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SC Court of Appeals

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No.: 2018-CP-10-4083
Appellate Case No.: 2022-001114

Charleston Carriage Works, L.L.C., Appellant,

v.

Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc., Respondents.

RECORD ON APPEAL
Volume 1 of 4

June 21, 2023

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FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1004083

Charleston Carriage Works L L C
PLAINTIFF(S)

Charleston Animal Society et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☑ See attached order (formal order to follow) ☐ Statement of Judgment by the Court:

Plaintiff filed a Motion for Reconsideration of the Court's May 5, 2022 Order Denying Sanctions on May 12, 2022 and a Motion for Reconsideration of the Court's May 12, 2022 Orders on May 20, 2022. After careful consideration and review of the filings, this Court respectfully DENIES both of Plaintiff's Motions for Reconsideration.

ORDER INFORMATION

This order ☑ ends ☐ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/02/2022 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

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Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Order/Electronic Form 4

So Ordered

s/Mikell R. Scarborough 3062

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**ORDER GRANTING DEFENDANTS' SUMMARY JUDGMENT**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

This matter is before the Court on Defendants' Motions for Summary Judgment which were heard on September 29, 2021. The Court has carefully reviewed the memoranda, exhibits, affidavits, and deposition testimony submitted by the parties. For the reasons stated below, Defendants' Motions are GRANTED.

FACTUAL AND PROCEDURAL BACKGROUND

Plaintiff Charleston Carriage Works owns and operates one of the carriage horse companies in downtown Charleston. On April 19, 2017, in the midst of years of public debate[1] concerning Charleston's carriage horse operations, one of Plaintiff's horses, Big John, fell during a tour. Defendant Charleston Animal Society (CAS) posted a video on its YouTube channel comprised of footage of the incident sent to it by bystanders and added in the following subtitles:

> *Why were eyewitnesses intimidated to stop taking video when a horse collapsed?*
>
> *Was Big John exhausted or did he just "trip"?*
>
> *By law, the horses are not supposed to pull more than three times their weight. However, loaded carriages are never weighed, and Charleston does not enforce this provision.*

[1] Depo. of Broderick Christoff, p. 302, lines 14-17; p. 303, lines 6-7.

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Big John could not get up on his own. A team of people had to try and pull him up.

After several minutes of trying, finally some good news for Big John!

Charleston Animal Society and several local and national animal welfare groups want an independent, scientific, peer-reviewed study to answer questions (with research) on whether the working environment for horses like Big John is truly safe and humane.

Is this too much to ask for Big John and other working horses?

The video was reposted by Defendant Charleston Carriage Horse Advocates (CCHA), a local advocacy group founded by Defendant Ellen Harley (Harley), on its social media sites. Plaintiff alleges that the video went "viral", resulting in significant public backlash.

Plaintiff's lawsuit claims that the video of Big John, and specifically, the subtitles, are defamatory and imply Plaintiff abuses its animals and is inhumane. Plaintiff's Complaint also includes causes of action for civil conspiracy, "Violation of Plaintiff's Civil Rights under Art. I, § 3, South Carolina Constitution – Gross Negligence, Recklessness", and tortious interference with business relations.

Because there are no genuine issues as to any material fact, Defendants are entitled to judgment as a matter of law. Rule 56, SCRCP.

STANDARD OF REVIEW

"The purpose of summary judgment is to expedite disposition of cases [that] do not require the services of a fact finder." George v. Fabri, 345 S.C. 440, 452, 548 S.E.2d 868, 874 (2001). "[W]hen a party has moved for summary judgment[,] the opposing party may not rest upon the mere allegations or denials of his pleading to defeat it." Fowler v. Hunter, 380 S.C. 121, 125, 668 S.E.2d 803, 805 (Ct. App. 2008). "Rather, the non-moving party must set forth specific facts demonstrating to the court there is a genuine issue for trial." Id.

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"A jury issue is created when there is material evidence tending to establish the issue in the mind of a reasonable juror." Jackson v. Bermuda Sands, Inc., 383 S.C. 11, 17, 677 S.E.2d 612, 616 (Ct. App. 2009). "However, this rule does not authorize submission of speculative, theoretical, and hypothetical views to the jury." Id. (quoting Small v. Pioneer Mach., Inc., 329 S.C. 448, 461, 494 S.E.2d 835, 841 (Ct. App. 1997)); Hall v. Fedor, 349 S.C. 169, 175, 561 S.E.2d 654, 657 (Ct. App. 2002) ("Our appellate courts have interpreted Rule 56(e) to mean materials used to support or refute a motion for summary judgment must be those which would be admissible in evidence.").

Furthermore, "where the federal standard applies or where a heightened burden of proof is required, there must be more than a scintilla of evidence in order to defeat a motion for summary judgment." Hancock v. Mid-S. Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009). "[T]he summary judgment device occupies a position of great importance in libel actions as compared with other civil actions, due to the possible chilling effect which can result from the defense of defamation claims." Peeler v. Spartanburg Herald-Journal Div. of The New York Times Co., 681 F. Supp. 1144, 1146 (D.S.C. 1988).

DISCUSSION

I. Defamation.

Plaintiff alleges it was defamed by Defendants CCHA and CAS's[2] publication of a video showing Plaintiff's horse, Big John, and describing the horse as having "collapsed." Plaintiff has also maintained that there are additional defamatory statements unrelated to the Big John incident/video. These other allegedly defamatory statements will be addressed separately below.

In order to prove defamation, a 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

[2] Plaintiff has not and apparently cannot provide a single example of Harley even allegedly defaming it in her individual capacity. Depo. of Broderick Christoff, p. 245, lines 21-25 cont. p. 246, lines 1-25 cont. p. 247, lines 1-3.

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fault; and (4) either actionability of the statement irrespective of special harm or the existence of special harm caused by the publication. Erickson v. Jones St. Publishers, LLC, 368 S.C. 444, 465, 629 S.E.2d 653, 664 (2006). Several presumptions accompany these elements. First, common law generally presumes that the statement is false. Holtzscheiter v. Thomson Newspapers, Inc., 332 S.C. 502, 519, 506 S.E.2d 497, 506 (1998). Additionally, when a statement is actionable *per se*, the defendant is presumed to have acted with common law malice, and the plaintiff is presumed to have suffered general damages. Erickson, supra. As the Supreme Court of South Carolina has explained, "libel is a written defamation" and "essentially all libel is actionable *per se*." Id. Therefore, in a defamation suit involving libel in which the plaintiff is a private figure, both common law malice and general damages are typically presumed.

However, although a plaintiff might be able to prove all of the elements of South Carolina common law defamation, the First Amendment places limitations on tort liability for defamation. See City of Columbia v. Pic-A-Flick Video, Inc., 340 S.C. 278, 531 S.E.2d 518 (2000) (when confronted with First Amendment issues, South Carolina courts are guided by precedence from the United States Supreme Court); see also Holtzscheiter, 332 S.C. at 508, 506 S.E.2d at 501 ("[T]his area of the law is constantly evolving, and consequently all prior decisions must be read in the context of the current state of the law.").

The First Amendment limitations, as well as the burden of proof at the summary judgment stage, differ based upon: 1) whether the defamed individual is a public figure, public official, or private figure; and 2) whether the subject matter of the alleged defamatory statement is a matter of public or private concern.

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A. Public v. Private Figure.

"[A]n important initial step in analyzing any defamation case is determining whether a particular plaintiff is a public official, public figure, or private figure." Erickson, 368 S.C. at 468, 629 S.E.2d at 666. This determination is a matter of law which must be decided by the Court on a case-by-case basis after careful examination of the facts and circumstances. Id. Even a limited purpose public figure must show, by clear and convincing evidence, that defamatory statements were made with actual malice in publishing a false and defamatory statement about the Plaintiff. Id. at 467, 629 S.E.2d at 665; George v. Fabri, 345 S.C. 440, 456, 548 S.E.2d 868, 876 (2001). Actual malice exists when a statement is made "with knowledge that it was false or with reckless disregard of whether it was false or not." New York Times, 376 U.S. at 279–80; see also George, 345 S.C. at 456, 548 S.E.2d at 876 (actual malice is governed by a subjective standard which tests the defendant's good faith belief in the truth of her statements).

At the summary judgment phase, the appropriate standard "on the issue of constitutional actual malice is the clear and convincing standard." George, at 454, 548 S.E.2d at 875. Clear and convincing evidence is that "degree of proof which will produce in the [fact finder] a firm belief as to the allegations sought to be established. Such measure of proof is intermediate, more than a mere preponderance but less than is required for proof beyond a reasonable doubt; it does not mean clear and unequivocal." Anonymous v. State Bd. of Med. Exam'rs, 329 S.C. 371, 374 n. 2, 496 S.E.2d 17, 18 n. 2 (1998). Furthermore, "where the federal standard applies or where a heightened burden of proof is required, there must be more than a scintilla of evidence in order to defeat a motion for summary judgment." Hancock v. Mid-S. Mgmt. Co., 381 S.C. 326, 330, 673 S.E.2d 801, 803 (2009).

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"Unless the [circuit] court finds, based on pretrial affidavits, depositions or other documentary evidence, that the plaintiff can prove actual malice, it should grant summary judgment for the defendant." McClain v. Arnold, 275 S.C. 282, 284, 270 S.E.2d 124, 125 (1980).

1. Plaintiff is a limited-purpose public figure in the context of the speech at issue.

The U.S. Supreme Court generally has defined a public figure as follows: "For the most part those who attain this status [of public figure] have assumed roles of especial prominence in the affairs of society. Some occupy positions of such persuasive power and influence that they are deemed public figures for all purposes. More commonly, those classed as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved. In either event, they invite attention and comment." Gertz, 418 U.S. at 345; George, 345 S.C. 440, 548 S.E.2d 868 (2001) (plaintiff political candidate's engineering firm was a limited public figure under Gertz test in defamation action arising from statements candidate made during political campaign). In determining whether a claimant is a private or public figure, the court must focus on the "nature and extent of an individual's participation in the particular controversy giving rise to the defamation." Gertz, 418 U.S. at 352; Parker v. Evening Post Pub. Co., 317 S.C. 236, 243 n. 3, 452 S.E.2d 640, 644 n. 3 (Ct. App. 1994) (automobile dealer invited public's attention through extensive media advertising and, as to statements regarding his dealership, was a public figure).

A limited public figure, the type more commonly found, is an individual who "voluntarily injects himself or is drawn into a particular public controversy and thereby becomes a public figure for a limited range of issues. In either case such persons assume special prominence in the resolution of public questions." Gertz, 418 U.S. at 351. The U.S. Supreme Court has also identified

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a third category of involuntary public figures who become public figures through no purposeful action of their own. Erickson, 368 S.C. at 473, 629 S.E.2d at 668.

All three types of public figures, just as public officials, must meet the New York Times standard of actual malice in order to recover damages for defamation. Erickson, 368 S.C. at 473, 629 S.E.2d at 668. Public figures and public officials are entitled to less protection from defamation than private figures because they enjoy greater media access and are less vulnerable to injury from defamatory statements due to their ability to publicly rebut such statements. Id.

To determine whether a plaintiff is a public figure for the limited purpose of comment on a particular public controversy, the Court considers whether: (1) the plaintiff has access to channels of effective communication; (2) the plaintiff voluntarily assumed a role of special prominence in the public controversy; (3) the plaintiff sought to influence the resolution or outcome of the controversy; (4) the controversy existed prior to the publication of the defamatory statement; and (5) the plaintiff retained public-figure status at the time of the alleged defamation. Id. at 474, 629 S.E.2d at 669.

Plaintiff argues that "the defendants drug the plaintiff into the public arena against his will" and that its only "participation in the particular controversy" was operating a lawful business and taking steps to mitigate "his" damages. See Pltf. Supp. Memo. of Law (filed 1/26/22), pp. 6, 7. The evidence presented by Plaintiff, through the affidavits of its owner, Broderick Christoff, as to his public participation in this controversy suggests otherwise. See Aff. of Christoff (filed 2/25/20), p. 3 ("For the past two decades, [Harley] and I frequently opposed one another at Tourism Commission meetings..."); Supp. Aff. of Christoff (filed 12/2/20), p. 5 ("Because I stood up to them at Tourism Commission meetings, Harley and Elmore identified me as the impediment to their plan to shut down the carriage tours because our frequent conflict, my science background,

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and my long history with horses prepared me to challenge their unscientific assertions to the City."); Second Supp. Aff. of Christoff (filed 8/19/21), p. 3 ("As I said above, in [Harley's] frequent appearances before City Council and the Tourism Commission, I often challenged her, pointing out that her information was not correct. I did the same thing with Charleston Animal Society.").

Moreover, Defendants presented evidence that Plaintiff, through the actions of its owner, Mr. Christoff, injected itself into the debate over the operations of the carriage industry in Charleston and that it did so prior to the Defendants' publication of the Big John video. In the years leading up to the Big John incident, Mr. Christoff, who was routinely identified as being affiliated with and/or owning Plaintiff, spoke at a number of City meetings concerning various carriage-related issues.[3]

Additionally, Plaintiff has also appeared in, and through Mr. Christoff, has been quoted by the media. An article published by the Post & Courier on August 23, 2016, concerning the carriage horse temperature ordinance, reports the following:

> Broderick Christoff, owner of Charleston Carriage Works, said carriage companies take horses' temperatures after every tour. If they are too high, the animals are allowed to rest.
>
> He also said that he thinks the media and the Charleston Animal Society have misled the public about the treatment of carriage horses. The tour companies take good care of them, he said.

(*Charleston Considering Lowering the Temperature for Pulling Carriage Horses From Street*, Post & Courier, 8/23/16) (Ex. 9 to Christoff Depo., Vol. II). Mr. Christoff testified that he made these statements, although he believes he did so at a City Council committee or subcommittee meeting. Christoff Depo., Vol. II, pp. 77:21-78:14.

[3] Defendants presented minutes from the 3/14/17 City Council meeting as well as the 11/23/15, 2/4/16, and 8/25/16 meetings of the City's Tourism Subcommittee.

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A December 14, 2016, article titled "Charleston Panel Backs Lower Temperature Limits for Carriage Tours" reported on the study being proposed by CAS and states: "But Broderick Christoff of Charleston Carriage Works said the industry would be wary of participating in any study backed by an animal rights group." (*Charleston Panel Backs Lower Temperature Limits for Carriage Tours*, Post & Courier, 12/14/16) (Ex. 10 to Christoff Depo., Vol. II). Mr. Christoff testified that he believed these were comments he made while speaking at a city meeting. Christoff Depo., Vol. II, pp. 78:17-79:7.

A February 20, 2017, article, titled "Carriage Company Owner Responds After Minor Incident Over the Weekend," reported an incident in which one of Plaintiff's horses was spooked by a parade and included the following:

> We spoke with the owner of Charleston Carriage Works, Broderick Christoff, about the incident. He said a failure to follow city policy is what caused the minor incident with his carriage at the corner of King and Queen Streets.

(*Carriage Company Owner Responds After Minor Incident Over the Weekend*, https://abcnews4.com/news/local/carriage-company-owner-responds-after-minor-incident-over-the-weekend) (Ex. 12 to Christoff Depo., Vol. II). Mr. Christoff confirmed in his deposition that he made these comments. Christoff Depo., Vol. II, p. 84:17-25.

Finally, a February 21, 2017, article published by the Post & Courier on the same incident reported as follows:

> "The parade gets louder and louder," Charleston Carriage Works owner Broderick Christoff said Tuesday. "The driver is basically just sitting there watching the fuse burn, and it gets to the point where the people on the carriage are trying to get the police officer's attention to just move so they can go.
>
> "At that point, the driver tells the people on the carriage, 'Hold on, because we've done everything we can do and it's going to be what it's going to be at this point.'"

(*Communication Breakdown Led to Charleston Carriage Horse Accident*, Post & Courier, 2/21/07) (Ex. 11 to Christoff Depo., Vol. II). In both the article and in his deposition, Mr. Christoff stated that his intent was to make "an issue of" the incident to keep it from happening again, an incident he testified was caused by the intersection being blocked by Charleston police. Christoff Depo., Vol. II, p. 81:24-84:14.

All of these articles, and the meetings and incidents reported therein, occurred prior to the Big John incident. See Atlanta Humane Soc. v. Mills, 274 Ga.App. 159, 618 S.E.2d 18 (Ga. Ct. App. 2005) ("Even a single interview given to the media may be sufficient to establish a defamation plaintiff as a limited-purpose public figure.").

Mr. Christoff has also appeared in at least two online videos designed to affect the public controversy and in which he is identified as being the owner of Plaintiff.[4] The first is an interview by Quintin Washington posted on June 17, 2017, the second is an interview posted on October 10, 2017, by Charleston C.A.R.E.S. Plaintiff, along with two other carriage companies, founded Charleston C.A.R.E.S. (Carriage Association for Responsible Equine Safety), representing on its website that Plaintiff and the other founding companies are "committed to being advocates and educators for the often misunderstood and misrepresented horse carriage industry." Additionally, Plaintiff has published on its Facebook page a number of position statements addressing the various issues that are debated in relation to the carriage industry. While these events took place after the Big John video was published, they evidence Plaintiff's access to channels of communication and its attempts to assert influence in the controversy surrounding Charleston's carriage horse industry.

[4] https://www.youtube.com/watch?v=foIbs_6JmLA; https://www.youtube.com/watch?v=K7KWEiAFZsw.

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In sum, Defendants presented evidence that Plaintiff has access to channels of effective communication, it has voluntarily assumed a role of prominence in the controversy concerning Charleston's carriage horse industry, and it has sought to influence the outcome of that controversy, which existed prior to the publication of the Big John video. At a minimum, Plaintiff chose a course of conduct, both before and after the Big John incident, that invited public attention. See Reuber v. Food Chemical News, Inc., 925 F.2d 702, 709 (4th Cir. 1991) ("Even 'involuntary' participants can be public figures when they choose a course of conduct that invites public attention.").

The Court finds that, both before and at the time the Big John video was published, Plaintiff had attained the status of a limited-purpose public figure in the context of the public debate surrounding the Charleston carriage horse industry.

2. Plaintiff cannot prove actual malice by clear and convincing evidence.

A limited-purpose public figure must prove by clear and convincing evidence that the defendant acted with actual malice in publishing a false and defamatory statement about the plaintiff to survive summary judgment. Erickson, 368 S.C. at 467–68, 629 S.E.2d at 665–66 (citations omitted). Actual malice exists when a statement is made "with knowledge that it was false or with reckless disregard of whether it was false or not." New York Times, 376 U.S. at 279–80; see also George v. Fabri, 345 S.C. at 456, 548 S.E.2d at 876 (actual malice is governed by a subjective standard which tests the defendant's good faith belief in the truth of her statements).

"[W]here the factual dispute concerns actual malice . . . the appropriate summary judgment question will be whether the evidence in the record could support a reasonable jury finding either that the plaintiff has shown actual malice by clear and convincing evidence or that the plaintiff has not." Anderson, 477 U.S. at 255–56; McClain v. Arnold, 275 S.C. 282, 284, 270 S.E.2d 124, 125

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(1980) ("Unless the trial court finds, based on pretrial affidavits, depositions or other documentary evidence, that the plaintiff can prove actual malice, it should grant summary judgment for the defendant.").

"Actual malice under the New York Times standard should not be confused with the concept of [common law] malice as an evil intent or a motive arising from spite or ill will." Masson v. New Yorker Magazine, Inc., 501 U.S. 496, 510 (1991). It is black-letter law that failure to investigate does not constitute malice. St. Amant v. Thompson, 390 U. S. 727, 731 (1968). "The mere fact that a defamation defendant knows that the public figure has denied harmful allegations or offered an alternative explanation of events is not evidence that the defendant doubted the allegations. As the United States Supreme Court has noted, 'such denials are so commonplace in the world of polemical charge and countercharge that, in themselves, they hardly alert the conscientious reporter to the likelihood of error.'" Carr v. Forbes, Inc., 121 F. Supp. 2d 485, 495 (D.S.C. 2000), aff'd, 259 F.3d 273 (4th Cir. 2001) (quoting Harte–Hanks Communications, Inc. v. Connaughton, 491 U.S. 657, 692 n. 37 (1989)).

When the First Amendment requires a plaintiff to prove actual malice, he must prove "that the defendant realized that his statement was false or that he subjectively entertained serious doubt as to the truth of his statement." Bose Corp. v. Consumers Union of United States, Inc., 466 U. S. 485, 511 n. 30 (1984); accord, Peeler v. Spartanburg Herald-Journal Div. of New York Times Co., 681 F. Supp. 1144, 1147 (D.S.C. 1988). Thus, as long as the defendant believed in good faith that what he said was true, it does not matter whether he acted out of spite or ill will toward the plaintiff. See Scott v. McCain, 272 S. C. 198, 201-02, 250 S.E.2d 118, 120-21 (1978).

Moreover, recklessness under the constitutional standard is measured not by whether a reasonably prudent man would have published or investigated further before publishing, but rather

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by evidence that the defendant actually had "serious doubts" in his mind as to the truth of the publication at the time it was published. St. Amant v. Thompson, 390 U. S. 727, 731 (1968). When a person makes a statement based on information received from elsewhere, recklessness may be found only "where there are obvious reasons to doubt the veracity of the informant or the accuracy of [its] reports." Horne v. WTVR, LLC, 893 F.3d 201, 211 (4th Cir. 2018), cert. denied, 139 S. Ct. 823 (2019); see also Church of Scientology Int'l v. Daniels, 992 F.2d 1329, 1333 (4th Cir. 1993) (indicating that "deliberate misrepresentation," "knowing fabrication," or "purposeful avoidance of the truth" are required to show actual malice). "Establishing actual malice is no easy task, because the defamation plaintiff bears the burden of proof by clear and convincing evidence." Carr, 259 F.3d at 282.

The question of whether the evidence in the record in a defamation case is sufficient to support a finding of actual malice is a question of law. Harte-Hanks Commc'ns, Inc. v. Connaughton, 491 U.S. 657, 685 (1989). Central to that determination is the recognition of "the importance of the actual malice standard to a wide-open and vigorous discussion of critical public issues." CACI Premier Tech., Inc. v. Rhodes, 536 F.3d 280, 294 (4th Cir. 2008).

Plaintiff has not presented evidence sufficient to create a question of fact on the issue of actual malice. It presented no admissible evidence tending to show that Defendants knew that any statements made were false or that they subjectively entertained serious doubt as to the truth of any statement.

Charleston Animal Society

CAS submitted the affidavit of Joe Elmore, its CEO (filed on September 11, 2020), in which he states that, on April 19, 2017, CAS was contacted by members of the public who reported that a horse, which was identified as Big John, had collapsed to the pavement during a carriage

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tour and was unable to get up without assistance. Elmore Aff., ¶ 8. At Mr. Elmore's direction, CAS took videos of Big John provided by eyewitnesses, added subtitles, and published the resulting video on CAS's social media sites and website. Elmore Aff., ¶ 9. At the time Mr. Elmore instructed that the video be published, he was not in possession of any information that would call into question the veracity of using the term "collapse" to describe what occurred that left Big John lying there on the pavement. Elmore Aff., ¶ 10. Mr. Elmore testified that even as of May 27, 2020, the date he signed his affidavit, he was still not in possession of any such information. Elmore Aff., ¶ 10. In fact, one of the eyewitnesses who sent CAS footage that was used in the Big John video testified in her deposition that she believed then, and continues to believe to this day, that what she witnessed was a horse that had "collapsed". Depo. of Elizabeth Fort, pp. 22-25; 49-50.

Mr. Elmore further explained that he directed that the video be published for the purpose of bringing awareness to the carriage horse issue and, specifically, CAS's push for an independent, prospective, science-based, peer-reviewed study of the Charleston carriage industry. Elmore Aff., ¶ 11. Mr. Elmore confirmed that in no way was it his intent to harm Plaintiff or injure its business. Elmore Aff., ¶ 11. See Dongguk Univ. v. Yale Univ., 734 F.3d 113, 123 (2d Cir. 2013) ("When there are multiple actors involved in an organizational defendant's publication of a defamatory statement, the plaintiff must identify the individual responsible for publication of a statement, and it is that individual the plaintiff must prove acted with actual malice.") (citing New York Times, 376 U.S. at 287 ("[T]he state of mind required for actual malice would have to be brought home to the persons in the [defendant's] organization having responsibility for the publication of the [statement].")).

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Charleston Carriage Horse Advocate / Ellen Harley

Defendants CCHA and Harley likewise presented testimony that they neither shot the video that was posted regarding Big John's collapse on April 19, 2017, nor did they edit or delete footage of the scene that day. Aff. of Harley, ¶ 17 (filed on 8/20/21 as Ex. C to CCHA's Memo. in Supp. of MSJ). Further, Defendants CCHA and Harley presented uncontroverted testimony that they never posted that Big John "collapsed from heat and exhaustion", despite Plaintiff's unsupported claims to the contrary, and that they republished the Big John Video only to raise awareness and support for the need of an independent, prospective, science-based, peer-reviewed study of the Charleston carriage industry. Id. at ¶¶16 & 18. Finally, Defendants CCHA and Harley presented evidence that this Court finds to be uncontradicted that they did not publish the video with the malicious intent to harm the Plaintiff or injure its business and they were not in possession then or now of any information that would call into question the veracity of the assertion that Big John "collapsed" on April 19, 2017. Id. at ¶¶ 19&20.

While Plaintiff has submitted affidavits in which it baldly claims that Defendants knew that the statements in the Big John video were false, those claims are not supported by admissible evidence and are conclusory at best. They are insufficient to create a question of fact. See Whitner v. Duke Power Co., 277 S.C. 397, 288 S.E.2d 389 (1982) (a conclusory statement in an affidavit as to the ultimate issue in a case is not sufficient to create a genuine issue of fact for purposes of resisting summary judgment); Nelson v. Piggly Wiggly Cent., Inc., 390 S.C. 382, 390, 701 S.E.2d 776, 780 (Ct. App. 2010) (holding one may not create a genuine issue of material fact by speculation or an "inferential leap"). Defendants are entitled to summary judgment because Plaintiff has failed to present evidence of actual malice.

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B. Public v. Private Concern.

If Plaintiff was a private, and not a public, figure for purposes of the speech at issue, Defendants would still be entitled to summary judgment because the speech addresses a matter of public concern and is protected by the First Amendment.

At the heart of the First Amendment's protection is speech on matters of public concern. Garrard v. Charleston Cty. Sch. Dist., 429 S.C. 170, 195, 838 S.E.2d 698, 711 (Ct. App. 2019), reh'g denied (Mar. 18, 2020) (citing Snyder v. Phelps, 562 U.S. 443, 451–52 (2011)). "The First Amendment reflects 'a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide-open.'" Id. (quoting Snyder, 562 U.S. at 452; New York Times Co. v. Sullivan, 376 U.S. 254, 270 (1964)). Thus, "speech on public issues occupies the highest rung of the hierarchy of First Amendment values, and is entitled to special protection." Id. (quoting Connick v. Myers, 461 U.S. 138, 145 (1983)) (citations and internal quotation marks omitted). "Every person has the right of fair comment and criticism in a matter of public interest; this stems from the constitutional guaranty of freedom of speech." Hospital Care Corp. v. Commercial Cas. Ins. Co., 194 S.C. 370, 9 S.E.2d 796, 798 (1940).

Whether speech addresses a matter of public concern is a matter of law for the Court. "Speech deals with matters of public concern when it can be fairly considered as relating to any matter of political, social, or other concern to the community, or when it is a subject of legitimate news interest; that is, a subject of general interest and of value and concern to the public." Id. at 196, 838 S.E.2d at 712 (quoting Snyder, 562 U.S. at 453) (citations and internal quotation marks omitted). "Whether ... speech addresses a matter of public concern must be determined by the content, form, and context of a given statement, as revealed by the whole record." Id. (quoting Connick, 461 U.S. at 147–48). "In considering content, form, and context, no factor is dispositive,

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and it is necessary to evaluate all the circumstances of the speech, including what was said, where it was said, and how it was said." Id. (quoting Snyder, 562 U.S. at 454); see Connick, 461 U.S. at 148 n.7 ("The inquiry into the protected status of speech is one of law, not fact."); McGill v. Parker, 179 A.D.2d 98, 107, 582 N.Y.S.2d 91, 96 (1992) ("While plaintiffs suggest that defendants are not entitled to the protection of the public concern privilege because of their 'extremist animal rights agenda', it is beyond dispute that it is the subject of the communication, not the particular viewpoint expressed, that determines whether a matter is of public concern.").

The Court finds, and the parties all agree, that the speech at issue here relates to a matter of public concern. The response to the Big John video alone shows that the carriage industry's operations are a matter of public concern. But beyond, and before, that video was published, carriage industry related news has consistently been widely reported by local and even state-wide media. Various committees of city council have been formed to address issues concerning the operation of carriage horses in Charleston. Dan Riccio, the City's Director of Tourism and Livability, the department charged with overseeing the carriage industry, testified that when he took over that position 10 years ago, he "learned quickly that [the health and welfare of the animals] was – it was an area of tourism that a lot of passionate people were concerned about" and that he "didn't realize it would be so controversial." Riccio Depo. Vol. I, pp. 8, 26, 27-28. In fact, Mr. Riccio testified that he ensures his department is doing everything they can do to let the public know they are looking out for the animals, and, when there is an incident involving one of the carriage horses, his department is typically first notified by the media. Riccio Depo. Vol. I, pp. 27, Vol. II, p. 56. Because the speech at issue addresses a matter of public concern, it is entitled to the "highest rung of the hierarchy of First Amendment values and is entitled to special protection." Connick, 461 U.S. at 145.

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The Court will first analyze whether any of the speech at issue is non-actionable due to its rhetorical or hyperbolic nature. The Court will then analyze the remaining allegedly defamatory speech pursuant to the Erickson caveats.

1. The speech at issue is rhetorical hyperbole and not actionable.

There are certain statements that cannot reasonably be interpreted as stating actual facts about an individual. Garrard v. Chas. Cty. Sch. Dist., 429 S.C. 170, 199, 838 S.E.2d 698, 713 (Ct. App. 2019), reh'g denied (March 18, 2020); (citing Hustler Magazine, Inc. v. Falwell, 485 U.S. 46, 50 (1988)). Statements such as opinion, satire, epithets, or rhetorical hyperbole cannot be the subject of liability for defamation. Id. "This provides assurance that public debate will not suffer for lack of 'imaginative expression' or the 'rhetorical hyperbole' which has traditionally added much to the discourse of our Nation." Milkovich v. Lorain Journal Co., 497 U.S. 1, 20 (1990).

In determining whether a statement can be "reasonably interpreted as an actual fact," the Court considers the nature and purpose of the publication and whether the statement is "easily susceptible (if at all) to 'proof' one way or the other." Faltas v. State Newspaper, 928 F. Supp. 637, 649 (D.S.C. 1996). Whether the use of a term is a hyperbolic expression of ideas or whether it implies a fact also depends on the context in which the term is used. Id. at 648. "Where readers know that an author represents one side in a controversy, they are properly warned to expect that the opinions expressed may rest on passion rather than factual foundation." Milkovich, 497 U.S., at 21 n.8.

The crux of Plaintiff's lawsuit is its claim that the Big John video is defamatory and implies that Plaintiff treats its animals in an inhumane manner. CAS posted the video on its YouTube channel, which is found within the "Nonprofits & Activism" category, with the following description:

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> On April 19, another working horse collapsed in the streets of Charleston. Was the load "Big John" carrying weighed, as it is suppose[d] to be by law? Was he exhausted or did he "trip?" Eyewitnesses documented Big John's ordeal despite those on the scene who wanted them to stop filming. It is time for an independent, scientific, peer-reviewed study to determine if Big John and other horses are truly working in a safe and humane environment. Visit: www.CharlestonAnimalSociety.org/humane-carriage-tours for more information.

In his deposition, Plaintiff's owner testified that it is the subtitles added by CAS, and the video's implication that Plaintiff is inhumane and/or abusive to its horses, that renders the video defamatory. Christoff Depo., Vol. II, pp. 35:19-43:19. The subtitles added by CAS are as follows:

1) *Why were eyewitnesses intimidated to stop taking video when a horse collapsed?*

2) *Was Big John exhausted or did he just "trip"?*

3) *By law, the horses are not supposed to pull more than three times their weight. However, loaded carriages are never weighed, and Charleston does not enforce this provision.*

4) *Big John could not get up on his own. A team of people had to try and pull him up.*

5) *After several minutes of trying, finally some good news for Big John!*

6) *Charleston Animal Society and several local and national animal welfare groups want an independent, scientific, peer-reviewed study to answer questions (with research) on whether the working environment for horses like Big John is truly safe and humane.*

7) *Is this too much to ask for Big John and other working horses?*

As an initial matter, to the extent that the video implies that Plaintiff abuses its horses or treats them in an inhumane manner, such an implication is not actionable. These are matters of opinion not capable of being proven to be false. Smith v. Humane Society of U.S., 519 S.E.3d 789, 801 (Mo. 2017) (finding that the term "puppy mill", although having a negative connotation, is not actionable because it was used as "rhetorical hyperbole" and a "lusty and imaginative

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expression of the contempt" of political advocates and therefore cannot reasonably be interpreted as stating actual facts). Notably, in Smith, the court found:

> Likewise, the general statements that the kennels included in the report had "atrocious violations of basic humane standards," "unconscionable violations of minimal humane care standards," "major continuing problems," and an "undeniable record of flagrant disregard for even the most minimal humane care standards" are not objective facts and do not imply objective facts provable as false. What is an "atrocious," "unconscionable," "major," or "flagrant" violation is purely subjective.

Id. at 802. Here, Plaintiff's owner actually conceded that whether or not a practice is humane is a matter of opinion:

> Q: Do you agree that people can have different opinions as to what is and is not humane treatment of an animal?
>
> A: Yes.

Christoff Depo., Vol. II, p. 45:11-14.

The statements made, and questions posed, in the Big John video cannot be viewed as anything but opinion and/or rhetorical hyperbole. Moreover, the statements are not provable as false. CAS has advocated for the humane treatment of the carriage horses for years and its position as an advocate in this controversy is well-known. That this video was published as part of CAS's advocacy for the carriage horses is evident not only by the fact that it was published in YouTube's "Nonprofits & Activism" category but also due to CAS's request at the end of the video that an independent, scientific, peer-reviewed study be done to determine whether the working conditions of Charleston's carriage horses are safe and humane. Taken in its context, and with the immense public interest in Charleston's carriage horses and, specifically, the Big John incident, the video is a fundamental example of the type of public discourse protected by the First Amendment.

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2. Plaintiff cannot prove the statements are false or that Defendants acted with common law malice.

Plaintiff argues that certain statements in the video are actionable because they can be interpreted as stating actual facts. As discussed below, even if that were the case, Defendants are still entitled to summary judgment because Plaintiff has failed to show that those statements are false or that Defendants acted with common law malice in publishing the statements.

In a defamation suit involving a private plaintiff on a private matter, both common law malice and general damages are presumed. However, three important caveats apply when the allegedly defamatory statement relates to a matter of public concern. First, the presumptions of common law malice and general damages do not apply, and instead the plaintiff must prove both common law malice and actual damages. Erickson, 368 S.C. at 466, 629 S.E.2d at 665 (citing Gertz, 418 U.S. at 346-50). Second, the presumption that the statement is false does not apply, and the plaintiff must prove that the statement is false. Id. Finally, the plaintiff cannot recover punitive damages unless it proves by clear and convincing evidence that the defendant acted with actual malice. Id.

The Erickson Court discussed these caveats in the context of defamation cases involving media defendants. Plaintiff disputes that Defendants are "media defendants" and Defendants, on the other hand, contend that it is the content of the speech, not the identity of the speaker, that determines whether the caveats apply.

It does not appear that the S.C. Supreme Court or the U.S. Supreme Court have had the opportunity to consider whether these caveats, rooted in the First Amendment of the U.S. Constitution, apply in defamation cases involving non-media defendants. This Court finds that they do.

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In Snyder v. Phelps, 580 F.3d 206 (4th Cir. 2009), the Fourth Circuit found any distinction between media and non-media defendants to be meaningless in affording First Amendment protections to statements on matters of public concern that fail to contain a "provably false factual connotation":

> Neither the Supreme Court nor this Court has specifically addressed the question of whether the constitutional protections afforded to statements not provably false should apply with equal force to both media and nonmedia defendants. See Milkovich, 497 U.S. at 20 n. 6, 110 S.Ct. 2695. The Second and Eighth Circuits, however, have rejected any media/nonmedia distinction. See Flamm v. Am. Ass'n of Univ. Women, 201 F.3d 144, 149 (2d Cir. 2000); In re IBP Confidential Bus. Documents Litig., 797 F.2d 632, 642 (8th Cir. 1986); see also Foretich v. Capital Cities/ABC, Inc., 37 F.3d 1541, 1563 n. 39 (4th Cir. 1994) (implying in dicta that Milkovich applies equally to media and nonmedia defendants). Like those two circuits, we believe that the First Amendment protects nonmedia speech on matters of public concern that does not contain provably false factual assertions. Any effort to justify a media/nonmedia distinction rests on unstable ground, given the difficulty of defining with precision who belongs to the "media." And, more importantly, the Supreme Court has concluded that the "inherent worth of speech ... does not depend upon the identity of its source, whether corporation, association, union, or individual." First Nat'l Bank of Boston v. Bellotti, 435 U.S. 765, 777, 98 S.Ct. 1407, 55 L.Ed.2d 707 (1978). Thus, for our purposes, the status of the Defendants as media or nonmedia is immaterial.

Snyder, 580 F.3d at 219, n. 13, aff'd, 562 U.S. 443 (2011); see also McGlothlin v. Hennelly, No. 9:18-CV-00246-DCN, 2020 WL 1876275, *10 (D.S.C. April 15, 2020) (relying on Snyder and finding that the Erickson caveats apply to non-media defendant in defamation actions); aff'd 2021 WL 2935372, *2 (4th Cir. July 13, 2021) (noting that although Erickson drew a distinction between the publishing of a statement by media and nonmedia defendants, the Fourth Circuit has since held that distinction to be immaterial). In so deciding, the Fourth Circuit joined the Second, Third, Fourth, Eighth, Ninth, Tenth and DC Circuits. See Flamm v. Am. Ass'n of Univ. Women, 201 F.3d 144, 149 (2d Cir. 2000) (holding that "a distinction drawn according to whether the defendant is a member of the media or not is untenable"); Avins v. White, 627 F.2d 637, 649 (3d Cir.

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1980); In re IBP Confidential Bus. Documents Litig., 797 F.2d 632, 642 (8th Cir. 1986); Obsidian Fin. Grp., LLC v. Cox, 740 F.3d 1284, 1290–91 (9th Cir. 2014) ("In defamation cases, the public-figure status of a plaintiff and the public importance of the statement at issue—not the identity of the speaker—provide the First Amendment touchstones.") cert. denied, 572 U.S. 1142 (2014); Garcia v. Bd. of Educ., 777 F.2d 1403, 1410 (10th Cir. 1985) Davis v. Schuchat, 510 F.2d 731, 734 n. 3 (D.C. Cir. 1975); see also Dunn & Bradstreet, Inc. v. Greenmoss Builders, Inc., 472 U.S. 749, 784 (1985) (Brennan, J., dissenting) ("in the context of defamation law, the rights of the institutional media are no greater and no less than those enjoyed by other individuals engaged in the same activities.").

The Court finds that the Erickson caveats apply to non-media defendants in defamation actions where the speech relates to a matter of public concern. Thus, Plaintiff must present evidence, sufficient to withstand summary judgment, that the statements at issue are false, that Defendants acted with common law malice, and that it sustained actual damages.

As to the use of the word "collapse", Plaintiff bears the burden of presenting admissible evidence that the horse did not collapse. It has failed to do so. Rather, as discussed below, the Court finds that Defendants are entitled to summary judgment on this claim on the basis that it is substantially true.

