

02407

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
Court of Common Pleas

Doyet A. Early, III, Circuit Court Judge  
Case No.: 2018-cp-40-02425

**RECEIVED**

MAR 11 2020

**SC Court of Appeals**

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Appellate Case No. 2019-000648

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Jefferson Davis, Jr., .....Appellant

v.

Ellen Weaver, Chad Connelly, Oran P. Smith, Neil J. Mellen, Howard S. Rich, Rick Reames, 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 Department of Revenue, South Carolina Department of Labor, Licensing and Regulations, 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

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**RESPONDENT STEPHEN D. KIRKLAND'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL  
AND TO STAY THE TIME FOR FILING THE FINAL BRIEF**

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Pursuant to Rule 212(b) of the South Carolina Appellate Court Rules, Respondent Stephen D. Kirkland requests leave of the Court of Appeals to supplement the Record on Appeal to include the Affidavit of Stephen D. Kirkland (attached as Exhibit A).

Respondents Cato Institute and Howard S. Rich's Designation of Matter, filed October 7, 2019 and adopted by Respondent Kirkland, includes Mr. Kirkland's Motion to Dismiss and

supporting memorandum. Respondent Kirkland recently received the Record on Appeal from Appellant. The Record on Appeal indicates that it includes Mr. Kirkland's Motion to Dismiss and supporting memorandum filed in the underlying case. *See R. at 183; 313.* Absent from the Record on Appeal, however, is the Affidavit of Mr. Kirkland, filed along with the Motion to Dismiss and referenced by the Motion to Dismiss and supporting memorandum.

In his initial and final brief, Respondent Kirkland relies on his Affidavit, arguing additional sustaining grounds for affirming the circuit court's ruling and upholding dismissal. Because the Affidavit should have been included in the Record on Appeal and Respondent Kirkland relies on it in his arguments, Respondent Kirkland respectfully requests this Court grant him leave to file a Supplemental Record containing the Affidavit.

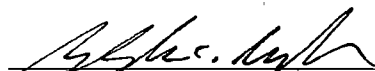
In addition, Respondent Kirkland requests this Court grant a stay of the time Respondent Kirkland has to file his Final Brief. Pursuant to Rule 211, SCACR, each party must serve and file a copy of his or her final brief within 20 days after service of the Record on Appeal. Counsel for Respondent Kirkland was served with the Record on Appeal on February 27, 2020. Respondent Kirkland requests twenty (20) days from the date the Court renders a decision on the Motion to Supplement within which to file his final brief or the supplemental record and final brief with citations to the supplemental record.

This 9<sup>th</sup> day of March, 2020.

40 Calhoun Street, Suite 400  
Charleston, South Carolina 29401-3531  
*dmackelcan@cskl.law*  
*swilson@cskl.law*  
Ph: 843-727-0307

COPELAND, STAIR, KINGMA & LOVELL, LLP

By:

  
DOUGLAS W. MACKELCAN  
State Bar No.: 76332  
SKYLER C. WILSON  
State Bar No.: 102865

*Attorneys for Respondent Stephen D. Kirkland*

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

APPEAL FROM RICHLAND COUNTY  
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Case No.: 2018-cp-40-02425

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v.

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---

**PROOF OF SERVICE**

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I certify that I have served ***RESPONDENT STEPHEN D. KIRKLAND'S MOTION TO SUPPLEMENT THE RECORD ON APPEAL AND TO STAY THE TIME FOR FILING THE FINAL BRIEF***, upon the parties below by depositing a copy of it in the United States Mail, postage prepaid, on March 9, 2020, addressed as follows:

Jefferson Davis, Jr.  
403 McCarter Avenue  
Greenville, SC 29615  
[jdavis@apogeetax.com](mailto:jdavis@apogeetax.com)  
*Pro se Plaintiff*

Mark S. Barrow, Esq.  
Martin S. Driggers, Jr., Esq.  
Sweeny, Wingate & Barrow, PA  
115 Cargill Way, Suite B  
Hartsville, SC 29550  
[msb@swblaw.com](mailto:msb@swblaw.com)  
[msd@swblaw.com](mailto:msd@swblaw.com)

*Counsel for Def. Palmetto Family Council;  
Palmetto Family Alliance; and  
Palmetto Family Action*

Miles E. Coleman, Esq.  
Nelson Mullins Riley & Scarborough, LLP  
P.O. Box 10084  
Greenville, SC 29603

