

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas

DeAndrea Gist Benjamin, Circuit Court Judge

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JUL 11 2016

SC Court of Appeals

Appellate C.A. No.: 2016-000211

KIM MURPHY.....Appellant

v.

RICHLAND-LEXINGTON SCHOOL DISTRICT NO. 5 BY AND
THROUGH COUNSEL TO THE BOARD OF TRUSTEES.....Respondent.

RESPONDENT'S RETURN TO APPELLANT'S MEMORANDUM OF LAW IN
SUPPORT OF ITS MOTION TO CONSOLIDATE

Respondent respectfully submits this Return to Appellant's Motion to Consolidate
Appeals:

I. INTRODUCTION

Appellant's motion for consolidation is before the Court of Appeals pursuant to Rule 214, SCACR. In the above-captioned appeal, Appellant filed her appeal on February 5, 2016, appealing from the order and judgment of the Circuit Court for the Fifth Judicial Circuit. Specifically, the Appellant appeals from the Circuit Court's order upholding the Respondent's decision finding Appellant was no longer eligible to hold her seat on the Richland-Lexington School District No. 5 Board of Trustees ("Board") and removing her from the Board. In other words, this matter arose as an administrative appeal to the Circuit Court, and now is on further

appeal to this Court.

Appellant filed her second appeal, captioned 2016-001198, on June 6, 2016. Appellant, again, appealed from the order and judgment of the Circuit Court for the Fifth Judicial Circuit, granting summary judgment to the defendants in that case on Appellant's claims of defamation and conspiracy.

II. ARGUMENT

With respect to the above-captioned appeal, the Respondent recognizes that whether to consolidate different cases on appeal is within the discretion of the Court. Rule 214, SCACR, Certainly, if the Court believes consolidation of these two appeals would facilitate the Court's efficient resolution of these appeals, the Respondent does not object. However, at least for purposes of the above-captioned case, Respondent disagrees with Appellant's claims that the two appeals rest on "common facts" as asserted in her motion to consolidate. Rather, Respondent believes the only common relevant factual issue to be whether Respondent resided in Lexington or Richland County. Otherwise, the factual and legal issues related to Appellant's administrative appeal in the above-captioned case are not shared in common with those in Case No. 2016-001198. The possible legal significance of facts and the applicable standard of review are different between Appellant's direct appeal from the grant of summary judgment and the administrative appeal from the Board's and Circuit Court's decision affirming Appellant's removal from the Board.

III. CONCLUSION

Based on the foregoing, the Respondent respectfully defers to the Court's determination of whether consolidation is appropriate under Rule 214, SCACR.

Respectfully submitted,

CHILDS & HALLIGAN, P.A.

By: 

John M. Reagle, S.C. Bar No. 14185

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Attorneys for Respondent

July 11, 2016
Columbia, South Carolina

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PROOF OF SERVICE

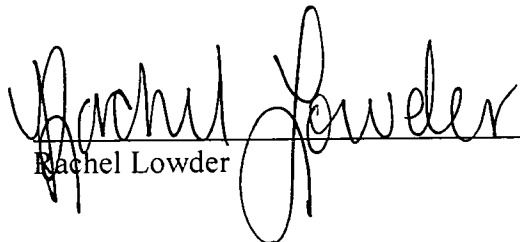
I certify that I have served the Respondent's Return To Appellant's Memorandum Of Law In Support Of Its Motion To Consolidate, by depositing a copy of it in the U.S. Mail, postage prepaid, on July 11, 2016, to the following counsel of record, at the below indicated address:

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^{††}Certified Mediator

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VIA HAND DELIVERY

The Honorable Jenny Abbott Kitchings
South Carolina Court of Appeals
P. O. Box 11629
Columbia, SC 29211

Re: Kim Murphy v. Richland-Lexington School District No. 5 by and through
Counsel to the Board of Trustees
Appellate Case No. 2016-000211

Dear Ms. Kitchings:

Enclosed, please find the original and seven copies of Respondent's Return to Appellant's Memorandum of Law in Support of Its Motion to Consolidate and Proof of Service. Please return a clocked in copy to our courier.

Please do not hesitate to contact me if you have any questions or concerns.

Sincerely yours,

John M. Reagle

jreagle@childs-halligan.net

Encl.
/rml

c: Chelsea R. Rikard, Esq.
Michael H. Montgomery, Esq.
David L. Morrison, Esq.
Patrick J. Frawley, Esq.