

RECEIVED

Dec 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2023-001623
Civil Action No. 2020-CP-36-00382

Jefferson Davis, Jr. Appellant,

v.

Chad Connelly, Dave Wilson, Stephen Kirkland, Tom Persons, Neil Mellen, E3
Software, LLC, Endurance International Holdings, Inc., John Doe #1, John Doe
#2 & John Does 3-40 Respondents.

**RESPONDENTS CHAD CONNELLY, DAVE WILSON,
STEVEN KIRKLAND, TOM PERSONS, AND NEIL MELLEN'S
JOINT MOTION TO DISMISS APPEAL**

Respondents Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, and Neil Mellen ("Respondents") hereby move this Court for an Order dismissing the notice of appeal filed in this matter on October 13, 2023, for lack of appellate jurisdiction to review the orders appended to the notice of appeal because Appellant failed to serve the notice of appeal in accordance with the jurisdictional requirements of S.C. Code § 14-3-330 and the South Carolina Appellate Court Rules. The Court of Appeals should also dismiss the appeal because Appellant failed to file the notice of appeal in accordance with procedural requirements of the South Carolina Appellate Court Rules that require dismissal of the appeal, and because Appellant has failed to comply with other procedural requirements of the South Carolina Appellate Court Rules warranting dismissal.

BACKGROUND¹

Appellant Jefferson Davis, Jr. ("Appellant"), though an attorney licensed to practice law in the State of Georgia, filed the Summons and Complaint in this matter on September 10, 2020, and proceeded in the litigation *pro se*. (Exhibit B.) The Complaint asserted six causes of action against the various named and unidentified defendants collectively, including causes of action for (1)

¹ A table summary of the orders appended to the notice of appeals is included as Exhibit A.

defamation per se and per quod, (2) defamation by innuendo, (3) invasion of privacy, (4) negligence, (5) intentional infliction of emotional distress, and (6) conspiracy. Appellant commenced the action against Respondents by serving the Summons and Complaint upon them individually between September 15, 2020, and September 18, 2020. Respondents each filed motions to dismiss the causes of action asserted against them on various grounds between October 13, 2020, and October 15, 2020.

The Honorable Donald B. Hocker dismissed the causes of action for defamation by innuendo and negligence asserted against Respondents pursuant to Rule 12(b)(6)(a), SCRCF, in an Order as to Motion to Dismiss Five Individual Defendants filed on March 26, 2021. (Exhibit C.) Judge Hocker denied Respondents' motions to dismiss the remaining causes of action. The circuit court sent written notice of the entry of the order to all parties in an email on March 26, 2021. (Exhibit D.) Appellant did not move for reconsideration, alteration, or amendment of the Order as to Motion to Dismiss Five Individual Defendants.

Respondents each served timely Answers between April 7, 2021, and April 9, 2021. Respondents each also served Appellant with various interrogatories, requests for production, and requests for admission between May 12, 2021, and July 27, 2021. Although Appellant admitted proper service and timely receipt of the written discovery requests, Appellant failed to provide any response to any of the discovery requests and failed to make any effort to obtain an enlargement of time to respond. At a hearing on October 7, 2021, The Honorable Donald B. Hocker orally ruled that Appellant must provide responses to the various interrogatories and requests for production by 5:00 pm on October 15, 2021. Judge Hocker filed a written Order Compelling Discovery on October 15, 2021. (Exhibit E.) Appellant did not move for reconsideration, alteration, or amendment of the Order Compelling Discovery.

On November 8, 2021, Judge Hocker also filed a written Order Deeming Admitted Defendants Stephen Kirkland, Chad Connelly, Dave Wilson, Tom Persons, and Niel Mellen's Requests for Admission to Plaintiff and Denying Plaintiff's Request for Enlargement of Time to Respond or to Withdraw or Amend the Admissions. (Exhibit F.) The circuit court sent written notice of the entry of these orders to all parties in an email on November 8, 2021. (Exhibit G.) Appellant did not move for reconsideration, alteration, or amendment of the Order Deeming Admitted Defendants Stephen Kirkland, Chad Connelly, Dave Wilson, Tom Persons, and Niel Mellen's Requests for Admission to Plaintiff and Denying Plaintiff's Request for Enlargement of Time to Respond or to Withdraw or Amend the Admissions.

On August 1, 2022, The Honorable Donald B. Hocker filed an Order Granting Summary Judgment in Favor of Defendant Kirkland and an Order Granting Summary Judgment in Favor of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen. (Exhibits H & I.) These orders dismissed all remaining causes of action against Respondents. Appellant received written notice of the entry of these orders on August 2, 2022. (Exhibit J.) Appellant did not move for reconsideration, alteration, or amendment of these orders.

On September 19, 2022, The Honorable Donald B. Hocker also filed an Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions Against Plaintiff. (Exhibit K.) In the order, Judge Hocker held that Appellant had willfully

disobeyed the Order Compelling Discovery and sanctioned Appellant by ordering Appellant to pay all of Respondents' reasonable expenses, including attorney's fees, incurred as a result of Appellant's conduct. Appellant did not move for reconsideration, alteration, or amendment of the order.

On January 3, 2023, The Honorable Donald B. Hocker filed an additional Order Granting Defendants' Motion for Sanctions Against Plaintiff in which Judge Hocker ordered Appellant to pay a certain amount of attorneys' fees and costs to Respondents Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen within 90 days of the date of the order. (Exhibit L.) On January 18, 2023, Appellant filed Plaintiff's Notice and Motion for Reconsideration of Order (01/03/2023). (Exhibit M.) On August 24, 2023, Judge Hocker filed an Order Denying Plaintiff's Motion for Reconsideration of Order (01/03/2023) after determining that the motion for reconsideration was untimely because it was served more than ten (10) days after Appellant's receipt of written notice of the entry of the Order Granting Defendants' Motion for Sanctions Against Plaintiff. (Exhibit N.) Respondents personally served Appellant with the Order Denying Plaintiff's Motion for Reconsideration of Order (01/03/2023) on September 15, 2023. (Exhibit O.)

On May 17, 2023, Respondents Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed a Rule to Show Cause and Motion for an Order of Contempt and Additional Sanctions seeking an Order compelling Appellant to pay the amounts owed pursuant to the Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023, and imposing additional sanctions on Appellant. (Exhibit P.) Although the circuit court scheduled the hearing of this motion for December 5, 2023, Judge Hocker cancelled the hearing as a result of this appeal. (Exhibit Q.)

Appellant filed the notice of appeal in this matter with the clerk of the appellate court on October 13, 2023. (Exhibit R.) At that time, Appellant also filed a proof of service indicating that Appellant served Respondents "on October 13th, 2023, pursuant to Rule 262 and associated Orders by email to the attorney's primary email address[.]" (*Id.*) On November 9, 2023, Appellant filed a second proof of service of the notice of appeal in which Appellant admitted his failure to perfect service on October 13, 2023, because "only members of the SC Bar are entitled to service pursuant to Rule 262 and associated Orders by email to the attorney's primary email address." (Exhibit S.) Respondents have not received the hard copy of the notice of appeal through the mail as indicated on Appellant's second proof of service. Appellant has not filed a copy of the notice of appeal with the clerk of the lower court.

LEGAL STANDARDS

"A party intending to appeal must serve and file a notice of appeal[.]" Rule 203(a), SCACR. The South Carolina Court of Appeals obtains exclusive jurisdiction over an appeal upon the service of the notice of appeal. Rule 205, SCACR; see also *Tillman v. Oakes*, 398 S.C. 245, 255 n.3, 728 S.E.2d 45, 51 n.3 (Ct. App. 2012). "The requirement of service of the notice of appeal is jurisdictional, i.e., if a party misses the deadline, the appellate court lacks jurisdiction to consider the appeal and has no authority or discretion to 'rescue' the delinquent party by extending or ignoring the deadline for service of the notice. *Elam v. S.C. DOT*, 361 S.C. 9, 14-15, 602 S.E.2d 772, 775 (2004) (citing *Mears v. Mears*, 287 S.C. 168, 337 S.E.2d 206 (1985)).

In appeals from the Court of Common Pleas, “[the] notice of appeal **shall** be served on all respondents within thirty (30) days after receipt of written notice of entry of the order or judgment.”² Rule 203(b)(1), SCACR (emphasis added). “Rule 203(b), SCACR, requires a party to serve his notice of appeal within thirty days after receiving written notice of the entry of a final order or judgment, and failure to do so divests this court of subject matter jurisdiction and results in dismissal of the appeal.” Canal Ins. Co. v. Caldwell, 338 S.C. 1, 552 S.E.2d 416, 417 (Ct. App. 1999) (citing First Carolina Nat’l Bank v. A & S Enterprises, Inc., 272 S.C. 339, 251 S.E.2d 762 (1979); Burnett v. South Carolina State Highway Dep’t, 252 S.C. 568, 167 S.E.2d 571 (1969)). “[A] final judgment is one which operates to divest some right in such a manner as to put it beyond the power of the Court making the order to place the parties in their original condition after the expiration of the term; that is, it must put the case out of Court, and must be final in all matters within the pleadings.” Good v. Hartford Acc. & Indem. Co., 201 S.C. 32, 42, 21 S.E.2d 209, 212 (1942).

Service shall be perfected by one of four means. Rule 262(c), SCACR. First, service may be made by delivering a copy to the person by (1) handing it to the person, (2) leaving it at their office, or (3) leaving a copy at the person’s dwelling place or usual place of abode with some person of suitable age and discretion then residing there. Rule 262(c), SCACR. Second, service may be made by depositing a copy in the U.S. mail properly addressed to the person at that person’s last known address with sufficient first-class postage attached. Third, service may be made by leaving the document with the clerk of the appellate court. Finally, service may also be made by electronic means in a manner provided by order of the Supreme Court of South Carolina. Rule 262(c), SCACR.

In addition to service,³ “[t]he notice of appeal **shall** be filed with the clerk of the lower court and the clerk of the appellate court within ten (10) days after the notice of appeal is served.” Rule 203(d)(1)(B) (emphasis added). “The notice filed with the appellate court **shall** be accompanied by the following: (i) [p]roof of service showing that the notice has been served on all respondents [and] (ii) [a] copy of the order(s) and judgment(s) to be challenged on appeal if they have been reduced to writing[.]” Id. (emphasis added); see also Rule 262(b), SCACR (“Any document filed with the appellate court shall be accompanied by proof of service showing the document has been served on all parties.”). “If the notice of appeal is not timely filed or the filing fee is not paid in full, the appeal **shall** be dismissed, and shall not be reinstated except as provided by Rule 260.” Rule 203(d)(3) (emphasis added).

“The failure of a party to comply with the procedural requirements for perfecting an appeal may deprive the court of ‘appellate’ jurisdiction over the case[.]” Great Games v. S.C. Dep’t of Revenue, 339 S.C. 79, 82 n.5, 529 S.E.2d 6, 7 n.5 (2000). “Whenever it appears that an appellant

² “When a timely . . . motion to alter or amend the judgment . . . has been made, the time for appeal for all parties shall be stayed and shall run from receipt of written notice of entry of the order granting or denying such motion.” Rule 203(b)(1), SCACR. An untimely post-trial motion does not stay the time for appeal. Canal Ins. Co. v. Caldwell, 338 S.C. 1, 5-6, 524 S.E.2d 416, 418 (Ct. App. 1999); Leviner v. Sonoco Prods. Co., 339 S.C. 492, 494, 530 S.E.2d 127, 128 (2000).

³ Serving and filing are two separate acts. See Rule 203(b), (d), SCACR.

or a petitioner has failed to comply with the requirements of these Rules, the clerk ***shall*** issue an order of dismissal, which shall have the same force and effect as an order of the appellate court.” Rule 260(a), SCACR (emphasis added).

ARGUMENT

This appellate court should dismiss the instant appeal for lack of appellate jurisdiction to review the appealed orders because Appellant failed to comply with the jurisdictional and procedural requirements for perfecting an appeal. As a threshold matter, the appellate court lacks appellate jurisdiction because Appellant failed to serve the notice of appeal in accordance with the jurisdictional requirements of S.C. Code § 14-3-330 and the South Carolina Appellate Court Rules. In addition, Appellant failed to file the notice of appeal in accordance with procedural requirements of the South Carolina Appellate Court Rules that require dismissal of the appeal. Moreover, Appellant has also failed to comply with other procedural requirements of the South Carolina Appellate Court Rules that warrant dismissal of the appeal. As a result, this appellate court should dismiss the appeal.

I. This appellate court lacks appellate jurisdiction because Appellant failed to serve the notice of appeal in accordance with the jurisdictional requirements of S.C. Code § 14-3-330 and the South Carolina Appellate Court Rules.

Appellant seeks to invoke the appellate jurisdiction of the South Carolina Court of Appeals in this matter pursuant to S.C. Code § 14-3-330 through the service of a notice of appeal filed with the clerk of the appellate court on October 13, 2023. Appellant alleges service the notice of appeal upon Respondents on November 9, 2023, in a proof of service also filed on November 9, 2023.⁴ Through the notice of appeal, Appellant seeks appellate review of twelve interlocutory or immediately appealable orders entered by the circuit court between March 26, 2021, and August 24, 2023.⁵

Appellant’s petition for appellate jurisdiction is predicated upon service of a notice of appeal within thirty (30) days after receipt of written notice of the entry of the Order Denying Plaintiff’s Motion for Reconsideration of Order (01/03/2023) on September 15, 2023. The Order Denying Plaintiff’s Motion for Reconsideration of Order (01/03/2023), however, is interlocutory because the order denied Plaintiff’s Notice and Motion for Reconsideration of Order (01/03/2023) in which Appellant sought reconsideration of the Order Granting Defendants’ Motion for Sanctions Against Plaintiff through which the circuit court ordered Appellant to pay attorneys’ fees and costs as a sanction for failing to comply with an Order Compelling Discovery filed on October 15, 2021. See Ex parte Whetstone, 289 S.C. 580, 580, 347 S.E.2d 881, 881 (1986) (“An order directing a party to participate in discovery is interlocutory and not directly appealable under S.C. Code Ann. § 14-3-330 (1976).”). Accordingly, the Order Denying Plaintiff’s Motion for Reconsideration of Order (01/03/2023) is not a final order that can be the basis of a notice appeal. See id.

⁴ As discussed above, Appellant has conceded his failure to perfect service on Respondents on October 13, 2023. Respondents have not received hard copies of the notice of appeal as indicated in the second proof of service.

⁵ A table summary of the orders appended to the notice of appeals is included as Exhibit A.

Moreover, the circuit court previously ended Appellant's claims against Respondents by entering an Order Granting Summary Judgment in Favor of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen and an Order Granting Summary Judgment in Favor of Defendant Kirkland filed on August 1, 2022.⁶ See Watson v. Underwood, 407 S.C. 443, 459, 756 S.E.2d 155, 164 (Ct. App. 2014) (“[T]he granting of Respondents’ summary judgment motion is immediately appealable.”). Appellant received written notice of the entry of these orders on August 2, 2022. (Exhibit N.) Appellant, however, failed to serve a timely notice of appeal of those final orders on or before September 1, 2022. As a result, the matters concluded by the unappealed orders became the law of the case in all subsequent proceedings involving the parties. Professional Bankers Corp. v. Floyd, 285 S.C. 607, 613, 331 S.E.2d 362, 365 (Ct. App. 1985) (citing Matheson v. McCormac, 187 S.C. 260, 196 S.E. 883 (1938) (“An appealable order from which no appeal is taken becomes the law of the case in all subsequent proceedings involving the same parties and the same subject matter.”)). The appellate court, therefore, also lacks appellate jurisdiction to review these final orders. Rule 203(b)(1), SCACR.

In the event, *arguendo*, that the interlocutory Order Granting Defendants’ Motion for Sanctions Against Plaintiff filed on January 1, 2023, is construed as a final order, the appellate court still lacks appellate jurisdiction in this matter because Appellant’s service of Plaintiff’s Notice and Motion for Reconsideration of Order (01/03/2023) filed on January 18, 2023, did not stay the time for the service of a notice of appeal because Appellant served the motion for reconsideration more than 10 days after Appellant’s receipt of written notice of the order on December 28, 2022. (Exhibit Y); Canal Ins. Co. v. Caldwell, 338 S.C. 1, 5-6, 524 S.E.2d 416, 418 (Ct. App. 1999); Leviner v. Sonoco Prods. Co., 339 S.C. 492, 494, 530 S.E.2d 127, 128 (2000). As discussed in the Order Denying Plaintiff’s Motion for Reconsideration of Order (01/03/2023), Appellant received written notice of the Order Granting Defendants’ Motion for Sanctions Against Plaintiff on December 28, 2022, and did not serve Plaintiff’s Notice and Motion for Reconsideration of Order (01/03/2023) until January 18, 2023. As a result, the circuit court no longer had jurisdiction to reconsider the order and the unappealed order became the law of the case upon expiration of the appeal period on January 27, 2023. Accordingly, this appellate court lacks appellate jurisdiction to review these orders. Rule 203(b)(1), SCACR.

⁶ The circuit court had previously dismissed Appellant’s causes of action for defamation by innuendo and negligence pursuant to Rule 12(b)(6)(a), SCRPC, in an Order as to Motion to Dismiss Five Individual Defendants filed on March 26, 2021. As Appellant did not move for reconsideration of the order or serve a notice of appeal within thirty (30) days after receipt of written notice of entry of the order on March 26, 2021, this appellate court also lacks appellate jurisdiction to review the Order as to Motion to Dismiss Five Individual Defendants. Lebovitz v. Mudd, 289 S.C. 476, 479, 347 S.E.2d 94, 96 (1986) (holding that an order granting a motion to dismiss under Rule 12(b)(6) as to one of multiple claims is immediately appealable).

II. Appellant failed to file the notice of appeal in accordance with procedural requirements of the South Carolina Appellate Court Rules that require dismissal of the appeal.

As discussed above, the South Carolina Appellate Court Rules expressly provide that “[t]he notice of appeal **shall** be filed with the clerk of the lower court **and** the clerk of the appellate court within ten (10) days after the notice of appeal is served.” Rule 203(d)(1)(B) (emphasis added). In addition, “[t]he notice filed with the appellate court **shall** be accompanied by . . . [p]roof of service showing that the notice has been served on all respondents[.]” *Id.* (emphasis added); see also Rule 262(b), SCACR (“Any document filed with the appellate court shall be accompanied by proof of service showing the document has been served on all parties.”). “If the notice of appeal is not timely filed . . . , the appeal **shall** be dismissed[.]” Rule 203(d)(3) (emphasis added).

Appellant failed to follow these procedural rules in several respects. First, Appellant failed to file a copy of the notice of appeal with the clerk of the circuit court—let alone within ten days of service as required by Rule 203(d)(1)(B). As a result, the appeal must be dismissed pursuant to Rule 203(d)(3).

Second, Appellant failed to file with the clerk of the appellate court proof of service that showed that the notice of appeal had been served on all respondents in accordance with Rule 203(d)(1)(B) and Rule 262(b), SCACR. The notice of appeal filed with the clerk of the appellate court on October 13, 2023, included with the filing a proof of service indicating that all respondents had been served with the notice of appeal “on October 13th, 2023, pursuant to Rule 262 and associated Orders by email to the attorney’s primary email address[.]” (Exhibit V.) However, as conceded by Appellant, Rule 262(c)(3) does not allow *pro se* parties not admitted to practice law in South Carolina to serve a document on a lawyer admitted to practice law in South Carolina using the lawyer’s primary e-mail address listed in the Attorney Information System (AIS). (See Exhibit W); see also South Carolina Supreme Court Order Re: Methods of Electronic Filing and Service Under Rule 262 of the South Carolina Appellate Court Rules, Appellate Case No. 2020-000447 (May 6, 2022). As conceded by Appellant, the proof of service accompanying the notice of appeal filed on October 13, 2023, does not satisfy the procedural rule because it did not show that the notice of appeal had been served on all respondents. In fact, the proof of service patently shows that the notice of appeal had not been served. As a result, the appeal must be dismissed pursuant to Rule 203(d)(3) and Rule 260(a), SCACR.

Third, Appellant failed to file the notice of appeal with either the clerk of the lower court or the clerk of the appellate court within ten days of actual service upon all respondents on November 9, 2023. Appellant did not file a copy of the notice of appeal with the clerk of the lower court at all—let alone within ten days of a proof of service showing actual service as required by Rule 203(d)(1)(B). Appellant also did not re-file a copy of the notice of appeal with the clerk of the appellate court within ten days of that date as required by a strict reading of Rule 203(d)(1)(B). As a result, the appeal must be dismissed pursuant to Rule 203(d)(3).

III. Appellant has also failed to comply with other procedural requirements of the South Carolina Appellate Court Rules that warrant dismissal of the appeal.

The South Carolina Appellate Court Rules that “[A]ppellant shall, within the time provided for ordering the transcript, make satisfactory arrangements (including agreement regarding payment for the transcript), in writing with the court reporter for furnishing the transcript.” Rule 207(1), SCACR. “In appeals from the court of common pleas, . . . the transcript must be ordered within ten (10) days after the date of service of the notice of appeal.” *Id.* “Appellant shall contemporaneously furnish all parties, the Office of Court Administration, and the clerk of the appellate court with copies of all correspondence with the court reporter.” *Id.* “Unless the parties otherwise agree in writing, appellant must order a transcript of the entire proceedings below.” *Id.* “If appellant has not received the transcript within the allotted time nor received notification of an extension within ten (10) days after the allotted time, appellant shall notify the Office of Court Administration, the clerk of the appellate court, and the court reporter in writing.” Rule 207(5), SCACR.

At the latest, the South Carolina Appellate Court Rules required Appellant to order the transcripts of the hearings for the twelve orders appended to the notice of appeal on or before November 20, 2023. Almost a month after that deadline, Appellant has failed to provide Respondents with any correspondence requesting the various transcripts. In fact, Appellant has failed to provide Respondents with a copy of any correspondence with any of the court reporters for the hearings of any of the twelve orders appended to the notice of appeal. Moreover, Appellant has failed to respond to various written inquiries regarding the status of the transcripts. (Exhibit T.) As a result, the appeal must be dismissed pursuant to Rule 260(a), SCACR.

Respectfully submitted,

s/Justin P. Novak
M. Dawes Cooke, Jr., Esquire
Justin P. Novak, Esquire
Barnwell Whaley Patterson & Helms, LLC
P.O. Drawer H
Charleston, South Carolina 29402
Phone: (843) 577-7700
Fax: (843) 577-7708
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com

***Attorneys for Respondents Chad Connelly,
Dave Wilson, Tom Persons, and Neil Mellen***

– and –

Douglas W. MacKelcan
Skyler C. Wilson, Esquire

Copeland Stair Valz & Lovell LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 266-8221
dmackelcan@csvl.law
swilson@csvl.law

Attorneys for Respondent Stephen D. Kirkland

December 15, 2023

EXHIBIT A

No.	Exhibit	Order	Date Filed	Written Notice	Order Type	Motion to Reconsider	Appeal Deadline
1	C	Order as to Motion to Dismiss Five Individual Defendants	03/26/21	03/26/21	Final	No	04/26/21
2	N/A	Order as to Motion to Quash, Stay and Protective Order	03/26/21	03/26/21	Interlocutory	No	N/A
3	E	Order Compelling Discovery	10/15/21	12/17/21	Interlocutory	No	N/A
4	F	Order Deeming Admitted Defendants Stephen Kirkland, Chad Connelly, Dave Wilson, Tom Persons, and Niel Mellen's Requests for Admission to Plaintiff and Denying Plaintiff's Request for Enlargement of Time to Respond or to Withdraw or Amend the Admissions	11/08/21	11/08/21	Interlocutory	No	N/A
5	N/A	Order as to Motion to Quash Subpoena to E3 Software	11/30/21	11/30/21	Interlocutory	No	N/A
6	N/A	Order Granting John Doe 1's Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc.	01/04/22	01/04/22	Interlocutory	Order Denying Plaintiff's Motion for Reconsideration filed on 08/12/22	N/A
7	H	Order Granting Summary Judgment in Favor of Defendant Kirkland	08/01/22	08/01/22	Final	No	08/31/22
8	I	Order Granting Summary Judgment in Favor of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen	08/01/22	08/01/22	Final	No	08/31/22
9	N/A	Order Denying Plaintiff's Motion for Reconsideration	08/12/22	08/12/22	Interlocutory	No	N/A
10	K	Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions Against Plaintiff	09/19/22	09/20/22	Interlocutory	No	N/A
11	L	Order Granting Defendants' Motion for Sanctions Against Plaintiff	01/03/23	12/28/22	Interlocutory	Plaintiff's Notice and Motion for Reconsideration of Order (01/03/2023)	N/A
12	N	Order Denying Plaintiff's Motion for Reconsideration of Order (01/03/2023)	08/24/23	09/15/23	Interlocutory	No	N/A

EXHIBIT B

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
)

) C.A. NO. 2020-CP-36- 00382
)

Jefferson Davis, Jr.,
)

)
)
) Plaintiff,
)

vs.)
)

Chad Connelly, Dave Wilson, Stephen)
Kirkland, Tom Persons, Neil Mellen, E3)
Software, LLC, Endurance International Group)
Holdings, Inc., John Doe #1, John Doe #2 &)
John Does 3-40,)
)

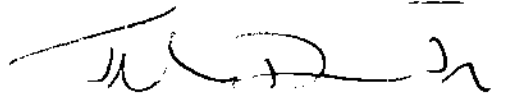
) Defendants.
)
)

SUMMONS
(Jury Trial Demanded)

TO THE DEFENDANTS ABOVE-NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this Complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Complaint.

Respectfully submitted,



Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com

PLAINTIFF

September 9, 2020
Greenville, South Carolina

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
)

Jefferson Davis, Jr.,

) C.A. NO. 2020-CP-36- 00382
)

Plaintiff,

)
)
)

vs.

)
)
)

COMPLAINT
(Jury Trial Demanded)

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2 & John Does 3-40,

)
)
)
)
)

Defendants.

)
)
)
)
)

Jefferson Davis, Jr. (herein "Plaintiff" or "Plaintiff Davis") states his complaint as follows:

INTRODUCTION

1. On October 9th, 2018, South Carolina's First Circuit Solicitor's Office publicly released the **Twenty-Eighth State Grand Jury Report** (hereinafter the "Report"). The Grand Jury's 270-page Report outlined a playbook for "**pay-for-influence schemes**" in South Carolina state government by lobbyist principals and others. Report, page 1-2, emphasis added. "In directing the designated prosecutor to draft a report, the Grand Jury acted upon the belief that citizens of a democratic society must be informed about the conduct of those entrusted with governance, and that transparency is the greatest weapon against **corrupt and incompetent government.**" Report, page 1, emphasis added.

2. In seeking release of the Report, the State of South Carolina's September 6, 2018, **MOTION FOR DISCLOSURE OF GRAND JURY'S REPORT** states that the "undersigned firmly believes that the greatest weapon against corruption and incompetence in government is transparency. Indeed, public exposure may be the only true deterrent to public corruption." (Exhibit A, page 1.) The State's Motion goes on to proffer that

"the instant Report preserves the interests of due process and grand jury confidentiality by submitting the Report for public disclosure only after the underlying investigation has concluded and by ensuring that the findings of the Report are not mere accusations but are instead a presentation of the grand jury's recommendations to pursue further legal process. The Report includes relevant evidence and testimony to support those recommendations in the interest of disclosing matters of great public concern regarding public officials of this State."

(Exhibit A, page 2-3, emphasis added.)

3. Plaintiff Davis is filing this Complaint to say "**no more**" to unfounded and defamatory statements made in the public square regarding matters of a political nature against private citizens. The truth matters and dirty tactics like those on the national stage go on right here in South Carolina (and unfortunately perhaps everywhere). **At some point good people must stand up**, say no more and call out these people that tell defamatory lies and employ these dirty tricks and tortious acts. With the filing of this lawsuit, Plaintiff Davis is making his small stand and saying "**no more**" to paid political hacks spreading lies to support their political friends and self-interested political and financial goals. Lies in this case that are also hurting K-12 children with "special needs". Taxpayers, citizens and the children of South Carolina deserve better.

PLAINTIFF

4. Plaintiff **Jefferson Davis, Jr.** is a citizen, resident, taxpayer, and registered elector of Greenville County, South Carolina. Plaintiff Davis was born in Charleston, SC, attended K-12 school here in South Carolina, is a graduate of The Citadel in Charleston, SC, and received a law degree and Master of Business Administration from the University of South Carolina. Plaintiff Davis is a tax attorney (not a litigator), an active member of the Georgia Bar and a licensed CPA in Georgia.

DEFENDANTS

5. Defendant **Chad Connelly** (“Connelly”) is the now former Executive Director of the **South Carolina Educational Credit for Exceptional Needs Children Fund** (hereinafter the “**ECENC Fund**”), a former board member at Palmetto Family Council and Palmetto Family Alliance, a resident of Newberry County and a citizen of the State of South Carolina residing at 107 Connelly Drive, Prosperity, South Carolina 29217.
6. Defendant **Dave Wilson** (“Wilson”) is the now former “communications consultant” for the **ECENC Fund**, a political and business associate of Defendant Connelly, a resident of Lexington County and a citizen of the State of South Carolina residing at 508 Barr Road, Lexington, South Carolina 29072.
7. Defendant **Stephen D. Kirkland, CPA, CMC** (“Kirkland”) is a former board member (in partnership with **Defendant Connelly**) of Palmetto Family Council and

Palmetto Family Alliance. Defendant Kirkland is a resident of Richland County, a citizen of the State of South Carolina residing at 2724 Canterbury Road, Columbia South Carolina 29204.

8. Defendant **Tom Persons** (“Persons”) is the now former Board Chairman of the **ECENC Fund**, a principal of **Lindsay & Persons Public Relations, LLC**, and a political and business partner with (including sharing office space) with the registered lobbyist Christopher M. Lindsay, a resident of Richland County and a citizen of the State of South Carolina residing at 100 Dibble Lane, Columbia, South Carolina 29223.
9. Defendant **Neil J. Mellen** (“Mellen”) is a former consultant to the **ECENC Fund** and former employee of Defendant Connelly, a resident of Richland County and a citizen of the State of South Carolina residing at 3507 Heyward Street, Columbia, South Carolina 29205.

Internet Companies

10. Defendant **E3 Software, LLC, dba Direct Mail for Mac** (“Direct Mail for Mac”) is a foreign California limited liability company with a registered agent Jonathan Hammer with a service address of 1982 West Bayshore Road, Apt. 318, Palo Alto, CA 94303.

11. Defendant **Endurance International Group Holdings, Inc.** (“Endurance”) is a foreign Delaware corporation with a registered agent The Corporation Trust Company, 1209 Orange Street, Wilmington, DE 19801.

John Doe(s)

12. Defendant **John Doe #1** (“John Doe #1”) is an individual or entity whose name and address is presently unknown and is believed to be the owner of the website www.JeffDavisFirst.com. John Doe #1 is represented by attorney J.D. Bryan, P.O. Box 1111, Walterboro, SC 29488.
13. Defendant **John Doe #2** (“John Doe #2”) is an individual or entity whose name and address is presently unknown and is believed to be the owner of the websites www.VoteJoshKimbrell.com & www.Hammond4SC.com. John Doe #2 is represented by attorney Benjamin T. Coppage, Post Office Box 2473, Beaufort, SC 29901.
14. At this time, the true identities of the **John Doe(s) 3 through 40**, be them individuals and/or entities, (“**John Doe(s)**”), are presently unknown and/or unconfirmed to Plaintiff Davis. Therefore, Plaintiff Davis sues the John Doe(s) by fictitious name. Upon information and belief, the John Doe(s) fund, direct and/or otherwise participate in the operations and activities of Defendants and/or have participated in other matters which are the subject of this Complaint. These “John Doe” defendants are believed to be made up of lobbyist principals, lobbyists, public relations firms, political non-profits, thinktanks, and an assortment of other related and/or linked individuals, consultants, and business entities.

Joint & Several

15. All Defendants herein are sued jointly and severally.

JURISDICTION AND VENUE

16. This court has jurisdiction of the subject matter of this complaint and of the parties.

Venue is proper.

FACTUAL ALLEGATIONS

Introduction – Plaintiff Davis

17. Plaintiff Davis is an advocate for K-12 “special needs” children and K-12 tax credit scholarships that allow these children to attend specialized K-12 schools.

18. Plaintiff Davis has been involved with and founded multiple non-profit organizations that have raised tens of millions, if not now over \$100 million, in K-12 tax credit scholarships benefiting thousands upon thousands of children.

19. Plaintiff Davis is also considered by many as a “watchdog”, exposing corruption surrounding school choice in the state of South Carolina.

20. Since 2013, Plaintiff Davis has exposed various levels of self-interested political and financial corruption, malfeasance, and outright incompetence related to certain named individual Defendants. This includes but is not limited to Embezzlement, Perjury, Drug Trafficking, violations of the SC Charitable Solicitations Act, Professional Ethics Violations, Racism & Favoritism in scholarship awards, etc., etc., etc.

21. Plaintiff Davis is considered a “thorn in their side” by the named individual Defendants given his exposure of their self-interested political and financial goals.
22. Plaintiff Davis has also exposed within the K-12 education and school choice movement similar illegal conduct to that which was outlined in the 270-page **Twenty-Eighth State Grand Jury Report** released on October 9, 2018.
23. Because of Plaintiff Davis’ advocacy and success in exposing such corruption involving the Defendants, Plaintiff Davis has been targeted by the Defendants with, among other things, a defamatory website and series of five (5) mass email blasts as detailed herein during the time-period of September & October 2019.
24. Plaintiff Davis is affiliated with the IRS 501(c)(3) non-profit Palmetto Kids FIRST Scholarship Program, Inc., and is at this time the organizations Board Chairman.
25. The Defendants named their defamatory website ***www.JeffDavisFIRST.com*** and referred to Palmetto Kids FIRST as Plaintiff Davis’ “for-my-profit-non-profit”.

Introduction – Individual Defendant’s

26. Defendants Connelly, Wilson, Kirkland and Mellen are all long-term political and business associates, having worked together for at least the past 10 years, and in some cases 20 years.
27. Defendants Connelly & Kirkland have been long term board members (approximately 20 years) of the two politically involved non-profits, Palmetto Family Council (an

IRS 501(c)(3)) and Palmetto Family Alliance (and IRS 501(c)(4)) – each organization having advocated for school choice for over 20 years.