Plaintiff argues that even if some of the subtitles in the Big John video are not actionable because they are rhetorical or hyperbolic, that following statements contain actionable facts:[5]

> *By law, the horses are not supposed to pull more than three times their weight. However, loaded carriages are never weighed, and Charleston does not enforce this provision.*

[5] Because the Court finds that Plaintiff has failed to present any evidence that these statements are false, and therefore cannot defeat summary judgment, it is not necessary to reach the issue of whether these statements are "of and concerning" Plaintiff.

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Big John could not get up on his own. A team of people had to try and pull him up.

As to the first statement, the City of Charleston's Ordinances do provide the following: "No carriage shall be operated having more passengers than what is permitted by its certificate of appropriateness or having a combined weight of carriage, passengers, and drivers that is more than three (3) times the weight of the animal(s) pulling the vehicle." City of Charleston Ordinance § 29-212(c)(5). Further, Plaintiff's owner testified that none of Plaintiff's loaded carriages had ever been weighed. Christoff Depo., Vol. II, p. 40:6-9. Plaintiff cannot prove this statement, even if it were "of and concerning" the Plaintiff, is false. As to the second, Mr. Christoff testified that "there were a number of people involved" that "assisted" and "helped" Big John to his feet. Christoff Depo., Vol. I, pp. 225:25-226:23. Additionally, there is no credible evidence that the statement is false, only speculation and conjecture. After all, it is not possible to ask Big John what caused him to fall, or whether or not he would have been able to stand without assistance. The video contains footage of individuals that were, in fact, trying to pull Big John up.

Because Plaintiff has failed to produce evidence that the statements at issue are false, Defendants are entitled to summary judgment.

3. Plaintiff has failed to present evidence that Defendants acted with common law malice.

Because the allegedly defamatory statements relate to a matter of public concern, Plaintiff cannot rely on the traditional presumption of common law malice. Rather, it is required to "plead and prove common law malice." Erickson, 368 S.C. at 466, 629 S.E.2d at 665.

Common law malice means that "the defendant was actuated by ill will in what he did, with the design to causelessly and wantonly injure the plaintiff; or that the statements were published with such recklessness as to show a conscious indifference towards plaintiff's rights."

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Hainer v. Am. Med. Int'l, Inc., 328 S.C. 128, 134, 492 S.E.2d 103, 107 (1997) (quotation omitted). Accordingly, to survive summary judgment, Plaintiff must demonstrate that a jury could find that Defendants published the statements at issue "in an improper and unjustified manner." Tharp v. Media Gen., Inc., 987 F. Supp. 2d 673, 688 (D.S.C. 2013) (quoting Hainer, 492 S.E.2d at 107).

Plaintiff has produced no admissible evidence that Defendants published the Big John video, or any of the statements made therein, for the purpose of injuring Plaintiff. Likewise, Plaintiff has not shown that Defendants were reckless or that they showed a conscious indifference towards Plaintiff's rights.

Rather, the evidence presented by Defendants, through the affidavits of Joe Elmore and Ellen Harley, concerning the creation and publication of the video, as well as the Defendants' intentions in publishing the video, is summarized hereinabove. Plaintiff has failed to produce admissible evidence to challenge Defendants' testimony or to create a genuine issue of material fact. As such, even if there was a genuine issue of material fact as to whether the statements were false, Defendants would nonetheless be entitled to summary judgment. See Harris Teeter, Inc. v. Moore & Van Allen, PLLC, 390 S.C. 275, 299, 701 S.E.2d 742, 754 (2010) ("To survive summary judgment, the evidence presented must amount to more than mere speculation and conjecture.").

4. Defendants are entitled to summary judgment on Plaintiff's claim for punitive damages.

Plaintiff has failed to present any evidence, let alone clear and convincing evidence, that Defendants acted with actual malice, i.e., that Defendants published a statement with knowledge that it was false or with reckless disregard of whether it was false or not. As such, Defendants are entitled to summary judgment on Plaintiff's claim for punitive damages. Erickson, 368 S.C. at 466-67, 629 S.E.2d at 665.

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C. Defendants are entitled to summary judgment on Plaintiff's defamation claim because all remaining allegedly defamatory statements made by Defendants are not actionable were not "of and concerning" the Plaintiff.

Apart from the Big John video and the statements made therein, Plaintiff's identification of any additional allegedly defamatory statements made by these Defendants has been a moving target, but Plaintiff has alleged that there are "examples", certain files, showing screenshots of social media sites, news articles, websites, and the like, which it contends contain defamatory statements made by Defendants about Plaintiff. However, none of the identified publications contain actionable defamation. The publications and/or statements therein either are not actionable or are not "of and concerning" Plaintiff. Hospital Care Corp. v. Commercial Casualty Ins. Co., 194 S. C. 370, 9 S. E. 2d 796 (1940) ("If a group or class of individuals has been defamed, there is no cause of action for defamation on the part of a member of the group, unless it can be shown that the language specifically points to that particular individual."); Kendrick v. Citizens & S. Nat. Bank, 266 S.C. 450, 454, 223 S.E.2d 866, 868 (1976) (publication includes proof that the complaining party was the person with reference to whom the defamatory matter was spoken).

D. Defendants are entitled to summary judgment on Plaintiff's defamation claim because Defendants are media defendants.

Even if the status of a defendant as media v. non-media was relevant and the Erickson caveats were applicable only to media defendants, Defendants are still entitled to summary judgment because the Court finds that they are "media" defendants.

The U.S. Supreme Court has recognized that the "press" is not limited to "traditional" media. In explaining the purpose and scope of freedom of the press, the Court stated:

> Freedom of the press is a 'fundamental personal right' which 'is not confined to newspapers and periodicals. It necessarily embraces pamphlets and leaflets. . . . The press in its historic connotation comprehends every sort of publication which affords a vehicle of information and opinion. The informative function asserted by

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> representatives of the organized press in the present cases is also performed by lecturers, political pollsters, novelists, academic researchers, and dramatists.

Branzburg v. Hayes, 408 U.S. 665, 704–05 (1972) (internal citations omitted); see also Glik v. Cunniffe, 655 F.3d 78, 84 (1st Cir. 2011) ("changes in technology and society have made the lines between private citizen and journalist exceedingly difficult to draw. The proliferation of electronic devices with video-recording capability means that many of our images of current events come from bystanders with a ready cell phone or digital camera rather than a traditional film crew, and news stories are now just as likely to be broken by a blogger at her computer as a reporter at a major newspaper. Such developments make clear why the news-gathering protections of the First Amendment cannot turn on professional credentials or status.").

The blurring of the line between traditional media and non-media defendants in the age of the internet is particularly evident when looking at these Defendants.

CAS presented evidence of the numerous forms of communication it uses to educate and inform the public about animal welfare, relevant legislative developments, its advocacy efforts, animal cruelty and its prevention, opportunities for community involvement, current events, and the services it provides, amongst other things. It has approximately 250,000 "followers" on its Facebook page, with most of its posts garnering hundreds, if not thousands, of "likes", "shares", and "comments." Supp. Aff. of Elmore, ¶ 4 (filed on 8/20/21 as Ex. 18 to CAS's Memo. in Supp. of MSJ). The subjects covered by CAS range from those related to its various advocacy efforts, to current news, to local events, to legislative initiatives, to requests for assistant and support, and more. Id. Some posts, such as those concerning the carriage horse industry, often spark spirited debates by commentors. Id. It publishes a quarterly newsletter, *Carolina Tails*, that has a circulation of approximately 25,000-30,000 per issue and is the largest pet magazine in South Carolina. Id. at 5. Additionally, CAS maintains an email list with approximately 60,000 users, it

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maintains a blog of current events, it maintains three websites to which it posts articles on a weekly basis, and it has a YouTube channel with over 1200 subscribers. Id. at 6-8.

Defendant CCHA likewise presented evidence of the numerous forms of "media" communication it uses to educate and inform the public in furtherance of its advocacy efforts, including its website at https://www.charlestoncarriagehorseadvocates.com/, an online forum on Facebook https://www.facebook.com/ccha.join/ as well as accounts with Instagram and Twitter. Aff. of Harley, ¶ 8 (filed on 8/20/21 as Ex. C to CCHA's Memo. in Supp. of MSJ). CCHA further presented evidence that it has approximately 19,200 "followers" on its Facebook page and that some posts on its social media pages, such as those concerning the carriage horse industry, often spark spirited debates by commentors. Id. at ¶ 9 Finally, CCHA regularly sends out e-blasts via email to more than 1,000 users. Id. at ¶ 10.

Defendants are "media", even when viewed through the traditional lens of what constitutes media. As such, for the reasoning set forth above, even if the Erickson caveats only applied to media defendants, those caveats are applicable here and Defendants are entitled to summary judgment.

E. Defendants are entitled to summary judgment on Plaintiff's defamation claim because all statements made by Defendants were true, or at a minimum, substantially true.

Regardless of the status of the parties or the subject matter of the speech, the truth of the matter published is a complete defense to an action based on defamation. Ross v. Columbia Newspapers, Inc., 266 S.C. 75, 80, 221 S.E.2d 770, 772 (1976). A sufficient defense is made out where the evidence establishes that the statement was substantially true. Id.

To the extent the use of the word "collapse" to describe Big John is the basis of Plaintiff's defamation claim, that claim must fail because it is a true, or substantially true, statement.

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Merriam-Webster defines "collapse" as "to fall or shrink together abruptly and completely".[6] In his deposition, Mr. Christoff, Plaintiff's sole-owner, testified that Big John fell suddenly and completely to the ground. Christoff Depo. Vol. II, p. 24. Defendants also presented the testimony of Plaintiff's vet, Dr. Nikki Byrd Little, who examined Big John shortly after his fall and, according to Mr. Christoff, "would know whether the horse collapsed or not". Christoff Depo., Vol. I, pp. 253:9-254:23. However, she testified that if Big John tripped and fell, which what Plaintiff claims, that it would still be accurate to classify the incident as a "collapse." Little Depo., pp. 22-25, 71. Specifically, Dr. Little agreed that the definition of "collapse" as it relates to equines is "partial or complete loss of posture that can occur either at rest and/or at exercise" and that tripping and falling would classify as collapsing.

Plaintiff also alleges that Defendants falsely accused it of violating the law. Even if Plaintiff presented evidence of any such statement(s) published by Defendants that are "of and concerning" Plaintiff, which it failed to do, Defendants would still be entitled to summary judgment because the evidence establishes that Plaintiff has, in fact, violated the law in its operations. Specifically, Dan Riccio, the City of Charleston's Director of Livability and Tourism, testified after viewing video footage of Plaintiff's carriages running stop signs that this practice violated the City's ordinances as well as state law. Riccio Depo., Vol. II, pp. 194-195; see also Christoff Depo., Vol. II, pp. 126-129 (Mr. Christoff was shown videos of Plaintiff's carriages running stop signs and conceded that they were required to stop).

In conclusion, Defendants' Motions for Summary Judgment as to Plaintiff's defamation cause of action are GRANTED.

[6] https://www.merriam-webster.com/dictionary/collapse (last accessed 5/11/22).

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II. Civil Conspiracy

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 Cty. Sch. Dist., 433 S.C. 562, 861 S.E.2d 774 (2021). In Paradis Court emphasized that intent to harm is an integral part of a civil conspiracy claim:

> Since civil conspiracy is an intentional tort, an intent to harm, which has also been discussed in our conspiracy law, remains an inherent part of the analysis. See 16 Am. Jur. 2d Conspiracy § 53 (2020) ("Since one cannot agree, expressly or tacitly, to commit a wrong about which they have no knowledge, in order for civil conspiracy to arise, the parties must be aware of the harm or wrongful conduct at the beginning of the combination or agreement. Thus, civil conspiracy is an intentional tort requiring a specific intent to accomplish the contemplated wrong." (footnotes omitted)).

Paradis, 433 S.C. at 574, 861 S.E.2d at 780, fn. 9.

To the extent Plaintiff's civil conspiracy claim is based upon the speech that this Court holds is protected by the First Amendment, Defendants are entitled to summary judgment. See Snyder, 562 U.S. at 460 (liability for civil conspiracy cannot be based on constitutionally protected speech).

Defendants have presented evidence that there was no intent to harm Plaintiff nor was there any agreement amongst them to commit an unlawful act or a lawful act by unlawful means. Defendants submitted affidavits averring that they published the Big John video not with the intent of harming the Plaintiff but instead to bring awareness to their push for a scientific study of Charleston's carriage industry, that they are not aware of any occasion in which the Defendants worked together for the purpose of harming Plaintiff, and that any actions taken by the Defendants, whether or not in concert or individually, have been for the singular purpose of advocating for the

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carriage animals. Elmore Aff. (filed 9/11/20), ¶¶ 9, 11, 16, and 17; Harley Affidavit ¶¶ 5, 19, 23.

Plaintiff has failed to produce any admissible evidence that Defendants combined or had an agreement to commit an unlawful act or a lawful act by unlawful means. Plaintiff has also failed to produce any admissible evidence that Defendants, either individually or collectively, intended to harm it. As such, Defendants' Motions for Summary Judgment as to Plaintiff's civil conspiracy cause of action are GRANTED.

III. Intentional Interference with Business Relations

In order to prevail on a claim for intentional interference with a contractual relationship, a party must prove: (1) the contract; (2) the wrongdoer's knowledge of the contract; (3) its intentional procurement of the breach; (4) absence of justification; and (5) resulting damages. Todd v. South Carolina Farm Bureau Mut. Ins. Co., 287 S.C. 190, 336 S.E.2d 472, 473 (1985). Plaintiff's Complaint alleges that it has a contractual franchise relationship with the City of Charleston and that the "defendants have frequently and intentionally attempted to procure a breach of that franchise contract by publishing false and defamatory information about the plaintiff." Compl., ¶ 24. However, Mr. Christoff testified as follows:

> Q. Has any -- have you ever received any type of notice from anyone acting on behalf of the City of Charleston that your franchise contract was in jeopardy or anything related to your franchise contract?
>
> A. No.
>
> Q. Okay. So this is all hypothetical or potential that my franchise contract might someday in the future might be --
>
> A. Correct.

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Q. Okay. So just to clarify, no threats to your franchise contract currently by the City?

A. Not that I'm aware of.

Christoff Depo., Vol. II, pp. 51:23-52:10; see also Christoff Depo., Vol. I, p. 342:20-23 (testifying that at no time has Plaintiff's franchise contract ever been terminated).

There has been no breach of the franchise contract, the subject of Plaintiff's "Tortious Interference with Business Relations" cause of action. See First Union Mortg. Corp. v. Thomas, 317 S.C. 63, 73, 451 S.E.2d 907, 913 (Ct. App. 1994) (interference with a contract is not enough, without a breach of the underlying contract, there can be no recovery).

Therefore, Defendants' Motions for Summary Judgment as to Plaintiff's intentional interference with a contractual relationship cause of action are GRANTED.

IV. "Violation of Plaintiff's Civil Rights under Art. I, § 3, South Carolina Constitution – Gross Negligence, Recklessness"

Plaintiff claims that CAS, acting under color of state law, knowingly published false information and, in so doing, deprived Plaintiff of its constitutionally guaranteed rights to conduct a lawful business and be free from threats of harm. Compl., ¶¶ 15-17. It further argues that, because CAS acted in conjunction with CCHA and Harley in doing so, all Defendants are liable for violating Plaintiff's civil rights. Id. Plaintiff seeks monetary damages for this alleged deprivation. Compl., ¶¶ 18-19.

A. South Carolina does not recognize a cause of action for monetary damages for constitutional violations.

Because the South Carolina Constitution does not provide for a private cause of action for state constitutional violations and because the General Assembly has not enacted a statute enabling this type of action, Plaintiff's claim seeking monetary damages for alleged violations of Article I, § 3 of the South Carolina Constitution fails. See Palmer v. State, 427 S.C. 36, 829 S.E.2d 255 (Ct.

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App. 2019), reh'g denied, (July 12, 2019) and cert. denied, (S.C. May 28, 2021) (holding the S.C. Constitution does not provide for monetary damages for civil rights violations).

Defendants are entitled to summary judgment on this cause of action.

B. Defendants are entitled to summary judgment because Plaintiff has not shown any deprivation of a cognizable liberty or property interest.

In order to demonstrate a due process violation, Plaintiff must first show it was deprived of a constitutionally protected liberty or property interest. Am. Whitewater v. Tidwell, 959 F. Supp. 2d 839, 865 (D.S.C. 2013), aff'd, 770 F.3d 1108 (4th Cir. 2014); see also Tigrett v. Rector & Visitors of Univ. of Virginia, 290 F.3d 620, 628 (4th Cir. 2002) ("Whether a deprivation of constitutional rights has occurred is not dependent upon the subjective feelings or beliefs of a plaintiff. In order to properly maintain a due process claim, a plaintiff must have been, in fact, deprived of a constitutionally protected liberty or property interest.").

The right to hold specific employment and the right to follow a chosen profession free from unreasonable governmental interference come within the liberty and property interests protected by the Due Process Clause. Brown v. S.C. State Bd. of Educ., 301 S.C. 326, 329, 391 S.E.2d 866, 867 (1990) (citing Greene v. McElroy, 360 U.S. 474 (1959)). The liberty interest at stake is the individual's freedom to practice his or her chosen profession; the property interest is the specific employment. Id.

Plaintiff has produced no evidence that it was deprived it of its liberty interest to practice its chosen profession or its property interest in any specific employment.

C. CAS is not a governmental entity and, even if a quasi-governmental entity, was not acting under the color of state law in making any of the statements at issue.

Alternatively, Defendants are entitled to summary judgment because Plaintiff has not presented evidence of any state action. Plaintiff alleges that CAS is a "quasi-governmental entity

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as Charleston County taxpayers' money subsidizes its operations." Compl, ¶ 16. CAS is a private, charitable 501(c)(3) organization. Elmore Aff., ¶ 4. For many years, Charleston County has contracted with CAS to provide certain animal-related services. Elmore Aff., ¶ 14. The contract between the county and CAS provides that CAS "shall receive and provide for the humane disposition of dogs and cats running at-large, and such other animals as delivered into its custody...". See Animal Shelter Agreement, § 1.02 (attached as Ex. 5 to Elmore Aff.). The funding provided to CAS by the County under the contract fails to cover the cost incurred by CAS in performing its obligations under the contract. Elmore Aff., ¶ 15. Each year, CAS is required to use its reserves, donations, and grants to fund the shortfall. Elmore Aff., ¶ 15.

Even if CAS were a "quasi-governmental entity", Defendants are entitled to summary judgment because Plaintiff has failed to produce evidence that the government was substantially, or even minimally, involved in the challenged activity (i.e., Defendants' advocacy for the carriage horses and publication of the allegedly defamatory statements). Jackson v. Metro. Edison Co., 419 U.S. 345, 351 (1974) ("the inquiry must be whether there is a sufficiently close nexus between the State and the challenged action of the regulated entity so that the action of the latter may be fairly treated as that of the State itself"); Brentwood Academy v. Tennessee Secondary Sch. Athletic. Ass'n., 531 U.S. 288, 295 (2001) (state action may be found if, though only if, there is such a close nexus between the State and the challenged action that seemingly private behavior may be fairly treated as that of the State itself); New York City Jaycees, Inc. V. U.S. Jaycees, Inc., 512 F.2d 856, 858 (2nd Cir. 1975) ("The mere existence of government ties to a private organization is not sufficient to support a finding of state action...the state must be involved not simply with some activity of the institution alleged to have inflicted injury upon a plaintiff but with the activity that caused the injury") (internal citations omitted); Blum v. Yaretsky, 457 U.S. 991, 997 (1982)

(whether there is state action is an issue of law). The requisite connection between government and the actions complained of has not been shown. Plaintiff's constitutional challenge is addressed solely to the advocacy and speech of Defendants as it relates to the carriage industry, yet Plaintiff has made no showing that the government is substantially, or even minimally, involved in these activities. Defendants' Motions for Summary Judgment as to this claim are GRANTED.

IT IS THEREFORE ORDERED that Defendants' Motions for Summary Judgment are GRANTED.

AND IT IS SO ORDERED!

Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina
May 11, 2022

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Charleston Common Pleas

Case Caption:	Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al
Case Number:	2018CP1004083
Type:	Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**ORDER DENYING PLAINTIFF'S MOTION FOR AMENDED SCHEDULING ORDER**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

This matter is before the Court on Plaintiff's Motion for Amended Scheduling Order, which was filed on October 20, 2020. Because Plaintiff has failed to show good cause why additional discovery should be permitted, its Motion is DENIED.

Plaintiff's Complaint was filed on August 17, 2018. By Consent Scheduling Order filed July 16, 2019, the parties agreed on a discovery deadline of February 7, 2020.

Plaintiff's Motion is based on three grounds: (1) that Plaintiff's counsel suffered a heart attack in April 2019, followed by open heart surgery in August 2019 which Plaintiff asserts caused its counsel to "miss[] about half the year"; (2) that COVID has made "the efficient practice of law more difficult than usual"; and (3) that Defendants CCHA and Ellen Harley have engaged in dilatory tactics that have delayed discovery.

While sympathetic to Plaintiff's counsel's very serious health issues, the record shows that those issues did not prevent Plaintiff from conducting discovery. In the year following counsel's heart attack, eight of the nine depositions in this case were taken, motion hearings were held, and numerous pleadings were filed by Plaintiff.

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Additionally, the difficulties caused by COVID did not prevent Plaintiff from conducting meaningful discovery. The discovery deadline agreed to by the parties in the Consent Scheduling Order was February 7, 2020, which was prior to the pandemic's outbreak.

Although Plaintiff argues that Defendants CCHA and Ellen Harley engaged in dilatory tactics that delayed discovery, Plaintiff has not established that additional discovery would serve any purpose. Plaintiff has taken the Rule 30(b)(6) deposition of CCHA, and as stated by Plaintiff's owner, Broderick Christoff, in his Third Supplemental Affidavit, these Defendants produced 8,258 documents on August 19, 2021, and another 1,851 documents on September 21, 2021. Mr. Christoff further concedes that Defendant CAS produced 689 pages of e-mails in which Defendant Harley, founder of CCHA, is a correspondent. Plaintiff has failed to demonstrate that additional discovery would uncover relevant evidence or otherwise contribute to the resolution of any relevant issue.

Finally, although the discovery deadline was February 7, 2020, Plaintiff inexplicably waited until October 20, 2020, to file its Motion for Amended Scheduling Order, months after Defendants filed Motions for Summary Judgment. Plaintiff has not shown good cause to amend the scheduling order.

IT IS THEREFORE ORDERED that Plaintiff's Motion for Amended Scheduling Order is DENIED.

AND IT IS SO ORDERED!

_____

Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina
May 11, 2022

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Charleston Common Pleas

Case Caption:	Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al
Case Number:	2018CP1004083
Type:	Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

ORDER DENYING PLAINTIFF'S MOTION TO AMEND

This matter is before the Court on Plaintiff Charleston Carriage Works, LLC's Motion to Amend, which was heard on September 29, 2021. Plaintiff's Motion seeks leave to amend its Complaint to add two plaintiffs, five defendants, and additional causes of action. For the reasons stated below, Plaintiff's Motion to Amend is DENIED.

This lawsuit arises out of an incident in which one of Plaintiff's carriage horses, Big John, fell to the pavement during a carriage tour on April 19, 2017. Defendants Charleston Animal Society (CAS) and Charleston Carriage Horse Advocates (CCHA) posted eyewitness videos of the incident online and the videos "went viral." Plaintiff alleges that use of the word "collapse" to describe the horse, as well as the subtitles superimposed on the video, such as: "Was Big John exhausted or did he just 'trip'?" renders the video defamatory.

Plaintiff's Complaint was filed on August 17, 2018, and, in addition to defamation, states causes of action for civil conspiracy, "Violation of Plaintiffs' Civil Rights under Article I, § 3, South Carolina Constitution – Gross Negligence, Recklessness", and tortious interference with business relations.

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By Consent Scheduling Order filed July 16, 2019, the parties agreed on a discovery deadline of February 7, 2020, a mediation deadline of March 9, 2020, and a trial not before date of May 11, 2020. Mediation was completed but was not successful.

Plaintiff filed its Motion to Amend on April 6, 2020, seeking to amend its Complaint to: 1) add Broderick Christoff, the sole member/owner of Plaintiff, and his wife, Amber Christoff, as plaintiffs; 2) add Catherine Poag, Elizabeth Fort, Elizabeth Slagsvol[1], Domangue Consulting, and Digital Solutions, Inc.[2], as defendants; and 3) add additional causes of action, titled "Fraud/Slander/Libel Defamation Per Se", "Fraud/Piercing the Corporate Veil", "Slander per se/Outrage", and "Outrage".

LEGAL DISCUSSION

A motion to amend or supplement a pleading is addressed to the discretion of the trial judge, and the party opposing the motion has the burden of establishing prejudice. Tanner v. Florence County Treasurer, 336 S.C. 552, 521 S.E.2d 153 (1999). "A trial court has discretion to deny a motion to amend if the party opposing the amendment can show a valid reason for denying the motion." Skydive Myrtle Beach, Inc. v. Horry Cty., 426 S.C. 175, 182, 826 S.E.2d 585, 588 (2019). Prejudice occurs when the amendment states a new claim or defense that would require the opposing party to introduce additional or different evidence to prevail in the amended action. Ball v. Canadian Am. Exp. Co., Inc., 314 S.C. 272, 275, 442 S.E.2d 620, 622 (Ct. App. 1994); Forrester v. Smith & Steele Builders, Inc., 295 S.C. 504, 507, 369 S.E.2d 156, 158 (Ct. App. 1988) (stating "a proper reason" to deny a motion to amend could be "bad faith, undue delay, or prejudice"); Patton v. Miller, 420 S.C. 471, 490, 804 S.E.2d 252, 262 (2017) (under Rule 15(a), the circuit court should consider whether the defendants were prejudiced by the amendment, or

[1] These individuals are alleged to be affiliated with CCHA.
[2] These entities are alleged to be CCHA's "media companies".

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whether there is some other substantial reason to deny it); Holland ex rel. Knox v. Morbark, Inc., 407 S.C. 227, 235-36, 754 S.E.2d 714, 719 (Ct. App. 2014) (affirming the denial of a proposed amendment after the conclusion of discovery and the case had been placed on the trial roster because it would cause significant delay and impose substantial additional discovery costs that would not have been necessary if the plaintiff had timely made the motion to amend); Jennings v. Jennings, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010), rev'd on other grounds, 401 S.C. 1, 736 S.E.2d 242 (2012) (amendment properly denied where the proposed amendment would be futile).

I. Rule 15, SCRCP, does not allow the addition of new parties.

Plaintiff has moved pursuant to Rule 15, SCRCP, to amend its Complaint in order to name additional persons and entities as plaintiffs and defendants. However, Rule 15, SCRCP, does not permit such an amendment.

> Rule 15, SCRCP, does not allow an existing plaintiff to add a new plaintiff to the case to assert a claim against the defendant. ***Rule 15(a) only permits an existing plaintiff to add, modify, delete, or change claims against an existing defendant.*** Rule 15(b)addresses amendments to conform to the evidence presented at trial. Rule 15(c) deals with relation back of amendments. None of these subsections addresses a motion to add a plaintiff as contemplated in this case.

Valentine v. Davis, 319 S.C. 169, 171, 460 S.E.2d 218, 219 (Ct. App. 1995) (emphasis added) ("We are unwilling to torture the rules in such a way to correct possible mistakes in the filing of motions or misjudgments in strategic procedural decisions."); Whitehead v. State, 310 S.C. 532, 426 S.E.2d 315 (1992) (the rules of procedure, like statutes, should be given their plain meaning). Plaintiff's Motion, insofar as it attempts to add new parties, is DENIED.

II. Plaintiff's Motion to Amend is untimely and would prejudice Defendants.

A. The addition of Broderick and Amber Christoff as Plaintiffs is untimely and prejudicial to the Defendants.

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Defendants presented evidence that Plaintiff, as well as Mr. and Mrs. Christoff, have been aware of the facts giving rise to the claims made in the Amended Complaint, including the damages and injuries allegedly sustained by Mr. and Mrs. Christoff, since shortly after the incident occurred on April 19, 2017. Plaintiff has failed to provide an adequate explanation for its delay in seeking to add Mr. and Mrs. Christoff as plaintiffs when the action has been pending for over three years, discovery concluded in February 2020, and the claims sought to be asserted were known over four years ago.

Additionally, Defendants would be prejudiced by the addition of new plaintiffs in this lawsuit at this juncture. The proposed Amended Complaint seeks to assert, on behalf of Mr. and Mrs. Christoff, each of the original four causes of action as well as the four new causes of action which would require Defendants to introduce additional and different evidence. See Ball v. Canadian Am. Exp. Co., Inc., 314 S.C. 272, 275, 442 S.E.2d 620, 622 (Ct. App. 1994) (prejudice occurs when the amendment states a new claim or defense that would require the opposing party to introduce additional or different evidence to prevail in the amended action).

Because Plaintiff was aware of the claims it now seeks to add and assert on behalf of Mr. and Mrs. Christoff, and because its undue delay in seeking amendment of its Complaint and the resulting prejudice to the Defendants, the Motion to Amend to add additional plaintiffs is DENIED.

B. The addition of new causes of action is untimely and would prejudice the Defendants.

Plaintiff's proposed Amended Complaint seeks to add four causes of action: "Fraud/Slander/Libel Defamation Per Se"; "Fraud/Piercing the Corporate Veil"; "Slander per se/Outrage"; and "Outrage". Although arising out of the same incident, these new claims have

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elements distinct from those of the original Complaint and thus would require additional discovery. See Holland ex rel. Knox v. Morbark, Inc., 407 S.C. 227, 754 S.E.2d 714 (Ct. App. 2014), reh'g denied (amendment seeking to add claims against defendant following conclusion of discovery would have been prejudicial to defendant, where plaintiff had all knowledge necessary to alert him as to the claim prior to the close of discovery, and the new claim would have required defendant to conduct additional discovery). There is no justification for Plaintiff's delay in seeking this amendment, and the Motion to Amend to add additional causes of action is DENIED.

C. The addition of new defendants is untimely and would prejudice the existing Defendants.

For the same reasons as set forth above, the addition of new defendants, against which entirely new and separate causes of action are alleged in the Amended Complaint, is untimely and would prejudice the existing Defendants. Therefore, the Motion to Amend to add additional defendants is DENIED.

III. Plaintiff's Motion to Amend is futile because the claims are barred by the Statute of Limitations.

A trial court may deny a motion to amend if the amendment would be clearly futile. Skydive Myrtle Beach, Inc. v. Horry Cty., 426 S.C. 175, 182, 826 S.E.2d 585, 589 (2019) (citing Jennings v. Jennings, 389 S.C. 190, 209, 697 S.E.2d 671, 681 (Ct. App. 2010)); Health Promotion Specialists, L.L.C. v. S.C. Bd. of Dentistry, 403 S.C. 623, 632, 743 S.E.2d 808, 812–13 (2013) (affirming the circuit court's denial of a party's motion to amend its complaint when the amendment would be futile).

It has long been recognized that an amendment adding a claim barred by the applicable statute of limitations is futile and should be denied. See Coral Gables v. Palmetto Brick Co., 183 S.C. 478, 191 S.E. 337, 341 (1937) ("The court will not do a useless and a futile thing, by allowing

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an opportunity for setting up a new cause of action by amendment, which is barred by the statute of limitations.").

Plaintiff argues (in its Reply Memorandum Supporting Motion to Amend, filed May 26, 2020) that Rule 20[3] allows the joinder of additional plaintiffs and defendants, and submits that "the proposed amendments arise out of the same transaction, the same occurrences, and the same allegations of defamation and add nothing other than to address the fact that, based on Ms. Harley's January 31st deposition, she identified for the first time two additional corporate entities that she claims are responsible for her defamatory content." Pltf. Reply Memo, p. 6; see also p. 9 ("The amended complaint alleges nothing new other than responding to Ms. Harley's January 31st identification of who is responsible for the allegations arising out of the original transaction and occurrence."); p. 5 ("The addition of the principals of the plaintiff are only to meet the allegations of the defendants that some of the damages pertain to the principals individually and not their limited liability company, but their claims are based on the original identification of defamatory publications."). A comparison of the original Complaint and the proposed Amended Complaint shows that there are no new substantive allegations – the proposed Amended Complaint is based on the same facts. Given that all claims are based on the facts as set forth in the original Complaint, the statute of limitations began to run at the very latest on August 17, 2018, when Plaintiff filed its Complaint. More than three years have passed, therefore all new claims sought to be asserted in the proposed Amended Complaint are stale.

Moreover, there is no "relation back" argument available to Plaintiff and its attempt to add additional parties, even if Rule 15 was applicable. See Cline v. J.E. Faulkner Homes, Inc., 359 S.C. 367, 371, 597 S.E.2d 27, 29 (Ct. App. 2004) (relation back to original pleadings applies only

[3] Plaintiff's Motion to Amend was made solely pursuant to Rule 15, SCRCP.

ELECTRONICALLY FILED - 2022 May 12 2:24 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

when an existing party is changed, not when a new party is added to a complaint, emphasizing that "under South Carolina law, the date when a plaintiff learns of a potential new defendant has absolutely no bearing on the timing of the statute of limitations"); Gause v. Smithers, 384 S.C. 130, 681 S.E.2d 607 (Ct. App. 2009) (police officer's naming of son, in amended complaint, as actual driver of vehicle he stopped when officer was hit by second vehicle, amounted to the addition of a defendant and not the change of a party within meaning of relation back rule, and as such, the addition of son, while keeping father in case, did not relate back to original complaint filed against father as owner and erroneously assumed driver of the stopped vehicle, for statute of limitations purposes.); Jackson v. Doe, 342 S.C. 552, 558, 537 S.E.2d 567, 570 (Ct. App. 2000) ("The language of Rule 15(c) clearly speaks to a change in party, not the addition of a defendant to an already existing defendant. In our view, the addition of a party is not the same as a substitution or change of party.").

Because the addition of new parties is not permitted by Rule 15, SCRCP, and further because the claims sought to be added are barred by the statute of limitations, the proposed amendment is futile and, therefore, Plaintiff's Motion to Amend is DENIED.

AND IT IS SO ORDERED!

Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina
May 11, 2022

ELECTRONICA FILED - 2022 May 12 2:24 PM - CHARLESTON - COMMON PL - CASE#2018CP1004083

Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

ELECTRONICALLY FILED - 2022 May 05 3:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Charleston Carriage Works, LLC, Plaintiff, v. Charleston Animal Society, Ellen Harley, and Charleston Carriage Horse Advocates, Inc. Defendants.	IN THE COURT OF COMMON PLEAS C/A NO: 2018-CP-10-04083 **ORDER DENYING MOTION FOR SANCTIONS**

This matter is before the Court on Plaintiff's Motions for Sanctions. The motion was heard on September 29, 2021. The Court has carefully reviewed the memoranda, exhibits, affidavits, and deposition testimony submitted by the parties. For the reasons stated below, Plaintiff's Motion is denied.

I. Background of Plaintiff's motion for sanctions

A few hours before a motion to compel hearing on June 16, Trey Thompson, attorney for Charleston Carriage Horse Advocates, Inc. ("CCHA") and Ellen Harley ("Harley"), sent the following email to Plaintiff: "I am confirming that we will provide the CCHA monthly bank statements (to the extent that either CCHA physically possess them or to the extent the bank can produce same) **to show cash in, cash out** of CCHA bank accounts." (emphasis added). In the subsequent hearing that same day, Mr. Thompson made the following statement: "So in short, Your Honor...[Plaintiff] is seeking at this point in time...bank statements from CCHA, the monthly bank statements just as they would be delivered to the client from the bank. We are going

ELECTRONICALLY FILED - 2022 May 05 3:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

to present those, Judge." Judge Price then asks: "So -- so are y'all consenting to the bank statement?" Mr. Thompson replied: "Yes, Your Honor." Mr. Thompson goes on to tell the court the following: "[O]bviously we can produce whatever we have. But to go to the bank [,] if we don't have those statements [,] we will have to request them from the bank to get them...[but] we will make it an expedited effort." Plaintiff never objected to receiving "cash in, cash out" bank statements during the hearing, despite knowing what Mr. Thompson was referring to when he said, "bank statements". Judge Price's subsequent order states: "The Plaintiff's motion to compel discovery against Defendants is granted. The Defendants will produce the bank statements."

Despite having received what it understood it would receive, Plaintiff submitted a motion for sanctions under Rule 37, which contains the provisions governing failure to comply with a court order. Rule 37(b)(1)-(2)(A)-(E), SCRCP. In its motion, Plaintiff asks the Court to strike both CCHA's Answer and Harley's Answer, because of the failure to cooperate, and to set the case for a damages hearing. Rule 37(b)(2)(C), SCRCP. Plaintiff also seeks to compel CCHA and Harley to produce their computers for forensic inspection. Rule 37(b)(2), SCRCP (a court may make orders "as are just"). Finally, Plaintiff asks for an award of reasonable attorney's fees. Rule 37(b)(2), SCRCP ("the court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney's fees.").

On December 2, 2020, counsel for CCHA and Harley, and counsel for the Plaintiff agreed by telephone to resolve the dispute regarding the bank statements by the production of these very same bank statements in their entirety, redacting only the portion of the deposit tickets which could indicate the pledge source of the deposit. On December 12, 2020, the counsel for the Defendants produced the redacted bank statements as agreed.

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After the July hearing, counsel for the Defendants retained Rosen Litigation Technology and Consulting, Inc to image CCHA's hard drive and to search it and the CCHA's email accounts for terms provided by Plaintiff's counsel. Shortly thereafter, counsel for CCHA began requesting search terms from Plaintiff to run through CCHA's hard drive and any email accounts Plaintiff wanted searched. On October 6, 2020, the counsel for Defendant CCHA followed up by email on previous discussions with counsel for the Plaintiff, explaining "I just need search terms you want our expert to search on CCHA's computer". Not receiving search terms, counsel for the Defendant CCHA followed up again with Plaintiff's counsel on October 26, 2020:

> Tommy,
> I'm following up again to see if you have a list of search that you want run through CCHA's computer. I cannot conduct a search unless and until have that. This is akin to a discovery request – it comes from the lawyer, not the expert. Certainly if you want to consult with your expert regarding the terms to be search [sic], I understand. If that's the case, please do so this week and get back to me.
>
> **I need to memorialize that I've been asking your for this list of search terms now for several months and repeatedly telling (as below) that I'm prepared to respond to your request for information off of CCHA's computer (and any other databases you tell me you us to search, if any) as soon as you tell me what it is to look for and where you want us to look.**
>
> I remain concerned that this is an issue you don't want to resolve because you want to argue that you don't have document or information to defeat summary judgment 2+ years into this case because of a failure by CCHA and Harley to respond to your discovery requests. ...

Finally, after additional follow ups, by letter on November 4, 2020, Plaintiff provided Defendant CCHA with the terms it wanted searched. CCHA thereafter produced its computer to Rosen Litigation Technology Consulting, Inc. who conducted a search of those terms and de-duplication of the responses, a process that, with the holidays, took approximately four months.

ELECTRONICALLY FILED - 2022 May 05 3:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

CCHA has thereafter reviewed the massive data compilation for privilege and work product and has produced thus far in excess of 10,000 responsive, non-privileged documents to the Plaintiff.

II. Standard of Review

As the Court of Appeals has made clear, "[i]n 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." Skywaves I Corp. v. Branch Banking & Tr. Co., 423 S.C. 432, 457, 814 S.E.2d 643, 656 (Ct. App. 2018) (citation omitted), reh'g denied (June 21, 2018), cert. denied (Nov. 9, 2018). Sanctions should punish the specific conduct of the party "and not go beyond the necessities of the situation to foreclose a decision on the merits of a case." Id., 423 S.C. 432, 457, 814 S.E.2d 643, 656-57 (citation omitted). When the sanctions essentially result in a judgment by default, "the moving party must show bad faith, willful disobedience [,] or gross indifference to its rights to justify the sanction." Id., 423 S.C. 432, 457, 814 S.E.2d 643, 657 (citation omitted). More fundamentally, "there must be an order of the Court before sanctions are imposed under subdivision (b) [of Rule 37] ...." Richardson on Behalf of 15th Circuit Drug Enf't Unit v. Twenty-One Thousand & no/100 Dollars ($21,000.00) U.S. Currency & Various Jewelry, 430 S.C. 594, 599, 846 S.E.2d 14, 16 (Ct. App. 2020) (citation omitted).

