THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
R. Keith Kelly, Circuit Court Judge
Trial Court Case No. 2015CP4201688

Appellate Case No. 2015-002650

Dedra H. Kiser, ... Appellant,

v.

Spartanburg School District 7, ... Respondent.

FINAL BRIEF OF RESPONDENT

Kenneth E. Darr, Jr.
Kenneth W. Nettles, Jr.
Lyles, Darr & Clark, LLC
Post Office Box 5726
Spartanburg, South Carolina 29304-5726
(864) 585-4806
Attorneys for Respondent

TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

STATUTES

STATEMENT OF ISSUES ON APPEAL

1. Is there substantial evidence in the record to support the decision of the Spartanburg School District Seven Board of Trustees to immediately terminate Appellant for conduct manifesting an evident unfitness for teaching due to her failure to ensure and protect the safety and well-being of seven School District students entrusted to her care?

2. Did the Spartanburg School District Seven Board of Trustees violate the South Carolina Teacher Employment and Dismissal Act by immediately terminating Appellant for failing to ensure and protect the safety and well-being of seven School District students entrusted to her care before adjudication of her pending criminal charges?

STATEMENT OF THE CASE

This is a teacher dismissal appeal pursuant to § 59-25-480 of the South Carolina Teacher Employment and Dismissal Act ("TEDA"). S.C. Code Ann. § 59-25-410 et seq.

Respondent, Spartanburg School District 7 (the "School District"), employed Appellant, Dedra Kiser ("Kiser"), as a math teacher at Spartanburg High School ("SHS") and an assistant coach for the SHS girls' cross-country team. On September 26, 2014, the School District entrusted Kiser with driving seven members of the SHS girls' cross-country team from Spartanburg to Charleston for a meet. The girls were thirteen to seventeen years old. Three girls were SHS students, and the other girls attended the SHS Freshman Academy or middle school.

Kiser drove a Suburban owned by the School District. On Interstate 26, two other drivers called 911 to report the Suburban was swerving all over the road. One driver reported Kiser was driving like she might be intoxicated. Kiser was subsequently stopped by a South Carolina Highway Patrol ("SCHP") officer on Interstate 26. During the traffic

stop, Kiser was administered a field sobriety test and she was arrested. The seven students were abandoned to police custody on the side of Interstate 26 nearly four hours and over 200 miles from home.

The School District placed Kiser on paid administrative leave pending an investigation of the incident. The Superintendent, Dr. Russell Booker, reviewed the SCHP incident report and the three SHS students' accounts of Kiser's erratic driving, the traffic stop, and their detention in police custody. Dr. Booker also met with Kiser to hear her account of the events. Kiser admitted, among other things, that she was driving at least 85 miles per hour and endangering the students, and she failed a field sobriety test after being stopped by a SCHP officer in response to reports of her reckless driving. Based on the incident report, the students' accounts, and Kiser's admissions, Dr. Booker concluded there were good and sufficient reasons to terminate Kiser.

By letter dated September 29, 2014, in accordance with TEDA, Dr. Booker notified Kiser in writing of his recommendation to the School District's Board of Trustees (the "School Board") that her employment be terminated immediately for conduct manifesting evident unfitness for teaching "due to the extreme hazard to the safety and well-being of the student-athletes entrusted to your care, misuse of a school district vehicle, and multiple violations of the law and school district policy, not to mention extremely poor judgment." He also notified Kiser of her right to request a hearing before the School Board. S.C. Code Ann. §§ 59-25-430 and -460.

Kiser requested a hearing before the School Board. Prior to the hearing, Kiser's attorney deposed numerous witnesses, including: Dr. Booker; the Assistant Superintendent for Personnel, Dr. Carlotta Redish; the SHS Principal, Jeff Stevens ("Principal Stevens");

the assistant coach for the SHS boys' cross-country team, John Freed ("Coach Freed"); and the three SHS students who were riding in the vehicle, E.B., C.Y., and M.G.[1] S.C. Code Ann. § 59-25-490. At Kiser's request, the School District produced her personnel file, the SCHP incident report, maintenance records for the School District's Suburban she was driving, and other documents. At Kiser's request, she and her attorney inspected and took pictures of the Suburban. The parties agreed affidavits could be used at the hearing in lieu of live testimony.

On March 18, 2015, the School Board conducted a dismissal hearing in accordance with TEDA.[2] S.C. Code Ann. §§ 59-25-460 and -470. In advance of the hearing, each party submitted to the School Board a pre-hearing brief, witness list, exhibits, and deposition excerpts. The School Board also had the opportunity to review the transcripts from the depositions of E.B., C.Y., and M.G. prior to the hearing.[3] At the hearing, the

---

[1] The students were minors and are referred to by their initials.

[2] TEDA required the School Board hold the hearing not less than ten nor more than fifteen days after the hearing request was served. S.C. Code Ann. § 59-25-470. The School Board initially scheduled the hearing for October 30, 2014. At Kiser's request, and upon her agreement to waive the fifteen day hearing requirement, the hearing was rescheduled multiple times to allow her attorney to conduct additional discovery.

[3] Any alleged delay in the School Board hearing due to the issuance of subpoenas for the students' depositions was due to Kiser's attorney's insistence the School Board issue the subpoenas. Kiser's attorney wished to depose the students, but he demanded the School Board issue the subpoenas. The School District informed Kiser's attorney that School Board action was unnecessary because under § 59-25-490 of TEDA any party may depose witnesses in accordance with the rules of civil procedure. Kiser nevertheless filed a separate lawsuit seeking a writ of mandamus to require the School District to issue subpoenas. The issue was then resolved by consent order in which Kiser's attorney agreed he could issue the subpoenas in accordance with § 59-25-490 and Rule 45(a)(3), SCRCP. As a grounds for her appeal to the Circuit Court, Kiser asserted the School Board violated her procedural due process rights by refusing to issue deposition subpoenas to the three SHS students. The Circuit Court found Kiser's due process rights were not violated because she was not denied the opportunity to depose the students before the School Board

administration introduced evidence and testimony from Dr. Booker and Principal Stevens in support of the grounds for termination as set forth in Dr. Booker's September 28, 2014, letter. Kiser was given a full and fair opportunity to cross-examine the administration's witnesses, to present her own testimony, witnesses, and evidence, and to present all available defenses.

