

THE STATE OF SOUTH CAROLINA  
In the Court of Appeals

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**Sep 15 2023**

**SC Court of Appeals**

APPEAL FROM JASPER COUNTY  
Family Court

H. Steven DeBerry, IV, Circuit Court Judge

Common Pleas Case Number 2022-CP-27-00109  
Appellate Case Number 2023-000791

A.M.L., and J.J.L., by and through  
their Next of Friend, John Doe,  
R.D.M., by and through his Next of  
Friend, Jane Snow, J.J.G., and S.T.S.,

Appellants,

v.

Wright Directions Family Services,  
LLC.,

Respondents.

**AMENDED INITIAL BRIEF OF APPELLANTS**

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## **Statement of Issues on Appeal**

- I. The trial court abused its discretion in awarding costs to Wright Directions, LLC.**
- II. The trial court abused its discretion in failing to sanction Wright Directions, LLC.**

## Statement of the Case

Appellant Children, A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S., appeal the circuit court's granting of Respondent Wright Directions Family Services, LLC's Motion for Costs.

Appellant Children were chronically starved and beaten by their adoptive parents from 2010 until their removal in 2016. From November 2013 through May 2015, Respondent Wright Directions Family Services, LLC (WDFS) provided mental health services, behavioral modification services, and mentoring services to Appellant Children.

From May 2019 through February 25, 2022, WDFS refused to provide the Appellant Children with their records. Because the statute of limitations for J.J.G. and S.T.S. were fast approaching, the Children were forced to file this action for specific performance to allow the Children's expert witness to review the records and write an opinion regarding WDFS's breaches of the standard of care while it provided mental health services to the minor children.

On April 12, 2022, the circuit court issued a temporary order requiring WDFS to produce the records. The order also allowed WDFS to "seek costs associated with these records as allowed under 45 C.F.R. § 164.524(c)(4)". On May 5, 2022, WDFS submitted to the Children an inflated and fraudulent invoice for costs of the production of the disputed records in the amount of \$7,811.44.

The circuit court granted WDFS's motion for costs in a Form 4 Order on March 28, 2023, and denied the Children's Motion to Reconsider on May 12, 2023. This appeal follows.

## **Relevant Facts**

### **I. Placement and adoption of the minor children.**

#### **a. Current placement and adoption.**

On October 3, 2018, A.M.L., and J.J.L., along with their sister, E.R.L., were adopted by John and Jane Doe and reside in Summerville, South Carolina. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*4, Exhibit 1 (April 1, 2022). R.D.M. was adopted by Jane Snow and her husband on March 31, 2021, and he resides in Charleston, South Carolina. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*4, Exhibit 48 (April 1, 2022). J.J.G. was adopted by his parents on October 16, 2021, and he resides in North Charleston, South Carolina. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*4, Exhibit 49 (April 1, 2022). S.T.S. was adopted on June 11, 2019, and he resides on St. Helena Island, South Carolina. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*4, Exhibit 50 (April 1, 2022).

#### **b. Placement and adoption with the Mitchell Family.**

S.T.S. lived with Yulanda and Herbert Mitchell since he was two months old. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*5, Exhibit 5, \*6, 8, Exhibit 46, Transcript of Record, *State v. Mitchell*, 2017-GS-07-00711, et al., \*12, 34 (April 1, 2022).

J.J.G., A.M.L. J.J.L., and R.D.M. share a biological mother and were born in Ohio. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*5, Exhibit 2, \*18-21, Exhibit 6, \*1, Exhibit 7, \*1 (April 1, 2022). On January 26, 2009, J.J.G., A.M.L. J.J.L., and R.D.M. became permanent wards of the State of Ohio and were free for adoption. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*5, Exhibit 2, \*16, Exhibit 6, \*14, Exhibit 7, \*10 (April 1, 2022).

On March 11, 2010, the State of Ohio and Franklin County Childrens Services placed A.M.L., J.J.G., J.J.L., and R.D.M. in the Mitchell's home in South Carolina. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*7, Exhibit 6, \*14, Exhibit 7, \*10 (April 1, 2022). A.M.L., J.J.G., J.J.L., and R.D.M. were adopted by the Mitchells on June 6, 2010. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*7, Exhibit 6, \*14, Exhibit 7, \*10 (April 1, 2022).

Before the Children were placed in the Mitchell home, South Carolina Department of Social Services had previously removed a pre-adoptive child from the Mitchell home due to physical abuse and the agency made a finding of abuse and neglect. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*8, Exhibit 18 (April 1, 2022).

A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S. were chronically starved and physically abused from 2010 through November 2016. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*10-29 and Exhibits cited in the memorandum (April 1, 2022).

**c. Attempts to obtain the Children's records from WDFS.**

From November 5, 2013, through May 15, 2013, WDFS saw or provided services for the Children:

1. Over 124 times for A.M.L.
2. Over 128 times for J.J.L.
3. Over 148 times for R.D.M.
4. Over 169 times for J.J.G., and
5. Over 85 times for S.T.S.

Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*3 (April 1, 2022); Motion to Show Cause and for Expedited Hearing, \*3, Exhibits 1-5 (March 9, 2022).

Before filing suit, Plaintiffs requested complete copies of their records from WDFS beginning:

- On May 2, 2019, counsel for Plaintiffs sent a signed authorization to WDFS for all of A.M.L.'s and J.J.L.'s records and other documentation.
- On May 12, 2021, counsel for Plaintiffs sent another authorization to WDFS for all of the records and other documentation for A.M.L., J.J.L., E.R.L., R.D.M., J.J.G., and S.T.S.
- On December 15, 2021, counsel for Plaintiffs sent another authorization to WDFS for all of the records and other documentation for A.M.L.
- On January 19, 2022, counsel for Plaintiffs sent another authorization to WDFS for all of the records and other documentation for J.J.G.
- On February 25, 2022, counsel for Plaintiffs sent another authorization to WDFS for all of the records and other documentation for A.M.L., J.J.L., E.R.L., R.D.M., J.J.G., and S.T.S.
- On February 25, 2022, a paralegal for Plaintiffs' counsel called WDFS and the agency informed her that it will not produce records without a subpoena.

Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*2 (April 1, 2022); Motion to Show Cause and for Expedited Hearing, \*4, Exhibits 6-11 (March 9, 2022).

The Children filed a summons and complaint and a Motion to Show Cause on March 9, 2022, amending their complaint on March 10, 2022. Summons and Complaint (March 9, 2022); Motion to Show Cause and for Expedited Hearing (March 9, 2022); Amended Complaint (March 10, 2022).