[Miles.coleman@nelsonmullins.com](mailto:Miles.coleman@nelsonmullins.com)

*Counsel for Defendant SCRG Foundation n/k/a  
Enriching Students' Knowledge; Cato Institute;  
and Howard S. Rich*

Geoffrey K. Chambers, Esq.  
411 Walnut Street No. 10646  
Green Cove Springs, FL 32043  
[g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com)

*Counsel for Defs. South Carolina Educational  
Credit for Exceptional Needs Childrens Fund;  
and Randy Page*

M. Dawes Cooke, Jr., Esq.  
Justin Paul Novak, Esq.  
Barnwell Whaley Patterson and Helms, LLC  
P.O. Drawer H  
Charleston, SC 29402  
[mdc@barnwell-whaley.com](mailto:mdc@barnwell-whaley.com)  
[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)

*Counsel for Defs. South Carolina Educational  
Credit for Exceptional Needs Childrens Fund*

Michael B. Wren, Esq.  
William H. Davidson, II, Esq.  
P.O. Box 8568  
Columbia, SC 20202  
[mwren@dml-law.com](mailto:mwren@dml-law.com)  
[w davidson@dml-law.com](mailto:w davidson@dml-law.com)

*Counsel for Defs. South Carolina Dept. of  
Revenue; and Rick Reames*

Jason P. Luther, Esq.  
General Counsel  
South Carolina Dept. of Revenue  
P.O. Box 12265  
Columbia, SC 29211  
[jason.luther@dor.sc.gov](mailto:jason.luther@dor.sc.gov)

**Def. South Carolina Dept. of Revenue**

Benjamin Parker Mustian, Esq.  
141 Pelham Drive, Suite F #108  
Columbia, SC 29209  
[bpmlawsc@gmail.com](mailto:bpmlawsc@gmail.com)

*Counsel for Def. First Impressions, Inc. d/b/a  
Richard Quinn & Associates*

Andrew Haselden, Esq.  
Houser, Newman & Besley, LLC  
P.O. Box 120009  
Columbia, SC 29211  
[ahaselden@hnblaw.com](mailto:ahaselden@hnblaw.com)

*Counsel for Def. South Carolina Dept. of LLR  
and Doris Cubitt*

Joseph M. McCulloch, Esq.  
Kathy R. Schillaci, Esq.  
McCulloch & Schillaci, Attorneys at Law  
P.O. Box 11623  
Columbia, SC 20201  
[joe@mccullochlaw.com](mailto:joe@mccullochlaw.com)  
[kathy@mccullochlaw.com](mailto:kathy@mccullochlaw.com)

*Counsel for Def. First Tuesday Strategies, LLC*

Mark V. Gende, Esq.  
Brandon R. Gottschall, Esq.  
Sweeney, Wingate and Barrow, P.A.  
P.O. Box 12129  
Columbia, SC 29211  
[mvg@swblaw.com](mailto:mvg@swblaw.com)  
[brg@swblaw.com](mailto:brg@swblaw.com)

***Counsel for Defendants Phillip Cease; and  
South Carolinians for Responsible Government***

Joseph C. Chapelle, Esq.  
Barnes & Thornburg, LLP  
11 S. Meridian Street  
Indianapolis, IN 46204

***Counsel for Defendant  
EdChoice, Inc. (formerly and incorrectly  
identified as Friedman Foundation for  
Educational Choice, Inc.)  
Admitted pro hac vice***

J. Kenneth Carter, Jr., Esq.  
Ross C. DuRant, Esq.  
Turner, Padgett, Graham & Laney, PA  
P.O. Box 1473  
Columbia, SC 29201

[kcarter@turnerpadgett.com](mailto:kcarter@turnerpadgett.com)  
[rdurant@turnerpadgett.com](mailto:rdurant@turnerpadgett.com)  
***Counsel for Defs. Defs Palmetto Promise  
Institute; Jim DeMint; and Oran P. Smith; and  
Ellen Weaver***

Alan G. Jones, Esq.  
Turner Padgett Graham & Laney, P.A.  
P.O. Box 1509  
Greenville, SC 29602  
[agjones@turnerpadgett.com](mailto:agjones@turnerpadgett.com)  
***Counsel for Def. Tony Denny***

This 9<sup>th</sup> day of March, 2020.

