

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY
Court of Common Pleas
Doyet A. Early, Circuit Court Judge

Appellate Case No. 2019-000648
Civil Action No. 2018-CP-40-02425

RECEIVED

OCT 07 2019

SC Court of Appeals

Jefferson Davis, Jr. Appellant,

v.

Ellen Weaver, Chad Connelly, Oran P. Smith, Neil J. Mellen, Howard S. Rich, Rick Reams, Stephen D. Kirkland, Palmetto Promise Institute, Palmetto Family Council, Palmetto Family Action, South Carolinians for Responsible Government, SCRG Foundation, Access Opportunity South Carolina, Friedman Foundation for Educational Choice, Inc., Cato Institute, South Carolina Educational Credit for Exceptional Needs Children Fund, South Carolina Education Oversight Committee, South Carolina Dept. of Revenue, South Carolina Dept. of Labor, Licensing and Regulation, First Impressions, Inc. d/b/a/ Richard Quinn & Associates, First Tuesday Strategies, LLC, Bill Wilson, Jason Bedrick, Jim DeMint, Randy Page, Tony Denny, Phillip Cease, Melanie Barton, Doris Cubitt, Susan Thomas, John McCormick, Nate Leupp, Institute of Management Consultants USA & John Doe(s) 1-40..... Respondents.

**RESPONDENTS CATO INSTITUTE’S AND HOWARD S. RICH’S
DESIGNATION OF MATTER FOR THE RECORD ON APPEAL**

Pursuant to Rule 209, SCACR, Respondent Cato Institute and Howard S. Rich designate the following matter for inclusion in the record on appeal. Undersigned counsel certifies pursuant to Rule 209(c), SCACR, that the designation contains no matter irrelevant to the appeal.

Orders

1. Judge Benjamin’s Order granting in part the Motion to Dismiss (October 29, 2019).
2. Judge Benjamin’s Amended Order granting in part the Motion to Dismiss (October 30, 2019).

3. Judge Early's Order granting the new defendants' Motions to Dismiss (February 19, 2019).

Pleadings

4. Complaint (May 3, 2018).
5. Amended Complaint (November 19, 2019).
6. Answer of Weaver, Smith, Palmetto Promise Institute, and DeMint (December 19, 2018).
7. Answer of Palmetto Family Counsel and Palmetto Family Alliance (December 21, 2018).
8. Answer of S.C. Dept. of Labor, Licensing, and Regulation and Doris Cubit (January 3, 2019).
9. Answer of First Tuesday Strategies, LLC (January 7, 2019).
10. Answer of Institute of Management Consultants, USA (January 11, 2019).
11. Answer of First Impressions, Inc. (January 29, 2019).
12. Answer of Tony Denny (February 15, 2019).

Motions and Memoranda

13. Weaver's and Palmetto Promise Institute's Motion to Dismiss (June 7, 2018).
14. Weaver's and Palmetto Promise Institute's Memorandum in Support of the Motion to Dismiss (September 26, 2018).
15. Plaintiff's Response to the Motion to Dismiss (September 27, 2018).
16. SC Educational Credit for Exceptional Needs Children Fund's Motion to Dismiss (December 14, 2018).
17. S.C. Dept. of Revenue's and Rick Reames' Motion to Dismiss (December 21, 2018).
18. Stephen Kirkland's Motion to Dismiss (December 21, 2018).
19. Randy Page's Motion to Dismiss (December 21, 2018).
20. Palmetto Family Council's Motion to Dismiss (December 26, 2018).

21. SCRG Foundation's Motion to Dismiss (December 26, 2018).
22. S.C. Education Oversight Commission's Motion to Dismiss (December 28, 2018).
23. First Tuesday Strategies, LLC's Motion to Dismiss (January 7, 2019).
24. Institute of Management Consultants, USA's Motion to Dismiss (January 11, 2019).
25. Phillip Cease's Motion to Dismiss (January 15, 2019).
26. Cato Institute's and Howard S. Rich's Motion to Dismiss (January 15, 2019).
27. South Carolinians for Responsible Government's Motion to Dismiss (January 17, 2019).
28. Doris Cubit's Motion to Dismiss (January 25, 2019).
29. S.C. Dept. of Labor, Licensing, and Regulation's Motion to Dismiss (January 25, 2019).
30. First Impressions, Inc.'s Motion to Dismiss (January 29, 2019).
31. Friedman Foundation for Educational Choice's Motion to Dismiss (January 29, 2019).
32. S.C. Education Oversight Committee's Memorandum in Support of Motion (February 6, 2019).
33. Cato Institute's and Howard S. Rich's Memorandum in Support of Motion (February 6, 2019).
34. Stephen Kirkland's Memorandum in Support of Motion (February 6, 2019).
35. SCRG Foundation's Memorandum in Support of Motion (February 6, 2019).
36. Institute of Management Consultants, USA's Memorandum in Support of Motion (February 8, 2019).
37. S.C. Educational Credit for Exceptional Needs Children Fund's Memorandum in Support of Motion (February 10, 2019).
38. Randy Page's Memorandum in Support of Motion (February 11, 2019).