WDFS finally produced some of the Children's records on March 10, 2022, after the Children had informed WDFS that it had filed suit. Plaintiffs' Memorandum of Law in Support of their Motion to Show Cause, \*2 (April 1, 2022).

On April 7, 2022, the circuit court heard the Children's motion and issued a Form 4 order granting relief. Form 4 Order (April 8, 2022). A formal order was issued on April 12, 2022, and issued the following relief:

1. Defendant Wright Directions, LLC, shall deliver to the Plaintiffs' counsel any and all records within their possession or control that relate to the care of A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S.
  - a. This includes psychotherapy notes, including but not limited to the statements of the Children.
  - b. Defendant Wright Directions, LLC may redact the impressions of the clinician(s).

2. These records must be delivered to the Children's counsel within fourteen (14) days of this Order.
3. Defendant Wright Directions, LLC, may seek costs associated with these records as allowed under 45 C.F.R. § 164.524(c)(4), because time is of the essence, the records must be delivered to the Plaintiffs and a bill for any cost is to accompany the records or may be billed separately after receipt of said records by the Plaintiffs. Should any issue arise concerning the cost in this matter, it can be brought before the Court but only after the records are delivered to Plaintiff.
4. This order should not be construed to have any bearing on any future discovery dispute between the parties in any follow-up litigation as it relates to these records.

Order, \*4-5 (April 12, 2022).

**d. WDFS's invoice for costs.**

WDFS sent an invoice in the amount of \$7,811.44 for the redaction and production of records on May 5, 2022. Defendant's Motion for Costs, \*3, Exhibit C, Exhibit D (October 26, 2022). The Children's counsel responded by email and refused to pay. Defendant's Motion for Costs, \*3, Exhibit E (October 26, 2022).

WDFS filed a Motion for Costs on October 26, 2022. Defendant's Motion for Costs, \*3, (October 26, 2022). The Children filed Plaintiffs' Amended Response to Motion for Costs on March 3, 2023, which included all the documents produced by WDFS and the Expert Report of Evan T. Ortlieb, Ph.D. (February 27, 2023). Plaintiffs' Amended Response to Motion for Costs (March 3, 2023).

The circuit court heard the Motion for Costs on March 9, 2023, and granted the motion on March 28, 2023. Form 4 Order (March 28, 2023). The Children filed a timely Motion to Reconsider on April 6, 2023. Plaintiffs' Motion to Reconsider (April 6, 2023). The circuit court issued a written order denying the Children's Motion to Reconsider on May 12, 2023. Order Denying Motion to Reconsider (May 12, 2023).

This appeal follows.

## Arguments

### I. Standard of Review.

The award of costs by the trial court will not be disturbed on appeal absent an abuse of discretion. *Peterson v. Nat'l R.R. Passenger Corp.*, 365 S.C. 391, 618 S.E.2d 903 (2005); *Stevenson v. Stevenson*, 295 S.C. 412, 368 S.E.2d 901 (1988); *Black v. Roche Biomedical Labs.*, 315 S.C. 223, 433 S.E.2d 21 (Ct.App. 1993).

A lower court has abused its discretion when its ruling is either controlled by an error of law or based on a factual conclusion lacking evidentiary support. *See, e.g., Wilson v. Dallas*, 403 S.C. 411, 425, 743 S.E.2d 746 (2013); *Fairchild v. S.C. Dep't of Transp.*, 398 S.C. 90, 108, 727 S.E.2d 407 (2012); *Ex parte Gregory*, 378 S.C. 430, 436-437, 663 S.E.2d 46 (2008); *State v. Sweet*, 374 S.C. 1, 5, 647 S.E. 202 (2007); *Gooding v. St. Francis Xavier Hosp.*, 326 S.C. 248, 252, 487 S.E.2d 596 (1997); *State v. Adkins*, 353 S.C. 312, 326, 577 S.E.2d 460 (Ct. App. 2003).

An abuse of discretion occurs:

...when the trial court's ruling is based upon an error of law, such as application of the wrong legal principle; or, when based upon factual conclusions, the ruling is without evidentiary support; or, when the trial court is vested with discretion, but the ruling reveals no discretion was exercised; or, when the ruling does not fall within the range of permissible decisions applicable in a particular case, such that it may be deemed arbitrary and capricious.

*Ex Parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 5-6, 630 S.E.2d 454 (2006).

In a case raising a novel question of law, the appellate court is free to decide the question with no particular deference to the lower court. *Ex Parte Capital U-Drive-It, Inc.*, 369 S.C. 1, 6, 630 S.E.2d 454 (2006) (Citing *I'On, L.L.C. v. Town of Mt. Pleasant*, 338 S.C. 406, 411, 526 S.E.2d 716, 719 (2000); *Osprey, Inc. v. Cabana Ltd. Partnership*, 340 S.C. 367, 372, 532 S.E.2d 269, 272 (2000) (same); *Clark v. Cantrell*, 339 S.C. 369, 378, 529 S.E.2d 528, 533 (2000).

**II. WDFS’s invoice is inflated and lacks credibility.**

WDFS sent the following invoice to the Children’s counsel:

DESCRIPTION	AMOUNT
Employee K.S. – Hourly Rate \$50.48 x 56 hours	\$2,826.88
Employee B.H. – Hourly Rate \$31.58 x 56 hours	\$1,768.48
Employee A.A. – Hourly Rate \$28.58 x 56 hours	\$1,600.48
Employee C.W. – Hourly Rate \$28.85 x 56 hours	\$1,615.60

Motion for Costs, \*2, Exhibit C, Affidavit of Ronda Stevens, Exhibit D, Invoice (October 26, 2022).

The Children’s WDFS records were submitted to the circuit court in support of the Children’s opposition to WDFS’s Motion for Costs. Amended Response to Motion for Costs, \*1-3 (March 3, 2023). A.M.L.’s records are in Exhibit 3 and 4. J.J.G.’s records are located in Exhibits 5-7. J.J.L.’s records are in Exhibits 8-9. R.D.M.’s records are in Exhibits 10-12. S.T.S.’s records are in Exhibit 13.

The WDFS employees who claim they reviewed the Children’s records are four individuals with college and post-college education who collectively reviewed 4,576 pages of records over 56 hours each. WDFS claims it took four college educated adults a total of 224 hours to read and mark 4,576 pages of records. Amended Response to Motion for Costs, \*2 (March 3, 2023).

In extrapolating the data, 224 hours x 60 minutes = 13,440 minutes. Amended Response to Motion for Costs, \*2 (March 3, 2023). This means the WDFS employees claimed they spent 2.93 minutes reviewing and marking each page (13,440 total minutes/4,576 pages = 2.9370 minutes per page). Amended Response to Motion for Costs, \*2 (March 3, 2023). 2.94 minutes is

converted to +/-172 seconds. Amended Response to Motion for Costs, \*2 (March 3, 2023).

