any separation in the "System", since Duff also assumed a prominent role at Appellant's Board Hearing, making judicial rulings, suggesting judicial rulings to the Board Chairman, and providing unsworn testimony from his Advice Counsel seat during Appellant's hearing.

Complexity's Simple Result at Appellant's Board Hearing

- a. Appellant offers evidence.
- b. "System" (Childs and Halligan) objects.
- c. "System" (Duff/Board) sustains the objection.

Again, according to Duff "... Board or the District which legally are one in the same."

During one cross examination by Appellant the "System" objected 266 times and the "System" overruled its own objection 0 times.

The result was that the "System" (Superintendent, District, Board) did not feel obliged to follow the requirements of the Teacher Employment and Dismissal Act ("TEDA"). The Board, defying law (TEDA 460), did not bother to issue charges against Appellant who was, therefore, required to guess the accusations that would be developed by the "System" against him.

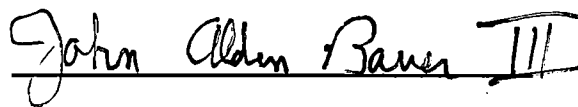
The superintendent had reduced four (4) accusations, sent *only* by email, to two (2) accusations, but attorneys expanded the complaints to include unreported claims and another accusation that was not disclosed during Discovery. The "System" even ignored the requirements and timeline for Discovery, a timeline that the "System" had imposed.

Amazingly, the Superintendent, the Human Resources Officer, and the Principal involved in this case all testified that they were unfamiliar with TEDA.

The merits of the case favor Appellant. The Court of Appeals should consider those merits that were ignored, withheld, and concealed by the "System."

Reversal is long overdue.

Respectfully Submitted,



John Alden Bauer III  
5 Gumtree Road  
E-11  
Hilton Head Island, SC 29926  
[aldenbauer706@gmail.com](mailto:aldenbauer706@gmail.com)  
(843) 384-1506

June 13, 2016

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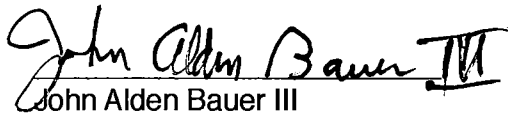
**SC Court of Appeals**

CERTIFICATE OF SERVICE BY VIA US MAIL

The undersigned, John Alden Bauer III, pro se, certifies that he has served the following Counsel of Record and General Counsel for the Beaufort County School District with the foregoing MOTION OF APPELLANT by making a copy of same, postage prepaid, and return address clearly indicated to the following on the 13th day of June, 2016.

David Duff, Esq.  
Duff, White and Turner  
3700 Forest Dr.  
Suite 404  
Columbia, SC 29204

Drew Davis, Esq.  
General Counsel, BCSD  
Drawer 309  
Beaufort, SC 29901



John Alden Bauer III  
5 Gumtree Road E-11  
Hilton Head Island, SC 29926  
aldenbauer706@gmail.com  
(843) 384-1506

**From:** Alden Bauer [mailto:[aldenbauer706@gmail.com](mailto:aldenbauer706@gmail.com)]  
**Sent:** Monday, June 06, 2016 10:09 AM  
**To:** [dduff@dwtlawfirm.com](mailto:dduff@dwtlawfirm.com); Davis, Drew H  
[Drew.Davis@beaufort.k12.sc.us](mailto:Drew.Davis@beaufort.k12.sc.us)>  
**Subject:** Question

Mr. Duff  
Mr. Davis

I notice that Mr. Davis was representing the District for several months before being Bar Certified. How was that accomplished?

Also, Mr. Davis referred to Faye Duff, as an attorney representing the Board on December 16, 2014. Who is Faye Duff?

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**\*\*\* Barracuda Networks scanned this email for viruses, vandals, and malicious content.**

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On Mon, Jun 6, 2016 at 10:40 AM, Davis, Drew H  
<[Drew.Davis@beaufort.k12.sc.us](mailto:Drew.Davis@beaufort.k12.sc.us)> wrote:

Mr. Bauer-

At no time prior to being licensed to practice law in South Carolina did I represent the BCSD in your case. At all times in your dismissal case, the BCSD, Board and Superintendent were and/or continue to be represented by other counsel with whom you directly interacted and/or continue to interact.

Drew H. Davis  
General Counsel  
Beaufort County School District  
Post Office Box 309  
Beaufort, South Carolina 29901-0309  
Telephone: [843-322-2414](tel:843-322-2414)

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On Mon, Jun 6, 2016 at 11:12 AM, Alden Bauer <[aldenbauer706@gmail.com](mailto:aldenbauer706@gmail.com)> wrote:

Apparently I was not clear.

The first question was generic and not specific to my case; however, the transcript of the deposition also stated that you were representing the District at a deposition in my case.

**Page 2 Line 13:**

*"FOR THE BEAUFORT COUNTY SCHOOL DISTRICT:  
DREW H. DAVIS, ESQUIRE"*

I request an answer to question 2.

Question 1. *"I notice that Mr. Davis was representing the District for several months before being Bar Certified. How was that accomplished?"*

Question 2. *"Also, Mr. Davis referred to Faye Duff, as an attorney representing the Board on December 16, 2014. Who is Faye Duff?"*

----- Forwarded message -----

From: **Davis, Drew H** <[Drew.Davis@beaufort.k12.sc.us](mailto:Drew.Davis@beaufort.k12.sc.us)>

Date: Mon, Jun 6, 2016 at 11:46 AM

Subject: RE: Question

To: Alden Bauer <[aldenbauer706@gmail.com](mailto:aldenbauer706@gmail.com)>

Cc: "David Duff ([dduff@dwtlawfirm.com](mailto:dduff@dwtlawfirm.com))" <[dduff@dwtlawfirm.com](mailto:dduff@dwtlawfirm.com)>

Mr. Bauer-

I have no control over what a court reporter at a deposition places on the deposition transcript, nor was I in a capacity to control or have input into what matters were placed on the errata sheets after the depositions. As you should recall from your attendance at the depositions on December 16, 2014, I did not sit at the table with Mr. Williams, Ms. Fawley, you, Ms. Martel and the deponent. I sat at a chair some distance from the table, and I did not participate in the depositions whatsoever. I merely observed the depositions. Any allegation or inference by you to the contrary would be false and completely inaccurate, and I urge you to be careful to avoid making further false and unsubstantiated allegations.

Drew H. Davis  
General Counsel  
Beaufort County School District  
Post Office Box 309  
Beaufort, South Carolina 29901-0309  
Telephone: 843-322-2414

From: **Alden Bauer** <[aldenbauer706@gmail.com](mailto:aldenbauer706@gmail.com)>  
Date: Mon, Jun 6, 2016 at 12:57 PM  
Subject: Re: Question  
To: [drew.davis@beaufort.k12.sc.us.readnotify.com](mailto:drew.davis@beaufort.k12.sc.us.readnotify.com)

I am addressing this only to you. If it should be forwarded to David Duff that is okay with me.

It occurred to me that maybe you wished this to be private.

Apparently I am still not clear in my questions.

Who was Faye Duff that you named on December 16, 2014? I am guessing that it may have been David Duff, but mis-heard by the Reporter.

My first question did not involve my case but was broadly generic. Your response regarding your involvement in my case was very well reasoned, but was not what I was asking.

Generically, I am guessing that there is a way to practice law in a provisional way, pending passing the bar. In fact I am informed of a such a case being considered, and I am curious about how that worked in your case.

*There was no Response to this email*