III. Analysis

Based on the June 16 email confirmation, Plaintiff received what it understood it would receive from CCHA and Harley. If Plaintiff objected to receiving cash in, cash out bank statements, it should have done so during the motion to compel hearing. Plaintiff cannot allege, in the face of its previous understanding, the willful disobedience or bad faith necessary for the Court to strike

ELECTRONICALLY FILED - 2022 May 05 3:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

the Defendants' respective Answers and to set the case for a damages hearing. Skywaves I Corp. v. Branch Banking & Tr. Co., 423 S.C. 432, 457, 814 S.E.2d 643, 657.

Perhaps realizing this, Plaintiff also asks the Court, in the alternative, to order CCHA and Harley to turn over their computers for forensic inspection. Plaintiff has multiple problems here. First, "there must be an order of the Court before sanctions are imposed under subdivision (b)...." Richardson on Behalf of 15th Circuit Drug Enf't Unit v. Twenty-One Thousand & no/100 Dollars ($21,000.00) U.S. Currency & Various Jewelry, 430 S.C. 594, 599, 846 S.E.2d 14, 16 (citation omitted). As demonstrated, neither CCHA nor Harley violated Judge Price's June 17 Form Four Order. Plaintiff received exactly what Defendants said they would provide and what Plaintiff knew they would provide. Second, nothing in the order requires production of computers or responsive documents to search terms. Third, physical access to the computers is unnecessary because CCHA and Harley have nonetheless run the proposed search and provided Plaintiff in excess of 10,000 responsive documents. The delay in running the search, moreover, is due to Plaintiff's refusal to send search terms. Fourth and finally, the court indicated that Plaintiff should return for another motion to compel hearing if physical access to the computers could not be worked out. Rather than seek a court order via a motion to compel, Plaintiff is hoping the Court will bypass this step and award access as a sanction under Rule 37(b). Again, this cannot be done. See Richardson on Behalf of 15th Circuit Drug Enf't Unit v. Twenty-One Thousand & no/100 Dollars ($21,000.00) U.S. Currency & Various Jewelry, 430 S.C. 594, 598–600, 846 S.E.2d 14, 16–17 (discussing when sanctions are appropriate under Rule 37).

IV. Conclusion

A violation of a court order is a prerequisite for sanctions. Neither CCHA nor Ellen Harley violated Judge Price's order. IT IS THEREFORE ORDERED that Plaintiff's Motion for Sanctions is DENIED.

AND IT IS SO ORDERED

Mikell R. Scarborough
Master-In-Equity

Charleston, South Carolina
May 5, 2022

ELECTRONICALLY FILED - 2022 May 05 3:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2022 May 05 3:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Common Pleas

Case Caption:	Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al
Case Number:	2018CP1004083
Type:	Master/Order/Other

So Ordered

s/Mikell R. Scarborough 3062

Electronically signed on 2022-05-05 14:06:26 page 7 of 7

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1004083

Charleston Carriage Works L L C
PLAINTIFF(S)

Charleston Animal Society et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT**. This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT**. This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

.Case referred to Charleston County Master-in-Equity on May 27, 2021. Plaintiff directed to contact MIE Office to perfect referral by payment of applicable SC Code 14-11-310 reference fees with 15 days.

*** After 90 days from referral date, this matter will be administratively DISMISSED.***

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/08/2021 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2021 Jul 08 10:56 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ELECTRONICALLY FILED - 2021 Jul 08 10:56 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2021 Jul 08 10:56 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Order/Electronic Form 4

So Ordered

s/Mikell R. Scarborough 3062

ELECTRONICALLY FILED - 2021 May 27 2:17 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**CONSENT ORDER FOR REFERENCE**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

Pursuant to Rule 53 of the *South Carolina Rules of Civil Procedure*, and upon the joint motion and with the consent of all parties, all outstanding motions in the above-referenced matter are referred to the Charleston County Master in Equity, to include:

1. Plaintiff's Motion to Amend Complaint filed 4/20/20.
2. Plaintiff's Motion for Sanctions against Defendants Charleston Carriage Horse Advocates and Ellen Harley filed 10/2/20
3. Plaintiff's Motion to Enlarge Time in Scheduling Order filed 10/20/20
4. Defendant Charleston Carriage Horse Advocates' Motion to Quash Plaintiff's Subpoena to South State Bank filed 8/19/20
5. Defendant Charleston Carriage Horse Advocates' Motion to Compel Discovery Responses from Plaintiff filed 8/17/20
6. Defendant Charleston Carriage Horse Advocates' Motion for Summary Judgment filed 9/11/20
7. Defendant Ellen Harley's Motion for Summary Judgment filed 9/11/20
8. Defendant Charleston Animal Society's Motion for Summary Judgment filed 11/16/20

IT IS THEREFORE ORDERED that these motions are appropriate for reference to the Master, and therefore, pursuant to Rule 53, *SCRCP*, are hereby referred to the Master to make appropriate findings of fact and conclusions of law and with the authority to enter final judgment thereon, and any appeal from any such final judgment(s) shall be to the South Carolina Court of

Appeals. Following the issuance of the orders on these motions, the Master shall retain jurisdiction to hear any motions relating thereto filed pursuant to Rules 59 or 60, *SCRCP*.

The Master's Order(s) shall be filed with the Clerk of Court for Charleston County no later than sixty (60) days following the hearing.

IT IS SO ORDERED.

_____
Presiding Judge, Ninth Judicial Circuit

Date: _____, 2021
Charleston, S. C.

We So Move/Consent:

s/Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar # 2186
Belk, Cobb, Infinger & Goldstein, PA
PO Box 71121
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tgoldstein@cobblaw.net

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s/Elizabeth J. Palmer
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ATTORNEYS FOR DEFENDANT
CHARLESTON ANIMAL SOCIETY

ELECTRONICALLY FILED - 2021 May 27 2:17 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

s/Joseph D. Thompson, III
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s/Jenkins M. Mann
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ATTORNEYS FOR DEFENDANTS CHARLESTON CARRIAGE HORSE ADVOCATES AND ELLEN HARLEY

ELECTRONICALLY FILED - 2021 May 27 2:17 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2021 May 27 2:17 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Order/Referred to Master or Special Referee

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

ELECTRONICALLY FILED - 2020 Jul 30 10:06 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
Plaintiff,	)	
vs.	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
Defendants.	)	

ORDER RESOLVING CROSS MOTIONS TO COMPEL AS TO CHARLESTON CARRIAGE WORKS, L.L.C. AND CHARLESTON ANIMIAL SOCIETY

Date of Hearing: Thursday, May 28, 2020
Plaintiff's counsel: Thomas Goldstein
Defendant's counsel: Elizabeth Palmer
Court Reporter: Karen Anderson

This matter came before the Court for a hearing on May 28, 2020, on cross motions to compel. The Plaintiff seeks discovery responses as set forth in its motion filed July 5, 2019. The Defendant, Charleston Animal Society, seeks discovery responses as set forth in its motion filed July 22, 2019. At issue in the hearing were solely the issues in the Motions relating to the Plaintiff and Defendant Charleston Animal Society (CAS). (The remaining defendants' attorney, Spencer Gill, was present for the hearing.) As it relates to the other Defendants, the parties are continuing to work through the dispute, which, if not resolved voluntarily, will be heard at a later time.

ELECTRONICALLY FILED - 2020 Jul 30 10:06 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Based on the pleadings, arguments of counsel, and the *South Carolina Rules of Civil Procedure*, the cross motions are GRANTED as set forth below. Within 15 days of the date of this Order, Defendant, Charleston Animal Society, shall:

1) Produce CAS's Schedule B's for the years 2014-2018. The Plaintiff may review them but shall not photocopy them or disclose the names to any person not directly connected with the preparation of this lawsuit, and, at the conclusion of this suit, shall return all documents to the defendant and not retain copies. The Plaintiff shall not use the information to contact any person donating to the Charleston Animal Society; and

2) Supplement its response to Plaintiff's Request for Production requesting: "Financial and/or operational records on all animals delivered into the custody of the Charleston Animal Society by Charleston County and by all municipalities and citizens from January 1, 2017 – December 31, 2017 that include the date, place (specific street address), reason and manner whereby each animal was brought into custody, together with a description of each animal and a record of its final disposition."

Within 15 days of the date of this Order, Plaintiff shall:

3) Supplement its answer to Interrogatory No. 6, specifically identifying each allegedly false or defamatory statement Plaintiff contends was made by Defendant CAS, and for each such statement or publication, providing the information requested in (a)-(h) of Interrogatory No. 6.

4) Supplement its answer to Interrogatory No. 10, identifying the specific "efforts by the City of Charleston to restrict and curtail the Plaintiff's use of its property" (as alleged in paras. 27 and 35 of the Complaint) and, to the extent Plaintiff contends Defendant CAS is responsible for those efforts, the facts supporting that contention.

5) Answer Interrogatory No. 13.

6) Supplement its Responses to Requests for Production Nos. 23 and 25 (which correlate to Interrogatories Nos. 10 and 13, respectively).

AND IT IS SO ORDERED!

Bentley D. Price
Presiding Circuit Court Judge

July ____, 2020
Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Jul 30 10:06 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Order/Other

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2018CP1004083

Charleston Carriage Works L L C
PLAINTIFF(S)

Charleston Animal Society et al
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.

☑ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

☐ **ACTION DISMISSED** (*CHECK REASON*): ☐ Rule 12(b), SCRCP; ☐ Rule 41(a), SCRCP (Vol. Nonsuit); ☐ Rule 43(k), SCRCP (Settled); ☐ Other

☐ **ACTION STRICKEN** (*CHECK REASON*): ☐ Rule 40(j), SCRCP; ☐ Bankruptcy; ☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other

☐ **STAYED DUE TO BANKRUPTCY**

☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT** (*CHECK APPLICABLE BOX*): ☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☐ See attached order (formal order to follow) ☑ Statement of Judgment by the Court:

The Plaintiff's Motion to Compel Discovery against Defendants is granted. The Defendants will produce the bank statements. As to the search terms issue we will take this under advisement for thirty days. If a formal order is desired the parties are free to submit one.

ORDER INFORMATION

This order ☐ ends ☑ does not end the case. ☐ See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/17/2020 .

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

ELECTRONICALLY FILED - 2020 Jun 17 4:07 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

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ELECTRONICALLY FILED - 2020 Jun 17 4:07 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Order/Electronic Form 4

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

ELECTRONICALLY FILED - 2020 Jun 02 11:00 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	**PROTECTIVE AND CONFIDENTIALITY ORDER**
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

It being represented to the Court that the parties have requested documents from each other which involve trade secrets, confidential research, proprietary materials and/or commercial information belonging to the respective parties; and

It being represented to the Court that the parties are willing to provide these documents for inspection and review only under a Protective and Confidentiality Order upon the hereinafter stated terms and conditions; and

It being represented to the Court that all of the parties are in agreement as to the terms of the said Protective and Confidentiality Order; therefore,

It is hereby ORDERED that:

1. A party will disclose documents that it designates **"Confidential and Proprietary"** to the parties to this suit and attorneys, only pursuant to this Order and under the conditions that follow. The parties agree that the material exchanged that is not in the public domain shall be confidential.

2. Any and all of the aforesaid "Confidential" materials disclosed by a party and the contents thereof shall be maintained in confidence by all other parties and this counsel. The aforesaid materials shall not be photocopied or reproduced by any means without the prior consent of counsel for the providing party or until further order of this Court, except that receiving counsel is permitted to scan said documents into a case management system for purposes of representing the party in this matter.

ELECTRONICALLY FILED - 2020 Jun 02 11:00 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

3. Any and all of the aforesaid "Confidential" materials disclosed by a party and the contents thereof shall be used only in connection with the above-captioned matter and shall not be used for any other purpose.

4. No person who examines any document produced pursuant to this Order shall disseminate orally, in writing, or by any other means, the document(s) or the information contained therein, to any person not also authorized to examine documents under the terms of this Order.

5. Counsel may permit an expert or experts hired in the above-captioned litigation to review the documents subject to this Protective Order, but counsel agree that any expert must comply with every element of this Protective Order. Said expert shall agree that the documents and the contents thereof shall not be disclosed to any other person or entity and said documents shall not be photocopied or reproduced by any means. Any documents provided to any expert must be returned to the producing party within thirty (30) days of the conclusion of the above-captioned litigation pursuant to the terms of paragraph 8 herein.

6. Notwithstanding the foregoing provisions, this Order shall be without prejudice to the right of any party to challenge the propriety of discovery on any grounds including, but not limited to, relevance, privilege and materiality. Any CONFIDENTIAL designation is subject to challenge.

7. Any party may challenge the confidentiality of documents at any time and a challenge is not waived by failure to raise the challenge at the time of initial disclosure or designation.

8. Notwithstanding the foregoing provisions, this Order shall not restrict in any manner the right of any party to offer or use as evidence at the trial of this action any of the documents subject to this Protective Order and nothing contained herein shall be construed as a waiver of any objection which might be raised as to the admissibility of any evidentiary material.

9. At the conclusion of this lawsuit by settlement, a jury verdict, nonsuit, dismissal, by judgment order or otherwise, all of a providing party's "Confidential" materials, including any and all copies, or renditions made from the materials, shall be returned to the providing party within thirty (30) days.

10. A breach of the terms of this Order shall entitle the offended party to recovery of appropriate sanctions, including but not limited to attorney's fees and costs incurred in the enforcement of this Order.

11. This Protective Order may be modified only by written stipulation signed by the attorneys of record and/or by further order of the Court upon application to the Court, with proper notice.

AND IT IS SO ORDERED!

_____
Presiding Judge
Ninth Judicial Circuit

_____, 2020

Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Jun 02 11:00 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Jun 02 11:00 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Common Pleas

Case Caption: Charleston Carriage Works L L C VS Charleston Animal Society , defendant, et al

Case Number: 2018CP1004083

Type: Order/Protective Order

IT IS SO ORDERED!

/s Hon. Bentley D. Price, Circuit Judge 2766

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2018-CP-10-4083
	)	
CHARLESTON CARRIAGE WORKS, L.L.C.,	)	
	)	
Plaintiffs,	)	
	)	**CONSENT SCHEDULING ORDER**
v.	)	
	)	
CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY and CHARLESTON CARRIAGE HORSE ADVOCATES, INC.,	)	
	)	
Defendants.	)	
	)	

FILED
2019 JUL 16 AM 10:24
JULIE J. ARMSTRONG
CLERK OF COURT

Pursuant to Rule 16 of *South Carolina Rules of Civil Procedure*, and upon consent of the undersigned parties who have appeared in this action, this Court establishes the following deadlines in this matter:

1. Discovery shall be completed on or before **February 7, 2020.** All depositions must be taken by this date.

2. Mediation shall be concluded by **March 9, 2020.**

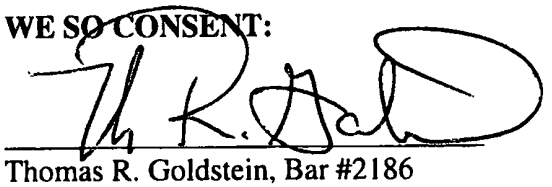
3. This case is subject to being called for trial on or after **May 11, 2020.**

IT IS SO ORDERED.

The Honorable Roger M. Young, Sr.
Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina
July 16, 2019

WE SO CONSENT:



Thomas R. Goldstein, Bar #2186
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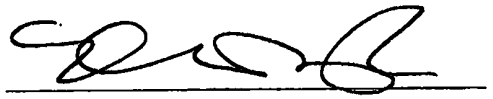
ATTORNEY FOR PLAINTIFF



Elizabeth Palmer, Esquire
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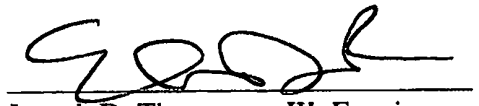
ATTORNEY FOR CHARLESTON ANIMAL SOCIETY



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ATTORNEYS FOR ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC.

2018-CP-10-4083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-

FILED
2018 AUG 17 AM 8:53
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	**SUMMONS**
)	LIBEL, DEFAMATION, CONSPIRACY
Charleston Animal Society, Ellen)	(Jury Trial Demanded)
Harley and Charleston Carriage)	
Horse Advocates, Inc.,)	
)	
Defendants.)	

TO THE DEFENDANTS ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you; and to serve a copy of your Answer to the said Complaint upon the subscribers at their offices at 2344 Cosgrove Avenue, Post Office Box 71121, Charleston, South Carolina, 29415-1121 within thirty (30) days after the service hereof, exclusive of the day of such service.

YOU ARE HEREBY GIVEN FURTHER NOTICE that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of such service, judgment by default will be entered against you for the relief demanded in the Complaint.

August 16, 2018

Thomas R. Goldstein, S. C. Bar #2186.
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Post Office Box 71121
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(843) 554-4291; (843) 554-5566 fax
ATTORNEYS FOR PLAINTIFF

Deposition #3-A

2017-CP-10-4083

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLSTON)

IN THE COURT OF COMMON PLEAS

CASE NO.: 2018-CP-10-

FILED
2018 AUG 17 AM 8:54
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Charleston Carriage Works, L.L.C.,)
)
Plaintiff,)
)
vs.)
)
Charleston Animal Society)
Ellen Harley, and)
Charleston Carriage Horse)
Advocates, Inc.)
)
Defendants.)

COMPLAINT
(Jury Trial Demanded)

The plaintiff complaining of the defendants alleges and shows as follows:

1. The plaintiff is a limited liability company organized and existing pursuant to the laws of the State of South Carolina, with its principle place of business in Charleston County.

2. The defendant, Charleston Animal Society, is a quasi-governmental entity of the County of Charleston and an eleemosynary corporation, organized and existing pursuant to the laws of the State of South Carolina, with its principal place of business located in Charleston County.

3. The defendant, Ellen Harley, is a citizen and resident of Charleston County and runs an unincorporated organization known as the Charleston Carriage Horse Advocates, which she operates out of her residence at 23 Wentworth Street, in Charleston County. The defendant incorporated the association on January 3, 2017. The acts complained of in this complaint occurred both before and after incorporation.

4. The subject matter of this lawsuit, the defendants' conspiracy to defame, harass, and injure the plaintiff, all occurred in Charleston County, South Carolina.

5. The Court has subject matter jurisdiction over this case and over the parties hereto, and the acts complained of occurred in Charleston County, making venue in Charleston proper.

FOR A FIRST CAUSE OF ACTION
(Civil Conspiracy)

6. Beginning approximately in July 2016, the defendants conspired and coordinated to spread false information about the plaintiff's operation that the defendants knew was false. The defendants did this in several ways. From time to time, persons acting on or at the direction of the defendants would approach the plaintiff's carriages to interfere in the operation of the plaintiff's business by shouting materially false information at the plaintiff's clients, including such false information as:

A) Plaintiff's alleged failure to adhere to City ordinances;

B) Plaintiff's alleged intentional cruelty to horses;

C) Plaintiff's alleged disregard for animal safety;

D) Plaintiff's alleged disregard for animal health and welfare;

E) Plaintiff's alleged cruel and inhumane treatment of animals;

F) Plaintiff's alleged pattern of allegedly working animals to death;

G) Plaintiff's alleged unfitness to operate carriage tours, *etc.*

7. In addition to formulating and executing a plan to harass the plaintiff's clients to harm the plaintiff's business, the defendant, Harley, has followed carriages, attempting to provoke the plaintiff's horses and cause disruption and intimidation to the plaintiff's business.

8. The defendants, acting in concert with one another, have published materially false information about the plaintiff's operation including, but not limited to:

A) Publishing photographs of a horse who tripped, knowingly disseminating the false statement accompanying the photo that the still photo of the horse lying on its side (as it is trained to do) represented plaintiff's dead horse, which defendants falsely represented "collapsed" from overwork and heat exhaustion;

B) Publishing numerous posts of false information on social media websites, falsely accusing the plaintiff of mistreating its horses and working them to the point of collapse;

C) Publishing numerous posts of false information on social media websites such as Charleston Carriage Horse Advocates and Charleston Animal Society Facebook pages and Instagram pages publishing false information and innuendo, designed to encourage strangers to disrupt the plaintiff's business, and causing the plaintiff's employees and managers to fear for their safety;

D) Publishing and promoting misleadingly edited and titled video, "collapsed," of a horse, "Big John," who plaintiffs knew tripped and did not collapse even though the defendants knowingly misrepresented his condition in their video posting falsely implying that the video depicted a dead horse who collapsed and died from overwork and heat exhaustion, *etc.* Similarly, the Charleston Animal Society published the photograph with the caption: "Do the study before another horse collapses," when the defendant knew the horse, Big John, did not collapse.

All of which, combining and concurring, have damaged the plaintiff by driving away business, falsely representing that the plaintiff is unfit for the operation of his business, and causing the plaintiff's employees, managers, and owners to fear for their safety.

9. The purpose of the defendants' false communications and assertions that the plaintiff is unfit to operate a carriage tour company is to damage the plaintiff and cause the plaintiff special damages by making it difficult for the plaintiff to conduct business, retain valued employees, and operate under a cloud of fear and intimidation.

10. The defendants' actions in publishing false information, and in using social media to publish and disseminate knowingly false information to stir up hostility directed at the plaintiff, and harass the plaintiff's operations, constitute a combination of the defendants—and those acting on their behalf—combining and concurring for the purpose of injuring the plaintiff, which has caused and is causing special damages to the plaintiff as set forth above and below.

11. The knowingly false information intentionally and maliciously published by the defendants, acting in concert, was and is designed to create a false impression of the plaintiff's operation for the primary purpose to injure the plaintiff.

12. As a direct and proximate result of the defendants' actions, the plaintiff has suffered injury to reputation and standing in the community, embarrassment, humiliation, diminishment of earnings, and loss of good will. The plaintiff's employees have suffered mental anguish and wounded feelings, and fear of imminent bodily harm or death.

13. The plaintiff is entitled to a trial by jury, and for damages against the defendants, jointly and severally, for both actual and punitive damages in an amount to be calculated by the trier of the facts.

FOR A SECOND CAUSE OF ACTION
Violation of Plaintiff's Civil Rights under Article I, § 3, South Carolina Constitution
Gross Negligence, Recklessness

14. The plaintiff repeats the above allegations as if set forth here *verbatim.*

15. As set forth above, the defendants have conspired to deny the plaintiff a reasonable opportunity to conduct a lawful business. The defendants' intentional publication of false information is defamatory and is libel *per se* and published without substantial justification.

16. The defendant, Charleston Animal Society, is a quasi-governmental agency as Charleston County taxpayers' money subsidizes its operation. Because it acted in concert with a private citizen to injure the plaintiff to deprive the plaintiff of is right to conduct business, both defendants are subject to suit for a violation of the plaintiff's civil rights under color of South Carolina law. The defendants' knowing publication of knowingly false information is gross negligence and reckless conduct taken in conscious indifference to the plaintiff's rights to conduct a lawful business and be free from threats of harm.

17. Because the defendants have acted jointly to publish false information designed to injure the plaintiff and prevent the plaintiff from exercising its right to conduct a lawful business, the plaintiff is entitled to a trial by jury for the actual damages as calculated by the trier of fact including loss of income, and for special damages for injury to reputation and standing in the community, embarrassment, humiliation, and mental anguish and pain and suffering by the plaintiff's managers and employees, caused by the defendants' efforts to create an atmosphere of fear and hostility directed to the plaintiff, it's employees and managers, and for such other punitive damages as the trier of fact finds just and proper for intentional and reckless conduct.

18. As a direct and proximate result of the defendants' actions, combining and concurring, the plaintiff has suffered economic, and material losses as a result of the defamation.

19. The plaintiff is entitled to an award of attorney's fees under § 15-77-300, 310, *et. seq.* South Carolina Code

FOR A THIRD CAUSE OF ACTION
Tortious Interference with Business Relations

20. The plaintiff repeats the above allegations as if set forth here *verbatim.*

21. The defendants knowingly and intentionally disseminated to third parties and governmental agencies false and misleading information concerning the plaintiff's carriage operation to induce the public at large and the local government to interfere and prevent the plaintiff from operating its business.

22. The defendants have engaged in a course of conduct designed to create hysteria and animosity directed at the plaintiff to prevent the plaintiff from exercising its right to conduct a lawful business. The defendants sought to destroy the plaintiff's reasonable investment backed expectations through fear and intimidation.

23. The defendants combined their efforts with other local government officials to prevent the plaintiff from making use of his property and harassed the plaintiff's managers and employees to destroy the business.

24. The defendants are aware that the plaintiff's carriage operation is a highly regulated industry, subject to numerous and extensive government regulations governed through the plaintiff's contractual franchise relationship with the City of Charleston. The defendants have frequently and intentionally attempted to procure a breach of that franchise contract by publishing false and defamatory information about the plaintiff.

25. The defendants have no justification for attempting to interfere in the franchise contractual relationship with the plaintiff and the City of Charleston.

26. As a direct and proximate result of the defendants' interference through the repeated publication of false information, the plaintiff has been damaged by having to divert time and money to combat the defendants' false information, respond to numerous inquiries, and its managers and employees have suffered mental anguish and fear from the receipt of death and

arson threats, and have been damaged in such amount as will be calculated by a jury as the trier of the facts.

27. The intentional and calculated dissemination of false information has caused the plaintiff to suffer special damage. Because of the defendants' dissemination of false information, the plaintiff has suffered injury to reputation and standing in the community, embarrassment, personal humiliation, and has faced challenges designed to thwart its contractual relationship or revocation of its franchise license, and with efforts by the City of Charleston to restrict and curtail the plaintiff's use of its property. The defendants' acts caused the plaintiff to suffer economic losses and forced the plaintiff to incur unnecessary attorney's fees and costs, which he would not have incurred but for the defendants' unlawful combination with others designed to harm the plaintiff.

FOR A FOURTH CAUSE OF ACTION
Slander/Libel/Defamation *Per Se*

28. The plaintiff repeats the above allegations as if set forth here *verbatim.*

29. The defendants disseminated to third parties and governmental agencies false and misleading information, known to the defendants to be false, which they disseminated with actual malice concerning the plaintiff's carriage operation to induce the public at large and the local government to believe that the plaintiff is unfit to practices its business and profession.

30. The defendants have engaged in a course of conduct by publishing oral, written, and edited video statements with the intent of creating a false impression that the plaintiff is not fit to practice its business and profession.

31. The oral, written, and video statements are known to the defendants to be false, and the defendants published them (and continue to publish them) with actual malice, knowing they are false to create hysteria directed at the plaintiff to prevent the plaintiff from exercising its

right to conduct a lawful business. The defendants sought to destroy the plaintiff's reasonable investment backed expectations through knowing publication of false statements with actual malice to create fear and to intimidate the plaintiff from operating its business.

32. The defendants made the false statements knowing that they are false, and such statements constitute slander/libel/defamation *per se*.

33. The defendants have no justification for attempting to interfere in the plaintiff's operation of its business or interfere in the plaintiff's franchise contractual relationship with the City of Charleston.

34. As a direct and proximate result of the defendants' interference through the repeated publication of false information made with actual malice, the plaintiff has been damaged by having to divert time and money to combat the defendants' false information, respond to numerous inquiries, and its managers and employees suffered mental anguish and fear from the receipt of death and arson threats, and have been damaged in such amount as will be calculated by a jury as the trier of the facts.

35. The intentional, calculated, and malicious dissemination of false information has caused the plaintiff to suffer special damage including economic damages and damage to its reputation and standing in the community, embarrassment, personal humiliation, and its managers and employees have suffered mental anguish and suffering. Because of the defendants' dissemination of false information, the plaintiff may be faced with a refusal to issue or revoke its franchise license, and with efforts by the City of Charleston to restrict and curtail the plaintiff's use of its property. The defendants' acts forced the plaintiff to incur unnecessary attorney's fees and costs, which he would not have incurred but for the defendants' unlawful combination with others designed to harm the plaintiff.

WHEREFORE, having fully set forth its complaint, the plaintiff prays for:

A) A trial by jury;

B) For judgment against the defendants for both actual and punitive damages in an amount to be determined by a jury;

C) For an award of attorney's fees in an amount to be determined by the Court in accordance with § 15-77-300, *et. seq.* South Carolina Code of Laws;

D) For such other and further relief as the Court finds just and proper.

Respectfully submitted,

August 16, 2018

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANTS' JOINT NOTICE OF MOTION AND MOTION TO DISMISS AND/OR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, FOR MORE DEFINITE STATEMENT**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

2018 OCT 19 PM 3:07

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

YOU WILL PLEASE TAKE NOTICE that Defendants Charleston Animal Society, Ellen Harley, and Charleston Carriage Horse Advocates (collectively "Defendants"), by and through their undersigned counsel, pursuant to South Carolina Rules of Civil Procedure 8(a), 12(b)(6), 12(e), and 56(b), move this Honorable Court for an Order dismissing the Complaint as matter of law or, in the alternative, requiring Plaintiff provide a more definite statement of the facts in the Complaint. Summarily, Plaintiff's Complaint asserts claims that are all based on defamation, but the Complaint does not identify any allegedly defamatory statements. Further, the Complaint does not state facts supporting the necessary elements of a defamation claim, including the speaker, the content, or publication of any supposedly false statements. Accordingly, Defendants request that the Court dismiss the subject case as a matter of law pursuant to South Carolina Rules of Civil Procedure 12(b)(6) and 56(b) or, in the alternative, require a more definitive statement and direct Plaintiff to amend the Complaint in accordance with Rules 8(a) and 12(e), SCRCP.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case and statutory law, the pleadings and documents on file, arguments of counsel, any Memorandum of Law filed with the Court, and such other and further argument and/or information as may be properly presented to the Court.

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

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Attorneys for Defendants Ellen Harley and Charleston Carriage Horse Advocates, Inc.

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Attorneys for Defendant Charleston Animal Society

October 19, 2018
Charleston, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-4083
)	

FILED
2019 JUL -5 PM 2:43
JULIE J. ARMSTRONG
CLERK OF COURT
BY

Charleston Carriage Works, L.L.C.,

Plaintiff,

vs.

Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,

Defendants.

PLAINTIFF'S MOTION TO COMPEL AS TO ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC. AND AS TO CHARLESTON ANIMAL SOCIETY

TO: Joseph D. Thompson and Jenkins M. Mann, Attorneys for Ellen Harley and Charleston Carriage Horse Advocates, Inc. and Elizabeth Palmer as to Charleston Animal Society:

Please take notice that ten days after notice, or as soon thereafter as counsel may be heard, the plaintiff will move for an Order of the Court, compelling the Defendants to answer the plaintiff's discovery requests. This motion is based on Rules 26 and 37, *South Carolina Rules of Civil Procedure* and upon the following grounds:

On September 20, 2108, the plaintiff served 23 written interrogatories under Rule 33 (to the Defendants Harley and Charleston Carriage Horse Advocates) and on September 25, 2018, the plaintiff served 23 written interrogators on the Charleston Animal Society along with written requests for production under Rule 34 on both defendants. Despite several reminders and overtures to the defendants asking for a response to the plaintiff's discovery requests (attached as Exhibits 1,

2, and 3 and incorporated by this reference), the defendants refuse, and continue to refuse to answer the plaintiff's discovery requests fully and in conformity with the *Rules of Civil Procedure*. As detailed in the attached correspondence identifying the deficiencies, Charleston Animal Society furnished partial responses and communicated with counsel to discuss the matter fully without reaching an agreement, while Harley and Charleston Carriage Horse Advocates, furnished none and made no effort to bridge the gap. (The preceding sentence is not a criticism of counsel, with whom, the plaintiff has had full, open communication; however, the defendants have expressed nothing but contempt for the process and the rules governing the conduct of litigation. Such contumacious conduct is not the result of counsel's actions, as lawyers are mere servants to clients. Clients must accept responsibility for their actions.) Despite the defendants refusing to respond to basic discovery requests—or even answering the complaint—the defendants scheduled, and completed, a thirteen-hour deposition over two days of the plaintiff's designated witness on Friday, December 7, 2018 and on May 3, 2019.

Because the defendants', Harley's and her organization's, refusal to respond to basic discovery requests are willful and without cause, excuse, or explanation, the Court should impose such sanctions as the Court finds just upon the defendant for willful disobedience to fundamental discovery procedure, including but not limited to, the sanction of striking the Answers and declaring the defendants to be in default, and/or an award of attorney's fees and costs for the prosecution of this motion, or for such other and further relief as the Court finds just and proper. The defendant, Charleston Animal Society responded more fully than the defendant, Harley, who essentially ignores the Rules of Procedure, but the Animal Society at least explains its refusal to produce its "Schedule B's" on the ground of relevancy. Such an excuse is pretext.

Charleston Animal Society is a taxpayer supported, 501(c)(3) charitable organization, and its Schedule B's are public documents that disclose the source of the Charleston Animal Society's funding. The Animal Society's funding is both directly and materially relevant to the plaintiff's theory of the case that the Charleston Animal Society, a putative charitable organization, supported in large part by taxpayer money, is an animal activist group with its primary purpose to advance a radical animal rights agenda, including agitation to ban tours by horse drawn carriage. Not only are the Animal Society's Schedule B's public documents that should be available to anyone, but also the test for disclosure under discovery rules is broad under Rule 26(b):

> Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action, . . . It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

The brave new world of social media is an ugly place, giving rise to a new, mostly hidden, multi-universes of electronic melancholic cells where brooding darkness spreads his jealous wings,[1] and to the extent these denizens of the dark subsidize either or all of the defendants is fertile ground for the plaintiff to explore. The fact that these defendants do not wish to disclose their sources of financial support is a tacit admission of the ignoble sources of their funding, and it is unconscionable for the defendants to force the plaintiff to exert time and effort to obtain basic information or to waste limited judicial resources in the resolution of self-generated controversy. Because the information sought is so basic, because the plaintiff tried so hard to resolve it without the assistance of the Court, and because the defendants' explanations

[1] John Milton, "L'Allegro": "Hence loathed Melancholy/Of Cerberus and blackest midnight born,/In Stygian Cave forlorn/'Mongst horrid shapes, and shrieks, and sights unholy,/Find out some uncouth cell,/Where brooding darkness spreads his jealous wings.

are so obviously pretext, the Court should impose such sanctions as the Court finds to be just and proper in this case as authorized by Rule 37(a) of the *South Carolina Rules of Civil Procedure*.

Respectfully submitted,

This the 2nd day of July, 2019

Belk Cobb Infinger & Goldstein, P.A.
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tgoldstein@cobblaw.net

RULE 11 CERTIFICATION

I certify that prior to filing this motion with the Court, I contacted both counsel for the defendants in an effort to resolve the request made in this motion, and I was unable to resolve the matter. See attached letters dated March 21, 2019 and March 28, 2019, to counsel for the defendant, Harley, and March 27, 2019, to counsel for the defendant, Charleston Animal Society. These letters are attached here as Exhibits 1, 2, and 3, and incorporated by this reference.

July 2, 2019

Thomas R. Goldstein, S. C. Bar #2186

THE UNDERSIGNED HEREBY CERTIFIES THAT A TRUE COPY OF THE FOREGOING PLEADING HAS BEEN SERVED UPON OPPOSING COUNSEL BY MAILING A COPY PROPERLY ADDRESSED WITH SUFFICIENT POSTAGE AFFIXED THERETO THIS 2nd th DAY OF JULY, 2019.

BY:

BELK, COBB, INFINGER AND GOLDSTEIN, P.A.

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr.

Peggy M. Infinger
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March 21, 2019

Mr. Joseph D. Thompson, III
Hall Booth & Smith, P. C.
111 Coleman Blvd.
Suite 301
Mt. Pleasant, S. C. 29464

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Trey,

On February 22, 2019, your office responded to the interrogatories served on Charleston Carriage Horse Advocate, Inc. on September 20, 2018. Despite having over four months to respond, the defendant essentially ignored the plaintiff's requests for basic information. I understand that the defendant claims to know of no witnesses other than those disclosed by other parties. That seems to be a risky strategy, but as we both know, it is not my place to opine on the wisdom of the defendant's defense strategy. However, there are material deficiencies in Charleston Carriage Horse Advocates' answers to interrogatories, which I am asking you to correct in order to avoid my having to file a motion to compel with the Court. I will address each one in order.

Question No. 3 is a standard interrogatory asking for documents relating to the case. Your response is that you decline to answer the interrogatory on the grounds that:

A. The request is burdensome,
B. Will not lead to relevant information, and
C. The information is equally accessible to me.

Let us address each one.

A. Burdensome

The Charleston Carriage Horse Advocates, Inc. is a South Carolina Corporation, organized and existing as a chartable institution, subject to the particular rules applied to charities. It is impossible for such an entity to exist without corporate records related to its expenses, income, and tax exempt status. Producing such records is no burden at all because federal and state law requires

that your client maintain the records. Your client cannot, on the one hand, claim the privileges of a tax exempt status while on the other hand, claim that it has no corporate records. The law requires your client file annual returns and reports, including, but not limited to, identifying the source of contributions and how that money is spent.

B. Will not lead to relevant information. How can you justify this canard? I will not insult you by lecturing you on the purpose and scope of discovery, but your client's handling of money is the most important information in the case. Maybe Ms. Harley is acting from a pure, altruistic motivation, but her past history and her reputation in the community suggest other financial motives. We are entitled to see how her charitable organization is organized and operated, and charities should strive to be more transparent than ordinary for profit enterprises.

C. The information is equally available to me. We might perhaps be able to reach common ground here. If Charleston Carriage Horse Advocates, Inc., is willing to allow us to image its computer server, then perhaps you could make this argument. Let me know if your client is willing to do this. Otherwise, the only way that your client's information could be equally available to me is if I broke in its office and stole it. It is not debatable that the records of the Charleston Carriage Horse Advocates are not available to me.

Question No. 8 asks for employees of Charleston Carriage Horse Advocates, and you answered "not applicable." Obviously the question is applicable because employees typically are the most knowledgeable persons about the operation of a corporation. I ask that you furnish the names of employees currently or formerly employed. This is a standard discovery question.

Question No. 9 asks for the corporation's e-mail addresse(es). You respond that you are making an inquiry to discover what they are. Obviously the company knows what its address(es) is/are, and the Court will not look favorably upon such obvious obfuscation.

Question No. 11 asks for identification of each legal violation committed by Charleston Carriage Works, and your client's answer is that it knows of none other than those identified by Brody in his deposition. If that is your client's answer, then we agree it is sufficient, but you seem to want it both ways. Either your client knows of other violations or it does not. Which is it?

Question 21 asks for information regarding the Corporation's bank accounts. As you did in avoiding answering Question 3, you object on the ground that the Corporation's banking is "irrelevant." As I said in my analysis of your objection to Question 3, this is the most relevant evidence in the case.

Charleston Horse Carriage Advocates represents itself as being an altruistic, charitable organization. As I am sure you are aware, more than one animal rights organization has been exposed as something less than charitable. See *Ringling Brothers v. ASPCA*. There is huge money in "animal welfare" groups, and we are entitled—just as is any citizen is entitled—to see how much and by what means your charitable corporate client raises and spends money. We intend to show that your client manipulates social media to raise money, which includes slandering my client. So the information requested is both standard and essential to an analysis of the legal issues before the Court. I am sparing you any comment on the obvious fact that you have no idea what the issues in the case are because you have yet to file an Answer.

Question 22 asks for other organizations to which the Director if Charleston Carriage Horse Advocates belongs. As set forth above, there is a large, united "animal welfare" network in this country. They work together to push radical agendas (to which, Congress, as you know, responded by passing an animal terrorism act), and we are entitled to know to which other organizations the Chair of Charleston Horse Carriage Advocates belongs. This information is materially relevant.

