

John Alden Bauer III  
109 Ashton Hill Drive  
Columbia, SC 29229

RECEIVED

DEC 05 2016

SC Court of Appeals

December 3, 2016

V. Claire Allen  
Deputy Clerk of Court  
PO Box 11629  
Columbia, SC 29211

Re: John Alden Bauer, III v. Beaufort Co. Sch. Dist.  
Appellate Case No. 2016-000955

Dear Ms. Allen,

This is to address the issues with David Duff's letter of December 1, 2016.  
(enclosed)

According to Superintendent Moss, he intended to charge me with only Negligence and Insubordination for the event of February 5, 2014, as Mr. Duff heard at the hearing. (Moss never issued those charges, but I accept that he intended to do so), therefore, I had moved to strike Mr. Duff's Designation of Matter on October 17, 2016 concerning all items, except the February 5, 2014 matter. Including the disputed items at the Board Hearing, especially those not made available during Discovery, clearly violated TEDA 59-25-470.

In order to meet the calendar requirements I filed the Record on Appeal without Mr. Duff's exhibits, as I had yet to receive answers to other motions and correspondence. I was following the calendar that I included to you on November 4, 2016.

All of the items in Mr. Duff's letter of December 1, 2016 that Duff called "impermissible" should have been permissible by the fact that they were "*presented to the lower court*" Rule 210(c). As for Judge Dukes, he did not allow *any* exhibits from anyone at any of the hearings, but indicated that filing was all that was necessary.

Mr. Duff's relying on non-substantive technicalities to try to avoid exposure of multiple violations by the district seems to me to be a strategy of deception. However, if the court sides with him the documents could be withdrawn without wasting over 5,000 sheets of paper, if I am not required to re-paginate, (also reprint and re-bind).

It appears that Mr. Duff wishes to add about 1300 pages to the Record on Appeal or about 6 volumes. That would involve more than 23,000 sheets of paper.

If it is acceptable to the court, I could leave my two volumes intact. Duff's exhibits which do not get struck could then be identified as volumes 3 - ?. It would be less complicated for him to supply those volumes rather than muddling this long delayed process and funneling through me.

We would need a new index. We could identify the index without disturbing the pagination saving over 5,000 sheets of paper.

Demanding a "full trial transcript" (Board Hearing) "with exhibits" (one copy = 1175+ pages) seems contradictory to Rule 210(C) "*Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included.*" Does that not mean that the court does not wish to be burdened with meaningless pages? One of the district's exhibits was 102 empty loose leaf pages of a falsely represented Walmart Grade Book, whereas the correct roll book that I used in my classes was withheld by the district until after the hearing. Those empty pages would waste another 1,836 leafs.

I was wondering if Mr. Duff's using "RA" to identify pages is the same thing as "R. p." shown in Rule 211(b)(1). (I have asked him the same question)

The missing seventeen "*admitted and numbered documents, without objection*" has never been addressed by Mr. Duff. I wonder what happened to them. I understand that these were ordered removed by Bill Evans, Chairman of the Board, presumably as advised by Mr. Duff. Speculation aside, I would like to have those, and other exhibits, since all of my exhibits were shredded by the district--even my personal copy (which I was not allowed to retain) It could have happened that there were some exhibits retained in the 9 binders that were not returned to me.

I am also wondering how the court will deal with the preserved evidence that has never been made available to me, but requested at least 27 times before the Board Hearing. (See letter of November 26, 2016)

Respectfully,

A handwritten signature in black ink that reads "John Alden Bauer III". The signature is written in a cursive style with a distinct "III" at the end.