At the conclusion of the hearing and after deliberation in executive session, the School Board voted unanimously to accept Dr. Booker's recommendation for immediate termination. On March 27, 2015, the Board issued a written decision setting forth its findings of fact and conclusions. S.C. Code Ann. §§ 59-25-470. The School Board concluded, *inter alia*, that "Regardless of whether Ms. Kiser was intoxicated or is eventually convicted of DUI or any other crime, substantial evidence presented to the Board clearly establishes that her lack of good judgment and failure to exercise reasonable care recklessly endangered the safety and well-being of her students and resulted in her students being taken into protective custody by law enforcement in violation of School District policies governing staff conduct and responsibilities with students."

Kiser appealed the School Board's decision to the Circuit Court. A hearing was held on November 2, 2015, before the Honorable R. Keith Kelly. After consideration of the parties' briefs and arguments presented at the hearing, the record of the School Board hearing, the School Board's written decision, and the applicable law, Judge Kelly affirmed the School Board's decision by order entered November 23, 2015. Judge Kelly held substantial evidence in the record supported the School Board's decision to terminate Kiser

---

hearing. (R. p. 16). Kiser does not appeal from that portion of the Circuit Court's order, and this appeal does not concern any issue relating to her separate lawsuit for a writ of mandamus.

based on her reckless and dangerous driving that endangered the safety and well-being of the students, and ultimately resulted in their being detained in protective custody by law enforcement. Judge Kelly also held the School Board's decision did not violate § 59-25-430 or any other provision of TEDA.

Kiser now appeals from the order of the Circuit Court. Respondent received Appellant's Notice of Appeal from the Circuit Court order on January 14, 2016.[4] Appellant's counsel received the transcript of the Circuit Court proceedings on April 11, 2016. On May 9, 2016, Appellant's counsel requested a thirty-day extension to file Appellant's initial brief. Appellant's initial brief was served by mail on June 10, 2016.

ARGUMENTS

This is not a case of mere "bad driving" as Appellant contends. At issue in this case is the power, duty, and discretion of a school board to immediately dismiss a teacher who has completely failed in her duty and responsibility to exercise good judgment and reasonable care to ensure and protect the safety and well-being of students entrusted to her supervision and care. Throughout this case, including this appeal, Appellant has not refuted the substantial evidence of her reckless driving that resulted in seven students being abandoned on the roadside and detained in protective custody by law enforcement. Rather, as the record shows, Appellant has simply trivialized and excused her decisions and actions as "poor driving," denied she was intoxicated, and bemoaned the horrible situation she was put in (as a result of her own decisions and actions).

[4] It appears Appellant's counsel attempted to serve the Notice of Appeal by mail on December 23, 2015, but it was returned to the sender due to an insufficient address.

At all relevant times, Appellant was solely responsible for her decisions and actions, and she was responsible for the supervision, care, and safety of seven students entrusted to her care. Regardless of whether Appellant typically drives "aggressively and fast," and regardless of whether Appellant was or was not intoxicated, her decisions and actions on September 26, 2014, needlessly and recklessly exposed seven students to a credible risk of injury, which inexcusably ended with seven students being detained in police protective custody while over 200 miles from home – a horrible situation over which they had absolutely no control. The School District respectfully submits that it would be a horrible and absurd result to find that a school board cannot immediately dismiss a teacher for conduct that endangers students and which ends with the students being abandoned to the protective custody of law enforcement.

A. SUBSTANTIAL EVIDENCE SUPPORTS THE SCHOOL BOARD'S DECISION TO DISMISS KISER FOR CONDUCT MANIFESTING AN EVIDENT UNFITNESS TO TEACH DUE TO HER FAILURE TO ENSURE AND PROTECT THE SAFETY AND WELL-BEING OF SEVEN SCHOOL DISTRICT STUDENTS ENTRUSTED TO HER CARE IN VIOLATION OF SCHOOL DISTRICT POLICIES

Judicial review of a school board's decision to terminate a teacher for conduct manifesting an evident unfitness to teach is limited to a determination of whether the decision is supported by substantial evidence in the record. Kizer v. Dorchester County Vocational Educ. Bd. of Trustees, 287 S.C. 545, 548, 340 S.E.2d 144, 146 (1986). "Substantial evidence" is not a mere scintilla of evidence nor the evidence viewed blindly from one side of the case, but is evidence which, considering the record as a whole, would allow reasonable minds to reach the conclusion the School Board reached or must have reached to justify its action. Id. The court cannot substitute its own judgment for that of

the school board. Id. The school board's decision must be sustained if any charge against the teacher is supported by substantial evidence. Laws v. Richland County Sch. Dist. No. 1, 270 S.C. 492, 495-496, 243 S.E.2d 192, 193 (1978). In this case, there is more than sufficient evidence in the record to support the School Board's decision.

Kiser argues there is not substantial evidence in the record that she manifested an evident unfitness for teaching because "there is absolutely no nexus between being a good driver and being a good teacher." This self-serving argument not only misses the mark, it flies wide of the entire target. It is plainly clear from the School Board's decision that Kiser was not dismissed for a trivial and inconsequential occurrence of "poor driving." The School Board found Kiser "recklessly endangered the safety and well-being of seven students in violation of Board policies and expectations governing staff conduct and responsibilities with students." (R. pp. 107-108). Kiser's argument that the Circuit Court and School Board erred in finding her "poor driving" manifested an evident unfitness for teaching is not supported by the record or applicable law.

School boards are vested with the power, function, and discretion to immediately dismiss teachers whose conduct manifests an evident unfitness for teaching. S.C. Code Ann. § 59-25-430; Kizer, 287 S.C. at 550, 340 S.E.2d at 147. Section 59-25-430 of TEDA provides a teacher may be immediately dismissed if the teacher fails, or is incompetent, to give instruction in accordance with the directions of the superintendent, ***or*** the teacher shall ***otherwise*** manifest an evident unfitness for teaching. S.C. Code Ann. §59-25-430 (emphasis added). The statues sets forth a non-exclusive list of conduct otherwise exemplifying evident unfitness to teach, "such as, *but not limited to*, the following: persistent neglect of duty, willful violations of rules and regulations of district board of

trustees, drunkenness, conviction of a violation of the law of this State or the United States, gross immorality, dishonesty, illegal use, sale or possession of drugs or narcotics." Id. (emphasis added).