I ask that you please reconsider your refusal to respond to these interrogatories. If I have not heard from you by March 29th, I will assume your position is unchanged and file a motion to compel with the Court. As always, I am available to discuss these issues with you in person or by telephone in an effort to avoid involving the Court in discovery disputes. I look forward to hearing from you. With kind regards, I am

Very truly yours,

BELK COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

TRG/

cc:
Jenkins M. Mann, Esq.
Nicholas G. Green, Esq.
Elizabeth J. Palmer, Esq.

BELK, COBB, INFINGER AND GOLDSTEIN, P.A.

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr

Peggy M. Infinger
pinfinger@cobblaw.net

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tgoldstein@cobblaw.net

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2344 COSGROVE AVENUE
CHARLESTON, SC 29405

Mailing Address:
P.O. Box 71121
Charleston, SC
zip 29415-1121
Ph: (843) 554-4291
Fax: (843) 554-5566

March 27, 2019

Ms. Elizabeth J. Palmer
Rosen, Rosen & Hagood
151 Meeting Street
Suite 400
Charleston, S. C. 29401

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Beth,

In reviewing your responses to our discovery, I noticed some deficiencies. We are looking for the following documents that I did not see in what you produced:

TAX RECORDS

1) 2013 Schedule B's
2) 2014 Schedule B's
3) 2015 Schedule B's
4) 2016 Schedule B's
5) 2017 Schedule B's

CORPORATE RECORDS

6) Charleston Animal Society Articles of Incorporation
7) Charleston Animal Society By-Laws

ELECTRONIC RECORDS

8) Any and all video of the Big John incident.
9) All e-mails or other communications between Dan Krosse and Charleston Carriage Horse Advocates.

As for your subpoena to Charleston Carriage Works' certified public accountant, I will provide to you copies of the returns filed with the State and the Federal Internal Revenue Service. We will not provide work sheets and internal memorandum or any information that discloses the plaintiff's vendors. We have already seen how that works, and litigation is not an invitation to fish through the plaintiff's records in order to harass vendors. The only relevant information is our production of financial records demonstrating income. I will get you the

tax returns as soon as possible, but it is ridiculous to think that a C.P.A. can respond to a subpoena like yours between March 26th and April 15th. As you might recall, accountants tend to be busy in the days leading up to April 15th.

As for your discovery requests, it would help me tremendously if you could e-mail me your requests in Word format to relieve me from the burden of typing the questions.

Lastly, I enclose a notice of deposition and subpoena for Elizabeth Fort. Since she is a non-party witness, I cannot offer you or other counsel the luxury of picking the date; however, if the date I have selected turns out to be inconvenient for the witness, I am agreeable to rescheduling. With kind regards, I am

Very truly yours

Belk, Cobb, Infinger & Goldstein, P.A.
Thomas R. Goldstein

TRG/

enclosure:
Notice of deposition, subpoena

cc:
Mr. Nicholas Green (e-mail only)
Mr. Joseph D. Thompson, III
Mr. Jenkins M. Mann

March 28, 2019

Mr. Joseph D. Thompson, III
Hall Booth & Smith, P. C.
111 Coleman Blvd.
Suite 301
Mt. Pleasant, S. C. 29464

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Trey,

On February 22, 2019, your office responded to the plaintiff's request for production served on Charleston Carriage Horse Advocate, Inc. on September 20, 2018. Despite having over four months to respond to the requests for production, the defendant essentially ignored the plaintiff's requests for basic information. Please note the following deficiencies:

1. The Carriage Horse Advocates refuses to produce a single document on the ground that the information is "equally accessible to the plaintiff." The Carriage Horse Advocates is a 501 charitable corporation, and its books and records, such as Minutes, tax returns, and organizational documents are not "equally accessible to the plaintiff." The Horse Carriage Advocates cannot claim the umbrella of protection afforded charitable corporations on the one hand, and on the other hand, say they have no organizational documentation. Your client's assertion is frivolous on its face. Please ask your client to make available its corporate records and tax returns.

2. Your client refuses to provide photographs and other documentary evidence on the ground that it "invades the mental impressions and strategy of counsel." I guess I could agree with that if you are saying that you join in your client's efforts to publish false and misleading information in an effort to stir up hostility toward my client. Obviously, one of the central issues of this case is your client's publication of video and photographs of Big John to create the false impression that he collapsed and died. Your client's refusal to make this information available is frivolous and obvious expression of contempt for the judicial process.

3. If your client has witness statements, it is obligated to turn them over. No one has ever questioned this basic principle of discovery until now. Please ask your client to reconsider. Witness statements include, among other things, the scripts your client has prepared for video publication.

6. Here you refuse to turn over tax returns of a publicly organized, charitable, non-profit corporation. The Carriage Horse Advocates finials condition is the most crucial evidence in the case. No educated person alive anywhere in the world fails to comprehend how plausible scoundrels the world over manipulate social media for financial gain. The whole purpose of Charleston Horse Carriage Advocates is to raise money, and it is blatantly unresponsive and contemptuous to refuse to provide this information.

7. Your client's refusal to make available its articles, by-laws and minutes is irresponsible and frivolous. It's articles and by-laws are filed with the Secretary of State, and its Minutes are maintained for no other purpose than to be reviewed. Please reconsider.

8. Your client's refusal to make bank statements available is similarly frivolous and addressed fully above in #6.

9. Request 9 seeks the documents you intend to introduce at trial. This in no way infringes upon "mental impressions" or "strategy." Your client's refusal to allow inspection or copying of its proposed exhibits is frivolous.

As stated in my previous letter about the deficiencies in your client's answers to interrogatories, I ask that you please reconsider your refusal to provide the requested documents. If I have not heard from you by April 5th, I will assume your client's position is unchanged and file a motion to compel with the Court. As always, I am available to discuss these issues with you in person or by telephone in an effort to avoid involving the Court in discovery disputes. I look forward to hearing from you. With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
TRG/ Thomas R. Goldstein

cc:
Jenkins M. Mann, Esq.
Nicholas G. Green, Esq.
Elizabeth J. Palmer, Esq.

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zip 29415-1121
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Fax: (843) 554-5566

July 2, 2019

Hon. Julie Armstrong,
Clerk of Court
Charleston County Courthouse
100 Broad Street
Suite 106
Charleston, S. C. 29401

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-2704

Dear Julie,

I enclose an original and an extra copy of plaintiff's motion to compel, along with a motion cover sheet, and our firm's check in the amount of $25.00. Would you be so kind as to file the original with the court and return the extra copy marked filed to me in the envelope provided? I thank you in advance for your attention to this request. By copy of this letter, I am providing a copy to opposing counsel. With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

TRG/
enclosure: Motion to Compel, cover sheet, return envelope, check no. 18800

cc:
Jenkins M. Mann
Nicholas G. Green
Elizabeth J. Palmer
Joseph D. Thompson, III

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO. 2018-CP-10-4083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**MOTION TO COMPEL**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley, and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
	)	
Defendant.	)	

FILED
2019 JUL 22 PM 3:13
CLERK OF COURT
CHARLESTON COUNTY

YOU WILL PLEASE TAKE NOTICE that the undersigned attorney for the Defendant Charleston Animal Society, pursuant to the South Carolina Rules of Civil Procedure, will move before the Presiding Judge of the Ninth Judicial Circuit at the Charleston County Court of Common Pleas on the 10th day after service of this motion and/or as soon thereafter as counsel may be heard, for an Order compelling the Plaintiff to produce discovery as follows:

1. Defendant served its First Interrogatories on Plaintiff on February 1, 2019. Plaintiff served its Answers to Defendant's First Interrogatories on June 24, 2019, a copy of which is attached hereto and incorporated herein as Exhibit A. Plaintiff has failed to sufficiently answer the following interrogatories: 4, 6, 8, 10, and 13.

2. Defendant served its First Requests for Production on Plaintiff on February 1, 2019, a copy of which is attached as Exhibit B. Plaintiff has failed to serve a written response to Defendant's First Requests for Production.

3. While Plaintiff has produced a number of document and files, despite not producing a written response to the Requests for Production, it appears that Plaintiff has failed to produce the materials requested in the following requests: 2, 12, 13, 18, 23 and 25.

4. By letter dated July 10, 2019, counsel for Defendant notified Plaintiff that its discovery responses were insufficient and explained with specificity the insufficiencies. A copy of this letter is attached as Exhibit C.

5. The discovery sought is relevant and/or is calculated to lead to the discovery of relevant evidence in this matter.

6. Since Defendant's attempt to consult with Plaintiff's counsel, it has received the letter, dated July 16, 2019, attached as Exhibit D. However, Plaintiff has not supplemented its responses to the interrogatories and requests for production identified above. Defendant is informed and believes that any further consultation would serve no useful purpose.

WHEREFORE, Defendant prays that the Court order Plaintiff to immediately fully answer and produce all discovery that is referenced above, award attorney's fees incurred in bringing this motion, and grant such further relief as the Court deems appropriate.

ROSEN HAGOOD, LLC

By: _____

Elizabeth J. Palmer
151 Meeting Street, Suite 200
Post Office Box 893
Charleston, SC 29402
(843) 577-6726

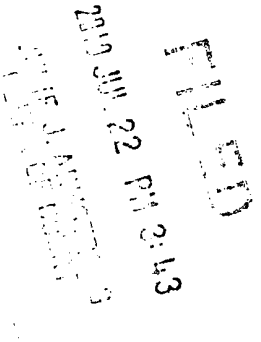
ATTORNEYS FOR DEFENDANT
CHARLESTON ANIMAL SOCIETY

Charleston, South Carolina
July 22, 2019

CERTIFICATE OF SERVICE

I certify that on July 22, 2019
I caused to be mailed or delivered a true copy of the foregoing pleading(s) to each counsel of record.

Attorney for Defendant Charleston Animal Society



STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2018-CP-10-04083
CHARLESTON CARRIAGE WORKS, LLC, Plaintiff, vs. CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY, and CHARLESTON CARRIAGE HORSE ADVOCATES, INC., Defendants.	)	**DEFENDANT CHARLESTON ANIMAL SOCIETY'S FIRST INTERROGATORIES TO PLAINTIFF**

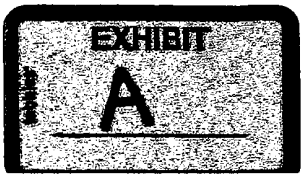
TO: ELIZABETH PALMER, ESQ., ATTORNEY FOR DEFENDANT CHARLESTON ANIMAL SOCIETY:

LAINTIFF'S ANSWERS TO DEFENDANT CHARLESTON ANIMAL SOCIETY'S FIRST INTEROGATORIES TO PLAINTIFF

Pursuant to South Carolina Rule of Civil Procedure Rule 33, Defendant Charleston Animal Society hereby propounds and serves upon Plaintiff Charleston Carriage Works, LLC ("Plaintiff") the following written Interrogatories, each to be answered in writing and under oath within thirty days from the date of service hereof. These discovery requests are continuing in nature, and you are required to promptly update your responses if you obtain further or different responsive information subsequent to the date of answering these discovery requests, up to and including the time of trial.

DEFINITIONS

1. "Communication" means any oral, written or electronic transmission of information, including but not limited to meetings, discussions, conversations, telephone calls,



telegrams, emails, text messages, instant messages, memoranda, letters, telecopies, facsimiles, telexes, conferences, video conferences, messages, notes, or seminars.

2. "Document" has the broadest meaning permissible under the South Carolina Rules of Civil Procedure, and includes any kind of handwritten, typewritten, printed, audiotaped, videotaped, photographed, electronic, magnetic, or recorded material whatsoever. Any comment or notation appearing on or in any Document, and not a part of the original text, is to be considered a separate Document. "Document" expressly includes electronically stored information, including emails and all other types of files stored in computers and other electronic devices, as well as all metadata.

3. "Identify" means: (a) with respect to any Person, to state the Person's full name, employer, job title, present or last known address, telephone number, and email address; and (b) with respect to any Document, to state the title, date, author(s), recipient(s), cc recipient(s), bcc recipient(s), production numbers (if any), and present location and custodian or the Document, or alternatively, to produce an accurate and complete copy of the Document; and (c) with respect to any Incident or Event, to state the date, persons, location, and property involved, or alternatively, to produce an accurate and complete description of the event or incident.

4. "Person" means any individual or entity, such as a corporation, partnership, or other organization.

5. "You", "Your" means Charleston Carriage Works, including its representatives and/or agents.

INTERROGATORIES

1. Give the names and address of persons known to the parties or counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

ANSWER:

Broderick Christoff
Amber Christoff
3033 Old Pond Road
No written statement—Broderick Christoff deposed by counsel
Broderick and Amber will testify as to the false narrative promoted by the defendants to harm the business and the resulting damage.

Shannon Everette,
City Equine Manager
2 George Street
Charleston, S. C. 29401
No written statement except written report; Ms. Everette can testify as to the investigation into the alleged injury to Big John.

Dan Riccio
2 George Street
Charleston, S. C. 29401

No written statement taken. Mr. Riccio can testify as to the City's regulations governing carriages and the investigation.

Austin Lathan
7920 Coral Ridge Drive
Mint Hill, North Carolina 28227

Mr. Lathan was a passenger on the carriage behind Big John. He can testify that Big John tripped, laid down and waited for his harness to be removed before getting up. No written statement.

Any employee of the plaintiff can testify as to the care and condition of plaintiff's horses. See attached list of employees (Exhibit 2). The plaintiff has no written statements from its employees.

No written statement except his various reports made on behalf of the City. Mr. Riccio can testify as to the City's regulations and enforcement of regulations of carriage tours.

Dr. Justin Miller, D.V.M.
122 Kay Lane
Summerville, S. C. 29483

No written statement. Dr. Miller is Plaintiff's veterinarian and can testify to Big John's condition on April 19, 2017 and to the general condition and treatment of Plaintiff's horses.

Plaintiff reserves the right to supplement with additional witnesses as they may be discovered.

2. For each person known to you or your counsel to be a witness concerning the facts of the case, set forth a summary of the important facts known to or observed by such witness, or provide a copy of written or recorded statement taken from such witness.

ANSWER:

See answer to interrogatory #1.

3. List the names, current addresses, and phone numbers of expert witnesses whom the Defendants propose to use as a witness at the trial of the case and for each state the following: the specialty or sub-specialty in which it is claimed they are an expert; the subject matter on which the expert is expected to testify; the substance of the facts and opinions to which the expert is expected to testify; and a summary of the grounds for each opinion.

ANSWER:

Dr. Justin Miller, D.V.M.
122 Kay Lane
Summerville, S. C. 29483

No written statement other than the written reports concerning Big John, which have been provided previously to all counsel. Dr. Miller is Plaintiff's veterinarian and can testify to Big John's condition on April 19, 2017 and to the general condition and treatment of Plaintiff's horses.

4. For **each occasion** on which persons "acting on or at the direction" of Charleston Animal Society interfered in the operation of Plaintiff's business as alleged in para. 6 of Plaintiff's Complaint, set forth:

a. The name, address, and telephone number of the individual(s) "acting on or at the direction" of Charleston Animal Society (if unknown, a description);

b. The specific action(s) taken by the individual that Plaintiff contends interfered with Plaintiff's business (including the content of any speech alleged to be false);

c. The date the action(s) occurred;

d. The identities of all of Plaintiff's employees that witnessed the incident or has personal knowledge of the incident;

e. The identity of any witnesses to the action(s); and

f. All facts supporting your contention that the individual was acting on or at the direction of Charleston Animal Society.

ANSWER:

The plaintiff cannot answer this interrogatory with specificity because the plaintiff does not know who the person or persons at the Charleston Animal Society who compiled the video and other statements and who disseminated them. On the Big John video, presumably Ellen Harley or someone acting on her behalf sent the video to the Charleston Animal Society, who in turn added false and misleading captions to it in order to create the false impression that Big John "collapsed" from exhaustion or neglect and then disseminated it to millions of viewers, causing the plaintiff to suffer financial losses and loss of reputation and good will.

5. For **each occasion** on which persons "acting on or at the direction" of Charleston Animal Society harassed or made any threat (verbal or otherwise) to Broderick Christoff, his family, or Plaintiff's employees, set forth:

a. The name, address, and telephone number of the individual(s) "acting on or at the direction" of Charleston Animal Society (if unknown, a description);

b. The specific action(s) taken by the individual;

c. The date the action(s) occurred;

d. The identity of any witnesses to the action(s); and

e. All facts supporting your contention that the individual was acting on or at the direction of Charleston Animal Society.

ANSWER:

The plaintiff has received hundreds if not thousands of on-line, telephone and in person threes, including, but not limited to, one person driving to the plaintiff's home and discharging a firearm. The plaintiff previously provided a sample of these communications to defendant's counsel. The defendant, Charleston Animal Society, believes it is not responsible for the actions of third parties, but the Charleston Animal Society ignores that it created the environment for such attacks by creating and disseminating a false narrative painting the plaintiff as cruel and inhumane.

6. For each false or defamatory statement allegedly made by Defendant Charleston Animal Society (including, but not limited to, those referenced in, or supporting the allegations of, paras. 6, 8(A)-(D), 10, 11, 15-17, 21, 24, 26, 27, 29-35 of Plaintiff's Complaint), state:

a. The content of the statement;

b. The identity of the individual(s) (or, if not an individual, entity) publishing the statement;

c. The manner in which the statement was published;

d. The date(s) on which it was published;

e. Why you believe the statement to be false;

f. To the extent you claim that the statement was made with malice, all facts supporting that contention;

g. How the particular statement damaged you; and

h. To the extent you contend the individual or entity publishing the statement was acting under color of law at the time the statement was published (for purposes of your civil rights cause of action), explain the facts supporting this contention.

ANSWER:

The false statements made by Charleston Animal Society include the captions supplied to the Big John Video by an unknown person at Charleston Animal Society and the numerous comments thereunder suggesting that Big John "collapsed" from overwork and heat. In addition to the false captions added to the video hosted on the Animal Society web site, the Animal Society has made numerous false statements related to the plaintiff's mistreatment of its animals. For example, file no. 85 on the compact disc previously provided shows news article quoting Joe Elmore for the false statement that the carriage companies are using a loophole to keep horses working past the regulated temperature allowed accompanied by a photo of one of Brody's horses. File No. 87 depicts the Charleston Animal Society Facebook page calling for a complete ban of the use of carriage horses "because the regulations protecting them are not fully followed or monitored!" File number 98 is a page from "Carolina Tails," the Charleston Animal Society magazine, "Are Things About To Get Worse for Carriage Horses in Charleston?" File 99 contains the false assertion that conditions in Charleston are the harshest in the nation. Nos 100, 101, and

102 are Facebook ads showing Big John on his side creating the impression he is dead. No. 108 is a screen shot of their web-site with a link to Big John video with the following caption: "Do the study before another horse collapses." "On April 19, another working horse collapsed in the streets of Charleston. Was the load "Big John" was carrying weighed as it is supposed to be by law? Was he exhausted or did he trip? Eyewitnesses documented Big John's ordeal despite those on the scene who wanted them to stop filming." File 110 is a typical example of Charleston Animal Society's efforts to control the narrative to prevent accurate information reaching the public. File 124 is Charleston Animal Society's Facebook: page commenting on its false narrative. File 114 is Charleston Animal Society's posting of a photo with the caption: "Was Big John exhausted or did he just trip?" Files 136 – 141 are examples of the Charleston Animal Society purchasing advertising to divert internet traffic from Brody to Charleston Animal Society and its false narrative. File No. 166 is a screen shot of the video with the caption: "By law horses are not supposed to pull more than three times their weight. However loaded carriages are never weighed and Charleston does not enforce this provision." File 292 is a post from a director of Charleston Animal Society on Charleston Carriage Horse Advocate's page: "Would it be o.k. to make a citizen's arrest of the drivers, one by one, since they are part of the ongoing policy ignoring of the requirements that they weigh each carriage—and have been ignoring the City requirements for forty years." File 178 is Joe Elmore's false statement that Big John collapsed. File 193 is another Charleston Animal Society's call for a total ban of "cruel and deadly horse drawn carriage rides." This petition is accompanied by a photo of Big John. File 224 are the City Council Minutes reflecting Charleston animal Society Board Member Ellen Harley advocating for a total ban of carriage tours. File 225 is an article from "Charleston Currents," quoting Joe Elmore: "In 2015, following numerous complaints and incidents involving the animal drawn vehicles, both carriages

and wagons, Charleston Animal Society reviewed several aspects of the system related to the most pressing health and welfare considerations of the animals, both horses and mules. Serious flaws in the system were identified in the early stages prompting the Animal Society, by a unanimous vote of its 28 Board of Directors, to deem the current practice of animal drawn vehicles in Charleston as cruel." File 316 is Charleston Animal Society's tweet that says: "Another working horse collapsed in the streets of #CHSNEWS. Was load Big John carried too heavy? Was he exhausted?" with a link to the video. File 322 another vote to not have carriages in Charleston: "Until they follow the law and improve conditions, vote no."

On May 27, 2019, the Charleston Animal Society posted on their Facebook page the following false statement: "It's been an hour and a half at more than 95, and the carriage horses in Charleston are still working. Follow the law—take them off the streets. Too hot for horses."

On January 9, 2017, Charleston Animal Society Board members, Elizabeth Bradham and Ellen Harley falsely informed the Charlestowne Neighborhood Association that the carriage tours needed an evaluation for everything connected with them. See Minutes of Meeting attached here.

See also Quintin Washington's April 28, 2017, of Joe Elmore published on you tube.

7. Identify and set forth the web address of any video(s) posted/published by Charleston Animal Society concerning Plaintiff (as opposed to any other carriage company or the carriage industry in general) that you contend are defamatory or false. For each such video, explain the basis for your contention that it is defamatory and/or false.

ANSWER:

The plaintiff does not know what a "web address" of a video would be. As answered above and throughout these answers to interrogatories, the plaintiff believes that Ellen Harley shot a video

of Big John on the ground and then sent. The other videos referenced above are all posted on you tube.

8. Identify by name and title/position the local government officials referenced in para. 23 of the Complaint and, for each, explain how he/she combined with Charleston Animal Society and how the Plaintiff was damaged as a result of that combination.

ANSWER:

The City of Charleston regulates the tours through a City created agency known as the Tourism Commission. This Commission regulates every facet of tourism in Charleston and requires each company to pay an annual "franchise fee" of $17,500.00 to operate on city streets (most of which are owned by the State, not the City)

9. Set forth with specificity every action allegedly taken by Charleston Animal Society to "procure a breach of [the] franchise contract" as stated in para. 24 of Plaintiff's Complaint. For each such action, state:

a. A description of the action;

b. The identity of the individual or entity acting on behalf of Charleston Animal Society;

c. The date(s) on which the action occurred;

d. If you contend you sustained damages as a result of the action, a description of those damages.

ANSWER:

The Animal Society has made numerous statements both at the Tourism Commission meetings as well as its Facebook page asserting that the plaintiff does not "follow the law."

10. Describe in detail the "efforts by the City of Charleston to restrict and curtail the Plaintiff's use of its property" (paras. 27 and 35 of the Complaint), and, to the extent you contend Charleston Animal Society is responsible for said efforts, explain the basis of that contention.

ANSWER:

The answer to this interrogatory is the same as in the preceding answer: to wit, the Animal Society makes numerous statements that the plaintiff does not "follow the law." See details provided in preceding answer.

11. For each breach of contract that you contend Charleston Animal Society intentionally procured, describe:

a. The contract and parties thereto;

b. The nature of the breach;

c. The type and amount of damages arising from the breach;

d. The actions taken by Charleston Animal Society that allegedly procured or caused the breach;

e. The date(s) on which each action taken by Charleston Animal Society occurred; and

f. The identity of the individual(s) you contend were action on behalf of Charleston Animal Society in taking each action.

ANSWER:

Ellen Harley acting on behalf of her own organization and on behalf of the Charleston Animal Society as a member of its Board of Directors and as the Chair of its Equine Welfare Committee, which voted after Ellen Harley made a presentation, to declare the carriage tours "cruel and inhumane." See Charleston Animal Society Minutes dated April 21, 2015: "Special

Presentation Ellen Harley, Chair, Equine Cruelty Committee. Internal conversation: does the carriage horse industry, as currently practiced in Charleston, overwork or overdrive horses, violating South Carolina cruelty law and the five freedoms. After the presentation and discussion, Matt Watson made a motion that "based on the presentation today, the Board finds the practices of the carriage horse industry cruel and that we should study the situation further. Andrea Ferguson seconded the motion. The motion passed." Joe Elmore proposed developing a committed task force to explore the issue further."

12. Describe in detail your version of the "Big John" incident that occurred on April 19, 2017, including, but not limited to, why you believe he fell, and, if you believe he tripped, how and why he tripped.

ANSWER:

Big John was wearing new shoes. He failed to pick up his rear foot high enough, stumbled, sat down, and then laid on his side.

13. If you consulted with any third-parties (including, but not limited to equine experts or professionals) concerning either the cause of Big John's fall or the April 19, 2017 incident in general, set forth for each such consultation:

a. The name, address, and qualifications of the third-party;

b. Identify all witnesses to the consultation/conversation;

c. The date(s) on which the consultation took place;

d. The purpose of the consultation;

e. Where/how the consultation took place; and

f. A summary of the discussion that took place during the consultation (including any opinions, recommendations, or conclusions shared by the third-party).

ANSWER:

14. If you contend that "Big John" was trained to lie on the pavement as he did on April 19, 2017, after he fell, identify the individual(s) that provided such training.

ANSWER:

Big John is a draft horse acquired by Charleston Carriage Works from a previously existing carriage company. Like all mature draft horses, Big John knows that when he has his harness on and falls, he would have to struggle to get up, which is why well trained horses lie still until their harness is removed. For a good example of how draft horses are trained, see the U-tube video "Budweiser Clydesdale Horses Accident."

15. Set forth the name and address of all Plaintiff's current members, directors, and officers and, for each, state his/her title/position and, if applicable, percentage of ownership interest.

ANSWER:

The plaintiff is an L.L.C. (limited liability company) with a single member, Brody Christoff.

16. Set forth an itemized statement of all damages, including damages claimed for business reputation and standing in the community, that you allege were caused by Defendant Charleston Animal Society.

ANSWER:

See the attached summary of economic losses.

17. Set forth an itemized statement of all damages in addition to those stated above that you contend were caused by the civil conspiracy alleged in the Complaint.

ANSWER:

See the attached summary of economic losses.

18. For each occasion on which you content the Defendants conspired for the purpose of injuring Plaintiff's business , state:

a. A description of the specific action(s) taken;

b. The identity of the individual(s) or entities acting on behalf of Charleston Animal Society;

c. The identity of the individual(s) or entities acting on behalf of Charleston Carriage Horse Advocates;

d. The date(s) on which the action occurred;

e. The identity of all witnesses to the action;

f. Why you believe Defendants' purpose in taking the action was to injure your business (as opposed to, for example, engaging in advocacy); and

g. If you contend you sustained damages as a result of the action, a description of those damages.

ANSWER:

For years, the Charleston Animal Society has evolved from a quasi-governmental animal welfare organization into an animal rights organization along the lines of PETA and U.S. Humane Society of America. The Animal Society has advocated for a complete ban of the carriage tours (see detailed answers above) and represented to the City and to third persons that the use of

carriages is cruel and inhumane. It has published numerous assertions of alleged mistreatment of the plaintiff's horses and undertaken numerous efforts to have the City shut down the carriage tours. Moreover, as the records of Charleston Animal Society demonstrate, Ellen Harley operates as a member of its Board of Directors and as Chair of its Sub-Committee called the "Equine Cruelty Committee."

19. Identify by name and address all accountants and bookkeepers used in the past 5 years by Plaintiff or its principal, Broderick Christoff.

ANSWER:

Hinske & Clarey, L.L.C.
109 Wappoo Creek Drive
Suite 1-A
Charleston, S. C. 29412

20. Identify all banks or financial institutions at which Plaintiff has maintained an account (checking, savings, investment, credit, or otherwise) from 2013 to present.

ANSWER:

Bank of America

21. If you deny Request to Admit No. 9, explain the basis of that denial and all evidence and witnesses supporting that denial.

ANSWER:

Big John did not fall "abruptly" or "completely." He was wearing new shoes; he didn't pick his back foot up far enough, stumbled with his back feet into a sitting position, and then he laid down. After he laid down, he remained still until his harness was removed, and then he stood up and walked back to the barn uninjured. Anyone who witnessed the trip and fall can testify to this, including the driver and the passengers on board.

22. If you deny Request to Admit No. 10, explain the basis of that denial, all evidence and witnesses supporting that denial, and specifically, how you know with certainty one or more of Big John's legs did not buckle.

ANSWER:

See preceding answer.

June 19, 2019

Thomas R. Goldstein, S. C. Bar 2186
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
Charleston, S. C. 29415-1121
(843) 554-4291
tgoldstein@cobblaw.net

CERTIFICATE OF SERVICE

This is to certify that I have served counsel for all parties in the foregoing matter with a copy of this pleading by:

☐ depositing in the U.S. Mail a copy of same in a properly addressed envelope with adequate postage thereon

☐ handing counsel a copy thereof

☐ by facsimile and depositing in the U.S. Mail a copy of same in a properly addressed envelope with adequate postage thereon.

This 24th day of June, 19

BY:

ROSTER OF HORSES

Charleston Carriage Works, LLC.

Horses Spring 2018 - Spring 2019

Name	Nicknames	Microchip#	Purchased From	Purchase Price	Prior Owner's Address	Current Location	Selling Price If Retired	Contact Info for Current Location	Deceased	Manner of Death	Died in Custody/Control Of
Big John		4974794727	Historic Tours, Inc.	Initial Asset Purchase	20 Anson St., Charleston, SC 29401	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Chief		4974.200160	Historic Tours, Inc.	Initial Asset Purchase	20 Anson St., Charleston, SC 29401	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Dale		900164000214581	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Don	Donald	900164000214609	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
John		900164000568330	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Lucas	Lucas	900164000912017	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	Retired to Private Farm 2017/Unknown	$0	Unknown	Unknown	na	na
Moses	Moses	900164000913021	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	Retired to Private Farm 2018/Unknown	$0	Unknown	Unknown	na	na
Rob		900164000214532	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	Retired to Private Farm 2017/Unknown	$0	Unknown	Unknown	na	na
Gary		900164000912010	Hobby Hill Belgians	$000	4953 Oh-557, Millersburg, OH 44654	CCW	na	Broderick Chestnff 843.779.1279		na	na
Maverick	Mav	900164000912021	Buckeye Acres Farm	$750	4953 Oh-557, Millersburg, OH 44654	Returned/Unknown	na	Unknown	Unknown	na	na
Trevor	Trev	900164000912018	Hobby Hill Belgians	$000	4953 Oh-557, Millersburg, OH 44654	CCW	na	Broderick Chestnff 843.779.1279		na	na
Ben	Benedict	991001000601807	Ladybug Ranch	$300	74 N. Main St., Chagrin Falls, OH 44022	Deceased	na	na	Yes	Euthanasia/Eye Cancer	Charleston Equine Clinic
Gator		991001000601814	Hobby Hill Belgians	$000	16250 Gifford Rd., Oberlin, OH 44074	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
George		991001000601820	Hobby Hill Belgians	$000	16250 Gifford Rd., Oberlin, OH 44074	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Mack		991001000601819	Hobby Hill Belgians	$000	16250 Gifford Rd., Oberlin, OH 44074	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Rocky		991001001403500	Hobby Hill Belgians	$000	16250 Gifford Rd., Oberlin, OH 44074	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Mikey		991001001818532	Buckeye Acres Farm	$750	16250 Gifford Rd., Oberlin, OH 44074	CCW	na	Broderick Chestnff 843.779.1279	No	na	na
Rodney		991001001818531	Buckeye Acres Farm	$750	16250 Gifford Rd., Oberlin, OH 44074	CCW	na	Broderick Chestnff 843.779.1279	No	na	na

THIS INFORMATION IS CONFIDENTIAL

EMPLOYEE ROSTER

Charleston Carriage Works, LLC.

May1, 2016 - May 1, 2019 Employees List - CONFIDENTIAL

Last Name, First Name	Address	Job Title
Albrecht, Amy	220 Grove Street, Charleston, SC 29403	Stable/Sales
Bailess, Erin	759 Mulrhead Rd., Mt. Pleasant, SC 29464	Sales
Bowen, Erik	700 Daniel Ellis Dr., Apt. 4301, Charleston, SC 29412	Tour Guide
Burbage III, Charles	420 Martello Dr., Charleston, SC 29412	Tour Guide
Butcher, Chloe	42 Tenth Ave., Charleston, SC 29403	Stable
Byrd, Gabrielle	442 Hainsworth Dr., Charleston, SC 29414	Tour Guide
Calkins, Elizabeth	1335 South Sherwood Dr., Charleston, SC 29407	Stable
Cheatham, Sydney	1679 Dotterers Run, Charleston, SC 29414	Stable
Curl, Kreston	529 Tayrn Dr., Charleston, SC 29492	Sales
Davison, Angela	2 Brighton Circle, Charleston, SC 29414	Stable
Doyle, Joshua	20 Stonehill Farm Rd., North Augusta, SC 29860	Stable
Edwards, Benjamin	45 Sycamore Ave., Apt. 1416, Charleston, SC 29407	Tour Guide
Feeney, Seamus	102B Logan St., Charleston, SC 29401	Sales
Files, Kelsie	10 Middlesex Ave., Goose Creek, SC 29445	Stable
Foley, Leora	7682 Hillandale Rd., N. Charleston, SC 29429	Sales
Garvin, Kimberly	119 Stack Ln., Summerville, SC 29485	Stable
Gonzales, Lana	1712 Bowline Dr., Mt. Pleasant, SC 29466	Stable
Goron, Patricia	1448 Village Rd., Charleston, SC 29407	Sales
Green, William	27 Mary Street Apt. A, Charleston, SC 29403	Tour Guide
Gregware, Haley	930 Morrison Dr., Charleston, SC 29403	Sales
Gresham, Jim	P.O. Box 468, Folly Beach, SC 29439	Sales
Guilds, Dustin	1000 King Street, Apt. 115, Charleston, SC 29403	Tour Guide
Hall, Savannah	21 Darcy Ct., Charleston, SC 29414	Stable
Halvorson, Kristin	1539 Burnswick Drive, Johns Island, SC, 29455	Tour Guide
Hebb, Michael	1170 Bexley St., Charleston, SC 29405	Tour Guide
Henderson, Alyssa	8439 Dorchester Rd., N. Charleston, SC 29420	Stable
Hough, Thomas	2236 Savannah Hwy, Charleston, SC 29414	Tour Guide
Hulteen, Lindsay	1012 River Haven Circle Apt. H, Charleston, SC 29412	Stable
Jones, Casey	2042 Armory Drive, Mt. Pleasant, SC 29466	Sales
Jones, Kari	1323 Jackwood Ct., Charleston, SC 29412	Tour Guide
Jones, Mark R	1323 Jackwood Ct., Charleston, SC 29412	Tour Guide
Kersting, Lauren	1040 Carriage Lane, Charleston, SC 29407	Sales
Kightlinger, Matthew	3090 Murraywood Rd, Johns Island, SC 29455	Sales
Klatt, Jr., Eric W	4721 Parishville Rd., Megget, SC 29449	Tour Guide
Kuhn, Andrew	61 Norview Dr., Charleston, SC 29407	Sales
Lamb, Charles	249 Congress St., Charleston, SC 29403	Stable
Lesesne, Daniel	386 Stefan Dr., Charleston, SC 29412	Tour Guide
Li Fo Sjoe, Brianna	1640 Touhey Blvd., Unit A, Charleston AFB, SC 29404	Stable
McClellan, Philip	322 Howie Ave., Apt. D, Charleston, SC 29412	Stable
Mims, Blakely	1604 Dunes Blvd., Mt. Pleasant, SC 29451	Tour Guide
Mixson, Al	652 Pawley Rd., Mt. Pleasant, SC 29464	Tour Guide
Mizell, Devynn	1003 Clemson Dr., Summerville, SC 29483	Stable
Mizell, Kayla	1003 Clemson Dr., Summerville, SC 29483	Stable
Noland, Clint	47 Ferwick Dr., Charleston, SC 29407	Stable
Onderka, Sarah	802 Westchase Dr., Charleston, SC 29407	Stable
Phipps, Timothy	37 Sussex Rd., Charleston, SC 29407	Sales
Plyer, Sam	4545 Holly St., N. Charleston, SC 29405	Sales
Rudolph, Matthew	1812 Devlin Rd., Apt. 401, Johns Island, SC 29455	Tour Guide
Rylance, Rebecca	3037 Azalea Dr., Apt. B, N. Charleston, SC 29405	Stable
Schnauthiel, Daniel	277-2 Alexandra Dr., Mt. Pleasant, SC 29464	Tour Guide
Skipper, Jason	1727 Deer Path Dr., Mt. Pleasant, SC 29464	Stable
Tidmore, Gary	1500 Parklawn Dr., Charleston, SC 29414	Tour Guide
Tomarchio, Allison	1116 Hills Plantation Dr., Charleston, SC 29412	Tour Guide
Toomy, Matthew	1414 Riverfront Dr. Apt. E, Charleston, SC 29407	Tour Guide
Vickery, Tami	277-2 Alexandra Dr., Mt. Pleasant, SC 29464	Sales
Wacker, Regan	70 Hanover St., Charleston, SC 29403	Sales
Watson II, Charles	10 Blake St., Charleston, SC 29403	Tour Guide
Welsh, Ashley	1528 Seacroft Rd, Charleston, SC 29412	Tour Guide
Westerberg, Dale	104 Dominion Circle, Goose Creek, SC 29445	Tour Guide
White, Jaimee	1018 Aruba Circle, Charleston, SC 29412	Stable

Primary Responsibilities

Stable: Feeds, Grooms, Harnesses, Monitors Horses, Cleans Stalls, Bathes

Sales: Sells Tickets for Tours

Tour Guide: Drives the horses on tours

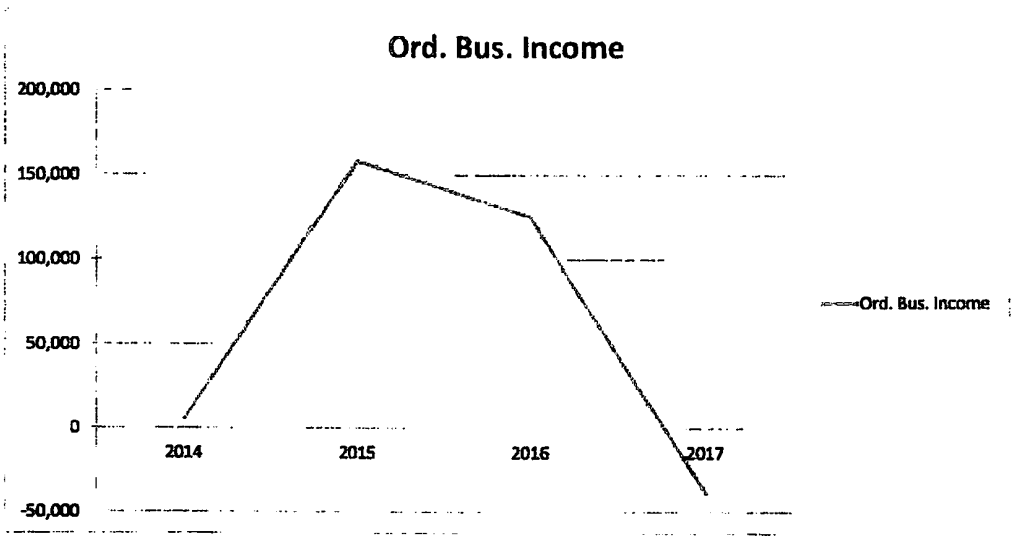
FINANCIAL LOSSES

Financials

	2014	2015	2016	2017	2018
Passengers	52,655	53,382	59,850	57,248	56,186
Visitors To Charleston	4.9m	5.15m	5.44m	6.9m	7.3m
Asking Prices Adults/Children	23/15	25/15	25/15	25/15	26/16
Google Advertising	0	0	0	32,510	30,418
Gross Receipts	1,113,303	1,216,198	1,197,300	1,170,101	not filed yet
Ord. Bus. Income	5,817	*158,217	125,505	-38,823	not filed yet
My salary (W2 from CCW))	43,361	43,361	44,543	45,336	45,775
My wife (W2, not from CCW)	24,642	24,562	20,655	3,271	0
My draws from CCW	23,700	22,800	23,000	22,000	32,000
Adj. Gross Income	25,290	*203,386	115,810	6,379	not filed yet
Taxable Income	0	*174,637	83,036	0	not filed yet
My actual CCW income (taken)	67,061	66,161	67,543	67,336	77,775
Security Camera System				8,937	