28. Both Defendants Connelly & Kirkland were removed from the boards of Palmetto Family Council and Palmetto Family Alliance in February 2020 following the series of five (5) defamatory emails and the defamatory website discussed herein during September & October 2019.
29. Defendant Persons was legislatively appointed to the ECENC Fund in June 2016, after which Defendant Persons initially engaged Defendant Mellen (who did not work out) and eventually engaged Defendants Connelly & Wilson on or about October 31st, 2017 to work for the organization.
30. Defendant Persons resigned from the board and Defendants Connelly & Wilson were terminated from the ECENC Fund in July 2020 following series of five (5) defamatory emails and the defamatory website discussed herein during September & October 2019.

Background Information

31. Defendant Connelly was professional engaged (either directly or through an entity as Defendant Connelly was never paid as an employee) to be the Executive Director of the ECENC Fund on or about October 31st, 2017.
32. As Executive Director of the ECENC Fund, Defendant Connelly was responsible for all administrative and fundraising at the organization, under the direction of the ECENC Fund Board of Directors and the SC Department of Revenue (“SCDOR”).

33. Defendant Tom Persons approved the engagement of Defendant Connelly.
34. Defendant Tom Persons was, at the time of Defendant Connelly's engagement, the Board Chairman of the ECENC Fund.
35. Defendant Tom Persons was appointed to the ECENC Fund by Senator Hugh Leatherman in his capacity as Chairman of the SC Senate Finance Committee as required by statute.
36. Defendant Tom Persons was originally appointed to the board of the ECENC Fund as a political favor, and since such appoint Defendant Tom Persons has "sold out" the K-12 children of South Carolina to further his self-interested political and financial goals.
37. Defendant Connelly was the former statewide SC Republican Party Chairman from May 7, 2011 – June 8, 2013.
38. Defendant Connelly, at the time of his engagement by the ECENC Fund, had no professional experience managing or running a K-12 tax credit scholarship program such as the ECENC Fund.
39. Defendant Connelly, at the time of his engagement by the ECENC Fund, had no professional experience with income taxes or income tax credits.
40. Defendant Connelly is a former Amway salesman.
41. Defendant Connelly is a public figure having run for a Congressional office in 2017.

42. The engagement of Defendant Connelly to work for the ECENC Fund was a political favor to the former SC Republican Party Chairman in an effort to “find him a job”.
43. The engagement of Defendant Connelly was a payoff for million in political “school choice” campaign donations Defendant Connelly had help direct to certain politicians from naïve donors and monied special interest with an illicit agenda.
44. On or about October 31, 2017, Defendant Wilson was engaged by Defendant Connelly as a “communications consultant” for the ECENC Fund.
45. Defendant Wilson is a paid political and public relations consultant.
46. Defendant Wilson is the Chief Strategist for a political consulting entity, McAlister Communications, located in Columbia, SC.
47. McAlister Communications, per its website, has “more than five decades of political and corporate crisis management, brand strategy and media relations”.
48. Defendant Wilson, at the time of his engagement to work for the ECENC Fund, had no experience managing or running or representing in any way, a K-12 tax credit scholarship program such as the ECENC Fund.
49. The engagement of Defendant Wilson was a political favor.
50. The engagement of Defendant Wilson was a payoff for services provided to Defendant Connelly in his political endeavors and his 2017 Congressional campaign.
51. Defendant Kirkland is both a Certified Public Accountant (CPA) and a Certified Management Consultant (CMC).

52. Plaintiff Davis has publicly exposed numerous professional ethics violations committed by Defendant Kirkland.
53. Defendant Kirkland's professional ethics violations were committed in the furtherance of his self-interested political and financial goals.
54. As part of Plaintiff Davis' reporting on these professional ethics violations, Defendant Kirkland's attorneys sent Plaintiff Davis a "Cease & Desist" letter dated July 12, 2019.
55. Plaintiff Davis immediately and cooperatively responded on July 16th, 2019, and a series of communications were exchanged between Plaintiff Davis and Defendant Kirkland's attorneys into August, 2019.
56. No legal remedy was ever pursued by Defendant Kirkland following the "Cease & Desist" letter and threats.
57. It has become apparent to Defendant Kirkland that Plaintiff Davis had not violated the law.
58. Upon information and belief, members of the ECENC Fund board & SC Department of Revenue leadership now believe Defendant Connelly and Defendant Wilson were behind the defamatory website and emails discussed herein.
59. Upon information and belief, members of the Palmetto Family Council board and leadership now believe Defendant Connelly and Defendant Wilson were behind the defamatory website and emails discussed herein.

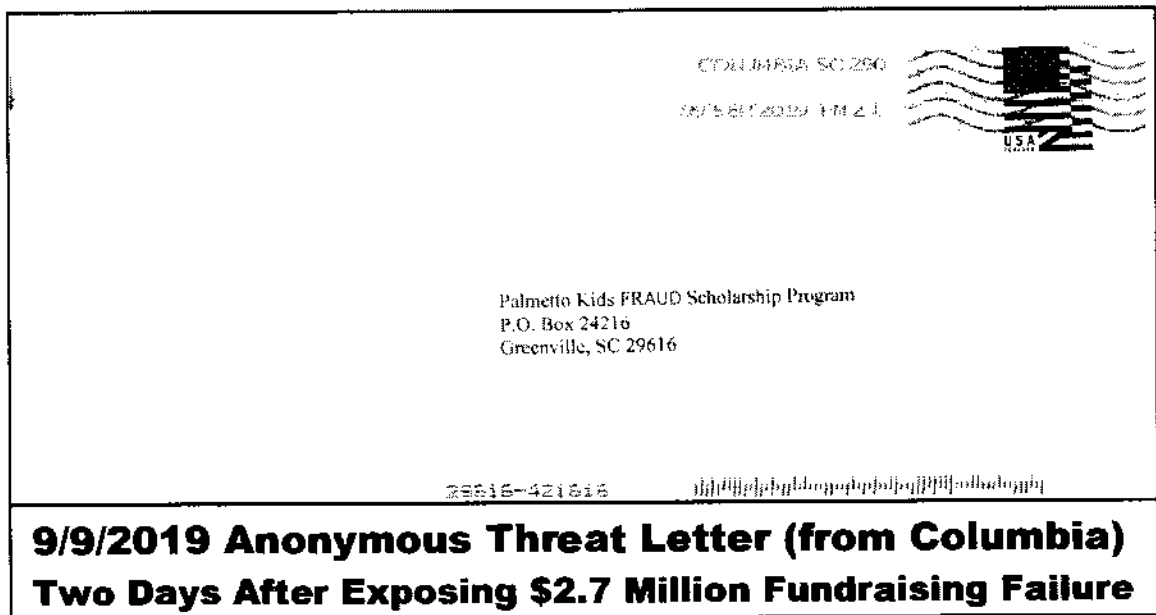
60. It is broadly believed within the ECENC Fund parent and K-12 school community that Defendant Connelly was behind the defamatory website and emails discussed herein. Defendant Wilson, although he was the ECENC Fund “communications consultant” is not generally known to this community of individuals given his lack of actual engagement (even though he was being paid to do so).

61. It is broadly believed within the political and legislative community that Defendant Connelly and Defendant Wilson were behind the defamatory website and emails discussed herein.

[CONTINUED ON NEXT PAGE]

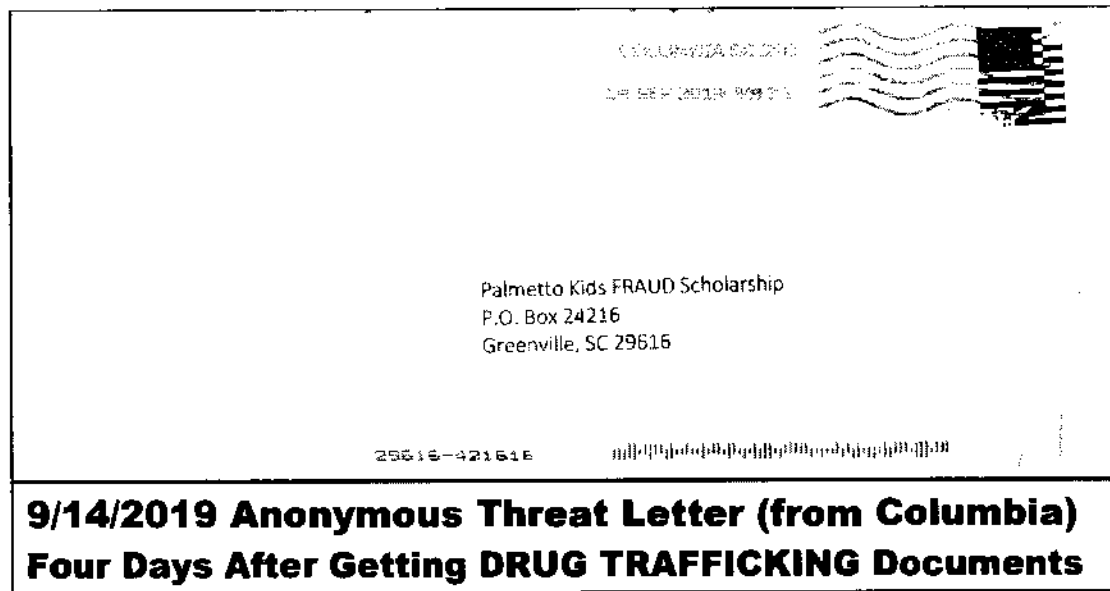
Timeline

62. On **September 9th, 2019**, Plaintiff Davis received an anonymous “threat letter” just two days after exposing (via a FOIA lawsuit against the SC Department of Revenue) that only \$2.7 million (out of an available \$12 million) had been raised. This was a major revelation and exposed the failures and lies of Defendants Connelly, Wilson and Persons at the ECENC Fund. The letter was addressed to Palmetto Kids FRAUD Scholarship Program.



63. On **September 14th, 2019**, Plaintiff Davis received another anonymous “threat letter” just four days after exposing that Defendant Mellen had signed a sworn affidavit (filed in court records) admitting to Drug Trafficking on more than one occasion, specifically shipping marijuana across state lines (while he was working for the ECENC Fund). Defendant Mellen participated in the matters discussed herein due to his frustration with being exposed in this and other matters by Plaintiff Davis. The

letter was addressed to Palmetto Kids FRAUD Scholarship. (Plaintiff Davis, his neighbors, parents, school officials and legislators have received dozens of these anonymous letters postmarked from Columbia, SC, all believed to be sent by Defendants.)



64. During this same time-period, multiple & extensive subpoenas were being issued to and regarding Defendant Kirkland. These subpoenas sought, among other things, information related to the professional ethics violations committed by Defendant Kirkland. Defendant Kirkland participated in the matters discussed herein due to his frustration with being exposed by Plaintiff Davis and the lack of success with his July 12th, 2019, "Cease & Desist" letter and following communications between Plaintiff Davis and Defendant Kirkland's attorneys.

65. On **September 19th, 2019**, the website ***www.JeffDavisFirst.com*** was first purchased from the registrar Domain.com, which is owned by Defendant Endurance International Group Holdings, Inc.

66. Defendants, individually and collectively, published false and defamatory information on their ***www.JeffDavisFirst.com*** website and proceeded to market the website to interested parties for viewing. The subject website was available to anyone with internet access, thus easily accessible to billions of people worldwide.

67. A series of defamatory mass email blasts were sent on the following days to more than an estimated 10,000 individuals, and linked to the false and defamatory website about Plaintiff Davis:

- a. **09/25/2019 Email – This morning, Georgia on my mind**
- b. **10/11/2019 Email – Things Keep Piling Up**
- c. **10/16/2019 Email – The Art of the Backroom Deal**
- d. **10/16/2019 – Poor Jeff Doesn't Understand Email**
- e. **10/17/2019 Email – A Drip Means Something**

68. These emails only stopped, and the defamatory website “taken down”, after Plaintiff Davis filed an October 17th, 2019 subpoena (discussed below) seeking the ownership information of the web domain ***www.JeffDavisFirst.com***.

69. Defendants, individually and collectively, neglected to realize that their online defamatory activities could be tracked based on their pattern of activities as discussed herein. At this point it is only a matter of time before the Defendants are exposed.

70. The fact that the Defendants and their tortious actions herein will inevitably be exposed, and their names identified, Defendants Connelly, Wilson, Kirkland and

Persons are no longer associated with the ECENC Fund and/or Palmetto Family Council in an effort to minimize the embarrassment and damage to said organizations.

John Doe #1 – Website Subpoena

71. On October 17th, 2019, Plaintiff Davis filed a subpoena on Defendant Endurance, as the owner of the domain registrar, seeking the identifying information and ownership of the domain *www.JeffDavisFirst.com*.

72. On October 22nd, 2019, John Doe #1, identifying himself as the “registrant of an internet domain known as JeffDavisFIRST.com” made an appearance to quash the above referenced subpoena.

73. John Doe #1 is represented by attorney J.D. Bryan of Walterboro, SC.

John Doe #2 – Website Subpoenas

74. On October 29th, 2019, Plaintiff Davis filed two subpoenas on Defendant Endurance, as the owner of the domain registrar, seeking the identifying information and ownership of the domains *www.VoteJoshKimbrell.com* & *www.Hammond4SC.com*.

75. On November 12th, 2019, John Doe #2, made an appearance to quash the above referenced subpoena.

76. John Doe #2 is represented by attorney Benjamin Coppage of Beaufort, SC.

77. Defendant Wilson provides email, website, and other political services to the political campaigns of Secretary of State Mark Hammond and Josh Kimbrell.

78. Defendant Wilson is the owner of, or uses, PO Box 12762, Columbia, SC 29211.

79. Hammond for Secretary of State also uses PO Box 12762, Columbia, SC 29211.

ChadConnelly.com – Website Subpoena

80. On November 20th, 2019, Plaintiff Davis filed a subpoena on Defendant Endurance, as the owner of the domain registrar, seeking the identifying information and ownership of the domain ***www.ChadConnelly.com***.

81. On November 12th, 2019, Defendant Connelly, made an appearance to quash the above referenced subpoena.

82. Defendant Connelly is represented by attorney Geoffrey Chambers of Green Cove Springs, FL. Mr. Chambers is also the attorney and general counsel for the ECENC Fund.

83. It is no coincidence that the domain registrar for ***JeffDavisFirst.com***, ***VoteJoshKimbrell.com***, ***Hammond4SC.com***, and ***ChadConnelly.com*** are all the same, as they are all web domains associated with the Defendants, specifically Defendant Wilson.

Defendants Use of “Direct Mail for Mac” Mass Email Blasts System
(The “Direct Mail for Mac” connections)

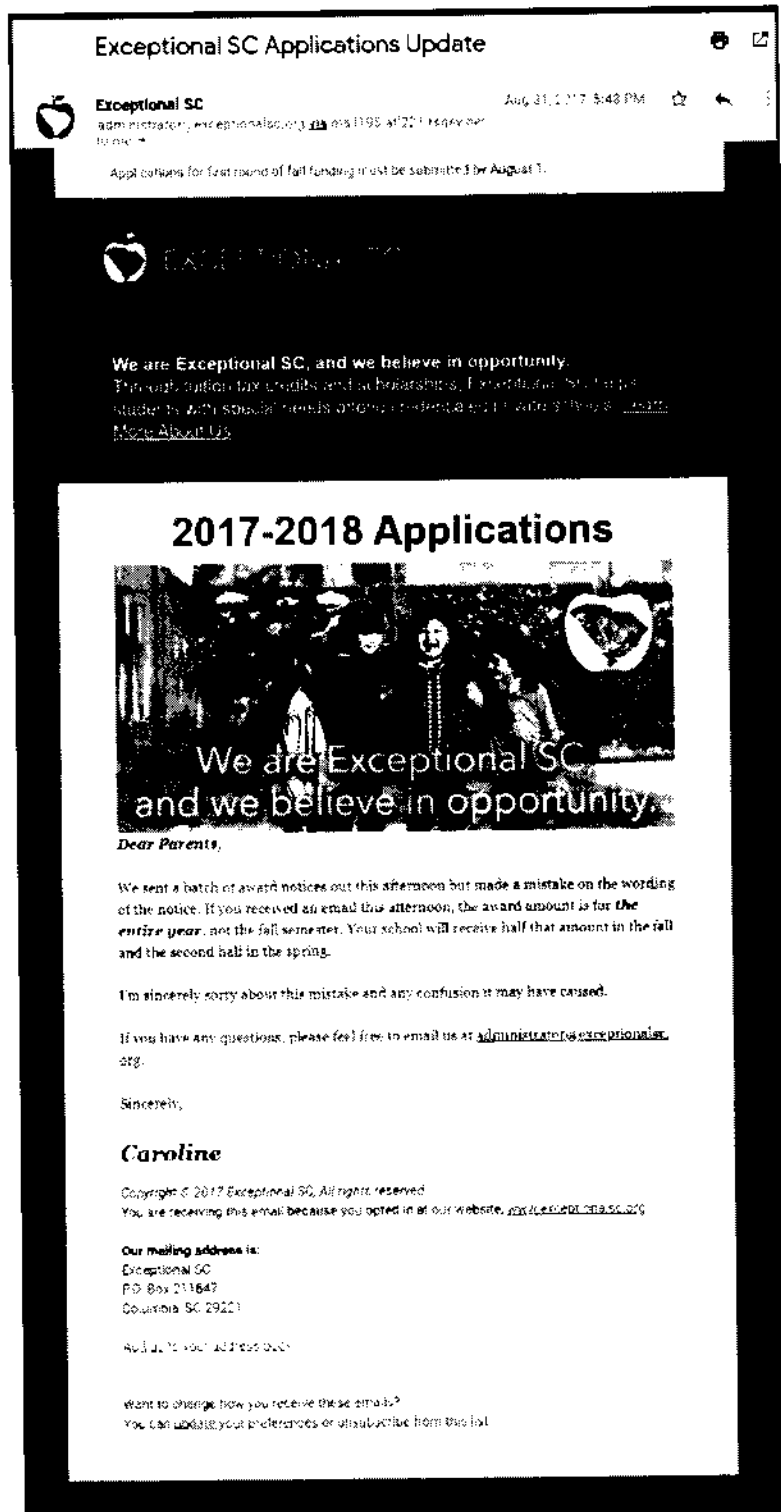
84. The series of five (5) defamatory emails sent between September 25th and October 17th, 2019, all used the mass email blasts system “**Direct Mail for Mac**”.
85. All five (5) defamatory emails linked to the defamatory website *www.JeffDavisFirst.com*.
86. “Direct Mail for Mac” is software service for managing email marketing campaigns.
87. Defendant Wilson uses “Direct Mail for Mac” in his political and professional work.
88. Defendant Wilson has purchased software from Defendant Direct Mail for Mac.
89. Defendant Wilson has purchased services from Defendant Direct Mail for Mac.
90. Although Plaintiff Davis receives a large number of marketing emails from various political and business operations, only emails associated with Defendant Wilson and the other Defendants use “Direct Mail for Mac”.
91. The series of five (5) defamatory emails were sent using “Direct Mail for Mac”.
92. “Direct Mail for Mac” is the same mass email blasts system used by Defendants for the ECENC Fund.
93. “Direct Mail for Mac” is the same mass email blasts system used by numerous political operations connected with Defendant Wilson directly and Defendants generally, including but not limited to Secretary of State Mark Hammond, Josh Kimbrel, and Chad Connelly.

94. The “Direct Mail for Mac” emails linked to Defendant Wilson (see below) were all sent from the same servers as the series of five (5) defamatory emails.

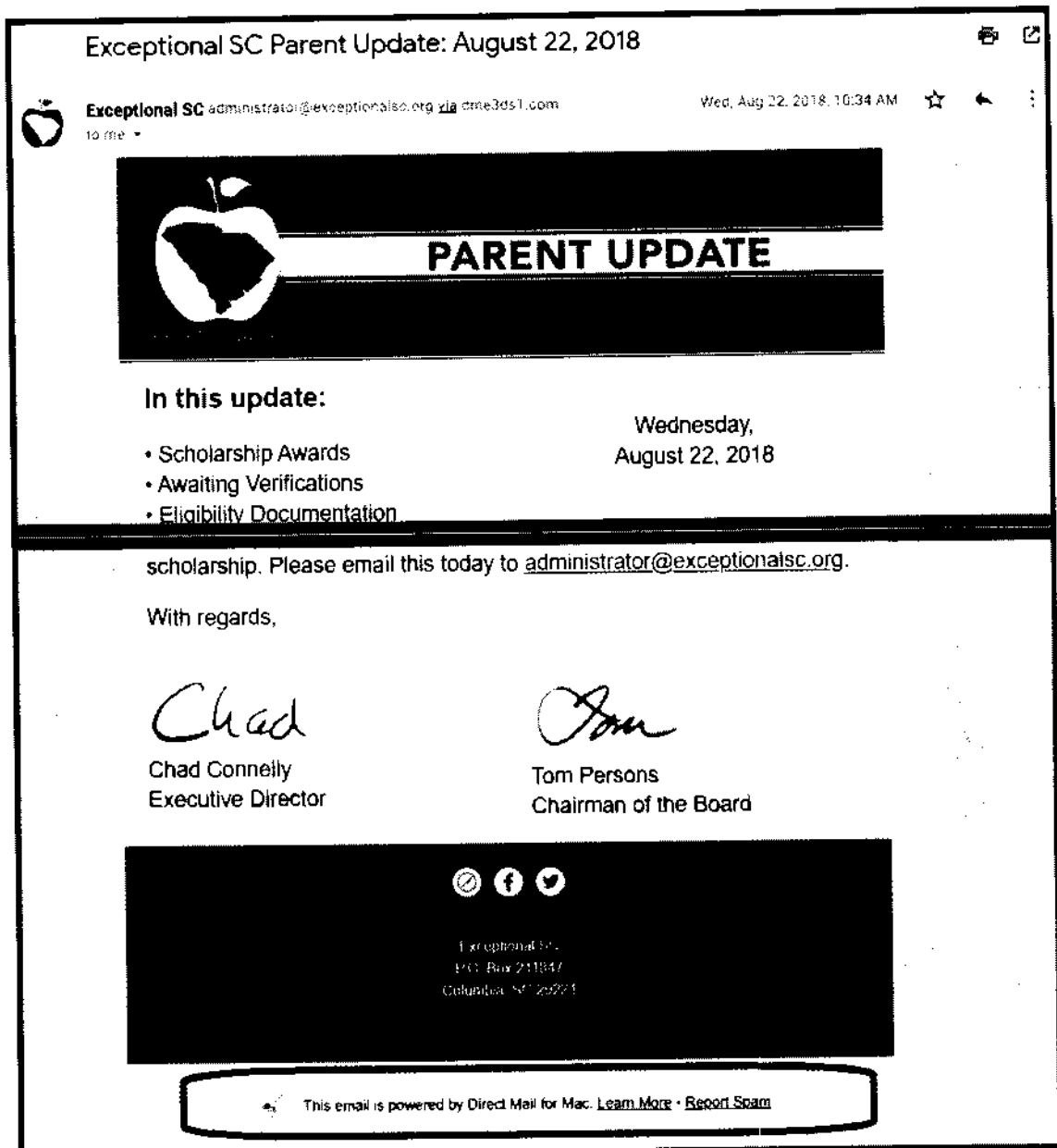
95. The limited use of “Direct Mail for Mac” (only by Defendant Wilson), the use of the same servers, all irrefutably ties the series of five (5) defamatory emails and the defamatory website directly to the Defendants, specially Defendant Wilson.

[CONTINUED ON NEXT PAGE]

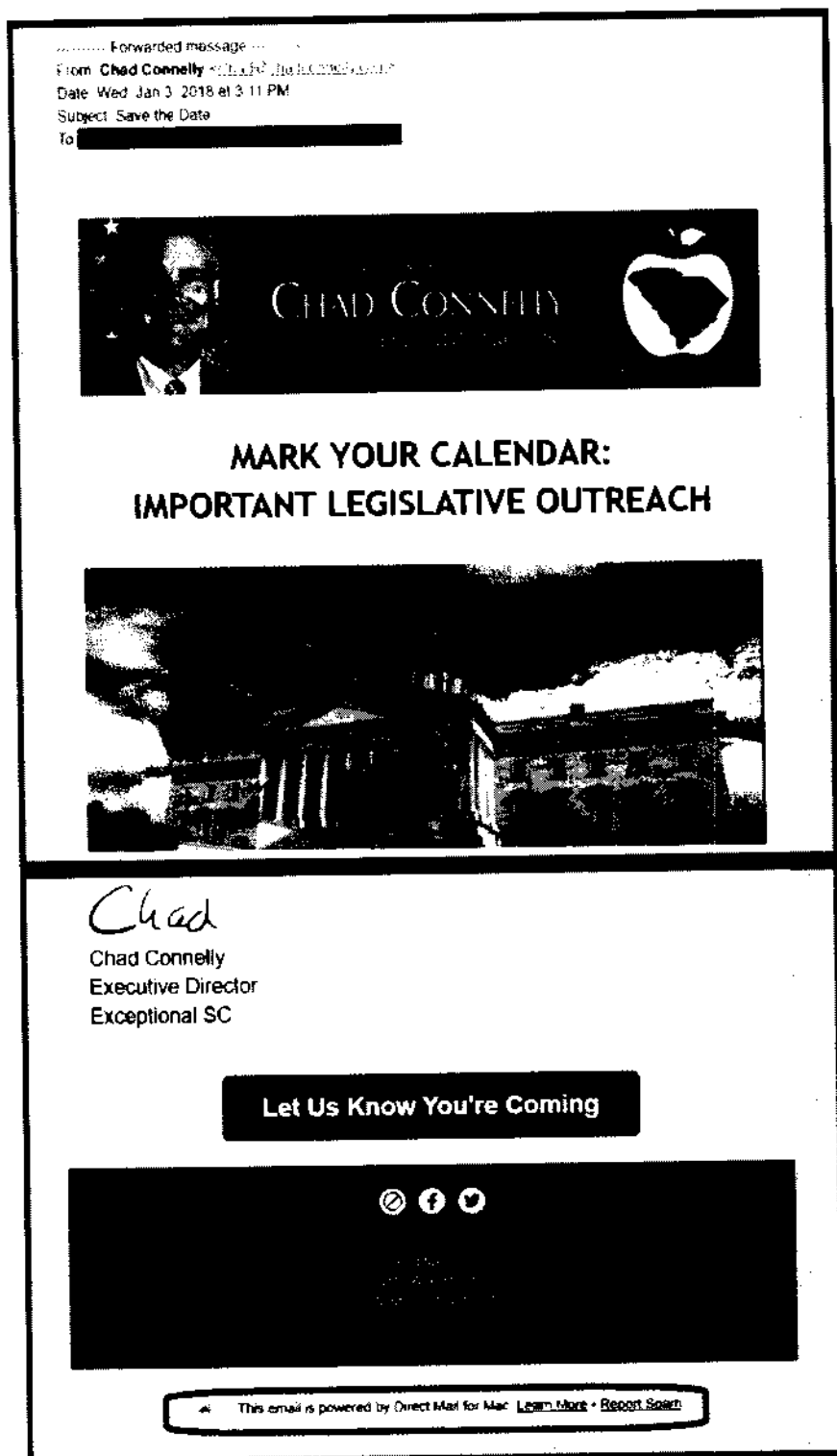
96. Prior to engagement of Defendant Connelly and Defendant Wilson to work for the ECENC Fund, the ECENC Fund used MailChimp for their mass email blasts and had never used "Direct Mail for Mac" previously. See following example:



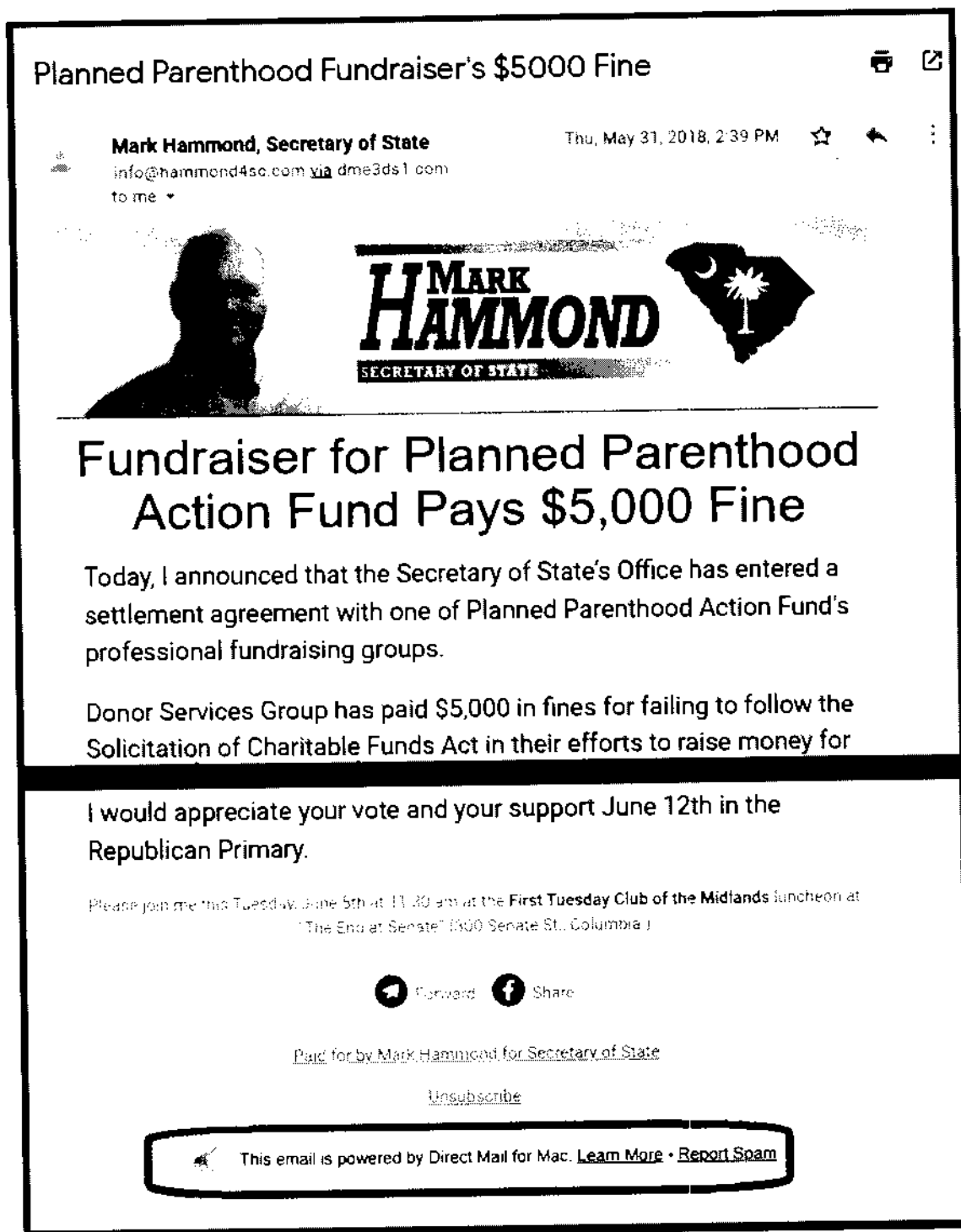
97. Following the engagement of Defendant Connelly and Defendant Wilson to work for the ECENC Fund, the ECENC Fund switched its mass email blasts system to “Direct Mail for Mac”. See the following representative example:



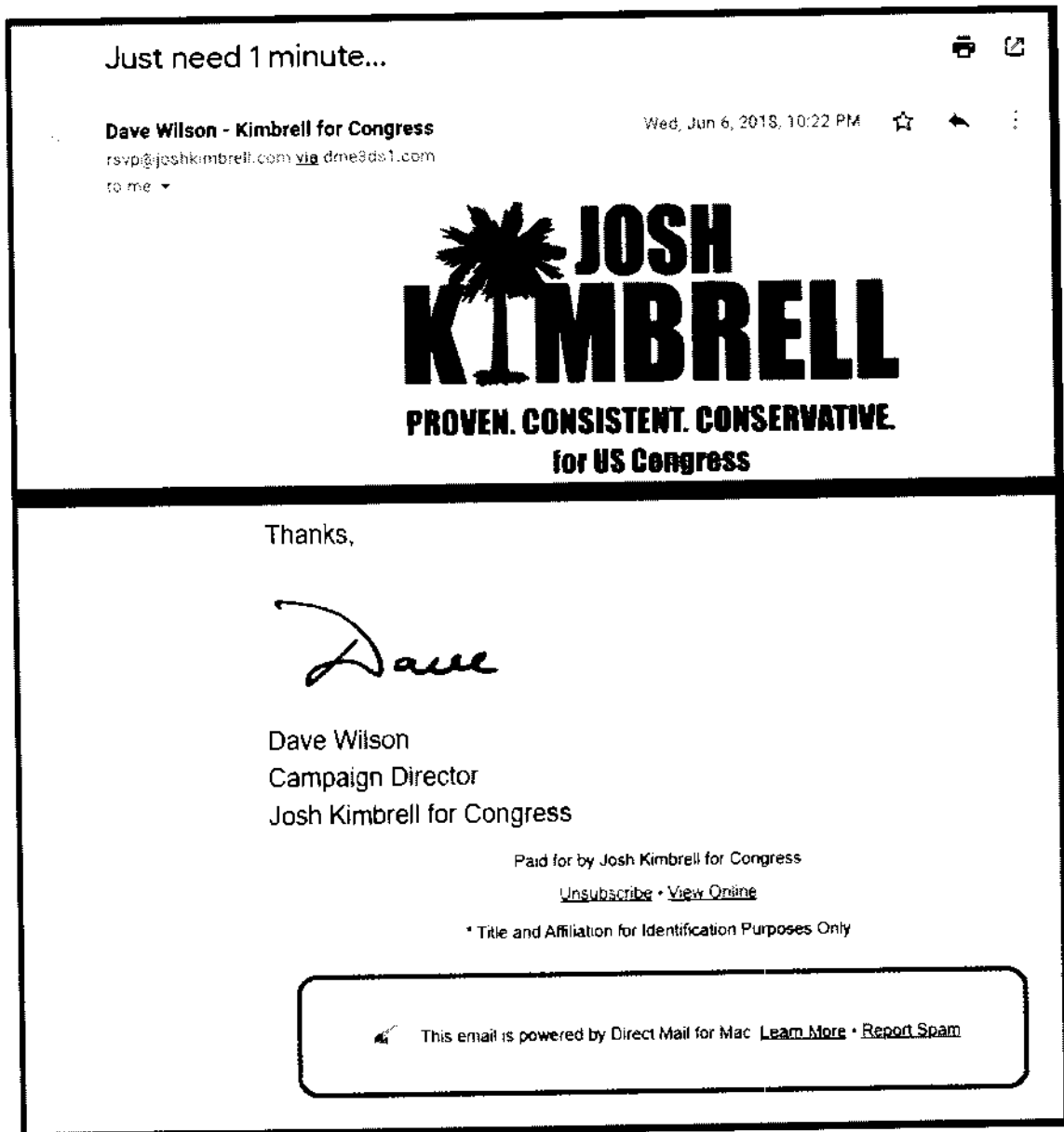
98. Defendant Wilson also uses "Direct Mail for Mac" for mass email blasts for Defendant Connelly (from chad@chadconnelly.com – that domain being held at Endurance). See the following representative example:



99. Defendant Wilson also uses "Direct Mail for Mac" for political mass email blasts for SC Secretary of State, Mark Hammond (from info@hammond4sc.com - that domain being held at Endurance). See the following representative example:



100. Defendant Wilson also uses “Direct Mail for Mac” for political mass email blasts for candidate Josh Kimbrell (from rsvp@joshkimbrell.com - that domain being held at Endurance). See the following representative example:



101. Defendant Wilson also uses “Direct Mail for Mac” for political mass email blasts for candidate Josh Kimbrell (from josh@votejoshkimbrell.com - that domain being held at Endurance). See the following representative example:



[CONTINUED ON NEXT PAGE]

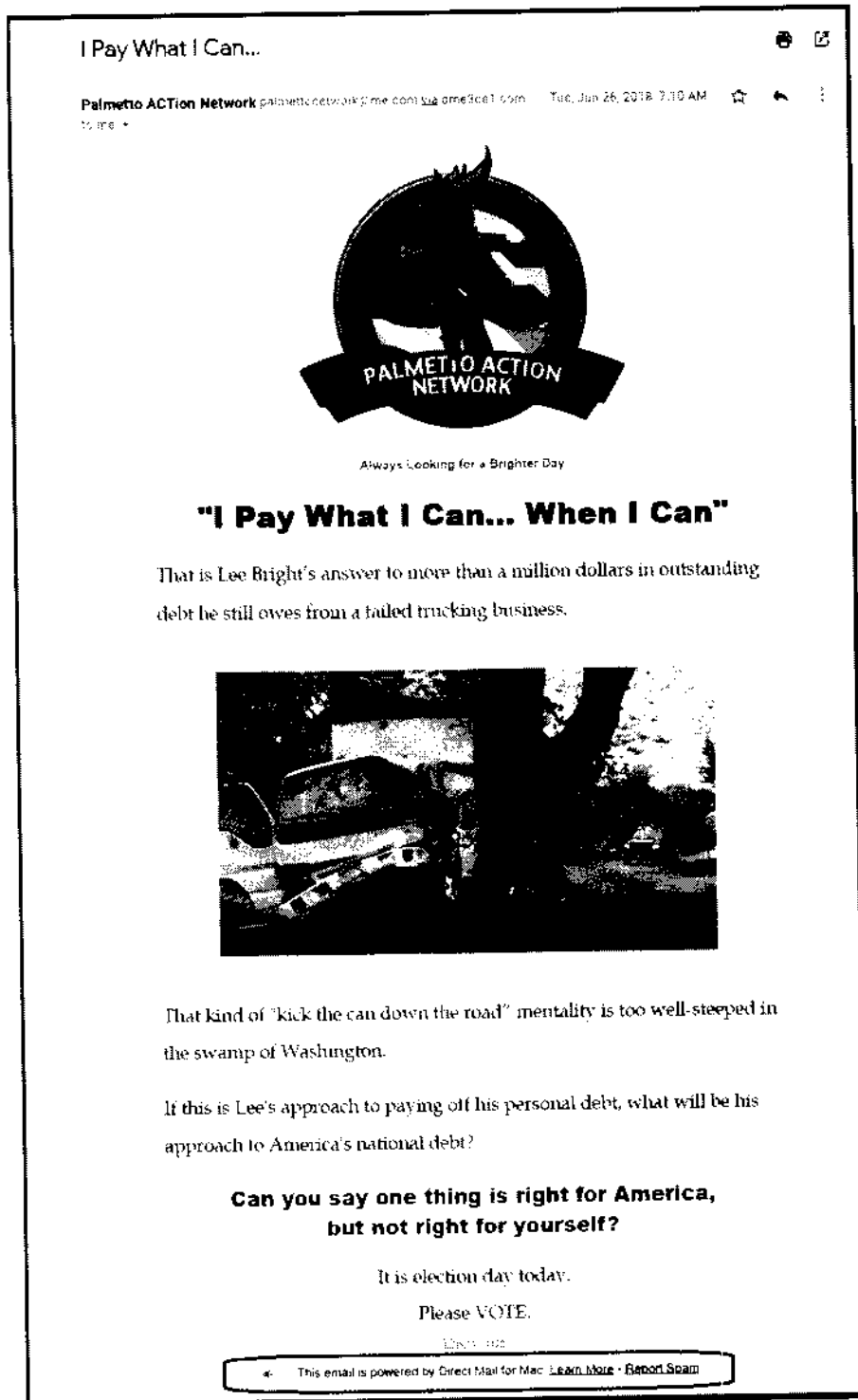
Defendants Other Political “Hit Pieces”
(More “Direct Mail for Mac” connections)

102. Defendant Wilson has a history of running anonymous political “hit pieces” using “Direct Mail for Mac”.
103. A “hit piece” is commonly known as generally anonymous (or identity concealed) political ad or email attacking a public figure / political candidate.
104. The “hit pieces” were sent out under the name “Palmetto ACTION Network”.
105. The entity “Palmetto ACTION Network” is fictitious and does not exist.
106. The entity name is similar to the entities affiliated with Defendants Connelly, Wilson and Kirkland – Palmetto Family Council ACTION and Faith Wins ACTION.
107. Following the defeat of Defendant Wilson’s candidate, Josh Kimbrell, in the in the June 12th, 2018, 4th District Congressional Republican Primary, Defendant Wilson produced a series of three (3) anonymous “Direct Mail for Mac” mass email blasts “hit pieces” against the primary winner, former SC State Senator Lee Bright.
108. The above referenced mass email blasts political “hit pieces” against Senator Bright, and the dates sent, are as follows:
- a. 6/23/2018 – Lee Bright: MY way or DIEways**
 - b. 6/25/2018 – In LEE We Trust**
 - c. 6/26/2018 – I Pay What I Can...**

109. These three (3) anonymous “Direct Mail for Mac” mass email blasts “hit pieces” were deliberately timed and scheduled leading up to the 2-week Republican run-off election in an effort to damage the campaign of Senator Bright.
110. It is a well-known fact that Josh Kimbrell and Senator Bright, both from Spartanburg County, are political adversaries.
111. It is also well-known that Defendant Connelly and Senator Bright are political adversaries.
112. It is common perception in the political community that Josh Kimbrell (whose campaign was run by Defendant Wilson) was behind the series of three (3) anonymous “Direct Mail from Mac” mass email blasts “hit pieces” against Senator Bright.
113. Defendant Wilson prepared and sent the series of three (3) anonymous “Direct Mail for Mac” mass email blasts “hit pieces” referenced above.

[CONTINUED ON NEXT PAGE]

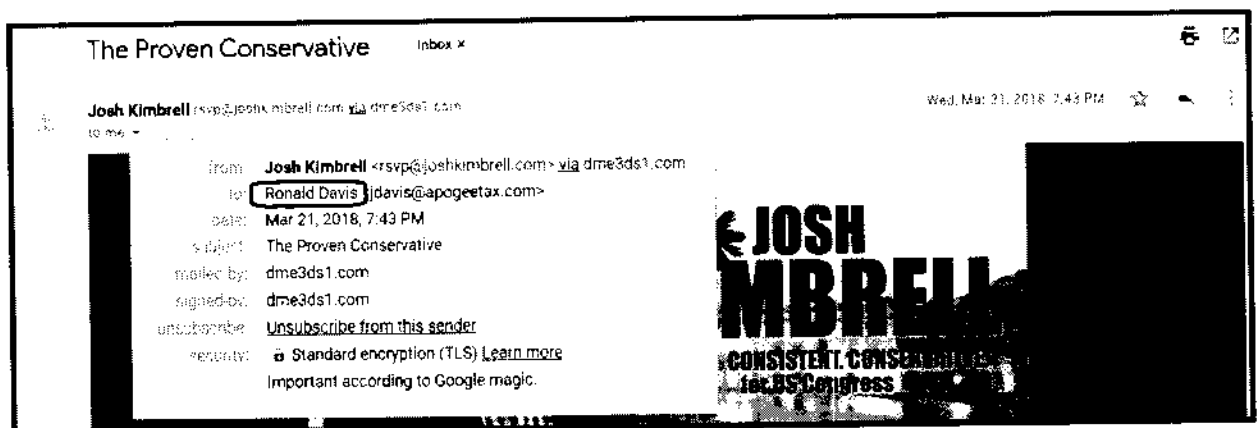
114. Defendant Wilson also used "Direct Mail for Mac" for the anonymous political mass email blasts "hit pieces" attacking Senator Bright. See the following representative example:



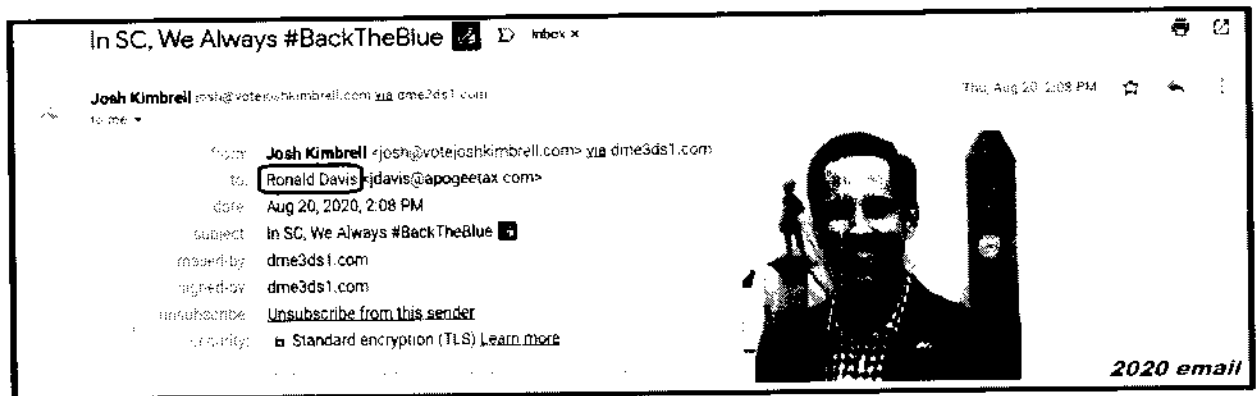
Defamatory Emails – Defendants Misused SCGOP Email List(s)
(the “Ronald Davis” email header connection)

115. On very limited occasions, Plaintiff Davis will receive emails addressed in the email header to “Ronald Davis”. In all cases these are “political” emails and are received from parties affiliated with Defendant Wilson.
116. A sampling of these “Ronald Davis” emails are below. These are representative of the Defendant Wilson affiliated parties which Plaintiff Davis has received these “Ronald Davis” emails.
117. The only email list known to Plaintiff Davis whereby these “Ronald Davis” emails could have originated is the 2017 & 2019 SCGOP Republican Party Precinct ReOrg email lists.
118. The 2017 & 2019 SCGOP Republican Party Precinct ReOrg email lists use formal names as listed on the individual’s voter registration.
119. Plaintiff Davis’ voter registration is listed as Ronald J. Davis, Jr., hence first name “Ronald”, and last name “Davis”.
120. Since voter registration information does not include emails, the only source for the “Ronald Davis” political emails is the 2017 & 2019 SCGOP Republican Party Precinct ReOrg email lists. Both lists have Plaintiff Davis named as “Ronald Davis”.
121. These two lists are supposed to be used ONLY for “official” GOP purposes, and not for outside political campaigns (or fundraising) as is apparently being used by the Defendants.

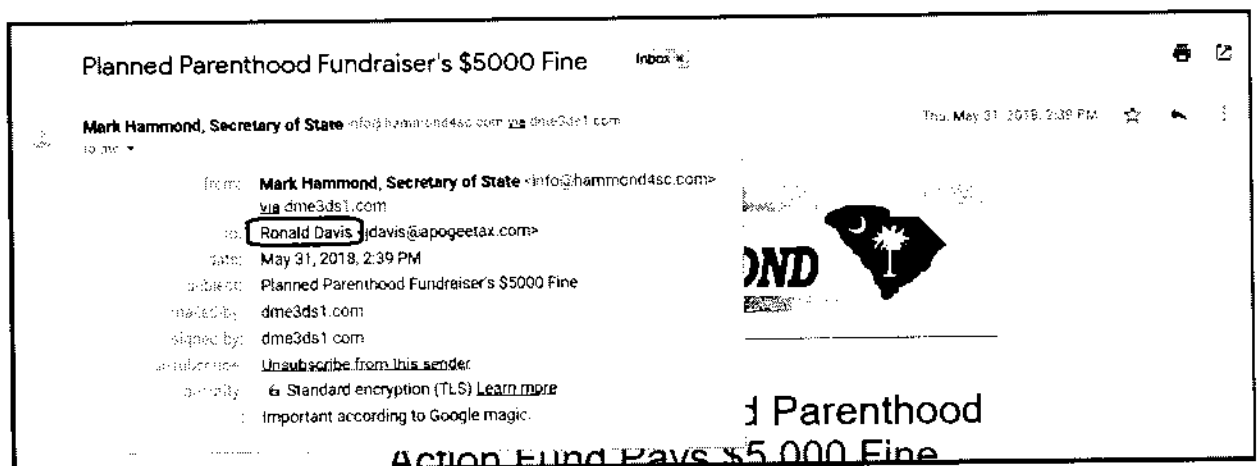
122. The improper use of the 2017 & 2019 SCGOP Republican Party Precinct ReOrg email lists is a violation of Plaintiff Davis' privacy.
123. All of these "Ronald Davis" emails are "Direct Mail for Mac" emails associated with the Defendants.
124. All of these "Ronald Davis" emails were sent to Plaintiff Davis at his ***jdavis@apogeetax.com*** email address, which is the same email address listed on the above referenced 2017 & 2019 SCGOP Republican Party Precinct ReOrg email lists.
125. The very first of these "Ronald Davis" emails were a series of political emails received from the Josh Kimbrell campaign related to his Congressional race in 2018 (from ***rsvp@joshkimbrell.com*** - that domain being held at Endurance). Plaintiff Davis has never signed up for a Josh Kimbrell Congressional campaign email list, and certainly would not have used the name "Ronald Davis".



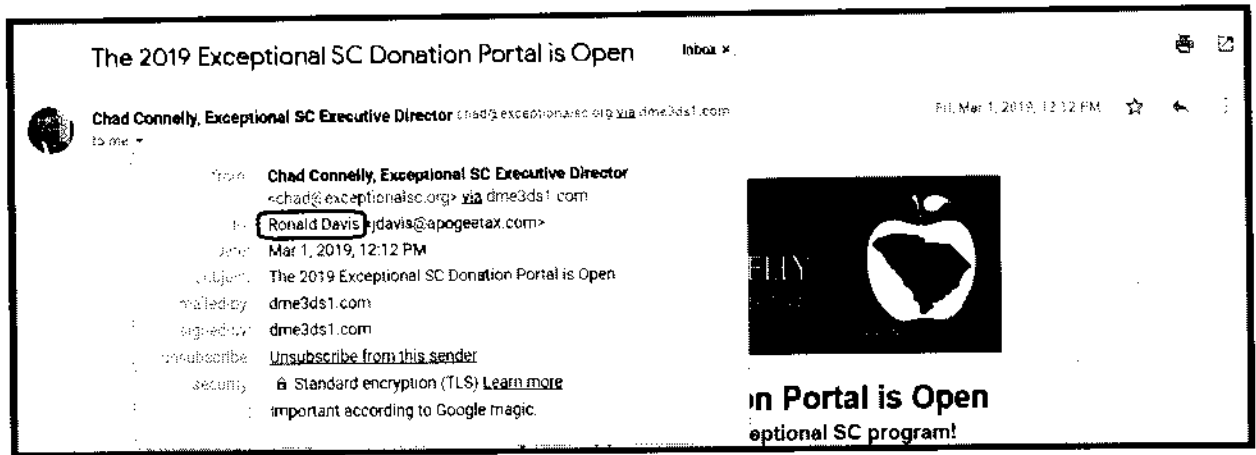
126. The most recent of these “Ronald Davis” emails are a series of political emails received from the Josh Kimbrell campaign related to his 2020 SC Senate race (from josh@votejoshkimbrell.com - that domain being held at Endurance). Plaintiff Davis has never signed up for a Josh Kimbrell SC Senate campaign email list, and certainly would not have used the name “Ronald Davis”.



127. Plaintiff Davis has also received these “Ronald Davis” emails from the Secretary of State, Mark Hammond’s 2018 campaign (from his info@hammond4sc.com – that domain being held at Endurance). Plaintiff Davis has never signed up for a Mark Hammond email list, and certainly would not have used the name “Ronald Davis”.



128. Plaintiff Davis has also received one of these “Ronald Davis” emails from the ECENC Fund, specifically from Defendant Connelly on March 1st, 2019 at 12:12PM.



129. Plaintiff Davis, as of March 1st, 2019, had never provided the ECENC Fund with his legal first name using “Ronald”. The ECENC Fund could have only gotten that name from the 2017 SCGOP Republican Party Precinct ReOrg email list.

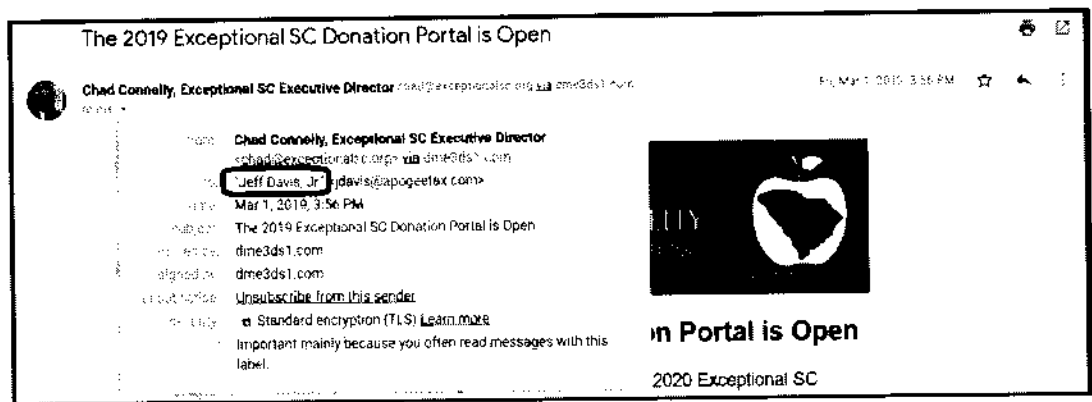
130. Plaintiff Davis has been informed by other individuals on the 2017 SCGOP Republican Party Precinct ReOrg email list that they also have received the ECENC Fund emails without having ever signed up for the email list.

131. Defendants are clearly using at least the 2017 SCGOP Republican Party Precinct ReOrg email list for fundraising purposes.

132. Defendants are clearly adding the names and emails from at least the 2017 SCGOP Republican Party Precinct ReOrg email list to their internal database without authorization from the individuals.

133. Plaintiff Davis never provided the ECENC Fund with permission to add his name and email address from the 2017 SCGOP Republican Party Precinct ReOrg email list to their fundraising email blasts system with “Direct Mail for Mac”.

134. Plaintiff Davis received a second and identical “Direct Mail for Mac” email from Defendant Connelly with the ECENC Fund on March 1st, 2019 at 3:56PM. This second email was directed to “Jeff Davis, Jr.”.



135. Plaintiff Davis had provided the name “Jeff Davis, Jr.” to the ECENC Fund in July 2018 for his tax credit donation to the organization that year.

136. Defendant Connelly and the ECENC Fund announced via email the March 1st opening of the 2019 Exceptional SC Donation Portal in advance to their “political” friends on the 2017 SCGOP Republican Party ReOrg email lists nearly **four (4) hours before announcing the opening to prior donors.**

137. Generally, these types of state income tax credits go fast, historically within a matter of minutes.

138. Defendant Connelly and the ECENC Fund, having no professional experience with K-12 state income tax credits, did not register that recent tax law changes

necessitated the ECENC Fund change its fundraising strategy and tactics. Hence fundraising has been an abysmal failure by the ECENC Fund.

139. Defendant Connelly and the ECENC Fund were obviously attempting to provide political favors to their political friends believing the tax credits would go quickly as in prior years.

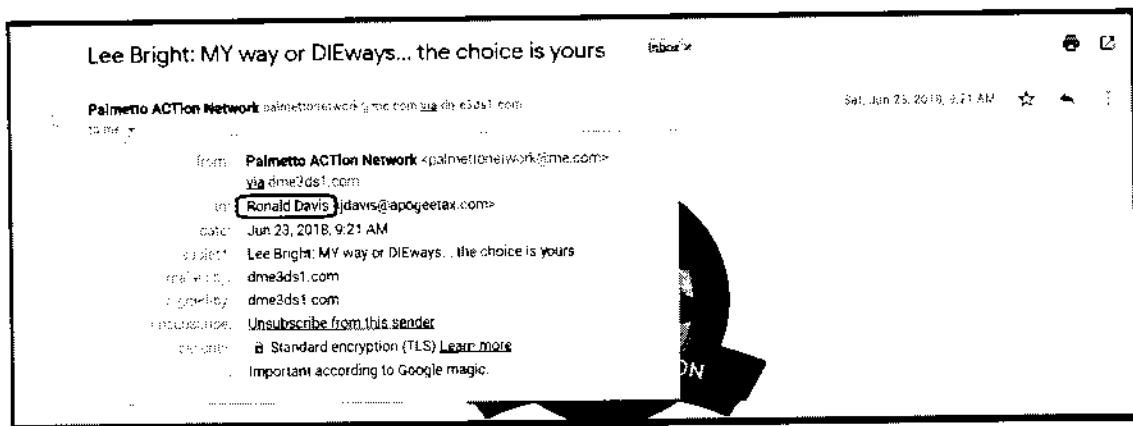
140. Defendant Connelly and the ECENC Fund practice unfair favoritism as it relates to the organizations operations – thus contributing to mistrust of the organization by the public.

141. Such favoritism is sanctioned and enabled by Defendant Persons, who was at all time relevant, the Board Chairman of the ECENC Fund.

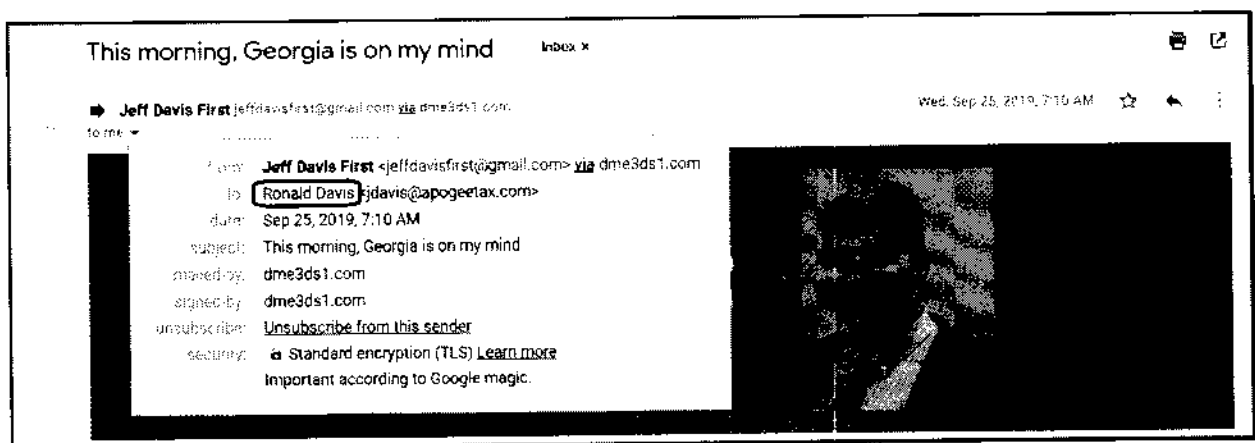
142. To further demonstrate this type of unfair favoritism practiced by the Defendants, even though the law requires tax credit to be distributed on a first-come, first-serve basis, in 2018 Plaintiff Davis made his tax credit donation online on July 2nd, 2018, the SC Department of Revenue publicly reports that all tax credits were not claimed until July 6th, 2018, yet on July 20th, 2018, Plaintiff Davis was informed by Defendant Connelly (to “Jeff Davis, Jr.”) that Plaintiff Davis’ personal donation was not received before the \$12 million tax credit cap was reached. Whereas the SC Department of Revenue reports otherwise, Plaintiff Davis was obviously “targeted” to have his tax credit donation rejected for no good cause.

143. Plaintiff Davis also received these “Ronald Davis” emails with all of the series of three (3) anonymous “Direct Mail for Mac” mass email blasts “hit pieces” against

Senator Bright (discussed above). Plaintiff Davis, as a Senator Bright supporter in that race, has never signed up for an anonymous hit piece email list, and certainly would not have used the name “Ronald Davis”.



144. Finally, Plaintiff Davis received these “Ronald Davis” emails with all five (5) of the series of defamatory “Direct Mail for Mac” anonymous emails hit pieces linked to the www.JeffDavisFirst.com website. Plaintiff Davis never signed up for said emails, and certainly would not have used the name “Ronald Davis”.



145. Given the direct links between the websites, email header “names” and “Direct Mail for Mac” mass email blasts service, it is clear Defendants are behind the false and defamatory matters discussed herein.

146. The links between Defendants, and specifically Defendant Wilson, are clear and irrefutable as it relates to the pattern of use with the known Defendants affiliated websites and emails above, as well as with the anonymous political and defamatory “hit pieces” (on Senator Bright and Plaintiff Davis).

147. Not only did Defendants Connelly, Wilson and Persons use the SCGOP Republican Party Precinct ReOrg email list(s), they also used the ECENC Fund “parents” email list to send out the series of five (5) defamatory “Direct Mail for Mac” emails hit pieces linked to the *www.JeffDavisFirst.com* website as detailed below.

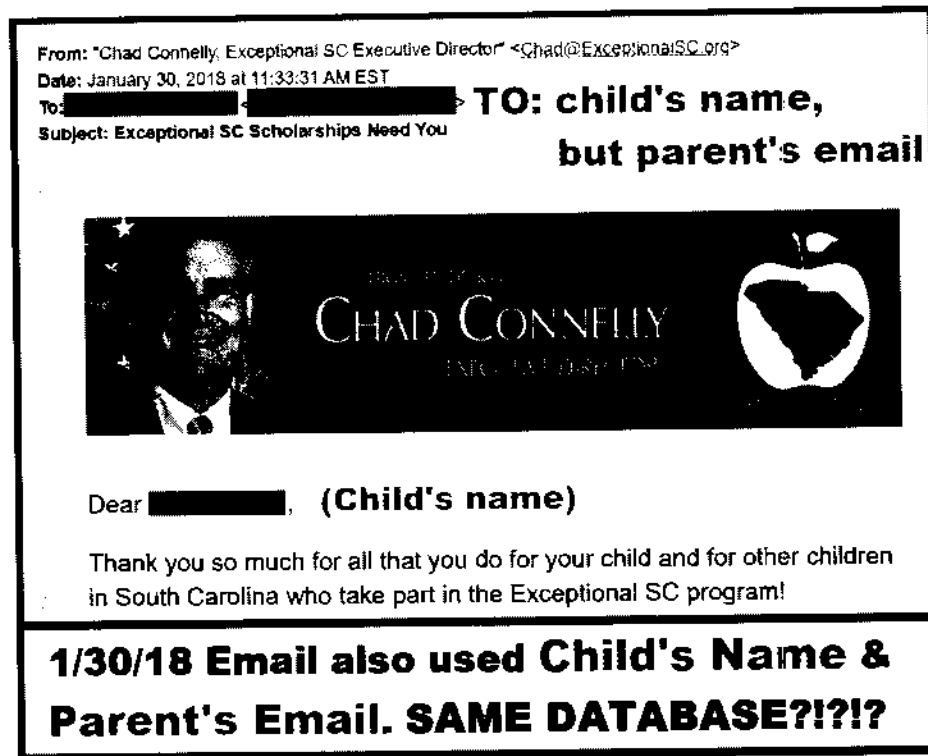
Defamatory Emails – Defendants Misused ECENC Fund Parent Email List(s)
(the “Children’s Names” email header connection)

148. The series of five (5) defamatory “Direct Mail for Mac” emails sent between September 25th and October 17th, 2019, all used the mass email blasts system “**Direct Mail for Mac**”,

149. “Direct Mail for Mac” is the same mass email blasts system used by the ECENC Fund.

150. Following the engagement of Defendant Connelly and Defendant Wilson to work for the ECENC Fund on or about October 31st, 2017, and subsequent conversion of the ECENC Fund mass email blasts system to “Direct Mail for Mac”, Defendants sent

mass email blasts to parents “addressed” to the name of the children. See January 30th, 2018 example.



151. This error caused the use of and release of the names of children, is an administrative and inexperienced human error in uploading the data files to “Direct Mail for Mac”.

152. Children’s names were used by the ECENC Fund in the email address header.

153. This same error, using the names of the children in the email address header was replicated when the series of five (5) “Direct Mail for Mac” emails linked to www.JeffDavisFirst.com were sent to names of the children as well. See below October 16th, 2019 example.

----- Original message -----

From: Jeff Davis First <jeffdavistfirst@gmail.com>

Date: 10/16/19 7:58 AM (GMT-05:00)

To: [REDACTED] <[REDACTED]>

Subject: The Art of the Backroom Deal

TO: child's name,

but parent's email

Jeff Davis FIRST



The Art of the Backroom Deal

If you haven't gotten your copy yet, don't miss the new SC
bestseller – The Art of the Backroom Deal.



**Newest "hit piece" has DIRECT
ties to *(not so) Exceptional SC***
**Who else sent emails to parents addressed to
children.. *(not so) Exceptional SC***

154. The series of five (5) “Direct Mail for Mac” emails were sent to the ECENC Fund “children” and thus ties the emails directly back to Defendants Connelly, Wilson and Persons as all three had access to the information and have since been terminated (or resigned in the case of Persons) from the ECENC Fund.
155. Neither Defendants Connelly, Wilson or Persons, nor the ECENC Fund itself, did anything to investigate what was an obvious data breach and use of its parents email lists in the series of five (5) defamatory “Direct Mail for Mac” emails sent between September 25th and October 17th, 2019.
156. No investigation into this matter of a data breach as it was obvious the Defendants were the source of the data breach and the perpetrators of the series of five (5) defamatory “Direct Mail for Mac” emails sent between September 25th and October 17th, 2019.
157. Presented with the above evidence, upon information and belief, members of the ECENC Fund board and the South Carolina Department of Revenue now believe Defendants Connelly, Wilson and Persons were behind the defamatory website and emails discussed herein, such involvement being a contributing factor as to why they have each been separated from the ECENC Fund.

[CONTINUED ON NEXT PAGE]

Defendant “Direct Mail for Mac”

158. Defendant Direct Mail for Mac has on its website a process for reporting “abuse” of its service.
159. Abuse includes the use of the “Direct Mail for Mac” service for the tortious purposes described herein.
160. Plaintiff Davis has made numerous attempts to report the above abuse via the process outlined on the “Direct Mail for Mac” website.
161. Defendant Direct Mail for Mac has refused to even acknowledge Plaintiff Davis’ attempt to report abuse.
162. Defendant Direct Mail for Mac knows that its service is being abused in the manner described herein.
163. Defendant Direct Mail for Mac has failed to correct known security flaws that would allow for the safe use of its product.
164. Defendant Direct Mail for Mac is enabling the Defendants to abuse its product and as such is liable for Plaintiff Davis’ damages.
165. Upon information and belief, Defendant Wilson, or an agent, contacted Defendant Direct Mail for Mac to “warn” them about Plaintiff Davis seeking information.
166. Upon information and belief, Defendant Direct Mail for Mac refused to accept an abuse report from Plaintiff Davis in a conspiracy to protect Defendant Wilson and other Defendants as paying customers.

Defendant “Endurance”

167. Defendant Endurance is the owner of the domain registrar for the herein named domains.

168. Defendant Endurance has the necessary data to prove, among other things, the ownership of the herein named domains.

A FIRST CAUSE OF ACTION
(DEFAMATION PER SE & PER QUOD)

169. Plaintiff Davis repeats and re-alleges each allegation and paragraph already stated above.

170. The Defendants, individually and collectively, made false and defamatory statements about Plaintiff Davis.

171. The Defendants, individually and collectively, published both verbally and in writing to third parties false and defamatory statements about Plaintiff Davis.

172. The statements were false and defamatory *per se*.

173. The Defendants, individually and collectively, knew or should have known that the statements were false.

174. The statements were false, and Plaintiff Davis’ legislative advocacy and professional reputation has been slandered causing damages.

175. The defamatory statements made by Defendants, individually and collectively, have caused the Plaintiff Davis to suffer general damages, as well as special damages including lost job opportunities, lost back and future wages / income, lost benefits, damages for severe emotional stress, anxiety, inconveniences, mental anguish, loss of enjoyment of life, loss of consortium, embarrassment, humiliation, damage to his professional reputation, and loss of possible job positions.

176. As the direct and proximate result of the Defendants' defamatory statements, individually and collectively, which were made with malice and with the specific intent to harm Plaintiff Davis and others, Plaintiff Davis is entitled to special damages, actual damages, incidental damages, and punitive damages, all in an amount to be determined by a jury.

A SECOND CAUSE OF ACTION
(DEFAMATION BY INNUENDO)

177. Plaintiff Davis repeats and re-alleges each allegation and paragraph already stated above.

178. The Defendants, individually and collectively, made misleading innuendo and statements about Plaintiff Davis which misrepresented in a defamatory manner Plaintiff Davis within the community.

179. As the direct and proximate result of the Defendants' defamatory statements, individually and collectively, which were made with malice and with the specific intent to harm Plaintiff Davis and others, Plaintiff Davis is entitled to special

damages, actual damages, incidental damages, and punitive damages, all in an amount to be determined by a jury.