In this case, Kiser was dismissed because she recklessly endangered the safety and well-being of seven students in violation of School District policies. Section 59-25-430 explicitly contemplates willful violations of school board rules and regulations as grounds for immediate dismissal. The statute certainly does not preclude immediate dismissal for recklessly endangering the safety and well-being of students in complete disregard of school board policies. Substantial evidence in the record establishes that Kiser's duty and responsibility to at all times exercise good judgment and reasonable care to ensure the safety and well-being of students was a primary and essential function of her job as a teacher and coach. Dr. Booker testified about Kiser's contract, performance responsibilities, and the School District's policies and expectations. Kiser's contract required that she comply with all School District policies and regulations. Kiser's contract encompassed extracurricular assignments, stating the administration may assign extracurricular activities, including coaching assignments. (R. p. 154, line 8–p. 155, line 13; R. p. 295). Kiser was not excused or exempt from complying with School District policies and regulations in performing her extracurricular assignments as an assistant cross-country coach.

The School District's written performance responsibilities for teachers required Kiser to "take all necessary and reasonable precautions to protect students." (R. p. 154, line 22–p. 155, line 8; R. pp. 296-297). The School District's policies and regulations also required Kiser to at all times exercise good judgment and reasonable care to ensure the

safety and well-being of students. Policy GBE requires all staff members to carry out their assigned responsibilities with conscientious concern, including specifically "concern and attention toward his/her own and the board's legal responsibility for the safety and welfare of students, including the need to insure that students are under supervision at all times." (R. p. 155, lines 9-22; R. p. 298). Policy GBEBB requires all employees "to exercise good judgment and maintain professional boundaries when interacting with students, in all curricular ***and extracurricular*** activities, both on and off school property." (R. p. 156, line 19–p. 157, line 2; R. p. 301). Administrative Rule GBEBB-R specifically directs that "staff members will maintain a reasonable standard of care for the supervision, control, and protection of students commensurate with their assigned duties and responsibilities." (R. p. 157, lines 3-16; R. p. 302). Dr. Booker further testified: "Now, even after hours, you're always an educator, but at a minimum when you have students in your care, whether you are a coach, whether you are sponsoring a club, whether you are directing a band, you know, when you have children in your care there should be an expectation to make sure that the children are safe." (R. p. 152, line 22-p. 154, line 4; R. p. 166, lines13-23). Kiser has never disputed it was her duty and responsibility to protect the safety and well-being of the seven students entrusted to her care at all times, whether she was teaching in the classroom or coaching extracurricular athletic events.

Substantial evidence in the record supports the School Board's finding that Kiser recklessly endangered the safety and well-being of seven students in complete disregard and violation of its policies and expectations governing staff conduct and responsibilities with students. On Friday, September 26, 2014, the School District entrusted Kiser with driving seven members of the SHS girls' cross-country team to Charleston for a meet. The

girls were thirteen to seventeen years old. Three girls, E.B., C.Y., and M.G., were SHS students. The other girls attended the Freshman Academy or middle school. (R. p. 147, line 20-p. 148, line 11). It is undisputed Kiser was at all times acting as a School District employee. It is also undisputed Kiser did not do what she was entrusted to do – ensure the seven students arrived safely at their destination.

Despite advance notice of the trip, Kiser was ill-prepared to drive seven students more than 200 miles. The night before the trip, she drank a moderate amount of wine and worked around the house until 2:00 a.m. when she finally went to bed. (R. p. 206, lines17-25; R. pp. 292-294). She woke up at 6:00 a.m., having at most four hours of sleep. (R. p. 205, lines 5-6). She did not shower and had almost nothing to eat or drink all day. (R. p. 221, lines 8-17; R. pp. 292-294). Kiser was not well prepared and was admittedly tired. (R. p. 221, lines 18-20; R. p. 248, lines 11-15).

The expectation was for the girls' and boys' cross-country teams to leave SHS at 1:45 p.m. and caravan to Charleston. (R. p. 207, lines 17-25; R. p. 212, lines 7-19; R. p. 219, line 17-p. 220 line 3).[5] However, Kiser arrived late to SHS. (R. p. 207, lines 17-25). As a result, the teams departed SHS about 2:00 p.m., fifteen to twenty minutes behind schedule. (Id.). Although already behind schedule, Kiser made two unplanned and unauthorized detours before leaving Spartanburg. She first drove to E.B.'s house to get a CD player. (R. p. 212, lines 11-19). She then drove to her own house to get an e-cigarette charger.[6] (R. p. 213, lines 7-15). As a result, the girls' team left Spartanburg about twenty

[5] Coach Freed drove the boys' cross-country team to Charleston in a separate vehicle.

[6] At the School Board hearing, Kiser confessed she secretly smoked her e-cigarette throughout the trip. She concealed her smoking while driving from the girls because "I know the negative connotations of smoking." (R. p. 214, lines 13-15, R. p. 238, line 21-p. 239, line 3). She secretly smoked while driving the Suburban in disregard of the students'

minutes behind the boys' team and thirty to forty minutes behind schedule. (R. p. 215, lines 17-19; R. p. 237, line 22-p. 238, line 20).

Leaving Spartanburg, Kiser intentionally ran a red light turning left onto Highway 56 – a two-lane "back road" between Spartanburg and Clinton. (R. p. 423, lines 2-17; R. p. 455, lines 3-23; R. p. 464, lines 1-5). Kiser drove fast and erratically on Highway 56. E.B. testified, "I just remember we took back roads for a really long time. And we were going really fast. ... And I just remember going really, really fast and hitting a mailbox." (R. p. 424, lines 6-22; R. p. 323). C.Y. testified, "And on those back roads she kind of swerved off the road a little bit and chipped a mailbox. That was on my side. ... I could tell that she was drifting over too much. And then I heard it and I saw her hit it." (R. p. 444, lines 1-24; R. p. 324). M.G. testified, "I heard the sound of the mailbox hit the side mirror. And I felt the car shake from it." (R. p. 465, lines 12-16; R. pp. 325-326). Kiser denied it and played it off as a joke. (R. p. 425, lines 11-17; R. p. 445, lines 3-20; R. p. 216, line 16-p. 217, line 8; R. p. 241, lines 1-3; R. p. 324; R. pp. 325-326).

Kiser's fast and erratic driving continued on Interstate 26. By law, the maximum speed limit on interstate highways is 70 miles per hour. S.C. Code Ann. § 56-5-1520(B). In this case, there is substantial and uncontroverted evidence Kiser drove at dangerous speeds of 85 to 95 miles per hour. E.B. testified, "We were going really, really fast. ... And we would pass a lot of people and trail them, get really close up, bumper to bumper, really close. And I remember seeing the speedometer after my friend [M.G.] had pointed it out. It was over 90 several times." (R. p. 427, lines 1-7; R. p. 323). C.Y. also testified

---

safety and School District policies that prohibit smoking by all staff in its vehicles and in the presence of students.