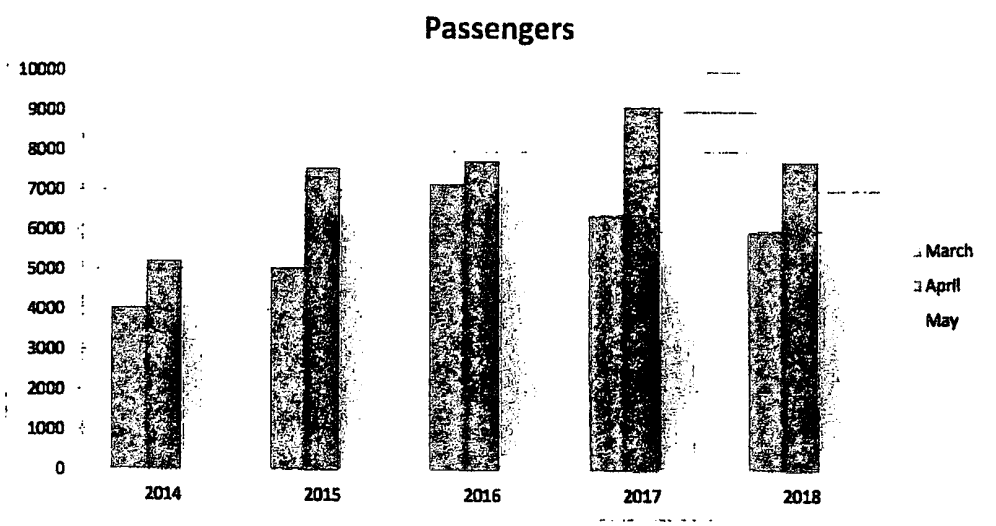
*$87,263 in credit card balances carried over from (and expensed in) 2014 were paid off in full in 2015 (but not expensable again)

	2014	2015	2016	2017	2018
Ord. Bus. Income	5,817	158,217	125,505	-38,823	not filed yet

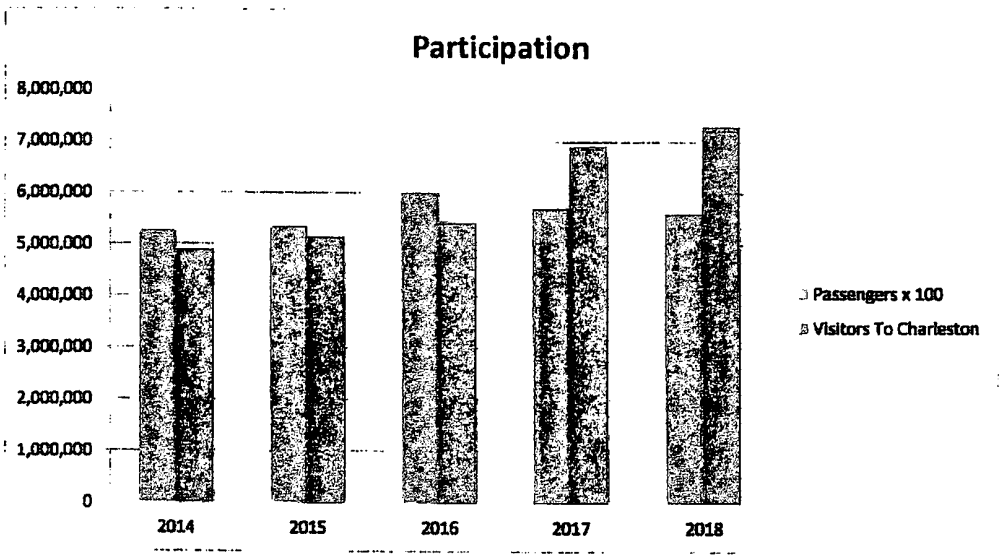


	2014	2015	2016	2017	2018
March	4050	5051	7166	6406	6001
April	5217	7558	7752	9121	7749
May	4586	6737	7352	5577	5711

note: Easter was in March 2016



	2014	2015	2016	2017	2018
Passengers x 100	5,265,500	5,338,200	5,985,000	5,724,800	5,618,600
Visitors To Charleston	4,900,000	5,150,000	5,440,000	6,900,000	7,300,000



STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2018-CP-10--04083
CHARLESTON CARRIAGE WORKS, LLC, Plaintiff, vs. CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY, and CHARLESTON CARRIAGE HORSE ADVOCATES, INC., Defendants.	)	**DEFENDANT CHARLESTON ANIMAL SOCIETY'S FIRST REQUEST FOR PRODUCTION TO PLAINTIFF**

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

DEFENDANT CHARLESTON ANIMAL SOCIETY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS TO PLAINTIFF

Pursuant to South Carolina Rule of Civil Procedure 34, Defendant hereby requests that Plaintiff product for inspection and copying, within thirty (30) days from the date of this request, at the offices of Rosen, Rosen & Hagood, LLC, 151 Meeting Street, Suite 400, Charleston, South Carolina, 29401, and permit the attorneys for Defendant to inspect, copy, or photograph the following documents or things which may be in the possession, custody, or control of Plaintiff or Plaintiff's attorneys. Each document provided in response to these Requests should be identified according to the numbering of the Requests below. These Requests for Production of Documents are deemed to be continuing. If Plaintiff becomes aware of other documents during the course of this proceeding which are responsive to the Requests below, such documents must be made available to Defendant within 30 days after receipt of this information, but no later than two weeks before trial.

DEFINITIONS

1. "Communication" means any oral, written or electronic transmission of information, including but not limited to meetings, discussions, conversations, telephone calls, telegrams, emails, text messages, instant messages, memoranda, letters, telecopies, facsimiles, telexes, conferences, video conferences, messages, notes, or seminars.

2. "Document" has the broadest meaning permissible under the South Carolina Rules of Civil Procedure, and includes any kind of handwritten, typewritten, printed, audiotaped, videotaped, photographed, electronic, magnetic, or recorded material whatsoever. Any comment or notation appearing on or in any Document, and not a part of the original text, is to be considered a separate Document. "Document" expressly includes electronically stored information, including emails and all other types of files stored in computers and other electronic devices, as well as all metadata.

3. "Horses" includes all horses used or owned by Charleston Carriage Works whether used in training, for testing or trial purposes, or in a carriage ride. Thus, the term "horses" is not limited to the horses used in carriage rides, or to those used for a commercial purpose.

4. "Maintenance" includes the basic needs for a horse's survival and general wellness. This includes scheduled watering and dieting; companionship and sheltering; veterinarian visitations, evaluations, and treatments; farrier visitations, evaluations, and treatments; trainer visitations, exercise, and practice, whether individually or in group.

5. "City Ordinances" include governing the conditions of horses, the health of animals, and all other requirements necessary for Charleston Carriage Works to conduct business in the city of Charleston, South Carolina.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. All documents identified in Plaintiff's responses to Defendant's Interrogatories.

2. All photographs, motion pictures, videotapes, audio cassettes, drawings, plats, sketches, diagrams, reports, statements, affidavits, records, forms, writings, notes, memoranda, written messages, contracts, or other documents or tangible things in possession, custody, or control of the Plaintiff or its agents, employees, or managers that relate to any claim or defense in this case.

3. All statements of witnesses or other persons, whether written, oral, taped, summarized, or otherwise reproduced in any manner, relating to the events alleged in the Complaint.

4. All documents, statements, reports, summaries, letters, or other information provided by any expert witnesses retained or consulted by the Plaintiff in connection with this matter, whether or not you intend to call the expert as a witness.

5. A current curriculum vitae for all expert witnesses retained or consulted by the Plaintiffs to testify in this case, as well as a copy of all articles or publications written by said expert(s).

6. All medical records, including bills, regarding any medical care or treatment of the Plaintiff's principal, Broderick Christoff, his family, or any of Plaintiff's employees resulting from, or relating to, the events alleged in the Complaint.

7. All documents which refer to, relate to, or reflect in any manner the damages or injuries which Plaintiff claims in this action.

8. Any and all documents which you intend to rely upon to establish any claim in Plaintiff's Complaint.

9. A copy of any and all documents which Plaintiff intends to introduce at the trial of this matter.

10. All correspondence or documents memorializing any communications between Plaintiff and any other persons or organizations, including Defendants, which refer to, relate to or reflect on any of the allegations referenced in the Complaint.

11. Plaintiff's state and federal tax returns for the past five years.

12. Broderick Christoff's state and federal tax returns for the past five years.

13. An electronic copy of all of Plaintiff's accounting software records or systems (e.g., a Quickbooks backup file).

14. Plaintiff's general ledger for all dates that it has been in operation as a carriage company.

15. Plaintiff's profit and loss statements as of 12/31/13, 12/31/14, 12/31/15, 12/31/16, 12/31/17, and 12/31/18.

16. All Documents and Communications related to the horse subject of this lawsuit, referred to as "Big John" by Plaintiff, including, but not limited to, its medical history and incidents.

17. All Documents and Communications containing or concerning any internal policy, practice, or procedure for the maintenance and care of Plaintiff's horses.

18. All Documents and Communications with City of Charleston officials, including the Tourism Commission and City Council, related to Charleston Carriage Works' compliance with City Ordinances.

19. All Documents and Communications related to any of the incidents described in response to Interrogatory No. 4.

20. All Documents and Communications related to any of the incidents described in response to Interrogatory No. 5, including, but not limited to, any police reports filed.

21. All Documents and Communications related to any of the statements/publications described in response to Interrogatory No. 6.

22. All Documents and Communications related to any of the actions described in response to Interrogatory No. 9.

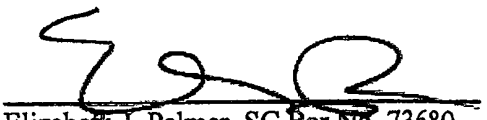
23. All Documents and Communications related to any of the actions described in response to Interrogatory No. 10.

24. All Documents and Communications related to any of the actions described in response to Interrogatory No. 11.

25. All Documents and Communications related to any of the actions described in response to Interrogatory No. 13.

26. All Documents and Communications related to any of the actions described in response to Interrogatory No. 18.

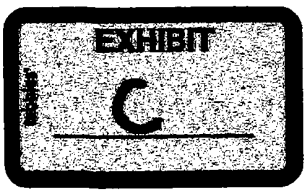
27. All Documents and Communications related to any warnings, citations or violations received from any governmental entity.



Elizabeth J. Palmer, SC Bar No. 73680
Bijan Ghom, SC Bar No. 103531
ROSEN, ROSEN & HAGOOD, LLC
151 Meeting Street, Suite 400
Charleston, SC 29401
(843) 577-6726
epalmer@rrhlawfirm.com
bghom@rrhlawfirm.com

Charleston, South Carolina

February 1, 2019



ROSEN | HAGOOD

Elizabeth J. Palmer
epalmer@rosenhagood.com

July 10, 2019

VIA EMAIL AND US MAIL
Thomas R. Goldstein, Esquire
Belk, Cobb, Infinger & Goldstein, P.A.
2344 Cosgrove Ave., P.O. Box 71121
Charleston, SC 29415-1121

Re: Charleston Carriage Works, LLC vs. Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.

Dear Tommy:

I am in receipt of Plaintiff Charleston Carriage Work's (CCW) responses to Plaintiff Charleston Animal Society's (CAS) first set of discovery and find many of its responses to be insufficient. Specifically, I believe CCW's answers to the following interrogatories are insufficient and request that CCW supplement its responses "separately and fully in writing under oath" as required by Rule 33, SCRCP.

Interrogatory No. 4: CCW has alleged that individuals acting as agents of CAS have interfered with CCW's business by shouting materially false information at CCW's clients (Compl., ¶ 6). This interrogatory asks that CCW set forth the basis for that allegation and give details about each such occasion. CCW's response, that it "cannot answer...with specificity because the plaintiff does not know who the person or persons at the [CAS] who compiled the video and other statements and who disseminated them," is not responsive to the question. Please supplement CCW's answer either by identifying these alleged incidents and the circumstances surrounding them, including information supporting CCW's allegation that the people involved were agents of CAS, or by stating that CCW is not in possession of information responsive to the interrogatory.

Interrogatory No. 6: The crux of CCW's lawsuit is its allegation that CAS has defamed it (Compl., ¶¶ 6, 8, 10, 11, 15-17, 21, 24, 26, 27, 29-35). This interrogatory asks that CCW set forth each publication made by CAS that CCW contends is defamatory and provide related information about each such publication (i.e., how it was published, when it was published, why CCW believes the statement is false, how it damaged CCW, etc.). In response, CCW provides, as an "example", a list of publications, many of which do not even refer to CCW specifically, without fully responding to the substance of the interrogatory. Please supplement CCW's answer to fully respond to the interrogatory and also list **all** publications (as opposed to a sampling) which CCW intends to present as evidence in support of its defamation cause of action.

Interrogatory No. 8: CCW has alleged that the defendants "combined their efforts with other local government officials to prevent the plaintiff from making use of his property and harassed the plaintiff's managers and employees to destroy the business." (Compl., ¶ 23). This interrogatory asks CCW to identify by name and title the governmental officials at issue, explain how each "combined" with CAS, and set forth how CCW was damaged as a result. CCW answered as follows:

> The City of Charleston regulates the tours through a City created [an] agency known as the Tourism Commission. This Commission regulates every facet of tourism in Charleston and requires each company to pay an annual 'franchise fee' of $17,500.00 to operate on city streets (most of which are owned by the State, not the City).

This answer is not responsive to the interrogatory. Please supplement CCW's answer either by identifying the governmental officials and providing the other information requested or by indicating that CCW is not in possession of the requested information.

Interrogatory No. 10: CCW has alleged that, as a result of CAS's alleged defamation, CCW has been faced "with efforts by the City of Charleston to restrict and curtail the plaintiff's use of its property." (Compl., ¶ 27, 35). This interrogatory asks that CCW specify what actions the City has allegedly taken and the basis of its allegation that CAS is somehow responsible for the City's actions. CCW's answer is essentially that CAS has made numerous statements that CCW "does not follow the law." This answer is not responsive to the interrogatory. Please supplement CCW's answer either by identifying the actions taken by the City of Charleston and explaining how CAS is connected to those actions or by indicating that CCW is not in possession of the requested information.

Interrogatory No. 13: This interrogatory was not answered at all. Please provide an answer that is responsive to the information requested.

Additionally, CCW has failed to "serve a written response" to CAS's First Requests for Production as required by Rule 34(b). I acknowledge that CCW has produced a CD containing close to 2,000 files, primarily screenshots of social media posts. Aside from this CD, the only other materials that have been produced in response to CAS's Requests for Production are CCW's tax returns for 2014-2017. In addition to failing to serve a written response, it is our position, based on a review of the materials produced to date, that CCW has failed to sufficiently respond to the following requests for production.

Request No. 2: This request asks that CCW produce all documents that relate to any claim or defense in this case. CCW has alleged that, as a result of Defendants' actions, it has been damaged by "having to divert time and money to combat the defendants' false information,

respond to numerous inquiries, and its managers and employees have suffered mental anguish and fear from the receipt of death and arson threats." (Compl., ¶¶ 26, 34). CCW's owner, Mr. Christoff, testified in his deposition that he has copies of e-mails relating to these allegations, as well as copies of complaints and other documentation submitted to the authorities related to these allegations, yet none have been produced. (Christoff Depo, Vol. I, pp. 301, 346; Vol. I, p. 63). Please produce the documents Mr. Christoff was referring to as well as all other documents responsive to this request.

Request No. 12: This request asks that CCW produce its owner's Federal and State tax returns for the past 5 years. CCW has failed to produce these returns.

Request No. 13: This request asks that CCW produce an electronic copy of its accounting records. In his deposition, Mr. Christoff testified that he maintained CCW's financial records in Excel, including the number of tours given (Vol. I, p. 93) and the numbers of ticket sales by month dating back to 2014 (Vol. I, pp. 359, 361). No such materials have been produced.

Request No. 18: This request asks that CCW produce copies of all documents and communications with governmental officials (including the tourism commission and city council) related to CCW's compliance with city ordinances. No such documents have been produced.

Request No. 23: This request asks that CCW produce copies of all documents and communications related to its allegation that, as a result of CAS's alleged defamation, CCW has been faced "with efforts by the City of Charleston to restrict and curtail the plaintiff's use of its property." Please produce the requested documents or indicate in CCW's written response to CAS's Requests for Production that CCW is not in possession of any documents responsive to this request.

Request No. 25: This request asks that CCW produce copies of all documents and communications related to any consultations it had with third-parties (including, but not limited to, equine experts or professionals) concerning Big John's fall. Please produce the requested documents or indicate in CCW's written response to CAS's Requests for Production that CCW is not in possession of any documents responsive to this request.

I would ask that you supplement CCW's discovery responses by July 19, 2019, to avoid the necessity of a Motion to Compel. If you would like to discuss this matter in more detail, please do not hesitate to call. Thank you in advance for your attention to this matter.

With kind regards, I am

Sincerely yours,

Elizabeth J. Palmer

/ejp
cc: **VIA EMAIL ONLY**
Joe Elmore
K. Spencer Craig, Esquire
Nicholas G. Green, Esquire
Jenkins M. Mann, Esquire
Joseph D. Thompson, III, Esquire

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July 16, 2019

Ms. Elizabeth J. Palmer
Rosen, Rosen & Hagood
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Suite 400
Charleston, S. C. 29401

Mr. Joseph D. Thompson, III
Hall Booth Smith, P.C.
111 Coleman Boulevard
Suite 301
Mt. Pleasant, S. C. 29464

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Beth and Trey,

1. Incident Reports

Beth asked me for copies of police incident reports. I am attaching all the copies of the incident reports in my position except for one 50-page report prepared by Dan Riccio regarding Old South's horse, Blondie. I will send that to you electronically due to its 50-page length. The others that I have in my possession are enclosed here as follows:

February 20, 2017 incident report on Chief
July 15, 2017, report on Blondie
May 18, 2017, incident report on T-Rex incident
June 3, 2019 incident report on John Daniel Blanton

These are all the incident reports in our possession. There may be others, but I am turning over all that we have.

EXHIBIT
D

2. Deposition Schedule

Second, I am in receipt of the notices of depositions as follows:

Monday, August 26, 2019	Gabrielle Byrd	9:00 a.m.
Monday, August 26, 2019	Sarah Onderka	12:00 p.m.
Monday, August 26, 2019	Chase Lamb	3:00 p.m.
Tuesday, August 27, 2019	Shannon Tilman	9:00 a.m.
Tuesday, August 27, 2019	Dan Riccio	1:00 p.m.
Wednesday, August 28, 2019	Amber Christoff	9:00 a.m.
Thursday, August 29, 2019	Dr. Justin Miller	9:00 a.m.
Friday, August 30, 2019	Katie Clary, C.P.A.	9:00 a.m.

There are a couple of things noteworthy about this proposed schedule, not including no provision for time to eat lunch. First, you all selected all the dates without consultation with me. Which is fine. No rule requires consultation, but remember, when I start picking dates without consultation with you all, I expect, as Judge Norton unceremoniously stamped on a motion for reconsideration: "No whining." Second, the idea that we can get through an entire week of depositions without court conflict is ambitious, but: *dum spiro spero*. Third, it seems kind of, what's the word, I cannot say "ballsy" because women outnumber men in higher education these days, but maybe hubristic? to expect an out-of-county expert witness, Dr. Miller, to travel to your office for a deposition? There are rules about that, but maybe Dr. Miller will acquiesce. Personally, I am more of a Prufrock than Cicero on such matters:

> And indeed there will be time
> To wonder, "Do I dare?" and "Do I dare?"
> Time to turn back and descend the stair,
> With a bald spot in the middle of my hair—
> [They will say: "How his hair is growing thin!"]
> My morning coat, my collar mounting firmly to the chin,
> My necktie rich and modest, but asserted by a simple pin—
> [They will say: "How his arms and legs are thin!"]
> Do I dare
> Disturb the universe?
> In a minute there is time
> For decisions and revisions which a minute will reverse.

3. Plaintiff's theory of the case

Which brings me to my final point in this loquacious letter. Beth, you ask me two questions that are interrelated: the first is to identify for you every statement the Charleston Animal Society has made that is slanderous, and the second is to explain to you what the Charleston Animal Society's Schedule B's have to do with this case. (I have abandoned this discussion with Harley's side of the case—apparently she is above it all—but the answer to your two questions is a single answer.)

To go in reverse order, the Schedule B's have everything to do with the case. As I have tried to explain, obviously deficiently, the animal rights movement is a scam, operating from the same social media playbook that plagues society across a broad spectrum. It is a first cousin to any of the ten million scams occurring daily to relieve gullible people from their money and redistribute it to any of the ten million plausible scoundrels—from Nigerian princes to, in our case, the Charleston Animal Society. To cite a cliché, follow the money. Consider, for example, Joe Elmore's salary increases in the short time he has been at the helm. (And consider where some of the previous leaders of Charleston Animal Society both came from and ended up.) Besides college football coaches, whose salary increases by like percentages in such a short period of time? Besides S.C.E.&G. executives I mean. What has Joe Elmore done to justify generous self-compensation? Is the Charleston Animal Society caring for thousands more of dogs and cats? Or is it a function of fund raising? And what better fundraising tool is there than to create an enemy, drive up people's fear, dehumanize the enemy, and then harness all that anger and fear into a motivation to donate to the cause? See: Trump, Donald J. or Marquardt, Kathleen, *Animalscam: The Beastly Abuse of Human Rights*. Why is the Charleston Animal Society sitting on 20 million dollars and simultaneously begging the County's taxpayers for hundreds of thousands of taxpayer support? Or, in a related context, as the philosopher, Sarah Silverman, asks: Why does the Pope live in a house that is a city? But even if all my analysis is wrong, wrong, wrong, and wrong, the Charleston Animal Society is a charitable organization supported by generous, annual taxpayer contributions. It is, in short, a quasi-governmental agency, so any citizen has the right to see how much money it collects, how it collects it, from what sources, and what it spends it on. As a taxpayer supported institution, its primary duty is to the taxpayers, and before Mr. Elmore arrived on the scene, the Charleston Animal Society routinely posted all of its Schedule B's so the taxpayers who involuntarily support the organization can know who is voluntarily supporting the organization.

If the attack on Brody is being coordinated with animal rights groups, then we are entitled to know it. I cannot think of anything more relevant than

who is providing financial support to the Charleston Animal Society. Money truly is the root of all evil. The mischief caused by animal rights groups is well documented (see above), and without access to the Animal Society's financial information, we can never fully answer your question because we do not know who Charleston Animal Society's masters are. As for detailed answers as to what the Animal Society has done to Brody, you deposed Brody on these topics for somewhere between thirteen and fourteen hours, including, but not limited to, examining him on his 14-page, carefully researched and annotated written explanation. (March 22, 2019, Deposition Exhibit 17)

Finally, the Charleston Animal Society should be proud to disclose both the organizations and the amounts given in support its putative animal "rescue" work. For a quasi-governmental, charitable organization, it sure acts nervous and cagey about who supports its alleged charitable work. *Hamlet*, Act III, sc. ii, line 230. All governments perform better in sunlight, and it is both immoral and illegal for the Charleston Animal Society to be both secretive and defensive about the sources of its financial support.

In short, I know that I lack the ability to persuade you what seems obvious to me, and I admit the last time I was in court over a discovery dispute, disco was king, and I was sporting what my daughter derisively calls a "porn mustache." At least one thing never changes.

What is the news on your proposed scheduling order? Is it being circulated, or did it die a quiet death in an obscure corner of a law office? With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

TRG/

enclosure: Incident Reports

cc:
Mr. Jenkins M. Mann (via e-mail)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-4083
	)	
Charleston Carriage Works, L.L.C.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she served Defendant Charleston Animal Society's Motion to Compel on the following via U.S. Mail and/or email on July 22, 2019:

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ATTORNEYS FOR ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC.

Taylor Davis
Legal Assistant to Elizabeth Palmer

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-4083
)	

Charleston Carriage Works, L.L.C.,

Plaintiff,

vs.

Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,

Defendants.

AMENDED PLAINTIFF'S MOTION TO COMPEL AS TO ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC. AND AS TO CHARLESTON ANIMAL SOCIETY

2019 SEP 27 P 10:23
CLERK OF COURT

TO: Joseph D. Thompson and Jenkins M. Mann, Attorneys for Ellen Harley and Charleston Carriage Horse Advocates, Inc. and Elizabeth Palmer as to Charleston Animal Society:

Please take notice that ten days after notice, or as soon thereafter as counsel may be heard, the plaintiff will move for an Order of the Court, compelling the Defendants to answer the plaintiff's discovery requests. This **amended motion** is amended to address the Charleston Carriage Horse Advocates'' July 26, 2019, refusal to answer the plaintiff's supplemental interrogatories. This motion is based on Rules 26 and 37, *South Carolina Rules of Civil Procedure* and upon the following grounds:

On September 20, 2108, the plaintiff served 23 written interrogatories under Rule 33 (to the Defendants Harley and Charleston Carriage Horse Advocates) and on September 25, 2018, the plaintiff served 23 written interrogators on the Charleston Animal Society along with written

requests for production under Rule 34 on both defendants. Despite several reminders and overtures to the defendants asking for a response to the plaintiff's discovery requests (attached as Exhibits 1, 2, and 3, attached here and incorporated by this reference[1]), the defendants refuse, and continue to refuse to answer the plaintiff's discovery requests fully and in conformity with the *Rules of Civil Procedure*. As detailed in the attached correspondence identifying the deficiencies, Charleston Animal Society furnished partial responses and communicated with counsel to discuss the matter fully without reaching an agreement, while Harley and Charleston Carriage Horse Advocates, furnished none and made no effort to bridge the gap. The preceding sentence is not a criticism of counsel, with whom, the plaintiff has had full, open communication; however, the litigants, Charleston Carriage Horse Advocates and Harley, have expressed nothing but contempt for the process and the rules governing the conduct of litigation. Such contumacious conduct is not the result of counsel's actions, as lawyers are mere servants to clients. When clients make decisions to flout the rules governing litigation, clients must accept responsibility for their actions—and neither Harley nor Charleston Carriage Horse Advocates are going to conform their conduct to the rules until a Court requires them to do so. Despite the defendants refusing to respond to basic discovery requests—or even answering the complaint—the defendants scheduled, and completed, a thirteen-hour deposition over two days of the plaintiff's designated witness on Friday, December 7, 2018 and on May 3, 2019.

Because the defendants', Harley's and her organization's, refusal to respond to basic discovery requests are willful and without cause, excuse, or explanation, the Court should impose

[1] Exhibit 1 is Plaintiff's March 21, 2019, letter to Charleston Carriage Horse Advocates identifying deficiencies. Exhibit 2 is Plaintiff's March 27, 2019, letter to Charleston Animal Society identifying deficiencies, and Exhibit 3 is Plaintiff's March 28, 2019, letter to Charleston Carriage Horse Advocates identifying deficiencies in refusing to produce documents.

such sanctions as the Court finds just upon the defendant for willful disobedience to fundamental discovery procedure, including but not limited to, the sanction of striking the Answers[2] and declaring the defendants to be in default, and/or an award of attorney's fees and costs for the prosecution of this motion, or for such other and further relief as the Court finds just and proper. As the attached exhibits demonstrated, the defendant, Charleston Animal Society, responded more fully than the defendant, Harley, who essentially ignores the Rules of Procedure, but the Animal Society at least explains its refusal to produce its "Schedule B's" on the ground of relevancy. Such an excuse is pretext.

Charleston Animal Society is a taxpayer supported, 501(c)(3) charitable organization (so is Charleston Carriage Horse Advocates), and its Schedule B's are public documents that disclose the source of the Charleston Animal Society's funding. The Animal Society's funding is both directly and materially relevant to the plaintiff's theory of the case that the Charleston Animal Society, a putative charitable organization, supported in large part by taxpayer money, is an animal activist group with its primary purpose to advance a radical animal rights agenda, including agitation to ban tours by horse drawn carriage. Not only are the Animal Society's Schedule B's public documents that should be available to anyone, but also the test for disclosure under discovery rules is so broad under Rule 26(b) that they are discoverable even if they were not public documents:

> Parties may obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action, . . . It is not ground for objection that the information sought will be inadmissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

Obviously, the Charleston Animal Society's fundraising is a materially relevant issue in this case, especially if disclosure reveals that it derives funding from animal activists. See

[2] Technically a motion to dismiss.

Kathleen Marguardt, *Animal Scam: The Beastly Abuse of Human Rights* (Regnery Gateway, 1993) for a comprehensive list of animal activist organizations in the United States. See *Animal Welfare Institute, et. al. v. Feld Entertainment* and *Feld Entertainment v. Animal Institute, et. al.*, 1:03-cv-02006-EGS and 1:07-cv-01532-EGS (2003 and 2014), cases so egregious that they resulted in not only the various animal activists paying Feld Enterprises 16 million dollars to satisfy the racketeering charges brought against them, but also resulted in the Court recommending that the lawyers involved be referred for disciplinary violations because they suborned perjury. Such is the world of animal activism/terrorism, and the engine that drives it is the brave new world of social media. As reference to any newspaper on any day proves *passim*, social media can be an ugly place, giving rise to new, opaque, multi-verses of electronic melancholic cells where brooding darkness spreads jealous wings,[3] and to the extent these denizens of the dark subsidize either part or all of the defendants is fertile ground for the plaintiff to explore. In the *Feld Enterprises* case, the list of bad actors included several organizations that portray themselves as animal welfare when they are anything but. The fact that these defendants do not wish to disclose their sources of financial support is a tacit admission of the ignoble sources of their funding, and it is unconscionable for the defendants to force the plaintiff to exert time and effort to obtain basic information or to waste limited judicial resources in the resolution of self-generated controversy. Because the information sought is so basic, because the plaintiff tried so hard to resolve it without the assistance of the Court, and because the defendants' explanations are so obviously pretext, the Court should impose such sanctions as the Court finds

[3] John Milton, "L'Allegro": "Hence loathed Melancholy/Of Cerberus and blackest midnight born,/In Stygian Cave forlorn/'Mongst horrid shapes, and shrieks, and sights unholy,/Find out some uncouth cell,/Where brooding darkness spreads his jealous wings.

to be just and proper in this case as authorized by Rule 37(a) of the *South Carolina Rules of Civil Procedure.*

AMENDMENT AS TO CHARLESTON CARRIAGE HORSE ADVOCATES

On July 2, 2019, the Plaintiff served a single supplemental interrogatory on the Charleston Carriage Horse Advocates as follows:

1. Give the names and address of employees, agents, internal auditors, accountants, Certified Public Accountants, bookkeepers, or other such persons who compile and prepare the defendant's, Charleston Carriage Horse Advocates' financial and tax records, including, but not limited to, tax returns reported to the South Carolina Department of Revenue, the United States Internal Revenue Service, as well as documents provided to the South Carolina Secretary of state as a charitable organization.

Instead of addressing this simple, straightforward, routine interrogatory, which calls for nothing more than identifying the person or persons who compile and are in possession of these records, the Charleston Carriage Horse Advocates responded on July 26, 2019, with a nonspecific, boilerplate non-answer as follows (attached here as Exhibit 4):

ANSWER: Defendant objects to this Interrogatory as it is overly broad, unduly burdensome, and not calculated to lead to the discovery of admissible evidence.

This dilatory objection is the most recent installment of Charleston Carriage Horse Advocates' contumacious conduct, and it is another expression of its contempt for the Court and the Rules of Civil Procedure. On August 5, 2019, Plaintiff's counsel, in an effort to avoid involving the Court in this discovery dispute sent to the contumacious defendant a detailed letter, summarizing the law, and explaining that the burden was on the defendant to explain why the request for information is being ignored (Exhibit 5). This effort at consultation received no response.

Obviously, a simple interrogatory asking for nothing more than the identity of the person in control of the records cannot possibly be "overly broad" because it asks for nothing more from the defendant other than to identity the records custodian. Likewise, the identification of the records custodian cannot be "unduly burdensome," because it requires nothing more than disclosing name(s) and address(es). Finally, the defendant's corporate records are indisputably relevant to the Plaintiff's claim because the Plaintiff's claim is that Charleston Carriage Horse Advocates is a fraudulent animal activist masquerading as an animal welfare organization in violation of the South Carolina Non Profit Corporation Act. Because Charleston Carriage Horse Advocates is a South Carolina Non Profit, just like Charleston Animal Society, designated charitable organization, South Carolina law **requires** it to keep its records available. See January 7, 2017, Articles of Incorporation on file with the South Carolina Secretary of State—attached here as Exhibit 6. See § 33-31-1601, S. C. Code, ann., "Corporate records." We already know from the May 3, 2019, deposition of one its alleged directors, Elizabeth Fort, that Charleston Carriage Horse Advocates is nothing more than the alter ego of Ellen Harley who does not keep corporate records, and her failure to do so accounts for the defendant's bogus, evasive "objection" to a standard interrogatory. If there are no records, then the defendant should say so and stop wasting the Court's time and requiring the Plaintiff to expend attorney's fees on forcing the defendant to conform to the Rules of Civil Procedure.

As to relevance, the central allegation in this lawsuit is that the Defendant knowingly and willfully publishes false information to generate money for herself, which the Plaintiff believes is not used for animal welfare and not consistent with any "charitable" purpose. As a putative "501(c)(3) charitable organization," **South Carolina law specifically prohibits such organizations from making misrepresentations to aid in collecting money**, and the

allegations of this lawsuit paint a horrific picture of a person willing to say and do almost anything to support her animal activism. See § 33-56-120, S. C. Code ann., "Misrepresentations prohibited": "In connection with the solicitation of contributions for, or the sale of goods or services for charitable purposes, a person shall not misrepresent or mislead, knowingly and willfully, a person by any manner, means, practice, or device." § 33-56-145 makes such misrepresentations a crime. The first offense is a misdemeanor; the second and subsequent violations are felonies.

South Carolina has a well-developed body of case law defining the obligations of parties to respond fully and fairly to discovery requests. In a case not too dissimilar from the present case, the South Carolina Court of Appeals addressed the trial judges sanctions against a defendant who refused to acknowledge or disclose the existence of a discoverable surveillance tape. The Court of Appeals held:

> Samples' [the Plaintiff] attorney served standard interrogatories, not a complex series of questions making compliance difficult. At a minimum, the existence of the tape should have been disclosed in the original answers to Samples' interrogatories, as the tape obviously related to Samples' personal injury claim. Instead, Mitchell's lawyer knew about the video tape when the interrogatories were received, yet willfully failed to reveal it to Samples or the court for some two and a half years. At the least, Mitchell's lawyer should have known the video was relevant when Moser was added as a witness and should have disclosed the video's existence to Samples' attorney prior to Moser's deposition.
>
> The entire thrust of the discovery rules involves full and fair disclosure, "to prevent a trial from becoming a guessing game or one of surprise for either party." *State Highway Dep't. v. Booker*, 260 S.C. 245, 252, 195 S.E.2d 615, 619 (1973) (quoting *Hodge v. Myers*, 255 S.C. 542, 545, 180 S.E.2d 203, 205 (1971)). Essentially, the rights of discovery provided by the rules give the trial lawyer the means to prepare for trial, and when these rights are not accorded, prejudice must be presumed. *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). Unless the party who has failed to submit to discovery can show lack of prejudice, reversal is required. *Id.* at 46, 362 S.E.2d at 319.
>
> Even though the imposition of sanctions is usually left to the sound discretion of the trial judge, whatever sanction the judge imposes "should serve to protect the rights of discovery provided by the Rules." *Downey, v. Dixon*, 294 S.C. 42, 362 S.E.2d 317 (Ct. App. 1987) Overly

lenient sanctions are to be avoided where they result in inadequate protection of discovery. *Diaz v. Southern Drilling Corp.*, 427 F.2d 1118, 1126 (5th Cir. 1970), cert. denied sub nom., *Trefina v. U.S.*, 400 U.S. 878, 91 S.Ct. 118, 27 L.Ed.2d 115 (1970).

In *Diaz v. Southern Drilling Corp., ibid.*, the Fifth Circuit Court of Appeals affirmed the trial judge's decision to impose a default judgment against an intervening plaintiff for refusing to sit for a deposition:

> Professor Wright observes that "[w]ithout adequate sanctions, the procedure for discovery would be ineffectual. Under Rule 37 a party who seeks to evade or thwart a full and candid discovery incurs the risk of serious consequences. * * *" C. Wright, Federal Courts § 90 (1963). While it is true that the courts should impose sanctions no more drastic than those actually required to protect the rights of other parties, the language of Rule 37(d) makes clear that the application of sanctions is entrusted to the discretion of the trial judge, and overleniency is to be avoided where it results in inadequate protection of discovery. *See* C. Wright, *supra*, at 346 n. 14.

In *Diaz*, the plaintiff, Trefina, a plaintiff who intervened in the case to claim a commission, refused to appear for his deposition despite being ordered by the Court to do so. Unlike this case, Trefina at least offered various reasons why he could not travel from Switzerland to Texas to attend his deposition, but the court rejected them and ordered him to attend. Here, even though the Plaintiff took the time and effort to write to the defendant on August 5, 2019 (Exhibit 5) and explain why the defendant's answers are insufficient, the defendant still refused to engage in meaningful consultation. Unlike the Swiss witness in *Diaz*, Charleston Carriage Horse Advocates does not bother to offer an excuse—it just refuses to answer without explanation even though the rules governing discovery require the Defendant to do more than rely on boilerplate language and where Plaintiff's counsel wrote to the defendant on August 5th and explained in detail why the information sought is relevant. See August 5th letter attached here as Exhibit 5.

In short, Charleston Carriage Horse Advocates emphasizes its contempt for the process without even providing a pretext for its conduct. This defendant has willfully, and repeatedly, flouted the discovery rules that govern the administration of justice, and the Court should impose the sanction of striking its Answer and holding the defendant in default as well as requiring the defendant to reimburse the Plaintiff for incurring unnecessary attorney's fees to force compliance with standard discovery requests.

Respectfully submitted,

This the 26th day of September, 2019

Belk Cobb Infinger & Goldstein, P.A.
Thomas R. Goldstein, S. C. Bar #2186
P.O. Box 71121
N. Charleston, SC 29415-1121
843-554-4291; 843-554-5566 fax
tgoldstein@cobblaw.net

RULE 11 CERTIFICATION

I certify that prior to filing this motion with the Court, I contacted both counsel for the defendants in an effort to resolve the request made in this motion, and I was unable to resolve the matter. See attached letters dated March 21, 2019 and March 28, 2019, and August 5, 2019 to counsel for the defendant, Harley, and March 27, 2019, to counsel for the defendant, Charleston Animal Society. These letters are attached here as Exhibits 1, 2, and 5, and incorporated by this reference.

September 26th, 2019

Thomas R. Goldstein, S. C. Bar #2186

THE UNDERSIGNED HEREBY CERTIFIES THAT A TRUE COPY OF THE FOREGOING PLEADING HAS BEEN SERVED UPON OPPOSING COUNSEL BY MAILING A COPY PROPERLY ADDRESSED WITH SUFFICIENT POSTAGE AFFIXED THERETO THIS 26th DAY OF SEPTEMBER, 2019.