The fact that four employees spent 56 hours each in reviewing 4,576 pages is dubious, at best. *Rodriguez v. D.M. Camp & Sons*, 2012 U.S. Dist. LEXIS 174132, fn. 7 (E.D.Cal.

December 6, 2012) (The Court finds dubious that each class representative spent the exact same number of hours on the exact same tasks).

The Court should note that 27.36% of the documents were essentially blank pages, containing little to no data that required reading - (1) next appointment date, (2) signature block and/or (3) a blank page. Amended Response to Motion for Costs, \*3 (March 3, 2023).

Specifically:

Exhibit Number	Total Pages	Blank Pages	Percentage Blank Pages
Exhibit 3	300	125 <sup>i</sup>	41.6%
Exhibit 4	251	49 <sup>ii</sup>	19.5%
Exhibit 5	500	224 <sup>iii</sup>	44.8%
Exhibit 6	976	73 <sup>iv</sup>	7.5%
Exhibit 7	60	27 <sup>v</sup>	45%
Exhibit 8	272	74 <sup>vi</sup>	27.2%
Exhibit 9	300	138 <sup>vii</sup>	46%
Exhibit 10	533	199 <sup>viii</sup>	37.3%
Exhibit 11	302	89 <sup>ix</sup>	29.5%
Exhibit 12	914	157 <sup>x</sup>	17.2%
Exhibit 13	308	97 <sup>xi</sup>	31.5%
<b>TOTAL:</b>	<b>4,576</b>	<b>1,252</b>	<b>27.36%</b>

The endnotes referenced in this chart list every single page in the record which were essentially blank pages.<sup>1</sup> So, starting out, we know that ¼ of the materials reviewed were essentially blank pages. Amended Response to Motion for Costs, \*3-4 (March 3, 2023); *see also*, Exhibit 1, \*2, Expert Report of Evan T. Ortlieb, Ph.D. (February 27, 2023) (It should be noted that some pages are either blank or may contain just a signature for instance; these pages are estimated to be

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<sup>1</sup> The purpose of submitting Exhibits 3-13 is not to inundate the Court with documents. These are

upwards of ¼ of the total documents reviewed.)

1/3 of the first page of each progress report contains demographic data for each child, to include birthdate, health insurance number, the name and address of the Defendant company, the type of service allegedly provided, and the date and time the service was provided. Amended Response to Motion for Costs, \*4 (March 3, 2023).

After 2016, another portion of the first page is dedicated to each child's DSM mental health diagnosis. Amended Response to Motion for Costs, \*4 (March 3, 2023). For J.J.G., the DSM diagnosis is about 1 ½ inches. Amended Response to Motion for Costs, \*4, Exhibit 6 - Plaintiffs' Bates No. 024876-025851 – J.J.G. Part B.pdf (March 3, 2023). It is unknown if the diagnosis portion is autofilled by the software or if it is cut and pasted by the service provider when the progress notes were written. Amended Response to Motion for Costs, \*4 (March 3, 2023)

Similarly, another 1/3 to ½ page is taken up with an exact, verbatim copy of a child's therapy goal that is copied from the child's Plan of Care. Amended Response to Motion for Costs, \*4 (March 3, 2023). It is the first box, labeled "Purpose of Contact". Amended Response to Motion for Costs, \*4 (March 3, 2023). It is unknown if the goal is autofilled by the software or if it is cut and pasted by the service provider. Amended Response to Motion for Costs, \*4 (March 3, 2023).

For instance, on the first page of Exhibit 11 – R.D.M. B pt 2, the "Purpose of Contact" for R.D.M. is listed as:

1) Individual Therapy (Goal 1)

Goal: R.D.M. will decrease verbal aggression at the Group Home; 1. R.D.M. will express his feelings regarding his experiences in the past; 2. Discuss with clinician awareness and insight into his angry thoughts and feelings; 3. Learn alternative ways of expressing his

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records that WDFS claimed it spend 240 hours redacting, which is meritless.

anger, increase respectful communication by understanding his angry feelings/ and work towards letting go of the past; 4. R.D.M. will talk with counselor about his anger from the past; Learn that adults can be trusted, caring people, who will be kind and thoughtful. 5. Explore R.D.M.'s feelings regarding his past with the adoptive family and then his biological family.

Amended Response to Motion for Costs, \*4-5, Exhibit 11 – R.D.M. B pt 2, Pg. 1, Bates No. 027019 (March 3, 2023).

In R.D.M.'s Plan of Care for July 5, 2017, the first individual goal states:

Goal: R.D.M. will decrease verbal aggression at the Group Home;

1. R.D.M. will express his feelings regarding his experiences in the past;
2. Discuss with clinician awareness and insight into his angry thoughts and feelings;
3. Learn alternative ways of expressing his anger, increase respectful communication by understanding his angry feelings/ and work towards letting go of the past;
4. R.D.M. will talk with counselor about his anger from the past; learn that adults can be trusted, caring people, who will be kind and thoughtful.
5. Explore R.D.M.'s feelings regarding his past with the adoptive family and then his biological family

Amended Response to Motion for Costs, \*5, Exhibit 14, R.D.M.'s Treatment Plan (March 3, 2023).

In Exhibit 9 – J.J.L. Part B, Page 91, Bates Stamp No. 026274, the “Purpose of Contact” for J.J.L. is listed as:

1) J.J.L. will identify her feelings and practice expressing them in healthy ways. J.J.L. will identify her feelings and practice expressing them in healthy ways as evidenced by her mother, natural supports, school staff, in order to increase functioning and decrease negative consequences and practice daily engaging in communication (maintaining eye contact, assertiveness, etc) that will increase closeness in relationships with others ( to include siblings, natural supports, classmates, etc).

Amended Response to Motion for Costs, \*5, Exhibit 9 – J.J.L. Part B, Page 91, Bates Stamp No. 026274 (March 3, 2023). J.J.L.'s September 16, 2014 plan of care lists the third goal as:

J.J.L. will identify her feelings and practice expressing them in healthy ways. J.J.L. will identify her feelings and practice expressing them in healthy ways as evidenced by her mother, natural supports, school staff, in order to increase functioning and decrease negative consequences and practice daily engaging in communication (maintaining eye

contact, assertiveness, etc) that will increase closeness in relationships with others ( to include siblings, natural supports, classmates, etc).

Amended Response to Motion for Costs, \*5, Exhibit 15, J.J.L. Plan of Care (March 3, 2023).

