

**From:** [Spencer, Shelby](#)  
**To:** [Swann, Rebecca](#)  
**Subject:** FW: Phillip Ashley v. Anderson County (2020-000003)  
**Date:** Monday, October 5, 2020 11:23:36 AM  
**Attachments:** [RE Ashley etc. vs. Anderson CSD et al. Appellate Case No. 2020-000003 - Re Rtn to Motion to Dismiss.msg](#)  
[Brice v. Anderson 2.pdf](#)  
[Brice v. Anderson 2.Removal.pdf](#)

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**From:** David Lyon [mailto:dlyon@dfi-lawfirm.com]  
**Sent:** Friday, October 2, 2020 7:54 AM  
**To:** Spencer, Shelby <sspencer@sccourts.org>  
**Cc:** kchilds.lawoffice@gmail.com; scbuck1030@yahoo.com; bruce@byrholdtdrawdy.com  
**Subject:** RE: Phillip Ashley v. Anderson County (2020-000003)

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Ms. Spencer,

Last week I emailed a request to the [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org) email account seeking the opportunity to submit a short sur-reply to the Respondent's reply brief to their motion to dismiss the above appeal. The Court had requested Respondents' reply brief in a 9/21/2020 letter, directing Respondents to address "any 4-3 votes taken by the Board after May 14, 2019, where Mr. Shirley was the deciding vote." In my email, which is attached, I suggested I could have a short sur-reply to the Court by today. I have not heard back. In hindsight, I should have copied you directly.

Although I am still willing to provide a short sur-reply if the court requests or allows it, I believe it is important for the court to know, at least, that the 4/3 vote on March 9, 2020 referred to in Respondents' reply is currently the subject of active litigation in federal court wherein the validity of the March 9, 2020 vote is at issue. The case is *Tara Brice v. Anderson County School District No. Two Board of Trustees, Julia Barnes in her individual and official capacity, Brenda Cooley in her individual and official capacity, and Bonnie Knight, in her individual and official capacity*, C/A No.: 8:20-cv-2565-DCC. The complaint, filed in state court, and the notice of removal to federal court are attached. Respondents omitted this potentially important detail in their brief, and I believe this Court should know about this in considering whether dismissal of this appeal may have collateral consequences.

I would be happy to provide more information and further argument should the court request or allow a sur-reply from the Appellant School Board.

Thank you for your consideration. I look forward to hearing from you.

David

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***Given the current COVID-19 situation, Duff Freeman Lyon has transitioned to a remote work environment. Our Attorneys and Staff are available by email and voicemail throughout this period. Our main office line (803-790-0603) will continue to ring and will either be answered by our receptionist or you will be given instructions to connect to a particular person's line to leave a voicemail. We will make every effort to return calls and respond to emails as quickly as possible. Thank you for your understanding during this uncertain time. We are grateful for the trust you have placed in us, and please contact us with any questions or needs. We hope you and your family remain safe and healthy***

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**From:** Spencer, Shelby <[sspencer@sccourts.org](mailto:sspencer@sccourts.org)>

**Sent:** Monday, September 21, 2020 4:22 PM

**To:** David Lyon <[dlyon@dfl-lawfirm.com](mailto:dlyon@dfl-lawfirm.com)>; Dave Duff <[dduff@dfl-lawfirm.com](mailto:dduff@dfl-lawfirm.com)>;  
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**Subject:** Phillip Ashley v. Anderson County (2020-000003)

Dear Counsel,

Attached is a copy of the Court's letter. If you have any questions or concerns, please do not hesitate to contact our office.

Warmly,

*Shelby Spencer*

*Appeals Specialist II*

*SC Court of Appeals*

*1220 Senate Street*

*Columbia, SC 29201*

*803.734.1890*

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