

THE STATE OF SOUTH CAROLINA
In The Supreme Court

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APPEAL FROM LEE COUNTY
Court of Common Pleas

S.C. SUPREME COURT

Thomas W. Cooper, Jr., Circuit Court Judge

Case No. 93-CP-31-0169

Abbeville County School District, Allendale County School District, Bamberg County School District 1, Bamberg County School District 2, Barnwell County School District 19, Barnwell County School District 29, Barnwell County School District 45, Berkeley County School District, Chesterfield County School District, Clarendon County School District 1, Clarendon County School District 2, Clarendon County School District 3, Dillon County School District 1, Dillon County School District 2, Dillon County School District 3, Florence County School District 1, Florence County School District 2, Florence County School District 3, Florence County School District 4, Florence County School District 5, Hampton County School District 1, Hampton County School District 2, Jasper County School District, Laurens County School District 55, Laurens County School District 56, Lee County School District, Lexington County School District 4, Marion County School District 1, Marion County School District 2, Marion County School District 7, Marlboro County School District, McCormick County School District, Orangeburg Consolidated School District 3, Orangeburg Consolidated School District 5, Saluda County School District and Williamsburg County School District; Lena Manning, individually, and as a taxpayer residing in Allendale County and as Guardian ad Litem of Courtney V.; Courtney V., a minor, by and through Lena Manning, as Guardian ad Litem; William L. Mills, individually, and as a Taxpayer residing in Allendale County and as Guardian ad Litem of Waylon P.; Waylon P., a minor, by and through William Mills, as Guardian ad Litem; Betty Bagley, individually, and as a taxpayer residing in Bamberg County and as a parent and Guardian ad Litem of Tyler B.; Tyler B., a minor, by

and through Betty Bagley, as Guardian ad Litem, Evert Comer, Jr., individually, and as a taxpayer residing in Bamberg County and as parent and Guardian ad Litem of Kimberly C.; Kimberly C., a minor, by and through Evert Comer, Jr., as Guardian ad Litem; Marla Q. Jameson, individually, and as a taxpayer residing in Barnwell County, and as a parent and Guardian ad Litem of Eleanor J.; Eleanor J., a minor, by and through Marla Q. Jameson, as Guardian ad Litem; Victor M. Lancaster, Sr., individually, and as a taxpayer residing in Barnwell County, and as parent and Guardian ad Litem of Christie L.; Christie L., a minor, by and through Victor M. Lancaster, Sr., as Guardian ad Litem; Dr. Charles Clark, individually, and as a taxpayer residing in Chesterfield County, and as parent and Guardian ad Litem of Candace C., a minor, by and through Dr. Charles Clark, as Guardian ad Litem; Colonel Larry Coker, individually, and as a taxpayer residing in Clarendon County, and as a parent and Guardian ad Litem of Corrie C.; Corrie C., a minor, by and through Colonel Larry Coker, as Guardian ad Litem; Pamela Williams, individually, and as a taxpayer residing in Dillon County, and as parent and Guardian ad Litem of Katisha W.; Katisha W., a minor, by and through Pamela Williams as Guardian ad Litem; Eddie Wright, individually, and as a taxpayer residing in Florence County, and as parent and Guardian ad Litem of Brandon F.; Brandon F., a minor, by and through Eddie Wright as Guardian ad Litem; John Whiteside, individually, and as a taxpayer residing in Florence County and as Parent and Guardian ad Litem of Joel W.; Joel W., a minor, by and through John Whiteside as Guardian ad Litem; Dr. Francis Mills, individually, and as a taxpayer residing in Hampton County and as a parent and Guardian ad Litem of Amy M.; Amy M., a minor, by and through Dr. Francis Mills, as Guardian ad Litem; Brenda Brooks, individually, and as a taxpayer residing in Hampton County, and as parent and Guardian ad Litem of Tyrin B.; Tyrin B., a minor, by and through Brenda Brooks as Guardian ad Litem; Marva Tigner, individually, and as a taxpayer residing in Jasper County, and as parent and Guardian ad Litem of Bryan T. and Bradley T.; Bryan T., a minor, by and through Marva Tigner as Guardian ad Litem; Bradley T., a minor, by and through Marva Tigner as Guardian ad Litem;

Robert Elisha Short, individually, and as a taxpayer residing in Laurens County and as parent and Guardian ad Litem of Robert B. S.; Robert B. S., a minor, by and through Robert Elisha Short, as Guardian ad Litem; Dr. Keith A. Bridges, individually, and as a taxpayer residing in Laurens County and as parent and Guardian ad Litem of Jorgana Ranson B.; Jorgana Ranson B., a minor, by and through Dr. Keith A. Bridges, as Guardian ad Litem; Gail Y. Harriott, individually, and as a taxpayer residing in Lee County and as parent and Guardian ad Litem of Rashade H.; Rashade H., a minor, by and through Gail Y. Harriott, as Guardian ad Litem; Linda Carraway, individually, and as a taxpayer residing in Marion County, and as parent and Guardian ad Litem of Kimberly W.; Kimberly W., a minor, by and through Linda Carraway as Guardian ad Litem; Dr. John Nobles, individually, and as a taxpayer residing in Marlboro County and as parent and Guardian ad Litem of Erin N.; Erin N., a minor, by and through Dr. John Nobles, as Guardian ad Litem; Patricia Hampton, individually, and as a taxpayer residing in McCormick County and as parent and Guardian ad Litem of Krystle H.; Krystle H., a minor, by and through Patricia Hampton, as Guardian ad Litem; Bernice Profit, individually, as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Russell H.; Russell H., a minor, by and through Bernice Profit, as Guardian ad Litem; Matlin P. Brown, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Tanisha P. B.; Tanisha P. B., a minor, by and through Matlin P. Brown, as Guardian ad Litem; James Berry, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Dondrea B.; Dondrea B., a minor, by and through James Berry, as Guardian ad Litem; Gerald Smith, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Brenda S.; Brenda S., a minor, by and through Gerald Smith, as Guardian ad Litem; Thomas Shealy, individually, and as a taxpayer residing in Saluda County and as parent and Guardian ad Litem of Thomas S., Jr.; Thomas S., Jr., a minor, by and through Thomas Shealy, as Guardian ad Litem, Plaintiffs,

Of whom:

Allendale County School District, Dillon County School District 2, Florence County School District 4, Hampton County School District 2, Jasper County School District, Lee County School District, Marion County School District 7, Orangeburg School District 3, Lena Manning, individually, and as a taxpayer residing in Allendale County and as Guardian ad Litem of Courtney V.; Courtney V., a minor, by and through Lena Manning, as Guardian ad Litem; Pamela Williams, individually, and as a taxpayer residing in Dillon County, and as parent and Guardian ad Litem of Katisha W.; Katisha W., a minor, by and through Pamela Williams as Guardian ad Litem; Eddie Wright, individually, and as a taxpayer residing in Florence County, and as parent and Guardian ad Litem of Brandon F.; Brandon F., a minor, by and through Eddie Wright as Guardian ad Litem; Brenda Brooks, individually, and as a taxpayer residing in Hampton County, and as parent and Guardian ad Litem of Tyrin B.; Tyrin B., a minor, by and through Brenda Brooks as Guardian ad Litem; Marva Tigner, individually, and as a taxpayer residing in Jasper County, and as parent and Guardian ad Litem of Bryan T. and Bradley T.; Bryan T., a minor, by and through Marva Tigner as Guardian ad Litem; Bradley T., a minor, by and through Marva Tigner as Guardian ad Litem; Gail Y. Harriott, individually, and as a taxpayer residing in Lee County and as parent and Guardian ad Litem of Rashade H.; Rashade H., a minor, by and through Gail Y. Harriott, as Guardian ad Litem; Linda Carraway, individually, and as a taxpayer residing in Marion County, and as parent and Guardian ad Litem of Kimberly W.; Kimberly W., a minor, by and through Linda Carraway as Guardian ad Litem; Bernice Profit, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Russell H.; Russell H., a minor, by and through Bernice Profit, as Guardian ad Litem, are

Appellants-
Respondents,

v.