Christopher J. Daniels, Esq.  
Nelson Mullins Riley & Scarborough, LLP  
P.O. Box 11070  
Columbia, SC 29211

[Chris.daniels@nelsonmullins.com](mailto:Chris.daniels@nelsonmullins.com)  
***Counsel for Defendant  
EdChoice, Inc. (formerly and incorrectly  
identified as Friedman Foundation for  
Educational Choice, Inc.)***


Jennifer F. Nutter, Esq.  
Hood Law Firm, LLC  
P.O. Box 1508  
Charleston, SC 29402  
[jennifer.nutter@hoodlaw.com](mailto:jennifer.nutter@hoodlaw.com)  
***Counsel for Def. Institute of Management  
Consultants, USA***

James H. Goldin, Esq.  
Nelson Mullins Riley & Scarborough, LLP  
1320 Main Street, 17<sup>th</sup> Floor  
Columbia, SC 29202

[jamey.goldin@nelsonmullins.com](mailto:jamey.goldin@nelsonmullins.com)  
***Counsel for Def. Access Opportunity  
South Carolina***

COPELAND, STAIR, KINGMA & LOVELL, LLP

By:

  
DOUGLAS W. MACKELCAN  
State Bar No.: 76332  
SKYLER C. WILSON  
State Bar No.: 102865

***Attorneys for Respondent Stephen D. Kirkland***

40 Calhoun Street, Suite 400  
Charleston, South Carolina 29401-3531  
[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)  
[swilson@cskl.law](mailto:swilson@cskl.law)  
Ph: 843-727-0307

STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND

) IN THE COURT OF COMMON PLEAS  
) FIFTH JUDICIAL CIRCUIT  
) CASE NO.: 2018-CP-40-02425

Jefferson Davis, Jr.,  
Plaintiff,

vs.

Ellen Weaver, Chad Connelly, Oran P. Smith,  
Neil J. Mellen, Howard S. Rich, Rick Reames,  
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 Department of Revenue, South  
Carolina Department of Labor, Licensing and  
Regulations, 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,

Defendants.

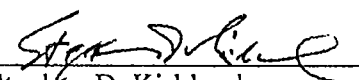
**AFFIDAVIT OF  
STEPHEN D. KIRKLAND**

Personally appeared before me, Stephen D. Kirkland, who, under oath, states as follows:

1. I am over the age of eighteen (18) years and competent to give this Affidavit.
2. I have personal knowledge of the facts contained in this Affidavit.
3. The facts herein are true and correct to the best of my knowledge.
4. The attached documents, apparently filed by the Plaintiff in an attempt to prove service, illustrate that I did not sign the green card, and no one signed it on my behalf.

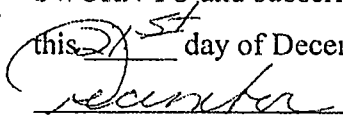



- 5. In fact, I never received the green card. It appears to have been removed from an envelope containing a copy of the Amended Complaint, which was left in my mailbox.
- 6. I have never been personally served with the Amended Complaint.
- 7. No one was home at my house on November 26, 2018, therefore, the envelope could not have been, and was not, left with an individual as is stated in the attached documents.

  
 \_\_\_\_\_  
 Stephen D. Kirkland

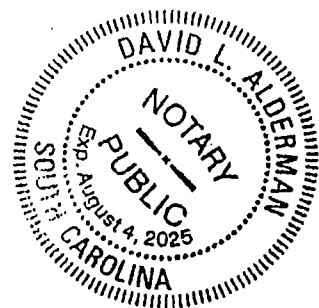
SWORN TO and subscribed before me,

this 21<sup>st</sup> day of December, 2018

Notary Public for the State of S.C.

My Commission Expires: \_\_\_\_\_



(SEAL)



ALERT: DUE TO WILDFIRES IN CALIFORNIA, USPS SERVICES ARE IMPACTED IN THOSE ARE...

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Your item was delivered to an individual at the address at 3:20 pm on November 26, 2018 in COLUMBIA, SC 29204.

 **Delivered**

November 26, 2018 at 3:20 pm  
Delivered, Left with Individual  
COLUMBIA, SC 29204

Get Updates 

Feedback

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**Text & Email Updates** 

---

**Tracking History** 

**November 26, 2018, 3:20 pm**

Delivered, Left with Individual  
COLUMBIA, SC 29204

Your item was delivered to an individual at the address at 3:20 pm on November 26, 2018 in COLUMBIA, SC 29204.