In Exhibit 7 – J.J.G. Part A pt 2, the “Purpose of Contact” of J.J.G. is listed as:

1) J.J.G. will identify his feelings and practice expressing them in healthy ways. J.J.G. will identify his feelings and practice expressing them in healthy ways as evidenced by his mother, natural supports, school staff, in order to increase functioning and will practice engaging in communication {assertiveness ,etc) that will increase closeness in relationships with others ( to include siblings, natural supports, classmates , etc) on a daily basis.

Amended Response to Motion for Costs, \*5-6, Exhibit 7 – J.J.G. Part A pt 2, \*1, Bates Stamp No. 025852 (March 3, 2023).

In J.J.G.’s November 5, 2013 plan of care, the third goal states:

J.J.G. will identify his feelings and practice expressing them in healthy ways as evidenced by his mother, natural supports, school staff, in order to increase functioning and will practice engaging in communication (assertiveness, etc) that will increase closeness in relationships with others ( to include siblings, natural supports, classmates, etc) on a daily basis.

Amended Response to Motion for Costs, \*6, Exhibit 16, J.J.G.’s Plan of Care (March 3, 2023).

In sum, ¼ to 1/3 of the first page of each report was a copy of the child’s treatment plan.

Amended Response to Motion for Costs, \*6 (March 3, 2023). These particular items required no reading as it was not subjective or interpretive. Amended Response to Motion for Costs, \*6 (March 3, 2023).

**III. If WDFS’s employees were college level readers, it is not possible that they took 224 hours to read and mark 4,576 pages of materials.**

Plaintiffs’ expert, Evan T. Ortlieb, Ph.D., opined:

[I]t is my opinion that it would not take 13,440 minutes to read and mark 4,576 pages associated with patient files. The billed rate of 2.93 minutes per page appears to be excessive, especially when considering: 1) standardized templates were utilized to document patient information and signature fields on approximately 1/3 of most pages; 2) the remaining text on approximately 2/3 of the page within the “Purpose of Contact,”

“Intervention/ Activity,” “Assessment of Progress Towards Goal,” and “Client Progress” sections is notably less than a typical document containing approximately 250 words of printed text. *It is estimated that it should take an average college-educated individual between 60-90 seconds to read and mark substantive pages in this file.* It should be noted that some pages are either blank or may contain just a signature for instance; these pages are estimated to be upwards of ¼ of the total documents reviewed.

...  
*The 2.937 minutes per page average grossly exceeds the norms of 300 words per minute that experts report to be customary reading rates for college educated individuals.* Moreover, the amount of text on approximately ¼ of the pages that includes only nominal information such as a signature section drastically reduces the average reading and marking rate per page. In conclusion, I believe Mr. Butcher is justified in his concerns regarding the billed amount for the services provided, and that a recalculation is appropriate at a amount commensurate with national norms for reading rates of college educated individuals.

Amended Response to Motion for Costs, \*6. Exhibit 1, Expert Report of Evan T. Ortlieb, Ph.D. (March 3, 2023) (Emphasis added) (Citing Brysbaert, M. (2019) How many words do we read per minute? A review and meta-analysis of reading rate. *Journal of Memory and Language*, 109, 1-30.).

**IV. WDFS submitted no evidence to justify the rates at which it billed the Children for its employees.**

WDFS has failed to provide any evidence which would justify the rates at which it wishes to charge the Plaintiff for the medical records. Amended Response to Motion for Costs, \*7 (March 3, 2023). As shown in WDFS’s Motion for Costs, Exhibit C, Affidavit of Ronda Stevens and Exhibit D, Invoice, WDFS lists employee K.S.’s rate as \$50.48 per hour, employee B.H. as \$31.58 per hour, employee A.A. as \$28.58 per hour, and employee C.W. as \$28.58 per hour. Amended Response to Motion for Costs, \*7 (March 3, 2023). WDFS failed to provide any information as to why each employee’s rate was justified and why another employee could have performed the same work at a lower rate. Amended Response to Motion for Costs, \*7 (March 3, 2023).

42 USC §17935 (e)(2) and 45 CFR §164.524(c)(4) limit the cost of obtaining the records

to the actual labor cost for reproducing them in the requested electronic format, the actual cost of the portable media (in this case, CD), and postage. Amended Response to Motion for Costs, \*7 (March 3, 2023). *See NewSouth Neurospine, LLC v. Hamilton*, 283 So. 3d 1092 (Miss. 2019) (NewSouth presented no evidence that \$185.65 constituted actual costs of paper, supplies, labor, and postage. 45 C.F.R. § 164.524(c)(4)(i)-(iii). Nor did it show that it had charged \$185.65 with reference to a fee schedule based on the average cost of fulfilling a standard medical records request.).

WDFS failed to show why it charged the rates it has charged and why employees who worked at cheaper rates were not available to redact the documents.

**V. The circuit court's order failed to consider any of factors related to the award of costs.**

The award of attorney's fees or costs is not pro forma and such an award is not accomplished by simply providing an invoice and affidavit filled with conclusory statements.

Here the circuit court failed to provide any factual basis for the reasonableness of the hours charged or the reasonableness of the hourly rates of the reviewer. Motion to Reconsider (April 6, 2023). WDFS failed to provide any admissible evidence for the circuit court to rely upon – and the overwhelming weight of the evidence showed WDFS did not do the work it represented to the circuit court, under sworn affidavit, that it claimed it had completed. Motion to Reconsider (April 6, 2023).

South Carolina has always required trial courts to consider explicit factors in determining reasonable attorney's fees and costs:

- 1) the nature, extent, and difficulty of the case;
- 2) the time necessarily devoted to the case;
- 3) the professional standing of counsel;
- 4) the contingency of compensation;
- 5) the beneficial results obtained; and

6) the customary legal fees for similar services

*Taylor by Taylor v. Medenica*, 331 S.C. 575, 579, 503 S.E.2d 458 (1998) (Citing *Jackson v. Speed*, 326 S.C. 289, 486 S.E.2d 750 (1997); *Blumberg v. Nealco, Inc.*, 310 S.C. 492, 427 S.E.2d 659 (1993)). Our Courts do not issue blank checks to parties seeking attorney's fees and costs.

Consideration should be given to all six factors; none of the factors is controlling. *Baron Data Systems, Inc. v. Loter*, 297 S.C. 382, 377 S.E.2d 296 (1989). While some of these factors are more applicable to attorney's fees, the Children assert that the circuit court should have at least considered 1) the nature, extent, and difficulty of the case; 2) the time necessarily devoted to the case; and 6) the customary legal fees for similar services, at a minimum.