A THIRD CAUSE OF ACTION
(INVASION OF PRIVACY)

180. Plaintiff Davis repeats and re-alleges each allegation and paragraph already stated above.
181. The Defendants, individually and collectively, engaged in wrongful acts that constitute an unwarranted invasion and trespass upon Plaintiff Davis' privacy.
182. The Defendants, individually and collectively, armed with the personal knowledge gained from unwarranted invasion and trespass upon Plaintiff Davis' privacy, used and published such knowledge improperly and sought additional private knowledge (irrelevant to the matters at hand) to improperly use against Plaintiff Davis in furtherance of the Defendants' self-interested political and financial goals.
183. The Defendants, individually and collectively, publicized to the community and general public private information about Plaintiff Davis, without any waiver or privilege, such private matters in which the public has no legitimate concern, and did so as to bring shame and humiliation to persons of ordinary sensibilities.
184. Such wrongful acts perpetrated the Defendants, individually and collectively, have inflicted great and irreparable harm upon Plaintiff Davis.

A FORTH CAUSE OF ACTION
(NEGLIGENCE)

185. Plaintiff Davis repeats and re-alleges each allegation and paragraph already stated above.

186. The Defendants, individually and collectively, were negligent, careless, reckless and willfully acted with actual malice in that they had a duty to ensure the truthfulness of their statements but they knew their statements were false and nevertheless acted with reckless disregard for the truth by publishing their statements to third parties.

187. Defendants, individually and collectively, were negligent, careless, reckless and willfully acted with actual malice in their other actions as stated in the paragraphs above by virtue of the doctrine of agency and/or respondeat superior.

A FIFTH CAUSE OF ACTION
(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)

188. Plaintiff Davis repeats and re-alleges each allegation and paragraph already stated above.

189. The Defendants, individually and collectively, had specific knowledge of severe and other medical conditions suffered by Plaintiff Davis' spouse, and intentionally used that information to inflict additional emotional distress on Plaintiff Davis and his wife.

190. The conduct of the Defendants, individually and collectively, was intended to inflict emotional distress on Plaintiff Davis and was outrageous beyond the bounds of conduct expected by members of society; the outrageous conduct caused Plaintiff Davis to suffer severe emotional distress, which resulted in Plaintiff Davis incurring expense for medical treatment.

A SIXTH CAUSE OF ACTION
(CONSPIRACY)

191. Plaintiff Davis repeats and re-alleges each allegation and paragraph already stated above.

192. The Defendants, individually and collectively, conspired and colluded together and amongst themselves and/or third parties, for the purpose of injuring Plaintiff Davis.

193. Plaintiff Davis was damaged as a direct and proximate result of this conspiracy and collusion by the Defendants, individually and collectively.

194. The Defendants are senior political, government and community figures. Given the stature and position of Defendants in the community both locally and nationally, Plaintiff Davis sustained substantial embarrassment and pain & suffering because of this conspiracy and collusion.

195. Plaintiff Davis and his wife were dealing with some major medical issues, known to the Defendants, incurring substantial expenses due to the additional stress incurred because of the Defendants civil conspiracy. But for their civil conspiracy, Plaintiff

Davis and his wife would not have had this additional stress and pain & suffering or additional medical expenses.

196. Plaintiff Davis also had to incur substantial additional out of pocket expenses and personal time to combat the Defendants' false statements and their civil conspiracy and as such was not able to focus on his legislative advocacy and professional endeavors, thus suffering substantial damages.

197. Plaintiff Davis has been harmed both in his legislative advocacy and professionally due to the Defendants civil conspiracy and the constant requirement to stay 110% attentive to any efforts to further tarnish the image and reputation of Plaintiff Davis aligned to his K-12 children and K-12 tax credit scholarship advocacy.

198. Defendants conspired together to direct others (including other Defendants) to not do business or communicate with Plaintiff Davis and associated entities and parties by making false and defamatory statements, innuendo, and threat of withholding financial support.

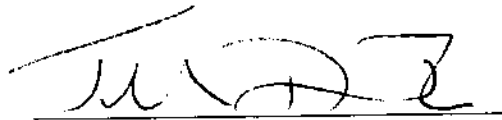
199. Plaintiff Davis has had at least \$50,000 - \$100,000 plus in out of pocket special damages directly related to the Defendants' civil conspiracy, plus any additional compensation for pain & suffering and lost income and wages to be calculated.

200. Plaintiff Davis requests judgment on this cause of action for actual damages, punitive damages, and costs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Davis prays that this Honorable Court inquire into the matters alleged and render a judgment for actual and punitive damages in an amount to be determined by a jury. Plaintiff Davis further prays for costs and attorney's fees against the Defendants and any such other and further relief as the Court may deem just and proper.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Davis', written over a horizontal line.

Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com

PLAINTIFF

September 9, 2020
Greenville, South Carolina

EXHIBIT C

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF NEWBERRY	)	EIGHTH JUDICIAL CIRCUIT
	)	CIVIL ACTION NO.: 2020-CP-36-00382
JEFFERSON DAVIS, JR.	)	
	)	ORDER AS TO MOTION TO DISMISS
PLAINTIFF,	)	FIVE INDIVIDUAL DEFENDANTS
	)	
v.	)	
	)	
CHAD CONNELLY; DAVE WILSON;	)	
STEPHEN KIRKLAND; TOM PERSONS;	)	
NEIL MELLEN; E3 SOFTWARE, LLC;	)	
ENDURANCE INTERNATIONAL	)	
GROUP HOLDINGS, INC; JOHN DOE	)	
#1; JOHN DOE #2; & JOHN DOES 3-40;	)	
	)	
DEFENDANTS.	)	

A hearing was held on February 12, 2021, via the Judicial Branch's Virtual Courtroom. The Plaintiff appeared pro se. Justin Novak appeared on behalf of Defendants Wilson, Persons, Connelly, and Mellen. Skyler Wilson appeared on behalf of Defendant Kirkland.

Each individual filed a Motion to Dismiss based upon the following SCRCF:

1. Wilson & Persons: 8(a) and 12(b)(6)
2. Connelly & Mellen: 8(a), 12(b)(6), and 12(b)(8)
3. Kirkland: 12(b)(3), 12(b)(6), 12(b)(8)

As a general statement, in ruling on these Motions to Dismiss, the Court is not concerned with the merits of these allegations in the Complaint but only as to the manner of pleading in the Complaint and the other issues raised by the Defendants.

RULE 12(b)(6)(a): Failure to State Facts Sufficient to Constitute a Cause of Action

All causes of action in the Complaint are alleged against each individual Defendant. Each cause of action will be addressed separately:



1. Defamation Per Se/Per Quod: Motion to Dismiss is DENIED. The Court finds that the Complaint alleges sufficient facts to constitute a cause of action. The elements are sufficiently pled.
2. Defamation by Innuendo: Motion to Dismiss is GRANTED. The Complaint fails to allege sufficient facts extrinsic to the language of the publication by innuendo so that there is meaning to the defamation.
3. Invasion of Privacy: Motion to Dismiss is DENIED. The Court finds that the Complaint alleges sufficient facts to constitute a cause of action. The elements are sufficiently pled.
4. Negligence: Motion to Dismiss is GRANTED. The Complaint fails to allege breach and proximate cause, which are two essential elements of this cause of action.
5. Intentional Infliction of Emotional Distress: Motion to Dismiss is DENIED. The Court finds that the Complaint alleges sufficient facts to constitute a cause of action. The elements are sufficiently pled. (Note: This cause of action alleges harm to the Plaintiff's wife and she is not a party to this action).
6. Conspiracy: Motion to Dismiss is DENIED. The Court finds that the Complaint alleges sufficient facts to constitute a cause of action. The elements are sufficiently pled.

RULE 12(b)(8): Another Action is Pending Between Same Parties and Claim

Defendants Connelly, Mellon, Kirkland

As to Defendants Connelly and Mellon, they raise res judicata, estoppel, waiver, and laches as grounds for dismissal all with respect to the "Weaver action" are discussed below. As to Defendant Kirkland, he raises the "Weaver action" as well as grounds for dismissal.

On May 3, 2018, the Plaintiff filed an action (Case No. 2018-CP-40-02425), known as the "Weaver action" against Ellen Weaver, Palmetto Institute, and multiple John Does. Judge

DeAndrea Benjamin issued an Amended Order on October 30, 2018 in the above case ruling on a Rule 12(b)(6) Motion and further ordering the Plaintiff to file (and serve) within fifteen (15) days an Amended Complaint specifically naming the multiple John Does. He filed an Amended Complaint on November 19, 2018 naming the John Does, among others, Defendants Connelly, Mellon, and Kirkland. The Amended Complaint in the "Weaver action" set out nine (9) causes of action six (6) of which are the same causes of action in this current case. By Order of Judge Jack Early, dated February 19, 2019, the Amended Complaint as to the new co-Defendants was dismissed with prejudice for failure of the Plaintiff to comply with the time limitations as required in the Judge Benjamin's Order above. This Order of Judge Early is currently on appeal.

Several observations are important here:

1. In the current case, the factual allegations that give rise to the Plaintiff's causes of action are related to websites and emails, allegedly created by some or all of the Defendants, but they did not exist until months after Judge Early's Order above. The allegations, while sometimes similar in nature to those in the "Weaver action," are different from the allegations in the instant case;
2. In the "Weaver action," the Plaintiff never refers to Defendant Connelly by name other than in the opening by identification of all of the co-Defendants. As to Defendant Kirkland, he is mentioned but only as to allegations of what he had allegedly done and not anything against the Plaintiff. As to Defendant Mellon, he is mentioned several times as to defamatory conduct. The Plaintiff does use the term "Defendants" collectively in the Amended Complaint.

3. While the "Weaver action" and the instant case share some similarities, the basis for the allegations in support of the causes of action in the instant case are not the same as in the "Weaver action";
4. The doctrine of res judicata requires three elements and the primary element is the adjudication of the issues in the former suit or stated another way, a final judgment on the merits. There was no adjudication in the "Weaver action" naming Connelly, Mellon, and Kirkland. There was no final judgment on the merits in the "Weaver action". Judge Early took care of the case purely on procedural grounds.
5. The doctrine of collateral estoppel prevents a party from re-litigating an issue in a subsequent suit, which was litigated in a prior lawsuit. Again, there was no litigation of any issue in the "Weaver action" and the basis for the allegations in this instant case, i.e. websites and emails, were not in existence in the "Weaver action."
6. The doctrine of equitable estoppel is premised on the idea that one who delays unreasonably from asserting a right to the detriment of another is precluded from asserting that right. The Court is somewhat confused here. From all indications, once these websites and emails came into existence, the Plaintiff made his determination to file this instant lawsuit. The Court cannot find any unreasonable delay.
7. As to the doctrine of waiver and laches, again there must be a showing of unreasonable delay prejudicial to the Defendants. The Court can find none.

Rule 8(a): Pleading

Defendants Wilson, Persons, Connelly, Mellon

The Court notes that while the above Defendants state initially in their Motions and Memorandum that they are relying on Rule 8(a), there is no argument as to Rule 8(a). The Rule

Handwritten signature and initials, possibly reading "#4" and "JB" with a checkmark.

simply states that pleadings are to contain short and plain statements upon which the claims are based. While the Plaintiff fails miserably in this regard (i.e. The Complaint contains 47 pages), his lack of brevity will not be a basis for dismissal.

Rule 12(b)(3): Improper Venue

Defendant Kirkland

There was no argument in his Motion and Memorandum nor any oral argument at the hearing. The Court finds this ground for dismissal to have been abandoned by Defendant Kirkland.

Accordingly, the Motions to Dismiss the Defamation by Innuendo and Negligence causes of action are granted. All other remaining Motions to Dismiss are denied.

SO ORDERED.



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina

Date: 3-26-21

#5-



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Other

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

EXHIBIT D

From: [Hocker, Donald B. Law Clerk \(Madison Hoffman\)](#)
To: [Jeff Davis](#); [Jasmine D. Smith](#); [Seldin, Harper](#); [Justin P. Novak](#); [M. Dawes Cooke, Jr.](#); [Wilson, Skyler C.](#); [Mackelcan, Douglas W.](#); [Cal Watson](#); [Lloyd, Susie](#); [Geoffrey Chambers](#)
Cc: [Hocker, Donald B. Secretary \(Regan A. Snow\)](#); [Hocker, Donald B.](#)
Subject: [EXT] Davis v. Connelly - Orders
Date: Friday, March 26, 2021 10:52:40 AM
Attachments: [03.26.2021 - Order as to Motion to Quash, Stay and Protective Order.pdf](#)
[03.26.2021 - Order -384.pdf](#)
[03.26.2021 - Order as to Motion to Dismiss Five Individual Defendants.pdf](#)

Good morning,

This email is regarding all matters argued and heard on February 12, 2021 (except as to Plaintiff's request to e-file which has already been ruled upon by the Court).

As to Case -382

Enclosed please find the following Orders:

1. As to Motions to Quash;
2. As to Motions to Dismiss Five Individual Defendants,

As to Motions to Dismiss from E3 Software and Endurance International, Judge Hocker requests that these Defendants' respective attorneys prepare an appropriate Order granting their Motion to Dismiss. The Court believes that 47 USCA 230 is controlling. Circulate the Order before submitting it to the Court. When presenting to the Court please email it only. The Court, if approved, will sign it, email it to the parties and handle getting it e-filed.

As to Case -384

Enclosed please find an Order as to the three matters presented. Please note that this Order requires Mr. Chambers to prepare a more formal Order on one issue.

All of the above Orders will be e-filed.

Best,

Madison Hoffman

Law Clerk to
Honorable Donald B. Hocker
P.O. Box 972
100 Hillcrest Square
Laurens, S.C. 29360
dhockerlc@sccourts.org

~~~ 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.

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



## EXHIBIT E

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

vs.

Chad Connelly; Dave Wilson; Stephen  
 Kirkland; Tom Persons; Neil Mellen; E3  
 Software, LLC; Endurance International Group  
 Holdings, Inc; John Doe #1; John Doe #2; &  
 John Does 3-40,

Defendants.

) IN THE COURT OF COMMON PLEAS  
 ) EIGHTH JUDICIAL CIRCUIT  
 ) CASE NO.: 2020-CP-36-00382  
 )

**ORDER COMPELLING  
 DISCOVERY**

This matter came before me for a hearing on October 7, 2021, on the following two motions to compel: (1) Defendant Stephen Kirkland's Motion to Compel (filed July 20, 2021); and (2) Defendants' Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen Motion to Compel (filed September 27, 2021). Upon reviewing the motions, memoranda in support, and argument of the parties, this Court finds the following:

Defendant Kirkland served Plaintiff with Interrogatories, Requests for Production, and Requests for Admission on May 12, 2021. Plaintiff did not respond to the discovery requests within the time allotted by the South Carolina Rules of Civil Procedure. Defendant Kirkland made a *bona fide* attempt to resolve the overdue responses with Plaintiff, but no response was received. As of the date of the hearing, Plaintiff had not responded to Defendant Kirkland's discovery requests, contacted counsel for Defendant Kirkland to advise of any difficulties responding to the requests, or requested an extension.

Defendants Connelly, Wilson, Persons, and Mellen each served Plaintiff with Interrogatories, Requests for Production, and Requests for Admission on July 27, 2021. Plaintiff did not respond to the discovery requests within the time allotted by the South Carolina Rules of

Civil Procedure. Counsel for Defendants Connelly, Wilson, Persons, and Mellen made a *bona fide* attempt to resolve the overdue response with Plaintiff, but no response was received. As of the date of the hearing, Plaintiff had not responded to Defendants Connelly, Wilson, Persons, and Mellen's discovery requests, contacted counsel for these defendants to advise of any difficulties responding to the requests, or requested an extension.

Defendants' Kirkland, Connelly, Wilson, Persons, and Mellen requested an order of this Court compelling Plaintiff's responses to each of Defendant's Interrogatories and Requests for Production served upon Plaintiff. Additionally, Defendants' Kirkland, Connelly, Wilson, Persons, and Mellen requested an order of this Court deeming admitted the matters in each of Defendant's Requests for Admission served upon Plaintiff.

Based on the above, this Court finds Plaintiff has failed to respond to these Defendants' Interrogatories and Requests for Production within the time allotted under Rules 33, 34, and 37 of the South Carolina Rules of Civil Procedure. This Court will withhold a decision on whether to relieve Plaintiff from having the matters in each of Defendant's Requests for Admission deemed admitted pursuant to Rule 36, SCRCPP, until after Plaintiff provides this Court with documentation allowing it to determine whether Plaintiff's failure to respond to the Requests for Admission is justified.

IT IS THEREFORE ORDERED that Plaintiff shall provide full and complete responses by 5:00 p.m. on October 15, 2021, to the following discovery requests:

- Defendant Kirkland's First Set of Interrogatories and Requests for Production;
- Defendant Connelly's First Set of Interrogatories and Requests for Production;
- Defendant Wilson's First Set of Interrogatories and Requests for Production;
- Defendant Persons' First Set of Interrogatories and Requests for Production; and
- Defendant Mellens' First Set of Interrogatories and Requests for Production;

IT IS FURTHER ORDERED that Plaintiff will provide this Court, within 10 days of the date of this Order, documentation permitting it to determine whether Plaintiff's failure to respond to all Requests for Admission is excusable.

SO ORDERED.

October 7, 2021  
Newberry, South Carolina

---

The Honorable Donald B. Hocker  
Circuit Court Judge



Newberry Common Pleas

**Case Caption:** Jefferson Davis Jr VS Chad Connelly , defendant, et al

**Case Number:** 2020CP3600382

**Type:** Order/Compel

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

## EXHIBIT F

STATE OF SOUTH CAROLINA  
COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Stephen Kirkland,  
Tom Persons, Neil Mellen, E3 Software, LLC,  
Endurance International Group Holdings, Inc.,  
John Doe #1, John Doe #2, & John Does 3-40,

Defendants.

IN THE COURT OF COMMON PLEAS  
CIVIL ACTION NO.: 2020-CP-36-00382

**ORDER DEEMING ADMITTED  
DEFENDANTS STEPHEN KIRKLAND,  
CHAD CONNELLY, DAVE WILSON,  
TOM PERSONS, AND NEIL MELLEN'S  
REQUESTS FOR ADMISSION TO  
PLAINTIFF AND DENYING  
PLAINTIFF'S REQUEST FOR  
ENLARGEMENT OF TIME TO  
RESPOND OR TO WITHDRAW OR  
AMEND THE ADMISSIONS**

This matter came before the Court for hearing on October 7, 2021, upon Defendant Stephen Kirkland's Motion to Compel filed on July 20, 2021, and the Motion to Compel on Behalf of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed on September 27, 2021 ("Motions to Compel"). The Court previously filed an Order Compelling Discovery on October 15, 2021, in which the Court expressly reserved consideration of Defendants Stephen Kirkland, Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's ("Defendants") motions for an Order deeming admitted each of Defendants' requests for admission after Plaintiff failed to respond to the requests for admission in accordance with Rule 36, SCRCP, and Plaintiff's request at the hearing for an enlargement of time to provide responses to the requests or otherwise withdraw or amend the admissions. After careful review and consideration of the parties' original submissions and arguments, Plaintiff's supplemental memorandum in support of the request for an enlargement of time to respond or otherwise withdraw or amend the admissions, and Defendants' supplemental responses to that memorandum, this Court grants the Motions to Compel and hereby orders each matter of which an admission was requested of Plaintiff admitted and conclusively established for trial. This Court also

#1  
D3A

denies Plaintiff's request for an enlargement of time to submit responses to the requests for admission or otherwise withdraw or amend the admissions.

### FINDINGS

Plaintiff, who, though an attorney licensed to practice law in the State of Georgia, prosecutes this action as a *pro se* litigant, filed the Summons and Complaint in this matter on September 10, 2020. Plaintiff shortly thereafter commenced the action against Defendants Stephen Kirkland, Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen ("Defendants") by serving the Summons and Complaint upon them individually between September 15, 2020, and September 18, 2020. In commencing this action, Plaintiff assumed full responsibility for complying with the substantive and procedural requirements of the South Carolina Rules of Civil Procedure. State v. Burton, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003).

On May 12, 2021, Defendant Stephen Kirkland ("Defendant Kirkland") properly served Plaintiff with Defendant Stephen Kirkland's First Set of Interrogatories to Plaintiff, Defendant Stephen Kirkland's First Set of Requests for Production to Plaintiff, and Defendant Stephen Kirkland's First Set of Requests for Admission to Plaintiff. Although Plaintiff admits proper service and timely receipt of these written discovery requests and the requests state on their respective front pages that they were being served in accordance with Rules 33, 34, and 36, SCRPC, respectively, Plaintiff failed to provide any response to any of the written discovery requests within the time periods expressly prescribed in the clear and unambiguous language of Rules 33, 34, and 36, SCRPC. Plaintiff also failed to make any effort to obtain an enlargement of time to respond to the written discovery requests, including either by requesting an extension from Defendant Kirkland or by petitioning the Court for an enlargement of time to respond.

On July 7, 2021, Defendant Kirkland notified Plaintiff by U.S. Mail and electronic mail that the deadline to respond to the written discovery requests had passed and that "Pursuant to Rule 36 of

#2  
10/2/21

the South Carolina Rules of Civil Procedure, failure to respond to the Requests for Admission results in the matters requested being deemed admitted.” In the correspondence, Defendant Kirkland also sought to elicit voluntary responses to the interrogatories and requests for production and avoid judicial intervention to compel responses pursuant to Rule 37, SCRCF. Again, Plaintiff failed to provide any response to Defendant Kirkland. As a result, Defendant Kirkland filed a Motion to Compel responses from Plaintiff on July 20, 2021, which included a request for an Order deeming each of the requests for admission admitted in accordance with Rule 36, SCRCF. Again, Plaintiff failed to provide any response to Defendant Kirkland or petition the Court for relief.

On July 27, 2021, Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen also properly served Plaintiff with their respective interrogatories, requests for production, and requests for admission.<sup>1</sup> Although Plaintiff also admits proper service and timely receipt of these written discovery requests and the requests state on their respective front pages that they were being served in accordance with Rules 33, 34, and 36, SCRCF, respectively, Plaintiff again failed to provide any response to any of the written discovery requests within the time periods expressly prescribed in the clear and unambiguous language of Rules 33, 34, and 36, SCRCF. Plaintiff also failed to make any effort to obtain an enlargement of time to respond to the written discovery requests, including either by requesting an extension from the defendants who served the requests or by petitioning the Court for an enlargement of time to respond.

On September 8, 2021, Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen notified Plaintiff by U.S. Mail and electronic mail that the deadline to respond to their written

---

<sup>1</sup> These written discovery requests included Defendant Chad Connelly’s First Set of Interrogatories to Plaintiff, Defendant Chad Connelly’s First Set of Requests for Production to Plaintiff, Defendant Chad Connelly’s First Set of Requests for Admission to Plaintiff, Defendant Dave Wilson’s First Set of Interrogatories to Plaintiff, Defendant Dave Wilson’s First Set of Requests for Production to Plaintiff, Defendant Dave Wilson’s First Set of Requests for Admission to Plaintiff, Defendant Tom Persons’ First Set of Interrogatories to Plaintiff, Defendant Tom Persons’ First Set of Requests for Production to Plaintiff, Defendant Tom Persons’ First Set of Requests for Admission to Plaintiff, Defendant Neil Mellen’s First Set of Interrogatories to Plaintiff, Defendant Neil Mellen’s First Set of Requests for Production to Plaintiff, and Defendant Neil Mellen’s First Set of Requests for Admission to Plaintiff.

#3  
JDA

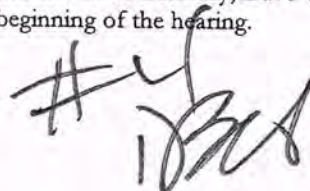
discovery requests had passed. In the correspondence, these defendants also sought to elicit voluntary responses to the interrogatories and requests for production and avoid judicial intervention to compel responses to those requests. After Plaintiff again failed to provide any response, Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed a motion to compel responses from Plaintiff on September 27, 2021, that similarly included a request for an Order deeming each of the requests for admission admitted in accordance with Rule 36, SCRCP. Again, Plaintiff failed to provide any response or petition the Court for relief.

Only at the properly noticed hearing of the Motions to Compel on October 7, 2021,<sup>2</sup> did Plaintiff make any effort to obtain an enlargement of time to provide responses to the Defendants' requests for admission or otherwise withdraw or amend any admissions resulting from his failure to respond. As a result of Plaintiff's request at the hearing, the Court provided all parties with the opportunity to supplement their submissions and arguments to address Plaintiff's request.

On October 13, 2021, Plaintiff filed a memorandum in support of his request for an enlargement of time to provide responses to the Defendants' requests for admission or otherwise withdraw or amend any admissions resulting from his failure to respond. On October 20, 2021, Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed a reply to Plaintiff's memorandum. Defendant Kirkland also provided a response to Plaintiff's memorandum in the form of correspondence to the Court dated October 20, 2021, upon which Plaintiff and all counsel were copied.

---

<sup>2</sup> Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen served their motion to compel on Plaintiff on September 28, 2021, which was nine days prior to the date of the hearing; however, Plaintiff consented to consideration of the motion at the hearing on October 7, 2021, after counsel for Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen raised the issue and sought Plaintiff's consent at the beginning of the hearing.

Handwritten signature and initials, possibly reading "#4" and "10/21".

### ORDER

“A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Rule 26(b) set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request.” Rule 36(a), SCRCP. “The matter is admitted unless, within 30 days after service of the request, or within such shorter or longer time as the court may allow or as stipulated in writing by the parties pursuant to Rules 29 and 6(b), the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney[.]” Id. “Any matter admitted under this rule is conclusively established unless the court on motion permits withdrawal or amendment of the admission.” Rule 36(b), SCRCP.

“South Carolina has long had the discovery rule that failure to respond to requests for admissions renders any matter listed in the request conclusively admitted for trial.” Scott v. Greenville Housing Authority, 353 S.C. 639, 645, 579 S.E.2d 151, 154 (Ct. App. 2003). “The purpose of Rule 36 is to allow parties to narrow the issues and determine which facts do not need to be proven because they are admitted.” Id. at 650, 579 S.E.2d at 157. “[The South Carolina Court of Appeals] has affirmed the seriousness of the ramifications for a failure to respond to requests in a timely manner.” Nexstar Media Group, Inc. v. Davis Roofing Group, LLC, 431 S.C. 593, 602, 848 S.E.2d 597, 602 (Ct. App. 2020). “[O]ur courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party’s pleadings.” Id. at 603, 848 S.E.2d at 602 (quoting Scott, 353 S.C. at 646, 579 S.E.2d at 154-55). “Discovery is the quintessence of preparation for trial and, when discovery rights are trampled, prejudice must be presumed.” Scott, 353 S.C. at 652, 579 S.E.2d at 158.

#5  
10/2/21

In commencing this action, Plaintiff assumed full responsibility for complying with the substantive and procedural requirements of the South Carolina Rules of Civil Procedure. Burton, 356 S.C. at 265 n.5, 589 S.E.2d at 9 n.5. Plaintiff admits to proper service and timely receipt of each of the requests for admission and to his failure to respond to them either by admission, denial, or objection within the time allotted by Rule 36, SCRPC. Plaintiff, however, seeks relief from these substantive and procedural requirements based upon the demands of various work and personal commitments outside the scope of this litigation, including those required by his concurrent prosecution of six other civil actions as a *pro se* litigant.

While the Court understands that parties have commitments outside of their involvement with litigation and is very sorry for some of the personal matters encountered by Plaintiff, the fact remains that Plaintiff made no effort to obtain an extension of time to respond to the requests from opposing counsel or by petitioning the Court for an enlargement of time to respond prior to the hearing on October 7, 2021—almost five months after the service of Defendant Kirkland’s requests for admission and almost two and a half months after service of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen’s requests for admission. In fact, Plaintiff failed to communicate in any manner with the Defendants regarding the requests for admission despite opposing counsel’s subsequent correspondence, filing and service of the Motions to Compel, and receipt of notice of the hearing on the Motions to Compel.

Plaintiff’s assertion that any request for an extension of time to respond to the requests for admission from opposing counsel would have been fruitless and, therefore, constitutes grounds for relief from the clear and unambiguous language of Rule 36, SCRPC, is unpersuasive. As indicted in Rule 36(a), SCRPC, Plaintiff could have petitioned the Court for an enlargement of time to respond “for cause shown” prior to the expiration of the period prescribed in Rule 36, SCRPC, pursuant to

#6  
10/31

Rule 6(b), SCRCP. After the expiration of the specified period, the petitioning party must demonstrate "good cause shown". Rule 6(b), SCRCP.

Plaintiff has failed to demonstrate the good cause now necessary to excuse his failure to respond in any manner to Defendants' requests for admissions for several months. Again, Plaintiff has elected to prosecute this action as a *pro se* litigant and, therefore, has assumed full responsibility for complying with the substantive and procedural requirements of the South Carolina Rules of Civil Procedure. This holds true for each of the seven currently pending civil actions that Plaintiff has elected to prosecute as a *pro se* litigant. The mere fact that Plaintiff has had various work and personal commitments outside the scope of this litigation is not grounds to relieve him of his obligation to comply with the South Carolina Rules of Civil Procedure or seek timely relief pursuant to Rule 6(b), SCRCP.

Furthermore, Defendants have been prejudiced by Plaintiff's failure to respond to the requests for admission. The purpose of written requests for admission is to allow the parties to narrow the issues and determine which facts do not need to be proven. Plaintiff's failure to respond to the requests for admission, to seek timely relief, and to otherwise engage in written discovery has frustrated the discovery process during the five months since initial service of written discovery upon him. Plaintiff's contention that there will be no delay in the case by granting him a belated reprieve to respond to the requests for admission is insufficient to demonstrate lack of prejudice to Defendants because it ignores Defendants' rights to engage in the discovery process outlined in the South Carolina Rules of Civil Procedure.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Defendant Stephen Kirkland's Motion to Compel filed on July 20, 2021, and the Motion to Compel on Behalf of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed on September 27, 2021, are hereby **GRANTED** in accordance with the above order and each matter of

# 7  
JDA

which an admission was requested of Plaintiff in Defendant Stephen Kirkland's First Set of Requests for Admission to Plaintiff served on May 12, 2021, and Defendant Chad Connelly's First Set of Requests for Admission to Plaintiff, Defendant Dave Wilson's First Set of Requests for Admission to Plaintiff, Defendant Tom Persons' First Set of Requests for Admission to Plaintiff, and Defendant Neil Mellen's First Set of Requests for Admission to Plaintiff served on July 27, 2021, are hereby deemed admitted and the matters conclusively established for trial. Plaintiff's request for an enlargement of time to submit responses to these requests for admission or otherwise withdraw or amend the admissions is hereby **DENIED**.

**AND IT IS SO ORDERED.**

November 5, 2021

  
\_\_\_\_\_  
~~The Honorable~~ Donald B. Hocker



## EXHIBIT G

**From:** [Hocker, Donald B. Secretary \(Regan A. Snow\)](#)  
**To:** [Justin P. Novak](#); [Wilson, Skyler C.](#); [Jeff Davis](#)  
**Cc:** [Janeen Toby](#); [Mackelcan, Douglas W.](#); [Lloyd, Susie](#); [Cal Watson](#); [Jasmine D. Smith](#); [Diana L. Murray](#); [Natalia De Alba](#); [Seldin, Harper](#); [g.k.chambers@gmail.com](#); [geoffrey@cperlgroup.com](#); [Hocker, Donald B.](#); [Jessica Kinard](#); [Hocker, Donald B. Law Clerk \(Mary Driggers\)](#)  
**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382  
**Date:** Monday, November 8, 2021 11:24:44 AM  
**Attachments:** [image001.png](#)  
[Jefferson Davis, Jr. vs. Chad Connelly, et. al..pdf](#)  
[Jefferson Davis, Jr. vs. Chad Connelly, et. al..pdf](#)

---

Everyone,

Attached please find the signed orders deeming admitted the Defendant's requests for admission and denying Plaintiff's request for leave to respond.

Thank you,

Regan.

*Regan A. Snow*

*Administrative Assistant to*

*Donald B. Hocker, Circuit Court Judge*

*Post Office Box 972*

*100 Hillcrest Square*

*Laurens, S.C. 29360*

*864-984-2076*

*864-984-2333-fax*

*[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)*

---

**From:** Justin P. Novak [mailto:jnovak@barnwell-whaley.com]  
**Sent:** Monday, November 1, 2021 9:36 AM  
**To:** Hocker, Donald B. Law Clerk (Mary Driggers) <dhockerlc@sccourts.org>; Wilson, Skyler C. <swilson@cskl.law>  
**Cc:** Janeen Toby <jtoby@newberrycounty.net>; Mackelcan, Douglas W. <dmackelcan@cskl.law>; Lloyd, Susie <SLloyd@cozen.com>; Cal Watson <cwatson@robinsongray.com>; Jasmine D. Smith <jsmith@robinsongray.com>; Diana L. Murray <dmurray@barnwell-whaley.com>; Natalia De Alba <ndealba@barnwell-whaley.com>; Seldin, Harper <HSeldin@cozen.com>; g.k.chambers@gmail.com; geoffrey@cperlgroup.com; Hocker, Donald B. Secretary (Regan A. Snow) <dhockersc@sccourts.org>; Hocker, Donald B. <dhockerj@sccourts.org>; Jeff Davis <jeff@apogeetax.com>; Jessica Kinard <Jessica@jek-law.com>  
**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Driggers,

As requested below, please find attached for Judge Hocker's consideration the proposed orders deeming admitted the Defendants' requests for admission and denying Plaintiff's request for leave to respond in Civil Action Nos. 2020-CP-36-382 and 2020-CP-36-384.

Please let me know whether Judge Hocker would like us to file them with the Clerk of Court as well.

Again, thank you for the Court's consideration.

Regards,

Justin

---

**From:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>

**Sent:** Monday, October 25, 2021 8:53 AM

**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>

**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Mr. Novak and Mr. Wilson:

This email is regarding the issue of the Plaintiff's failure to answer your respective Requests to Admit. Judge Hocker would request that you each prepare appropriate Orders denying the Plaintiff the right to respond to the Requests to Admit now and order the Requests to Admit to be deemed admitted. Judge Hocker would request the Orders address the following points along with any other important points previously raised:

1. While Judge Hocker believes that Rule 36 SCRPC gives the Court discretion to allow the Plaintiff in this case the opportunity to respond now to the Requests to Admit, this discretion is much more limited after the time period to respond than before the time period to respond. This is based upon a very careful reading of Rule 36.
2. Mr. Wilson, after serving the Requests to Admit, made a follow-up request (no response), filed a Motion to Compel (no response), and the Plaintiff received notice of the hearing (no response). Presumably at least after serving the Motion to Compel and notice of hearing going out, Mr. Novak likewise received no response.
3. Concerning the reasons Plaintiff raises for not responding, none of them rise to the level for justifying several months passing and not responding in any fashion. While the Court is very sorry for some of the personal reasons the plaintiff has encountered, again, they do not provide enough justification. Also, the Plaintiff raises the fact that he, as a pro se litigant (albeit a licensed attorney in Georgia), has seven lawsuits pending. While that number of lawsuits would appear to require a substantial amount of time on Plaintiff's part, he is the one who has elected to file those lawsuits on a pro se basis. Finally, Plaintiff's argument that "Requesting an extension from opposing counsel would have been fruitless" does not provide any help to the Plaintiff either. While the Plaintiff may very well be correct in this statement, it still begs the question why did the Plaintiff not turn to the Court for an extension. This Court can say with fairly firm confidence that if the Plaintiff had requested from the Court, within the time period to answer for an extension, it would have been granted.

If you have any questions, please don't hesitate to reach out.

Best,

Mary-Madison Driggers  
Law Clerk to the Honorable Donald B. Hocker  
P.O. Box 972  
100 Hillcrest Square  
Laurens, S.C. 29360  
864-984-2076  
[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)

---

**From:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>  
**Sent:** Friday, October 22, 2021 1:47 PM  
**To:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[jessica@jek-law.com](mailto:jessica@jek-law.com)>  
**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Driggers,

Attached is a copy of Judge Manning's Order, as well as two subpoenas issued by Mr. Davis in the Weaver Action and two motions to quash the subpoenas, which were pending before the Court when Judge Manning issued the Order Staying All Discovery Until Appeal is Resolved.

I, of course, have copied Mr. Davis and all counsel of record on this correspondence.

Please let me know if you have any questions or need anything additional.

Regards,

Justin

---

**From:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Sent:** Friday, October 22, 2021 10:08 AM  
**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>  
**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker,

Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Wilson, Skyler C. <[swilson@csl.law](mailto:swilson@csl.law)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[jessica@jek-law.com](mailto:jessica@jek-law.com)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Mr. Novak: If we could impose on you to provide, via email, the Weaver Subpoena and Judge Manning's Order. You previously back in the Spring provided Judge Manning's Order but we cannot locate it. This is most appreciated.

*Mary-Madison Driggers*  
*Law Clerk to the Honorable Donald B. Hocker*  
*P.O. Box 972*  
*100 Hillcrest Square*  
*Laurens, S.C. 29360*  
*864-984-2076*  
[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)

---

**From:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>

**Sent:** Wednesday, October 20, 2021 2:28 PM

**To:** Wilson, Skyler C. <[swilson@csl.law](mailto:swilson@csl.law)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[jessica@jek-law.com](mailto:jessica@jek-law.com)>

**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@csl.law](mailto:dmackelcan@csl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Driggers,

Also, please find attached ***the Reply to Plaintiff's Memorandum Re Late Responding to Defendant's Request for Admission on Behalf of Defendants Chad Connelly and Tom Persons*** in Civil Action No. 2020-CP-36-00384 and the ***Reply to Plaintiff's Memorandum Re Late Responding to Defendant's Request for Admission on Behalf of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen*** in Civil Action No. 2020-CP-36-00382 filed this afternoon.

I, of course, have copied Mr. Davis and all counsel on this email. Hard copies are also being placed in the mail today to Mr. Davis.

Regards,

Justin

---

**From:** Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>  
**Sent:** Wednesday, October 20, 2021 10:51 AM  
**To:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroupp.com](mailto:geoffrey@cperlgroupp.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>  
**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Ms. Driggers,

Please find attached a response to Mr. Davis's memorandum. All counsel, including Mr. Davis, are copied on this email.

Best regards,

Skyler



**Skyler Wilson**  
**Associate**

d: 843.266.8221 | f: 843.727.2995

[swilson@cskl.law](mailto:swilson@cskl.law) | [www.cskl.law](http://www.cskl.law)

40 Calhoun Street, Suite 400, Charleston, SC 29401

**From:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Sent:** Tuesday, October 19, 2021 8:49 AM  
**To:** Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroupp.com](mailto:geoffrey@cperlgroupp.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>  
**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Skylar,

An email response will be just fine! Thanks!

Mary-Madison Driggers  
Law Clerk to the Honorable Donald B. Hocker  
P.O. Box 972  
100 Hillcrest Square  
Laurens, S.C. 29360  
864-984-2076  
[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)

---

**From:** Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>  
**Sent:** Monday, October 18, 2021 3:33 PM  
**To:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>  
**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Driggers,

I understand the correspondence below is related to the motions to quash. But would Judge Hocker permit the parties a brief response to Mr. Davis's Memorandum related to the Requests to Admit that was sent October 8, 2021? If so, does Judge Hocker prefer a formal filing, or a letter sent via email?

Respectfully,

Skyler



**Skyler Wilson**  
**Associate**

d: 843.266.8221 | f: 843.727.2995

[swilson@cskl.law](mailto:swilson@cskl.law) | [www.cskl.law](http://www.cskl.law)

40 Calhoun Street, Suite 400, Charleston, SC 29401

---

**From:** Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Sent:** Monday, October 18, 2021 11:25 AM  
**To:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Janeen Toby

<[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com); Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good Morning.

Ms. Kinard, regarding your John Doe Motion to Quash Subpoena, Judge Hocker is seeking some clarification and you can respond via email. There are three issues that Judge Hocker is seeking clarification on. (1) It appears that you want Judge Hocker to go to the merits of the Plaintiff's defamation claim finding the truth of the statements complained of by the Plaintiff by relying on the Bankruptcy Order and Department of Revenue Audit. Is this a proper stage of this case in making a determination of the merits of the claim? Is this what you relied on in support of your argument not to disclose the identity of John Doe? (2) Are any of the cases that you relied on in support of your argument for non-disclosure defamation cases? (3) The Richland County case (18-CP-40-02425) you refer to in your Memo—Can you provide a copy? Is this the Judge Manning case?

Judge Hocker wants to thank everyone for their time and effort.

Additionally, Mr. Novak, unfortunately we have not gotten to your Motion to Quash yet but will be in touch. Thanks!

*Mary-Madison Driggers*  
*Law Clerk to the Honorable Donald B. Hocker*  
*P.O. Box 972*  
*100 Hillcrest Square*  
*Laurens, S.C. 29360*  
*864-984-2076*  
[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)

**Sent:** Monday, October 11, 2021 9:34 AM

**To:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>

**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Mr. Davis,

I will pass this on to Judge Hocker.

Thank you,  
Regan.

---

**From:** Jeff Davis [<mailto:jeff@apogeetax.com>]

**Sent:** Friday, October 8, 2021 5:53 PM

**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[jessica@jek-law.com](mailto:jessica@jek-law.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>; [g.k.chambers@gmail.com](mailto:g.k.chambers@gmail.com); [geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)

**Subject:** Re: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

**RE: 2020-CP-36-00384 case caption**

Ms. Snow,

One correction I would ask that you confer with Judge Hocker on is the fact that Mr. Novak has "dropped" Defendant Geoffrey Chambers (cc'd hereon) from the caption on the x00384 case.

Apparently filing an appearance, as Mr. Chambers did in this case, was not sufficient for "service" purposes per our February 12th, 2021 hearing. As such, and as Mr. Chambers agreed at the hearing he would accept service via certified mail to his Florida mailing address, he was served on February 23, 2021. This is evidenced by the attached Proof of Service (stamped filed March 3, 2021).

I have left Mr. Novak a voicemail regarding the issue.

Please advise.

Best,

Jeff Davis  
Plaintiff  
843-901-8036 (cell)

---

**Jeff Davis, JD, MBA, CPA**  
Office: Atlanta, GA 30305  
Home: 403 McCarter Avenue | Greenville, SC 29615  
843-901-8036 (cell) | 866-501-7471 (fax) | [jeff@apogeetax.com](mailto:jeff@apogeetax.com)

**CONFIDENTIAL INFORMATION:** The information contained in this E-mail message is attorney privileged and / or confidential information intended only for the use of the individual(s) named above. If the reader of this message is not

the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Active and licensed attorney and CPA in Georgia (not SC). Thank you.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication or attachment.

On Fri, Oct 8, 2021 at 11:24 AM Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)> wrote:

Mr. Novak,

Attached please find the two Proposed Orders Compelling Discovery. Judge Hocker only has one correction on both orders. The orders can be e-filed after you make the correction.

Thank you,  
Regan.

---

**From:** Justin P. Novak [mailto:[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)]

**Sent:** Thursday, October 7, 2021 11:29 AM

**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Snow,

Counsel for Defendant Kirkland and Defendants Connelly, Wilson, Persons, and Mellen have consulted this morning and prepared the attached proposed orders requested by Judge Hocker at the hearing this morning to address the various motions to compel filed in Davis v. Connelly (2020-CP-36-382) and Davis v. Connelly (2020-CP-36-384).

I, of course, have copied all counsel for record and Mr. Davis on this correspondence.

Please let me know if the Court has any questions or needs anything additional.

Regards,

Justin

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Sent:** Wednesday, September 29, 2021 3:39 PM

**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

**Importance:** High

Mr. Novak,

We moved the time for the motion hearing to 9:15 a.m. on October 7<sup>th</sup>. I sent out a confirmation email on 9/9/21. I will make sure Judge Hocker receives the Motions.

Thank you,

Regan.

*Regan A. Snow*

*Administrative Assistant to*

*Donald B. Hocker, Circuit Court Judge*

*Post Office Box 972*

*100 Hillcrest Square*

*Laurens, S.C. 29360*

*864-984-2076*

*864-984-2333-fax*

*[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)*

---

**From:** Justin P. Novak [<mailto:jnovak@barnwell-whaley.com>]

**Sent:** Wednesday, September 29, 2021 3:30 PM

**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>

**Subject:** RE: [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Snow,

As you know, a motion hearing is scheduled in this matter for 11:00 am on October 7, 2021, in Judge Hocker's Virtual Courtroom.

In the interests of judicial economy, I request that the court also consider at the hearing the recently filed attached ***Motion to Compel on Behalf of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen*** in C/A No. 2020-CP-36-00382 and ***Motion to Compel on Behalf of Defendants Chad Connelly and Tom Persons*** in C/A No. 2020-CP-36-00384. As the court will note, these motions were served and filed yesterday, September 28, 2021.

I, of course, have copied Mr. Davis and all counsel on this correspondence.

Regards,

Justin

**JUSTIN P. NOVAK**  
ATTORNEY



[JNOVAK@BARNWELL-WHALEY.COM](mailto:jnovak@barnwell-whaley.com)  
843-577-7700  
[BARNWELL-WHALEY.COM](http://BARNWELL-WHALEY.COM)

BARNWELL WHALEY PATTERSON & HELMS LLC  
211 KING STREET, SUITE 300  
CHARLESTON, SC 29401

CONFIDENTIAL

Unless otherwise indicated or obvious from the nature of the following communication, the information contained herein is confidential information/work product. The communication is intended for the use of the individual or entity named above. If the reader of this transmission is not 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 or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Sent:** Wednesday, August 18, 2021 11:42 AM  
**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Law Clerk (Mary Driggers) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** [EXT] Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Everyone:

I have added the Motion(s) hearing to Judge Hocker's calendar for October 7, 2021 at 11:00 a.m. This hearing will be via Judge Hocker's virtual courtroom. Please let me know if you will need instructions

for accessing the virtual courtroom.

Thank you,

Regan.

*Regan A. Snow*

*Administrative Assistant to*

*Donald B. Hocker, Circuit Court Judge*

*Post Office Box 972*

*100 Hillcrest Square*

*Laurens, S.C. 29360*

*864-984-2076*

*864-984-2333-fax*

[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)

---

**From:** Justin P. Novak [<mailto:jnovak@barnwell-whaley.com>]

**Sent:** Wednesday, August 18, 2021 10:30 AM

**To:** Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Hocker, Donald B. Secretary (Regan A. Snow)

<[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W.

<[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>;

Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia

De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>

**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Snow,

A virtual hearing works for counsel for Defendants Connelly, Wilson, Persons, and Mellen.

Thank you,

Justin

---

**From:** Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>

**Sent:** Wednesday, August 18, 2021 10:27 AM

**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Wilson, Skyler C.

<[swilson@cskl.law](mailto:swilson@cskl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby

<[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Lloyd, Susie

<[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith

<[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba

<[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>

**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Ms. Snow,

Because Endurance is no longer a party to this case, counsel does not intend to appear, but we appreciate being apprised of the hearing date.

Best,

Harper Seldin

**Harper S. Seldin**  
**Attorney | Cozen O'Connor**  
One Liberty Place, 1650 Market Street, Suite 2800  
Philadelphia, PA 19103  
P: 215-665-5590 C: 267-615-4686  
Pronouns: he, him, his  
[Email](#) | [Bio](#) | [Map](#) | [cozen.com](#)

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Sent:** Wednesday, August 18, 2021 10:19 AM  
**To:** Wilson, Skyler C. <[swilson@csl.law](mailto:swilson@csl.law)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@csl.law](mailto:dmackelcan@csl.law)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>  
**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

**\*\*EXTERNAL SENDER\*\***

Thank you. Besides Skyler Wilson, Jessica Kinard, Jeff Davis and Justin Novak, are there any other attorneys planning to appear? Also, this hearing will be virtual correct?

Thank you,  
Regan.

---

**From:** Wilson, Skyler C. [<mailto:swilson@csl.law>]  
**Sent:** Wednesday, August 18, 2021 10:10 AM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>  
**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@csl.law](mailto:dmackelcan@csl.law)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>  
**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Snow,

I apologize for the late response. Counsel for Defendant Kirkland is available that day and time.

Best regards,

Skyler



**Skyler Wilson**  
**Associate**

d: 843.266.8221 | f: 843.727.2995

[swilson@cskl.law](mailto:swilson@cskl.law) | [www.cskl.law](http://www.cskl.law)

40 Calhoun Street, Suite 400, Charleston, SC 29401

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Sent:** Tuesday, August 17, 2021 3:13 PM

**To:** Jessica Kinard <[Jessica@jek-law.com](mailto:Jessica@jek-law.com)>

**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>

**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

**CAUTION:** This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Thank you.

So far I have heard from the Jeff Davis, Justin Novak and Jessica Kinard. What other attorneys are planning to attend the hearing?

Thanks,  
Regan.

---

**From:** Jessica Kinard [<mailto:Jessica@jek-law.com>]

**Sent:** Tuesday, August 17, 2021 3:08 PM

**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>

**Subject:** Re: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the organization. Please exercise caution

before clicking any links or opening attachments. \*\*\*

I am free for John Doe.  
Thanks -  
Jessica

**Jessica E. Kinard**  
Attorney at Law, LLC  
[803.814.4436](tel:803.814.4436) | [jessica@jek-law.com](mailto:jessica@jek-law.com)  
[www.jek-law.com](http://www.jek-law.com)  
P.O. Box 333, Irmo, SC 29063

---

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

On Aug 17, 2021, at 11:00 AM, Hocker, Donald B. Secretary (Regan A. Snow)  
<[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)> wrote:

Everyone:

We had some time open up on 10/7 at 11:00 a.m. Would everyone be available to have the motions heard on 10/7?

Thank you,  
Regan.

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)  
**Sent:** Thursday, August 12, 2021 12:56 PM  
**To:** 'Jessica Kinard' <[jessica@jek-law.com](mailto:jessica@jek-law.com)>  
**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>  
**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Thank you.

---

**From:** Jessica Kinard [<mailto:Jessica@jek-law.com>]  
**Sent:** Thursday, August 12, 2021 12:54 PM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De

Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>

**Subject:** Re: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Snow -

I have filed a motion to quash on behalf of John Doe. I am available that week.

Thank you.

Jessica Kinard

<image001.jpg>

**Jessica E. Kinard**

Attorney at Law, LLC

803.814.4436 | [jessica@jek-law.com](mailto:jessica@jek-law.com)

[www.jek-law.com](http://www.jek-law.com)

P.O. Box 333, Irmo, SC 29063

---

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

On Aug 12, 2021, at 12:47 PM, Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)> wrote:

Mr. Davis:

The week of October 25<sup>th</sup> is actually a Common Pleas term that Judge Hocker will be presiding over. I think that is the reason for picking that week. He will not be back in Newberry until October. Thank you for letting me know you are available that week.

Regan.

---

**From:** Jeff Davis [<mailto:jeff@apogeetax.com>]

**Sent:** Thursday, August 12, 2021 7:46 AM

**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; [jessica@jek-law.com](mailto:jessica@jek-law.com); Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>

**Subject:** Re: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

**\*\*\* EXTERNAL EMAIL:** This email originated from outside the

organization. Please exercise caution before clicking any links or opening attachments. \*\*\*

Mrs. Snow, Plaintiff will also be available the week of October 25th.

My only concern is the substantial delay (benefiting Defendants) in hearing these motions. If there is any way to hear these motions sooner it would be greatly appreciated.

Thank you.

Jeff Davis  
843-901-8036 (cell)

---

**Jeff Davis, JD, MBA, CPA**  
Office: Atlanta, GA 30305  
Home: 403 McCarter Avenue | Greenville, SC 29615  
843-901-8036 (cell) | 866-501-7471 (fax) | [jeff@apogeetax.com](mailto:jeff@apogeetax.com)

**CONFIDENTIAL INFORMATION:** The information contained in this E-mail message is attorney privileged and / or confidential information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Active and licensed attorney and CPA in Georgia (not SC). Thank you.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication or attachment.

On Wed, Aug 11, 2021 at 4:34 PM Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)> wrote:

Thank you for the response. I will provide this to Judge Hocker.

---

**From:** Justin P. Novak [mailto:[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)]  
**Sent:** Wednesday, August 11, 2021 4:30 PM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Mackelcan, Douglas W. <[dmackelcan@cskl.law](mailto:dmackelcan@cskl.law)>; Wilson, Skyler C. <[swilson@cskl.law](mailto:swilson@cskl.law)>; [jessica@jek-law.com](mailto:jessica@jek-law.com); Seldin, Harper <[HSeldin@cozen.com](mailto:HSeldin@cozen.com)>; Lloyd, Susie <[SLloyd@cozen.com](mailto:SLloyd@cozen.com)>; Cal Watson <[cwatson@robinsongray.com](mailto:cwatson@robinsongray.com)>; Jasmine D. Smith <[jsmith@robinsongray.com](mailto:jsmith@robinsongray.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Natalia De Alba <[ndealba@barnwell-whaley.com](mailto:ndealba@barnwell-whaley.com)>  
**Subject:** RE: [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

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

Ms. Snow,

My apologies for the late response. Counsel for Defendants Connelly, Wilson, Persons, and Mellen are available for a hearing the week of October 25, 2021.

As you may know, the following motions are pending in this matter:

- Defendant Stephen Kirkland's Motion to Compel filed on July 20, 2021
- Defendants Chad Connelly and Dave Wilson's Motion to Quash Subpoena to E3 Software, LLC filed on June 14, 2021
- Defendant John Doe's Motion to Quash Subpoena to Endurance International Group, Inc. filed on June 6, 2021

I have attached copies of the motions for the Court's convenience, as well as a copy of the subpoenas in question.

My clients' motion to quash should take 30 minutes.

I will defer to the other counsel regarding their pending motions. As you will note, I have copied Mr. Davis, as well as counsel for Defendant Stephen Kirkland, Defendant John Doe, Endurance International Group, Inc., and E3 Software, LLC.

Please let me know if you have any questions or need any additional information.

Regards,

Justin

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)  
<[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Sent:** Wednesday, August 11, 2021 4:03 PM

**To:** [jessica@jek-law.com](mailto:jessica@jek-law.com); Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>

**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>

**Subject:** [EXT] RE: Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Good afternoon:

Judge Hocker would like to get a response to the email below as soon as possible.

Thank you,

Regan

*Regan A. Snow*

*Administrative Assistant to*

*Donald B. Hocker, Circuit Court Judge*

Post Office Box 972  
100 Hillcrest Square  
Laurens, S.C. 29360  
864-984-2076  
864-984-2333-fax  
[dhockersc@scccourts.org](mailto:dhockersc@scccourts.org)

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)  
**Sent:** Monday, July 19, 2021 3:13 PM  
**To:** 'jessica@jek-law.com' <[jessica@jek-law.com](mailto:jessica@jek-law.com)>; Justin P. Novak  
<[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>  
**Cc:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby  
<[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>  
**Subject:** Jefferson Davis vs. Chad Connelly, et. al., 2020-CP-36-382

Good afternoon:

Judge Hocker is in receipt of two Motions to Quash (Endurance and E3). Judge Hocker has a term of court in Newberry the week of October 25, 2021. The only problem with trying to schedule a hearing on these Motions is that he has a week-long day certain case that week. So the question is how long is it anticipated that a hearing on both Motions will take? Secondly, Judge Hocker does need the subject Subpoena on the E3 Motion. Finally, please let me know as soon as possible if other attorneys need to be on this email chain, certainly recognizing other attorneys have participated in the past concerning this 382 case and other cases.

Thank you,  
Regan Snow  
*Regan A. Snow*  
*Administrative Assistant to*  
*Donald B. Hocker, Circuit Court Judge*  
Post Office Box 972  
100 Hillcrest Square  
Laurens, S.C. 29360  
864-984-2076  
864-984-2333-fax  
[dhockersc@scccourts.org](mailto:dhockersc@scccourts.org)