John Alden Bauer III

cc:

Drew Davis

David Lyon

SC Court of Appeals (Allen)

Joel Griggs

Cathy Hazelwood

Noelle Redd

Jill Rothstein

COPY

John Alden Bauer III  
109 Ashton Hill Drive  
Columbia, SC 29229

RECEIVED

DEC 05 2016

SC Court of Appeals

December 3, 2016

Mr. David T. Duff, Esquire  
Duff, White, and Turner, LLC  
P. O. Box 186  
Columbia, SC 29202

Dear Mr. Duff,

RE: Record on Appeal. Appellate Case No. 2016-000955

Also: Yours of December 1, 2016.

I moved to strike your Designation of Matter on October 17, 2016 concerning items not connected to February 5, 2014. According to Superintendent Moss, he intended to charge me with only Negligence and Insubordination for the event of February 5, as you heard at the hearing. (He never issued those charges either) According to TEDA 470 the hearing should only have dealt with "substantiation of the charges", but I recognize that Dr. Moss intended to make the two charges stemming from February 5, 2014. I thought it odd that the intended charges were not revealed until the third day of the hearing.

In order to meet the calendar requirements I filed the Record on Appeal without your exhibits. I had written to Ms. Allen confirming the calendar requirements and since she did not answer in the negative, I assumed that I was correct in my dates.

All of the items in your letter of December 1, 2016 that you called "impermissible" should have been permissible by the fact that they were "*presented to the lower court*" Rule 210(c). As for Judge Dukes, he did not allow *any* exhibits from anyone at any of the hearings, but indicated that filing was all that was necessary.

Relying on non-substantive technicalities to try to avoid exposure of multiple violations by the district seems to me to be a strategy of deception. However, if the court sides with you the documents could be withdrawn without wasting over 5,000 sheets of paper, if re-pagination is not required. Re-pagination would also require reprinting and re-binding.

It appears that you wish to add about 1300 pages to the Record on Appeal or about 6 volumes. That would involve more than 23,000 sheets of paper.

If it is acceptable to the court, I could leave my two volumes intact. Your exhibits which do not get struck could then be identified as volumes 3 - ?. It would be less complicated for you to supply those volumes rather than muddling this long delayed process, funneling through me, and potentially inviting error.

We would need a new index. We could identify the index without disturbing the pagination saving over 5,000 sheets of paper.

Your demanding a "full trial transcript" (Board Hearing) "with exhibits" (1175+ pages) seems contradictory to Rule 210(C) "*Where a portion of a page of the trial transcript, or a page of an exhibit or document, is to be included in the Record on Appeal, the entire page shall be included.*" Does that not mean that the court does not wish to be burdened with meaningless pages? One of your exhibits was 102 empty loose leaf pages of a falsely represented Walmart Grade Book, whereas the correct roll book that I used was withheld by the district until after the hearing. Those empty pages would waste another 1,836 leafs.

I was wondering if your using "RA" to identify pages is the same thing as "R. p." shown in Rule 211(b)(1).

The missing seventeen 'admitted and numbered documents, without objection' has never been addressed by you. What happened to them? As you know all of my exhibits were shredded including my personal copy, unless copies existed in the 9 binders that the district never returned.

I am also wondering how the court will deal with the *preserved evidence* that has never been made available to me, but requested at least 27 times before the Board Hearing. (See letter of November 26, 2016)

Very truly yours,

A handwritten signature in black ink that reads "John Alden Bauer III". The signature is written in a cursive style with a distinct "III" at the end.

John Alden Bauer III

cc:

Drew Davis  
David Lyon  
V. Claire Allen  
Joel Griggs  
Cathy Hazelwood  
Noelle Redd  
Jill Rothstein

DUFF, WHITE & TURNER, L.L.C.