WDFS had the burden of justifying its costs. *Wiwa v. Royal Dutch Petroleum Co.*, 392 F.3d 812, 818 (5th Cir. 2004); *NewSouth Neurospine, LLC v. Hamilton*, 283 So.3d 1092 (Miss. 2019) (NewSouth presented no evidence that \$185.65 constituted actual costs of paper, supplies, labor, and postage. 45 C.F.R. § 164.524(c)(4)(i)-(iii). Nor did it show that it had charged \$185.65 with reference to a fee schedule based on the average cost of fulfilling a standard medical records request.).

As enacted, 45 C.F.R. § 164.524(c)(4)(i)-(iii) provided that the Patient Rate could comprise the following elements:

- (i) Labor for copying the protected health information requested by the individual, whether in paper or electronic form;
- (ii) Supplies for creating the paper copy or electronic media if the individual requests that the electronic copy be provided on portable media;
- (iii) Postage, when the individual has requested the copy, or the summary or explanation, be mailed; and
- (iv) Preparing an explanation or summary of the protected health information, if agreed to by the individual as required by paragraph (c)(2)(iii) of this section.

45 C.F.R. § 164.524(c)(4)(i)-(iv). The Court should note that no explanation or summary of protected health information, paragraph iv, was produced by WDFS.

Another regulation clarifies how this provision interacts with state laws regulating fees: “When a State law provides a limit on the fee that a covered entity may charge for a copy of protected health information, this is relevant in determining whether a covered entity's fee is 'reasonable' under § 164.524(c)(4).” *Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules*, 78 Fed. Reg. 5566, 5636 (Jan. 25, 2013). If state law limits the permissible charges to 25 cents per page, for example, then the covered entity may not charge more than that amount even if its costs are higher.

WDFS failed to state why its was justified in charging the hourly rates for the records, which ranged from \$50.48, \$31.58, \$28.58, and 28.85 an hour. WDFS also lacks credibility in its claim that four individuals each spent the same amount of time reading and marking documents – 56 hours. The coincidence is not credible.

In preparing for the Motion for Costs, the Children’s attorneys were required to redact their documents for submission to the Court. The Children’s Affidavit of Attorney’s Fees and Costs demonstrates that it took counsel and a legal assistant 55.65 hours to redact 4,576 pages:

<b>Date</b>	<b>Time Spent</b>	<b>Person Redacting</b>	<b>Description</b>
2/21/2023	2.7	RJB	Redacted the Defendants’ documents for filing: Exhibit 3, A.M.L. Part A, Exhibit 4, A.M.L. Part B, & part of Exhibit 5, J.J.G. Part A
2/27/2023	4.1	RJB	Redacted the Defendant’s documents for filing: part of Exhibit 5, J.J.G. Part A, Exhibit 6, J.J.G. Part B, & Exhibit 7, J.J.G. Part A pt 2.
2/28/2023	1.1	RJB	Redacted the Defendant’s documents for filing: Part of Exhibit 7, J.J.G. Part A pt 2.
3/1/2023	4	ACK	Redaction of WDFS Files
3/2/2023	6.5	ACK	Redaction of WDFS Files
3/3/2023	11	ACK	Redaction of WDFS Files
3/3/2023	.75	RJB	Redacted exhibits for Amended Response to Motion for Costs
3/4/2023	4	ACK	Redaction of WDFS Files

<b>3/5/2023</b>	<b>13</b>	<b>ACK</b>	<b>Redaction of WDFS Files</b>
<b>3/6/2023</b>	<b>7</b>	<b>ACK</b>	<b>Redaction of WDFS Files</b>
<b>3/7/2023</b>	<b>1.5</b>	<b>ACK</b>	<b>Redaction of WDFS Files</b>
<b>TOTAL 55.65 Hours</b>			

Plaintiffs’ Amended Response to Motion for Costs, Exhibit 17, Affidavit of Attorney’s Fees and Costs, \*5 (March 3, 2023); Supplemental Affidavit of Attorney’s Fees and Costs, \*5 (March 8, 2023). In addition, when the Children’s counsel reviewed the 4,576 documents to notate blank pages and preformatted and autoformatted entries, it only took him 3.6 hours to review the Children’s records. Keep in mind, WDFS claimed it took four individuals 224 hours to complete the same work and one quarter of the pages were blank or preformatted/autoformatted!

WDFS’s Motion for Costs and supporting exhibits failed to inform the circuit court in any manner why its claimed costs were so exorbitant, yet the circuit court ruled that the costs were justified.

**VI. The circuit court failed to find WDFS violated Rule 11, SCRPC.**

The Children sought sanctions pursuant to Rule 11, SCRPC due to WDFS’s attempt to use the cost provision as a blank check. The Children argued that WDFS’s motion should have been denied pursuant to Rule 11, SCRPC, for submitting a fraudulent billing to the Court.

Amended Response to Motion for Costs, \*8 (March 3, 2023). The relevant part of Rule 11, SCRPC, state:

(a) Signature. Every pleading, motion or other paper of a party represented by an attorney shall be signed in his individual name by at least one attorney of record who is admitted to practice law in South Carolina, and whose address and telephone number shall be stated. A party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The written or electronic signature of an attorney or party constitutes a certificate by him that he has read the pleading, motion or other paper; that to the best of his knowledge, information and belief there is good ground to support it; and that it is not interposed for delay.

All motions filed shall contain an affirmation that the movant's counsel prior to filing the motion has communicated, orally or in writing, with opposing counsel and has attempted in good faith to resolve the matter contained in the motion, unless the movant's counsel certifies that consultation would serve no useful purpose, or could not be timely held. There is no duty of consultation on motions to dismiss, for summary judgment, for new trial, or judgment NOV, or on motions in Family Court for temporary relief pursuant to Family Court Rule 21, or in real estate foreclosure cases, or with pro se litigants.

If a pleading, motion or other paper is not signed or does not comply with this Rule, it shall be stricken unless it is signed promptly after the omission is called to the attention of the pleader or movant. If a pleading, motion, or other paper is signed in violation of this Rule, the court, upon motion or upon its own initiative, may impose upon the person who signed it, a represented party, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the pleading, motion or other paper, including a reasonable attorney's fee.

...

Amended Response to Motion for Costs, \*8 (March 3, 2023); Rule 11, SCRCF, Signing of Pleadings; Attorneys.

The rule also permits the court to impose sanctions for violations including the costs and attorney's fees incurred as the result of the improper action. Amended Response to Motion for Costs, \*8 (March 3, 2023). Rule 11 does not contain a specific time limit for seeking sanctions. Amended Response to Motion for Costs, \*8 (March 3, 2023); *Pee Dee Health Care, PA v. Estate of Thompson*, 424 S.C. 520, 818 S.E.2d 758 (2018).