39. First Tuesday Strategies, LLC's Memorandum in Support of Motion (February 11, 2019).
40. Tony Denny's Motion to Dismiss (February 15, 2019).
41. Plaintiff's Motion to Reconsider (March 6, 2019).

Transcript

42. Transcript of Hearing on Weaver's and Palmetto Promise Institute's Motions to Dismiss (October 1, 2018).
43. Transcript of Hearing on the new defendants' Motions to Dismiss (February 19, 2019).

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By: 

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October 7, 2019
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October 7, 2019

HAND DELIVERED

The Honorable Jenny Abbott Kitchings
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The South Carolina Court of Appeals
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RECEIVED
OCT 07 2019
SC Court of Appeals


RE: Davis v. Weaver *et al.*
Appellate Case No. 2019-000648
Our File No. 058675/01500

Dear Ms. Kitchings:

In connection with the above-captioned matter, enclosed please find an original and one copy of the Initial Brief of Respondents Cato Institute and Howard S. Rich. Also enclosed is an original and one copy of Cato Institute's and Mr. Rich's Designation of Matter. We ask that you file the originals and return clocked-in copies to us via our courier.

Also enclosed is a Proof of Service of the Initial Brief and Designation on Appellant and on the other Respondents' counsel of record.

Very truly yours,


Miles E. Coleman

Enclosures

CC: Jefferson Davis, Jr.
Mark S. Barrow, Esq.
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Geoffery K. Chambers, Esq.
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October 7, 2019

Page 2

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Promise Institute, Palmetto Family Council, Palmetto Family
Action, South Carolinians for Responsible Government, SCRG
Foundation, Access Opportunity South Carolina, Friedman
Foundation for Educational Choice, Inc., Cato Institute, South
Carolina Educational Credit for Exceptional Needs Children
Fund, South Carolina Education Oversight Committee, South
Carolina Dept. of Revenue, South Carolina Dept. of Labor,
Licensing and Regulation, First Impressions, Inc. d/b/a/ Richard
Quinn & Associates, First Tuesday Strategies, LLC, Bill Wilson,
Jason Bedrick, Jim DeMint, Randy Page, Tony Denny, Phillip
Cease, Melanie Barton, Doris Cubitt, Susan Thomas, John
McCormick, Nate Leupp, Institute of Management Consultants
USA & John Doe(s) 1-40..... Respondents.

PROOF OF SERVICE

I, the undersigned Administrative Assistant of the law offices of Nelson Mullins Riley & Scarborough LLP, attorneys for Cato Institute and Howard S. Rich, do hereby certify that I have served all counsel in this action with a copy of the filings specified below by mailing a copy of the same by United States Mail, postage prepaid, to the following addresses:

Pleadings: **Respondents Cato Institute and Howard S. Rich's Initial Brief and Designation of Matter to be Included in the Record on Appeal**

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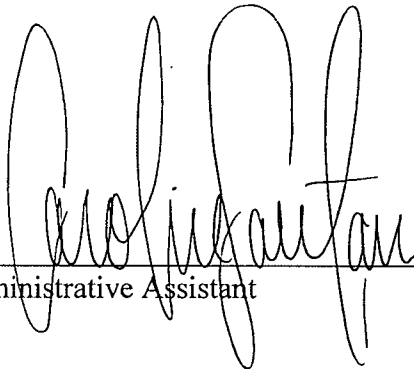
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A handwritten signature in black ink, appearing to read 'Benjamin P. Mustian', is written over a horizontal line. The signature is stylized with large loops and a cursive script.

Administrative Assistant

September ____, 2019