

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED
AUG 24 2016
SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

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

Case No. 2015-CP-07-1343
Appellate Case No. 2016-000955

John Alden Bauer, III,

Appellant,

v.

Beaufort County School District,

Respondent.

**RESPONDENT'S MOTION TO STRIKE PORTIONS OF APPELLANT'S SECOND
AMENDED DESIGNATION OF MATTER**

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Respondent Beaufort County School District moves to strike portions of Appellant's Second Amended Designation of Matter and for the additional relief requested herein. In an Order filed by this Court on July 29, 2016, granting in part Respondent's motion to strike Appellant's Designation of Matter and Initial Brief, Appellant was directed to serve and file an Amended Designation of Matter designating only those matters actually presented to the lower court pursuant to Rule 210 (c). Contrary to the Order, Appellant's Second Amended Designation of Matter still lists several documents that were not presented to the lower court. The improper documents, as enumerated by Appellant (*see* Second Amended Designation of Matter, Addendum pp. 6-9), are as follows:

Under the heading "Motions":

- "(Motion to Board to Schedule Hearing, October 21, 2015----referenced repeatedly at Board Hearing and Court of Common Please; not challenged)"

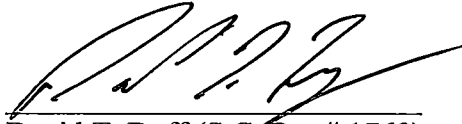
Under the Heading "Documents":

- "1. Board Minutes, 6/5/14 (Published Public Document)"
- "4. Ratification of Termination (Published Public Document)"
- "13. FOIA request for emails"
- "17. Withheld. Grade Book. True."
- "26. Dr. Rosenbaum-Bloom Affidavit 3/2/16 (Court of Common Pleas)"
- "31. BH-A28. George McMaster 5/21/14. Litigation Hold letter to preserve evidence."
- "38. Final Termination Documents July 1, 2014 (withheld until June 14, 2016)"
- "39. Lauren Martel Affidavit"

These documents were not entered into evidence in the proceedings below. *See* Exhibit A. Therefore, these matters may not be considered by this Court, and Appellant should not be allowed to designate them or cite to them in his Amended Initial Brief. Their inclusion in Appellant's Designation of Matter and their use as an evidentiary basis for arguments in Appellants Amended Brief directly impairs the preparation of Respondent's Initial Brief, in that Respondent would be required to respond to contentions and evidentiary matter not properly before this Court. Accordingly, Respondent requests that this motion to strike be granted and that Appellant be required to file a revised Second Amended Designation and further amend his Initial Brief.

<Signature Block on Next Page>

Respectfully Submitted,



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Attorneys for Respondent Beaufort County
School District

August 24, 2016

EXHIBIT A

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

 ORIGINAL

JEFFREY C. MOSS, Ed.D.,)
)
Petitioner,)
)
-versus-)
)
JOHN ALDEN BAUER, III,)
)
Respondent.)
_____)

S.C. Code of Laws 59-25-470
Hearing

Hearing before the Beaufort County
School District Board of Trustees held April 30th
through May 2nd, 2015, at the Main Offices of the
Beaufort County School District, 2900 Mink Point
Boulevard, Beaufort, South Carolina, commencing
at approximately 4:35 p.m.

Bettye Anderson & Associates

Professional Court Reporters
6020 Dowlingwood Drive
Beaufort, South Carolina 29902
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www.anderson-reporting.com

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APPEARANCES

Board of Trustees: Bill Evans, Chair
Laura Bush, Secretary
Evva Anderson
Jim Beckert
Earl Campbell
Joseph Dunkle
JoAnn Orischak
Bill Payne
Michael Rivers

Board Counsel: David T. Duff, Esquire

For the Petitioner: Shirley M. Fawley, Esquire
Vernie L. Williams, Esquire
CHILDS & HALLIGAN, P.A.
1301 Gervais Street, Suite 900
Columbia, South Carolina 29211

For the Respondent: John Alden Bauer, III
Pro Se Respondent

Also present: John Alden Bauer, Jr.
(Referred to herein as
"MR. JOHN BAUER")

Reported by: Matthew Hazen Anderson
Notary Public/Court Reporter

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** REPORTER'S NOTE **
All exhibits marked prior to going on the record.

REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Description</u>
1	Documentation regarding 11/1/13 incident
2	Photographs of gym
3	Acknowledgment of receipt of documentation regarding 11/1/13 incident
4	IS-2, teacher expectations and accountability policy
5	HRS-4, staff conduct policy
6	SS-1, student goals and objectives policy
7	Email from Brockway to Walton 2/5/14
8	Email from Brockway to McAden 2/13/14
9	Email chain between Clendaniel and Bauer dated 1/28/14
10	Note from Clendaniel 2/4/14
11	Emails from Brammer to Bauer 2/5/14
12	Email from Clendaniel to McAden and Brockway dated 2/5/14
13	Email from Clendaniel to Bauer 2/5/14
14	Outlook invitation from Clendaniel to Bauer 2/5/14

REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Description</u>
15	Notes from Clendaniel following 2/5/14 conference with Bauer
16	Memo from Clendaniel to Bauer dated 2/5/14 with Bauer acknowledgment of receipt
17	Letter from McAden to Bauer 12/10/13
18	Email from McAden to Walton 2/6/14
19	Email from McAden to Walton 2/6/14 and 3/19/14
20	Email from McAden to Bauer 3/17/14
21	Email from McAden to Bauer 6/9/14
22	Master Scheduled 2013-14
23	Letter from Moss to Bauer 2/2/14 with contract
24	Email from Moss to Bauer and Walton 4/28/14 at 6:45 p.m.
25	Email from Moss to Bauer 4/28/14 at 8:24 p.m.
26	Email from Bauer to Moss 4/28/14 at 8:31 p.m.
27	Email from Moss to Bauer 4/28/14 at 8:48 p.m.
28	Letter from McMaster to Walton 5/21/14
29	Email from Moss to Bauer 5/22/14 at 9:07 a.m.
30	Email from Moss to Bauer 5/22/14 at 3:07 p.m.
31	Email from Bauer to Moss 5/22/14 at 4:35 p.m.
32	Email from Moss to Bauer 5/22/14 at 4:54 p.m.

Betty Anderson & Associates
Beaufort, South Carolina

Petitioner's Exhibits

(843)525-0791 (800)543-5506

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REPORTER'S INDEX TO PETITIONER'S EXHIBITS

<u>Number</u>	<u>Description</u>
33	Email from Bauer to Moss 5/25/14
34	Email from Bauer to McAden 5/27/14
35	Email from Moss to Bauer 5/28/14 at 5:29 p.m.
36	Email from Bauer to Moss 5/28/14 at 6:47 p.m.
37	Email from Moss to Bauer 5/28/14
38	Email from Bauer to Moss 5/28/14 at 7:22 p.m.
39	Email from Bauer to Moss 5/28/14 at 7:36 p.m.
40	Email from Moss to Bauer 5/29/14
41	Letter from Moss to Bauer 6/6/14

<u>Number</u>	<u>Walton De Bene Esse</u>
1	IS-2, teacher expectations and accountability policy
2	Roll book
3	Letter from Walton to Bauer 2/7/14
4	Email from Walton to Bauer 3/25/14
5	Email from Walton to Bauer 4/1/14
6	Letters from Dr. Rosenbaum-Bloom to Bauer 3/27 and 3/28 of 2014

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<u>Number</u>	<u>Walton De Bene Esse</u>
7	HRS-16, staff leaves and absences
8	Email from Bauer to Walton 4/24/14
9	Email string between Walton, Bauer, and Moss 4/28/14
10	Letter from Walton to Bauer 4/29/14
11	Email from Walton to Bauer 5/8/14
12	Letter from Walton to Bauer 5/29/14

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REPORTER'S INDEX TO RESPONDENT'S EXHIBITS