Glenn F. McConnell, as President *Pro Tempore* of the Senate and as a representative of the South Carolina Senate; Robert W. Harrell, Jr., as

Speaker of the House of Representatives
and as a representative of the South Carolina
House of Representatives, ... Respondents-
Appellants,
and
The State of South Carolina; Mark C. Sanford, as
Governor of the State of
South Carolina, ... Respondents.

BRIEF OF *AMICI CURIAE*
SOUTH CAROLINA RURAL EDUCATION GRASSROOTS GROUP
AND THE RURAL SCHOOL AND COMMUNITY TRUST
IN SUPPORT OF APPELLANTS-RESPONDENTS

Amanda Gibson Adler
Director, Rural Education Finance
Center
The Rural School and Community Trust
141-F Pelham Road, #207
Columbia, SC 29209
Telephone & Facsimile: (803) 253-6309
amanda.adler@ruraledu.org

Attorney for *Amici* South Carolina Rural
Education Grassroots Group and The
Rural School and Community Trust

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INTRODUCTION

Every school day, geography is determining the educational destiny of thousands of students living in rural areas of South Carolina. South Carolina has a high number of students attending rural and small schools, and the majority of those are in the Plaintiff Districts. In our state, almost 40% of students are rural, and of these, 42% are members of minority groups. More often than not, these students live in economically distressed communities where the only path out of poverty is through the schoolhouse door. In fact, more than half of our rural students qualify for subsidized meals, the sixth highest rate in the nation. See Jerry Johnson & Marty Strange, Why Rural Matters 2007: The Realities of Rural Education Growth, Rural School and Community Trust (2007). Yet, the State of South Carolina is not ensuring that all those students have the most important educational input - a high quality teacher - thus preventing many rural schools from providing a constitutionally required opportunity to receive an education. As a consequence, rural students are not acquiring the skills and knowledge they will need to become full and contributing participants in the social, political, and economic life of the state.

For many small rural school districts across America, not just in South Carolina, the effort to attract and retain quality teachers continues to be a major concern. Schools located in what are considered to be "hard to staff" areas experience the most difficulty. While not all communities face the problems of inadequate teacher supply, many of these school districts recognize this as a continuing critical issue. A variety of factors contribute to the problems of recruiting and retaining teachers in small and rural schools. Once hired, rural teachers live in

professionally isolated places where they are both overworked and underpaid with little access to the training and support they need. Exacerbating this problem, rural schools have a disproportionate number of dilapidated school facilities that do not provide a safe or suitable learning environment.

Seeking to address these problems, almost half of the districts of South Carolina sued the state in 1993, citing the inequity and inadequacy of the school finance system, and in 1999 this Court allowed the adequacy claim to be heard and set the constitutional standard by which adequacy should be determined. Abbeville County Sch. Dist. v. State, 335 S.C. 58, 515 S.E.2d 535 (1999) [hereinafter “Abbeville”]. In the subsequent 2003 trial in Clarendon County, Abbeville’s overarching claim of constitutional inadequacy revolved around the failure of South Carolina’s school funding formula to maintain required inputs that would give students in the plaintiff districts an opportunity to receive a “minimally adequate education.” In 2005, the trial judge indeed found a constitutional violation of this standard. Since those decisions, which hold such import for the state education system and signal the need for dramatic reform, thousands of students have attended South Carolina’s public schools. Regrettably, very little has changed during this time.

IDENTITY OF AMICI CURIAE

The South Carolina Rural Education Grassroots Group (hereinafter “SCREGG”) and The Rural School and Community Trust (together, “*Amici*”) submit this memorandum of law as *amici curiae*. SCREGG is a non-profit organization of rural citizens, educators, parents and leaders who are working to improve the quality

of public education for students attending school in rural South Carolina. SCREGG counts among its members citizens of many of the Plaintiff Districts including Lee, Hampton District 2, Jasper, Marlboro, Dillon, and Abbeville. Many of our students are poor or members of racial minority groups who too frequently are not succeeding in school. SCREGG is intimately acquainted with these students: they are our children, our grandchildren, our friends, and neighbors. Further, SCREGG members are not mere observers of the case or school improvement process, but are in schools every day, working after school with students, and in our communities. SCREGG has held regional meetings about the dropout crisis in the state and worked on state education policy in various ways to help rural students, including participating in the regulatory process. Also, in 2003, SCREGG, with the support of The Rural School and Community Trust published a report on rural schools in the state. *See* South Carolina Rural Education Grassroots Committee, Building Strong Rural Schools: The Foundations We Need, Rural School and Community Trust (2003). In sum, our reasons for petitioning the court to serve as its friend are deeply invested with personal experiences, care, and concern for public schools of South Carolina.

The Rural School and Community Trust (hereinafter “Rural Trust”), a nationally recognized organization, is dedicated to promoting equal educational opportunity and improving learning for students who attend public schools, especially students who attend rural schools. Rural Trust assists SCREGG in its work using its significant expertise in the field of education law and policy. Rural Trust also operates the Rural Education Finance Center, which: (1) sponsors rigorous scholarly legal and education research on school finance issues; (2) maintains expertise on

current legal and policy developments involving school finance systems; (3) provides technical assistance to lawyers and policy makers in the field of school finance policy and law; and (4) files *amicus curiae* briefs in state litigation involving school finance. Rural Trust has participated as *amicus curiae* in Bonner v. Daniels, Nos. 49A02-0702-CV-00188 and 49D010604PL16414 (Ind. Ct. App. May 2, 2008); Maryland State Board of Education v. Bradford, Nos. 94340058/CE189672 and 95258055/CL202151 (Md. Cir. Ct. Baltimore City June 9, 2005); Lake View School District No. 25 v. Huckabee, 91 S.W.3d 472 (Ark. 2002); Leandro v. State, 488 S.E.2d 249 (N.C. 1997); and Hoke County Board of Education v. State of North Carolina, 599 S.E.2d 365 (N.C. 2004). It is essential that the perspectives of rural students be presented to the Court.

PRELIMINARY STATEMENT OF THE ISSUES
AMICI WILL ADDRESS IN THIS BRIEF

This brief is in support of Plaintiffs' appeal of the Abbeville trial court's December 29, 2005 Order in the Court of Common Pleas. The trial court ruled in Plaintiff's favor that the State was not meeting its constitutional duty to provide each child with the opportunity to acquire a minimally adequate education. However, the court found that the State's violation extended only to its failure to provide early childhood intervention programs.