Kiser was driving 90 miles per hour, and when she told Kiser how fast she was going, Kiser "was just kind of like, we have to get there, don't we?" (R. p. 448, lines 4-13; R. p. 324). M.G. also testified Kiser was speeding, "and I looked at the speedometer and I saw then it was over 90 and one time over 95." (R. p. 468, line 23-p. 469, line 5; R. p. 473, line 24-p. 474, line 9; R. pp. 325-326). Kiser even testified she was driving "aggressively and fast" that day, and admitted speeding at 85 and 90 miles per hour at times. (R. p. 217, lines 9-25; R. p. 219, lines 7-16; Appellant's Br. p. 15).

In addition to speeding, there is substantial evidence Kiser was recklessly drifting and swerving all over and off the road. M.G. testified that Kiser "drove on the rumble strips a lot, on both sides of the road." (R. p. 468, line 23-p. 469, line 5; R. pp. 325-326). E.B. and M.G. also testified that at one point the traffic in front of the Suburban had slowed down almost to a stop, and Kiser had to slam on the brakes and swerve to the shoulder of the road to avoid hitting the car in front of them. According to E.B., "we were going so fast that she had to pull off the side of the road because if she hadn't we would have slammed full force into the car in front of us. We slid in right next to them. And it would have been really bad." (R. p. 427, lines 7-13; R. p. 476, lines 9-16; R. p. 323; R. pp. 325-326).

Two other drivers on Interstate 26 called 911 to report Kiser's erratic and reckless driving. The first 911 call was made near mile marker 156, and the caller reported the Suburban was "swerving all over the place." (R. p. 162, lines 9-22; R. pp. 303-309; R. pp. 312-322). The second 911 call was made near mile marker 200, and that caller also reported the Suburban was "swerving all over the road." The second caller exclaimed "it's really bad. … I think she might be intoxicated to be honest with you – oh, my God. They

need to stop her." (R. p. 16, line 1-p. 164, line 1; R. pp. 303-309; R. pp. 312-322). The SCHP issued a "BOLO reckless driver...a blue Suburban swerving all over the road." (R. p. 144, lines 7-13; R. pp. 303-309; R. pp. 312-322).

An off-duty traffic safety officer with the Goose Creek Police Department also observed Kiser's erratic and reckless driving on Interstate 26.[7] He first noticed the Suburban because it was tailgating his marked Goose Creek Police Department car. After allowing it to pass, he observed the Suburban swerving from side to side across the fog lines and center lines of traffic, drifting across and straddling the center line occupying two lanes at the same time, and slamming on brakes and swerving into the emergency lane to avoid hitting the car in front of it. The Goose Creek officer believed the Suburban was being driven in an erratic and reckless manner that endangered the safety of its occupants and other drivers. He stopped and informed the SCHP officer about what he had observed and that he suspected the driver might be intoxicated. (R. pp. 305-322).

Kiser was not surprised when the SCHP officer stopper her. She admitted, "I knew I had hit the rumbles; I knew I had veered off there. I knew I had been speeding, so I thought I was getting a speeding ticket." (R. p. 224, lines 2-9). She even asked the SCHP officer to "just go ahead and write me a ticket for speeding." The officer replied "no" and instructed her to get out of the car. (R. p. 224, line 16-p. 225, line 4; R. p. 248, line 21-p. 249, line 17). Kiser even now concedes there was probable cause for the SCHP offer to

[7] The officer testified by affidavit that he was returning to Goose Creek from officer training at the Criminal Justice Academy in Columbia, was off duty and outside of his jurisdiction when he observed the Suburban, and, therefore, without authority to initiate a traffic stop. (R. pp. 310-311).

stop her for suspicion of driving under the influence. (Appellant's Br. p. 13; R. p. 248, line 21-p. 249, line 17).

From inside the Suburban, the seven students observed as Kiser performed various sobriety tests, was then handcuffed, and was placed in the police officer's car. According to E.B., "a lot of us started crying." (R. p. 431, lines 17-20; R. p. 323). C.Y. testified, "I was scared." (R. p. 458, line 25-p. 459, line 1). The SCHP took the girls into protective custody. (R. p. 140, line 23-p. 143, line 18; R. pp. 305-309; R. p. 323). The scared and distressed girls were split up, put into patrol cars, and taken to SCHP headquarters. (R. pp. 305-309; R. p. 323).

When Coach Freed learned about the situation, he went to SCHP headquarters.[8] Despite Dr. Booker's pleas, SCHP would not release the students to Coach Freed. Dr. Booker and the girls were told their parents had to pick them up, or they would be remanded to DSS custody. (R. p. 434, lines 1-4; R. p. 141, line 1-p. 142, line 19). The girls were detained at SCHP headquarters four to five hours until their parents were notified and drove from Spartanburg to Charleston to pick them up. (R. p. 433, lines 6-8; R. p. 484, lines 6-9; R. p. 140, line 23-p. 143, line 18).

The accounts of Kiser's reckless driving are uncontroverted. Kiser has merely offered mitigating factors and excuses for her conduct. For example, she suggests she could not control the Suburban because it was too big, had mechanical issues such as loose

[8] Kiser's contention that Coach Freed's deposition testimony about what the girls said (or did not say) to him at the SCHP headquarters "is crucial" is self-serving. (Appellant's Br. pp. 6-7). Coach Freed testified during the School Board hearing, but Kiser's counsel failed to elicit "crucial" testimony about any conversations he had with any of the students at the SCHP headquarters. Additionally, Coach Freed's deposition testimony about what any of the girls said or believed is hearsay and does not supplant the SHS students' own deposition testimony in the record.