**November 26, 2018**

In Transit to Next Facility

**November 23, 2018, 12:17 am**

Departed USPS Regional Destination Facility  
COLUMBIA SC PROCESSING CENTER

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ELECTRONICALLY FILED - 2018 Dec 21 3:59 PM - RICHLAND - COMMON PLEAS - CASE#2018CP4002425

November 22, 2018, 11:40 am  
Arrived at USPS Regional Destination Facility  
COLUMBIA SC PROCESSING CENTER

November 21, 2018, 9:36 pm  
Arrived at USPS Regional Facility  
GREENVILLE SC DISTRIBUTION CENTER

November 21, 2018, 6:12 pm  
Departed Post Office  
GREENVILLE, SC 29616

November 21, 2018, 4:42 pm  
USPS in possession of item  
GREENVILLE, SC 29616

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Product Information



Feedback

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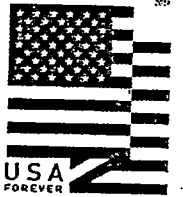
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---



Jeff Davis, JD, MBA  
403 McCarter Avenue  
Greenville, SC 29615

**Richland County Clerk of Court  
P.O. Box 2766  
Columbia, SC 29202-2766**

LAW OFFICES

# COPELAND, STAIR, KINGMA & LOVELL, LLP

A LIMITED LIABILITY PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

DOUGLAS W. MACKELCAN

DIRECT DIAL NUMBER  
(843) 266-8228

E-MAIL ADDRESS  
[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)

40 Calhoun Street, Suite 400  
CHARLESTON, SC 29401

TELEPHONE (843) 727-0307

FAX (843) 727-2995

[www.cskl.law](http://www.cskl.law)

ATLANTA OFFICE

191 Peachtree Street, N.E.  
Suite 3600  
Atlanta, Georgia 30303-1740  
(404) 522-8220

REPLY TO SC OFFICE

March 9, 2020

**RECEIVED**

MAR 11 2020

SC Court of Appeals

Jenny Abbott Kitchings; Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211

Re: Jefferson Davis, Jr., v. Ellen Weaver, *et al.*  
Appellate Court Case No.: 2019-000648  
Richland County Case No.: 2018-CP-40-02425  
CSKL File No.: 01834-58192

Dear Ms. Kitchings:

Enclosed please find the original and six (6) copies of respondent Stephen D. Kirkland's Motion to Supplement the Record on Appeal and to Stay the Time for Filing the Final Brief in this case, together with a Proof of Service and the \$50.00 filing fee. Please provide me with a clocked copy in the enclosed, self-addressed, stamped envelope. By copy of this letter, I am serving the same upon *pro se* Appellant and all counsel of record. If you have any questions, please feel free to contact me.

Sincerely,

  
DOUGLAS W. MACKELCAN

DWM:tjr

Enclosures

cc: (w/encls)

Jefferson Davis, Jr. (*pro se* Pltf.)  
Miles Coleman, Esq.  
William Davidson, Esq.  
Christopher Daniels, Esq.  
Michael Wren, Esq.  
J. Kenneth Carter, Jr., Esq.  
Benjamin Mustian, Esq.  
M. Dawes Cooke, Jr., Esq.

Jason P. Luther, Esq.  
Mark Barrow, Esq.  
Geoffrey Chambers, Esq.  
Martin Driggers, Esq.  
Andrew Haselden, Esq.  
Joseph McCulloch, Esq.  
Ross Conard DuRant, Esq.

Jennifer Nutter, Esq.  
James Harold Goldin, Esq.  
Justin P. Novak, Esq.  
Alan G. Jones, Esq.  
Kathy R. Schillaci, Esq.  
Mark v. Gende, Esq.  
Brandon R. Gotschall, Esq.

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0001185568 MAR 09 2020  
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First Class Mail

RECEIVED  
MAR 11 2020  
SC Court of Appeals

**CSKL**  
COPELAND STAIR  
KINGMA & LOVELL

COPELAND, STAIR, KINGMA & LOVELL, LLP  
40 Calhoun Street, Suite 400  
Charleston, SC 29401-3531

Jenny Abbott Kitchings, Clerk  
South Carolina Court of Appeals  
P.O. Box 11629  
Columbia, SC 29211