SCREGG and Rural Trust have carefully studied the record and evidence in this case. In this brief, *Amici* contend that the State's obligation extends beyond early childhood intervention programs. In fact, it is also within the power of the State to improve teacher quality, which will in turn improve the academic performance of all students, especially at-risk learners. In its decision, the trial court charged the State

with correcting its constitutional violation by ameliorating the double burden for Plaintiff Districts of poverty and low student achievement with early child education. From our “on the ground” perspective, the need for a highly qualified teacher in every rural classroom is also critical and rises to constitutional significance. In our brief, we offer research supporting our belief that every student must have a highly qualified teacher, as well as examples of policies that can make that belief reality. This information is proffered not to supplement the record or engage the parties in debate on the weight accorded experts, but to reiterate the scope of evidence on this topic and highlight constitutionally significant failings of the state.

For more than 30 years, state supreme courts across the country have grappled with constitutional issues raised by students’ advocates seeking equity and adequacy in their public schools. In addition to South Carolina, high courts in twenty-seven other states have found their education and education finance systems to be unconstitutional, either because they create impermissible inequities, because the finance system is inadequate, or both. See, e.g., Hull v. Albrecht, 960 P.2d 634 (Ariz. 1998); Lake View Sch. Dist. v. Huckabee; 91 S.W.3d 472 (Ark. 2002); Idaho Schs. For Equal Educ. Opportunity v. State, 976 P.2d 913 (Idaho 1998); Montoy v. State, 102 P.3d 1160 (Kan. 2005); Columbia Falls Elementary Sch. Dist. No. 6 v. State, 109 P.3d 259 (Mont. 2005); Hoke County Bd. of Educ. v. State, 599 S.E.2d 365 (N.C. 2004); Leandro v. State, 488 S.E.2d 249 (N.C. 1997); Abbott v. Burke, 693 A.2d 417 (N.J. 1997); Campaign for Fiscal Equity, Inc. v. State, 801 N.E.2d 326 (N.Y. 2003); Tennessee Small Sch. Sys. v. McWherter, 91 S.W.3d 232 (Tenn. 2002); Brigham v. State, 692 A.2d 384 (Vt. 1997); and Campbell County Sch. Dist. v. State, 19 P.3d 518

(Wyo. 2001). The trial court's decision in the instant case and the decisions of other state courts provide a basis for finding that another input of our educational system is insufficient to satisfy the constitutional requirement and that funding is inadequate to ensure every student in the Plaintiff Districts receive an opportunity to receive a minimally adequate education.

STATEMENT OF FACTS

Amici adopt the Appellants-Respondents' statement of the case and facts.

ARGUMENT

I. THE STATE HAS A CONSTITUTIONAL DUTY TO ALL STUDENTS TO PROVIDE THEM A HIGHLY QUALIFIED TEACHER SO THEY HAVE AN OPPORTUNITY TO RECEIVE A MINIMALLY ADEQUATE EDUCATION.

No one disputes that a child entering a classroom without books, desks, or a roof over the room has an opportunity to receive a minimally adequate education, yet the State expects students entering a classroom without the most important resource – a highly qualified teacher – to achieve and meet high standards. State and federal law require this resource. South Carolina, in short, directs school boards not to employ teachers without certificates and imposes further standards on teachers in law and regulation. See S.C. Code Ann. §§ 59-25-50 et seq.; §§ 59-26-10 et seq.; S.C. Code Ann. Regs. § 43-50 et seq. Additionally, The No Child Left Behind Act of 2001 demands that each student must be taught in all core academic subjects by a highly qualified teacher. According to the Act, a highly qualified teacher is one who has received a bachelor's degree, attained full state certification and licensure, and proved

knowledge of the subject taught. See No Child Left Behind Act, Pub. L. No. 107-110, 115 stat. 1425 § 9101(23) (2002).

A. High Teacher Quality Is The Most Important Element of an Adequate Education System That Can Improve Learning Among Rural and At Risk Students.

“We will never improve our . . . schools until we invest in highly qualified and well-prepared teachers and administrators, programs that research confirms really work, up-to-date curriculum materials and modern plants and facilities. We do that for children in the suburbs. Do urban and rural children deserve any less?” Arthur Levine, Tests Find USA, Not Students, Lacking, USA Today, Jan. 8, 2003, at 13A. This quote summarizes volumes of commentary and research about the need for well-trained, motivated teachers. State and national education law reflects this emphasis on obtaining and retaining the best teachers to serve students in the greatest need.

The South Carolina Education Oversight Committee, charged with implementing and monitoring the Education Accountability Act, has focused on improving teaching in schools with the most challenging student populations. See S.C. Code Ann. § 59-18-1530, et seq.; see also No Child Left Behind Act, Pub. L. No. 107-110, 115 stat. 1425 (2002). SCREGG has seen the difference quality teachers have made in our schools, whether by instilling a lifelong love of learning in a young student, or by motivating disinterested teens to return to school to achieve their goals, but these quality teachers are too few and far between. Extensive trial testimony from school superintendents established the lack of high quality teachers in Plaintiff Districts. The trial court believed that the differences in characteristics of teachers in our districts is insignificant, but it is not at all insignificant to a student in

one of the Plaintiff Districts who has a long-term substitute, for example. This denial of opportunity to receive a minimally adequate education to even one child is a constitutional violation, let alone that of an entire classroom of students.

B. Research Demonstrates that Quality Teachers are a Critical Determinant of Student Achievement.

Teacher qualifications have been demonstrated to be an important correlate of classroom quality and a key strategy for ensuring that programs positively impact children's skills. A number of studies have found that teacher quality has a greater effect on student learning than any other single variable.

One leading study examined all public schools (including South Carolina's schools) that participate in the National Assessment of Educational Progress ("NAEP") exams. The study found that "[t]he most consistent highly significant predictor of student achievement in reading and mathematics in each year tested is the proportion of well-qualified teachers in a state" Linda Darling-Hammond, Teacher Quality and Student Achievement: A Review of State Policy Evidence, 8 Educ. Pol'y Analysis Archives 27 (2000). Notably, rural South Carolina's NAEP scores in reading are among the lowest in the nation. See Why Rural Matters, *supra*.

In another instance, Rivkin, Hanushek, and Kain (1998) analyzed 400,000 students in 3000 schools and concluded that while school quality is an important determinant of student achievement, the most important predictor is teacher quality. See Stephen G. Rivkin, Eric A. Hanushek & John F. Kain, Teachers, Schools, and Academic Achievement, *Econometrica* 73:2, 417-458 (March 2005).

