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RECEIVED

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SC Court of Appeals

Via Hand Delivery

The Honorable Jenny Abbott Kitchings
Clerk of Court
South Carolina Court of Appeals
1220 Senate Street
Columbia, South Carolina 29201

Re: Darrell J. Alston, Jr. and Mabel L. Alston v. Beaufort County School District and South Carolina High School League
Appellate Case No. 2017-001492
Our File No. 5346/1532

Dear Ms. Kitchings:

Pursuant to Rule 208(b)(7), SCACR, Respondent South Carolina High School League submits this response to Appellants' letter to the Court seeking to add supplemental citations to page 15 of their brief.

As a preliminary matter, the authorities cited in Appellants' letter are not "pertinent or significant" because the cases do not pertain to the issue to which Appellants seek to add them. Page 15 of Appellants' brief falls at the end of their argument that the circuit court purportedly erred in using Form 4 orders to rule upon the motions in this case. Appellants do not address the rules of preservation—or any exceptions thereto—once in their brief, much less on page 15.

Although this technically is not a motion to strike, the Court should decline to consider these irrelevant authorities because Appellants are seeking to use the supplemental citation rule to address Respondent's preservation argument—something they should have done in a reply brief in accordance with Rule 208(a)(3), SCACR. Appellants, however, failed to file a reply brief and cannot use their letter as a substitute.

More importantly, the three cases upon which Appellants rely do not stand for the propositions for which they are cited. All three decisions involve appeals from a family court's child custody determination. No appellate court has cited the "rights and best interest" exception to the rules of issue preservation outside the context of family court matters. See, e.g., Joiner ex rel. Rivas v. Rivas, 342 S.C. 102, 107, 536 S.E.2d 372, 374 (2000) (holding that, in a termination of parental rights appeal from the family court, "procedural rules are subservient to the court's duty to zealously guard the rights of minors"); Ex parte Roper, 254 S.C. 558, 563, 176 S.E.2d 175, 177 (1970) (holding that, "where the rights and best interests of a minor child are concerned, the court may



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appropriately raise, ex mero motu, issues not raised by the parties” in a child custody proceeding regarding visitation rights in the family court); Galloway v. Galloway, 249 S.C. 157, 160, 153 S.E.2d 326, 327 (1967) (observing that “the welfare of the minor child is . . . a paramount consideration in cases involving annulment or vacation of an adoption decree” in the family court and holding “[t]he duty to protect the rights of minors has precedence over procedural rules otherwise limiting the scope of review and matters affecting the rights of minors can be considered by th[e supreme] court ex mero motu”).

This matter was decided in circuit court, and counsel does not enjoy the same protection from issue preservation rules that he may receive in family court because the “best interest of the child,” a key legal concept in family law, is not a consideration taken into account by the circuit court in a negligence case. The present appeal has nothing to do with a family court’s child custody determination and, therefore, the authorities cited by Appellants are inapposite.

Simply put, Appellants’ supplemental citations do not comply with Rule 208(b)(7), SCACR. Appellants cannot use irrelevant authorities under the guise of the rule to circumvent their failure to (1) preserve issues before the circuit court and (2) address Respondent’s preservation argument after neglecting to file a reply brief with the Court. For these reasons, the Court should decline to consider Appellants’ letter seeking to add supplemental citations.

With warmest regards, I remain

Very truly yours,

Vordman Carlisle Traywick, III

VCT:rco

Enclosures

cc: Bruce R. Hoffman, Esquire
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Victoria L. Anderson, Esquire
J. Michael Montgomery, Esquire
Rebecca Laffitte, Esquire