~~~ 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.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Notice: This communication, including attachments, may contain information that is confidential and protected by the attorney/client or other privileges. It constitutes non-public information intended to be conveyed only to the designated recipient(s). If the reader or recipient of this communication is not the intended recipient, an employee or agent of the intended recipient who is responsible for delivering it to the intended recipient, or you believe that you have received this communication in error, please notify the sender immediately by return e-mail and promptly delete this e-mail, including attachments without reading or saving them in any manner. The unauthorized use, dissemination, distribution, or reproduction of this e-mail, including attachments, is prohibited and may be unlawful. Receipt by anyone other than the intended recipient(s) is not a waiver of any attorney/client or other privilege.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

EXHIBIT H

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
) CASE NO.: 2020-CP-36-00382
)

Jefferson Davis, Jr.,

Plaintiff,

vs.

**ORDER GRANTING SUMMARY
JUDGMENT IN FAVOR OF
DEFENDANT KIRKLAND**

Chad Connelly; Dave Wilson; Stephen
Kirkland; Tom Persons; Neil Mellen; E3
Software, LLC; Endurance International Group
Holdings, Inc; John Doe #1; John Doe #2; &
John Does 3-40,

Defendants.

This matter came before the Court by Motion for Summary Judgment and Rule to Show Cause on behalf of Defendant Stephen D. Kirkland, filed December 3, 2021. On May 25, 2022, this Court issued its Amended Bench Order submitting the motion on the briefs and giving the parties 45 days within which to file any additional brief or memorandum related to the motion. The Order was provided to all parties on May 25, 2022, and filed on May 31, 2022. Plaintiff has not responded to or otherwise contested Defendant Kirkland's motion. After careful review and consideration of the motion, memoranda, and other submissions, this Court GRANTS Defendant Kirkland summary judgment.

FINDINGS OF FACT

This lawsuit arises from email communications sent from a Gmail account allegedly linked to a website containing false information—"JeffDavisFirst.com." Plaintiff alleges Defendants sent five defamatory emails with links to this site on the following dates: September 25, 2019, October 11, 2019, October 16, 2019 (2 emails), and October 17, 2019. Plaintiff does not know who owned the website or sent the emails. With respect to Defendant Kirkland, Plaintiff's only direct

allegation that Defendant Kirkland had any involvement in the circumstances giving rise to the lawsuit is broad: that Defendant Kirkland participated in the matters discussed in the Complaint.

The Complaint originally asserted six causes of action against Defendant Kirkland: (1) defamation per se and per quod; (2) defamation by innuendo; (3) invasion of privacy; (4) negligence; (5) intentional infliction of emotional distress; and (6) conspiracy. Defendant Kirkland moved to dismiss Plaintiff's Complaint, which this Court granted in part and denied in part on March 26, 2021, dismissing Plaintiff's causes of action for defamation by innuendo and negligence.

Defendant Kirkland served Plaintiff with Interrogatories, Requests for Production, and Requests for Admission. Plaintiff did not respond to any of the discovery requests and, as a result, Defendant Kirkland asked this Court to compel responses to the Interrogatories and Requests for Production, and deem admitted the matters in the Requests for Admission. At the hearing on the motion to compel on October 7, 2021, this Court required Plaintiff to respond to the Interrogatories and Requests for Production by October 15, 2021. On October 15, 2021, this Court entered an Order requiring Plaintiff to respond by that date. Plaintiff did not respond by October 15, 2021, did not respond within the additional courtesy extensions granted by Defendant Kirkland.

By Order dated November 5, 2021, this Court deemed admitted the matters in Defendant Kirkland's, and the co-defendants', Requests for Admission, conclusively proving those matters for trial. Pursuant to Order, Plaintiff has admitted the following:

1. Admit you have no documentation establishing Defendant Kirkland participated in the matters discussed in the Complaint, as referenced in Paragraph 64 of the Complaint.
2. Admit you have no documentation establishing Defendant Kirkland published any defamatory statements about you.
3. Admit you are unaware of whether Defendant Kirkland sent the defamatory emails or created the defamatory website alleged in the Complaint.

4. Admit you have no documentation establishing Defendant Kirkland publicized any private matters about you.
5. Admit you, as opposed to your wife, did not seek or obtain medical treatment as a result of any of Defendant Kirkland's actions.
6. Admit you have no documentation establishing Defendant Kirkland conspired with co-defendants to injure you, as referenced in the Complaint.

Defendant Kirkland moved for summary judgment on December 3, 2021, asserting the pleadings, admissions, and Plaintiff's failure to cooperate in discovery establishes there are no genuine issues for trial and warrant an order dismissing the remainder of Plaintiff's claims.

STANDARD

"Summary judgment is appropriate 'if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.'" *Russell v. Wachovia Bank, N.A.*, 353 S.C. 208, 217, 578 S.E.2d 329, 334 (2003) (quoting Rule 56(c), SCRPC). "[W]hen plain, palpable, and indisputable facts exist on which reasonable minds cannot differ, summary judgment should be granted." *Ellis v. Davidson*, 358 S.C. 509, 518, 595 S.E.2d 817, 822 (Ct. App. 2004).

The moving party has the initial burden to show the absence of a genuine issue of material fact. *Id.* Once the moving party meets its initial burden, the nonmoving party cannot rely on the allegations and denials in the pleadings to survive summary judgment. *Id.* Instead, the nonmoving party must come forward with specific facts showing a genuine issue for trial. *SSI Med. Servs. Inc. v. Cox*, 301 S.C. 493, 497, 392 S.E.2d 789, 792 (1990). When ruling on a defendant's summary judgment motion, a court must determine whether the plaintiff has established that a genuine issue of material fact exists for *each element of a claim* in order to defeat summary judgment for that claim. *See Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 358, 650 S.E.2d 68, 71 (2007) ("[O]n a defendant's motion for summary judgment . . . a court cannot properly deny

the motion after only finding that a genuine issue of material fact exists as to one element of the plaintiff's claim; rather, under *Baughman*, the court must determine that a genuine issue of material facts exists for each essential element of the plaintiff's claim." (citing *Baughman v. Amer. Tel. & Tel. Co.*, 306 S.C. 101, 410 S.E.2d 537 (1991)). Additionally, it is not sufficient for a party to create an inference that is not reasonable or an issue of fact that is not genuine. *Evans v. Stewart*, 370 S.C. 522, 526, 636 S.E.2d 632, 635 (Ct. App. 2006).

ORDER

I. There is no genuine issue of material fact as to any element of Plaintiff's claim for defamation per se or per quod.

In order to prove defamation, the plaintiff must show (1) a false and defamatory statement was made; (2) the unprivileged publication was made to a third party; (3) the publisher was at fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. *Fleming v. Rose*, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002). A statement is classified as defamatory per se when the meaning or message is obvious on its face. A statement is classified as defamatory per quod when the defamatory meaning is not clear unless the hearer knows facts or circumstances not contained in the statement itself, and the plaintiff must introduce extrinsic facts to prove the defamatory meaning. *Erickson v. Jones St. Publishers, LLC*, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006). Truth is an absolute defense to defamation. *Parker v. Evening Post Pub. Co.*, 317 S.C. 236, 245, 452 S.E.2d 640, 645 (Ct. App. 1994).

Plaintiff's cause of action for defamation is based on the five allegedly defamatory emails and the website. Although the cause of action generally refers to "Defendants," the Complaint is devoid of any alleged statement by Defendant Kirkland regarding Plaintiff that was false. Plaintiff's cause of action for defamation is related to emails from an address that the owner is unknown, that he attempts to connect to other Defendants based on a common domain registrar

and common email marketing software. Plaintiff does not allege Defendant Kirkland has any connection to the domain registrar or software. Defendant Kirkland attempted to investigate support for Plaintiff's general allegations, but Plaintiff has failed to cooperate in discovery and the Court deemed admitted matters in Defendant Kirkland's requests for admission. Furthermore, as averred to in his affidavit, Defendant Kirkland had no involvement in the defamatory emails. Plaintiff has admitted he has no documentation establishing his general allegations, he has no documentation establishing Defendant Kirkland published any defamatory statements about him, and Plaintiff has no knowledge of whether Defendant Kirkland sent the allegedly defamatory emails or created the defamatory website.

This Court finds Defendant Kirkland has established there is no genuine issue of material fact and Plaintiff's claims for defamation should be dismissed, and Plaintiff has not come forth with specific facts showing a genuine issue for trial. *See SSI Med. Servs. Inc.*, 301 S.C. at 497, 392 S.E.2d at 792 (stating that once the moving party meets its initial burden, the nonmoving cannot rely on the allegations and denials in the pleadings to survive summary judgment; but instead must come forward with specific facts showing a genuine issue for trial). Thus, Defendant's motion for summary judgment on Plaintiff's claims for defamation per se and per quod is granted and those claims are dismissed.

In addition, shortly after Defendant Kirkland moved for summary judgment, this Court issued an order quashing Plaintiff's subpoena to Endurance International Group, dated December 29, 2021. The December 29 Order found that the statements on the allegedly defamatory website JeffDavisFirst.com were true and, therefore, not defamatory. Plaintiff alleges the defamatory emails were sent with links to this website. The findings in this Court's December 29 order are incorporated herein and serve as an additional ground for granting Defendant Kirkland summary judgment and dismissing Plaintiff's claims for defamation per se and per quod.

II. There is no genuine issue of material fact as to Plaintiff's claim for invasion of privacy.

Plaintiff's cause of action for invasion of privacy is based on the allegation Defendants gained personal knowledge, through an unwarranted invasion and trespass, and used that knowledge to further Defendants' financial and political interest. In South Carolina, the elements of invasion of privacy include: (1) publicizing; (2) absent any waiver or privilege; (3) private matters in which the public has no legitimate interest; (4) so as to bring shame or humiliation to a person of ordinary sensibilities. *Swinton Creek Nursery v. Edisto Farm Credit, et al.*, 334 S.C. 469, 514 S.E.2d 126 (1999).

Plaintiff has failed to establish that Defendant Kirkland possessed or publicized private matters about Plaintiff. The Complaint contains only general allegations and is devoid of any allegation Defendant Kirkland ever possessed or improperly accessed private matters relative to Plaintiff. Defendant Kirkland attempted to investigate what information Plaintiff has to support his general allegations, but Plaintiff has failed to cooperate in discovery. Nevertheless, Plaintiff has admitted he has no proof establishing Defendant Kirkland publicized private matters about Plaintiff. Furthermore, as averred to in his affidavit, Defendant Kirkland is entirely unaware of what private matters Plaintiff claims were publicized, and was not involved in any publication of private matters.

Because Plaintiff has no proof establishing Defendant Kirkland publicized private matters about him and Defendant Kirkland was not involved in any invasion of privacy, Plaintiff's allegations are insufficient to create a genuine issue of material fact and this Court grants Defendant Kirkland summary judgment and dismisses Plaintiff's invasion of privacy cause of action. *See SSI Med. Servs. Inc.*, 301 S.C. at 497, 392 S.E.2d at 792 (stating that once the moving party meets its initial burden, the nonmoving party cannot rely on the allegations and denials in the pleadings to survive summary judgment; but instead must come forward with specific facts showing a genuine issue for trial).

III. There is no genuine issue of material fact as to any element of intentional infliction of emotional distress.

To succeed on a claim for intentional infliction of emotional distress a plaintiff must prove: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain or substantially certain that such distress would result from his conduct; (2) the conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized society; (3) the actions of the defendant caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it. *Upchurch v. New York Times Co.*, 314 S.C. 531, 431 S.E.2d 558 (1993). "When ruling on a summary judgment motion, a court must determine whether the plaintiff has established a prima facie case as to each element of a claim for intentional infliction of emotional distress." *Hansson v. Scalise Builders of S.C.*, 374 S.C. 352, 358, 650 S.E.2d 68, 71 (2007).

Plaintiff's cause of action for intentional infliction of emotional distress is based on Defendants allegedly having knowledge of Plaintiff's spouse's medical conditions, and intentionally using that information to "inflict emotional distress on Plaintiff Davis and was outrageous beyond the bounds of conduct expected by members of society" such that Plaintiff suffered severe emotional distress. The allegations do not identify specific Defendants or specific conduct purportedly giving rise to this cause of action. Plaintiff does not identify the alleged medical condition or the manner by which Defendant Kirkland utilized that information to cause Plaintiff to suffer emotional distress. Defendant Kirkland attempted to investigate what information Plaintiff had in support of his claim, but Plaintiff has failed to cooperate in discovery. Additionally, as averred to in his affidavit, Defendant Kirkland denies having any knowledge of any medical conditions, and did not utilize any information to cause Plaintiff emotional distress. Thus, there is no genuine issue of material fact and this Court grants Defendant Kirkland summary

judgment and dismisses Plaintiff's cause of action for intentional infliction of emotional distress. See *SSI Med. Servs. Inc.*, 301 S.C. at 497, 392 S.E.2d at 792 (stating that once the moving party meets its initial burden, the nonmoving cannot rely on the allegations and denials in the pleadings to survive summary judgment; but instead must come forward with specific facts showing a genuine issue for trial).

IV. There is no genuine issue of material fact as to any element of conspiracy.

To recover for a cause of action alleging civil conspiracy, a plaintiff must establish: "(1) the combination or agreement of two or more persons, (2) to commit an unlawful act or lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff." *Paradis v. Charleston Cty. Sch. Dist.*, 433 S.C. 562, 574, 861 S.E.2d 774, 780 (2021). A claim for civil conspiracy must allege additional acts in furtherance of a conspiracy rather than re-allege other claims within the complaint. *Hackworth v. Greywood at Hammett, LLC*, 385 S.C. 110, 682 S.E.2d 871 (Ct. App. 2009).