Other researchers have contended that teacher quality is a powerful predictor of student performance. Indeed, the impact of well-prepared teachers on student

achievement can outweigh adverse student background factors such as poverty and minority status. L. Darling-Hammond, supra, at 1; Linda Darling-Hammond, Teacher Quality and Student Achievement: A Review of State Policy Evidence (unpublished manuscript) (1996). Likewise, William L. Sanders (1998) and Sanders and Rivers (1996) found that the single most important factor affecting student achievement is teachers, and the effects of teachers on student achievement are both additive and cumulative. In addition, lower achieving students are the most likely to benefit from increases in teacher effectiveness. William L. Sanders, Value-Added Assessment, 55 The Sch. Administrator 24, 24-32 (1998); William L. Sanders & J.C. Rivers, Cumulative and Residual Effects of Teachers on Future Academic Achievement, Value-Added Research and Assessment Center, Univ. of Tenn. (1998).

Not only do high quality teachers lead to high levels of student achievement but, conversely, students suffer significant educational harm if they are subjected to ineffective teachers. A Tennessee study that tracked individual students over a number of years found that children who suffer from poor teaching for only a few successive years are unlikely to ever recover their missed educational opportunities. William L. Sanders & J.C. Rivers, Cumulative and Residual Effects of Teachers on Future Student Academic Achievement, Value-Added Research and Assessment Center, Univ. of Tenn. (1996). Likewise, a North Carolina study found that for every one percent increase in teacher quality (as measured by National Teacher Examination scores), the percent of students who failed the state's competency tests decreased by three to five percent. Robert P. Strauss & Elizabeth A. Sawyer, Some New Evidence on Teacher and Student Competencies, 5 Econ. Educ. Rev. 41-48

(1986). This research confirms that the quality of South Carolina's teachers must be addressed if student performance is to improve.

II. THE STATE IS NOT MAINTAINING A MINIMALLY ADEQUATE EDUCATION SYSTEM IN PLAINTIFF DISTRICTS BECAUSE EVERY CHILD IS NOT TAUGHT BY A HIGHLY QUALIFIED TEACHER.

A. Rural Plaintiff Districts lack high-quality teachers.

The teaching force in Plaintiff Districts is marked by higher rates of substandard certificates, out-of-field permits, Program for Alternative Education Certification (PACE) teachers, foreign teachers, and long-term substitutes. The trial judge linked the absence of early childhood educational opportunities and lack of student achievement and Amici urge this Court to require the State to likewise address the absence of highly qualified teachers. In its decision, the trial court asked teachers, which it found to be “minimally adequate,” to employ pedagogical techniques to make a difference in achievement, but how can an ill-trained or inexperienced person—a long-term substitute or someone with only PACE, not educational training—do so? The State maintains that the current system for qualifying teachers in our state is sufficient and even nationally recognized. Those assertions become irrelevant when many of the people in front of rural classrooms every day have not withstood its rigors and are not successfully delivering learning opportunities in those classrooms.

Further, our students and schools require teachers with unique abilities to meet a diverse array of needs. Rural minority and rural Individual Education Plan (for students with disabilities) enrollment in South Carolina is among the highest in the country. Why Rural Matters, *supra*. The number of rural students in our state who

are English Language Learners (ELL) increased 254.5% between 2000 and 2005. Id. Yet due to the inadequacy of our system, our districts cannot attract and retain highly qualified teachers for ELL students or others.

B. Rural Schools Face Unique Challenges In Recruiting And Retaining High Quality Teachers.

Teacher recruitment and retention are of critical importance to rural school districts. Although state and federal law demands qualified teachers, narrow licensing requirements and the inability to attract qualified teachers are not resolved simply by passing a law. Rural districts typically have less tax capacity and lower pay schedules. Likewise, social and cultural amenities often are lacking. Attracting and retaining qualified teachers in rural areas represents a significant problem. Attracting and retaining qualified specialty teachers—such as mathematics, science, and special education teachers—in rural areas is even more problematic. As teacher licensing is subjected to various reforms by regional accreditation agencies, federal requirements and state departments of education, licensing becomes more fragmented, rigid, and difficult. In turn, this constricts teacher supply, and the effects fall disproportionately on rural schools that are already at a competitive disadvantage. Rural and small schools also face other specialty problems. For example, a mathematics teacher may also need to teach science. However, dual certification is often difficult and expensive to the applicant, which exacerbates the already difficult task of attracting and retaining teachers.

Poor economies and population loss in rural areas have resulted in fewer teachers. Because funds for teacher pay and recruitment in rural areas are some of the lowest in the United States, the “teacher shortage is even worse in rural areas than

elsewhere.” Alain Jehlen, “Rural education gets squeezed; big problems are cropping up for small schools in the country,” NEA Today: The Magazine of the National Education Association 9, at 29 (2001). In 1999 the American Association of School Administrators went so far as to declare “the main problem of rural school districts” to be “attracting and keeping quality teachers.” Clearinghouse on Rural Education and Small Schools, Timothy Collins, Attracting and Retaining Teachers in Rural Areas, ERIC Digest, EDO-RC-99-7 (Dec. 1999). Rural districts have little money to offer in the way of incentives, and cannot fill their teaching slots with fully qualified teachers. From the national perspective, this is not because fewer students are choosing to become teachers. According to the National Association of State Boards of Education, enough teachers are trained every year. Nancy A. Doorey & Audrey J. Noble, “Ensuring Teacher Quality and Supply: A State and Regional Approach,” The State Board Connection Issues In Brief, Nat’l Ass’n of State Bds. of Educ., at 19:1 (April 1999).

Facilities not conducive to teaching and learning also exacerbate the difficulty of recruiting teachers to rural schools. The essential question of facilities is not addressed in this brief, but a lack of up-to-date, quality facilities unquestionably contributes to the unlikelihood that a teacher would choose to work in a poor rural district with large facility problems and lack of economic infrastructure to repair or build schools. At trial, school superintendents presented significant evidence of poor conditions in the Plaintiff District schools.

Rural schools have to combat stereotypical views of rural America when they recruit their teachers, such as the notion that they are places of widespread

indifference to public schools, of crumbling buildings, and of closed communities unwelcoming to newcomers. Conditions facing rural teachers do differ from those in urban areas. Further, the poverty in the rural community that causes significant teacher pay disparity is also a major factor in the daily challenges of the classroom for rural teachers. Another leading cause of rural teacher attrition is the social, cultural, and professional isolation they face in rural communities. Isolation means that many rural teachers have a difficult time maintaining professional relationships with other teachers. Moreover, younger teachers who have been recruited to teach in a rural school often feel cut off from distant family, friends, and social activities. Faced with these factors and lower pay, teachers frequently leave rural schools or do not choose to come at all. But rather than viewing this as an intractable problem, some states have squarely faced the problems of recruiting and retaining teachers in their rural communities by offering differential pay scales, placement services, scholarships, loan forgiveness programs and subsidies for housing. South Carolina's efforts in this area have done very little to mitigate the ongoing problem, indicating a greater investment is needed. See Collins, supra.

