

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

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

RECEIVED
MAR 16 2020
SC Court of Appeals

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

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.

MOTION FOR EXTENSION OF TIME TO
FILE RESPONDENTS' FINAL BRIEFS

Pursuant to Rules 208(a)(3) and 240 of the South Carolina Appellate Court Rules, Respondents Cato Institute and Howard S. Rich respectfully request an extension of time to file their Final Brief. They further respectfully suggest that this extension should likewise be extended to the other Respondents in this appeal in light of the unusual procedural circumstances outlined

in the paragraphs that follow. This is Cato Institute's and Mr. Rich's first request for an extension of time for this deadline, and no prejudice will be caused to any party by this extension.

This request is made due to the unusual posture of this appeal. Mr. Davis—an attorney licensed in the State of Georgia who is representing himself *pro se* in this matter—missed his deadline to file his Initial Reply Brief and to serve the Record on Appeal.¹ He filed and served those documents belatedly, but his subsequent motions seeking permission to do so have not yet been ruled upon. Further confusing things, his purported service of the Record on Appeal was made not by mailing a hard copy of the Record to opposing counsel as contemplated by Rule 262(b), SCACR, but rather merely by sending an email to opposing counsel on February 27, 2020 containing a link to a Google Drive folder that apparently contains the Record.²

Accordingly, Cato Institute and Mr. Rich (and, upon information and belief, the other Respondents) are uncertain whether Mr. Davis' untimely attempt to serve the Record was permissible and thus triggered the deadline for the preparation, filing, and service of the parties' Final Briefs. Even apart from its untimeliness, Cato Institute and Mr. Rich are further uncertain whether Mr. Davis' attempt to serve the Record by emailing a file-sharing link was permissible such that it triggered the deadline for the preparation, filing, and service of the parties' Final Briefs.

In light of the uncertainties outlined above, Cato Institute and Mr. Rich respectfully request an extension of time in which to file their Final Brief until such time as this Court has determined whether this appeal is still a "live" dispute, has determined whether and when Mr. Davis must serve the Record by other means, and has clarified the deadline for whether and when the parties'

¹ Specific details of the deadlines set by this Court and missed by Mr. Davis may be found in this Court's letters dated January 17, 2020, February 20, 2020, and February 27, 2020.

² Undersigned counsel has been unable to download that file or verify its contents due to Firm security firewalls that prevent access to unsecured file-sharing sites. A letter sent to the Court on March 3, 2020 from another Respondent's counsel indicates that the other parties have likewise not yet received a copy of the Record.

Final Briefs are due. Cato Institute and Mr. Rich further request that the pending deadlines, if any, be held in abeyance pending the resolution of this request for an extension of time.

Respectfully submitted,

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March 16, 2020

Greenville, South Carolina

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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:

MOTION FOR EXTENSION OF TIME TO FILE RESPONDENT'S FINAL BRIEFS

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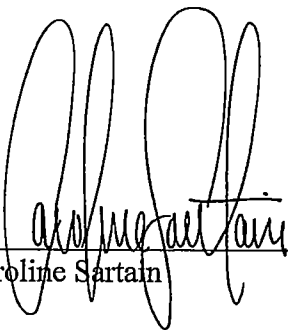
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March 16, 2020

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The Honorable Jenny Abbott Kitchings
Clerk of Court
The South Carolina Court of Appeals
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Columbia, SC 29201

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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 seven copies of the Motion for an Extension of Time filed by Cato Institute and Howard S. Rich. We ask that you file the original and six of the copies and return a clocked-in copy to us via our courier. Also enclosed is a Firm check for the filing fee and a Proof of Service showing service of the Motion for Extension of Time on Appellant and on the other Respondents' counsel of record.

Very truly yours,

Miles E. Coleman

Enclosures

CC: Jefferson Davis, Jr.
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Geoffery K. Chambers, Esq.
M. Dawes Cooke, Esq.
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