The signature represents that: (1) the signer has read the pleading; (2) to the best of the signer's knowledge, information, and belief there are good grounds to support it; and, (3) it is not interposed for delay. The core of the certification requirement of Rule 11 is the pleader's representation that to the best of the signer's knowledge, information, and belief there is good ground to support the pleading or motion. A lawyer knowingly filing a frivolous pleading may be sanctioned. *Ex parte Bon Secours-St. Francis Xavier Hosp. Inc.*, 393 S.C. 590, 713 S.E.2d 624

(2011) (upholding sanctions on remand for second removal of case to federal court when no good grounds for doing so and done for delay, but limiting sanctions to costs and fees incurred by opposing party for improper removal and barring sanctions for costs incurred by judiciary for lost trial time and expenses of summoning and administering jury panel); *Wade v. State*, 348 S.C. 255, 559 S.E.2d 843 (2002).

There is a duty to investigate before litigating. *Lawson v. Sumter County Sheriff's Office*, 339 S.C. 133, 140, 528 S.E.2d 86, 90 (Ct. App. 2000). *Cf.* Rule 3.1, SCRPC, Rule 407, SCACR, Comment [2] (“What is required of lawyers...is that they inform themselves about the facts of their clients' cases and the applicable law and determine that they can make good faith arguments in support of their clients' positions.”).

“In preparing a motion an attorney has a duty of acting in good faith, and may be disciplined for violation of the duty.” *Johnson v. Dailey*, 318 S.C. 318, 457 S.E.2d 613, 616 (1995). Similarly, sanctions can be imposed for filing a pleading or motion for an improper purpose, whether or not there are good grounds to support it. *Runyon v. Wright*, 322 S.C. 15, 471 S.E.2d 160 (1996). The Supreme Court stated in dicta that a party may be sanctioned for making frivolous arguments. *Link v. School Dist. of Pickens County*, 302 S.C. 1, 393 S.E.2d 176 (1990).

Filing a false affidavit also merits sanctions under the rule. *Russell v. Wachovia Bank, N.A.*, 370 S.C. 5, 633 S.E.2d 722 (2006). *See* Motion for Costs, Exhibit C, Affidavit of Ronda Stevens (October 26, 2022).

Rule 11 authorizes sanctions for its violation. The offending pleading or motion can be stricken, or the court may impose a sanction including an order to pay to the other party or parties the reasonable expenses incurred because of the filing of the pleading, motion, or other paper, including a reasonable attorney's fee. *Insurance Co. of No. Am. v. Hyatt*, 290 S.C. 159,

348 S.E.2d 532 (Ct. App. 1986) (motion to strike a pleading as sham under prior law, now found in Rule 11). The sanction can be imposed on the attorney, the client, or both. The attorney has a duty of good faith in preparing a motion and may be sanctioned for a violation. The decision of the trial judge is within the judge's discretion and will be reversed only for an abuse of that discretion. *Johnson v. Dailey*, 318 S.C. 318, 457 S.E.2d 613 (1995).

The decision of whether to award attorney's fees pursuant to Rule 11, SCRCF or the South Carolina Frivolous Civil Proceedings Sanctions Act is treated as one in equity. *Pee Dee Health Care, P.A. v. Estate of Thompson*, 418 S.C. 557, 564 (Ct. App. 2016).

“A court imposing sanctions under Rule 11 should, in its order, describe the conduct determined to constitute a violation of the Rule and explain the basis for the sanction imposed.” *Ex parte Bon Secours St. Francis Xavier Hosp., Inc.*, 393 S.C. 590, 597 (2011) (Citing *Runyon*, 322 S.C. at 19, 471 S.E.2d at 162).

The Children argued that the circuit court should also consider the fact that WDFS had had over two months to reconsider the Children's valid concerns of fraud. WDFS did not seek to withdraw its motion or even amend its claim for costs to something that was not preposterous. Even WDFS's counsel, who were well versed in billing by the hour, should have provided some advice to their client that their billing claims are laughable. Amended Response to Motion for Costs, \*11 (March 3, 2023).

### **Conclusion and Relief Requested**

WDFS seized the circuit court's order for costs as a blank check to manufacture an outlandish bill of costs. WDFS failed to provide any evidence to justify the high costs and the submission to the circuit court was fraudulent.

The Children ask the Court to find the circuit court abused its discretion in awarding

costs and abused its discretion in failing to sanction WDFS.

The Appellant Children ask the Court for the following relief:

1. Reverse and remand this matter.
2. Award attorneys' fees and costs.

Respectfully submitted,

**FOSTER CARE ABUSE LAW FIRM, PA**

s//Robert J. Butcher

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Camden, South Carolina  
September 15, 2023

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**CERTIFICATE OF COUNSEL**

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The undersigned counsel for the Appellants certifies that the Initial Brief of Appellant complies with Rule 208, SCACR.

Respectfully submitted,

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Camden, South Carolina  
September 15, 2023

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

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APPEAL FROM JASPER COUNTY  
Court of Common Pleas

H. Steven DeBerry, IV, Circuit Court Judge

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Common Pleas Case Number 2022-CP-27-00109

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A.M.L., and J.J.L., by and through  
their Next of Friend, John Doe,  
R.D.M., by and through his Next of  
Friend, Jane Snow, J.J.G., and S.T.S.,

Appellants,

v.

Wright Directions Family Services,  
LLC.,

Respondent,

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**AMENDED CERTIFICATE OF SERVICE**

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I certify that I have served the following documents:

1. Initial Brief of Appellants.

upon Elizabeth F. Morrison, counsel for Wright Directions Family Services, LLC, via email at:

Elizabeth F. Morrison - [elizabeth@whelanmellen.com](mailto:elizabeth@whelanmellen.com)

Respectfully submitted,

**FOSTER CARE ABUSE LAW FIRM, PA**

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Camden, South Carolina  
September 15, 2023

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<sup>i</sup> **Exhibit 3 – A.M.L. Part A**, Specifically, pages with Bates Stamp Numbers: 023826, 023828, 023830, 023832, 023834, 023836, 023838, 023840, 023842, 023844, 023846, 023848, 023852, 023854, 023856, 023858, 023860, 023862, 023864, 023866, 023868, 023870, 023874, 023876, 023878, 023880, 023882, 023884, 023886, 023888, 023890, 023894, 023896, 023898, 023900, 023904, 023906, 023908, 023910, 023912, 023914, 023918, 023924, 023926, 023928, 023930, 023932, 023934, 023936, 023940, 023942, 023944, 023948, 023950, 023952, 023954, 023956, 023958, 023960, 023962, 023964, 023966, 023968, 023970, 023976, 023978, 023980, 023982, 023984, 023986, 023988, 023990, 023994, 023996, 023999, 024001, 024003, 024005, 024007, 024011, 024013, 024015, 024017, 024019, 024021, 024023, 024025, 024027, 024029, 024031, 024033, 024035, 024039, 024041, 024043, 024045, 024049, 024056, 024060, 024062, 024064, 024066, 024068, 024070, 024072, 024074, 024076, 024080, 024092, 024094, 024098, 024100, 024102, 024104, 024106, 024108, 024110, 024112, 024114, 024116, 024118, 024120, 024122, 024124.