C. South Carolina Invests Far Too Little To Be Able to Attract And Retain High-Quality Teachers.

The average teacher salary in South Carolina of nonrural districts is \$44,510 while rural Plaintiff District salaries average \$41,082. South Carolina Education Oversight Committee, 2007 State of South Carolina Education Accountability Act Report _____ Cards, _____ available _____ at <http://ed.sc.gov/topics/researchandstats/schoolreportcard/2007/default.cfm>. This near-\$3500 difference is significant when combined with factors such as those described

above. Also, averages mask the true pay gap for rural teachers in South Carolina. Rural Saluda cannot compete with Spartanburg District Three when the average pay difference is almost \$10,000 and other amenities of a larger community are considered. The geographic distance between these two ends of the pay spectrum is relatively large – 89 miles – when compared with the short distance that potential teachers could travel to leave lower paying rural districts and their attendant challenges behind. Marion 7's next door neighbor, Horry County School District, pays \$8000 more on average, as does Jasper County's neighbor, Beaufort County School District. This pay gap undoubtedly affects the Plaintiff Districts' ability to recruit and retain high-quality teachers

Further, the State asserts that it is investing significantly in its teachers and again cites national recognition on this issue. The Southern Regional Educational Board (SREB), a highly credible organization providing educational services for South Carolina and fifteen other states, recently found that the 2005-06 reported increases to teacher pay place our state in the bottom half of SREB states and below the national average increase. Gale F. Gaines, Focus on Teacher Pay and Incentives: Recent Legislative Actions and Update on Salary Averages, Southern Regional Education Board (May 2007). The reality is that teacher pay is not competitive in Plaintiff Districts. Consequently, students in the Plaintiff Districts are more likely to be taught by teachers who are not highly qualified, who hold substandard certificates, or who are not trained or certified at all but are long-term substitutes. The trial court's assertion otherwise is wrong.

Low pay and inadequate funding leads to another critical problem: teachers teaching without certification or out of their field. One study of the impact of teacher certification found that students taught by teachers certified in mathematics achieved at far higher levels than students taught by non-certified math teachers. See, Parmalee P. Hawk, Charles R. Coble & Melvin Swanson, Certification: It Does Matter, 36 Journal of Teacher Educ. No. 3, at 13-15 (1985). Higher pay results in the ability to hire teachers with greater training, certification, and experience, which makes a difference in instructional quality and in student learning.

D. South Carolina Is Failing to Make Other Investments That Can Improve the Quality of Rural Teachers.

1. Higher Teacher Salaries Correlate With Higher Student Achievement.

Raising teacher salaries and improving teacher quality is the most crucial educational component to address if the state is to meet its constitutional obligation to provide students with an opportunity to receive a minimally adequate education. The trial court acknowledged that average teacher salaries are lower than elsewhere in our state, but did not ascribe importance to that critical fact. Helping rural districts attract and retain highly qualified, excellent teachers with competitive compensation is absolutely essential in assuring that rural children receive that quality education they deserve.

For South Carolina to provide students with opportunities for a constitutionally adequate education, it must invest substantially in what it pays its teachers. Given the link between teacher quality and students achievement, it is not surprising that education researchers have found that improving teacher pay results in

greater gains in student achievement than any other reform initiative. The correlation between teacher pay and student achievement was confirmed by a recent national study showing that states that invest the most in teacher quality have the highest student achievement in the country. The study also found that “policies that jointly raise salaries and standards may offer particularly high leverage on teaching quality.” Linda Darling-Hammond, 1996, supra, at 24.

There is no measure in South Carolina for what it takes to bring and keep a highly qualified teacher to the Plaintiff Districts. On average, rural teachers are paid less than nonrural teachers in all but seven states. See generally, Lorna Jimerson, The Competitive Disadvantage: Teacher Compensation in Rural America, Rural School and Community Trust (March 2003); Carla T. McClure, Doris Redfield and Patricia Chahape Hammer, Recruiting and Retaining High Quality Teachers in Rural Areas, Appalachia Educational Laboratory Policy Brief (Dec. 2003); and Patricia Chahape Hammer; Georgia Hughes; Carla T. McClure; Cynthia Reeves; and Dawn Salgado, Rural Teacher Recruitment and Retention Practices: A review of the research literature, national survey of rural superintendents, and case studies of programs in Virginia, Edvantia, Inc. (2005), available at www.edvantia.org. This pay disparity places rural districts at a competitive disadvantage in the teacher labor market. As mentioned earlier, this disadvantage is often aggravated by poorer facilities; less stable administrative leadership; expectations of increased extracurricular responsibilities and fewer professional development opportunities; remoteness and isolation; the low level of education among adults who form a prospective teacher's peer group in the community; and the limited choices among church denominations,

medical practitioners, recreation facilities, and many other services and amenities. Suburban superintendents know that the most fertile ground for recruiting good teachers are the rural schools that cannot afford to compete for the services of the best free agent teachers on their faculty.

2. The Need for High-Quality Teachers Is Greatest in Low-Wealth and Rural Communities, but These Communities Cannot Compete With Wealthier Communities in the Labor Market for Teachers if the State Funding Mechanism Does Not Offset Their Competitive Disadvantage in Local Wealth.

Variations in local property wealth lead to wide disparities in teacher pay and quality among school districts across the state because of the continued reliance on property tax values, despite Act 388 of 2006. These variations are significant. Policy change that increases teacher salaries across the board will not eliminate inequities already existing between rural and nonrural districts. At least, rural teachers should earn salaries and benefits comparable to teachers in suburban areas.

Other deficiencies also exist within the education funding system of our state. To defend the way in which it meets the needs of Plaintiff Districts, the State cites the .20 poverty weight portion of the Act 388 property-sales tax “swap” enacted in 2006. In fact, school finance research across the country regularly finds this weight insufficient even when applied to the entire base student cost (which this weight is not), and that adequate funding for at risk students should be between two and two and one half times that of non-poor children.

E. South Carolina Must Employ Other Proven Recruitment and Retention Strategies to Improve Teacher Quality.

Competitive compensation is a very important factor in a state’s ability to attract and retain high quality teachers. Many other states and districts have

implemented bonus programs directed at high-need schools and subject areas with some success. Rural Caroline County, Virginia saw results from offering \$15,000 bonuses to beginning teachers in exchange for a commitment to stay for three years. See Carroll, H., “Helping Hard-to-Staff Schools,” Richmond Times Dispatch (Feb. 10, 2005) available at <http://www.timesdispatch.com>. Rural Orange County, North Carolina offers \$1,500 for math, science, foreign language, and “reading recovery” teachers who qualify as fully-licensed and highly-qualified under NCLB. The district also offers up to \$1,000 for teachers in other shortage subject areas as determined by the district. See “Orange County School System: A Great Place to Teach.” OCS New Teacher Incentive Program (June 9, 2005), available at www.orange.k12.nc.us/HR/New_Teacher_Incentive_Program.htm.

Though our state has made efforts to recruit and retain quality teachers through the Teacher Loan Program, more must be done. This program encourages teachers to work in critical need subject or geographic areas by excusing educational loans for candidates accepting these positions. Further, as the Defendants have noted, eligibility for loan forgiveness was recently expanded. However, the program contributes to the competitive disadvantage of our low wealth and high poverty districts because it does not apply first to these districts with the greatest need. The same is true of Education Accountability Act Technical Assistance. Offered on the same basis to rural and nonrural districts alike, it does not significantly contribute toward moving the State’s children toward minimally adequate opportunities.