steering, and lacked cruise control. However, there is no evidence that a mechanical issue caused the Suburban to speed at 15 to 25 miles per hour over the speed limit, drift off the road, or swerve all over the road. By all accounts, the Suburban was mechanically sound and safe to drive. Coach Freed, the cross country team head coach, Jack Todd, and the SHS assistant principal, David Lawson, all testified they had previously driven the Suburban without any problems or difficulty keeping it on the road. (R. p. 255, line 17-p.256, line 17; R. p. 258, lines 6-21; R. p. 264, lines 16-25; R. p. 267, line 13-p. 268, line 11). E.B., C.Y., and M.G. each testified she had previously ridden in the Suburban with Coach Freed and Coach Todd driving, and neither coach seemed to have any trouble keeping it on the road or in the lanes of traffic. (R. p. 442, lines 11-24; R. p. 470, lines 4-18). Dr. Booker, Coach Todd, and Coach Freed all testified they would not have allowed students to be transported in the Suburban if they had any reason to believe it was unsafe. (R. p. 166, lines 3-8; R. p. 258. Lines 14-17; R. p. 264, lines 16-19). As the School Board concluded, if Kiser experienced loose steering or other mechanical problems that made it difficult to keep the Suburban on the road, good judgment and reasonable care dictated that she not drive at speeds of 85 to 90 miles per hour, but rather that she stop the vehicle, or at a minimum drive with extreme caution, and report the problem to School District officials. (R. p. 108). Dr. Booker testified Kiser did not report any mechanical issues or problems with driving the Suburban. (R. p. 149, line 20-p. 150, line 11). At the School Board hearing, when asked on cross-examination if she was blaming some mechanical condition for her driving and behavior that day, Kiser answered "no." (R. p. 248, lines 6-9).

Similarly, Kiser unconvincingly attempts to characterize her reckless driving as normal and routine driving. She asserts she normally drives "aggressively and fast," as

though it were an uncontrollable tic or reflex. (R. p. 219, lines7-16, R. p. 241, line 7- p. 242, line 9; Appellant's Br. p. 15). She justifies her driving 15 to 25 miles per hour over the speed limit with seven students in tow by claiming "Coach Freed acknowledged he drove 7-8 miles per hour over the posted speed limit," and she was merely driving with the flow of traffic. (Appellant's Br. p. 15). She contends the SHS students' uncontroverted accounts of her speeding are a mere "overstatement" because the other drivers did not report she was speeding and the SCHP officer did not cite her for speeding. (Appellant's Br. p. 15). However, when asked on cross-examination what she would blame for her driving and behavior that day, Kiser admitted that "my speeding may have had some to do with it." (R. p. 248, lines 5-15). She similarly rationalizes it is not uncommon for her to drift off the road onto the rumble strips and the reflectors between lanes in her everyday driving, and "people drift." (R. p. 219, lines 2-6; Appellant's Br. p. 4). These claims are incredulous. Kiser has pled *nolo contendere* to reckless driving.[9] (Appellant's Br. p. 7, n. 2). State law defines reckless driving as the driving of any vehicle in such a manner as to indicate *willful or wanton disregard for the safety of persons* or property. S.C. Code Ann. § 56-5-2920 (emphasis added). The School Board clearly did not err in its findings and conclusions that Kiser drove recklessly on September 26, 2014, in disregard of her duty and responsibility to ensure the safety of the seven students entrusted to her care.

Based on the uncontroverted accounts of Kiser's reckless driving and the girls being taken into police protective custody, the School Board accepted Dr. Booker's recommendation to immediately terminate Kiser for conduct manifesting an evident

[9] A plea of *nolo contendere* is for all practical purposes treated as a guilty plea. Deal v. State, 338 S.C. 445, 527 S.E.2d 112 (2000).

unfitness for teaching because she recklessly endangered the safety and well-being of seven students in violation of School District policies and disregard for her duty and responsibility to exercise good judgment and reasonable care to ensure the safety of the students entrusted to her supervision and care. (R. pp. 107-108). The Circuit Court correctly applied the substantial evidence test, and concluded that based on the evidence in the record reasonable minds could conclude that Kiser's reckless conduct resulting in the abandonment of seven students to police custody on the side of the interstate over 200 miles from home manifests an evident unfitness for teaching.

Kiser argues the School Board and Circuit Court erred as a matter of law because the School District did not take issue with her performance as a classroom teacher, and driving "indisputably" cannot constitute an evident unfitness for teaching. This argument is not supported by the facts or law. The plain language of the statute clearly intends and contemplates that conduct manifesting evident unfitness for teaching is not limited to, and a judgment on fitness to teach encompasses more than, just classroom performance. The statute plainly defines evident unfitness for teaching broadly in a non-exhaustive and non-exclusive manner clearly intended to encompass conduct outside of the classroom or school setting. The courts have upheld teacher terminations pursuant to §59-25-430 for conduct unrelated to classroom teaching performance.

For example, in Barrett v. Charleston County Sch. Dist., 348 S.C. 426, 431, 559 S.E.2d 365, 368 (Ct. App. 2002), the school board dismissed a teacher for conduct manifesting an evident unfitness to teach based on her dishonesty in handling the proceeds of an ice cream fundraiser account. The teacher's dealings with the ice cream account funds did not implicate her classroom teaching performance. The court affirmed the school

board's decision, finding substantial evidence supported the school board's finding the teacher was dishonest in her dealings with the ice cream account. Kiser weakly attempts to distinguish Barrett solely on the ground that § 59-25-430 specifically lists dishonesty as conduct manifesting an evident unfitness for teaching, while "bad driving" is not listed and is not a "core character trait" required of all teachers. However, Kiser acknowledges the statutory list of conduct manifesting an evident unfitness for teaching is illustrative and non-exclusive. Moreover, following Kiser's logic, the statute specifically lists as an example a school board's power and discretion to immediately dismiss a teacher for evident unfitness due to willful violations of school board rules and regulations, and therefore must contemplate compliance with school board polices to be a "core character trait" required of all teachers.[10] Kiser was dismissed due to her reckless disregard of multiple School District policies and her duty and responsibility to ensure the safety of the seven students entrusted to her care. The exercise of good judgment and reasonable care to at all times ensure the safety of students is a "core character trait" the School District requires of all employees, including all teachers.

In Felder v. Charleston County Sch. Dist., 327 S.C. 21, 25, 489 S.E.2d 191, 193 (1997), the court held that substantial evidence supported termination of a teacher for conduct manifesting an evident unfitness to teach based on her insubordination in encouraging students to continue an unauthorized protest despite the principal's instructions to return to class. The school board did not cite classroom performance as a

[10] This Court recently held that substantial evidence supported the school board's decision to terminate a school principal under § 59-25-430 on the ground he manifested an evident unfitness for teaching based on his willful violations of the school district's policies governing the handling of finances. Shaw v. Moss, Op. No. 2016-UP-286 (S.C. Ct. App. filed June 15, 2016).

grounds for dismissal, and insubordination is not specifically listed in the statute as conduct manifesting an evident unfitness for teaching. The court nevertheless upheld the school board's decision. Kiser unconvincingly argues Felder is unpersuasive because interfering with students' attendance in class and encouraging defiance of the principal's directions are related to a teacher's job duties and responsibilities. However, in this case, there is substantial evidence that ensuring the safety and well-being of students was related to (an essential function of) Kiser's job duties and responsibilities as a teacher and coach.