BY: _____

INDEX TO EXHIBITS

Exhibit 1 March 21st 2019 correspondence attempting to resolve discovery impasse with Charleston Carriage Horse Advocates regarding interrogatories.

Exhibit 2 March 27th 2019 correspondence attempting to resolve discovery impasse with Charleston Animal Society regarding requests for production, specifically tax records, corporate records, video, and e-mails

Exhibit 3 March 28th 2019 correspondence attempting to resolve discovery impasse with Charleston Carriage Horse Advocates regarding requests for production.

Exhibit 4 Defendant's, Charleston Carriage Horse Advocate's July 26th 2019, "objection" to discovery requests and August 2, 2019 response

Exhibit 5 August 4th 2019, correspondence attempting to resolve discovery impasse with Charleston Carriage Horse Advocates

Exhibit 6 January 7, 2017, Articles of Incorporation Charleston Carriage Horse Advocates

EXHIBIT 1

BELK, COBB, INFINGER AND GOLDSTEIN, P.A.

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr.

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March 21, 2019

Mr. Joseph D. Thompson, III
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111 Coleman Blvd.
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Mt. Pleasant, S. C. 29464

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Trey,

On February 22, 2019, your office responded to the interrogatories served on Charleston Carriage Horse Advocate, Inc. on September 20, 2018. Despite having over four months to respond, the defendant essentially ignored the plaintiff's requests for basic information. I understand that the defendant claims to know of no witnesses other than those disclosed by other parties. That seems to be a risky strategy, but as we both know, it is not my place to opine on the wisdom of the defendant's defense strategy. However, there are material deficiencies in Charleston Carriage Horse Advocates' answers to interrogatories, which I am asking you to correct in order to avoid my having to file a motion to compel with the Court. I will address each one in order.

Question No. 3 is a standard interrogatory asking for documents relating to the case. Your response is that you decline to answer the interrogatory on the grounds that:

A. The request is burdensome,
B. Will not lead to relevant information, and
C. The information is equally accessible to me.

Let us address each one.

A. Burdensome

The Charleston Carriage Horse Advocates, Inc. is a South Carolina Corporation, organized and existing as a chartable institution, subject to the particular rules applied to charities. It is impossible for such an entity to exist without corporate records related to its expenses, income, and tax exempt status. Producing such records is no burden at all because federal and state law requires

that your client maintain the records. Your client cannot, on the one hand, claim the privileges of a tax exempt status while on the other hand, claim that it has no corporate records. The law requires your client file annual returns and reports, including, but not limited to, identifying the source of contributions and how that money is spent.

B. Will not lead to relevant information. How can you justify this canard? I will not insult you by lecturing you on the purpose and scope of discovery, but your client's handling of money is the most important information in the case. Maybe Ms. Harley is acting from a pure, altruistic motivation, but her past history and her reputation in the community suggest other financial motives. We are entitled to see how her charitable organization is organized and operated, and charities should strive to be more transparent than ordinary for profit enterprises.

C. The information is equally available to me. We might perhaps be able to reach common ground here. If Charleston Carriage Horse Advocates, Inc., is willing to allow us to image its computer server, then perhaps you could make this argument. Let me know if your client is willing to do this. Otherwise, the only way that your client's information could be equally available to me is if I broke in its office and stole it. It is not debatable that the records of the Charleston Carriage Horse Advocates are not available to me.

Question No. 8 asks for employees of Charleston Carriage Horse Advocates, and you answered "not applicable." Obviously the question is applicable because employees typically are the most knowledgeable persons about the operation of a corporation. I ask that you furnish the names of employees currently or formerly employed. This is a standard discovery question.

Question No. 9 asks for the corporation's e-mail addresse(es). You respond that you are making an inquiry to discover what they are. Obviously the company knows what its address(es) is/are, and the Court will not look favorably upon such obvious obfuscation.

Question No. 11 asks for identification of each legal violation committed by Charleston Carriage Works, and your client's answer is that it knows of none other than those identified by Brody in his deposition. If that is your client's answer, then we agree it is sufficient, but you seem to want it both ways. Either your client knows of other violations or it does not. Which is it?

Question 21 asks for information regarding the Corporation's bank accounts. As you did in avoiding answering Question 3, you object on the ground that the Corporation's banking is "irrelevant." As I said in my analysis of your objection to Question 3, this is the most relevant evidence in the case.

Charleston Horse Carriage Advocates represents itself as being an altruistic, charitable organization. As I am sure you are aware, more than one animal rights organization has been exposed as something less than charitable. See *Ringling Brothers v. ASPCA*. There is huge money in "animal welfare" groups, and we are entitled—just as is any citizen is entitled—to see how much and by what means your charitable corporate client raises and spends money. We intend to show that your client manipulates social media to raise money, which includes slandering my client. So the information requested is both standard and essential to an analysis of the legal issues before the Court. I am sparing you any comment on the obvious fact that you have no idea what the issues in the case are because you have yet to file an Answer.

Question 22 asks for other organizations to which the Director if Charleston Carriage Horse Advocates belongs. As set forth above, there is a large, united "animal welfare" network in this country. They work together to push radical agendas (to which, Congress, as you know, responded by passing an animal terrorism act), and we are entitled to know to which other organizations the Chair of Charleston Horse Carriage Advocates belongs. This information is materially relevant.

I ask that you please reconsider your refusal to respond to these interrogatories. If I have not heard from you by March 29th, I will assume your position is unchanged and file a motion to compel with the Court. As always, I am available to discuss these issues with you in person or by telephone in an effort to avoid involving the Court in discovery disputes. I look forward to hearing from you. With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

TRG/

cc:
Jenkins M. Mann, Esq.
Nicholas G. Green, Esq.
Elizabeth J. Palmer, Esq.

EXHIBIT 2

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr.

Peggy M. Infinger
pinfinger@cobblaw.net

Thomas R. Goldstein
tgoldstein@cobblaw.net

ATTORNEYS AT LAW
2344 COSGROVE AVENUE
CHARLESTON, SC 29405

Mailing Address:
P.O. Box 71121
Charleston, SC
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Fax: (843) 554-5566

March 27, 2019

Ms. Elizabeth J. Palmer
Rosen, Rosen & Hagood
151 Meeting Street
Suite 400
Charleston, S. C. 29401

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Beth,

In reviewing your responses to our discovery, I noticed some deficiencies. We are looking for the following documents that I did not see in what you produced:

TAX RECORDS

1) 2013 Schedule B's
2) 2014 Schedule B's
3) 2015 Schedule B's
4) 2016 Schedule B's
5) 2017 Schedule B's

CORPORATE RECORDS

6) Charleston Animal Society Articles of Incorporation
7) Charleston Animal Society By-Laws

ELECTRONIC RECORDS

8) Any and all video of the Big John incident.
9) All e-mails or other communications between Dan Krosse and Charleston Carriage Horse Advocates.

As for your subpoena to Charleston Carriage Works' certified public accountant, I will provide to you copies of the returns filed with the State and the Federal Internal Revenue Service. We will not provide work sheets and internal memorandum or any information that discloses the plaintiff's vendors. We have already seen how that works, and litigation is not an invitation to fish through the plaintiff's records in order to harass vendors. The only relevant information is our production of financial records demonstrating income. I will get you the

tax returns as soon as possible, but it is ridiculous to think that a C.P.A. can respond to a subpoena like yours between March 26th and April 15th. As you might recall, accountants tend to be busy in the days leading up to April 15th.

As for your discovery requests, it would help me tremendously if you could e-mail me your requests in Word format to relieve me from the burden of typing the questions.

Lastly, I enclose a notice of deposition and subpoena for Elizabeth Fort. Since she is a non-party witness, I cannot offer you or other counsel the luxury of picking the date; however, if the date I have selected turns out to be inconvenient for the witness, I am agreeable to rescheduling. With kind regards, I am

Very truly yours

Belk, Cobb, Infinger & Goldstein, P.A.
Thomas R. Goldstein

TRG/

enclosure:
Notice of deposition, subpoena

cc:
Mr. Nicholas Green (e-mail only)
Mr. Joseph D. Thompson, III
Mr. Jenkins M. Mann

EXHIBIT 3

March 28, 2019

Mr. Joseph D. Thompson, III
Hall Booth & Smith, P. C.
111 Coleman Blvd.
Suite 301
Mt. Pleasant, S. C. 29464

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Trey,

On February 22, 2019, your office responded to the plaintiff's request for production served on Charleston Carriage Horse Advocate, Inc. on September 20, 2018. Despite having over four months to respond to the requests for production, the defendant essentially ignored the plaintiff's requests for basic information. Please note the following deficiencies:

1. The Carriage Horse Advocates refuses to produce a single document on the ground that the information is "equally accessible to the plaintiff." The Carriage Horse Advocates is a 501 charitable corporation, and its books and records, such as Minutes, tax returns, and organizational documents are not "equally accessible to the plaintiff." The Horse Carriage Advocates cannot claim the umbrella of protection afforded charitable corporations on the one hand, and on the other hand, say they have no organizational documentation. Your client's assertion is frivolous on its face. Please ask your client to make available its corporate records and tax returns.

2. Your client refuses to provide photographs and other documentary evidence on the ground that it "invades the mental impressions and strategy of counsel." I guess I could agree with that if you are saying that you join in your client's efforts to publish false and misleading information in an effort to stir up hostility toward my client. Obviously, one of the central issues of this case is your client's publication of video and photographs of Big John to create the false impression that he collapsed and died. Your client's refusal to make this information available is frivolous and obvious expression of contempt for the judicial process.

3. If your client has witness statements, it is obligated to turn them over. No one has ever questioned this basic principle of discovery until now. Please ask your client to reconsider. Witness statements include, among other things, the scripts your client has prepared for video publication.

6. Here you refuse to turn over tax returns of a publicly organized, charitable, non-profit corporation. The Carriage Horse Advocates finials condition is the most crucial evidence in the case. No educated person alive anywhere in the world fails to comprehend how plausible scoundrels the world over manipulate social media for financial gain. The whole purpose of Charleston Horse Carriage Advocates is to raise money, and it is blatantly unresponsive and contemptuous to refuse to provide this information.

7. Your client's refusal to make available its articles, by-laws and minutes is irresponsible and frivolous. It's articles and by-laws are filed with the Secretary of State, and its Minutes are maintained for no other purpose than to be reviewed. Please reconsider.

8. Your client's refusal to make bank statements available is similarly frivolous and addressed fully above in #6.

9. Request 9 seeks the documents you intend to introduce at trial. This in no way infringes upon "mental impressions" or "strategy." Your client's refusal to allow inspection or copying of its proposed exhibits is frivolous.

As stated in my previous letter about the deficiencies in your client's answers to interrogatories, I ask that you please reconsider your refusal to provide the requested documents. If I have not heard from you by April 5th, I will assume your client's position is unchanged and file a motion to compel with the Court. As always, I am available to discuss these issues with you in person or by telephone in an effort to avoid involving the Court in discovery disputes. I look forward to hearing from you. With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
TRG/ Thomas R. Goldstein

cc:
Jenkins M. Mann, Esq.
Nicholas G. Green, Esq.
Elizabeth J. Palmer, Esq.

EXHIBIT 4

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES, INC. ANSWER TO PLAINTIFF'S SUPPLEMENTAL INTERROGATORY**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

Defendant Charleston Carriage Horse Advocates, Inc. by and through its undersigned counsel, subject to Rule 33 of the South Rules of Civil Procedure, hereby responds to Plaintiff Charleston Carriage Works, LLC's ("Plaintiff") Supplemental Interrogatory as follows:

ANSWER TO SUPPLEMENTAL INTERROGATORY

1. Give the names and address of employees, agents, internal auditors, accountants, Certified Public Accountants, bookkeepers, or other such persons who compile and prepare the defendant's, Charleston Carriage Horse Advocate's financial and tax records, including, but not limited to, tax returns reported to the South Carolina Department of Revenue, the United States Internal Revenue Service, as well as documents provided to the South Carolina Secretary of State as a charitable organization.

ANSWER: Defendant objects to this Interrogatory as it is overly broad, unduly burdensome and not calculated to lead to the discovery of admissible evidence.

(signature page follows)

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
Email: scraig@hallboothsmith.com
111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
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Jenkins M. Mann, Esq.
1901 Main Street, Suite 1200
Columbia, SC 29201
Email: jmann@rogerslewis.com
Phone: 803.256.1268

Nicholas G. Green, Esq.
1 King Street, No. 1
Charleston, SC 29401
Email: nickggreen@gmail.com
Phone: 843-814-4047
Attorneys for Defendants Ellen Harley and Charleston Carriage Horse Advocates, Inc.

26 2019
Mount Pleasant, South Carolina

BELK, COBB, INFINGER AND GOLDSTEIN, P.A.

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr.

Peggy M. Infinger
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Thomas R. Goldstein
tgoldstein@cobblaw.net

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Fax: (843) 554-5566

August 2, 2019

Mr. Joseph D. Thompson, III
Hall Booth & Smith, P. C.
111 Coleman Blvd.
Suite 301
Mt. Pleasant, S. C. 29464

Re: Charleston Carriage Works L.L.C. vs. Charleston Animal Society, *et. al.*
Case No.: 2018-CP-10-4083

Dear Trey,

I am in receipt of your letter dated July 26th in which your client refuses to hand over not only basic financial information about her putative charitable organization , but also refuses to identify who has the records. I have no doubt you serve a difficult client, but her refusal to disclose basic financial information on such openly pretextual grounds creates a recipe for disaster. If you have a legitimate reason for refusing, please let me know what it is, but a conclusory, boiler-plate objection is neither specific nor sufficient. Even if she had a legitimate reason to refuse, she refuses to identify the records custodian? That is unprecedented. It is none of my business how you represent your client, but there are some judges who might punish you for what I know to be your client's lack of cooperation. With three lawyers representing her, one of you is going to have to explain to her that she is not above the law. I ask, therefore, that you reconsider your refusal so I do not have to file a second motion to compel. If I have not heard from you by the 9th, I will assume that this is a matter that must be resolved by the Court. I hope that will not be necessary. I look forward to hearing from you. With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

TRG/
cc:
Jenkins M. Mann, Esq. (via e-mail)
Nicholas G. Green, Esq. (via e-mail)
Elizabeth J. Palmer, Esq.

EXHIBIT 5

BELK, COBB, INFINGER AND GOLDSTEIN, P.A.

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr.

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pinfinger@cobblaw.net

Thomas R. Goldstein
tgoldstein@cobblaw.net

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August 4, 2019

Mr. Joseph T. Thompson, III
Hall, Booth & Smith
111 Coleman Boulevard
Suite 301
Mt. Pleasant, S. C. 29464

Re: Responses to Discovery

Dear Joe,

You wrote to me on July 26, and informed me that, in keeping with the rules regarding discovery, I am required to explain to you why I seek the financial information regarding the Charleston Carriage Horse Advocates, a putative charitable organization. First, you have the rules and the burden of proof inverted. In objecting to a request to produce documents, the burden is on you to furnish the details of why your client is objecting—boilerplate, non-specific objections are not permitted:

> If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under Rule 37(a) with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.
> *South Carolina Rules of Civil Procedure*, Rule 34(b)

The federal rules, as you know, are almost identical, and Wright & Miller's treatise on the Rules, § 2213, discusses your obligation to specify the objection:

> The responding party may object to some or all of the discovery sought. If it does, it must state with respect to each item or category to which objection is made, the reason for the objection. One who objects to part of an item or category should specify to which the objection is directed.
> Objection can be made to inspection of some or all of the items sought on the ground that they are not relevant to the subject matter of the action or that they are privileged, are trial preparation material or the work of an expert.
> Wright & Miller, *Federal Practice and Procedure*, § 2213.

As early as 1947, the U.S. Supreme Court identified the broad parameters afforded to parties under the discovery rules:

> We agree, of course, that the deposition-discovery rules are to be accorded a broad and liberal treatment. No longer can the time-honored cry of "fishing expedition" serve to preclude a party from inquiring into the facts underlying his opponent's case. [Footnote 8] Mutual knowledge of all the relevant facts gathered by both parties is essential to proper litigation. To that end, either party may compel the other to disgorge whatever facts he has in his possession. The deposition-discovery procedure simply advances the stage at which the disclosure can be compelled from the time of trial to the period preceding it, thus reducing the possibility of surprise. But discovery, like all matters of procedure, has ultimate and necessary boundaries. As indicated by Rules 30(b) and (d) and 31(d), limitations inevitably arise when it can be shown that the examination is being conducted in bad faith or in such a manner as to annoy, embarrass, or oppress the person subject to the inquiry. And, as Rule 26(b) provides, further limitations come into existence when the inquiry touches upon the irrelevant or encroaches upon the recognized domains of privilege.
> *Hickman v. Taylor*, 329 U.S. 495, 507 (1947)

In variance with your obligations under the rules, you set forth non-specific, boiler plate objections that are commonly recycled by defense firms as a matter of course. As a result, you have left me to grope in the dark as to what your objection, if any, is. Since there are only three categories of objections: work product privilege, burdensome, and relevance, I trust we can safely dispense with any discussion of work product or privilege since both federal and state law require your client to prepare, file, and maintain the financial documents being sought.

Obviously, a production of financial records of a putative charitable organization cannot be "burdensome" to produce because your client is required to file them with various agencies and maintain them. Producing tax returns takes no more effort than opening a file drawer or, more likely, clicking a couple of buttons on a computer desktop. And even if it were a burden to locate them—which is a stretch at best, a misrepresentation at worst—it cannot be a "burden" to identify the custodian of the records.

Although your vague response leaves me groping in the dark, I assume your "real" (*i.e.* least pretextual) reason is that Charleston Carriage Horse Advocates financial records are not "relevant." In order to assert this facile reason, one has to be deliberately obtuse, but in the event that my analysis is wrong, and even though the rules regarding discovery do not require me to explain why I want documents so demonstrably related to the litigation, let me take this opportunity to explain our theory of the case (which I thought was spelled out in our complaint).

As you know, there is a difference between animal welfare and animal activism. The latter is the subject of much analysis, including by various courts. Animal activism uses animal welfare as a pretext to persuade people to donate sums of money to small groups of activists who seek to impose their views on the majority. See Kathleen Marquardt, *Animal Scam: The Beastly Abuse of Human Rights*. One has to employ self-deception to pretend to be unaware of these activities by such radical groups at P.E.T.A. and the H.S.U.S. and others. Many of these groups have resorted to threats, intimidation, arson, burglary and other terrorist activities. Anyone who paid the slightest attention to the media coverage of *H.S.U.S. v. Feld Enterprises* (Ringling Bros. circus)

must be aware of the federal court's unmasking of the racketeering and perjury activities of the H.S.U.S. in that case, including, but not limited to, referrals against several of the plaintiff's lawyers for disciplinary sanctions. It is against this background that your client came to Charleston and makes her presence felt.

I have not deposed her yet, but I think she moved to Charleston around 1994, and drawing on her background as a Republican member of the Pennsylvania General Assembly and following her unsuccessful campaign in the Republican primary for the United States House of Representatives seat for the 13th district of Pennsylvania, arrived in Charleston and soon thereafter challenged Henry Fishburne for a seat on the Charleston City Council. (Interestingly, her campaign manager, Allen Raymond, who later served a prison term for election fraud, described her as a perfect candidate because "Aside from presenting well, Ellen was politically experienced, pragmatic, and had an aggressive taste for the jugular." Allen Raymond, *How To Rig An Election*, page 50) Having failed to unseat Henry Fishburne, she then set out to make a name for herself as an alleged animal welfare person. We know she has connection with P.E.T.A., and in order to further her animal activism, she became a frequent presence with both the Charleston Tourism Commission and the Charleston Animal Society on which Board she serves as a director.

Having failed to advance her cause via getting elected to City Council, having failed to persuade the City Council to eliminate carriage tours through lobbying the Tourism Commission (both on her own behalf and the Charleston Animal Society), she set her sights on Brody. First, acting on her own, and then later through a group she created and controls, the Carriage Tour Horse Advocates, she began to harass Brody by any means at her disposal. As I have tried to explain to you without success, she published a video of Big John with false information, and every time someone would post the correct information, *i.e.* that the horse did not die and was not hurt, she would delete that post and ban the correspondent from the site. Thus, she deliberately created a false narrative with the intent to stir up her followers into either killing Brody or his employees, burning down his barn, or otherwise intimidate or harass him. The level of harassment has steadily increased, and it is only a matter of time before someone gets hurt or killed, which is exactly what she wants to happen. To put forward this effort, she has to cloak herself as an animal welfare person, which is standard operating procedure for animal activists as any number of violent cases demonstrate. The level of violence spawned by social media in this country is rising at an exponential rate. In Ms. Harley's case, her effort, of course, requires cash, and apparently, she is not willing to self-fund. Therefore, she deploys an animal welfare pitch—standard operating procedure for animal activists—to solicit donations from unknown third party sources. Thus, the key to both sides of this issue—and this case—is the source of her funding. It is the *sine qua non* of her efforts. It is axiomatic that any plausible scoundrel can raise money by advertising. Ms. Harley's operation is either self-funding or funding from solicitations. If she self-funds her attacks on Brody, she would be eager to demonstrate her sincerity and commitment to her cause through the pledge of her own resources for "animal welfare." If, on the other hand, if she is running her operation on the donations from third parties, then we are entitled to know how much she has raised and from which source. Consider this thought experiment: if I were the creator and spokesperson for an organization called: *South Carolinians for Legal Reform*, and advocating for a change in our legal system to, say, the loser pays system or for the abolishment of jury trials in favor of administrative hearings on the announced goal that that these changes are beneficial for cost-cutting reasons, and in investigating my operation, you discovered that the three largest

contributors to my organization were: The American Nazi Party, the Ku Klux Klan, and Acme Insurance Company, then those organizations' financial support of me might shed some light on the motives of my organization and whose interests I was attempting to serve even though I advertised that I was trying to reform the legal system to make it more accessible to ordinary people. This discussion, one-sided as it is, is so basic that I cannot believe I have to type it to you. Likewise, in addition to information about who is funding the operation of the Carriage Horse Advocates, it is also relevant for us to track the timing of solicitations, the volume and amounts of donations as a function of the publication of false and misleading information. Not to put to fine a point on it, but if your client had put out the correct information: that Big John tripped, sat down, laid down, and once unharnessed walked back to the barn without injury where he was thoroughly examined by a qualified veterinarian and pronounced fit for work, well, that publication would require perhaps more of a talent for truth than a talent for the jugular, would it not?

Finally, we are entitled to know how Charleston Carriage Horse Advocates spends the money it raises. If, for example, 100% of the money collected is spent on propaganda and underwriting Ms. Harley's living expenses, we are entitled to know that. Who sends the money and in what amounts and how she spends that money are the most relevant facts in this case because that information will allow a jury to determine if Charleston Carriage Horse Advocates is an animal welfare organization or an animal activist organization.

I trust this letter explains why the information is relevant, but if this explanation fails in any way to be specific or detailed enough, let me know where I have fallen short, and I will continue to try to explain how the information sought is both material and relevant. Note that I omitted any detailed discussion of the fact that your client is an allegedly 501(c)(3) charitable information and required by law to disclose this information. See § 33-56-80, S. C. Code, ann., which requires that each charitable organization's records be open to the public. In short, if she is pursuing animal welfare, she should be gratified in disclosing this information, but if, on the other hand, she is an animal activist, committed to going for Brody's jugular, well, then that would be a motivation to withhold the information.

I trust I have explained our position in sufficient detail, but if you have further questions, please do not hesitate to point them out to me. In the meantime, I will assume that your client's position remains immutable and will, accordingly, ask the Court for assistance in sorting out this dispute. I will ask that attorney's fees be assessed against your client as well. With kind regards, I am

Very truly yours,

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

TRG/
cc:
Beth Palmer
Jenkins Mann
Nicholas Green

EXHIBIT 6

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE
Sep 25 2019
REFERENCE ID: 405498
Mark Hammond
SECRETARY OF STATE OF SOUTH CAROLINA

STATE OF SOUTH CAROLINA
SECRETARY OF STATE

ARTICLES OF INCORPORATION
DOMESTIC NONPROFIT CORPORATION

TYPE OR PRINT CLEARLY IN BLACK INK

Pursuant to Section 33-31-202 of the South Carolina Code of Laws, as amended, the undersigned corporation submits the following information:

1. The name of the nonprofit corporation is Charleston Carriage Horse Advocates

2. The initial registered office (registered agent's address in SC) of the nonprofit corporation is

23 Wentworth Street
Street Address

Charleston	Charleston	South Carolina	29401
City	County	State	Zip Code

The name of the registered agent of the nonprofit corporation at that office is

Ellen A. Harley
Print Name

I hereby consent to the appointment as registered agent of the corporation.

Ellen A. Harley
Agent's Signature

3. Check "a", "b", or "c" whichever is applicable. Check only one box:
   a. [X] The nonprofit corporation is a public benefit corporation.
   b. [ ] The nonprofit corporation is a religious corporation.
   c. [ ] The nonprofit corporation is a mutual benefit corporation.

4. Check "a" or "b", whichever is applicable:
   a. [ ] This corporation will have members.
   b. [X] This corporation will not have members.

5. The address of the principal office of the nonprofit corporation is

23 Wentworth Street	Charleston	Charleston	South Carolina	29401
Street Address	City	County	State	Zip Code

6. If this nonprofit corporation is either a **public benefit** or **religious corporation** complete either "a" or "b", whichever is applicable, to describe how the remaining assets of the corporation will be distributed upon dissolution of the corporation. **If you are going to apply for 501(c)(3) status, you must complete section "a."**
   a. [X] Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of section 501(c)(3) of the Internal Revenue Code, or the corresponding section of any future Federal tax code, or shall be

FILED
JAN 03 2017
Mark Hammond
SECRETARY OF STATE

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE
Sep 25 2019
REFERENCE ID: 405498

distributed to the Federal government, or to a state or local government, for a public purpose. Any such asset not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

[ ] If you choose to name a specific 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

_____

OR

b. [ ] If the dissolved corporation is not described in Section 501(c)(3) of the Internal Code, upon dissolution of the corporation, the assets shall be distributed to one or more public benefit or religious corporations or to one or more entities described in (i) above.

[ ] If you choose to name a specific public benefit, religious corporation or 501(c)(3) entity to which the assets should be distributed, please indicate the name of the selected entity.

_____

7. If the corporation is a **mutual benefit corporation** complete either "a" or 'b", whichever is applicable, to describe how the (remaining) assets of the corporation will be distributed upon dissolution of the corporation.

a. [ ] Upon dissolution of the mutual benefit corporation, the (remaining) assets shall be distributed to its members, or if it has no members, to those persons to whom the corporation holds itself out as benefiting or serving.

b. [ ] Upon dissolution of the mutual benefit corporation, the (remaining) assets, consistent with the law, shall be distributed to _____

8. The optional provisions which the nonprofit corporation elects to include in the articles of incorporation are as follows (See 33-31-202(c) of the 1976 South Carolina Code of Laws, as amended, the applicable comments thereto, and the instructions to this form):

a. The purpose of the Corporation shall be to educate the public and advocate the humane treatment of livestock and animals that work in urban environments.

b. Notwithstanding any other provisions of these articles, the purposes for which the corporation is organized are exclusively charitable within the meaning of 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue law.

c. Notwithstanding any other provisions of these articles, this organization shall not carry on any activities not permitted to be carried on by an organization exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future United States Internal Revenue law.

d. Upon dissolution of the corporation, assets shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 or the corresponding provision of any future federal tax code, or shall be distributed to the federal government, or to a state or local government for a public purpose. Any such

CERTIFIED TO BE A TRUE AND CORRECT COPY
AS TAKEN FROM AND COMPARED WITH THE
ORIGINAL ON FILE IN THIS OFFICE
Sep 25 2019
REFERENCE ID: 405498

Charleston Carriage Horse Advocates
Name of Corporation

assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the corporation is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated for such purposes.

9. The name and address of each incorporator is as follows (only one is required, but you may have more than one).

Name	Address	Zip Code
Ellen A. Harley	23 Wentworth Street, Charleston, South Carolina,	29401

10. Each original director of the nonprofit corporation must sign the articles but only if the directors are named in these articles:

Name (Only if named in articles)	Signature of director
Ellen A. Harley	ELLEN A. HARLEY

11. Each incorporator listed in #9 must sign the articles.

Ellen A. Harley
Signature of incorporator

Signature of incorporator

Signature of incorporator

12. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is _____

FILING CHECKLIST

- Articles of Incorporation (in duplicate)
- $25.00 made payable to the South Carolina Secretary of State - Political Associations must submit a CL-1 form and an additional $25 fee
- Self-Addressed, Stamped Return Envelope
- Return all documents to: South Carolina Secretary of State's Office
  Attn: Corporate Filings
  1205 Pendleton Street, Suite 525
  Columbia, SC 29201

ELECTRONICALLY FILED - 2019 Nov 20 5:05 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO: 2018-CP-10-4083
CHARLESTON CARRIAGE WORKS, LLC,	)	
Plaintiff,	)	
vs.	)	
CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY, and CHARLESTON CARRIAGE HORSE ADVOCATES, INC.,	)	
Defendants.	)	

DEFENDANT CHARLESTON ANIMAL SOCIETY'S MOTION FOR SUMMARY JUDGMENT

TO: PLAINTIFF AND PLAINTIFF'S LEGAL COUNSEL:

PLEASE TAKE NOTICE that the undersigned attorneys for Defendant Charleston Animal Society will move before the Presiding Judge of the Ninth Judicial Circuit at the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina 29401, or at such other offices as the Court may direct, after ten (10) days from the date of service hereof or at such time and place as the Court may direct, for an Order granting summary judgment, pursuant to South Carolina Rule of Civil Procedure 56, as to all claims asserted against said Defendant in Plaintiff's Complaint. This motion is based on the grounds that there is no genuine issue of material fact which would entitle the Plaintiff to a recovery against the Defendant as a matter of law.

This Motion will be supported by the pleadings, depositions and discovery responses, records on file, arguments of counsel, and a Memorandum of Law to be filed with this Court.

WHEREFORE, Defendant Charleston Animal Society respectfully moves this Court for an Order granting summary judgment in its favor as to all claims asserted against it in Plaintiff's Complaint and to award Defendant such other and further relief as this Court may deem just and proper.

ROSEN HAGOOD, LLC

By: s/Elizabeth J. Palmer
Elizabeth J. Palmer
Bijan Ghom
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Charleston, SC 29401
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epalmer@rosenhagood.com
bghom@rosenhagood.com

ATTORNEYS FOR DEFENDANT
CHARLESTON ANIMAL SOCIETY

Charleston, South Carolina
November 20, 2019

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ELECTRONICALLY FILED - 2019 Nov 20 5:24 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE**
	)	**HORSE ADVOCATES' NOTICE OF MOTION**
v.	)	**AND MOTION FOR SUMMARY JUDGMENT**
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), improperly identified as Charleston Carriage Horse Advocates, Inc., by and through its undersigned counsel, hereby moves this Honorable Court for an Order granting CCHA judgment as a matter of law, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In short, Plaintiff has failed to produce any evidence of liability on behalf of CCHA, as to any cause of action, and has failed to produce evidence of damages relating to the alleged actions and/or conduct of CCHA. As such, CCHA is entitled to summary judgment as a matter of law as to all causes of action.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, deposition excerpts and any supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

Respectfully submitted this 20th day of November 2019, in Mt. Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/ Joseph D. Thompson, III

Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
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111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
Phone: 843.720.3469

Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

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ELECTRONICALLY FILED - 2019 Nov 20 5:32 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT ELLEN HARLEY'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Ellen Harley, by and through her undersigned counsel, hereby moves this Honorable Court for an Order granting Harley judgment as a matter of law, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In short, Plaintiff has failed to produce any evidence of liability on behalf of Harley, as to any cause of action, and has failed to produce evidence of damages relating to the alleged actions and/or conduct of Harley. As such, Harley is entitled to summary judgment as a matter of law as to all causes of action.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, deposition excerpts and any supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

Respectfully submitted this 20th day of November 2019, in Mt. Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/ Joseph D. Thompson, III

Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

ELECTRONICALLY FILED - 2019 Nov 20 5:05 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-4083
	)	
Charleston Carriage Works, L.L.C.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**CHARLESTON ANIMAL SOCIETY'S ANSWER**
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

TO: PLAINTIFF AND ITS ATTORNEY

Defendant Charleston Animal Society ("CAS") answers Plaintiff Charleston Carriage Works LLC's ("Plaintiff") Complaint and asserts defenses as follows:

FIRST DEFENSE TO ALL CAUSES OF ACTION

1. CAS denies each and every allegation of Plaintiff's Complaint not specifically admitted herein.

2. CAS admits the allegations of Paragraph 1 upon information and belief.

3. Answering Paragraph 2, CAS denies that it is a quasi-governmental entity. The remainder of paragraph 2 is admitted.

4. Upon information and belief, Paragraph 3 is admitted.

5. Answering paragraph 4, CAS denies that it conspired to defame, harass, or injure the Plaintiff but admits that the acts alleged took place in Charleston County.

6. Paragraph 5 states legal conclusions to which no response is required.

AS TO PLAINTIFF'S FIRST CAUSE OF ACTION (CIVIL CONSPIRACY)

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7. CAS denies the allegations of Paragraphs 6 through 13 and demands strict proof thereof.

AS TO PLAINTIFF'S SECOND CAUSE OF ACTION
(CIVIL RIGHTS UNDER SC CONSTITUTION)

8. Answering Paragraph 14, CAS realleges its responses to Paragraphs 1 through 13 as set forth above.

9. Answering Paragraphs 15 through 19, CAS denies the allegations and demands strict proof thereof.

AS TO PLAINTIFF'S THIRD CAUSE OF ACTION
(TORTIOUS INTERFERENCE WITH BUSINESS RELATIONS)

10. Answering Paragraph 20, CAS realleges its responses to Paragraphs 1 through 19 as set forth above.

11. Answering Paragraphs 21 through 23, CAS denies the allegations and demands strict proof thereof.

12. Answering Paragraph 24, CAS admits that the local carriage industry is subject to government regulations but denies the rest of the allegations of that paragraph.

13. Answering Paragraph 25 through 27, CAS denies the allegations and demands strict proof thereof.

AS TO PLAINTIFF'S FOURTH CAUSE OF ACTION
(SLANDER/LIBEL/DEFAMATION *PER SE*)

14. Answering Paragraph 28, CAS realleges its responses to Paragraphs 1 through 27 as set forth above.

15. Answering Paragraphs 29 through 35, CAS denies the allegations and demands strict proof thereof.

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AS TO PLAINTIFF'S WHEREFORE CLAUSE

16. Plaintiff's WHEREFORE clause states legal conclusions to which no response is required. To the extent one is required, CAS denies the same. CAS further denies that Plaintiff is entitled to any relief or attorney fees.

FOR A SECOND DEFENSE
(FAILURE TO STATE A CLAIM)

17. Pursuant to Rule 12(b)(6), SCRCP, Plaintiff's Complaint fails to state a claim upon which relief can be granted.

FOR A THIRD DEFENSE
(FAILURE TO MITIGATE)

18. Plaintiff has a duty to make reasonable efforts to mitigate any alleged damages or otherwise protect itself from injury. On information and belief, the Plaintiff has failed to perform these duties and is therefore precluded from any recovery against CAS.

FOR A FOURTH DEFENSE
(LACHES)

19. Plaintiff's claims are barred by the equitable doctrine of laches.

FOR A FIFTH DEFENSE
(UNCLEAN HANDS)

20. Plaintiff's claims are barred by the equitable doctrine of unclean hands.

FOR A SIXTH DEFENSE
(SUPERSEDING/INTERVENING ACT)

21. The Plaintiff's damages, if any, were caused by the negligence and recklessness of other parties or persons which were the sole and proximate cause of any damages sustained by the Plaintiff.

FOR A SEVENTH DEFENSE
(TRUTH)

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22. The communications that are the subject of the Complaint were not false and therefore Plaintiff's is barred from recovery.

FOR AN EIGHTH DEFENSE
(PRIVILEGE)

23. Any remarks made by CAS or its agents concerning Plaintiff, even if defamatory, were made without malice and were made under circumstances in which they were conditionally and/or absolutely privileged.

FOR A NINTH DEFENSE
(JUSTIFICATION)

24. Any remarks made by CAS or its agents concerning Plaintiff, even if defamatory, were made without malice and were made under circumstances in which they were justified.

FOR A TENTH DEFENSE
(GOOD FAITH)

25. Any remarks made by CAS or its agents concerning Plaintiff were made in good faith.

FOR AN ELEVENTH DEFENSE
(PUBLIC INTEREST DOCTRINE)

26. The comments made that are the subject of Plaintiff's Complaint were privileged under the public interest doctrine as bearing on a matter of public importance and cannot, therefore, form the basis of a defamation claim.

FOR A TWELFTH DEFENSE
(LACK OF MALICE)

27. Any statements made by the Defendant concerning the Plaintiff were made without constitutional actual malice.

FOR A THIRTEENTH DEFENSE
(FAIR COMMENT)

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28. Plaintiff's claim for defamation is barred in whole or part by the doctrine of fair comment.

FOR A FOURTEENTH DEFENSE
(ABSENCE OF DAMAGES)

29. Plaintiff's claims are barred in whole or part because it can demonstrate no damages or loss proximately caused by CAS's alleged misconduct, which is denied.

FOR A FIFTEENTH DEFENSE
(ABSENCE OF SPECIAL DAMAGES)

30. Plaintiff has not suffered any special damages. No actions or inactions of CAS have caused Plaintiff any special damages.

FOR A SIXTEENTH DEFENSE
(SOVEREIGN IMMUNITY)

31. If CAS is determined to be a quasi-governmental entity, which CAS strictly denies, the claims made against Defendant are barred as a matter of law by the doctrine of sovereign immunity.

FOR A SEVENTEENTH DEFENSE
(CHARITABLE IMMUNITY)

32. The claims made against CAS are barred and/or limited by S.C. Code § 33-56-180.

FOR AN EIGHTEENTH DEFENSE
(LIMITATIONS OF S.C. TORT CLAIMS ACT)

33. If CAS is determined to be a quasi-governmental entity, which CAS strictly denies, then it is subject to the protections and limitations on liability and caps on damages set forth in the South Carolina Tort Claims Act, S.C. Code Ann. § 15-78-10 et seq.

FOR A NINETEENTH DEFENSE
(FAILURE TO JOIN INDISPENSABLE PARTY)

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34. Plaintiff's claims should be dismissed pursuant to SRCP 12(b)(7), 12(h)(2), and 19 due to the failure to join indispensable parties to this action, including but not limited to the individuals that Plaintiff claims conspired with Defendants.

FOR A TWENTIETH DEFENSE
(STATUTE OF LIMITATIONS)

35. Some or all of Plaintiff's claims are barred by the applicable statutes of limitations.

FOR A TWENTY-FIRST DEFENSE
(PUNITIVE DAMAGES UNCONSTITIONAL)

36. The imposition of punitive damages on the basis of the acts or omissions of this Defendant, which are denied, would represent the deprivation of liberty and property without due process of law, would result in the imposition of cruel and unusual punishment and excessive fines against this Defendant, and deny Defendant the equal protection of the laws, all in violation of the Fifth, Sixth, Eighth, and Fourteenth Amendments to the Constitution of the United States and the related provisions of the South Carolina Constitution. Plaintiff's claims for punitive damages also violate the federal doctrine of separation of powers and the South Carolina Constitution because punitive damages are a creation of the judicial branch of government which invades the province of the legislative branch of government.

FOR A TWENTY-SECOND DEFENSE
(RESERVATION AND NON-WAIVER)

37. CAS reserves any additional and further defenses as may be revealed by additional information through the course of discovery and investigation in a manner that is consistent with the South Carolina Rules of Civil Procedure.