However, simply increasing compensation and other monetary benefits will not suffice. High salaries should be supplemented with other efforts to address the

unique and varied teaching circumstances in rural schools. If South Carolina is to provide opportunities for students to acquire a minimally adequate education, it must train and support its teachers once they are hired. This means providing more than occasional teacher development programs. Teachers need significant opportunities to learn how to improve students' learning, especially in today's increasingly diverse and technology-dependent classroom. When teachers are afforded high quality training programs, their teaching practices change appreciably, they remain in the teaching profession longer and student learning improves. David K. Cohn & Heather C. Hill; Learning Policy: When State Education Reform Works 7 (Yale Univ. Press, 2001).

Rural schools and districts cannot on their own create all the supports teachers need. Rural teachers have less access to professional development and mentoring, and what is provided is often not targeted to their circumstances or needs. Support strategies include professional development and mentoring targeted to rural teaching situations, as well as rural-accessible recertification programs for multiple teaching assignments. Rural teachers are more likely than other teachers to have multiple teaching assignments and the need to become highly qualified in more than one subject. They are generally left to their own to determine how to get to college to get the classes they need and pay for those classes. The trial court acknowledged that these sorts of factors other than money that affect the ability of districts to attract and retain teachers.

Equally important is adopting measures to retain teachers. One study estimated the costs of replacing new teachers who leave at between \$8,000 and

\$48,000 each year. Aprile Dawn Benner, The Cost of Teacher Turnover, Austin, TX: Texas Center for Educational Research (2000), available at <http://web.ebscohost.com/ehost/delivery?vid=21&hid=2&sid=f1261e2f-3635-496b-9eeb-7c74d72f1244%40sessionmgr9-bib1up>. The State can undertake measures to reduce the high turnover of teachers in the Plaintiff Districts by identifying the causes of this high attrition. Project TRREE, a three-year, federally funded project conducted by the Kentucky Department of Education-identified several factors that contribute to high attrition rates. In that study, many teachers left the profession because of a stressful or unsupportive work environment, marked by: student and parental apathy, discipline problems, inadequate physical facilities, lack of collegial support, unsupportive leadership, and lack of decision-making authority. The state can, and indeed should, play an important role in alleviating these factors in school districts.

Teachers in our districts need authentic mentoring. Research suggests that new teachers who leave the profession do so within the first five years of their employment, and many of these move on to other types of employment after only the first year. Veronica Lopez-Estrada and V. Menchaca, "Piloting a teacher induction model in deep South Texas: Results of a two-year study," Catalyst for Change (2004). An authentic, helpful and trusting relationship between the mentor and a beginning teacher may be the difference between their success or failure and their ability or inability to provide the opportunity for their students to learn. Despite the trial court's assertion otherwise, new teachers can be inadequately prepared to teach in rural schools; many teacher preparation programs do not provide rural-specific training or practice opportunities. South Carolina, like other states, maintains an

education service center to provide workshops and other forms of staff development on teacher mentoring, but like other programs, The Center for Educator Recruitment, Retention, and Advancement (CERRA) is underfunded. Obviously, many of these efforts are hindered due to a shortage of district funding for release time for staff participation and an overall lack of program results.

Providing housing for teachers is another incentive that can address other barriers that exist for rural schools to maintain a high quality staff. A major reason for high teacher turnover in rural schools is the lack of suitable living quarters. Working in a high-poverty rural school usually means living in a high-poverty community where little exists in the way of housing, health care, recreation, or other amenities.

Finally, the State should invest substantially in grow-your-own programs. Supporting local residents to become well-trained teachers in their schools can be one of the most effective economic development strategies in our states. Also, districts are able to grow their own teachers by having active and dynamic future teacher clubs in their schools. This is an excellent way to introduce students to the teaching profession and to provide an opportunity for them to live and work in their local communities after they become certified. Such programs are growing in popularity and have proven successful for rural districts nationwide. See Terri D. Schwartzbeck, Cynthia D. Price, Doris Redfield, Helen Morris, and Patricia C. Hammer, "How Are Rural School Districts Meeting the Teacher Quality Requirements of No Child Left Behind?" Appalachia Educational Laboratory (December 2003).

III. RURAL STUDENTS PROPERLY RELY ON THE SOUTH CAROLINA JUDICIAL SYSTEM TO ENSURE THAT ALL ELEMENTS OF A MINIMALLY ADEQUATE EDUCATION, INCLUDING HIGH QUALITY TEACHERS, ARE IN PLACE IN THEIR SCHOOLS.

The trial court decision is incomplete without a finding that the State's failure to provide all students with high-quality teachers denies these students an opportunity to learn and acquire a minimally adequate education. The Defendants have contended that education policy cannot be expected to remedy poor achievement, yet also argue that existing education policy provides opportunity. The State maintains its position that opportunity exists for students in the Plaintiff Districts, that poverty and lack of achievement are not the result of poor schools, and that good achievement of students in poverty cannot be legislated. This Court can resolve this contradiction not by engaging in policymaking, but by concluding that what is in place is not ensuring an opportunity for each child to receive a minimally adequate education and directing the Defendants to address this failing.

Other courts have found highly qualified and well-paid teachers to be a necessary component of an opportunity to learn, and this Court now has the historic opportunity to address the systemic failure of education policy in this state as to its most vulnerable citizens. A conclusion by this Court that low teacher pay and resulting lack of unqualified teachers prevents students in Plaintiff Districts from having an opportunity to receive a minimally adequate education would be in accord with the overwhelming consensus of other courts examining these issues. Courts in several states have also ruled that unacceptably low outcomes of public school students are strongly linked to disparities in teacher pay. The Tennessee and

Arkansas funding systems, among others, have been declared unconstitutional because rural schools were unable to attract, pay, and retain a qualified teaching force.

The Tennessee Supreme Court explicitly recognized that properly paying teachers in remote and rural areas is an essential requirement of its educational system. In Tennessee Small School Systems v. McWherter, 894 S.W.2d 738 (1995), the court concluded that “[t]eachers, obviously, are the most important component of any education plan or system, and compensation is, at least, a significant factor determining a teacher’s place of employment.”

In Arkansas, the ruling in favor of a rural school district plaintiff found that disparities in teachers’ salaries “are so great that they work to destabilize the education system by driving qualified teachers away from districts where they are most needed. Schools and school districts with more disadvantaged students need more qualified teachers per student.” See Lake View Sch. Dist. No. 25 v. Huckabee, No. 1992-5318 (Ch. Ct., Pulaski County, Ark. May 25, 2001); Lake View Sch. Dist. No. 25 v. Huckabee, 91 S.W.3d 472 (Ark. 2002).

In Arkansas, special masters were used to report on legislative action to remedy the constitutional violations, including steps taken to assure teachers salaries are sufficient to avoid migration.” Lake View Sch. Dist. No. 25 v. Huckabee, 144 S.W.3d 741 (2004). This case was closed just last year, and the state has already reported significantly better teacher retention. Rob Moritz, “Fewer teachers leaving after first year, panel told,” Ark. News Bureau (May 7, 2008).