Kiser also argues the case of Hilliard v. Orangeburg County School Dist. Number Three, 300 S.C. 123, 386 S.E.2d 628 (Ct. App. 1989) has no application to the facts in this case. To the contrary, Hilliard involved the dismissal of a welding teacher for violations of special conditions set forth in his contract, including failing to supervise students in the welding shop and auto mechanic's shop. Although Hilliard was terminated for violating conditions of his probationary contract,[11] the court applied the substantial evidence test. Without going into detail of all the charges, the court found substantial evidence supported the charges against Hilliard. However, the court did specifically note "the evidence is more than sufficient to support the charge that Hilliard allowed a student to be unsupervised in the work area of the welding shop, a blatant safety violation that cannot be characterized as trivial." Id. at 126, 386 S.E.2d at 630. Hilliard establishes a precedent for the termination of a teacher who fails to ensure the safety of students.

Kiser's reliance on Hall v. Bd. of Trustees of Sumter County School Dist. No. 2, 330 S.C. 402, 499 S.E.2d 216 (Ct. App. 1998) is unavailing. Hall is factually

[11] Hilliard was employed by the school district eleven years as a welding instructor. It is not clear from the facts whether Hilliard was employed pursuant to a continuing contract.

distinguishable, and Kiser misstates the reach of its holding, which is limited by its particular facts. There, Hall agreed to chaperone a senior class trip, conditioned upon her agreement with the trip organizer that she would chaperone only while travelling to and from Florida and during a visit to a shopping mall, and would be off duty at all other times. Once in Florida, and only after separating from the students, Hall (who was not married) met and stayed with a male friend in a different hotel. She returned from Florida with the class. The trip had more than the required number of chaperones.

The school district apparently received reports that some teacher chaperones were accompanied on the trip by men other than their spouses and without notice or approval by the school. When questioned about staying in a different hotel with her friend, Hall explained her agreement with the trip organizer. Hall was placed on administrative leave and instructed not to discuss the matter with any other employees pending conclusion of the investigation. Hall later admitted discussing the matter with three employees. The school board accepted the superintendent's recommendation to terminate Hall for failure to supervise the class during the trip and her insubordination stemming from her discussion of the matter with other employees.

The court held the board failed to show Hall's failure to supervise students during the trip and insubordination constituted evident unfitness for teaching which justified her immediate dismissal. Importantly, the court found the school district did not introduce any evidence to contradict Hall's testimony about her agreement with the trip organizer. In addition, the court noted "Hall did exactly what she agreed to do: supervise the students on the trip to and from Florida and chaperone them at the shopping mall." Id. at 408, 499

S.E.2d at 219-220. Hall's conduct did not result in the students being unsupervised as there were other chaperones.

Kiser stretches Hall too far. First, Kiser argues Hall recognized "the articulated grounds for termination must be related in some way 'to the discharge of [the teacher's] teaching responsibilities.'" Kiser misapprehends the court's holding. What the majority actually said was: "[T]he immediate termination of a teacher with fifteen years experience for reasons unrelated to the discharge of her teaching responsibilities cannot be upheld *under these circumstances*." Id. (emphasis added). "These circumstances" referred to Hall's uncontroverted testimony about her agreement with the trip organizer and performance in accordance with her agreement. The majority expressly recognized that "a single act of disobedience could, under some circumstances, be sufficient to justify a teacher's termination *even though it was unrelated to that teacher's classroom performance*." Id. at 410, 499 S.E.2d at 220 (emphasis added). The dissent also recognized: "Obviously, a teacher's function encompasses more than that of an instructor and *a judgment on fitness to teach should be based on much more than just classroom performance*." Id. at n. 1 (emphasis added). Thus, Hall does not *per se* preclude the immediate dismissal of a teacher for conduct unrelated to classroom performance as Kiser contends. Moreover, Kiser's failure to ensure the safety and well-being of students was related to her teaching duties and responsibilities.

Second, Kiser's contention that Hall "recognized that immediate termination of a continuing contract teacher under this particular standard is appropriate only where evidence of unfitness for teaching [is] 'undeniably and abundantly present'" is also incorrect. In Barrett, this Court directly confronted and defused this very argument, and it

reaffirmed that the proper standard for review of a school board's decision to terminate a teacher is the substantial evidence test. See Barrett, at 432, 559 S.E.2d at 368 ("Although the Hall case references the 'undeniably and abundantly present' language in Kizer, a reading of the entire Hall opinion makes clear that the court is not declaring a new standard of review but is applying the substantial evidence test.").

As the court pointedly noted in Hilliard, student safety is not a trivial concern. However, Kiser's effort to pardon her decisions and actions as mere "poor driving," and her incredulous assertion that her job responsibilities as a teacher "did not include a general duty of safety in transporting members of the cross-country team to an off campus meet," absolutely minimalizes and trivializes the School District's legitimate concern, duty, and responsibility to ensure the safety and well-being of its students. Substantial evidence in this case overwhelmingly supports the School Board's findings and conclusions that Kiser's admittedly reckless driving endangered the safety of the seven students entrusted to her care and concluded with the students abandoned on the side of the interstate and detained in protective custody by the SCHP over 200 miles from home. Unlike the teacher in Hall, Kiser utterly and completely failed to perform her duties and responsibilities to supervise, care for, and ensure the safety of the seven girls.

State law delegates the determination of whether Kiser's conduct manifested an evident unfitness to teach that warrants immediate dismissal to the discretion of the School Board. S.C. Code Ann. § 59-25-430; Kizer, 287 S.C. at 550, 340 S.E.2d at 147. After notice and a full evidentiary hearing in accordance with TEDA, the School Board accepted Dr. Booker's recommendation to immediately terminate Kiser due to her reckless conduct that endangered the safety and well-being of students in violation of its policies and

expectations. The School Board concluded Kiser cannot be entrusted with the supervision and protection of students, which was a primary and essential responsibility of her job as a teacher and a coach. On appeal, the court cannot substitute its own judgment for that of the School Board. The Circuit Court correctly applied the substantial evidence test, determined substantial evidence supported the School Board's decision, and, therefore, correctly affirmed the School Board's decision. For these reasons, this Court should also affirm the decisions of the School Board and Circuit Court.