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WHEREFORE, Defendant Charleston Animal Society, having fully answered the Plaintiff's Complaint, prays that the Complaint be dismissed, that the Court award Defendant its costs incurred in defending this action, and that the Court award such further equitable and legal relief as the Court deems just and proper.

ROSEN HAGOOD, LLC

By: s/Elizabeth J. Palmer
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ATTORNEYS FOR DEFENDANT
CHARLESTON ANIMAL SOCIETY

Charleston, South Carolina
November 20, 2019

ELECTRONICALLY FILED - 2019 Nov 20 5:24 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CIVIL ACTION NO.: 2019-CP-10-04083
Charleston Carriage Works, L.L.C.,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' ANSWER TO PLAINTIFF'S COMPLAINT (Jury Trial Demanded)**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	

Defendant Charleston Carriage Horse Advocates ("CCHA"), improperly identified as Charleston Carriage Horse Advocates, Inc., answering the Complaint of Plaintiff Charleston Carriage Works, LLC, alleges and says:

1. CCHA admits, upon information and belief, the allegations contained in Paragraph 1.

2. The allegations contained in Paragraph 2 are not directed to CCHA and, therefore, no response is required. To the extent a response is required, CCHA denies same and demands strict proof thereof.

3. Answering the allegations contained in Paragraph 3, CCHA admits that Ellen Harley is a resident of Charleston County, South Carolina, and that she resides at 23 Wentworth Street in Charleston, South Carolina. Further, CCHA admits that Ellen Harley is the founding member of CCHA and that, on or about January 3, 2017, it was registered as a nonprofit pursuant to the laws of the State of South Carolina. CCHA denies the remaining allegations of the Paragraph and demands strict proof thereof.

4. CCHA denies the allegations contained in Paragraph 4.

5. The allegations contained in Paragraph 5 constitute legal conclusions to which no response is required. To the extent a response is required, CCHA denies same and demands strict proof thereof.

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AS TO THE FIRST CAUSE OF ACTION

6. CCHA denies the allegations contained in Paragraphs 6, 7, 8, 9, 10, 11, 12, and 13, including all subparagraphs thereto.

7. CCHA denies each and every allegation of Plaintiff's First Cause of Action not specifically admitted herein.

AS TO THE SECOND CAUSE OF ACTION

8. Answering the allegations contained in Paragraph 14, CCHA reasserts its responses to the allegations contained in Paragraphs 1 through 13 as if fully set forth herein.

9. CCHA denies the allegations contained in Paragraphs 15, 16, 17, 18 and 19.

10. CCHA denies each and every allegation of Plaintiff's Second Cause of Action not specifically admitted herein.

AS TO THE THIRD CAUSE OF ACTION

11. Answering the allegations contained in Paragraph 20, CCHA reasserts its responses to the allegations contained in Paragraphs 1 through 19 as if fully set forth herein.

12. CCHA denies the allegations contained in Paragraphs 21, 22 and 23.

13. Answering the allegations contained in Paragraph 24, CCHA admits, upon information and belief, that Plaintiff operates a carriage company and that, as such, it is subject to certain regulations. CCHA denies the remaining allegations of the Paragraph.

14. Answering the allegations contained in Paragraph 25, CCHA denies that it interfered with Plaintiff's franchise agreement with the City of Charleston. CCHA denies the remaining allegations of the Paragraph.

15. CCHA denies the allegations contained in Paragraphs 26 and 27.

16. CCHA denies each and every allegation of Plaintiff's Third Cause of Action not specifically admitted herein.

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AS TO THE FOURTH CAUSE OF ACTION

17. Answering the allegations contained in Paragraph 28, CCHA reasserts its responses to the allegations contained in Paragraphs 1 through 27 as if fully set forth herein.

18. CCHA denies the allegations contained in Paragraphs 29, 30, 31, and 32.

19. Answering the allegations contained in Paragraph 33, CCHA denies that it interfered with Plaintiff's business operation and/or Plaintiff's franchise agreement with the City of Charleston. CCHA denies the remaining allegations of the Paragraph.

20. CCHA denies the allegations contained in Paragraphs 34 and 35.

21. CCHA denies each and every allegation of Plaintiff's Fourth Cause of Action not specifically admitted herein.

22. CCHA denies the allegations contained in the "WHEREFORE" Paragraph of Plaintiff's Complaint, including all claims for relief.

23. CCHA denies each and every allegation of Plaintiff's Complaint not specifically admitted herein.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

24. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for civil conspiracy and, therefore, Plaintiff's cause of action for civil conspiracy should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

25. The South Carolina Constitution does not provide for a cause of action for civil conspiracy and, therefore, Plaintiff's claim Plaintiff's claim for violation of civil rights under the South Carolina Constitution fails as a matter of law. Palmer v. State, 427 S.C. 36 (2019).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

26. Plaintiff has failed to plead special damages as a result of the alleged civil conspiracy and, therefore, Plaintiff's claim for civil conspiracy fails as a matter of law.

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AS AN ADDITIONAL AFFIRMATIVE DEFENSE

27. CCHA is not a government actor and, therefore, cannot be subject to a cause of action for violation of civil rights under the South Carolina Constitution. Accordingly, Plaintiff's claim for violation of civil rights under the South Carolina Constitution fails as a matter of law.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

28. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for gross negligence and recklessness and, therefore, Plaintiff's cause of action for gross negligence and recklessness should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

29. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for tortious interference with business relations and, therefore, Plaintiff's cause of action for tortious inference with business relations should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

30. Plaintiff cannot sustain a cause of action for tortious interference with business relations as there is no evidence of a breach of any underlying contract. Accordingly, Plaintiff's claim for tortious interference with business relations fails as a matter of law.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

31. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for defamation and, therefore, Plaintiff's cause of action for defamation should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

32. Plaintiff's cause of action for defamation and/or libel is barred by the complete defense of truth.

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AS AN ADDITIONAL AFFIRMATIVE DEFENSE

33. Plaintiff's cause of for defamation *per se* fails as the defamatory meaning of one or more of the alleged statements is not obvious on the face of the statements.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

34. Plaintiff's cause of action for defamation/libel fails as CCHA did not act with actual malice.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

35. Plaintiff's claims against CCHA fail on the basis that at all times, it acted in good faith and in reasonable reliance of others.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

36. Any statements that CCHA is alleged to have made constitute opinion and cannot be discerned as being true or false statements.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

37. Plaintiff's cause of action for defamation and/or libel fails as any alleged statements were made subject to an absolute, qualified, and or conditional privilege, and CCHA did not exceed the scope of that privilege.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

38. Any statements that CCHA is alleged to have made are privileged and protected under the common law of South Carolina and the Constitutions of the United States of America and the State of South Carolina.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

39. The statements about which Plaintiff complains of are about a matter of public interest and, therefore, are privileged as a matter of law.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

40. Plaintiff claimed injuries and damages were not proximately caused in whole, or in part, by any actions of CCHA and, therefore, Plaintiff's claims should be dismissed as a matter

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of law.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

41. Plaintiff's damages, which are denied, were due to the activities of others not associated with or under the control of CCHA, and therefore, Plaintiff is barred from recovery as to CCHA.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

42. Plaintiff's claims are barred, in whole or in part, by the doctrines of laches, unclean hands, lack of due diligence, waiver and/or estoppel and any other equitable principle.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

43. Plaintiff has failed to properly mitigate its alleged damages.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

44. Some or all of the claims and requests for relief in Plaintiff's Complaint are barred, in whole or in part, as CCHA's actions were not malicious, egregious, in bad faith, or with willful or reckless indifference or disregard of any legal rights of Plaintiffs.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

45. Plaintiff's claims may be barred by the applicable statute of limitations.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

46. CCHA is a charitable organization pursuant to S.C. Code Ann. §33-56-170 and §33-56-180, and any potential recovery is limited to limitations on liability imposed by the South Carolina Tort Claims Act, S.C. Code Ann. §15-78-120.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

47. CCHA is not subject to a claim for punitive damages as a charitable organization pursuant to S.C. Code Ann. §33-56-170 and §15-78-120(b).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

48. CCHA would show the Plaintiff's claim for punitive damages against CCHA cannot be sustained because any award of punitive damages under South Carolina law by a jury

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that (1) is not provided standards of sufficient clarity for determining the appropriateness and the appropriate size of the punitive damages award, (2) is not adequately instructed on the limits of punitive damages imposed by the applicable principals of deterrence and punishment, (3) is not expressly prohibited from awarding punitive damages or determining the amount of an award of punitive damages in whole or in part on the basis of invidiously discriminatory characteristics including the resident wealth and corporate status of CCHA, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity of the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate court judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards that would violate CCHA's due process and equal protection rights guaranteed by the 14th Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection and would be improper under the common law and public policies of the State of South Carolina.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

49. Pursuant to S.C. Code of Laws, Section 15-32-520, CCHA demands that any claim for punitive damages be bifurcated/separated from the liability and actual damages evidence at the trial of this case.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

50. To the extent Plaintiff receives compensation for injuries or damages complained of in the Complaint from any other party to this action and/or any other source, CCHA is entitled to a set-off of that amount for any damages that may or may not be assessed to it.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

51. CCHA hereby incorporates and asserts all defenses, counterclaims, set-offs, and credits pled by any party to this action, to include any pleadings filed after this Answer, and specifically, without limitation, all defenses, counterclaims, set-offs, and credits pled to Plaintiff's

claims, to the extent not inconsistent with its Answer herein and its denial of liability of any kind.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

52. CCHA reserves any additional affirmative defenses as may be revealed or become available to it during the course of its investigation and/or discovery in the case and are consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered the allegations herein, CCHA prays that this Honorable Court:

a) dismiss Plaintiff's claims;

b) award it costs in defending this action; and

c) grant any other relief the Court and jury may deem just and proper

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III

Joseph D. Thompson, III, SC Bar No. 66580
K. Spencer Craig, SC Bar No. 100917
111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
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Email: jthompson@hallboothsmith.com
scraig@hallboothsmith.com

Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

November 20, 2019
Charleston, South Carolina

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punitive damages in whole or in part on the basis of invidiously discriminatory characteristics including the resident wealth and corporate status of Harley, (4) is permitted to award punitive damages under a standard for determining liability for punitive damages that is vague and arbitrary and does not define with sufficient clarity of the conduct or mental state that makes punitive damages permissible, and (5) is not subject to trial court and appellate court judicial review for reasonableness and furtherance of legitimate purposes on the basis of objective standards that would violate Harley's due process and equal protection rights guaranteed by the 14th Amendment to the United States Constitution and by the South Carolina constitutional provisions providing for due process and equal protection and would be improper under the common law and public policies of the State of South Carolina.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

48. Pursuant to S.C. Code of Laws, Section 15-32-520, Harley demands that any claim for punitive damages be bifurcated/separated from the liability and actual damages evidence at the trial of this case.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

49. To the extent Plaintiff receives compensation for injuries or damages complained of in the Complaint from any other party to this action and/or any other source, Harley is entitled to a set-off of that amount for any damages that may or may not be assessed to it.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

50. Harley hereby incorporates and asserts all defenses, counterclaims, set-offs, and credits pled by any party to this action, to include any pleadings filed after this Answer, and specifically, without limitation, all defenses, counterclaims, set-offs, and credits pled to Plaintiff's claims, to the extent not inconsistent with its Answer herein and its denial of liability of any kind.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

51. Harley reserves any additional affirmative defenses as may be revealed or become available to her during the course of its investigation and/or discovery in the case and are

consistent with the South Carolina Rules of Civil Procedure.

WHEREFORE, having fully answered the allegations herein, Harley prays that this Honorable Court:

a) dismiss Plaintiff's claims;

b) award it costs in defending this action; and

c) grant any other relief the Court and jury may deem just and proper

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

November __, 2019

Charleston, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,	)	
	)	
Plaintiff,	)	**DEFENDANT ELLEN HARLEY'S ANSWER TO PLAINTIFF'S COMPLAINT (Jury Trial Demanded)**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Carriage Horse Advocates, Inc.,	)	
	)	
	)	
Defendants.	)	

Defendant Ellen Harley ("Harley"), answering the Complaint of Plaintiff Charleston Carriage Works, LLC, alleges and says:

1. Harley admits, upon information and belief, the allegations contained in Paragraph 1.

2. The allegations contained in Paragraph 2 are not directed to Harley and, therefore, no response is required. To the extent a response is required, Harley denies same and demands strict proof thereof.

3. Answering the allegations contained in Paragraph 3, Harley admits that she is a resident of Charleston County, South Carolina, and that she resides at 23 Wentworth Street in Charleston, South Carolina. Further, Harley admits that she is the founding member of Charleston Carriage Horse Advocates and that, on or about January 3, 2017, it was registered as a nonprofit pursuant to the laws of the State of South Carolina. Harley denies the remaining allegations of the Paragraph and demands strict proof thereof.

4. Harley denies the allegations contained in Paragraph 4.

5. The allegations contained in Paragraph 5 constitute legal conclusions to which no response is required. To the extent a response is required, Harley denies same and demands strict proof thereof.

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AS TO THE FIRST CAUSE OF ACTION

6. Harley denies the allegations contained in Paragraphs 6, 7, 8, 9, 10, 11, 12, and 13, including all subparagraphs thereto.

7. Harley denies each and every allegation of Plaintiff's First Cause of Action not specifically admitted herein.

AS TO THE SECOND CAUSE OF ACTION

8. Answering the allegations contained in Paragraph 14, Harley reasserts her responses to the allegations contained in Paragraphs 1 through 13 as if fully set forth herein.

9. Harley denies the allegations contained in Paragraphs 15, 16, 17, 18 and 19.

10. Harley denies each and every allegation of Plaintiff's Second Cause of Action not specifically admitted herein.

AS TO THE THIRD CAUSE OF ACTION

11. Answering the allegations contained in Paragraph 20, Harley reasserts her responses to the allegations contained in Paragraphs 1 through 19 as if fully set forth herein.

12. Harley denies the allegations contained in Paragraphs 21, 22 and 23.

13. Answering the allegations contained in Paragraph 24, Harley admits, upon information and belief, that Plaintiff operates a carriage company and that, as such, it is subject to certain regulations. Harley denies the remaining allegations of the Paragraph.

14. Answering the allegations contained in Paragraph 25, Harley denies that she interfered with Plaintiff's franchise agreement with the City of Charleston. Harley denies the remaining allegations of the Paragraph.

15. Harley denies the allegations contained in Paragraphs 26 and 27.

16. Harley denies each and every allegation of Plaintiff's Third Cause of Action not specifically admitted herein.

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AS TO THE FOURTH CAUSE OF ACTION

17. Answering the allegations contained in Paragraph 28, Harley reasserts her responses to the allegations contained in Paragraphs 1 through 27 as if fully set forth herein.

18. Harley denies the allegations contained in Paragraphs 29, 30, 31, and 32.

19. Answering the allegations contained in Paragraph 33, Harley denies that she interfered with Plaintiff's business operation and/or Plaintiff's franchise agreement with the City of Charleston. Harley denies the remaining allegations of the Paragraph.

20. Harley denies the allegations contained in Paragraphs 34 and 35.

21. Harley denies each and every allegation of Plaintiff's Fourth Cause of Action not specifically admitted herein.

22. Harley denies the allegations contained in the "WHEREFORE" Paragraph of Plaintiff's Complaint, including all claims for relief.

23. Harley denies each and every allegation of Plaintiff's Complaint not specifically admitted herein.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

24. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for civil conspiracy and, therefore, Plaintiff's cause of action for civil conspiracy should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

25. The South Carolina Constitution does not provide for a cause of action for civil conspiracy and, therefore, Plaintiff's claim Plaintiff's claim for violation of civil rights under the South Carolina Constitution fails as a matter of law. Palmer v. State, 427 S.C. 36 (2019).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

26. Plaintiff has failed to plead special damages as a result of the alleged civil conspiracy and, therefore, Plaintiff's claim for civil conspiracy fails as a matter of law.

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AS AN ADDITIONAL AFFIRMATIVE DEFENSE

27. Harley is not a government actor and, therefore, cannot be subject to a cause of action for violation of civil rights under the South Carolina Constitution. Accordingly, Plaintiff's claim for violation of civil rights under the South Carolina Constitution fails as a matter of law.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

28. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for gross negligence and recklessness and, therefore, Plaintiff's cause of action for gross negligence and recklessness should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

29. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for tortious interference with business relations and, therefore, Plaintiff's cause of action for tortious inference with business relations should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

30. Plaintiff cannot sustain a cause of action for tortious interference with business relations as there is not breach of any underlying contract. Accordingly, Plaintiff's claim for tortious interference with business relations fails as a matter of law.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

31. Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for defamation and, therefore, Plaintiff's cause of action for defamation should be dismissed as a matter of law pursuant to SCRCP 12(b)(6).

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

32. Plaintiff's claim for defamation fails as the alleged defamatory statements cannot reasonably be interpreted as stating facts about an individual.

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AS AN ADDITIONAL AFFIRMATIVE DEFENSE

33. Plaintiff's cause of action for defamation and/or libel is barred by the complete defense of truth.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

34. Plaintiff's cause of for defamation *per se* fails as the defamatory meaning of one or more of the alleged statements is not obvious on the face of the statements.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

35. Plaintiff's cause of action for defamation/libel fails as Harley did not act with actual malice.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

36. Plaintiff's claims against Harley fail on the basis that at all times, she acted in good faith and in reasonable reliance of others.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

37. Any statements that Harley is alleged to have made constitute opinion and cannot be discerned as being true or false statements.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

38. Plaintiff's cause of action for defamation and/or libel fails as any alleged statements were made subject to an absolute, qualified, and or conditional privilege, and Harley did not exceed the scope of that privilege.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

39. Any statements that Harley is alleged to have made are privileged and protected under the common law of South Carolina and the Constitutions of the United States of America and the State of South Carolina.

AS AN ADDITIONAL AFFIRMATIVE DEFENSE

40. The statements about which Plaintiff complains of are about a matter of public interest and, therefore, are privileged as a matter of law.

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' NOTICE OF MOTION AND MOTION TO LIMIT LIABILITY AND STRIKE PLAINTIFF'S CLAIM FOR PUNITIVE DAMAGES**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), improperly identified as Charleston Carriage Horse Advocates, Inc., by and through its undersigned counsel, will move this Honorable Court for an order limiting recovery, if any, against CCHA to actual damages of Three Hundred Thousand and No/100 ($300,000.00) Dollars, and striking Plaintiff's claim for punitive damages pursuant to S.C. Code Ann. §§§ 33-56-170, 33-56-180 and 15-78-120 as well as Rule 12(f) of the South Carolina Rules of Civil Procedure. In sum, CCHA maintains a 501(c)(3) status and, therefore, qualifies as a charitable organization pursuant to S.C. Code Ann §§ 33-56-170 and 33-56-180. Accordingly, any potential recovery against CCHA is limited to actual damages in an amount not to exceed the limitations on liability imposed by the South Carolina Tort Claims Act. See S.C. Code Ann. §15-78-120 ("[N]o person shall recover in any action or claim brought hereunder a sum exceeding three hundred thousand dollars . . ."). Further, no award for damages shall include punitive or exemplary damages. See S.C. Code § 15-78-120(b). Accordingly, an award of actual damages, if any, is capped and punitive damages are prohibited. Therefore, Plaintiff's claim for punitive damages should be stricken from the Complaint pursuant to Rule 12(f) of the South Carolina Rules of Civil Procedure.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case and statutory law, the pleadings and documents on file, arguments of counsel, any Memorandum of Law filed with the Court, and such other and further argument and/or information as may be properly presented to the Court.

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

/s/ Joseph D. Thompson, III

Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

November 20, 2019
Charleston, South Carolina

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ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION TO QUASH AND/OR FOR A PROTECTIVE ORDER**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), by and through its undersigned counsel, hereby moves this Honorable Court for an Order quashing Plaintiff's Notice of Deposition pursuant to SCRCP 30(b)(6) of CCHA's corporate representative as the subject matter is overbroad, unduly burdensome, irrelevant and unlikely to lead to the discovery of admissible evidence in the case. Additionally, Plaintiff's discovery tactics include calling for the disclosure of certain private citizens and their charitable contribution which is an invasion of privacy and will likely subject these private citizens to harassment and undue influence by Plaintiff and/or others in Plaintiff's industry. Alternatively, in the event that the discovery is permitted, CCHA respectfully requests entry of a protective/confidentiality order preventing the disclosure of such information to anyone outside the bounds of the subject litigation.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION TO COMPEL PLAINTIFF'S RESPONSES TO REQUESTS FOR PRODUCTION**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that within ten (10) days of the date of this Motion or as soon thereafter as counsel may be heard, the undersigned will move this Court for an Order pursuant to Rule 37 SCRCP compelling Plaintiff to respond to Defendant Charleston Carriage Horse Advocates' ("CCHA") Requests for Production of Documents. Said Requests for Production of Documents were served upon Plaintiff's counsel of record on December 20, 2018 (attached hereto with Certificate of Service as "Exhibit A"). The undersigned has communicated with Plaintiff's counsel regarding the failure to respond to the discovery request and, as of the date of this Motion, Plaintiff has not provided responses to CCHA's discovery requests.

WHEREFORE, Defendant CCHA respectfully requests this Court order Plaintiff to respond to CCHA's Requests for Production of Documents and award CCHA the costs and fees for pursuing the Order.

(Signature on Following Page)

Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON Charleston Carriage Works, LLC, Plaintiff, v. Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc. Defendants.	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CIVIL ACTION NO.: 2018-CP-10-04083 **DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES, INC.'S REQUESTS FOR PRODUCTION TO PLAINTIFF**

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

Pursuant to Rule 34, SCRCP, you are required to produce the materials requested below to Hall Booth Smith, P.C., located at 111 Coleman Blvd., Suite 301, Mt. Pleasant, South Carolina, 29464, within thirty (30) days from the date of service hereof.

REQUESTS FOR PRODUCTION

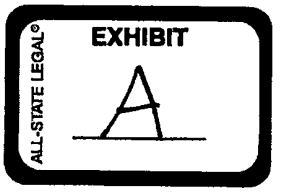
1. Any and all documents or other materials relied upon, referred to, or identified in your responses to CCHA's Interrogatories.

2. Any correspondence or memorandum written to, or received from CCHA, in any way related to the allegations contained in your Complaint, either by you or on your behalf.

3. Any correspondence made by or on your behalf with any local, state and/or federal agencies related to the allegations contained in your Complaint.

4. Any and all diaries, journals, or other written entries that memorialize in any way the facts and circumstances at issue or any allegations contained in your Complaint.

5. Any and all statements made by witnesses concerning the occurrences in question, including any written statement signed or otherwise adopted or approved, and any stenographic, mechanical, electrical or other such recording or transcription therefor.



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6. A list of all individuals and entities from whom you or your attorney have sought and/or received tangible evidence related to this case.

7. All curriculum vitae for all expert witnesses identified by you, along with any and all written reports or opinions as to said expert's review of the case.

8. Any and all photographs, movies, videotapes or other pictorial representations that have been taken in connection with the with this case or in connection with the damages alleged in this action.

9. Any and all documentary, physical, or tangible evidence tending in any way to support your claims or contentions.

10. Any and all investigations conducted by you or on your behalf in connection with the occurrences in question that were not done in anticipation of litigation.

11. Any and all records, receipts, bills, payment stubs, invoices, or any other document claiming to be either a bill or expense incurred by you or on your behalf related to the subject matter of this litigation.

12. All correspondence between or among Charleston Carriage Works, LLC, its agents, employees, owners, or officers and City of Charleston elected officials and employees since 2013.

13. Copies of any and all corporate governance documents for Charleston Carriage Works, LLC (regardless of whether same have been filed with the State) since 2013.

14. Copies of any and all records associated with the rental and/or lease for use of the property commonly known as 20 Anson Street, including but not limited to, correspondence, rental agreements, lease agreements, asset purchase agreements, draft proposals, addendums, memorandums, exhibits, payments, invoices, billing statements, ledgers, and any other documents related to the subject property since 2013.

15. Copies of any and all records associated with the option to purchase the real property commonly known as 20 Anson Street, including but not limited to, correspondence, offers, counteroffers, agreements, contracts, draft proposals, addendums, memorandums, exhibits, appraisals, financing, and any other documents related to the subject property since 2013.

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16. Any and all drawings, sketches, plats, photographs, videotapes or other pictorial representations that have been taken of the real property commonly known as 20 Anson Street, including any structures affixed thereto, since 2013.

17. Copies of any and all corporate governance documents for Thirty Thirty-Three, LLC (regardless of whether same have been filed with the State) since 2009.

18. Copies of any and all records associated with the property commonly known as 3033 Old Pond Road, Johns Island, including but not limited to, correspondence, rental agreements, lease agreements, contracts, payments, invoices, billing statements, ledgers, and any other documents related to the property since 2009.

19. Copies of any and all records associated with the property commonly known as 3078 Murrywood Road, Johns Island, including but not limited to, correspondence, rental agreements, lease agreements, contracts, draft proposals, addendums, memorandums, payments, invoices, billing statements, ledgers, and any other documents related to the subject property since 2013.

20. Any and all drawings, sketches, plats, photographs, videotapes or other pictorial representations that have been taken of the real property commonly known as 3078 Murrywood Road, including any structures affixed thereto, since 2013.

21. Copies of any and all records associated with Charleston C.A.R.E.S., its agents and members, including but not limited to, correspondence, agreements, contracts, meetings, practice standards, publications, memberships, donations, funding, invoices, billing statements, ledgers, and any other documents related to the operation and management of Charleston C.A.R.E.S. since 2017.

22. Copies of any and all records associated with SPEAK Strategic, including but not limited to, correspondence, agreements, contracts, meetings, publications, invoices, billing statements, itemized statements for services, ledgers, and any other documents related to SPEAK Strategic since 2013.

23. Any and all complaints made to any governmental agency concerning the operation and management of Charleston Carriage Works, LLC since 2013.

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24. Any and all citations, tickets and/or fines received as a result of violating any city ordinances, local, state and/or federal laws since 2013.

25. Any and all statements, internal reports, Equine Management Reports, and Tour Vehicle Incident/Accident Reports completed since 2013 (regardless of whether same were submitted to the City of Charleston).

26. Copies of any and all records associated with the inspection of the facilities, horses, equipment, operations, and management of Charleston Carriage Works, LLC since 2013.

27. Copies of any and all franchise agreements with the City of Charleston.

28. Copies of any and all records generated to ensure compliance with all applicable ordinances and laws (i.e., schedules, excel spreadsheets, etc.) since 2013.

29. Copies of all Certificates of Appropriateness since 2013.

30. Copies of any and all records showing the weight of the carriages since 2013.

31. Copies of any and all records associated with the costs, purchase, and maintenance of all equipment used in the management and operation of the business, including but not limited to, registration fees, titles, proof of insurance, bill of sale, repairs, invoices, billing statements, and any other related documents since 2013.

32. Copies of any and all records for each tour offered and/or provided since 2013.

33. Copies of any and all credit card receipts, reimbursements and any other documents revealing the identity of the passengers in the carriage on April 19, 2017.

34. Copies of any and all credit card receipts, reimbursements and any other documents revealing the identity of the passengers in the carriage on May 25, 2017.

35. Copies of any and all records demonstrating the costs associated with the care and maintenance of all horses, including but not limited to, boarding, stall mats and shavings, feed, supplements, hay, and any other related items since 2013.

36. Copies of all Certificates of Serviceability for each horse since 2013.

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37. Copies of any and all correspondence, photos, videos, contracts, agreements, and any other documents provided for the purpose of selling horses to Charleston Carriage Works, LLC.

38. Copies of any and all records maintained for each horse that was leased, purchased, sold, donated, and/or under the care and control of Charleston Carriage Works, LLC for any amount of time since 2013.

39. Copies of any and all records associated with the costs and purchase of each horse, including but not limited to, transportation, registration fees, bill of sale, and any other related documents since 2013.

40. Copies of any and all documents or logs that record the work, service, or care of each horse in the custody, possession, or control of Charleston Carriage Works, LLC since 2013, including but not limited to, feed schedules, temperature logs, work logs, and rotation logs.

41. Any and all records associated with the costs and care of hooves for each horse, including but not limited to, farriers, schedules, treatment, invoices, and any other related documents since 2013.

42. Any and all documents which support your assertion that other cities permit 16 or more passengers in carriages pulled by horses.

43. Any and all records related to workers' compensation, including but not limited to, applications, claims and coverage since 2013.

44. Any and all documents associated with arson threats, including but not limited to, correspondence, e-mails, voicemails, social media posts, police reports, and any other evidence in support of the alleged threats since 2013.

45. Any and all documents associated with death threats, including but not limited to, correspondence, e-mails, voicemails, social media posts, police reports, and any other evidence in support of the alleged threats since 2013.

46. Copies of any and all records related to former and current employees of Charleston Carriage Works, LLC since 2013.

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47. Copies of any and all records identifying employees who worked on specific dates and times, including but not limited to, employee schedules, time punches, payroll, and any other related documents since 2013.

48. Any and all contact information for Gabby Byrd.

49. Any and all contact information for Amy Smith.

50. Copies of any and all rolled-up financial records of Charleston Carriage Works, LLC since 2013, including but not limited to, tax returns; profit-and-loss statements; year-end financial statements; general ledgers; general journals; sales journals; and any other records Charleston Carriage Works, LLC used to record income and expenses since 2013.

51. Copies of all tax returns filed on behalf of Broderick Christopher since 2013, including all schedules affixed thereto.

52. Copies of any and all documents provided to Hinske & Clarey in preparing your individual taxes as well as taxes for Charleston Carriage Works, LLC since 2013.

53. Documents sufficient to identify Charleston Carriage Works, LLC's month-to-month sales since 2013.

54. Copies of any and all records documenting the quantity of ticket sales since 2013.

55. Copies of any and all records in support of your assertion that additional monies were spent on the business, such as marketing/ advertising, as a result of the events alleged in your Complaint.

56. Copies of any and all records associated with donations provided by Charleston Carriage Works, LLC since 2013.

57. Any and all financial information provided to lenders to secure loans since 2013.

58. Copies of any and all deposition, hearing, and trial transcripts in your possession from other lawsuits filed against and/or on behalf of Charleston Carriage Works, LLC since 2013.

59. Any and all documents obtained by the parties via subpoenas duces tecum and/or Freedom of Information Act (FOIA) requests.

60. Copies of any and all documents of any kind that you intend to use as an exhibit at the trial of this case including, but not limited to, for the purposes of impeachment.

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

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Attorneys for Defendants Ellen Harley and Charleston Carriage Horse Advocates, Inc.

December 20, 2018

Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **Defendant Charleston Horse Advocates, Inc's Requests for Production to Plaintiff** upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

Thomas R. Goldstein, Esq.
Belk, Cobb, Infinger & Goldstein, PA
Post Office Box 71121
Charleston, SC 29415-1121

Attorneys for Plaintiff

Elizabeth Palmer, Esq.
Rosen Hagood
151 Meeting Street
Suite 400
Charleston, SC 29401

Attorneys for Defendant Charleston Animal Society

This 20th day of December 2018.

HALL BOOTH SMITH, PC

By: _____
Penny Davis, Legal Assistant to
Joseph D. Thompson, III and
K. Spencer Craig
Email: psdavis@hallboothsmith.com

66563033-1

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION FOR A PROTECTIVE AND/OR CONFIDENTIALITY ORDER**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), by and through its undersigned counsel, hereby moves this Honorable Court for a Protective/Confidentiality Order for the governance of this case. CCHA states that documents have been requested that contain confidential materials that should not be disclosed or used in a manner other than as set forth in the attached proposed Protective Order. Disclosure, other than as set forth in the proposed Order (attached as Exhibit "A"), would be harmful to CCHA, and other parties in the case, in that it would fail to protect confidential information.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
Email: scraig@hallboothsmith.com
111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
Phone: 843.720.3469

Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP100-083

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	**PROTECTIVE AND CONFIDENTIALITY ORDER**
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

It being represented to the Court that the parties have requested documents from each other which involve trade secrets, confidential research, proprietary materials and/or commercial information belonging to the respective parties; and

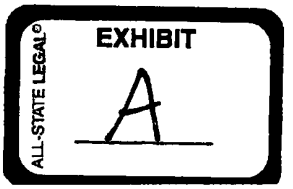
It being represented to the Court that the parties are willing to provide these documents for inspection and review only under a Protective and Confidentiality Order upon the hereinafter stated terms and conditions; and

It being represented to the Court that all of the parties are in agreement as to the terms of the said Protective and Confidentiality Order; therefore,

It is hereby ORDERED that:

1. A party will disclose documents that it designates **"Confidential and Proprietary"** to the parties to this suit and attorneys, only pursuant to this Order and under the conditions that follow. The party shall designate material as confidential by marking on the document containing confidential material **"CONFIDENTIAL."**

2. Any and all of the aforesaid "Confidential" materials disclosed by a party and the contents thereof shall be maintained in confidence by all other parties and this counsel. The



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aforesaid materials shall not be photocopied or reproduced by any means without the prior consent of counsel for the providing party or until further order of this Court, except that receiving counsel is permitted to scan said documents into a case management system for purposes of representing the party in this matter.

3. Any and all of the aforesaid "Confidential" materials disclosed by a party and the contents thereof shall be used only in connection with the above-captioned matter and shall not be used for any other purpose.

4. No person who examines any document produced pursuant to this Order shall disseminate orally, in writing, or by any other means, the document(s) or the information contained therein, to any person not also authorized to examine documents under the terms of this Order.

5. Counsel may permit an expert or experts hired in the above-captioned litigation to review the documents subject to this Protective Order, but counsel must first obtain from said expert a written statement confirming the expert's agreement to comply with every element of this Protective Order. Said expert shall agree that the documents and the contents thereof shall not be disclosed to any other person or entity and said documents shall not be photocopied or reproduced by any means. Any documents provided to any expert must be returned to the producing party within thirty (30) days of the conclusion of the above-captioned litigation pursuant to the terms of paragraph 8 herein.

6. Notwithstanding the foregoing provisions, this Order shall be without prejudice to the right of any party to challenge the propriety of discovery on any grounds including, but not limited to, relevance, privilege and materiality. Any CONFIDENTIAL designation is subject to challenge and the following procedures shall apply to any such challenge:

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a. The burden of proving the necessity of a CONFIDENTIAL designation remains with the party asserting confidentiality.

b. A party who contends that documents designated CONFIDENTIAL is not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of the written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the CONFIDENTIAL designation.

c. Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

(1) the party who claims that the documents are confidential withdraws such designation in writing;

(2) the party who claims that the documents are confidential fails to move timely for an Order designating the documents as confidential as set forth in paragraph 6.b. above; or

(3) the Court rules that the documents should no longer be designated as confidential information.

d. Challenges to the confidentiality of documents may be made at any time and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

7. Notwithstanding the foregoing provisions, this Order shall not restrict in any manner the right of any party to offer or use as evidence at the trial of this action any of the documents subject to this Protective Order and nothing contained herein shall be construed as a waiver of any objection which might be raised as to the admissibility of any evidentiary material.

8. At the conclusion of this lawsuit by settlement, a jury verdict, nonsuit, dismissal, by judgment order or otherwise, all of a providing party's "Confidential" materials, including any and all copies, or renditions made from the materials, shall be returned to the providing party within thirty (30) days.

9. A breach of the terms of this Order shall entitle the offended party to recovery of appropriate sanctions, including but not limited to attorney's fees and costs incurred in the enforcement of this Order.

10. This Protective Order may be modified only by written stipulation signed by the attorneys of record and/or by further order of the Court upon application to the Court, with proper notice.

AND IT IS SO ORDERED!

_____
Presiding Judge
Ninth Judicial Circuit

_____, 2020

Charleston, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION FOR A PROTECTIVE AND/OR CONFIDENTIALITY ORDER**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), by and through its undersigned counsel, hereby moves this Honorable Court for a Protective/Confidentiality Order for the governance of this case. CCHA states that documents have been requested that contain confidential materials that should not be disclosed or used in a manner other than as set forth in the attached proposed Protective Order. Disclosure, other than as set forth in the proposed Order (attached as Exhibit "A"), would be harmful to CCHA, and other parties in the case, in that it would fail to protect confidential information.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

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Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
Email: scraig@hallboothsmith.com
111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
Phone: 843.720.3469

Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION TO QUASH AND/OR FOR A PROTECTIVE ORDER**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), by and through its undersigned counsel, hereby moves this Honorable Court for an Order quashing Plaintiff's Notice of Deposition pursuant to SCRCP 30(b)(6) of CCHA's corporate representative as the subject matter is overbroad, unduly burdensome, irrelevant and unlikely to lead to the discovery of admissible evidence in the case. Additionally, Plaintiff's discovery tactics include calling for the disclosure of certain private citizens and their charitable contribution which is an invasion of privacy and will likely subject these private citizens to harassment and undue influence by Plaintiff and/or others in Plaintiff's industry. Alternatively, in the event that the discovery is permitted, CCHA respectfully requests entry of a protective/confidentiality order preventing the disclosure of such information to anyone outside the bounds of the subject litigation.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	**PROTECTIVE AND CONFIDENTIALITY ORDER**
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

It being represented to the Court that the parties have requested documents from each other which involve trade secrets, confidential research, proprietary materials and/or commercial information belonging to the respective parties; and

It being represented to the Court that the parties are willing to provide these documents for inspection and review only under a Protective and Confidentiality Order upon the hereinafter stated terms and conditions; and

It being represented to the Court that all of the parties are in agreement as to the terms of the said Protective and Confidentiality Order; therefore,

It is hereby ORDERED that:

1. A party will disclose documents that it designates **"Confidential and Proprietary"** to the parties to this suit and attorneys, only pursuant to this Order and under the conditions that follow. The party shall designate material as confidential by marking on the document containing confidential material **"CONFIDENTIAL."**

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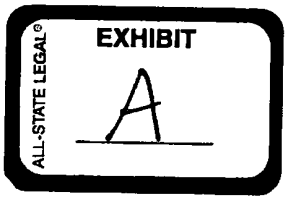

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aforesaid materials shall not be photocopied or reproduced by any means without the prior consent of counsel for the providing party or until further order of this Court, except that receiving counsel is permitted to scan said documents into a case management system for purposes of representing the party in this matter.

3. Any and all of the aforesaid "Confidential" materials disclosed by a party and the contents thereof shall be used only in connection with the above-captioned matter and shall not be used for any other purpose.

4. No person who examines any document produced pursuant to this Order shall disseminate orally, in writing, or by any other means, the document(s) or the information contained therein, to any person not also authorized to examine documents under the terms of this Order.

5. Counsel may permit an expert or experts hired in the above-captioned litigation to review the documents subject to this Protective Order, but counsel must first obtain from said expert a written statement confirming the expert's agreement to comply with every element of this Protective Order. Said expert shall agree that the documents and the contents thereof shall not be disclosed to any other person or entity and said documents shall not be photocopied or reproduced by any means. Any documents provided to any expert must be returned to the producing party within thirty (30) days of the conclusion of the above-captioned litigation pursuant to the terms of paragraph 8 herein.

6. Notwithstanding the foregoing provisions, this Order shall be without prejudice to the right of any party to challenge the propriety of discovery on any grounds including, but not limited to, relevance, privilege and materiality. Any CONFIDENTIAL designation is subject to challenge and the following procedures shall apply to any such challenge:

a. The burden of proving the necessity of a CONFIDENTIAL designation remains with the party asserting confidentiality.

b. A party who contends that documents designated CONFIDENTIAL is not entitled to confidential treatment shall give written notice to the party who affixed the designation of the specific basis for the challenge. The party who so designated the documents shall have fifteen (15) days from service of the written notice to determine if the dispute can be resolved without judicial intervention and, if not, to move for an Order confirming the CONFIDENTIAL designation.

c. Notwithstanding any challenge to the designation of documents as confidential, all material previously designated CONFIDENTIAL shall continue to be treated as subject to the full protections of this Order until one of the following occurs:

(1) the party who claims that the documents are confidential withdraws such designation in writing;

(2) the party who claims that the documents are confidential fails to move timely for an Order designating the documents as confidential as set forth in paragraph 6.b. above; or

(3) the Court rules that the documents should no longer be designated as confidential information.

d. Challenges to the confidentiality of documents may be made at any time and are not waived by the failure to raise the challenge at the time of initial disclosure or designation.