In another example, the North Dakota Supreme Court concluded: “High-spending schools have educational advantages over low-spending schools: better qualified and trained teachers as well as in-service training of staff, better equipment, and adequate facilities that are not overcrowded. The higher revenues in wealthy districts translate into more staff, better teacher-pupil ratios and programs, and adequate supplies. Greater funding means that schools do more things educationally, and do them better.” Horton v. Meskill, 376 A.2d 359, 368 (Conn. 1977); McDuffy v. Sec. of the Executive Office of Educ., 615 N.E.2d 516 (Mass. 1993); Bismark Pub. Sch. Dist. No. 1 v. State, 511 N.W.2d 247, 262 (N.D. 1994); see also Robinson v. Cahill, 287 A.2d 187, 200 (N.J. 1972); DeRolph v. State, 728 N.E.2d 993 (Ohio 2000); and Campbell County Sch. Dist. v. State, 19 P.3d 518 (Wyo. 2001).

CONCLUSION

Teacher quality in our districts is simply not sufficient to ensure that each child receives the opportunity to acquire the constitutionally required education. The trial judge noted that no specific level of compensation was suggested to ensure a high quality teaching staff and that Plaintiffs have never said how much more pay would be necessary. Indeed, it may not yet be known what it costs to assure that every student in Plaintiff Districts has a high-quality teacher. If rural districts cannot provide high quality instruction to their students because they cannot afford to hire high quality teachers, they – and the State – are not providing their students with the opportunity to receive a minimally adequate education.

It is imperative that the State make a cost determination of what it takes to bring and keep a highly qualified teacher workforce in Plaintiff Districts and require

the State to ensure that Plaintiff Districts have funding available to pay them. The standard must be set at levels that acknowledge the unique challenges of teaching in rural districts and not place those districts at a competitive disadvantage to neighboring systems that pay more. Putting a highly qualified teacher in the classrooms of students who need them the most is an educational imperative that must be acted upon and not merely remain words on paper.

School finance cases are ultimately resolved in the political process, but to prevail upon the legislature, rural citizens must first win in the courts. School funding systems are based on formulas and allocation processes that are political in nature and reflect the interest of those with resources and political power. Rural children, schools, and communities lack this power and continue to seek remedies through litigation absent adequate legislative remedies that reflect the ideals of the state. Rural people are a demographic and political minority in South Carolina, as they are in a majority of the United States. Declining population marginalizes the voice of rural students and schools even more. Consequently, when courts explicitly address rural concerns and find for rural plaintiffs, they are serving the time-honored judicial role of protector of the more vulnerable citizens in a democracy. We do not ask this Court to become a super-legislature or a super-school board but to make the appropriate determination that is the essence of school finance adequacy cases: that the State's education system is inadequate and must be remedied.

South Carolina's at-risk students will not reach their academic potential unless the State provides them the opportunity to do so by offering an essential component of a minimally adequate education: high quality teachers. To do less is to condemn

these children to a life of second-class citizenship, poverty, and certain struggle. Few challenges are as critical as educating every child in our state. The challenge is great, but not insurmountable.

For the reasons set forth above, the *Amici* South Carolina Rural Education Grassroots Committee and the Rural Trust urge the Court to enter an Order finding the state is not providing an opportunity for students to acquire a minimally adequate education because Plaintiff Districts lack high quality teachers and requiring the state to ensure that Plaintiff Districts have funding available to ensure that they are able to hire and retain high quality teachers in all their classrooms.

Respectfully submitted this 18th day of June, 2008.

By: Amanda Adler

Amanda Gibson Adler
South Carolina State Bar Number 69709
Director, Rural Education Finance Center
The Rural School and Community Trust
141-F Pelham Road, #207
Columbia, SC 29209
Telephone & Facsimile: (803) 253-6309
amanda.adler@ruraledu.org

Attorney for *Amici* South Carolina Rural
Education Grassroots Group and The Rural
School and Community Trust

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM LEE COUNTY
Court of Common Pleas

Thomas W. Cooper, Jr., Circuit Court Judge

Case No. 93-CP-31-0169

RECEIVED

JUN 18 2008

S.C. SUPREME COURT

Abbeville County School District, Allendale County School District, Bamberg County School District 1, Bamberg County School District 2, Barnwell County School District 19, Barnwell County School District 29, Barnwell County School District 45, Berkeley County School District, Chesterfield County School District, Clarendon County School District 1, Clarendon County School District 2, Clarendon County School District 3, Dillon County School District 1, Dillon County School District 2, Dillon County School District 3, Florence County School District 1, Florence County School District 2, Florence County School District 3, Florence County School District 4, Florence County School District 5, Hampton County School District 1, Hampton County School District 2, Jasper County School District, Laurens County School District 55, Laurens County School District 56, Lee County School District, Lexington County School District 4, Marion County School District 1, Marion County School District 2, Marion County School District 7, Marlboro County School District, McCormick County School District, Orangeburg Consolidated School District 3, Orangeburg Consolidated School District 5, Saluda County School District and Williamsburg County School District; Lena Manning, individually, and as a taxpayer residing in Allendale County and as Guardian ad Litem of Courtney V.; Courtney V., a minor, by and through Lena Manning, as Guardian ad Litem; William L. Mills, individually, and as a Taxpayer residing in Allendale County and as Guardian ad Litem of Waylon P.; Waylon P., a minor, by and through William Mills, as Guardian ad Litem; Betty Bagley, individually, and as a taxpayer residing in Bamberg County and as a parent and Guardian ad Litem of Tyler B.; Tyler B., a minor, by

and through Betty Bagley, as Guardian ad Litem, Evert Comer, Jr., individually, and as a taxpayer residing in Bamberg County and as parent and Guardian ad Litem of Kimberly C.; Kimberly C., a minor, by and through Evert Comer, Jr., as Guardian ad Litem; Marla Q. Jameson, individually, and as a taxpayer residing in Barnwell County, and as a parent and Guardian ad Litem of Eleanor J.; Eleanor J., a minor, by and through Marla Q. Jameson, as Guardian ad Litem; Victor M. Lancaster, Sr., individually, and as a taxpayer residing in Barnwell County, and as parent and Guardian ad Litem of Christie L.; Christie L., a minor, by and through Victor M. Lancaster, Sr., as Guardian ad Litem; Dr. Charles Clark, individually, and as a taxpayer residing in Chesterfield County, and as parent and Guardian ad Litem of Candace C., a minor, by and through Dr. Charles Clark, as Guardian ad Litem; Colonel Larry Coker, individually, and as a taxpayer residing in Clarendon County, and as a parent and Guardian ad Litem of Corrie C.; Corrie C., a minor, by and through Colonel Larry Coker, as Guardian ad Litem; Pamela Williams, individually, and as a taxpayer residing in Dillon County, and as parent and Guardian ad Litem of Katisha W.; Katisha W., a minor, by and through Pamela Williams as Guardian ad Litem; Eddie Wright, individually, and as a taxpayer residing in Florence County, and as parent and Guardian ad Litem of Brandon F.; Brandon F., a minor, by and through Eddie Wright as Guardian ad Litem; John Whiteside, individually, and as a taxpayer residing in Florence County and as Parent and Guardian ad Litem of Joel W.; Joel W., a minor, by and through John Whiteside as Guardian ad Litem; Dr. Francis Mills, individually, and as a taxpayer residing in Hampton County and as a parent and Guardian ad Litem of Amy M.; Amy M., a minor, by and through Dr. Francis Mills, as Guardian ad Litem; Brenda Brooks, individually, and as a taxpayer residing in Hampton County, and as parent and Guardian ad Litem of Tyrin B.; Tyrin B., a minor, by and through Brenda Brooks as Guardian ad Litem; Marva Tigner, individually, and as a taxpayer residing in Jasper County, and as parent and Guardian ad Litem of Bryan T. and Bradley T.; Bryan T., a minor, by and through Marva Tigner as Guardian ad Litem; Bradley T., a minor, by and through Marva Tigner as Guardian ad Litem;