ATTORNEYS AND COUNSELORS AT LAW

POST OFFICE BOX 1486  
COLUMBIA, SOUTH CAROLINA 29202

3700 FOREST DRIVE, SUITE 404  
COLUMBIA, SOUTH CAROLINA 29204  
WWW.DWTLAWFIRM.COM

TELEPHONE  
803 / 790-0603

FACSIMILE  
803 / 790-0605

DAVID T. DUFF\*†  
ANDREA E. WHITE  
MEREDITH L. SEIBERT  
WILLIAM C. FREEMAN  
DAVID N. LYON  
ASHLEY C. STORY  
TIFFANY L. BUTLER

OF COUNSEL  
M. JANE TURNER  
LAURA CALLAWAY HART

\* CERTIFIED SPECIALIST IN EMPLOYMENT AND LABOR LAW  
† CERTIFIED CIVIL ARBITRATOR AND MEDIATOR

copy

sender's email address  
dduff@dwtlawfirm.com

December 1, 2016

Mr. John Alden Bauer, III  
109 Ashton Hill Drive  
Columbia, SC 29229

RECEIVED

DEC 05 2016

SC Court of Appeals

Re: John Alden Bauer, III, Appellant v. Beaufort County School District, Respondent, Appellate Case No. 2016-000955.

Dear Mr. Bauer:

We have received a copy of the Record on Appeal you have prepared. Unfortunately, the Record you submitted does not comply with Rule 210 of the South Carolina Appellate Court Rules. Under that Rule, you, as the Appellant, are responsible for preparing the Record which "shall include all matter designated to be included by any party." Accordingly, any proposed Record you prepare and serve must include the matters you designated and the matters the Respondent designated.

Upon our review of the Record you submitted, it appears you have included documents that you did not designate in your Second Amended Designation of Matter, served August 22, 2016, as limited by the Court's Order granting Respondent's Motion to Strike, filed October 14, 2016. These impermissible documents include:

- "Short Proposed Final Order Portion," RA. pp. 284-297.
- "Corrections (suggested) to the Proposed Order that was Submitted by David Duff 3/4/2016" RA. pp. 49-76.
- "Appellant's Pre-Trial Brief, RA. Pp. 77-145.
- "Motion to preserve Claim of Error" and its accompanying "Appellant Memoranda" RA. Pp. 162-166.
- Duff email to Bauer, April 22, 2015. RA. Pp. 277-278

Additionally, on page 290 of the Record, you have included a gradebook page, which includes the header, "16. Grade book. False." Although I recognize that pages from an empty gradebook were presented during the School Board's hearing, we object to a copy of this document that also includes a heading indicating your position that this document is false.

Finally, you have submitted an unsigned copy of Judge Duke's October 19, 2015 Order. The Record should include the signed version of this Order, which I can provide to you.

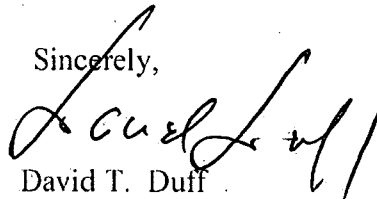
Secondly, the Record also excludes documents that we designated, and which must be included in the Record on Appeal pursuant to Rule 210(c). These documents are:

- The full Transcript of the School Board Hearing, occurring between April 30 and May 2, 2015, with all exhibits attached thereto.
- Amended Answer and Return of Respondent, November 5, 2015.
- January 19, 2016 Circuit Court Hearing Transcript pp. 1-17, 33-42.
- Circuit Court Order, February 19, 2016.
- February 29, 2016 Circuit Court Hearing Transcript, pp. 1-18, 44-48.
- March 4, 2016 Circuit Court Hearing Transcript, pp. 1-46.

We are happy to provide the omitted documents to you to ease your burden in compiling them. However, the Record will still need to be produced in the order mandated by Rule 210. In the meantime, we are determining whether we should file motion with the Court of Appeals explaining the need to amend and/or correct the Record you have prepared and requesting additional time for the submission of the corrected Record and our briefs.

Please let me know if I can provide you with any of the documents you excluded from the Record.

Sincerely,



David T. Duff

Cc. V. Claire Allen, Deputy Clerk of Court of South Carolina Court of Appeals  
Drew Davis, Esq.  
David N. Lyon, Esq.