Because civil conspiracy is an intentional tort, intent to harm is an inherent part of the analysis. *Paradis*, 861 S.E.2d at 780; *Bivens v. Watkins*, 313 S.C. 228, 235, 437 S.E.2d 132, 134 (Ct. App. 1993). Evidence the alleged conspirators "acted with malice" is required. *Waldrep Bros. Beauty Supply, Inc. v. Wynn Beauty Supply Co., Inc.*, 992 F.2d 59, 63 (4th Cir. 1993) (applying South Carolina law). The failure to allege intent to harm is fatal to a civil conspiracy claim. See *Jinks v. Sea Pines Resort, LLC*, No. 9:21-CV-00138-DCN, 2021 WL 4711408, at *3 (D.S.C. Oct. 8, 2021).

Plaintiff's claim fails as a matter of law because he has not alleged additional acts in furtherance of a conspiracy, and he does not allege Defendant Kirkland had an intent to harm. The basis for Plaintiff's claim of conspiracy is that, "by making false and defamatory statements, innuendo, and threat of withholding financial support," the "Defendants conspired together and

directed others to not do business or communicate with Plaintiff Davis.” Plaintiff fails to allege any acts in furtherance of the conspiracy. He alleges there is a conspiracy because Defendants made defamatory statements. Again, Plaintiff has not alleged any connection between Defendant Kirkland and the account that made defamatory statements. Also, Plaintiff has not alleged that Defendant Kirkland had a specific intent to harm Plaintiff.

Additionally, Plaintiff has admitted he has no documentation establishing Defendant Kirkland conspired with the other defendants to injure him. Furthermore, with respect to the remaining co-defendants, Plaintiff has admitted none of them conspired with each other to injure Plaintiff. Finally, Defendant Kirkland did not act with any other person or direct anyone not to do business with Plaintiff. Thus, due to Plaintiff’s admissions and the fact that Defendant Kirkland avers he was not involved, it is impossible to show “a combination of two or more persons,” an essential element of conspiracy, and the cause of action must be dismissed. Therefore, Defendant Kirkland’s motion for summary judgment is granted and Plaintiff’s claim for civil conspiracy is dismissed. *See SSI Med. Servs. Inc.*, 301 S.C. at 497, 392 S.E.2d at 792 (stating that once the moving party meets its initial burden, the nonmoving party cannot rely on the allegations and denials in the pleadings to survive summary judgment; but instead must come forward with specific facts showing a genuine issue for trial).

V. As an additional ground this Court dismisses Plaintiff’s Complaint for failure to comply with this Court’s October Order compelling discovery responses.

When a party fails to obey a court order to provide discovery, the circuit court can impose sanctions such as striking pleadings or dismissing the action. Rule 37(b)(2)(C), SCRCP. “When the court orders default or dismissal, or the sanction itself results in default or dismissal, the end result is harsh medicine that should not be administered lightly.” *Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co.*, 334 S.C. 193, 198, 511 S.E.2d 716, 718 (Ct. App. 1999). Sanctions should be aimed at the specific conduct of the party but not go beyond the necessities of the

situation. *Id.*, 511 S.E.2d at 719. To determine the appropriateness of the sanction, a court can consider the following factors: (1) precise nature of the discovery; (2) discovery posture of the case; (3) willfulness; and (4) degree of prejudice. *See id.* at 199, 511 S.E.2d at 719. Deciding whether to sanction a party is within the sound discretion of the court, and severe sanctions such as dismissal should be imposed in cases involving bad faith, willful disobedience, or gross indifference to the opposing party's rights. *McNair v. Fairfield County*, 379 S.C. 462, 466, 665 S.E.2d 830, 832 (Ct. App. 2008).

Striking a pleading or dismissing an action because of the discovery abuses of a party is tailored to the necessities of the situation as long as the sanction is specific to the parties affected by the discovery abuse. *See generally Karppi v. Greenville Terrazzo Co.*, 327 S.C. 538, 543-44, 489 S.E.2d 679, 682-83 (Ct. App. 1997) (finding sanction dismissing complaint as to all parties was not tailored to the necessities of the situation when the sanctioned party's discovery abuse was related to only one party's discovery requests, and other parties not requesting relief were awarded a windfall).

The failure to comply with a court's prior orders warrant the sanction of striking the party's pleadings. *Griffin Grading*, 334 S.C. at 199, 511 S.E.2d at 719 ("If there was ever a case where striking a party's pleading was an appropriate sanction, it is this case where the record is full of multiple, egregious discovery abuses that blocked the opposing party's attempts to conduct meaningful discovery."). For example, failure to provide discovery responses more than 7 months after the court compels discovery is prejudicial to the party seeking the discovery and a "serious affront to the integrity of the judicial system." *McNair*, 379 S.C. at 467, 665 S.E.2d at 832.

Plaintiff's failure to comply with this Court's discovery order, the admissions, and Plaintiff attempting other discovery while failing to respond is tantamount to willful disobedience of this Court's order. After over 5 months of disregarding Defendant Kirkland's discovery requests, Plaintiff represented to the Court that he could provide responses by October 15, 2021. This

Court's October 15 order encompassed that promise. Yet Plaintiff has not provided responses to this date. In addition, the effect of Plaintiff's admissions establish he has absolutely no documentation or evidence to substantiate his claims that Defendant Kirkland was involved in any of the allegations of the Complaint.

For nine months Plaintiff has continued to defy this Court's order and frustrate Defendant Kirkland's ability to investigate the claims and conduct discovery. Plaintiff's failure to respond in light of this Court's order prejudices Defendant Kirkland and is a serious affront to the integrity of the judicial system. Therefore, this Court finds an appropriate sanction under the circumstances is to dismiss Plaintiff's claims against Defendant Kirkland with prejudice.

THEREFORE, IT IS ORDERED that Defendant Kirkland's Motion for Summary Judgment filed on December 3, 2021, is **GRANTED** in accordance with the above order and Plaintiff's causes of action for defamation per se and per quod, invasion of privacy, intentional infliction of emotional distress, and conspiracy against Defendant Kirkland are dismissed with prejudice. **IT IS FURTHER ORDERED** that Plaintiff's claims against Defendant Kirkland are dismissed because Plaintiff has failed to cooperate in discovery to Defendant Kirkland's prejudice, and has willfully disobeyed this Court's previous orders.

IT IS SO ORDERED.

The Honorable Donald B. Hocker

This ____ day of _____, 2022.



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Summary Judgment

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

EXHIBIT I

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2, & John Does 3-40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

**ORDER GRANTING SUMMARY
JUDGMENT IN FAVOR OF
DEFENDANTS CHAD CONNELLY,
DAVE WILSON, TOM PERSONS,
AND NEIL MELLEN**

This matter came before the Court upon the separate Motions for Summary Judgment on Behalf of Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen filed on November 15, 2021 ("Motions for Summary Judgment"). After the Court determined that the motions could readily be decided upon the motions and briefs submitted, the Court provided each party with an additional forty (45) days to submit any supplemental briefing, memoranda, submissions, or argument from the date of this Court's Amended Bench Order filed on May 31, 2022. After careful review and consideration of the parties' motions, briefs, memoranda, and other submissions, this Court grants the Motions for Summary Judgment on Behalf of Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen filed on November 15, 2021.

FINDINGS OF FACT

Plaintiff, who, though an attorney licensed to practice law in the State of Georgia, prosecutes this action as a *pro se* litigant, filed the Summons and Complaint in this matter on September 10, 2020. The Complaint asserts six causes of action against the various named and unidentified defendants collectively, including causes of action for (1) defamation per se and per quod, (2) defamation by innuendo, (3) invasion of privacy, (4) negligence, (5) intentional infliction of

emotional distress, and (6) conspiracy. Plaintiff shortly thereafter commenced the action against Defendants by serving the Summons and Complaint upon them individually between September 15, 2020, and September 18, 2020. On March 26, 2021, this Court dismissed the causes of action for defamation by innuendo and negligence asserted against Defendants Connelly, Persons, Wilson, and Mellen.¹ As a result, Plaintiff now proceeds against these defendants only upon the causes of action for defamation per se and per quod, invasion of privacy, intentional infliction of emotional distress, and conspiracy.

On July 27, 2021, Defendants Connelly, Persons, Wilson, and Mellen each properly served Plaintiff with interrogatories, requests for production, and requests for admission.² The defendants' requests for admission requested that Plaintiff admit the following as to each Defendant:

1. Admit that this Defendant did not publish any libelous, slanderous, or defamatory statement regarding you.
2. Admit that you do not possess any documentation supporting the allegation that this Defendant made any libelous, slanderous, or defamatory statement regarding you.
3. Admit that this Defendant has not made any false statement disparaging you.
4. Admit that you do not possess any documentation supporting the allegation that this Defendant has made any false statement disparaging you.
5. Admit that this Defendant has not published any false statement regarding you.
6. Admit that you do not possess any documentation supporting the allegation that this Defendant published any false statement regarding you.

¹ Plaintiff did not move for reconsideration, alteration, or amendment of the Order As To Motion to Dismiss Five Individual Defendants filed on March 26, 2021.

² These written discovery requests included Defendant Chad Connelly's First Set of Interrogatories to Plaintiff, Defendant Chad Connelly's First Set of Requests for Production to Plaintiff, Defendant Chad Connelly's First Set of Requests for Admission to Plaintiff, Defendant Dave Wilson's First Set of Interrogatories to Plaintiff, Defendant Dave Wilson's First Set of Requests for Production to Plaintiff, Defendant Dave Wilson's First Set of Requests for Admission to Plaintiff, Defendant Tom Persons' First Set of Interrogatories to Plaintiff, Defendant Tom Persons' First Set of Requests for Production to Plaintiff, Defendant Tom Persons' First Set of Requests for Admission to Plaintiff, Defendant Neil Mellen's First Set of Interrogatories to Plaintiff, Defendant Neil Mellen's First Set of Requests for Production to Plaintiff, and Defendant Neil Mellen's First Set of Requests for Admission to Plaintiff.

7. Admit that this Defendant did not appropriate or exploit your personality.
8. Admit that you do not possess any documentation supporting the allegation that this Defendant appropriated or exploited your personality.
9. Admit that this Defendant did not publicize your private affairs.
10. Admit that you do not possess any documentation supporting the allegation that this Defendant publicized your private affairs.
11. Admit that this Defendant did not intrude into your private activities.
12. Admit that you do not possess any documentation supporting the allegation that this Defendant intruded into your private activities.
13. Admit that this Defendant did not intentionally inflict emotional distress upon you.
14. Admit that you do not possess any documentation supporting the allegation that this Defendant intentionally inflict emotional distress upon you.
15. Admit that this Defendant did not conspire with any other individual for the purposes of injuring you.
16. Admit that you do not possess any documentation supporting the allegation that this Defendant conspired with any other individual for the purposes of injuring you.
17. Admit that this Defendant did not take any overt action in pursuit of any conspiracy to cause damage to you.
18. Admit that you do not possess any documentation supporting the allegation that this Defendant undertook any overt action in pursuit of any conspiracy to cause damage to you.
19. Admit that this Defendant did not make any false statement or representation concerning you in any printed material, on any website, or on any social media platform.
20. Admit that you do not possess any documentation supporting the allegation that this Defendant made any false statement or representation concerning you in any printed material, on any website, or on any social media platform.

Plaintiff admitted proper service and timely receipt of the written discovery requests but failed to provide any response to the requests within the time periods expressly prescribed by the South Carolina Rules of Civil Procedure. Plaintiff also failed to make any effort to obtain an enlargement of time to respond to the written discovery requests, including either by requesting an extension from the defendants who served the requests or by petitioning the Court for an enlargement of time to respond.

On September 27, 2021, Defendants filed a motion to compel responses to the interrogatories and requests for production and for an Order deeming each of the properly served requests for admission admitted in accordance with Rule 36, SCRPC. After careful review and consideration of the parties' motions and briefing, South Carolina jurisprudence, and the particular facts and circumstances of Plaintiff's complete failure to comply with the substantive and procedural requirements of the South Carolina Rules of Civil Procedure, this Court filed an Order deeming each matter of which an admission was requested of Plaintiff in Defendants' requests for admission admitted and conclusively established for trial on November 8, 2021.³

On November 15, 2021, Defendants Connelly, Persons, Wilson, and Mellen filed separate Motions for Summary Judgment as to Plaintiff's remaining causes of action for defamation per se and per quod, invasion of privacy, intentional infliction of emotional distress, and conspiracy on the grounds that the pleadings and admissions on file show that there is no genuine issue as to any material fact and, therefore, each defendant is entitled to summary judgment as a matter of law.

³ This Court also finds noteworthy that as of the date of this Court's deadline for the parties to submit any supplemental briefing, memoranda, submissions, or argument regarding these motions, Plaintiff has still failed to provide any responses to these defendants' interrogatories and requests for production in violation of this Court's Order Compelling Discovery filed on October 15, 2021. In fact, Plaintiff has completely failed to engage in any written discovery with these defendants.

LEGAL STANDARD

“A party against whom a claim, counterclaim, or cross-claim is asserted or a declaratory judgment is sought may, at any time, move with or without supporting affidavits for a summary judgment in his favor as to all or any part thereof.” Rule 56(a), SCRPC. “Summary judgment is appropriate when there is no genuine issue of material fact such that the moving party must prevail as a matter of law.” Fleming v. Rose, 350 S.C. 488, 493, 567 S.E.2d 857, 860 (2002) (citing Rule 56(c), SCRPC). “The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Rule 56(c), SCRPC. “The purpose of summary judgment is to expedite disposition of cases which do not require the services of a fact finder.” George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001) (citing Bankers Trust of South Carolina v. Benson, 267 S.C. 152, 155, 226 S.E.2d 703, 704 (1976)).

ORDER

The pleadings and admissions on file show that there is no genuine issue as to any material fact as to Plaintiff's remaining causes of action for defamation per se and per quod, invasion of privacy, intentional infliction of emotional distress, and conspiracy as to Defendants Connelly, Persons, Wilson, and Mellen. As a result, these defendants are entitled to summary judgment as a matter of law as to the causes of action without the services of a fact finder. Accordingly, this Court dismisses with prejudice the remaining claims asserted in this action by Plaintiff against Defendants Connelly, Persons, Wilson, and Mellen.

- I. There is No Genuine Issue of Material Fact Left Unresolved as to Plaintiff's Cause of Action for Defamation Against Defendants Connelly, Persons, Wilson, and Mellen.**

“The tort of defamation allows a plaintiff to recover for injury to her reputation as the result of the defendant’s communication to others of a false message about the plaintiff.” Garrard v. Charleston County School District, 429 S.C. 170, 190, 838 S.E.2d 698, 708-09 (Ct. App. 2019) (quoting Holtzscheiter v. Thomson Newspapers, Inc., 332 S.C. 502, 508, 506 S.E.2d 497, 501 (1998)). “Slander is a spoken defamation while libel is a written defamation or one accomplished by actions or conduct.” Id. “To establish a defamation claim, a plaintiff must prove: (1) a false and defamatory statement was made; (2) the unprivileged statement was published to a third party; (3) the publisher was at fault; and (4) either the statement was actionable regardless of harm or the publication of the statement caused special harm.” Id. (quoting West v. Morehead, 396 S.C. 1, 7, 720 S.E.2d 495, 498 (Ct. App. 2011); Erickson v. Jones Street Publishers, LLC, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006); Fleming v. Rose, 350 S.C. 488, 494, 567 S.E.2d 857, 860 (2002)).

The truth or substantial truth of any alleged defamatory statement is a complete defense in any case. Parker v. Evening Post Publishing Co., 317 S.C. 236, 245, 452 S.E.2d 640, 645 (Ct. App. 1994) (holding that an article found substantially true as a matter of law is an absolute defense to defamation). “It is well settled that parties are judicially bound by their pleadings [and t]he allegations, statements, or admissions contained in a pleading are conclusive as against the pleader and a party cannot subsequently take a position contradictory of, or inconsistent with, his pleadings and the facts which are admitted by the pleadings are taken as true against the pleader for the purpose of the action.” Postal v. Mann, 308 S.C. 385, 387, 418 S.E.2d 322, 323 (Ct. App. 1992) (citing Elrod v. All, 243 S.C. 425, 134 S.E.2d 410 (1964)). In addition, “South Carolina has long recognized that relevant pleadings, even if defamatory, are absolutely privileged.” Pond Place Partners, Inc. v. Poole, 351 S.C. 1, 23, 567 S.E.2d 881, 893 (Ct. App. 2002) (internal citations omitted). “When a communication is absolutely privileged, no action lies for its publication, no

matter what the circumstances under which it is published, i.e., an action will not lie even if the report is made with malice.” Id. at 22, 567 S.E.2d at 892 (quoting Hainer v. American Med. Intern., Inc., 328 S.C. 128, 135, 492 S.E.2d 103, 106 (1997)). ““The [absolute] privilege covers anything that may be said in relation to the matter at issue, whether it be in the pleadings, in affidavits, or in open court.”” Id. (quoting W. Prosser & W. Keeton, The Law of Torts, § 114, at 817 (5th ed.1984)). “That is, an ‘absolute privilege exists as to any utterance arising out of the judicial proceeding and having any reasonable relation to it, including preliminary steps leading to judicial action of any official nature provided those steps bear reasonable relationship to it.”” Id. (quoting Crowell v. Herring, 301 S.C. 424, 430, 392 S.E.2d 464, 467 (Ct. App. 1990)).

Plaintiff's Complaint generally alleges that Defendants Connelly, Persons, Wilson, and Mellen contributed to the publication of false and defamatory information about Plaintiff on a website and through several emails associated with the website. The Complaint, however, fails to identify any allegedly defamatory statements in those emails or the referenced website or otherwise provide any facts to support these claims. Moreover, Plaintiff has conclusively admitted that Defendants Connelly, Persons, Wilson, and Mellen (1) did not publish any libelous, slanderous, or defamatory statement regarding Plaintiff; (2) has not made any false statement disparaging Plaintiff; (3) has not published any false statement regarding Plaintiff; and (4) did not make any false statement or representation concerning Plaintiff in any printed material, on any website, or on any social media platform. In addition, Plaintiff has conclusively admitted that he does not possess any documentation supporting these allegations. As these facts have been conclusively established, Plaintiff cannot prove the necessary elements to support his cause of action for defamation per se and per quod against Defendants Connelly, Persons, Wilson, and Mellen. As a result, Defendants

Connelly, Persons, Wilson, and Mellen are entitled to summary judgment as a matter of law as to this cause of action.

II. There is No Genuine Issue of Material Fact Left Unresolved as to Plaintiff's Cause of Action for Invasion of Privacy Against Defendants Connelly, Persons, Wilson, and Mellen.

"In South Carolina, there are three separate and distinct causes of action for invasion of privacy: 1) wrongful appropriation of personality; 2) wrongful publicizing of private affairs; and 3) wrongful intrusion into private affairs." Sloan v. South Carolina Dep't of Pub. Safety, 355 S.C. 321, 325-26, 586 S.E.2d 108, 110 (2003) (citing Swinton Creek Nursery v. Edisto Farm Credit, 334 S.C. 469, 514 S.E.2d 126 (1999)). "Wrongful appropriation of personality involves the intentional, unconsented use of the plaintiff's name, likeness, or identity by the defendant for his own benefit." Id. "Wrongful publicizing of private affairs involves a public disclosure of private facts about the plaintiff." Snakenberg v. Hartford Cas. Ins. Co., 299 S.C. 164, 170, 383 S.E.2d 2, 10 (Ct. App. 1989). "Wrongful intrusion into private affairs, consists of the following elements, which must be pleaded and proved:

- (1) *Intrusion*. An intrusion may consist of watching, spying, prying, besetting, overhearing, or other similar conduct . . .
- (2) *Into that which is private*. The intrusion on the plaintiff must concern those aspects of himself, his home, his family, his personal relationships, and his communications which one normally expects will be free from exposure to the defendant.
- (3) *Substantial and unreasonable enough to be legally cognizable*. . .
- (4) *Intentional*. The defendant's act or course of conduct must be intentional.

Id. at 171, 383 S.E.2d at 11 (emphasis included in original).

Plaintiff's Complaint generally alleges that Defendants Connelly, Persons, Wilson, and Mellen contributed to an intrusion into his private affairs and publication of private information about Plaintiff. The Complaint, however, fails to identify the allegedly private information, means of intrusion, or publication. Moreover, Plaintiff has conclusively admitted that Defendants Connelly, Persons, Wilson, and Mellen (1) did not appropriate or exploit his personality, (2) did not publicize

his private affairs, and (3) did not intrude into his private activities. In addition, Plaintiff has conclusively admitted that he does not possess any documentation supporting these allegations. As these facts have been conclusively established, Plaintiff cannot prove the necessary elements to support his cause of action for invasion of privacy against Defendants Connelly, Persons, Wilson, and Mellen. As a result, Defendants Connelly, Persons, Wilson, and Mellen are entitled to summary judgment as a matter of law as to this cause of action.

III. There is No Genuine Issue of Material Fact Left Unresolved as to Plaintiff's Cause of Action for Intentional Infliction of Emotional Distress Against Defendants Connelly, Persons, Wilson, and Mellen.

“[I]n order to recover for intentional infliction of emotional distress, the complaining party must establish that:

- (1) the defendant intentionally or recklessly inflicted severe emotional distress, or was certain, or substantially certain, that such distress would result from his conduct;
- (2) the conduct was so ‘extreme and outrageous’ so as to exceed ‘all possible bounds of decency’ and must be regarded as ‘atrocious, and utterly intolerable in a civilized community;’
- (3) the actions of the defendant caused plaintiff’s emotional distress; and
- (4) the emotional distress suffered by the plaintiff was ‘severe’ such that ‘no reasonable man could be expected to endure it.’

Ford v. Hutson, 276 S.C. 157, 162, 276 S.E.2d 776, 778 (1981) (quoting Restatement (Second) of Torts § 46, cmts. d, i, and j). “[W]hen ruling on a summary judgment motion, a court must determine whether the plaintiff has established a prima facie case as to each element of a claim for intentional infliction of emotional distress.” Hansson v. Scalise Builders of S.C., 374 S.C. 352, 358, 650 S.E. 2d 68, 71 (2007).

Plaintiff's Complaint generally alleges that Defendants Connelly, Persons, Wilson, and Mellen contributed to the intentional infliction emotional distress upon Plaintiff through the use of

undefined severe medical conditions suffered by his wife. The Complaint, however, fails to identify the alleged medical conditions or the manner by which any of these defendants used the conditions to intentionally inflict emotional distress upon Plaintiff. Moreover, Plaintiff has conclusively admitted that Defendants Connelly, Persons, Wilson, and Mellen did not intentionally inflict emotional distress upon him. In addition, Plaintiff has conclusively admitted that he does not possess any documentation supporting his allegation that Defendants Connelly, Persons, Wilson, and Mellen intentionally inflicted emotional distress upon him. As these facts have been conclusively established, Plaintiff cannot prove the necessary elements to support his cause of action for intentional infliction of emotional distress against Defendants Connelly, Persons, Wilson, and Mellen. As a result, Defendants Connelly, Persons, Wilson, and Mellen is entitled to summary judgment as a matter of law as to this cause of action.

IV. There is No Genuine Issue of Material Fact Left Unresolved as to Plaintiff's Cause of Action for Conspiracy Against Defendants Connelly, Persons, Wilson, and Mellen.

“[A] plaintiff asserting a civil conspiracy claim must establish (1) the combination or agreement of two or more persons, (2) to commit an unlawful act or a lawful act by unlawful means, (3) together with the commission of an overt act in furtherance of the agreement, and (4) damages proximately resulting to the plaintiff.” Paradis v. Charleston County School District, __ S.C. __, 861 S.E.2d 774, 780 (2021).

Plaintiff's Complaint generally alleges that Defendants Connelly, Persons, Wilson, and Mellen conspired and colluded with others to injure Plaintiff. The Complaint, however, fails to identify an unlawful act or means by which any of these defendants contributed to any harm to Plaintiff. Moreover, Plaintiff has conclusively admitted that Defendants Connelly, Persons, Wilson, and Mellen did not (1) conspire with any other individual for the purposes of injuring him and (2)

did not take any overt action in pursuit of any conspiracy to cause damage to him. In addition, Plaintiff has conclusively admitted that he does not possess any documentation supporting these allegations. As these facts have been conclusively established, Plaintiff cannot prove the necessary elements to support his cause of action for conspiracy against Defendants Connelly, Persons, Wilson, and Mellen. As a result, Defendants Connelly, Persons, Wilson, and Mellen are entitled to summary judgment as a matter of law as to this cause of action.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the separate Motions for Summary Judgment on Behalf of Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen filed on November 15, 2021, are hereby **GRANTED** in accordance with the above order and Plaintiff's remaining causes of action for defamation per se and per quod, invasion of privacy, intentional infliction of emotional distress, and conspiracy against Defendants Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen are hereby dismissed with prejudice.

AND IT IS SO ORDERED.

The Honorable Donald B. Hocker

July ____, 2022



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Summary Judgment

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

EXHIBIT J

From: [Julia Childers](#)
To: jeff@apogeetax.com
Cc: [Justin P. Novak](#); [Diana L. Murray](#)
Subject: Davis v. Connelly, et al; C/A Nos.: 2020-CP-36-00383 and 0384
Date: Tuesday, August 2, 2022 2:48:44 PM
Attachments: [2022.08.02 Davis w clocked orders re summary judgment \(01187006xA18B7\).pdf](#)
[2022.08.01 Order granting SJ in Favor of Defs Connelly, Wilson, Persons Mellen \(01186980xA18B7\).pdf](#)
[2022.08.01 Order granting SJ in Favor of Def Kirkland \(01186979xA18B7\).pdf](#)
[2022.08.01 Order granting SJ in Favor of Defs Connelly, Wilson, Persons Mellen \(01186978xA18B7\).pdf](#)

Mr. Davis,

The attached Orders were signed by Judge Hocker on 7/30/22 and filed with the Court on 8/01/22.

Sincerely,

JULIA G. CHILDERS

LEGAL ASSISTANT TO DAVID S. COX, JOHN W. FLETCHER, MARY K. LINTON and
JUSTIN P. NOVAK



JCHILDERS@BARNWELL-WHALEY.COM

[843-577-7700](tel:843-577-7700)

BARNWELL-WHALEY.COM

BARNWELL WHALEY PATTERSON & HELMS LLC

211 KING STREET, SUITE 300

CHARLESTON, SC 29401

CONFIDENTIAL

Unless otherwise indicated or obvious from the nature of the following communication, the information contained herein is confidential information/work product. The communication is intended for the use of the individual or entity named above. If the reader of this transmission is not 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 or are not sure whether it is privileged, please immediately notify us by return e-mail and destroy any copies, electronic, paper or otherwise, which you may have of this communication.

EXHIBIT K

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2, & John Does 3-40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

**ORDER GRANTING DEFENDANTS
CHAD CONNELLY, DAVE WILSON,
TOM PERSONS, AND NEIL MELLEN'S
MOTION FOR SANCTIONS AGAINST
PLAINTIFF**

This matter came before the Court upon the Motion for Sanctions on Behalf of Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen filed on December 17, 2021 ("Motion for Sanctions"). After the Court determined that the motion could readily be decided upon the motion and briefs submitted, the Court provided each party with an additional forty (45) days to submit any supplemental briefing, memoranda, submissions, or argument from the date of this Court's Amended Bench Order filed on May 31, 2022. After careful review and consideration of the parties' motions, briefs, memoranda, and other submissions, this Court grants the Motion for Sanctions on Behalf of Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen filed on December 17, 2021.

FINDINGS OF FACT

Plaintiff, who, though an attorney licensed to practice law in the State of Georgia, prosecutes this action as a *pro se* litigant, filed the Summons and Complaint in this matter on September 10, 2020. Plaintiff shortly thereafter commenced the action against Defendants by serving the Summons and Complaint upon them individually between September 15, 2020, and September 18, 2020. In commencing this action, Plaintiff assumed full responsibility for complying with the substantive and

procedural requirements of the South Carolina Rules of Civil Procedure. State v. Burton, 356 S.C. 259, 265 n.5, 589 S.E.2d 6, 9 n.5 (2003).

The Complaint asserts six causes of action against the various named and unidentified defendants collectively, including causes of action for (1) defamation per se and per quod, (2) defamation by innuendo, (3) invasion of privacy, (4) negligence, (5) intentional infliction of emotional distress, and (6) conspiracy. On March 26, 2021, this Court dismissed the causes of action for defamation by innuendo and negligence asserted against Defendants Connelly, Persons, Wilson, and Mellen.¹ The Court also recently granted summary judgment in favor of Defendants Connelly, Persons, Wilson, and Mellen as to Plaintiff's remaining causes of action against them for defamation per se and per quod, invasion of privacy, intentional infliction of emotional distress, and conspiracy.

On July 27, 2021, Defendants Connelly, Persons, Wilson, and Mellen each properly served Plaintiff with interrogatories, requests for production, and requests for admission.² Although Plaintiff admits proper service and timely receipt of these written discovery requests and the requests state on their respective front pages that they were being served in accordance with Rules 33, 34, and 36, SCRCP, respectively, Plaintiff failed to provide any response to any of the written discovery requests within the time periods expressly prescribed in the clear and unambiguous language of Rules 33, 34, and 36, SCRCP. Plaintiff also failed to make any effort to obtain an enlargement of time to respond to the written discovery requests, including either by requesting an

¹ Plaintiff did not move for reconsideration, alteration, or amendment of the Order As To Motion to Dismiss Five Individual Defendants filed on March 26, 2021.

² These written discovery requests included Defendant Chad Connelly's First Set of Interrogatories to Plaintiff, Defendant Chad Connelly's First Set of Requests for Production to Plaintiff, Defendant Chad Connelly's First Set of Requests for Admission to Plaintiff, Defendant Dave Wilson's First Set of Interrogatories to Plaintiff, Defendant Dave Wilson's First Set of Requests for Production to Plaintiff, Defendant Dave Wilson's First Set of Requests for Admission to Plaintiff, Defendant Tom Persons' First Set of Interrogatories to Plaintiff, Defendant Tom Persons' First Set of Requests for Production to Plaintiff, Defendant Tom Persons' First Set of Requests for Admission to Plaintiff, Defendant Neil Mellen's First Set of Interrogatories to Plaintiff, Defendant Neil Mellen's First Set of Requests for Production to Plaintiff, and Defendant Neil Mellen's First Set of Requests for Admission to Plaintiff.

extension from the defendants who served the requests or by petitioning the Court for an enlargement of time to respond.

On September 8, 2021, Defendants notified Plaintiff by U.S. Mail and electronic mail that the deadline to respond to their written discovery requests had passed. In the correspondence, Defendants also sought to elicit voluntary responses to the interrogatories and requests for production and avoid judicial intervention to compel responses to those requests. After Plaintiff again failed to provide any response, Defendants filed a motion to compel responses from Plaintiff on September 27, 2021. Again, Plaintiff failed to provide any response or petition the Court for relief.

At the properly noticed hearing of the motion to compel on October 7, 2021, Plaintiff consented to respond to Defendants' interrogatories and requests for production on or before October 15, 2021. As a result, this Court filed an Order Compelling Discovery on October 15, 2021, which provided that "Plaintiff shall provide full and complete responses by 5:00 pm on October 15, 2021, to [Defendants'] discovery requests[.]" Plaintiff, however, failed to provide responses to Defendants' discovery requests in accordance with the Order Compelling Discovery. In fact, Plaintiff continues to violate the Order Compelling Discovery by having completely failed to respond to any written discovery served by Defendants Connelly, Persons, Wilson, and Mellen. In fact, the record before this Court shows that Plaintiff has totally refused to respond to any defendant's interrogatories and requests for production.

Nevertheless, Plaintiff has continued to employ this action to attempt to conduct discovery by issuing subpoenas to third parties. For example, on November 19, 2021, Plaintiff issued a subpoena to Endurance International Group Holdings, Inc. within two hours of receiving

correspondence from this Court indicating that a pending motion to quash a prior subpoena to Endurance International Group Holdings, Inc. would be granted.

LEGAL STANDARD

“If a party . . . fails to obey an order to provide or permit discovery . . . , the court in which the action is pending may make such orders in regard to the failure as are just[.]” Rule 37(b)(2), SCRCP. Such orders may include the following:

(A) An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

(B) An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting him from introducing designated matters in evidence;

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party[.]

Id. In a recent Administrative Order, the South Carolina Supreme Court “remind[ed] the circuit court judges that the seldom-utilized rule for awarding fees and imposing sanctions, SCRCP 37, is available to deter discovery abuses.” South Carolina Supreme Court Order No.: 2021-06-03-02, June 3, 2021.

“If a party . . . fails . . . (2) to serve answers or objections to interrogatories submitted under Rule 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Rule 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just.” [.]” Rule 37(d), SCRCP. “In lieu of any order or in addition thereto, the court shall require the party failing to act . . . to pay the reasonable expenses, including attorney’s fees, caused by the failure, unless the

court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.” Id.; see also Rule 37(b)(2), SCRCF.

“[S]anctions for discovery abuse are left to the sound discretion of the trial court.” McNair v. Fairfield County, 379 S.C. 462, 466, 665 S.E.2d 830, 832 (Ct. App. 2008) (citing Barnette v. Adams Bros. Logging, Inc., 355 S.C. 588, 593, 586 S.E.2d 572, 575 (2003)). “Under Rule 37(b)(2)(C), SCRCF, when a party fails to comply with a discovery order, the trial court has the discretion to impose a sanction it deems just, including an order dismissing the action.” Id., 379 S.C. at 465-66, 665 S.E.2d at 832 (citing Barnette, 355 S.C. at 593, 586 S.E.2d at 575). “[S]evere sanctions, such as the dismissal of an action, should only be imposed in cases involving bad faith, willful disobedience, or gross indifference to the opposing party’s rights.” Id. “In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice.” Id. (quoting Griffin Grading & Clearing, Inc. v. Tire Serv. Equip. Mfg. Co., 334 S.C. 193, 198-99, 511 S.E.2d 716, 719 (Ct. App. 1999)).

ORDER

Plaintiff has willfully disobeyed this Court’s Order Compelling Discovery filed on October 15, 2021, for approximately ten months. In fact, Plaintiff has shown a gross indifference to Defendants’ right to conduct discovery in accordance with the South Carolina Rules of Civil Procedure during the entire pendency of this action, including by ignoring all interrogatories, requests for production, and requests for admission served by Defendants. Plaintiff has willfully ignored any and all written discovery served upon him by any other party to this action yet continues to serve subpoenas and attempt to conduct discovery in violation of the South Carolina Rules of Civil Procedure and this Court’s indications that reiterations of previously served subpoenas may be

found violative of the South Carolina Rules of Civil Procedure. In addition, Plaintiff has forced Defendants to file unnecessary discovery motions that have required Defendants and this Court to expend undue time and resources resulting in discovery orders that Plaintiff has willfully ignored. Moreover, Plaintiff has admitted that his allegations are meritless.