Robert Elisha Short, individually, and as a taxpayer residing in Laurens County and as parent and Guardian ad Litem of Robert B. S.; Robert B. S., a minor, by and through Robert Elisha Short, as Guardian ad Litem; Dr. Keith A. Bridges, individually, and as a taxpayer residing in Laurens County and as parent and Guardian ad Litem of Jorgana Ranson B.; Jorgana Ranson B., a minor, by and through Dr. Keith A. Bridges, as Guardian ad Litem; Gail Y. Harriott, individually, and as a taxpayer residing in Lee County and as parent and Guardian ad Litem of Rashade H.; Rashade H., a minor, by and through Gail Y. Harriott, as Guardian ad Litem; Linda Carraway, individually, and as a taxpayer residing in Marion County, and as parent and Guardian ad Litem of Kimberly W.; Kimberly W., a minor, by and through Linda Carraway as Guardian ad Litem; Dr. John Nobles, individually, and as a taxpayer residing in Marlboro County and as parent and Guardian ad Litem of Erin N.; Erin N., a minor, by and through Dr. John Nobles, as Guardian ad Litem; Patricia Hampton, individually, and as a taxpayer residing in McCormick County and as parent and Guardian ad Litem of Krystle H.; Krystle H., a minor, by and through Patricia Hampton, as Guardian ad Litem; Bernice Profit, individually, as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Russell H.; Russell H., a minor, by and through Bernice Profit, as Guardian ad Litem; Matlin P. Brown, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Tanisha P. B.; Tanisha P. B., a minor, by and through Matlin P. Brown, as Guardian ad Litem; James Berry, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Dondrea B.; Dondrea B., a minor, by and through James Berry, as Guardian ad Litem; Gerald Smith, individually, and as a taxpayer residing in Orangeburg County and as parent and Guardian ad Litem of Brenda S.; Brenda S., a minor, by and through Gerald Smith, as Guardian ad Litem; Thomas Shealy, individually, and as a taxpayer residing in Saluda County and as parent and Guardian ad Litem of Thomas S., Jr.; Thomas S., Jr., a minor, by and through Thomas Shealy, as Guardian ad Litem,

Plaintiffs,

Of whom:

Allendale County School District,
 Dillon County School District 2,
 Florence County School District 4,
 Hampton County School District 2,
 Jasper County School District,
 Lee County School District,
 Marion County School District 7,
 Orangeburg School District 3,
 Lena Manning, individually, and as a taxpayer residing
 in Allendale County and as Guardian ad Litem of
 Courtney V.; Courtney V., a minor, by and through Lena
 Manning, as Guardian ad Litem; Pamela Williams,
 individually, and as a taxpayer residing in Dillon County,
 and as parent and Guardian ad Litem of Katisha W.;
 Katisha W., a minor, by and through Pamela Williams as
 Guardian ad Litem; Eddie Wright, individually, and as a
 taxpayer residing in Florence County, and as parent and
 Guardian ad Litem of Brandon F.; Brandon F., a minor,
 by and through Eddie Wright as Guardian ad Litem;
 Brenda Brooks, individually, and as a taxpayer residing
 in Hampton County, and as parent and Guardian ad
 Litem of Tyrin B.; Tyrin B., a minor, by and through
 Brenda Brooks as Guardian ad Litem; Marva Tigner,
 individually, and as a taxpayer residing in Jasper County,
 and as parent and Guardian ad Litem of Bryan T. and
 Bradley T.; Bryan T., a minor, by and through Marva
 Tigner as Guardian ad Litem; Bradley T., a minor, by
 and through Marva Tigner as Guardian ad Litem; Gail Y.
 Harriott, individually, and as a taxpayer residing in Lee
 County and as parent and Guardian ad Litem of Rashade
 H.; Rashade H., a minor, by and through Gail Y.
 Harriott, as Guardian ad Litem; Linda Carraway,
 individually, and as a taxpayer residing in Marion
 County, and as parent and Guardian ad Litem of
 Kimberly W.; Kimberly W., a minor, by and through
 Linda Carraway as Guardian ad Litem; Bernice Profit,
 individually, and as a taxpayer residing in Orangeburg
 County and as parent and Guardian ad Litem of Russell
 H.; Russell H., a minor, by and through Bernice Profit, as
 Guardian ad Litem, are

Appellants-
 Respondents,

v.

Glenn F. McConnell, as President *Pro Tempore*
 of the Senate and as a representative of the South
 Carolina Senate; Robert W. Harrell, Jr., as

Speaker of the House of Representatives
and as a representative of the South Carolina
House of Representatives, ... Respondents-
Appellants,
and
The State of South Carolina; Mark C. Sanford, as
Governor of the State of
South Carolina, ... Respondents.

PROOF OF SERVICE

I hereby certify that the foregoing **BRIEF OF *AMICI CURIAE* SOUTH CAROLINA RURAL EDUCATION GRASSROOTS GROUP AND THE RURAL SCHOOL AND COMMUNITY TRUST IN SUPPORT OF APPELLANTS-RESPONDENTS** has been served upon all counsel of record in this matter by depositing three (3) copies of the bound brief in the United States Postal Service to them with sufficient postage thereon and return address affixed thereto:

Carl B. Epps, Esq.
Laura C. Hart, Esq.
Stephen O. Morrison, Esq.
Shelby K. Leonardi, Esq.
Nelson Mullins Riley &
Scarborough, LLP
Post Office Box 11070
Columbia, SC 29211

Attorneys for Appellants-
Respondents

Robert E. Stepp, Esq.
Elizabeth Van Doren Gray, Esq.
A Jackson Barnes, Esq.
Roland M. Franklin, Jr., Esq.
Sowell Gray Stepp & LaFitte, LLC
Post Office Box 11449
Columbia, SC 29211

Attorneys for Respondents-Appellants Senate and
House of Representatives of the State of South
Carolina

Henry D. McMaster, Esq.
J. Emory Smith, Jr., Esq.

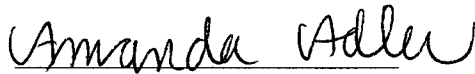
Swati S. Patel, Esq.
Office of the Governor

Office of the Attorney General
of the State of South Carolina
Post Office Box 11549
Columbia, SC 29211

South Carolina State House
Post Office Box 12267
Columbia, SC 29211

Attorneys for Respondent State
of South Carolina

Attorney for Respondent
Governor of South Carolina



Amanda Gibson Adler, Esq.
Director, Rural Education Finance Center
The Rural School and Community Trust
141-F Pelham Road, #207
Columbia, SC 29209
Telephone & Facsimile: (803) 253-6309
amanda.adler@ruraledu.org

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