B. THE SCHOOL BOARD'S DECISION TO DISMISS APPELLANT FOR CONDUCT MANIFESTING AN EVIDENT UNFITNESS TO TEACH DUE TO HER FAILURE TO ENSURE AND PROTECT THE SAFETY AND WELL-BEING OF SEVEN SCHOOL DISTRICT STUDENTS ENTRUSTED TO HER CARE IN VIOLATION OF SCHOOL DISTRICT POLICIES WAS NOT PREMATURE IN VIOLATION OF § 59-25-430

During the traffic stop on September 26, 2014, Kiser was arrested and charged with driving under the influence and child endangerment. Kiser argues her termination was premature in violation of § 59-25-430 and School District policies. Kiser's argument is two-fold. According to Kiser, § 59-25-430 required the School District to stay any dismissal action until after adjudication of her criminal charges. Even then, she could only be subject to dismissal under § 59-25-430 if she were convicted of those charges. Kiser's fallacious argument is based on conjecture and speculation, and it is not supported by the facts or law.

The non-exhaustive list of conduct exemplifying evident unfitness to teach under § 59-25-430 of TEDA cites conviction of a violation of the law of this State or the United States as an example of conduct evidencing an evident unfitness for teaching. The statute goes on to provide that when any teacher is charged with a violation of the law of this State

or the United States which upon conviction may lead to, or be cited as a reason for, dismissal, such teacher may be suspended pending resolution of the charges. S.C. Code Ann. § 59-25-430. Notably, the statute does not preclude dismissal of a teacher on other grounds because a criminal charge is pending.

The primary fallacy with Kiser's argument is that her arrest and criminal charges were not cited as a reason for her dismissal. When specifically asked if he recommended Kiser's dismissal because of her arrest and pending criminal charges, Dr. Booker testified: "No, not an expert on DUI. I don't know a thing about field sobriety tests. I think that's what highway patrol men and women are trained to do. But I do know that the first job of a teacher is to make sure the children are safe, and from all accounts from what I've seen then and even since that time period, our children – that was not the first priority driving down to Charleston on September 26, *and that's why I made that recommendation.*" (R. p. 150, line 23-p. 151, line 10).

Additionally, the School Board's decision does not cite Kiser's arrest, intoxication, or criminal charges as grounds for dismissal. The School Board merely addressed Kiser's criminal charges in rejecting her argument the case was premature.[12] In its decision, the School Board noted "the Administration did not argue drunkenness or arrest or conviction for any crime as a grounds for dismissal." (R. p. 108). The School Board concluded: "Regardless of whether Ms. Kiser was intoxicated or is eventually convicted of DUI or any other crime, substantial evidence presented to the Board clearly establishes that her lack of good judgment and failure to exercise reasonable care recklessly endangered the safety and

[12] Kiser did not make a motion for a stay or continuance or otherwise object to the School Board hearing going forward on March 18, 2015, on the grounds the case was premature.

well-being of her students and resulted in her students being taken into protective custody by law enforcement in violation of School District policies governing staff conduct and responsibilities with students." (Id.).

The provision of § 59-25-430 concerning the suspension of a teacher pending resolution of criminal charges is inapplicable in this case. The School District did not cite Kiser's criminal charges as a reason for dismissal. Additionally, § 59-25-430 does not on its face impose an automatic stay or otherwise prohibit a school board from exercising its power, duty, and discretion to remove a teacher for other conduct manifesting an evident unfitness to teach. Kiser does not cite any authority to support her contention that § 59-25-430 required the School District to stay its dismissal action on other grounds until after adjudication of her criminal charges, or that she could only be dismissed under § 59-25-430 if she were convicted of those charges. Such an interpretation would render the entire statute unenforceable in any case in which any criminal charges are pending regardless of whether the criminal charges are cited as a reason for dismissal.

Kiser's argument is based solely on Shell v. Richland County Sch. Dist. One, 362 S.C. 408, 608 S.E.2d 428 (2005). Her reliance on Shell is misplaced. In that case, Shell was arrested in 1988 and 2000 for possession of crack cocaine. Both charges were subsequently dismissed. Following the second arrest, the school district terminated Shell pursuant to § 59-25-430. Significantly, the superintendent testified at the school board hearing that his decision to terminate Shell was based *solely on his arrests* under suspicious circumstances. Id. at 410, 608 S.E. 2d at 428 (emphasis added). The superintendent testified he did not consider the negative publicity attendant to Shell's 2000 arrest in

making his decision. Id. The school board upheld the superintendent's decision to terminate Shell based on his arrests.

The circuit court reversed the termination decision based on Shell's arrests because the school district did not have any evidence Shell was involved in the illegal use, possession or sale of drugs. Id. at 410, 608 S.E. 2d at 429. The Court of Appeals reinstated the termination citing evidence of Shell's dishonesty and testimony that the negative publicity surrounding Shell's 2000 arrest led the school principal to conclude it was not in the students' best interest to be taught by Shell (although the superintendent had testified he did not consider the negative publicity in making his decision). Id. In reversing the Court of Appeals, the South Carolina Supreme Court held "appellate review of a teacher's termination must be confined to the grounds stated in the order terminating his employment," which was based solely on Shell's arrests. Id. at 411, 608 S.E. 2d at 429. The Court of Appeals erred by scouring the record and making independent evidentiary findings to support termination based on dishonesty and negative publicity, which were not grounds cited in the order terminating Shell's employment. Id.

In this case, the Circuit Court did not err by failing to cite Shell. Shell is inapposite because the School Board did not cite Kiser's arrest or criminal charges as grounds for her dismissal. Kiser also misconstrues Shell. First, Shell does not hold a school district is precluded from terminating a teacher on other grounds under § 59-25-430 until after any pending criminal charges are resolved. The school board only cited Shell's arrest as grounds for dismissal, and it failed to produce substantial evidence that Shell ever used, possessed, or sold illegal drugs. Shell holds that appellate review of a school board's decision to terminate a teacher is limited to the grounds cited in the school board's decision.