As Plaintiff has shown a complete and total disregard for the South Carolina Rules of Civil Procedure and all other parties' rights to conduct discovery in the prosecution of his meritless allegations, this Court is required to take remedial, deterring, and punitive action against Plaintiff to uphold the integrity of South Carolina courts and the South Carolina Rules of Civil Procedure.³ Accordingly, this Court strikes Plaintiff's Complaint and dismisses any and all causes of actions against Defendants for refusing to comply with this Court's Order Compelling Discovery filed on October 15, 2021. In addition, this Court sanctions Plaintiff by ordering Plaintiff to pay all of Defendants' reasonable expenses, including attorney's fees, incurred as a result of (1) Plaintiff's prosecution of these meritless allegations against Defendants, (2) Defendants being required to file discovery motions that Plaintiff has willfully ignored, and (3) Plaintiff's failure to comply with and Plaintiff's total refusal to participate in discovery in accordance with the South Carolina Rules of Civil Procedure during the pendency of this action. Defendants shall submit a petition seeking reimbursement for these reasonable expenses, including attorney's fees, incurred as a result of Plaintiff's prosecution of these meritless allegations against them within 30 days of the filing of this Order. This Court reserves the right to decrease any fee request or nullify any fee request.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the Motion for Sanctions on Behalf of Chad Connelly, Tom Persons, Dave Wilson, and Neil Mellen filed on December 17, 2021 is hereby **GRANTED** in accordance with the above order and

³ There is a likelihood of repetition of this conduct as Plaintiff is currently prosecuting six other civil actions as a *pro se* litigant in South Carolina courts.

Plaintiff's Complaint is stricken with prejudice and Plaintiff is ordered to pay all of Defendants' reasonable expenses, including attorney's fees, incurred as a result of Plaintiff's prosecution of this action.

AND IT IS SO ORDERED.

The Honorable Donald B. Hocker

September ____, 2022



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Sanctions

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

EXHIBIT L

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)
Jefferson Davis, Jr.)
Plaintiff,)
vs.)
Chad Connelly, Dave Wilson,)
Steven Kirkland, Tom Persons,)
Neil Mellen, E3 Software, LLC,)
Endurance International Group)
Holdings, Inc., John Doe #1,)
John Doe #2, & John Does 3-40,)
Defendants.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Case Number: 2020-CP-36-00382

ORDER GRANTING DEFENDANT'S MOTION
FOR SANCTIONS AGAINST PLAINTIFF

This Court issued an Order on September 19, 2022 granting Defendants' (Connelly, Wilson, Persons, Mellen) Motion for Sanctions against the Plaintiff.¹ The Findings and Rulings in that Order are incorporated herein by reference. The following lawyers have requested fees and costs, by way of Affidavits², as follows:

Justin Novak: \$43,547.43
Scott Elliott: \$3,962.50
Geoffrey Chambers: \$19,608.48

It appears that the above fees and costs represent each lawyer's total time and cost spent on the case. While the Court is convinced that each lawyer has earned their requested total fees, the Court does not believe SCRCP 37 authorizes a total award of fees accrued by an attorney's involvement in the case, but rather a specific award for discovery abuses. Consequently, the Court is going to award a 15% sanction against the Plaintiff for each attorney as follows:

Justin Novak: \$6,532.00
Scott Elliott: \$594.00
Geoffrey Chambers: \$2,941

The Plaintiff shall pay the above within 90 days of the date of this Order to each attorney.

SO ORDERED.

¹The Court in this Order reserved the right to decrease or nullify any fee request.

²Plaintiff offered no opposition to the Motion or the subsequent submission of Fee Affidavits.

#1 DBA



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina

Date: 12-28-22

#2

EXHIBIT M

STATE OF SOUTH CAROLINA
COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

vs.

Chad Connelly, Dave Wilson, Stephen
Kirkland, Tom Persons, Neil Mellen, John Doe
#1, John Doe #2 & John Does 3-40

Defendants.

) IN THE COURT OF COMMON PLEAS
) EIGHTH JUDICIAL CIRCUIT
)

) C.A. NO. 2020-CP-36-00382
)
)

) **PLAINTIFFS NOTICE AND**
) **MOTION FOR**
) **RECONSIDERATION OF ORDER**
) **(01/03/2023)**

TO: DEFENDANTS

PLEASE TAKE NOTICE, pursuant to Rule 59(e), SCRCP, Plaintiff Jefferson Davis, Jr. ("Davis") hereby submits this notice and motion for reconsideration of the Court's Order entered on **January 3rd, 2023** (the "Order").

The Order was served on the Plaintiff by mail from Newberry County Clerk of Court. Similar to the Federal Rule of Civil Procedure 6(d) allowing 3 additional days, as a *pro se* party, SCRCP Rule 6(e) provides Plaintiff Davis with an additional 5 days to comply when served by mail.

"(e) Additional Time After Service by Mail or Upon Statutory Agent. Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon him and the notice or paper is served upon him by mail or upon a person designated by statute to accept service, **five days shall be added to the prescribed period.**" SCRCP, Rule 6(e) (emphasis added).

SCANNED

Plaintiff raises certain exceptions to statements, findings, and conclusions in the Order (as to be supplemented) and Plaintiff respectfully requests that the Court reconsiders the same. Plaintiff reserves the right to support this Motion with a Memorandum of Law, Affidavits, and any other relevant information to be submitted at a later date prior to a scheduled hearing on the motion.

Specifically, but not limited to, the Court failed to address blatant defamatory information complained about on the subject website that stated Plaintiff Davis had forged documents.

Furthermore, this case was originally filed on 9/10/2020. Defendants, in particular counsel Geoffrey Chambers, have been substantially (months plus) tardy on numerous occasions, yet the Court has held *pro se* Plaintiff Davis to a much higher standard, in fact strict standard, of timeliness as it related to responding to discovery, so much so that this case is not being ruled upon based the merits of the case.

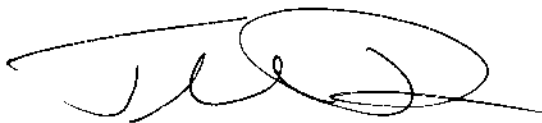
Plaintiff also wishes to raise the continuing matter of legitimate criminal activity and conspiracy among Defendants and others in this and related matters.

Although this case itself should have been a simple matter to expose corruption and defamatory actions among political parties, Defendants have unjustly avoided being held accountable for their *per se* tortious actions. Plaintiff also wished to provide additional new evidence that questions the credibility of Defendant Connelly, et al. Specifically, but not limited to evidence of Defendant Connelly lying to Governor Henry McMaster on or about March 5, 2021 as to the fundraising and bank balances as Exceptional SC.

South Carolina Rules of Civil Procedure “contemplate two basic situations in which a party should consider filing a Rule 59(e) motion. A party may wish to file such a motion when

she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it. A party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review.” Elam v. South Carolina Department of Transportation, 602 SE 2d 772 (S.C. 2004).

Respectfully submitted this 17th day of January 2023.

A handwritten signature in black ink, appearing to read 'Jeff Davis', with a horizontal line drawn underneath it.

Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com

PLAINTIFF, *PRO SE*

EXHIBIT N

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2, & John Does 3-
40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

**ORDER DENYING
PLAINTIFF'S MOTION FOR
RECONSIDERATION OF ORDER
(01/03/2023)**

This matter came before the Court upon Plaintiff's Notice and Motion for Reconsideration or Order (01/03/2023) filed on January 18, 2023, in which Plaintiff petitions the Court to reconsider the Court's Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023 ("Motion for Reconsideration"). After careful review and consideration, this Court denies the Motion for Reconsideration.

ORDER

South Carolina's Rules of Civil Procedure "contemplate two basic situations in which a party should consider filing a Rule 59(e) motion." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). "A party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." Id. "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Id. "A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not." Hickman v. Hickman, 301 S.C. 455, 456-57, 392 S.E.2d 481, 482 (Ct. App. 1990).

“A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.” Rule 59(e), SCRCP. Although Rule 6(b), SCRCP, gives trial courts limited authority to extend deadlines set forth in the rules, Rule (6)(b), SCRCP, explicitly excludes Rule 59, SCRCP, and certain other rules from that authority. Overland, Inc. v. Nance, 423 S.C. 253, 255, 815 S.E.2d 431, 432 (2018). Accordingly, “the ten-day limit for serving a Rule 59(e) motion is an absolute deadline” and any order entered after the 10-day time period is a nullity because the trial court no longer has jurisdiction over the matter. Id. (quoting Leviner v. Sonoco Prods. Co., 339 S.C. 492, 494, 530 S.E.2d 127, 128 (2000)). “The failure to serve a Rule 59(e) motion within ten days of receipt of notice of entry of the order converts the order into a final judgment, and the aggrieved party’s only recourse is to file a notice of intent to appeal.” Id. at 257, 815 S.E.2d at 433. “A party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after the filing of the motion.” Rule 59(g), SCRCP.

As a threshold matter, this Court no longer has jurisdiction over this matter because Plaintiff’s Motion for Reconsideration was served more than 10 days after Plaintiff’s receipt of written notice of the entry of the Order Granting Defendants’ Motion for Sanctions Against Plaintiff on December 28, 2022. See Overland, Inc. v. Nance, 423 S.C. 253, 255, 815 S.E.2d 431, 432 (2018) (citing Leviner v. Sonoco Prods. Co., 339 S.C. 492, 494, 530 S.E.2d 127, 128 (2000)); Wells Fargo Bank, N.A. v. Fallon Props. S.C., LLC, 422 S.C. 211, 213, 810 S.E.2d 856, 857 (2018) (holding that an email that provides written notice of entry of an order or judgment sent from the court, an attorney of record, or a party, triggers the time to serve a notice of appeal).¹ On September 19, 2022, this Court filed an Order granting Defendants’ Motion for Sanctions against Plaintiff, *inter alia*, for refusing to comply with this Court’s Order Compelling Discovery

¹ In the Motion for Reconsideration, Plaintiff erroneously states that the motion was not required to be served within 10 days of written notice of the entry of the Order because Rule 6(e), SCRCP, provides that an additional five days shall be added to the period prescribed for response by the South Carolina Rules of Civil Procedure when the notice or paper is served upon him by mail. This Court previously addressed the inapplicability of Rule 6(e), SCRCP, to Rule 59(e), SCRCP, in its Order Denying Plaintiff’s Motions for Reconsideration in this matter filed on August 12, 2022.

and ordering Plaintiff to pay Defendants' reasonable expenses, including attorneys' fees, incurred as a result of the failure to comply with the Order Compelling Discovery and the South Carolina Rules of Civil Procedure.² After the submission of various affidavits of attorneys' fees, on December 28, 2022, this Court executed and sent to the parties by email an Order Granting Defendants' Motion for Sanctions Against Plaintiff.³ This Court filed the order on January 3, 2023, and mailed a copy to Plaintiff. Defendants also served a copy of the order upon Plaintiff by U.S. Mail and email on January 5, 2023. Plaintiff did not file the Motion for Reconsideration until January 18, 2023.⁴ In the Motion for Reconsideration, Plaintiff acknowledged that "[t]he Order was served on the Plaintiff by mail from Newberry County Clerk of Court." As Plaintiff did not serve the Motion for Reconsideration not later than 10 days after receipt of written notice of the entry of the order, this Court no longer has jurisdiction over the matter. Moreover, Plaintiff failed to provide a copy of the motion to this Court within ten (10) days after the filing of the motion.⁵

In addition, Plaintiff's motion fails to identify any issue or argument raised but not ruled upon or which this Court has misunderstood or failed to consider. Instead, the motion addresses matters wholly outside the scope of the Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023. Accordingly, this Court would alternatively also deny Plaintiff's Motion for Reconsideration because the motion fails to identify any issue or argument raised but not ruled upon or which this Court has misunderstood or failed to fully consider.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that Plaintiff's Notice and Motion for Reconsideration of Order (01/03/2023) is **DENIED** in accordance with

² Plaintiff did not file a motion to alter or amend the Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions against Plaintiff filed on September 19, 2022.

³ Plaintiff offered no opposition to the submitted fee affidavits.

⁴ Although Plaintiff filed a Certificate of Service indicating a mailing of the order to the Court on January 17, 2023, this Court never received Plaintiff's Motion for Reconsideration in January of 2023.

⁵ See n.4, *supra*.

the above order.

AND IT IS SO ORDERED.

The Honorable Donald B. Hocker

June ____, 2023



Newberry Common Pleas

Case Caption: Jefferson Davis Jr VS Chad Connelly , defendant, et al

Case Number: 2020CP3600382

Type: Order/Other

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

EXHIBIT O

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF NEWBERRY

JEFFERSON DAVIS, JR.,

Plaintiff,

vs.

CHAD CONNELLY, DAVE WILSON, STEVEN
KIRKLAND, TOM PERSONS, NEIL MELLEN, E3
SOFTWARE, LLC, ENDURANCE INTERNATIONAL
GROUP HOLDINGS, INC., JOHN DOE #1, JOHN DOE #2,
& JOHN DOES 3-40,

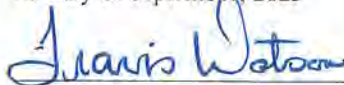
Defendants,

C.A. NO: 2020-CP- 36-00382

AFFIDAVIT OF SERVICE

PERSONALLY appeared before me the undersigned, who, being more than eighteen years of age, being duly sworn, says that he served a **Cover Letter dated September 11, 2023, Order Denying Plaintiff's Motion for Reconsideration of Order (01/03/2023)** in the above-entitled matter on Jefferson Davis, Jr. by delivery to Jefferson Davis, Jr., personally, and leaving with him one copy of the same at the following address: 2505 Wade Hampton Boulevard, Greenville, SC 29615 on the 15th day of September 2023, at 11:14 a.m. The deponent is not a party to nor interested in this action. The defendant was served at a neutral location, but resides at 403 McCarter Avenue, Greenville, SC 29615.

SWORN to before me this the
15th day of September, 2023

 (LS)

Notary Public for South Carolina

My commission expires: 12/06/2027


J. Patrick Watson

Description of Person: SEX male; SKIN COLOR white AGE 55-60

Receiving Documents: FACIAL HAIR none HGT., 5'11" WGT., 210 HAIR brown/gray

EXHIBIT P

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)

IN THE COURT OF COMMON PLEAS

Jefferson Davis, Jr.)
Plaintiff)

vs.)

ORDER AND RULE TO SHOW CAUSE
2020-CP-36-00382

Chad Connelly, Dave Wilson, Steven)
Kirkland, Tom Persons, Neil Mellen,)
E3 Software, LLC, Endurance)
International Group Holdings, Inc.,)
John Doe #1, John Doe #2 and)
John Doe #3-40,)
Defendant)

To: Plaintiff, Jefferson Davis:

Upon consideration of the attached Motion, it is

Hereby Ordered that the Plaintiff, Jefferson Davis, appear before this Court on December 5, 2023 at 1:45 p.m., at the Laurens County Courthouse, 100 Hillcrest Square, Laurens, South Carolina, and show cause, if any you can, why you shall not be held in contempt for failing to comply with the subject Order, dated December 22, 2022.

So Ordered.



Donald B. Hocker
Circuit Court Judge

Laurens, South Carolina
Date: 10-20-23

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,
Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Group Holdings, Inc.,
John Doe #1, John Doe #2, & John Does 3-40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

**RULE TO SHOW CAUSE
AND MOTION FOR AN ORDER OF
CONTEMPT AND ADDITIONAL
SANCTIONS**

Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen ("Defendants"), by and through the undersigned counsel, move this Court to issue a Rule to Show Cause and for an Order of Contempt and Additional Sanctions arising from Plaintiff's refusal to comply with this Court's Order Granting Defendant's Motion for Sanctions Against Plaintiff filed on January 3, 2023, ("Order Granting Attorneys' Fees") pursuant to Rules 11, 37(b)(2), SCRCP, and S.C. Code § 14-5-320.

BACKGROUND

On July 27, 2021, Defendants served Plaintiff with interrogatories, requests for production, and requests for admission. After Plaintiff failed to provide any response to any of the written discovery requests, Defendants filed a motion to compel responses from Plaintiff on September 27, 2021. This Court filed an Order Compelling Discovery commanding Plaintiff to respond to the interrogatories and requests for production by 5:00 pm on October 15, 2021. Plaintiff, however, failed to provide responses to Defendants' discovery requests in accordance with the Order Compelling Discovery.

On December 17, 2021, Defendants filed a Motion for Sanctions pursuant to Rules 11 and 37(b)(2), SCRCP, seeking sanctions, *inter alia*, for Plaintiff's failure to comply with the Order

Compelling Discovery. After this Court granted summary judgment in favor of Defendants as to all claims asserted by Plaintiff,¹ on September 19, 2022, this Court filed an Order granting Defendants' Motion for Sanctions against Plaintiff, *inter alia*, for refusing to comply with this Court's Order Compelling Discovery and ordering Plaintiff to pay Defendants' reasonable expenses, including attorneys' fees, incurred as a result of the failure to comply with the Order Compelling Discovery and the South Carolina Rules of Civil Procedure.²

After the submission of various affidavits of attorneys' fees, on December 28, 2022, this Court executed and sent to the parties by email an Order Granting Defendants' Motion for Sanctions Against Plaintiff that commanded Plaintiff to pay \$7,126.00 in fees and costs incurred by Defendants within 90 days of the date of the order. (Exhibit A.) This Court filed the order on January 3, 2023, and mailed a copy to Plaintiff.³ Defendants also served a copy of the order upon Plaintiff by U.S. Mail and email on January 5, 2023. (Exhibit B.)

Plaintiff offered no opposition to the submission of the fee affidavits. On January 18, 2023, however, Plaintiff filed Plaintiffs Notice and Motion for Reconsideration of Order (01/03/2023) ("Motion for Reconsideration") pursuant to Rule 59(e), SCRCP, in which Plaintiff sought reconsideration of the order on the following grounds:

[T]he Court failed to address blatant defamatory information complained about on the subject website that stated Plaintiff Davis had forged documents.

* * * *

Defendants, in particular counsel Geoffrey Chambers, have been substantially (months plus) tardy on numerous occasions, yet the Court has held *pro se* Plaintiff Davis to a much higher standard, in fact strict standard, of timeliness as it related to responding to discovery, so much so that this case is not being ruled upon based the merits of the case.

¹ Plaintiff did not file a motion to alter or amend the Order Granting Summary Judgment in Favor of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen filed on August 1, 2022.

² Plaintiff did not file a motion to alter or amend the Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions against Plaintiff filed on September 19, 2022.

³ Ninety days from the date of the execution and first written notice of the order was March 28, 2023. Ninety days from the filing and mailing of the order was April 3, 2023.

* * * *

Plaintiff also wishes to raise the continuing matter of legitimate criminal activity and conspiracy among Defendants and others in this and related matters.

* * * *

Plaintiff also wished to provide additional new evidence that questions the credibility of Defendant Connelly, et al. Specifically, but not limited to evidence of Defendant Connelly lying to Governor Henry McMaster on or about March 5, 2021 as to the fundraising and bank balances as Exceptional SC.

(Mot. Reconsider pp. 2-3.) In the Motion for Reconsideration, Plaintiff admitted that “[t]he Order was served on the Plaintiff by mail from Newberry County Clerk of Court.” (Mot. Reconsideration p. 1.) The Motion for Reconsideration did not address any issue or argument not ruled upon or challenge any findings of fact or conclusions of law in the Order Granting Defendants’ Motion for Sanctions Against Plaintiff. (See Mot. Reconsideration.)

LEGAL STANDARD

“If a party . . . fails to obey an order to provide or permit discovery . . . , the court in which the action is pending may make such orders in regard to the failure as are just[.]” Rule 37(b)(2), SCRCP. Such orders may include “an order treating as a contempt of court the failure to obey any orders except an order to submit to a physical or mental examination[.]” Rule 37(b)(2)(D), SCRCP. “In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order . . . to pay the reasonable expenses, including attorney’s fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.” Rule 37(b)(2), SCRCP.

“The power to punish for contempt . . . is essential to the preservation of order in judicial proceedings, and to the enforcement of the judgments, orders and writs of the courts, and consequently to the due administration of justice.” Miller v. Miller, 375 S.C. 443, 453, 652 S.E.2d 754, 759, (2007 Ct. App.) (citing Floyd v. Floyd, 365 S.C. 56, 73, 615 S.E.2d 465, 474 (Ct. App. 2005)); see

also S.C. Code § 14-5-320 (“The circuit court may punish by fine or imprisonment, at the discretion of the court, all contempts of authority in any cause or hearing before the same.”). In fact, “[c]ourts have no more important function to perform in the administration of justice than to ensure their orders are obeyed.” State v. Bevilacqua, 316 S.C. 122, 128, 447 S.E.2d 213, 216 (Ct. App. 1994). As a result, “courts have the inherent power to punish for offenses that are calculated to obstruct, degrade, and undermine the administration of justice.” Miller, 375 S.C. at 453, 652 S.E.2d at 759 (quoting Brandt v. Gooding, 368 S.C. 618, 628, 630 S.E.2d 259, 264 (2006)). “The appellate courts of this state have zealously defended the right of trial courts to vindicate their authority by way of contempt.” Bevilacqua, 316 S.C. at 128, 447 S.E.2d at 216.

In addition, “[a] party who is not represented by an attorney shall sign his pleading, motion or other paper and state his address.” Rule 11(a), SCRPC. “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.” Id. “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 . . . 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.” Id.

ARGUMENT

Plaintiff has continued to willfully disobey this Court’s orders by ignoring the Order Granting Defendants’ Motion for Sanctions Against Plaintiff executed on December 28, 2022, which commanded Plaintiff to reimburse Defendants within 90 days of the date of the order for a portion of the expenses, fees, and costs incurred as a result of Plaintiff’s failure to comply with this Court’s previous Order Compelling Discovery filed on October 15, 2021. Plaintiff has shown a gross

indifference to Defendants' rights and the Court's authority through his continued disobedience of these orders and the South Carolina Rules of Civil Procedure.⁴ Accordingly, this Court should take action to uphold the integrity of the Court and the South Carolina Rules of Civil Procedure.⁵ Defendants, therefore, request that this Court issue a rule to show cause and hold Plaintiff in contempt for refusing to comply with this Court's Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023. In addition, this Court should further sanction Plaintiff by ordering Plaintiff to pay all of Defendants' reasonable expenses, including attorney's fees, incurred as a result of Plaintiff's failure to comply with the order.

This Court should also sanction Plaintiff for signing, serving, and filing Plaintiff's Notice of and Motion for Reconsideration of Order (01/03/2023) because the motion was patently untimely, there is no good ground to support it, and it is interposed merely for delay payment of the sanctions awarded in the Court's Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023. Plaintiff's Motion for Reconsideration was served more than 10 days after Plaintiff's receipt of written notice of the entry of the Order on December 28, 2022. See Wells Fargo Bank, N.A. v. Fallon Props. S.C., LLC, 422 S.C. 211, 213, 810 S.E.2d 856, 857 (2018) (holding that an email that provides written notice of entry of an order or judgment sent from the court, an attorney of record, or a party, triggers the time to serve a notice of appeal). Nevertheless, Plaintiff served the motion on January 17, 2023, and relied on service of the motion to delay payment of the sanctions award. (See Exhibit C.)

In the Motion for Reconsideration, Plaintiff erroneously states that the Motion for

⁴ See Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions against Plaintiff filed on September 19, 2022, p. 5-6 ("Plaintiff has willfully disobeyed this Court's Order Compelling Discovery filed on October 15, 2021, for approximately ten months [and] has shown a complete and total disregard for the South Carolina Rules of Civil Procedure and all other parties' rights to conduct discovery in the prosecution of his meritless allegations.")

⁵ There is a likelihood of repetition of this conduct based upon Plaintiff's repeated disregard for court orders, other parties' rights, the South Carolina Rules of Civil Procedure in this matter and Plaintiff's prosecution of numerous other civil actions as a *pro se* litigant in South Carolina courts.

Reconsideration was not required to be served within 10 days of written notice of the entry of the Order because Rule 6(e), SCRPC, provides that an additional five days shall be added to the period prescribed for response by the South Carolina Rules of Civil Procedure when the notice or paper is served upon him by mail. Plaintiff, however, ignores the unambiguous language of Rule 59(e), SCRPC, which expressly provides that “[a]motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order” and of Rule 6(b), SCRPC, which provides that “the time for taking any action under rules 50(b), 52(b), 59, and 60(b) may not be extended except to the extent and under the conditions stated in them.” See also Overland, Inc. v. Nance, 423 S.C. 253, 255, 815 S.E.2d 431, 432 (2018) (“Rule 6(b) of the South Carolina Rules of Civil Procedure gives trial courts limited authority to extend deadlines set forth in the Rules[; h]owever, Rule (6)(b) explicitly excludes Rule 59 and certain other rules from that authority.”). Plaintiff also cannot assert ignorance to the absoluteness of this 10-day deadline. In addition to appearing in the express and unambiguous language of these rules, this Court expressly addressed the inapplicability of Rule 6(e), SCRPC, to Rule 59(e), SCRPC, in its Order Denying Plaintiff’s Motions for Reconsideration in this matter filed on August 12, 2022. (Exhibit D.)

The grounds for reconsideration stated in the Motion to Reconsider also do not address any issue or argument not ruled upon or challenge any findings of fact or conclusions of law in the Order Granting Defendants’ Motion for Sanctions Against Plaintiff. While the Order granting Defendants’ Motion for Sanctions against Plaintiff filed on September 19, 2022, addressed the findings of fact and conclusions of law supporting this Court’s determination that certain sanctions against Plaintiff are warranted,⁶ the Order Granting Defendants’ Motion for Sanctions Against Plaintiff filed on January

⁶ Importantly, Plaintiff did not file a motion to alter or amend the Order Granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen’s Motion for Sanctions against Plaintiff filed on September 19, 2022, and that those findings are now the law of the case. See Judy v. Martin, 381 S.C. 455, 458, 674 S.E.2d 151, 153 (2009) (determining that a party may not seek relief from an order not appealed “because the order has become the law of the case”).

3, 2023, addressed only the amount of fees and costs to be awarded. Plaintiff's Motion to Reconsider, however, does not even mention the award of fees and costs and Plaintiff offered no opposition to the submission of fee affidavits. Instead, the motion addressed only matters wholly outside the scope of the Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023. As a result, there cannot be any good ground to support the motion.

CONCLUSION

For the foregoing reasons, this Court should issue a Rule to Show Cause and Order of Contempt imposing additional sanctions upon Plaintiff for his continued refusal to comply with this Court's orders. These sanctions should include compelling Plaintiff to satisfy the previous sanctions award and ordering Plaintiff to pay all of Defendants' reasonable expenses, including attorney's fees, incurred as a result of Plaintiff's willful failure to comply with the Order Granting Defendants' Motion for Sanctions Against Plaintiff filed on January 3, 2023.

[Separate Signature Page Follows]

Respectfully submitted,

**BARNWELL WHALEY PATTERSON &
HELMS, LLC**

/s/ Justin P. Novak

M. Dawes Cooke, Jr., Esquire
Justin P. Novak, Esquire
P.O. Drawer H
Charleston, South Carolina 29402
Phone: (843) 577-7700
Fax: (843) 577-7708
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com

*Attorneys for Defendants Chad Connelly,
Dave Wilson, Tom Persons, and Neil Mellen*

May 17, 2023

EXHIBIT A

| | | |
|--------------------------------|---|-----------------------------------|
| STATE OF SOUTH CAROLINA |) | |
| |) | IN THE COURT OF COMMON PLEAS |
| COUNTY OF NEWBERRY |) | EIGHTH JUDICIAL CIRCUIT |
| |) | |
| Jefferson Davis, Jr. |) | Case Number: 2020-CP-36-00382 |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | ORDER GRANTING DEFENDANT'S MOTION |
| |) | FOR SANCTIONS AGAINST PLAINTIFF |
| Chad Connelly, Dave Wilson, |) | |
| Steven Kirkland, Tom Persons, |) | |
| Neil Mellen, E3 Software, LLC, |) | |
| Endurance International Group |) | |
| Holdings, Inc., John Doe #1, |) | |
| John Doe #2, & John Does 3-40, |) | |
| |) | |
| Defendants. |) | |

This Court issued an Order on September 19, 2022 granting Defendants' (Connelly, Wilson, Persons, Mellen) Motion for Sanctions against the Plaintiff.¹ The Findings and Rulings in that Order are incorporated herein by reference. The following lawyers have requested fees and costs, by way of Affidavits², as follows:

Justin Novak: \$43,547.43
Scott Elliott: \$3,962.50
Geoffrey Chambers: \$19,608.48

It appears that the above fees and costs represent each lawyer's total time and cost spent on the case. While the Court is convinced that each lawyer has earned their requested total fees, the Court does not believe SCRCP 37 authorizes a total award of fees accrued by an attorney's involvement in the case, but rather a specific award for discovery abuses. Consequently, the Court is going to award a 15% sanction against the Plaintiff for each attorney as follows:

Justin Novak: \$6,532.00
Scott Elliott: \$594.00
Geoffrey Chambers: \$2,941

The Plaintiff shall pay the above within 90 days of the date of this Order to each attorney.

SO ORDERED.

¹The Court in this Order reserved the right to decrease or nullify any fee request.

²Plaintiff offered no opposition to the Motion or the subsequent submission of Fee Affidavits.

#1 DBA



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina

Date: 12-28-22



EXHIBIT B

EST. 1938

BARNWELL WHALEY

ATTORNEYS AT LAW

JUSTIN P. NOVAK
SPECIAL COUNSEL

JNOVAK@BARNWELL-WHALEY.COM

January 5, 2023

Via U.S. Certified Mail

Jefferson Davis, Jr.
403 McCarter Avenue
Greenville, SC 29615

RE: Jefferson Davis, Jr. v Chad Connelly, Dave Wilson, et al.
C/A No. 2020-CP-36-00382

Dear Mr. Davis,

As you know, on January 3, 2023, Judge Hocker entered an Order granting Defendants' Motion for Sanctions against you in the above-referenced matter (enclosed). The judgment is in the amount of \$6,532.00.

Please remit payment to Barnwell Whaley Patterson & Helms, LLC Trust Account to satisfy the amount owed pursuant to the Order. Your payment should be mailed to Barnwell Whaley Patterson & Helms LLC, 211 King Street, Suite 300, Charleston, South Carolina 29401.

Regards,

/s/ Justin P. Novak

Justin P. Novak

Enclosures as stated

JPN/dlm

26752.DOCX.1}

BARNWELL WHALEY PATTERSON & HELMS LLC

211 KING STREET, SUITE 300
CHARLESTON, SC 29401
P: 843-577-7700 F: 843-577-7708

201 NORTH FRONT STREET, SUITE 1003
WILMINGTON, NC 28401
P: 910-679-1388 F: 910-679-4663

BARNWELL-WHALEY.COM

ELECTRONICALLY FILED - 2023 Oct 24 11:01 AM - NEWBERRY - COMMON PLEAS - CASE#2020CP3600382
ELECTRONICALLY FILED - 2023 May 17 3:59 PM - NEWBERRY - COMMON PLEAS - CASE#2020CP3600382

STATE OF SOUTH CAROLINA)
COUNTY OF NEWBERRY)
Jefferson Davis, Jr.)
Plaintiff,)
vs.)
Chad Connelly, Dave Wilson,)
Steven Kirkland, Tom Persons,)
Neil Mellen, E3 Software, LLC,)
Endurance International Group)
Holdings, Inc., John Doe #1,)
John Doe #2, & John Does 3-40,)
Defendants.)

IN THE COURT OF COMMON PLEAS
EIGHTH JUDICIAL CIRCUIT

Case Number: 2020-CP-36-00382

ORDER GRANTING DEFENDANT'S MOTION
FOR SANCTIONS AGAINST PLAINTIFF

This Court issued an Order on September 19, 2022 granting Defendants' (Connelly, Wilson, Persons, Mellen) Motion for Sanctions against the Plaintiff.¹ The Findings and Rulings in that Order are incorporated herein by reference. The following lawyers have requested fees and costs, by way of Affidavits², as follows:

Justin Novak: \$43,547.43
Scott Elliott: \$3,962.50
Geoffrey Chambers: \$19,608.48

It appears that the above fees and costs represent each lawyer's total time and cost spent on the case. While the Court is convinced that each lawyer has earned their requested total fees, the Court does not believe SCRCP 37 authorizes a total award of fees accrued by an attorney's involvement in the case, but rather a specific award for discovery abuses. Consequently, the Court is going to award a 15% sanction against the Plaintiff for each attorney as follows:

Justin Novak: \$6,532.00
Scott Elliott: \$594.00
Geoffrey Chambers: \$2,941

The Plaintiff shall pay the above within 90 days of the date of this Order to each attorney.

SO ORDERED.

¹The Court in this Order reserved the right to decrease or nullify any fee request.

²Plaintiff offered no opposition to the Motion or the subsequent submission of Fee Affidavits.

#1 DBA



DONALD B. HOCKER
CIRCUIT COURT JUDGE

Laurens, South Carolina

Date: 12-28-22

#2

EXHIBIT C

From: Jeff Davis
To: Hocker, Donald B. Law Clerk (Manning Cathcart)
Cc: Justin P. Novak; Geoffrey Chambers; Wilson, Skyler C.; selliot@elliottlaw.us; Diana L. Murray; Hocker, Donald B.; Hocker, Donald B. Secretary (Regan A. Snow)
Subject: [EXT] Re: Davis v. Connelly 20-CP-36-382/384
Date: Monday, May 15, 2023 11:39:00 AM
Attachments: 2023-01-18 - Motion to Reconsider x82- FILED v01.pdf
2023-01-18 - Motion to Reconsider x84- FILED v01.pdf

Ms. Cathcart,

Motions to Reconsider (2) were filed on January 18th, 2023 in both cases (x82 & x84). We are waiting on the court to rule as a necessary prerequisite before any appeal can be filed.

Please see attached.

I also understand that everything in these two cases is on hold until those two motions are ruled upon, and appeals are resolved. **If that is not the case, please advise.**

PLEASE KNOW, I received demand letters today (dated 5/12/2023) from plaintiff's counsel related to the award of attorneys fees. Since Mr. Connelly has been reportedly telling people I am going to be "arrested" for something related to these cases, I would like to clarify the above point with the court.