<sup>ii</sup> **Exhibit 4 – A.M.L. Part B**, Specifically, pages with Bates Stamp Numbers: 024130, 024132, 024144, 024151, 024155, 024158, 024161, 024167, 024189, 024211, 024231, 024235, 024237, 024239, 024241, 024245, 024249, 024251, 024253, 024255, 024258, 024262, 024264, 024270, 024272, 024292, 024305, 024307, 024315, 024317, 024320, 024323, 024325, 024335, 024341, 024345, 024347, 024349, 024351, 024353, 024355, 024357, 024359, 024361, 024363, 024365, 024367, 024369, 024373.

<sup>iii</sup> **Exhibit 5 – J.J.G. Part A**, Specifically, pages with Bates Stamp Numbers: 024377, 024379, 024381, 024383, 024385, 024387, 024389, 024391, 024393, 024395, 024397, 024399, 024401, 024403, 024405, 024407, 024409, 024411, 024413, 024415, 024417, 024419, 024421, 024423, 024425, 024427, 024429, 024431, 024433, 024435, 024437, 024439, 024441, 024443, 024445, 024447, 024449, 024451, 024453, 024455, 024457, 024459, 024461, 024463, 024465, 024467, 024475, 024477, 024479, 024481, 024483, 024487, 024489, 024491, 024493, 024495, 024497,

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024499, 024501, 024503, 024505, 024507, 024509, 024511, 024513, 024515, 024517, 024519, 024521, 024523, 024525, 024527, 024529, 024535, 024537, 024539, 024541, 024543, 024547, 024549, 024551, 024553, 024555, 024557, 024559, 024561, 024563, 024565, 024567, 024569, 024571, 024573, 024575, 024577, 024579, 024581, 024583, 024585, 024587, 024589, 024591, 024593, 024595, 024597, 024599, 024601, 024603, 024605, 024607, 024617, 024625, 024627, 024629, 024631, 024633, 024635, 024637, 024639, 024641, 024643, 024645, 024647, 024649, 024651, 024653, 024655, 024657, 024659, 024661, 024663, 024665, 024667, 024669, 024671, 024673, 024675, 024677, 024681, 024683, 024685, 024687, 024691, 024693, 024697, 024699, 024701, 024703, 024707, 024711, 024715, 024717, 024719, 024721, 024722, 024727, 024729, 024731, 024733, 024735, 024737, 024739, 024741, 024743, 024745, 024749, 024751, 024755, 024757, 024759, 024761, 024763, 024767, 024769, 024771, 024773, 024775, 024777, 024779, 024781, 024783, 024785, 024787, 024789, 024791, 024793, 024795, 024797, 024799, 024801, 024803, 024805, 024807, 024809, 024811, 024813, 024815, 024817, 024819, 024821, 024823, 024825, 024829, 024831, 024833, 024835, 024837, 024839, 024841, 024843, 024847, 024851, 024853, 024855, 024857, 024859, 024861, 024863, 024865, 024867, 024869, 024871, 024873, 024875.

<sup>iv</sup> **Exhibit 6 – J.J.G. Part B**, Specifically, pages with Bates Stamp Numbers: 024881, 024884, 024904, 024953, 024986, 024994, 025008, 025013, 025016, 025035, 025038, 025056, 025059, 025064, 025070, 025081, 025092, 025119, 025142, 025146, 025149, 025230, 025247, 025249, 025257, 025288, 025332, 025334, 025340, 025353, 025364, 025367, 025379, 025382, 025397, 025400, 025410, 025412, 025417, 025430, 025450, 025456, 025482, 025485, 025498, 025513, 025530, 025541, 025582, 025596, 025602, 025611, 025619, 025623, 025630, 025636, 025638, 025642, 025648, 025655, 025661, 025691, 025705, 025707, 025709, 025726, 025766, 025768, 025770, 025772, 025774, 025847.

<sup>v</sup> **Exhibit 7 – J.J.G. Part A pt 2**, Specifically, pages with Bates Stamp Numbers: 025853, 025855, 025857, 025859, 025861, 025863, 025865, 025867, 025869, 025871, 025873, 025877, 025879, 025881, 025883, 025885, 025887, 025891, 025893, 025897, 025899, 025901, 025903, 025905, 025907, 025909.

<sup>vi</sup> **Exhibit 8 – J.J.L. Part A**, Specifically, pages with Bates Stamp Numbers: 025930, 025942, 025944, 025946, 025950, 025952, 025954, 025956, 025958, 025960, 025962, 025964, 025966, 025968, 025970, 025972, 025974, 025976, 025980, 025982, 025984, 025986, 025990, 025992, 025994, 026004, 026006, 026012, 026014, 026016, 026018, 026020, 026026, 026034, 026042, 026044, 026050, 026052, 026055, 026059, 026065, 026075, 026078, 026080, 026084, 026086, 026092, 026105, 026115, 026119, 026121, 026123, 026127, 026131, 026133, 026135, 026137, 026139, 026141, 026143, 026145, 026147, 026151, 026155, 026157, 026159, 026161, 026163, 026165, 026167, 026173, 026175, 026179, 026183.

<sup>vii</sup> **Exhibit 9 – J.J.L. Part B**, Specifically, pages with Bates Stamp Numbers: 026185, 026187, 026189, 026191, 026193, 026195, 026197, 026199, 026201, 026205, 026207, 026209, 026213, 026215, 026217, 026219, 026221, 026223, 026224, 026225, 026227, 026229, 026231, 026233, 026235, 026237, 026239, 026241, 026243, 026245, 026247, 026249, 026251, 026253, 026255, 026257, 026259, 026261, 026263, 026265, 026267, 026269, 026271, 026275, 026277, 026283, 026285, 026287, 026289, 026291, 026293, 026295, 026297, 026299, 026301, 026303, 026305, 026307, 026309, 026311, 026313, 026315, 026317, 026319, 026323, 026325, 026327, 026329, 026331, 026337, 026339, 026341, 026343, 026345, 026347, 026351, 026353, 026355, 026357, 026359, 026363, 026365, 026367, 026369, 026371, 026373, 026375, 026377, 026379, 026381, 026383, 026385, 026387, 026391, 026393, 026395, 026397, 026401, 026403, 026405, 026407,

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026411, 026413, 026415, 026417, 026419, 026421, 026423, 026425, 026427, 026429, 026431, 026433, 026435, 026437, 026439, 026441, 026443, 026445, 026447, 026449, 026451, 026453, 026455, 026457, 026459, 026461, 026463, 026465, 026467, 026469, 026471, 026473, 026475, 026477, 026479, 026481, 026483.

