

RECEIVED

Oct 05 2020

SC Court of Appeals

From: [Spencer, Shelby](#)
To: [Swann, Rebecca](#)
Subject: FW: Phillip Ashley v. Anderson County (2020-000003)
Date: Monday, October 5, 2020 11:23:29 AM

From: Kurt Tavernier [mailto:scbuck1030@yahoo.com]
Sent: Friday, October 2, 2020 8:01 AM
To: Spencer, Shelby <sspencer@sccourts.org>; David Lyon <dlyon@dfi-lawfirm.com>
Cc: kchilds.lawoffice@gmail.com; bruce@byrholdtdrawdy.com
Subject: Re: Phillip Ashley v. Anderson County (2020-000003)

***** EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution before clicking any links or opening attachments. ***

To All: In response to Mr. Lyons' email this morning, we did not omit anything! We answered the inquiry requested. Be clear in your statement, Mr. Lyons, don't infer anything

Kurt Tavernier
Certified Circuit Court and Family Court Mediator
Law Offices of Kurt Tavernier, P.A.
117 West Benson Street
Anderson, South Carolina 29624
Office 864-222-9142
scbuck1030@yahoo.com

CONFIDENTIALITY NOTICE: The items contained in this email may contain information which is confidential and protected by the attorney-client privilege. It is intended solely for the use of the addressee named above. If the reader of this message is not the intended recipient, the employee or the agent responsible for delivering the transmission to the recipient, you are hereby notified that any dissemination, distribution or other publication of the contents of this communication is strictly prohibited. If you believe you have received this communication in error, please reply to the sender immediately.

On Friday, October 2, 2020, 07:54:14 AM EDT, David Lyon <dlyon@dfi-lawfirm.com> wrote:

Ms. Spencer,

Last week I emailed a request to the ctappfilings@sccourts.org email account seeking the opportunity to submit a short sur-rely 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

David N. Lyon

Duff Freeman Lyon

P.O. Box 1486

Columbia, SC 29202

Ph. (803) 790-0603

Fax (803) 790-0605

Mobile (803) 237-2704

Firm Website www.dfl-lawfirm.com



The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete all copies of the material.

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

From: Spencer, Shelby <sspencer@sccourts.org>
Sent: Monday, September 21, 2020 4:22 PM
To: David Lyon <dlyon@dfi-lawfirm.com>; Dave Duff <dduff@dfi-lawfirm.com>;
kchilds.lawoffice@gmail.com; scbuck1030@yahoo.com; bruce@byrholdtdrawdy.com
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

~~~ CONFIDENTIALITY NOTICE ~~~ This message is intended only for the addressee and may contain information that is confidential. If you are not the intended recipient, do not read, copy, retain, or disseminate this message or any attachment. If you have received this message in error, please contact the sender immediately and delete all copies of the message and any attachments.

Ms. Kitchings,

Yesterday, I received Respondents' reply to Appellant's return to Respondents' Motion to

Dismiss the above appeal. The Reply was specifically requested by the Court in a September 21, 2020 letter from Clerk Claire Allen. Specifically, the letter requested that Respondents' provide additional information about certain 4-3 votes taken by the Appellant School Board. Respondent's reply brief addresses some of these votes, but fails to mention certain other information, which we believe may be crucial to the court's understanding of Appellant's position in opposing the motion to dismiss.

Appellant requests and would appreciate the opportunity to submit a very short sur-reply. I could have my sur-reply to the Court by Friday, 10/2.

I appreciate your and the Court's consideration of this request.

David

David N. Lyon

Duff Freeman Lyon

P.O. Box 1486

Columbia, SC 29202

Ph. (803) 790-0603

Fax (803) 790-0605

Mobile (803) 237-2704

Firm Website [www.dfl-lawfirm.com](http://www.dfl-lawfirm.com)



*The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete all copies of the material.*

***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*

---

**From:** Kim Chatman <[kchatman@dfi-lawfirm.com](mailto:kchatman@dfi-lawfirm.com)>  
**Sent:** Thursday, August 20, 2020 3:59 PM  
**To:** [jkitchings@sccourts.org](mailto:jkitchings@sccourts.org); [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)  
**Cc:** [bruce@byrholdtdrawdy.com](mailto:bruce@byrholdtdrawdy.com); 'Kurt Tavernier' <[scbuck1030@yahoo.com](mailto:scbuck1030@yahoo.com)>; David Lyon <[dlyon@dfi-lawfirm.com](mailto:dlyon@dfi-lawfirm.com)>; Dave Duff <[dduff@dfi-lawfirm.com](mailto:dduff@dfi-lawfirm.com)>; Kenneth L. Childs <[kchilds.lawoffice@gmail.com](mailto:kchilds.lawoffice@gmail.com)>  
**Subject:** Ashley, etc., vs. Anderson CSD, et al., Appellate Case No.: 2020-000003 - Re: Rtn to Motion to Dismiss

Dear Ms. Kitchings, the attached documents are being transmitted on behalf of attorney Lyon for your review and filing purposes.

Please contact our office should you require additional information/documentation.

Thank you for your time and consideration.

Kim Chatman, Paralegal

Duff Freeman Lyon

P.O. Box 1486

Columbia, SC 29202

Ph. (803) 790-0603

Fax (803) 790-0605

Firm Website [www.dfi-lawfirm.com](http://www.dfi-lawfirm.com)



*The information contained in this message may be privileged and/or confidential and protected from disclosure. If the reader of this message is not the intended recipient or agent responsible for delivering this message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately and delete all copies of the material.*

***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***