Is payment of the attorney's fee award required prior to resolution of any appeals?

Thank you.

Jeff Davis
843-901-8036 (cell)

Jeff Davis, JD, MBA, CPA(GA)
843-901-8036 (cell) | 866-501-7471 (fax) | jeff@apogeetax.com

CONFIDENTIAL INFORMATION: The information contained in this E-mail message is attorney privileged and / or confidential information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Active and licensed attorney and CPA in Georgia (not SC). Thank you.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication or attachment.

On Mon, May 8, 2023 at 2:10 PM Hocker, Donald B. Law Clerk (Manning Cathcart)
<dhockerlc@sccourts.org> wrote:

Good Afternoon All,

Judge Hocker would like to know if there is anything else he needs to do in either or both of these cases. Please let us know at your earliest convenience.

Sincerely,

Manning Cathcart

Law Clerk for the Honorable Donald B. Hocker

Eighth Judicial Circuit

SC Bar #: 105730

dhockerlc@sccourts.org

(864) 993-8350

~~~ 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.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

# EXHIBIT D

STATE OF SOUTH CAROLINA

COUNTY OF NEWBERRY

Jefferson Davis, Jr.,

Plaintiff,

v.

Chad Connelly, Dave Wilson, Steven Kirkland,  
Tom Persons, Neil Mellen, E3 Software, LLC,  
Endurance International Group Holdings, Inc.,  
John Doe #1, John Doe #2, & John Does 3-  
40,

Defendants.

IN THE COURT OF COMMON PLEAS

CIVIL ACTION NO.: 2020-CP-36-00382

**ORDER DENYING  
PLAINTIFF'S MOTIONS FOR  
RECONSIDERATION**

This matter came before the Court upon Plaintiff's Motion for Reconsideration of this Court's Order Granting John Doe 1's Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. filed on January 19, 2022 ("Motion for Reconsideration").<sup>1</sup> After careful review and consideration, this Court denies Plaintiff's Motion for Reconsideration.

**ORDER**

South Carolina's Rules of Civil Procedure "contemplate two basic situations in which a party should consider filing a Rule 59(e) motion." Elam v. South Carolina Dept. of Transp., 361 S.C. 9, 24, 602 S.E.2d 772, 780 (2004). "A party must file such a motion when an issue or argument has been raised, but not ruled on, in order to preserve it for appellate review." Id. "A party may wish to file such a motion when she believes the court has misunderstood, failed to fully consider, or perhaps failed to rule on an argument or issue, and the party wishes for the court to reconsider or rule on it." Id. "A party cannot use Rule 59(e) to present to the court an issue the party could have raised prior to judgment but did not." Hickman v.

---

<sup>1</sup> Order Granting John Doe 1's Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. filed on January 4, 2022.

Hickman, 301 S.C. 455, 456-57, 392 S.E.2d 481, 482 (Ct. App. 1990). “A motion to alter or amend the judgment shall be served not later than 10 days after receipt of written notice of the entry of the order.” Rule 59(e), SCRCp.

As a preliminary matter, Plaintiff’s Motion for Reconsideration is untimely as it was served more than 10 days after Plaintiff’s receipt of written notice of the entry of the Order Granting John Doe 1’s Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. (“Order”). In the Motion for Reconsideration, Plaintiff erroneously states that the Motion for Reconsideration was not required to be served within 10 days of written notice of the entry of the Order because Rule 6(e), SCRCp, provides that an additional five days shall be added to the period prescribed for response by the South Carolina Rules of Civil Procedure when the notice or paper is served upon him by mail. Plaintiff, however, ignores the unambiguous language of Rule 6(b), SCRCp, which provides that “[t]he time for taking any action under rules 50(b), 52(b), 59, and 60(b) may not be extended except to the extent and under the conditions stated in them.” Rule 6(b), SCRCp. As a result, Plaintiff’s Motion for Reconsideration is untimely and this Court cannot grant Plaintiff’s Motion for Reconsideration. In addition, Plaintiff’s motion fails to identify any issue or argument raised but not ruled upon or which this Court has misunderstood or failed to consider. Plaintiff, instead, revisits previously raised arguments and allegations. Accordingly, this Court denies Plaintiff’s Motion for Reconsideration because Plaintiff’s motion fails to identify any issue or argument raised but not ruled upon or which this Court has misunderstood or failed to fully consider.

**THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that Plaintiff’s Motion for Reconsideration of this Court’s Order Granting John Doe 1’s Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. filed on January 19, 2022, is **DENIED** in accordance with the above order.

**AND IT IS SO ORDERED.**

---

The Honorable Donald B. Hocker

July \_\_\_\_, 2022



Newberry Common Pleas

**Case Caption:** Jefferson Davis Jr VS Chad Connelly , defendant, et al  
**Case Number:** 2020CP3600382  
**Type:** Order/Quash

Circuit Court Judge

s/Donald B. Hocker, Judge Code 2167

## EXHIBIT Q

**From:** [Hocker, Donald B. Secretary \(Regan A. Snow\)](#)  
**To:** [Justin P. Novak](#); [Geoffrey Chambers](#); [Wilson, Skyler C.](#); [Shelby Lott](#)  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); [Jeff Davis](#); [Janeen Toby](#); [Hocker, Donald B.](#); [Hocker, Donald B. Law Clerk \(Carson Anderson\)](#); [Jessica Attaway](#)  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384  
**Date:** Friday, October 27, 2023 11:32:50 AM  
**Importance:** High

---

Everyone:

We received notice that Mr. Davis has filed a Notice of Appeal in the cases above. Judge Hocker will cancel the Rule to Show Cause hearing that was scheduled for December 5, 2023, in light of the appeal.

Thank you,

Regan.

*Regan A. Snow*

*Administrative Assistant for*

*Donald B. Hocker, Circuit Court Judge*

*Post Office Box 972*

*100 Hillcrest Square, Suite B*

*Laurens, South Carolina 29360*

*864-984-2076 (Office)*

*864-984-2333 (Fax)*

*[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)*

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)

**Sent:** Friday, October 20, 2023 1:53 PM

**To:** 'Justin P. Novak' <jnovak@barnwell-whaley.com>; 'Geoffrey Chambers' <geoffrey@cperlgroup.com>; 'Wilson, Skyler C.' <swilson@cslv.law>; 'Shelby Lott' <slott@barnwell-whaley.com>

**Cc:** 'selliott@elliottlaw.us' <selliott@elliottlaw.us>; 'Jeff Davis' <jeff@apogeetax.com>; 'Janeen Toby' <jtoby@newberrycounty.net>; Hocker, Donald B. <dhockerj@sccourts.org>; Hocker, Donald B. Law Clerk (Carson Anderson) <dhockerlc@sccourts.org>; 'Jessica Attaway' <jattaway@newberrycounty.gov>

**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

Good afternoon:

Attached please find the signed Order and Rule to Show Cause.

Thank you,

Regan.

*Regan A. Snow*

*Administrative Assistant for*

*Donald B. Hocker, Circuit Court Judge*

*Post Office Box 972*

*100 Hillcrest Square, Suite B*

*Laurens, South Carolina 29360*

*864-984-2076 (Office)*

*864-984-2333 (Fax)*

*[dhockersc@scccourts.org](mailto:dhockersc@scccourts.org)*

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)

**Sent:** Friday, October 20, 2023 11:16 AM

**To:** 'Justin P. Novak' <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; 'Geoffrey Chambers' <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; 'Wilson, Skyler C.' <[swilson@csl.law](mailto:swilson@csl.law)>; 'Shelby Lott' <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>

**Cc:** 'sellott@elliottlaw.us' <[sellott@elliottlaw.us](mailto:sellott@elliottlaw.us)>; 'Jeff Davis' <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; 'Janeen Toby' <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@scccourts.org](mailto:dhockerj@scccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@scccourts.org](mailto:dhockerlc@scccourts.org)>; 'Jessica Attaway' <[jattaway@newberrycounty.gov](mailto:jattaway@newberrycounty.gov)>

**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

**Importance:** High

Everyone:

We are going to schedule the in-person hearing for December 5<sup>th</sup> at 1:45 p.m. This hearing is concerning the Rule to Show Cause and motions. The hearing will be held in Laurens.

Thank you,  
Regan.

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)

**Sent:** Tuesday, October 17, 2023 12:48 PM

**To:** 'Justin P. Novak' <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; 'Geoffrey Chambers' <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; 'Wilson, Skyler C.' <[swilson@csl.law](mailto:swilson@csl.law)>; 'Shelby Lott' <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>

**Cc:** 'sellott@elliottlaw.us' <[sellott@elliottlaw.us](mailto:sellott@elliottlaw.us)>; 'Jeff Davis' <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; 'Janeen Toby' <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@scccourts.org](mailto:dhockerj@scccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@scccourts.org](mailto:dhockerlc@scccourts.org)>

**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

Good afternoon:

Does anyone else have any dates that would not be good for an in-person hearing?

Thank you,  
Regan.

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)  
**Sent:** Monday, October 9, 2023 1:26 PM  
**To:** 'Justin P. Novak' <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>; Shelby Lott <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

Thank you. We will be mindful of those dates.

---

**From:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>  
**Sent:** Monday, October 9, 2023 11:14 AM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>; Shelby Lott <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

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

Regan,

If possible, I would like to avoid the following days:

- November 7, 10, 13
- The week of November 20-24
- December 8
- The week of December 18-22
- The week of December 25-29

Thank you for your consideration.

Justin

**JUSTIN NOVAK | SPECIAL COUNSEL**  
**BARNWELL WHALEY PATTERSON & HELMS, LLC**  
**Charleston, SC | Wilmington, NC (PLLC)**  
843-577-7700  
[Email](#) | [Firm Website](#) | [Bio](#) | [vCard](#)

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Sent:** Monday, October 9, 2023 10:38 AM  
**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroupp.com](mailto:geoffrey@cperlgroupp.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>; Shelby Lott <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** [EXT] RE: Davis v. Connolly 20-CP-36-382/384

Good morning:

Please let me know if there are any particular week/weeks not good for an in-person hearing. Please see my email below.

Thank you,  
Regan.

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow)  
**Sent:** Tuesday, October 3, 2023 11:47 AM  
**To:** 'Justin P. Novak' <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroupp.com](mailto:geoffrey@cperlgroupp.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>; Shelby Lott <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** Davis v. Connolly 20-CP-36-382/384

Everyone:

Please let me know if there are any particular week/weeks not good for an in-person hearing from now until the end of the year. This is in reference to the pending Rule to Show Cause and Motions in both cases.

Thank you,  
Regan.

*Regan A. Snow*  
*Administrative Assistant for*  
*Donald B. Hocker, Circuit Court Judge*  
*Post Office Box 972*  
*100 Hillcrest Square, Suite B*  
*Laurens, South Carolina 29360*  
*864-984-2076 (Office)*  
*864-984-2333 (Fax)*  
*[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)*

---

**From:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>  
**Sent:** Tuesday, October 3, 2023 10:33 AM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>; Shelby Lott <[slott@barnwell-whaley.com](mailto:slott@barnwell-whaley.com)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

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

Regan,

Thank you for checking in on this matter. My understanding is that the only outstanding matters in these two cases are Defendant's rules to show cause and motions filed in each case on May 17, 2023.

Regards,

Justin

**JUSTIN NOVAK | SPECIAL COUNSEL**  
**BARNWELL WHALEY PATTERSON & HELMS, LLC**  
**Charleston, SC | Wilmington, NC (PLLC)**  
843-577-7700  
[Email](#) | [Firm Website](#) | [Bio](#) | [vCard](#)

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Sent:** Friday, September 29, 2023 11:14 AM  
**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvg.law](mailto:swilson@csvg.law)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker, Donald B. Law Clerk (Carson Anderson) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

Everyone:

Judge Hocker wanted a status report on this case to determine whether or not his assistance is still needed, or whether he can close his file.

Thank you,  
Regan.

*Regan A. Snow*  
*Administrative Assistant for*  
*Donald B. Hocker, Circuit Court Judge*  
*Post Office Box 972*  
*100 Hillcrest Square, Suite B*  
*Laurens, South Carolina 29360*  
*864-984-2076 (Office)*  
*864-984-2333 (Fax)*  
*[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)*

---

**From:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>  
**Sent:** Monday, June 5, 2023 9:26 AM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvg.law](mailto:swilson@csvg.law)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

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

Thank you, Regan.

Defense counsel will prepare the order.

Regards,

Justin

**JUSTIN NOVAK | SPECIAL COUNSEL**  
**BARNWELL WHALEY PATTERSON & HELMS, LLC**  
**Charleston, SC | Wilmington, NC (PLLC)**  
843-577-7700  
[Email](#) | [Firm Website](#) | [Bio](#) | [vCard](#)

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Sent:** Monday, June 5, 2023 9:16 AM  
**To:** Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csl.law](mailto:swilson@csl.law)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>; Janeen Toby <[jtoby@newberrycounty.net](mailto:jtoby@newberrycounty.net)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

Good morning:

Judge Hocker would ask Defense counsel to prepare an appropriate Order deny Plaintiff's Motion for Reconsideration in both cases. In addition, please include the fact that this Court never received Plaintiff's Motions for Reconsideration in January of 2023 contrary to his Certificates of Service indicating a mailing to the Court on January 17, 2023 in violation of Rule 59(g).

Thank you,  
Regan Snow  
*Regan A. Snow*  
*Administrative Assistant for*  
*Donald B. Hocker, Circuit Court Judge*  
*Post Office Box 972*  
*100 Hillcrest Square, Suite B*  
*Laurens, South Carolina 29360*  
*864-984-2076 (Office)*  
*864-984-2333 (Fax)*

*dhockersc@sccourts.org*

---

**From:** Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>  
**Sent:** Monday, May 22, 2023 2:22 PM  
**To:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>; Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers <[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csl.law](mailto:swilson@csl.law)>  
**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>  
**Subject:** RE: [EXT] RE: Davis v. Connelly 20-CP-36-382/384

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

Thank you, Regan.

Attorney Novak has filed a Response in Opposition to Plaintiff's Motion for Reconsideration in the 382 and 384 matters. They are attached.

Please let us know if the court needs further.

Sincerely yours,

Diana

**DIANA L. MURRAY**  
PARALEGAL



[DMURRAY@BARNWELL-WHALEY.COM](mailto:DMURRAY@BARNWELL-WHALEY.COM)  
[843-577-7700](tel:843-577-7700)  
[BARNWELL-WHALEY.COM](http://BARNWELL-WHALEY.COM)  
BARNWELL WHALEY PATTERSON & HELMS LLC  
211 KING STREET, SUITE 300  
CHARLESTON, SC 29401

---

**From:** Hocker, Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>  
**Sent:** Monday, May 22, 2023 2:15 PM  
**To:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers

<[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>

**Cc:** [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Diana L. Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Hocker, Donald B.

<[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>

**Subject:** [EXT] RE: Davis v. Connolly 20-CP-36-382/384

Good afternoon:

If any of the Defendants wish to offer a response to the Plaintiff's Motion for Reconsideration, please do so via email by May 31, 2023. Judge Hocker is not requiring a response.

Thank you,

Regan.

*Regan A. Snow*

*Administrative Assistant for*

*Donald B. Hocker, Circuit Court Judge*

*Post Office Box 972*

*100 Hillcrest Square, Suite B*

*Laurens, South Carolina 29360*

*864-984-2076 (Office)*

*864-984-2333 (Fax)*

*[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)*

---

**From:** Jeff Davis <[jeff@apogeetax.com](mailto:jeff@apogeetax.com)>

**Sent:** Monday, May 15, 2023 11:34 AM

**To:** Hocker, Donald B. Law Clerk (Manning Cathcart) <[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)>

**Cc:** Justin P. Novak <[jnovak@barnwell-whaley.com](mailto:jnovak@barnwell-whaley.com)>; Geoffrey Chambers

<[geoffrey@cperlgroup.com](mailto:geoffrey@cperlgroup.com)>; Wilson, Skyler C. <[swilson@csvl.law](mailto:swilson@csvl.law)>; [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us); Diana L.

Murray <[dmurray@barnwell-whaley.com](mailto:dmurray@barnwell-whaley.com)>; Hocker, Donald B. <[dhockerj@sccourts.org](mailto:dhockerj@sccourts.org)>; Hocker,

Donald B. Secretary (Regan A. Snow) <[dhockersc@sccourts.org](mailto:dhockersc@sccourts.org)>

**Subject:** Re: Davis v. Connolly 20-CP-36-382/384

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

Ms. Cathcart,

**Motions to Reconsider (2) were filed on January 18th, 2023 in both cases (x82 & x84). We are waiting on the court to rule as a necessary prerequisite before any appeal can be filed.**

Please see attached.

I also understand that everything in these two cases is on hold until those two motions are ruled upon, and appeals are resolved. **If that is not the case, please advise.**

**PLEASE KNOW, I received demand letters today (dated 5/12/2023) from plaintiff's counsel related to the award of attorneys fees. Since Mr. Connelly has been reportedly telling people I am going to be "arrested" for something related to these cases, I would like to clarify the above point with the court.**

**Is payment of the attorney's fee award required prior to resolution of any appeals?**

Thank you.

Jeff Davis  
843-901-8036 (cell)

-----  
**Jeff Davis, JD, MBA, CPA(GA)**  
843-901-8036 (cell) | 866-501-7471 (fax) | [jeff@apogeetax.com](mailto:jeff@apogeetax.com)

**CONFIDENTIAL INFORMATION:** The information contained in this E-mail message is attorney privileged and / or confidential information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Active and licensed attorney and CPA in Georgia (not SC). Thank you.

**IRS CIRCULAR 230 NOTICE:** To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication or attachment.

On Mon, May 8, 2023 at 2:10 PM Hocker, Donald B. Law Clerk (Manning Cathcart)  
<[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)> wrote:

Good Afternoon All,

Judge Hocker would like to know if there is anything else he needs to do in either or both of these cases. Please let us know at your earliest convenience.

Sincerely,

Manning Cathcart  
Law Clerk for the Honorable Donald B. Hocker  
Eighth Judicial Circuit

SC Bar #: 105730  
[dhockerlc@sccourts.org](mailto:dhockerlc@sccourts.org)  
(864) 993-8350

~~~ 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.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

EXHIBIT R

Oct 13 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382

Jefferson Davis, Jr. Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

NOTICE OF APPEAL

Jefferson Davis, Jr. ("Davis") appeals the Orders of the Honorable Donald B. Hocker as listed below:

- **ORDER 01:** 03/26/2021 – Order as to Motion to Dismiss (Negligence Claim only)
- **ORDER 02:** 03/26/2021 – Order as to Motion to Quash, Stay and Protective Order (subpoenas to ECENC, SOS Mark Hammond, Senator Josh Kimbrell & Citizens for Life)
- **ORDER 03:** 10/15/2021 – Order Compelling Discovery
- **ORDER 04:** 11/8/2021 – Order Deeming Admitted Defendant's Kirkland, Connelly, Wilson, Persons & Mellen's Request for Admission to Plaintiff & **Denying Plaintiff's Request for Enlargement of Time to Respond or Withdraw or Amend the Admissions**
- **ORDER 05:** 11/30/2021 – Order Granting Motion to Quash Subpoena to **E3 Software**
- **ORDER 06:** 1/4/2022 – Order Granting John Doe 1's Motion to Quash Subpoena to **Endurance International** ("Replacement Copy of Order)
- **ORDER 07:** 8/1/2022 – Order Granting Summary Judgment in favor of Kirkland
- **ORDER 08:** 8/1/2022 – Order Granting Summary Judgment in favor of Connelly, Wilson, Persons & Mellen
- **ORDER 09:** 8/12/2022 – Order Denying Plaintiff's Motions for Reconsideration (re 1/4/2022 Order to Quash Subpoena to Endurance International)
- **ORDER 10:** 9/19/2022 – Order Granting Connelly, Wilson, Persons & Mellen Motion for Sanctions
- **ORDER 11:** 1/3/2023 – Order Granting Defendant's Motion for Sanctions (as to amounts)
- **ORDER 12:** 8/24/2023 – Order Denying Motion to Reconsider

Attached are copies of said Orders.

Davis received a service copy of the final order in the above referenced case on Friday, September 15th, 2023.



Date: October 13, 2023

Jefferson Davis, Jr., Appellant
2505 Wade Hampton Blvd.
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com

Other Counsel of Record (Attorneys for Respondents):

M. Dawes Cooke, Jr., Esq. &
Justin Paul Novak, Esq.
Barnwell Whaley
P.O. Drawer H
Charleston SC 29402
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com
(843) 577-7700
Connelly, Wilson, Persons & Mellen

Douglas Walker MacKelcan, III &
Skyler C. Wilson
Carlock, Copeland & Stair, LLP
40 Calhoun St., Ste. 400
Charleston SC 29401
dmackelcan@cskl.law
swilson@cskl.law
Stephen D. Kirkland, CPA, CMA

Jessica E. Kinard
Law Offices of Jessica E. Kinard
PO Box 333
Irmo, SC 29063
Jessica@jek-law.com
jessica.kinard@ppp.sc.gov
John Doe / Anonymous (JeffDavisFIRST.com website)

Benjamin T Coppage, Esq.
Coppage Law Firm, LLC
1010 Carteret St.
Beaufort SC 29902
ben@coppagelawfirm.com
(843) 379-9601
John Doe #2

Geoffrey Chambers, Esq.
CPER Law Group, LL
411 Walnut Street #10646
Green Cove Springs, FL 32043
g.k.chambers@gmail.com
geoffrey@cperllgroup.com
(864) 508-0899
**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**

Clerk of Court - Newberry County
Elizabeth P. Folk
PO Drawer 10
Newberry, SC 29108

RECEIVED

Oct 13 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382

Jefferson Davis, Jr. Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

PROOF OF SERVICE

I certify that I have served the **Notice of Appeal** on the below named parties on **October 13th, 2023**, pursuant to Rule 262 and associated Orders by email to the attorney's primary email address as noted below.

M. Dawes Cooke, Jr., Esq. &
Justin Paul Novak, Esq.
Barnwell Whaley
P.O. Drawer H
Charleston SC 29402
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com
(843) 577-7700
Connelly, Wilson, Persons & Mellen

Douglas Walker MacKelcan, III, Esq. &
Skyler C. Wilson, Esq.
Carlock, Copeland & Stair, LLP
40 Calhoun St., Ste. 400
Charleston SC 29401
dmackelcan@cskl.law
swilson@cskl.law
Stephen D. Kirkland, CPA, CMA

Jessica E. Kinard, Esq.
Law Offices of Jessica E. Kinard
PO Box 333
Irmo, SC 29063
jessica@jek-law.com
jessica.kinard@ppp.sc.gov

John Doe #1 / Anonymous (JeffDavisFIRST.com website)

Benjamin T Coppage, Esq.
Coppage Law Firm, LLC
1010 Carteret St.
Beaufort SC 29902
ben@coppagelawfirm.com
(843) 379-9601

John Doe #2

Geoffrey Chambers, Esq.
CPER Law Group, LL
411 Walnut Street #10646
Green Cove Springs, FL 32043
g.k.chambers@gmail.com
geoffrey@cperllgroup.com
(864) 508-0899

**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**



Jefferson Davis, Jr.
2505 Wade Hampton Blvd.
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com
APPELLANT

RECEIVED

Oct 13 2023

SC Court of Appeals

October 13, 2023

VIA US MAIL & EMAIL (ctappfilings@sccourts.org)

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

RE: Jefferson Davis Jr, Appellant vs. Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC, Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40, Respondents
C.A. NO. 2020-CP-36-00382 (filed 9/10/2020)

Dear Ms. Kitchings:

Please find enclosed the following for the above referenced matter. Only one copy is enclosed (*or in this case attached*) pursuant to directions from the Court.

1. Notice of Appeal

2. Proof of Service

3. A copy of the following:

- a. **ORDER #01:** Order as to Motion to Dismiss Five Individual Defendants (3/26/2021)
- b. **ORDER #02:** Order as to Motion to Quash, Stay and Protective Order (3/26/2021)
- c. **ORDER #03:** Order Compelling Discovery (10/15/2021)
- d. **ORDER #04:** Order Deeming Admitted Defendants Stephen Kirkland, Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Requests for Admission to Plaintiff and Denying Plaintiff's Request for Enlargement of Time to Respond or to Withdraw or Amend the Admissions (11/08/2021)
- e. **ORDER #05:** Order as to Motion to Quash Subpoena to E3 Software (11/30/2021)
- f. **ORDER #06:** "Replacement Copy": Order Granting John Doe 1's Motion to Quash the Subpoena of Plaintiff to Endurance International Group, Inc. (1/4/2022)

- g. **ORDER #07:** Order Granting Summary Judgment in favor of Defendant Kirkland (8/1/2022)
- h. **ORDER #08:** Order Granting Summary Judgment in favor of Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen (8/1/2022)
- i. **ORDER #09:** Order Denying Plaintiff's Motions for Reconsideration (8/12/2022)
- j. **ORDER #10:** Order granting Defendants Chad Connelly, Dave Wilson, Tom Persons, and Neil Mellen's Motion for Sanctions against Plaintiff (9/19/2022)
- k. **ORDER #11:** Order granting Defendant's Motion for Sanctions against Plaintiff (filed 1/3/2023)
- l. **ORDER #12:** Denying Plaintiffs Motion to Reconsider (8/24/2023)

4. A filing fee of \$250.00 (*Being Mailed to Court of Appeals Separately*)

Thank you for your assistance. If you have any questions, please feel free to email me at jeff@apogeetax.com or give me a call at 843-901-8036 (cell).

Sincerely,



Jeff Davis, JD, MBA, CPA(GA)

Plaintiff / Appellant

2505 Wade Hampton Blvd., Greenville, SC 29615

843-901-8036 (cell) | jeff@apogeetax.com

cc: Dawes Cooke, Jr., Esq., Justin P. Novak, Esq., (Connelly, Wilson, Persons, & Mellen)
Douglas Walker MacKelcan, III, Esq. & Skyler Cole Wilson, Esq. (Kirkland)
Jessica Elizabeth Kinard, Esq., (John Doe #1)
Benjamin T. Coppage, Esq. (John Doe #2)
Geoffrey K. Chambers, Esq. (Non-Party)
Attorneys for Defendants at the trial court level in the Court of Common Pleas.
Newberry County Clerk of Court

EXHIBIT S

RECEIVED

Nov 09 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas

Hon. Donald B. Hocker, Circuit Court Judge

C.A. No.: 2020-CP-36-00382

Jefferson Davis, Jr. Appellant,

v.

Chad Connelly, Dave Wilson, Steven Kirkland, Tom Persons, Neil Mellen, E3 Software, LLC,
Endurance International Holdings, Inc., John Doe #1, John Doe #2 & John Does 3-40
..... Respondents.

PROOF OF SERVICE

On November 8th, 2023, I first received notice by accessing the SC Court of Appeals online docket in this case that only members of the SC Bar are entitled to service pursuant to Rule 262 and associated Orders by email to the attorney's primary email address. As such, I certify that I have served the **Notice of Appeal** on the below named parties via First Class Mail on **November 9th, 2023**.

M. Dawes Cooke, Jr., Esq. & Justin Paul Novak, Esq.

Barnwell Whaley

P.O. Drawer H, Charleston SC 29402

mdc@barnwell-whaley.com

jnovak@barnwell-whaley.com

(843) 577-7700

Connelly, Wilson, Persons & Mellen

Douglas Walker MacKelcan, III, Esq. & Skyler C. Wilson, Esq.

Carlock, Copeland & Stair, LLP

40 Calhoun St., Ste. 400, Charleston SC 29401

dmackelcan@cskl.law

swilson@cskl.law

Stephen D. Kirkland, CPA, CMA

Jessica E. Kinard, Esq.
Law Offices of Jessica E. Kinard
PO Box 333
Irmo, SC 29063

jessica@jek-law.com

jessica.kinard@ppp.sc.gov

John Doe #1 / Anonymous (JeffDavisFIRST.com website)

Benjamin T Coppage, Esq.
Coppage Law Firm, LLC
1010 Carteret St.
Beaufort SC 29902

ben@coppagelawfirm.com

(843) 379-9601

John Doe #2

Geoffrey Chambers, Esq.
CPER Law Group, LL
411 Walnut Street #10646
Green Cove Springs, FL 32043

g.k.chambers@gmail.com

geoffrey@cperllgroup.com

(864) 508-0899

**Non-Party - Educational Credit For Exceptional Needs
Children Fund (ECENC Fund, aka Exceptional SC)**

A handwritten signature in blue ink, appearing to read 'J.D.', is positioned above a horizontal line.

Jefferson Davis, Jr.
2505 Wade Hampton Blvd.
Greenville, SC 29615
843-901-8036 (cell)
jeff@apogeetax.com
APPELLANT

EXHIBIT T-1

From: [Geoffrey Chambers](#)
To: [Jeff Davis](#)
Cc: [M. Dawes Cooke, Jr.](#); [Justin P. Novak](#); [dmackelcan@cskl.law](#); [swilson@cskl.law](#); [geoffrey@cperlgroupp.com](#)
Subject: [EXT] Re: Jefferson Davis, Jr. Appellant v. Chad Connelly, et al. Respondents - Case No. 2020-CP-36-00382
Date: Monday, November 13, 2023 8:49:16 AM

Mr. Davis,

Is there any update from the court reporters as to when we might expect you to supply us with transcripts of these motion hearings?

Geoffrey Chambers

On Thu, Nov 9, 2023 at 5:10 PM Jeff Davis <jeff@apogeetax.com> wrote:

RE: Jefferson Davis, Jr. Appellant v. Chad Connelly, Dave Wilson, Stephen Kirkland, Tom Persons, et al. Respondents - Case No. 2020-CP-36-00382

Court of Appeals Case Number: 2023-001623

--- Paper Copies pursuant to SC Court of Appeals Clerk Letter

Good afternoon, Ms. Abbott Kitchings,

I hope this email finds you well. Please find attached PROOF OF SERVICE of the Notice of Appeal in the above case.

Best,

Jeff Davis
843-901-8036 (cell)

Jeff Davis, JD, MBA, CPA(GA)
843-901-8036 (cell) | 866-501-7471 (fax) | jeff@apogeetax.com

CONFIDENTIAL INFORMATION: The information contained in this E-mail message is attorney privileged and / or confidential information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Active and licensed attorney and CPA in Georgia (not SC). Thank you.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (1) avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication or attachment.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

EXHIBIT T-2

From: [Geoffrey Chambers](#)
To: [Jeff Davis](#)
Cc: [M. Dawes Cooke, Jr.](#); [Justin P. Novak](#); [Mackelcan, Douglas W.](#); [Wilson, Skyler C.](#); [Geoffrey Chambers](#)
Subject: [EXT] Re: Jefferson Davis, Jr. Appellant v. Chad Connelly, et al. Respondents - Case No. 2020-CP-36-00382
Date: Thursday, November 30, 2023 4:02:00 PM

Mr. Davis,

I am following up on my request about receiving the transcripts. Do you have any update on when the transcripts are expected? Usually court reporters provide them within two to three weeks of your request. This appeal was noticed six weeks ago on October 13th.

I would greatly appreciate it if you would please advise.

Thank you.

Geoffrey Chambers

On Mon, Nov 13, 2023, 8:48 AM Geoffrey Chambers <g.k.chambers@gmail.com> wrote:

Mr. Davis,

Is there any update from the court reporters as to when we might expect you to supply us with transcripts of these motion hearings?

Geoffrey Chambers

On Thu, Nov 9, 2023 at 5:10 PM Jeff Davis <jeff@apogeetax.com> wrote:

RE: Jefferson Davis, Jr. Appellant v. Chad Connelly, Dave Wilson, Stephen Kirkland, Tom Persons, et al. Respondents - Case No. 2020-CP-36-00382

Court of Appeals Case Number: 2023-001623

--- Paper Copies pursuant to SC Court of Appeals Clerk Letter

Good afternoon, Ms. Abbott Kitchings,

I hope this email finds you well. Please find attached PROOF OF SERVICE of the Notice of Appeal in the above case.

Best,

Jeff Davis
843-901-8036 (cell)

Jeff Davis, JD, MBA, CPA(GA)
843-901-8036 (cell) | 866-501-7471 (fax) | jeff@apogeetax.com

CONFIDENTIAL INFORMATION: The information contained in this E-mail message is attorney privileged and / or confidential information intended only for the use of the individual(s) named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, copying or other use of this communication is strictly prohibited. If you have received this communication in error, please contact the sender by reply E-mail and destroy all copies of the original message. Active and licensed attorney and CPA in Georgia (not SC). Thank you.

IRS CIRCULAR 230 NOTICE: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (or in any attachment) is not intended or written to be used, and cannot be used, for the purpose of (1)

avoiding penalties under the Internal Revenue Code or (2) promoting, marketing, or recommending to another party any transaction or matter addressed in this communication or attachment.

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

RECEIVED

Dec 15 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM NEWBERRY COUNTY
Court of Common Pleas
Donald B. Hocker, Circuit Court Judge

Appellate Case No. 2023-001623
Civil Action No. 2020-CP-36-00382

Jefferson Davis, Jr. Appellant,

v.

Chad Connelly, Dave Wilson, Stephen Kirkland, Tom Persons, Neil Mellen, E3
Software, LLC, Endurance International Holdings, Inc., John Doe #1, John Doe
#2 & John Does 3-40 Respondents.

PROOF OF SERVICE

I certify that I have served the **Respondents Chad Connelly, Dave Wilson, Stephen Kirkland, Tom Persons, Neil Mellen's Joint Motion To Dismiss Appeal** on the above-referenced Appellant parties by electronic mail and by depositing a copy of it in the United States Mail, postage prepaid, on December 15, 2023, addressed to the pro-se Appellant as follows:

Jefferson Davis
2505 Wade Hampton Blvd.
Greenville, SC 29615
jeff@apogeetax.com
Pro-Se Appellant

s/Justin P. Novak
M. Dawes Cooke, Jr., Esquire
Justin P. Novak, Esquire

Barnwell Whaley Patterson & Helms, LLC
P.O. Drawer H
Charleston, South Carolina 29402
Phone: (843) 577-7700
Fax: (843) 577-7708
mdc@barnwell-whaley.com
jnovak@barnwell-whaley.com
***Attorneys for Respondents Chad Connelly,
Dave Wilson, Tom Persons, and Neil
Mellen***

– and –

Douglas W. MacKelcan
Skyler C. Wilson, Esquire
Copeland Stair Valz & Lovell LLP
40 Calhoun Street, Suite 400
Charleston, SC 29401
Phone: (843) 266-8221
dmackelcan@csvg.law
swilson@csvg.law

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

December 15, 2023