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**Aug 20 2021**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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APPEAL FROM RICHLAND COUNTY  
L. Casey Manning, Circuit Court Judge  
Joseph M. Strickland, Master-in-Equity

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Appellate Case No. 2021-000539  
Case No. 2020-CP-40-3674

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Ammon L. “Treigh” Sullivan, ..... Respondent,

v.

Richland County School District One and  
South Carolina Department of Education, ..... Defendants,

Of which, South Carolina Department of Education, is ..... Appellant.

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**APPELLANT'S RETURN TO RESPONDENT'S  
MOTION TO DISMISS**

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The Respondent Ammon L. “Treigh” Sullivan has filed a Motion to Dismiss Appeal arguing that there is no judgment entered or appealable order from which an appeal could be taken. The Appellant South Carolina Department of Education disagrees.

By Order Denying Defendant South Carolina Department of Education's Motion to Set Aside Entry of Default and Motion to Dismiss, filed January 13, 2021, Judge L. Casey Manning referred the case "to the Richland County Master-in-Equity for the purposes of a hearing to determine the Plaintiff's damages to be entered against Defendant South Carolina Department of Education." The reference was presumably made pursuant to Rule 53(b), SCRCP, which in pertinent provides: "In an action where the parties consent, in a default case, or an action for foreclosure, some or all of the causes of action in a case may be referred to a master ... by order of a circuit judge or the clerk of court." Rule 53(b), SCRCP. Rule 53(c) further provides that "[o]nce referred, the master ... shall exercise all power and authority which a circuit judge sitting without a jury would have in a similar matter." Rule 53(c), SCRCP. A damages hearing was conducted by the Master-in-Equity who issued a final Order on Damages, filed May 11, 2021.

For no explicable reason and against his own financial interests, the Respondent contends that no judgment was entered based on the final order issued by the Master-in-Equity. Citing no authority in support of his position, the Respondent claims that a default judgment must be issued by a Circuit Court Judge. Of course, after a referral under Rule 53(b), the Master-in-Equity has the same authority as a Circuit Court Judge to enter a default judgment per Rule 53(c). To the extent that the Respondent believes that the referral to the Master-in-Equity

was not a final order and required some further action by a Circuit Court Judge, that would be in contravention of Rule 53(b), which states that "[a] case shall not be referred to a master ... for the purpose of making a report to the circuit court." Rule 53(b), SCRCP. Moreover, there is nothing in the Rules of Civil Procedure that states that a Master-in-Equity cannot issue a final judgment. Indeed, the entry of final judgment by the Master after reference is fully contemplated by Rule 53(e), SCRCP, which provides: "When a matter has been referred, any appeal from any order or judgment issued by the master or special referee shall be to the Supreme Court or the Court of Appeals as provided by the South Carolina Appellate Court Rules." Rule 53(e), SCRCP. This is further confirmed by reference to the Official Notes to the 1999 Amendment which substantially revised Rule 53: "Under the revised rule, the master ... will enter final judgment on any matter which is referred and any appeal from a decision of the master ... is to the Court of Appeals or the Supreme Court as provided by the South Carolina Appellate Court Rules."

The Richland County Clerk of Court obviously believed that the Order of Damages as entered on May 11, 2021, is a final appealable order. As confirmed by the Public Index, a default judgment in the amount of \$37,724.13 was entered by the Clerk on May 11, 2021. The Appellant then served and filed its Notice of Appeal in a timely manner eight days later on May 19, 2021. The Notice of Appeal clearly

states that the Appellant was appealing from the "default judgment entered on May 11, 2021" as well as the three orders issued in the court below. Thus, the appeal has been properly perfected, and this Court has appellate jurisdiction. The Motion to Dismiss Appeal should be denied.

Respectfully submitted,

LINDEMANN & DAVIS, P.A.

BY: s/ Andrew F. Lindemann

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*Counsel for Appellant South Carolina  
Department of Education*

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**CERTIFICATE OF SERVICE**

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In accordance with Section (c)(5) of the Supreme Court's Order RE: Operation of the Appellate Courts During the Coronavirus Emergency (as amended May 29, 2020), the undersigned employee of Lindemann & Davis, P.A., counsel for the Appellant, does hereby certify that service of the foregoing was made upon Appellant's counsel by email only this the 20th day of August 2021:

Ryan K. Hicks, Esquire  
Cromer Babb Porter & Hicks, LLC  
Email: [Ryan@cbphlaw.com](mailto:Ryan@cbphlaw.com)

*s/ Andrew F. Lindemann*

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*\*Also Admitted in North Carolina  
†Certified Mediator*

August 20, 2021

**Via Email Only**

The Honorable Jenny Abbott Kitchings  
Clerk of Court  
South Carolina Court of Appeals  
Email: [ctappfilings@sccourts.org](mailto:ctappfilings@sccourts.org)

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RE: Ammon L. "Treigh" Sullivan v. Richland County School District One and South Carolina Department of Education  
Appellate Case Number: 2021-000539  
Civil Action Number: 2020-CP-40-3674  
Our File Number: 79.20406

Dear Ms. Kitchings:

In accordance with Section (c)(5) of the Supreme Court's Order RE: Operation of the Appellate Courts During the Coronavirus Emergency (as amended May 29, 2020), please find enclosed for filing **Appellant's Return to Respondent's Motion to Dismiss Appeal** in the above referenced matter. In accordance with Section (g)(3) of this same order, I am hereby serving copies on Respondent's counsel by email only.

If you have any questions, please advise.

Sincerely,

LINDEMANN & DAVIS, P.A.

Andrew F. Lindemann

AFL/jmb  
Enclosure

cc: Ryan K. Hicks, Esquire (w/ Enclosure, Via Email Only)