<sup>viii</sup> **Exhibit 10 – R.D.M. A**, Specifically, pages with Bates Stamp Numbers: 026489, 026491, 026493, 026495, 026497, 026499, 026501, 026503, 026505, 026509, 026511, 026513, 026515, 026517, 026519, 026521, 026523, 026525, 026527, 026529, 026533, 026535, 026537, 026539, 026541, 026543, 026545, 026547, 026549, 026551, 026553, 026555, 026557, 026559, 026569, 026571, 026573, 026575, 026577, 026581, 026583, 026585, 026587, 026589, 026591, 026593, 026595, 026597, 026601, 026603, 026605, 026607, 026609, 026611, 026613, 026615, 026617, 026619, 026623, 026625, 026627, 026631, 026633, 026635, 026637, 026639, 026641, 026643, 026645, 026647, 026651, 026653, 026655, 026657, 026659, 026661, 026665, 026667, 026669, 026671, 026673, 026675, 026677, 026679, 026681, 026683, 026685, 026687, 026689, 026691, 026693, 026695, 026697, 026707, 026715, 026717, 026719, 026721, 026725, 026727, 026729, 026731, 026733, 026737, 026739, 026743, 026745, 026749, 026751, 026753, 026755, 026757, 026759, 026761, 026763, 026767, 026769, 026771, 026773, 026775, 026779, 026781, 026783, 026785, 026787, 026791, 026799, 026801, 026804, 026806, 026811, 026814, 026816, 026818, 026844, 026846, 026848, 026854, 026856, 026858, 026860, 026862, 026866, 026870, 026872, 026874, 026878, 026880, 026884, 026886, 026890, 026892, 026894, 026896, 026898, 026900, 026902, 026904, 026906, 026908, 026910, 026912, 026914, 026916, 026920, 026922, 026924, 026926, 026928, 026930, 026934, 026936, 026942, 026950, 026952, 026958, 026967, 026969, 026972, 026975, 026977, 026983, 026987, 026989, 026994, 026996, 026998, 027000, 027002, 027004, 027006, 027008, 027010, 027012, 027014, 027016, 027018.

<sup>ix</sup> **Exhibit 11 – R.D.M. B pt 2**, Specifically, pages with Bates Stamp Numbers: 027020, 027022, 027024, 027026, 027030, 027032, 027034, 027036, 027038, 027040, 027044, 027048, 027050, 027052, 027054, 027056, 027058, 027060, 027062, 027064, 027070, 027074, 027076, 027078, 027080, 027082, 027084, 027086, 027088, 027092, 027096, 027100, 027106, 027108, 027110, 027112, 027114, 027116, 027118, 027122, 027126, 027128, 027130, 027132, 027134, 027140, 027142, 027146, 027148, 027152, 027156, 027158, 027160, 027162, 027166, 027168, 027170, 027172, 027176, 027178, 027180, 027182, 027184, 027186, 027188, 027190, 027192, 027194, 027206, 027210, 027216, 027218, 027220, 027222, 027224, 027252, 027264, 027266, 027272, 027274, 027278, 027280, 027282, 027290, 027294, 027302, 027306, 027308, 027314.

<sup>x</sup> **Exhibit 12 – R.D.M. B**, Specifically, pages with Bates Stamp Numbers: 027322, 027340, 027360, 027372, 027374, 027376, 027382, 027384, 027386, 027388, 027390, 027392, 027394, 027396, 027398, 027400, 027402, 027404, 027406, 027408, 027410, 027412, 027414, 027416, 027418, 027420, 027426, 027432, 027448, 027484, 027506, 027508, 027510, 027512, 027522, 027526, 027528, 027536, 027538, 027542, 027544, 027548, 027550, 027552, 027554, 027556, 027558, 027560, 027564, 027566, 027570, 027572, 027574, 027576, 027578, 027580, 027588, 027594, 027596, 027604, 027610, 027624, 027628, 027638, 027658, 027664, 027668, 027680, 027682, 027686, 027698, 027700, 027748, 027750, 027752, 027754, 027758, 027774, 027776, 027778, 027780, 027798, 027808, 027810, 027814, 027816, 027818, 027820, 027822, 027824, 027826, 027830, 027838, 027840, 027848, 027850, 027852, 027858, 027860, 027862, 027868, 027875, 027880, 027883, 027893, 027895, 027903, 027905, 027907, 027911, 027935, 027941, 027943, 027945, 027947, 027949, 027951, 027953, 027955, 027957, 027959, 027961, 027967, 027981, 027985, 027996, 028004, 028006, 028010, 028014, 028016, 028018, 028028, 028030, 028032, 028034, 028040, 028050, 028054, 028056, 028058, 028062, 028096, 028112, 028122,

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028126, 028142, 028144, 028152, 028166, 028180, 028184, 028198, 028200, 028212, 028218, 028220.

<sup>xi</sup> **Exhibit 13 – S.T.S.**, Specifically, pages with Bates Stamp Numbers: 028236, 028240, 028242, 028244, 028246, 028248, 028250, 028252, 028254, 028256, 028258, 028260, 028262, 028264, 028268, 028270, 028272, 028274, 028276, 028278, 028282, 028286, 028288, 028290, 028292, 028294, 028296, 028298, 028300, 028304, 028306, 028310, 028312, 028320, 028324, 028334, 028336, 028342, 028345, 028347, 028353, 028356, 028358, 028360, 028368, 028376, 028378, 028390, 028396, 028407, 028417, 028419, 028421, 028425, 028427, 028429, 028431, 028433, 028435, 028437, 028439, 028441, 028443, 028445, 028449, 028453, 028455, 028457, 028459, 028461, 028463, 028465, 028467, 028471, 028475, 028477, 028479, 028481, 028483, 028485, 028489, 028491, 028493, 028495, 028498, 028499, 028501, 028503, 028509, 028519, 028521, 028525, 028532, 028534, 028536, 028540, 028542.