The Court of Appeals exceeded the limited scope of review by reinstating Shell's termination based on its own evidentiary findings of Shell's dishonesty and the students' best interests, which were not cited by the school board as grounds for dismissal. Second, Shell does not hold a school board cannot consider negative publicity in determining a teacher's fitness to teach. Shell reversed the Court of Appeals because it exceeded the limited scope of appellate review by reinstating Shell's termination based on testimony of negative publicity.

Kiser's conjecture that Dr. Booker and the School Board "appear" to have been influenced by and rushed to judgment because of media reports and public outcry is not supported by the record. There was no testimony or evidence of parental or public pressure introduced at the hearing. Kiser did not object to news reports or move that they be excluded from evidence. Rather, Kiser made the media reports a central focus of her defense, discrediting the media reports out of the chute, testifying she was unfairly portrayed by the media, and arguing Dr. Booker recommended her termination simply because of "a horrible excoriation of her in the press."[13] (R. p. 125, line 14-p. 126, line 16; R. p. 234, lines 14-16; R. p. 271, line 1-p. 272, line 3). In its decision, the School Board considered and weighed Kiser's contention that news reports of her arrest unfairly and inaccurately portrayed the true events, but is also considered and weighed the fact the news reports accurately reported that she was driving the SHS girls' cross country team to a meet at the time of her arrest, and the students were taken into protective custody and detained by SCHP. (R. p. 105).

[13] While Kiser found the media reports to be "deeply concerning" and "unflattering," there is no evidence any media reports were false or inaccurate.

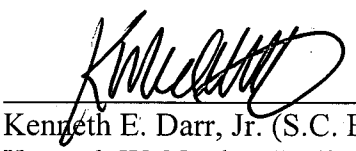
It is undisputed that news of Kiser's arrest quickly became public and spread throughout the school community. Dr. Booker was contacted by the media before he could even conduct an investigation. (R. p. 145, lines 6-20). Dr. Booker acknowledged he was contacted by the media before he even received the incident report, but he testified, "This wasn't enough." He conducted an investigation before making his recommendation, which he based on Kiser's admissions, the students' accounts, and the SCHP Incident Report. (R. p. 145, line 6-p. 150, line 22). Dr. Booker's recommendation for termination does not cite media reports or public outcry as a grounds for his decision. (R. p. 291). There is no contrary evidence that Dr. Booker recommend Kiser's termination based on media reports or before his investigation. Discrediting Dr. Booker's testimony about why he made his decision would exceed the Court's scope of judicial review. Felder at 25, 489 S.E.2d at 193 (circuit court exceeded scope of judicial review in reversing teacher's dismissal by totally discounting sheriff's department employee's testimony of teacher's insubordination, which was substantial evidence to support the school board's decision).

In this case, the School Board accepted the Superintendent's recommendation for Kiser's immediate dismissal for conduct manifesting an evident unfitness to teach due to the extreme hazard to the safety and well-being of the student-athletes entrusted to her care in violation of School District policies and expectation. There is substantial evidence to support the School Board's decision. (R. p. 291). The School Board's decision must be sustained. Laws, 270 S.C. at 495-496, 243 S.E.2d at 193 ("[A] conclusion that any one of the three charges against the [teacher] is supported by substantial evidence will dictate that the school board's decision be sustained."); *see also* Hilliard v. Orangeburg County Sch.

Dist. Number Three, 300 S.C. 123,126, 386 S.E.2d 628, 630 (Ct. App. 1989); McWhirter v. Cherokee County Sch. Dist. No. 1, 274 S.C. 66, 68, 261 S.E.2d 157, 158 (1979).

CONCLUSION

Substantial and uncontroverted evidence in the record supports the School Board's decision to immediately dismiss Kiser for conduct manifesting an evident unfitness for teaching because she recklessly endangered the safety and well-being of seven students in violation of School District policies and expectations governing staff conduct and responsibilities with students. Respondent respectfully requests this Court affirm the Circuit Court's order.



Kenneth E. Darr, Jr. (S.C. Bar No. 01546)
Kenneth W. Nettles, Jr. (S.C. Bar No. 70210)
Lyles, Darr & Clark, LLC
104 N. Daniel Morgan Ave., Suite 220
Spartanburg, South Carolina 29306
Post Office Box 5726
Spartanburg, South Carolina 29304-5726
kdarr@ldclaw.com
nnettles@ldclaw.com
Telephone: 864-585-4806
Facsimile: 864-585-4810
Attorneys for Respondent

August 29, 2016
Spartanburg, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
R. Keith Kelly, Circuit Court Judge
Trial Court Case No. 2015CP4201688

Appellate Case No. 2015-002650

Dedra H. Kiser, ... Appellant,

v.

Spartanburg School District 7, ... Respondent.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief complies with Rule 211(b), SCACR.

Kenneth E. Darr, Jr. (S.C. Bar No. 01546)
Kenneth W. Nettles, Jr. (S.C. Bar No. 70210)
Lyles, Darr & Clark, LLC
104 N. Daniel Morgan Ave., Suite 220
Spartanburg, South Carolina 29306
Post Office Box 5726
Spartanburg, South Carolina 29304-5726
kdarr@ldclaw.com
nnettles@ldclaw.com
Telephone: 864-585-4806
Facsimile: 864-585-4810
Attorneys for Respondent

September 2, 2016
Spartanburg, South Carolina

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
R. Keith Kelly, Circuit Court Judge
Trial Court Case No. 2015CP4201688

Appellate Case No. 2015-002650

Dedra H. Kiser, ... Appellant,

v.

Spartanburg School District 7, ... Respondent.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the Final Brief of Respondent, Certificate of Counsel, and Proof of Service in the above-styled action were served on the following attorney for Appellant by depositing copies of same in a securely sealed envelope with postage prepaid in the United States Mail at Spartanburg, South Carolina on the 2nd day of September 2016, addressed to:

Mr. David E. Rothstein
Rothstein Law Firm, PA
1312 Augusta Street
Greenville, South Carolina 29605

[*SIGNATURE ON FOLLOWING PAGE*]

Kenneth E. Darr, Jr. (S.C. Bar No. 01546)
Kenneth W. Nettles, Jr. (S.C. Bar No. 70210)
Lyles, Darr & Clark, LLC
104 N. Daniel Morgan Ave., Suite 220
Spartanburg, South Carolina 29306
Post Office Box 5726
Spartanburg, South Carolina 29304-5726
kdarr@ldclaw.com
nnettles@ldclaw.com
Telephone: 864-585-4806
Facsimile: 864-585-4810
Attorneys for Respondent

September 2, 2016
Spartanburg, South Carolina