<u>Number</u>	<u>Description</u>
2	Clendaniel summary dated 2/4/14 with attached email
19 19-A	11/1/13 acknowledgment of receipt of document 11/1/13 Brockway documentation of incident
42-A	Printout of SC Code 59-25-430 to 59-25-530
45	Printout of McAden letter dated 12/10/13
47	Rosenbaum-Bloom's letter dated 3/28/14
49	Email from Bauer to Walton & Moss dated 4/30
51	HRS-16, Staff Leaves and Absences
59	Printout of Brown v. James decision
94	Timeline of events and emails between Walton and Bauer concerning Rosenbaum-Bloom
98	Letter from Walton to Bauer dated 5/29/14
118	Email from Thune to Bauer dated 12/12/14
121 121-P	Email from McAden to Bauer dated 2/4/14 Collection of emails between McAden and Bauer
148	Collection of testimonials
170	Email string ending 9/18/14 at 2:06 p.m. between Bauer and L. Arnold at Island Rec Center
225	Document entitled "Assumed Charges" with attached emails from Moss to Bauer

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REPORTER'S INDEX TO RESPONDENT'S EXHIBITS

<u>Number</u>	<u>Description</u>
262	Collection of emails concerning cameras
265	Collection of emails concerning the Bauer truck
266	Collection of emails concerning radio transmissions
267	Printout of gym work orders
269	String of correspondence between Bauer and Walton, ending 4/2/15, concerning benefits
272	Collection of emails concerning substitute teachers
275	Certified mail receipt of shipment to Walton postmarked 4/3/15
276	Printout of job posting for PE position entitled "Job Description"
S-1	Supplemental exhibit: email from Bauer to Clendaniel, Owen, and McAden 5/15/13

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Appearances

Representing the Plaintiff:

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Pro Se

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Appearances

Representing the Appellant:

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State of South Carolina) Court of Common Pleas
County of Beaufort) 14th Judicial Circuit
No.: 2015-CP-07-1343

John Alden Bauer, III,)
Appellant,)
vs.)
Beaufort County School)
District,)
Respondent.)

HEARING

March 4, 2016

COPY

Hearing reported by Deborah S. Thomas,
Certified Verbatim Reporter and Notary Public in and
for the State of South Carolina; said hearing held
before the Honorable Marvin H. Dukes, III, Beaufort
County Master in Equity and Special Circuit Court
Judge in accordance with the South Carolina Rules of
Civil Procedure, at the Beaufort County Courthouse,
102 Ribaut Road, Room 212, Beaufort, South Carolina,
on March 4, 2016, at the hour of 9:01 a.m.

THOMAS REPORTING SERVICES
156 Argent Way
Bluffton, South Carolina 29909
(803) 206-7390

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Appearances

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* * * * *

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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SC Court of Appeals

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

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

Case No. 2015-CP-07-1343
Appellate Case No. 2016-000955

John Alden Bauer, III,

Appellant,

v.

Beaufort County School District

Respondent.

PROOF OF SERVICE

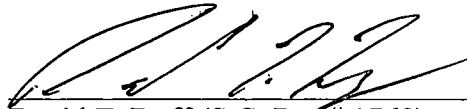
I certify that I have served Respondent's Motion to Strike Portions of Appellant's Second Amended Designation of Matter, by depositing a copy of it in the United States Mail, postage prepaid, on August 24, 2016, addressed to *pro se* Appellant John Alden Bauer, III, 5 Gumtree Road E-11, Hilton Head Island, South Carolina, 29926.

August 24, 2016

SEE SIGNATURE NEXT PAGE

DEPARTMENT OF
WATER RESOURCES
MEMPHIS, TENN.

2
1



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† CERTIFIED CIVIL ARBITRATOR AND MEDIATOR

August 24, 2016

VIA HAND-DELIVERY

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RECEIVED
AUG 24 2016
SC Court of Appeals

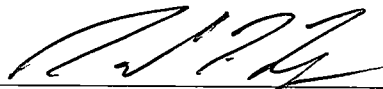
Re: John Alden Bauer, III, v. Beaufort County School District
C.A. No. 2015-CP-07-1343
Appellate Case No. 2016-000955

Dear Ms. Kitchings:

Enclosed for filing is the original and six copies of Respondent's Motion to Strike Portions of Appellant's Second Amended Designation of Matter along with Proof of Service for same.

Thank you for your assistance in this matter.

Sincerely,



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Enclosures

The Honorable Jenny Abbott Kitchings

August 24, 2016

Page 2

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AUG 24 2016

SC Court of Appeals

VIA HAND-DELIVERY

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Clerk, South Carolina Court of Appeals
1015 Sumter Street
Columbia, South Carolina 29201