7. Notwithstanding the foregoing provisions, this Order shall not restrict in any manner the right of any party to offer or use as evidence at the trial of this action any of the documents subject to this Protective Order and nothing contained herein shall be construed as a waiver of any objection which might be raised as to the admissibility of any evidentiary material.

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8. At the conclusion of this lawsuit by settlement, a jury verdict, nonsuit, dismissal, by judgment order or otherwise, all of a providing party's "Confidential" materials, including any and all copies, or renditions made from the materials, shall be returned to the providing party within thirty (30) days.

9. A breach of the terms of this Order shall entitle the offended party to recovery of appropriate sanctions, including but not limited to attorney's fees and costs incurred in the enforcement of this Order.

10. This Protective Order may be modified only by written stipulation signed by the attorneys of record and/or by further order of the Court upon application to the Court, with proper notice.

AND IT IS SO ORDERED!

_____
Presiding Judge
Ninth Judicial Circuit

_____, 2020

Charleston, South Carolina

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION TO COMPEL PLAINTIFF'S RESPONSES TO REQUESTS FOR PRODUCTION**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that within ten (10) days of the date of this Motion or as soon thereafter as counsel may be heard, the undersigned will move this Court for an Order pursuant to Rule 37 SCRCP compelling Plaintiff to respond to Defendant Charleston Carriage Horse Advocates' ("CCHA") Requests for Production of Documents. Said Requests for Production of Documents were served upon Plaintiff's counsel of record on December 20, 2018 (attached hereto with Certificate of Service as "Exhibit A"). The undersigned has communicated with Plaintiff's counsel regarding the failure to respond to the discovery request and, as of the date of this Motion, Plaintiff has not provided responses to CCHA's discovery requests.

WHEREFORE, Defendant CCHA respectfully requests this Court order Plaintiff to respond to CCHA's Requests for Production of Documents and award CCHA the costs and fees for pursuing the Order.

(Signature on Following Page)

Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES, INC.'S REQUESTS FOR PRODUCTION TO PLAINTIFF**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

Pursuant to Rule 34, SCRCP, you are required to produce the materials requested below to Hall Booth Smith, P.C., located at 111 Coleman Blvd., Suite 301, Mt. Pleasant, South Carolina, 29464, within thirty (30) days from the date of service hereof.

REQUESTS FOR PRODUCTION

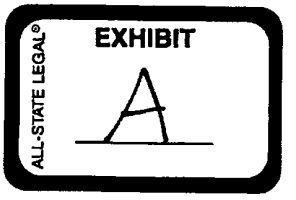
1. Any and all documents or other materials relied upon, referred to, or identified in your responses to CCHA's Interrogatories.

2. Any correspondence or memorandum written to, or received from CCHA, in any way related to the allegations contained in your Complaint, either by you or on your behalf.

3. Any correspondence made by or on your behalf with any local, state and/or federal agencies related to the allegations contained in your Complaint.

4. Any and all diaries, journals, or other written entries that memorialize in any way the facts and circumstances at issue or any allegations contained in your Complaint.

5. Any and all statements made by witnesses concerning the occurrences in question, including any written statement signed or otherwise adopted or approved, and any stenographic, mechanical, electrical or other such recording or transcription therefor.



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6. A list of all individuals and entities from whom you or your attorney have sought and/or received tangible evidence related to this case.

7. All curriculum vitae for all expert witnesses identified by you, along with any and all written reports or opinions as to said expert's review of the case.

8. Any and all photographs, movies, videotapes or other pictorial representations that have been taken in connection with the with this case or in connection with the damages alleged in this action.

9. Any and all documentary, physical, or tangible evidence tending in any way to support your claims or contentions.

10. Any and all investigations conducted by you or on your behalf in connection with the occurrences in question that were not done in anticipation of litigation.

11. Any and all records, receipts, bills, payment stubs, invoices, or any other document claiming to be either a bill or expense incurred by you or on your behalf related to the subject matter of this litigation.

12. All correspondence between or among Charleston Carriage Works, LLC, its agents, employees, owners, or officers and City of Charleston elected officials and employees since 2013.

13. Copies of any and all corporate governance documents for Charleston Carriage Works, LLC (regardless of whether same have been filed with the State) since 2013.

14. Copies of any and all records associated with the rental and/or lease for use of the property commonly known as 20 Anson Street, including but not limited to, correspondence, rental agreements, lease agreements, asset purchase agreements, draft proposals, addendums, memorandums, exhibits, payments, invoices, billing statements, ledgers, and any other documents related to the subject property since 2013.

15. Copies of any and all records associated with the option to purchase the real property commonly known as 20 Anson Street, including but not limited to, correspondence, offers, counteroffers, agreements, contracts, draft proposals, addendums, memorandums, exhibits, appraisals, financing, and any other documents related to the subject property since 2013.

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16. Any and all drawings, sketches, plats, photographs, videotapes or other pictorial representations that have been taken of the real property commonly known as 20 Anson Street, including any structures affixed thereto, since 2013.

17. Copies of any and all corporate governance documents for Thirty Thirty-Three, LLC (regardless of whether same have been filed with the State) since 2009.

18. Copies of any and all records associated with the property commonly known as 3033 Old Pond Road, Johns Island, including but not limited to, correspondence, rental agreements, lease agreements, contracts, payments, invoices, billing statements, ledgers, and any other documents related to the property since 2009.

19. Copies of any and all records associated with the property commonly known as 3078 Murrywood Road, Johns Island, including but not limited to, correspondence, rental agreements, lease agreements, contracts, draft proposals, addendums, memorandums, payments, invoices, billing statements, ledgers, and any other documents related to the subject property since 2013.

20. Any and all drawings, sketches, plats, photographs, videotapes or other pictorial representations that have been taken of the real property commonly known as 3078 Murrywood Road, including any structures affixed thereto, since 2013.

21. Copies of any and all records associated with Charleston C.A.R.E.S., its agents and members, including but not limited to, correspondence, agreements, contracts, meetings, practice standards, publications, memberships, donations, funding, invoices, billing statements, ledgers, and any other documents related to the operation and management of Charleston C.A.R.E.S. since 2017.

22. Copies of any and all records associated with SPEAK Strategic, including but not limited to, correspondence, agreements, contracts, meetings, publications, invoices, billing statements, itemized statements for services, ledgers, and any other documents related to SPEAK Strategic since 2013.

23. Any and all complaints made to any governmental agency concerning the operation and management of Charleston Carriage Works, LLC since 2013.

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24. Any and all citations, tickets and/or fines received as a result of violating any city ordinances, local, state and/or federal laws since 2013.

25. Any and all statements, internal reports, Equine Management Reports, and Tour Vehicle Incident/Accident Reports completed since 2013 (regardless of whether same were submitted to the City of Charleston).

26. Copies of any and all records associated with the inspection of the facilities, horses, equipment, operations, and management of Charleston Carriage Works, LLC since 2013.

27. Copies of any and all franchise agreements with the City of Charleston.

28. Copies of any and all records generated to ensure compliance with all applicable ordinances and laws (i.e., schedules, excel spreadsheets, etc.) since 2013.

29. Copies of all Certificates of Appropriateness since 2013.

30. Copies of any and all records showing the weight of the carriages since 2013.

31. Copies of any and all records associated with the costs, purchase, and maintenance of all equipment used in the management and operation of the business, including but not limited to, registration fees, titles, proof of insurance, bill of sale, repairs, invoices, billing statements, and any other related documents since 2013.

32. Copies of any and all records for each tour offered and/or provided since 2013.

33. Copies of any and all credit card receipts, reimbursements and any other documents revealing the identity of the passengers in the carriage on April 19, 2017.

34. Copies of any and all credit card receipts, reimbursements and any other documents revealing the identity of the passengers in the carriage on May 25, 2017.

35. Copies of any and all records demonstrating the costs associated with the care and maintenance of all horses, including but not limited to, boarding, stall mats and shavings, feed, supplements, hay, and any other related items since 2013.

36. Copies of all Certificates of Serviceability for each horse since 2013.

37. Copies of any and all correspondence, photos, videos, contracts, agreements, and any other documents provided for the purpose of selling horses to Charleston Carriage Works, LLC.

38. Copies of any and all records maintained for each horse that was leased, purchased, sold, donated, and/or under the care and control of Charleston Carriage Works, LLC for any amount of time since 2013.

39. Copies of any and all records associated with the costs and purchase of each horse, including but not limited to, transportation, registration fees, bill of sale, and any other related documents since 2013.

40. Copies of any and all documents or logs that record the work, service, or care of each horse in the custody, possession, or control of Charleston Carriage Works, LLC since 2013, including but not limited to, feed schedules, temperature logs, work logs, and rotation logs.

41. Any and all records associated with the costs and care of hooves for each horse, including but not limited to, farriers, schedules, treatment, invoices, and any other related documents since 2013.

42. Any and all documents which support your assertion that other cities permit 16 or more passengers in carriages pulled by horses.

43. Any and all records related to workers' compensation, including but not limited to, applications, claims and coverage since 2013.

44. Any and all documents associated with arson threats, including but not limited to, correspondence, e-mails, voicemails, social media posts, police reports, and any other evidence in support of the alleged threats since 2013.

45. Any and all documents associated with death threats, including but not limited to, correspondence, e-mails, voicemails, social media posts, police reports, and any other evidence in support of the alleged threats since 2013.

46. Copies of any and all records related to former and current employees of Charleston Carriage Works, LLC since 2013.

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47. Copies of any and all records identifying employees who worked on specific dates and times, including but not limited to, employee schedules, time punches, payroll, and any other related documents since 2013.

48. Any and all contact information for Gabby Byrd.

49. Any and all contact information for Amy Smith.

50. Copies of any and all rolled-up financial records of Charleston Carriage Works, LLC since 2013, including but not limited to, tax returns; profit-and-loss statements; year-end financial statements; general ledgers; general journals; sales journals; and any other records Charleston Carriage Works, LLC used to record income and expenses since 2013.

51. Copies of all tax returns filed on behalf of Broderick Christopher since 2013, including all schedules affixed thereto.

52. Copies of any and all documents provided to Hinske & Clarey in preparing your individual taxes as well as taxes for Charleston Carriage Works, LLC since 2013.

53. Documents sufficient to identify Charleston Carriage Works, LLC's month-to-month sales since 2013.

54. Copies of any and all records documenting the quantity of ticket sales since 2013.

55. Copies of any and all records in support of your assertion that additional monies were spent on the business, such as marketing/ advertising, as a result of the events alleged in your Complaint.

56. Copies of any and all records associated with donations provided by Charleston Carriage Works, LLC since 2013.

57. Any and all financial information provided to lenders to secure loans since 2013.

58. Copies of any and all deposition, hearing, and trial transcripts in your possession from other lawsuits filed against and/or on behalf of Charleston Carriage Works, LLC since 2013.

59. Any and all documents obtained by the parties via subpoenas duces tecum and/or Freedom of Information Act (FOIA) requests.

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60. Copies of any and all documents of any kind that you intend to use as an exhibit at the trial of this case including, but not limited to, for the purposes of impeachment.

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

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Phone: 843-793-6709

Jenkins M. Mann, Esq.
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1901 Main Street, Suite 1200
Columbia, South Carolina 29201
Phone: 803-978-2831

Attorneys for Defendants Ellen Harley and Charleston Carriage Horse Advocates, Inc.

December 20, 2018

Charleston, South Carolina

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **Defendant Charleston Horse Advocates, Inc's Requests for Production to Plaintiff** upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

Thomas R. Goldstein, Esq.
Belk, Cobb, Infinger & Goldstein, PA
Post Office Box 71121
Charleston, SC 29415-1121

Attorneys for Plaintiff

Elizabeth Palmer, Esq.
Rosen Hagood
151 Meeting Street
Suite 400
Charleston, SC 29401

Attorneys for Defendant Charleston Animal Society

This 20th day of December 2018.

HALL BOOTH SMITH, PC

By: _____
Penny Davis, Legal Assistant to
Joseph D. Thompson, III and
K. Spencer Craig
Email: psdavis@hallboothsmith.com

66563032-1

ELECTRONICALLY FILED - 2020 Apr 06 1:47 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**MOTION TO AMEND COMPLAINT**
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	(Rule 15, *South Carolina Rules of Civil Procedure*)
	)	
Defendants.	)	
	)	

TO THE DEFENDANTS ABOVE NAMED:

PLEASE TAKE NOTICE that the plaintiff, above named, will move for an Order of the Court, ten days after notice hereof, or as soon thereafter as counsel may be heard, for an Order of the Court authorizing the plaintiff to amend the above referenced complaint to add additional parties as plaintiffs: Amber and Broderick Christoff, and as defendants: Ellen Fort, Catherine Poag, Elizabeth Slagsvol, and Domangue Consulting, and Digital Solutions, Inc. This motion is based on the allegations contained in the amended complaint, attached hereto and incorporated by this reference, and upon Rule 15, of the *South Carolina Rules of Civil Procedure*.

April 6, 2020

/s/Thomas R. Goldstein

Thomas R. Goldstein, S. C. Bar # 2186
BELK, COBB, INFINGER, & GOLDSTEIN, P.A.
Post Office Box 71121
Charleston, South Carolina 29415-1121
tgoldstein@cobblaw.net
(843) 554-4291
ATTORNEYS FOR PLAINTIFFS

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Certificate of Consultation

I certify that prior to filing this motion to amend, I consulted with opposing counsel but was unable to resolve the request to amend.

April 6, 2020 /s/Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar # 2186
BELK, COBB, INFINGER, & GOLDSTEIN, P.A.

Certificate of Service

I certify that I have served a copy of this pleading on counsel for Charleston Carriage Horse Advocates, Ellen Harley, and Charleston Animal Society by electronic mail and by regular first class mail with proper postage affixed and addressed to its counsel of record, Joseph Thompson at 111 Coleman Blvd., Suite 301, Mt. Pleasant, S. C. 29464, and to Elizabeth Palmer at 151 Meeting Street, Suite 400, Charleston, South Carolina 29201, this 6th day of April, 2020.

April 6, 2020 /s/Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar # 2186
BELK, COBB, INFINGER, & GOLDSTEIN, P.A.

ELECTRONICALLY FILED - 2020 May 27 1:39 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2019-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON ANIMAL SOCIETY'S MOTION FOR SUMMARY JUDGMENT**
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

TO: PLAINTIFF AND PLAINTIFF'S LEGAL COUNSEL:

PLEASE TAKE NOTICE that the undersigned attorneys for Defendant Charleston Animal Society will move before the Presiding Judge of the Ninth Judicial Circuit at the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina 29401, or at such other offices as the Court may direct, after ten (10) days from the date of service hereof or at such time and place as the Court may direct, for an Order granting summary judgment, pursuant to South Carolina Rule of Civil Procedure 56, as to all claims asserted against said Defendant in Plaintiff's Complaint. This motion is based on the grounds that there is no genuine issue of material fact which would entitle the Plaintiff to a recovery against the Defendant as a matter of law.

This Motion will be supported by the pleadings, depositions and discovery responses, records on file, arguments of counsel, and a Memorandum of Law to be filed with this Court.

WHEREFORE, Defendant Charleston Animal Society respectfully moves this Court for an Order granting summary judgment in its favor as to all claims asserted against it in Plaintiff's

Complaint and to award Defendant such other and further relief as this Court may deem just and proper.

ROSEN HAGOOD, LLC

By: s/Elizabeth J. Palmer
Elizabeth J. Palmer
Bijan Ghom
P.O. Box 893
Charleston, SC 29402
(843) 577-6726
epalmer@rosenhagood.com
bghom@rosenhagood.com

ATTORNEYS FOR DEFENDANT
CHARLESTON ANIMAL SOCIETY

Charleston, South Carolina
May 27, 2020

ELECTRONICALLY FILED - 2020 May 27 1:39 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Sep 11 12:21 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	
	)	

AFFIDAVIT OF JOE ELMORE

PERSONALLY APPEARED before me, Joe Elmore, who being duly sworn does state as follows:

1. My name is Joe Elmore and, since 2012, I have served as the Chief Executive Officer of the Charleston Animal Society (CAS). A copy of my resume is attached as Exhibit 1.

2. I am over the age of 18 and have personal knowledge of and am competent to testify about the matters addressed in this Affidavit.

3. CAS was incorporated on March 14, 1874. From the time it was incorporated to today, CAS's mission has been the same: the prevention of cruelty to animals.

4. CAS is a non-profit entity, exempt from income taxation under Section 501(c)(3) of the Internal Revenue Code. CAS qualifies for the charitable contribution deduction under Section 170(b)(1)(A) and has been classified as an association other than a private society under Section 509(a)(2).

5. For a number of years now, CAS has received emails, calls, and voicemails from members of the public expressing their concern about the treatment of the carriage animals, especially on extremely hot days or when there is an incident involving a carriage horse. Of course, CAS has also received considerable criticism for its advocacy efforts from members of the public. In fact, I personally have been disparaged and harassed on social media by members of the carriage industry

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carriage industry (such as the Tourism Commission and the Carriage Animal Temperature and Heat Index Committee), has published a number of articles and other publications, and has generally advocated for better treatment and greater oversight of the industry.

7. CAS is not opposed to working animals, or even the use of carriage horses so long as the working conditions are humane. Rather, CAS has consistently advocated for an independent, prospective, science-based, peer-reviewed study of the Charleston carriage industry, the results of which would inform our community, including all interested parties, regarding humane conditions for the operation of carriage tours in the urban environment downtown.

8. On April 19, 2017, CAS was contacted by members of the public who reported that a horse, which was identified as Big John, had collapsed to the pavement during a carriage tour and was unable to get up without assistance.

9. At my direction, CAS took videos of the Big John provided by eyewitnesses, added subtitles, and published the resulting video on CAS's social media sites and website. The video can be viewed here: https://www.youtube.com/watch?v=WLXdlMsxBZM

10. At the time I instructed that the video be published, I was not in possession of any information that would call into question the veracity of using the term "collapse" to describe what occurred that left Big John lying there on the pavement. I am still not in possession of any such information.

11. I directed that the video be published to bring further awareness to the carriage horse issue and, specifically, CAS's push for an independent, prospective, science-based, peer-reviewed study of the Charleston carriage industry. In no way was my intent to harm Plaintiff Charleston Carriage Works or injure its business.

12. This was far from the first time CAS has advocated for the study. Other efforts include CAS's publishing an advertisement, a copy of which is attached as Exhibit 2, in the Post & Courier newspaper in March 2017, before the Big John incident occurred. Another example is the October 2016 ad CAS placed in The Mercury newspaper, attached as Exhibit 3.

13. Of course, advocacy for the animals used in the carriage industry comprises a

year represented only about 17% of CAS's total support and revenues for that year. See 2017/2018 Audit, p. 4 (attached as Exhibit 6).

15. The funding allotted to CAS by the County in any given year varies and is determined on a yearly basis in connection with the approval of the County's budget. The funding received by CAS under the contract fails to cover the cost incurred by CAS in the performance of its obligations under the contract. In fact, in both 2017 and 2018, the funding provided by the County only covered approximately half the cost incurred by CAS to perform its obligations under the contract. See 2017/2018 Audit, p. 20 (Ex. 6). Each year, CAS is required to use its reserves, donations, and grants to fund the shortfall.

16. I understand that it has been alleged that CAS "conspired" with Charleston Carriage Horse Advocates and Ellen Harley to defame or otherwise injure the Plaintiff, Charleston Carriage Works. CAS has, on occasion, either shared or received information concerning the carriage horse industry or advocacy efforts from Mrs. Harley and/or Charleston Carriage Horse Advocates. However, neither Mrs. Harley nor Charleston Carriage Horse Advocates had anything to do with the subtitles and narrative that CAS added to the Big John video published by CAS.

17. Additionally, I am not aware of any occasion or situation in which CAS has worked or cooperated with Mrs. Harley and/or Charleston Carriage Horse Advocates for the purpose of defaming or otherwise harming the Plaintiff. Any actions taken by CAS with regard to the carriage industry, whether or not in conjunction with Mrs. Harley and/or Charleston Carriage Horse Advocates, have been for the singular purpose of advocating for humane treatment of the animals.

FURTHER AFFIANT SAYETH NOT.

Joe Elmore

SWORN to before me this
27th day of May, 2020

Notary Public for South Carolina

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JOE ELMORE, CAWA, CFRE
1452 River Front Drive, Charleston, SC 29407 • Phone: 843.701.2444 • E-mail: jre12959@yahoo.com

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Highly successful, results-oriented visionary with solid knowledge and accomplishments (domestic and international) in change management, organizational development, strategic positioning, fiscal and human resource management with startup, established and accelerated growth organizations • Aggressive problem solver and decisive leader with proven success in market analysis, crisis management and program development • Successful track record of increasing and diversifying sources of revenue, constituencies and market share • Consensus builder with strong analytical and planning skills, offering inspired leadership to develop and nurture a dynamic organizational culture that embraces growth and new ways of thinking.

CORE COMPETENCIES AND AREAS OF SUCCESSFUL EXPERIENCE

Organizational Development	Disaster Preparedness & Response	Community Reintegration	Marketing
Animal Care (Sheltering)	Human Resource Management	Animal Cruelty Investigations	Animal Control
Crisis Management	Prevention of Child Sexual Abuse	Biomedical Services	Business Analysis
Workplace Health & Safety	International Humanitarian Law	Program Rationalization	Strategic Planning
Nonprofit Management	Humane Education/Youth Programs	Grants Administration	At-Risk Youth
Grassroots Advocacy	Government Relations & Legislation	Coalition Building	Public Affairs
Cultural Diversity Initiatives	HIV/AIDS Prevention & Care	Refugees & POWs (EPWs)	Fund Raising

PROFESSIONAL EXPERIENCE AND ACCOMPLISHMENTS

CHARLESTON ANIMAL SOCIETY — **Charleston, SC**
Chief Executive Officer — **2012 – Present**

- Strategic Situation: The organization, one of the oldest in the nation, was in a leadership and financial crisis following the embezzlement of funds by its board president, stagnant funding and low morale (divided staff). The organization's credibility, direction and financial stability were fragile as it entered 2012.
  - Stabilized the organization in both financial (doubled from <$3M to $7M+) and operational areas
  - Enhanced the organization's public position and brand through a marketing & communication strategy
  - Led the organization to become the top-rated nonprofit (out of 22,000+) in South Carolina for the past 6 years
  - Steered the organization to focus its resources on realizing a vision vs. reacting to day-to-day challenges
  - Highlighted in multi-national publications for rapid and sustainable successes in a challenging region
  - Launched the boldest animal rescue initiative ever undertaken in the Southeast (No Kill Charleston 2015)
  - Launched one of the boldest animal rescue initiatives ever undertaken in the USA (No Kill South Carolina)
  - Led the organization to outperform (double) all other SC nonprofits in national Giving Day 3 years in a row
  - Unified the staff to focus on the future and achieving bold, ambitious, but realistic goals
  - Set state records in all leading categories, including adoptions, spay/neuter, shelter research projects, free roaming cats and education
  - Launched largest and most widely circulated pet magazine in South Carolina

AMERICAN SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS (ASPCA) — **NYC, SC, MS**
Senior Director, Community Initiatives — **2008 – 2012**
Director, Strategic Development, Hurricane Katrina Recovery — **2006 – 2008**

- **Senior Director, Community Initiatives**
  - Project manager for community engagement throughout all 15 ASPCA Partner (AP) Communities
    - Developed and led community engagement planning strategies for new AP Communities
  - Project manager/community liaison for the ASPCA Partnership initiative in Charleston County, SC
    - Led the most successful ASPCA Partner Community project in achieving a 75+ percentage point increase in Live Release Rate
  - Administrator for multiple projects throughout the South re: animal care/control, spay/neuter and cruelty cases
    - Managed and led troubleshooting efforts in challenging situations across the southeast
    - Mentored and advised chief executives and managers through financial, animal overflow and other crises
  - Court witness re: link between animal cruelty and human violence
  - Legislative advocate for animal care, control and anti-cruelty issues
  - Emergency planner/manager for evacuation plans and large-scale disaster/emergency operations
  - Speaker at state, regional and national conferences
- **Director, Strategic Development**
  - Led ASPCA recovery operations on the MS Gulf Coast in the aftermath of Hurricane Katrina.
  - Mentored executive, shelter and clinic staff in rebuilding process for major shelter on the Gulf Coast (15,000 Intake; 7,000 Surgeries in first year of clinic), which was destroyed in Hurricane Katrina.
  - Raised numerous gifts, including $450K, $400K, $300K and 2 planned gifts of est. $1M each.

HUMANE SOCIETY OF ST. THOMAS — **St. Thomas, U.S. Virgin Islands**
Executive Director — **2004 - 2006**

- ❖ Strategic Situation: The organization was involved in a 5-8 million dollar capital campaign to construct an animal care campus, planned to be the model of the Caribbean. As the organization's first executive director, strategic priorities were to (1) develop organizational capacity to manage a new state-of-the-art regional animal care campus; (2) substantially increase operational revenues including in-kind/pro bono revenue; (3) develop and integrate a system of organizational development to transition from the current operation to the new animal care campus; (4) plan and implement a political strategy to enact and enforce strong animal cruelty legislation; and (5) develop and evaluate a customer-focused line of programs, products and services.
- Streamlined operations with fewer staff and more services.
- Co-authored and led the passage of the first and only felony animal cruelty law in the U.S. Possessions.
- Increased donor base 400%; Increased operating revenues 150%.
- Achieved community voters' "Best Community Organization" for the Territory throughout tenure.
- Created model humane education youth initiative including innovative at-risk programs funded by Dept. of Humane Services, Dept. of Labor and community grants.
- Successfully nominated Board President as recipient of Points of Light Award (given by President Bush, Sr. and President Bush, Jr.).

DARKNESS TO LIGHT — **Charleston, SC**
Chief Operating Officer — **2002 – 2003**

- ❖ Strategic Situation: The organization was preparing a national media campaign to address child sexual abuse. This involved organizing a national panel of experts, 500+ child advocacy centers and 180+ information & referral centers.
- As COO, oversaw the organizational development to launch from a local to a national initiative, which became the largest child sexual abuse media campaign in U.S. history.

ST. THOMAS CHAMBER OF COMMERCE — **St. Thomas, USVI**
Consultant — **2001 - 2002**

- Organizational and membership development project

AMERICAN RED CROSS — **Various Locations**
Various Positions — **1987 - 2000**

AMERICAN RED CROSS, ST. THOMAS AND ST. JOHN CHAPTER — **St. Thomas, U.S. Virgin Islands**

- ➢ **Executive Director** — **1996 – 2000**

- ❖ Strategic Situation: The organization was in financial and programmatic disarray after years of "existing" on the affinity of the "Red Cross" brand, mostly due to its presence during disasters such as major hurricanes. Five chief executives had served in less than a 3-year period. Governance, management and operations were in a weak position and the Chapter was on the verge of being de-chartered by its national organization. Community relationships were stagnant.
- Raised over $1 million in grants during first two years on the job; more than entire history combined.
- Positioned Chapter to generate nearly $12/capita for FY2000 (second highest in nation).
- Led Board of Directors in developing Chapter's first long-term (5-year) strategic plan.
- Chaired the Governor's Task Force to restructure the VI Emergency Management Council and System
- Awarded the highest SDIA grant per capita in the nation for two consecutive years.
- Developed and awarded the first Centers for Disease Control HIV Prevention Grant in the Caribbean ($600K)
- Substantially increased national disaster volunteer enrollment; led nation at end of FY99.

AMERICAN RED CROSS, WEST SOUND CHAPTER — **Bremerton, Washington**

- ➢ ***Executive Director*** — **1993 – 1995**

AMERICAN RED CROSS, MISSISSIPPI STATE SERVICE CONSORTIUM — **Jackson, Mississippi**

- ➢ ***National Specialist, Health and Safety Services*** — **1992 – 1993**

AMERICAN RED CROSS, PERSIAN GULF CRISIS (Operation Desert Shield & Storm) — **Saudi Arabia**

- ➢ ***Station Manager*** — **1991 – 1992**

AMERICAN RED CROSS, GREATER HARTFORD CHAPTER — **Farmington, Connecticut**

- ➢ ***Senior Director (Chief Executive)*** — **1988 – 1990**

AMERICAN RED CROSS, ST. LOUIS BI-STATE CHAPTER — **St. Louis, Missouri**

- ➢ ***Emergency Training Consultant*** — **1987 - 1988**

SELECTED AWARDS AND RECOGNITION

- Named a Maddie's Hero for inspiring and innovative leadership (1st class of Awards honoring 9 leaders)
- Recognized by two Governors for engineering the turnaround of Red Cross chapters:
  1995, Governor Mike Lowry, Washington; 1999, Governor Charles Turnbull, U.S. Virgin Islands
- Awarded the American Red Cross State Tiffany Award for Management Excellence:
  1995, Washington (youngest and second recipient in Award's history)
- Recognized and awarded U.S. Department of Defense Medal:
  1992, Persian Gulf Crisis

CREDENTIALS

Currently hold CAWA, CFRE certifications – Only person worldwide to achieve 3 certifications: CFRE/CAWA/PHR

EDUCATION

Engineering alumnus of the University of Alabama, 1978 - 1983

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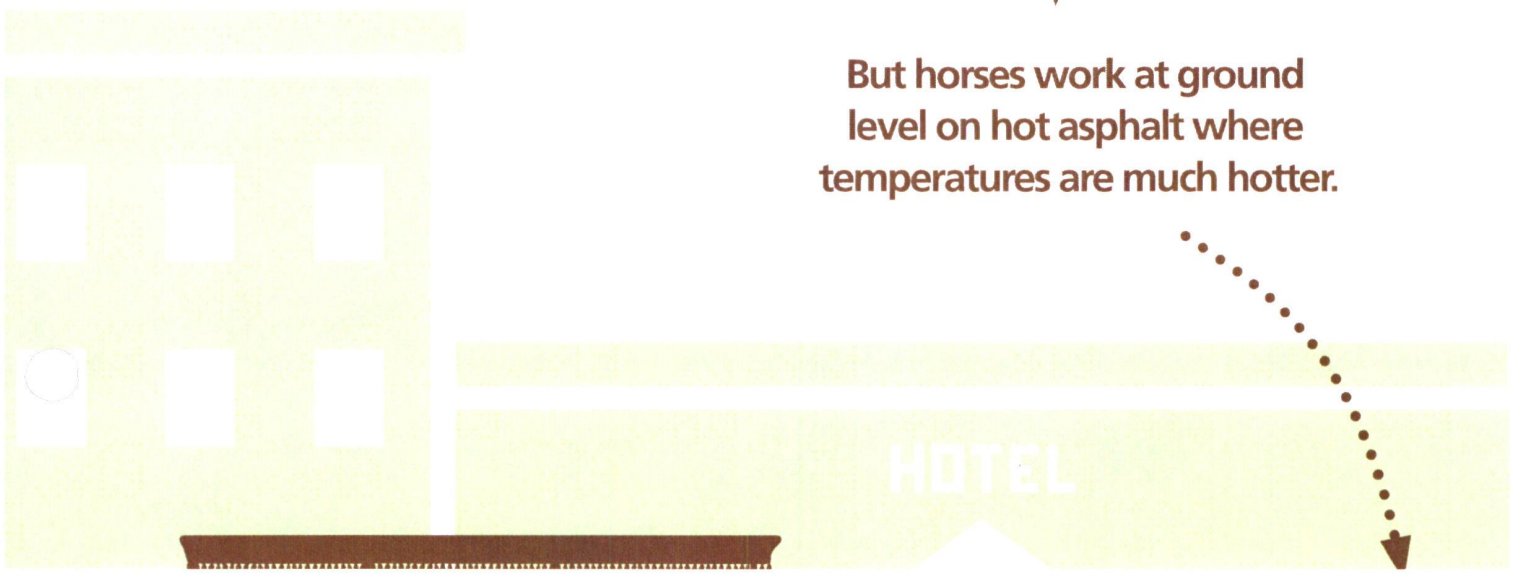
Charleston is #1 in Tourism

but dead last for working ho

**WHEN YOU COMBINE EXCESSIVE HEAT WITH THE WEIGHT THE H
FORCED TO PULL, CHARLESTON HAS THE HARSHEST CONDITIONS**

Did you know Charleston takes its official temperature reading atop a FOUR story building, catching the ocean breeze?

But horses work at ground level on hot asphalt where temperatures are much hotter.

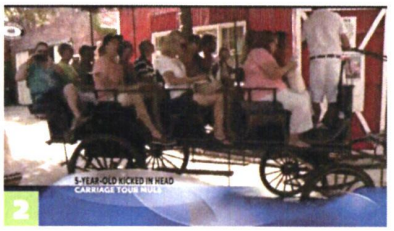


The System is Broken and Inhun

Tired, overworked horses continue to be put in

Reform the System Now!

1



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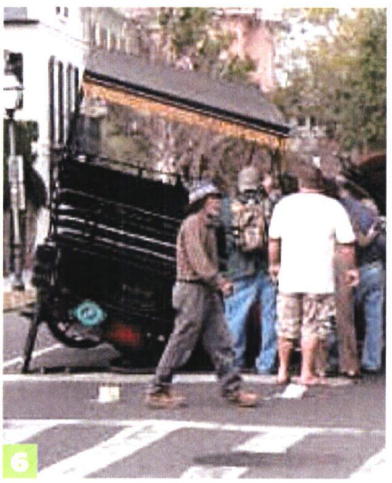
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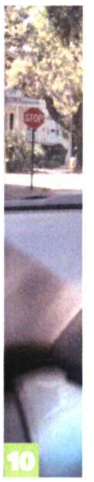

10

The pictures above are just a few of the numerous incidents involving horses placed in harm's way. Is this best for th of our police officers' time? 1. Wagon crashes into another wagon *(citizen: March 15, 2016)*. 2. 5-year-old kicked b *(News 2: July 30, 2015)*. 3. Wagon crashes into house *(ABC News 4: June 19, 2014)*. 4. Drivers not watching whe *and Courier: August 2, 2015)*. 5. Blondie lie helpless on hot pavement for nearly 3 hours *(citizen: July 17, 2015)*. 6. 6 people *(The Post and Courier: July 11, 2008)*. 7. Wagon collides with parked truck *(citizen: September 28, 2016)*. 8 tourists *(citizen)*. 9. Runaway wagon *(Live 5 News: April 22, 2014)*. 10. Working in 100° Heat *(citizen: July 30, 2016,*

CHARLESTON ANIMAL SOCIETY IS CALLING FOR A BON

PEER-REVIEWED, SCIENCE-BASED STUDY FROM AN ACADEMIC

TO DETERMINE HUMANE WORKING CONDITIONS FOR H

The American Veterinary Medical Association and American Association of Equine Practition environments present health and welfare hazards that may preclude [the use of horses], such as climactic extremes, and load factors." The late Dr. John Malark, Founder of Edisto Equine Clinic ,

Imagine. Believe. Achieve.
YOU are Charleston Animal Society!

LOOK WHAT YOU ACHIEVED IN 2017:

- Sustained No Kill Charleston for the 5th year!
- Earned South Carolina's Most Honored Charity (five years-in-a-row).
- Doubled No Kill South Carolina efforts thanks to support from the Petco Foundation.
- Honored as best Pets for Life Program in the USA.
- Unprecedented Disaster Response to Hurricanes: 750 animals rescued and evacuated across 7 states, Puerto Rico and the Virgin Islands.
- Reaccredited as the only combined shelter/clinic in the Southeast by the American Animal Hospital Association (AAHA).
- Rolled out the Simon Greer Mobile Spay-Neuter Vehicle – the only mobile unit of its kind in the Lowcountry.
- Responded to large cruelty cases in South Carolina and the Midwest.
- Expanded Pets for Life outreach services to Hollywood/Ravenel.
- Led efforts to improve working conditions for carriage horses.
- Chosen for presentations and education by national organizations including the ASPCA, HSUS, Maddie's Fund, Best Friends Animal Society and the University of the Pacific.
- Achieved 5th consecutive year of exemplary audits.
- Grew our social media presence on Facebook to 250,000 followers.

Total Revenue
$7,860,398

Bequests 8% $640,030

Contributions & Fundraising 42% $3,333,303

Government Vendor Contract 18% $1,425,000

Programs 32% $2,462,065

Fundraising 20% $1,473,132

Admin 3% $255,968

Programs & Services 77% $5,779,385

Total Expenses
$7,508,485

2455 Remount Road North Charleston SC 29406 CharlestonAnimalSociety.org

BELIEVE YOU CAN AND YOU'RE ALREADY THERE.

IN 2017 YOU HELPED US ACHIEVE:

11,137 Spay-Neuters

5,141 Animals Adopted

9,439 Animals Sheltered

2,523 Animals Fostered

1,259 Lost Pets Reunited

20,000 Education Lessons to Children

26,611 Vaccines

63 Cruelty Cases Investigated

1,709 Free-Roaming Cats Saved

50,562 Pounds of Food Distributed to Families

1,721 Families Offered Help to Keep their Pets for Life

Since 1874, the mission at Charleston Animal Society has never changed: Preventing Cruelty to Animals. With the gifts of your time, your donations and your homes – you have lifted us to new heights of humane care that is now recognized across the country and around the world. Be proud of your accomplishments because **YOU** are Charleston Animal Society.

Charleston Animal Society
Since 1874

No Kill Charleston™

No Kill. No Harm. NO MORE.

No Kill South Carolina™

2017 ANNUAL REPORT CHARLESTON ANIMAL SOCIETY

2455 Remount Road | North Charleston | SC | 29406 | CharlestonAnimalSociety.org

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STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

ANIMAL SHELTER
AGREEMENT

This Animal Shelter Agreement (the "Agreement") is made as of this 1st day of July, 2014 (the "Effective Date") by and between **COUNTY OF CHARLESTON**, a body politic and corporate under the laws of the State of South Carolina (hereinafter "County") and **Charleston Animal Society**, a South Carolina organization, (hereinafter "Society"),

RECITALS:

WHEREAS, the Society constructed an animal shelter (or animal care campus) on approximately five acres of land that it owns in the County of Charleston ("Animal Shelter"); and

WHEREAS, the County deems it to be in the best interest of the citizens of Charleston County to enter an Agreement with the Society for the operation and administration of that Current Animal Shelter including prevention of, response to and disposition of abused, abandoned, unwanted and stray companion animals (canines and felines) and has had an ongoing agreement with the Society since 1979 for that purpose pursuant to numerous agreements throughout the years ("Current Agreement"); and

WHEREAS, the County enacted ordinance number 731, as amended from time to time, (Codified as County Code of Ordinances Section 3-1 et seq.) which designates the Society as the designated animal shelter for the County pursuant to SC Code Section 47-3-30; and

WHEREAS, the County and Society have agreed to consolidate their Current Agreement and to enter into a new agreement that will supersede and replace the previously referenced current agreement on the terms and conditions set forth herein;

NOW, THEREFORE, the parties to this Agreement, in consideration of these promises, the mutual covenants and conditions contained herein and other valuable consideration by each party hereto, do hereby agree to terminate the Current Agreement as of the Effective Date and covenant and agree as of the Effective Date as follows:

Article I. Services

Section 1.01 The Society shall have physical possession and control of the Current Animal Shelter and be responsible for ongoing maintenance of the building

Section 1.02 During the Term of this Agreement, the Society shall receive and provide for the humane disposition of dogs and cats running at-large, and such other animals as delivered into its custody by agents of Charleston County, agents of municipalities or by citizens of Charleston County exclusively which can be safely and adequately kept by the Society until time of disposition. In the case of large or

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exotic animals, or under unusual circumstances where the chief executive of the Society or his/her designee reasonably determines that an animal(s) cannot be adequately and safely housed at the shelter or the if the projected length of stay will adversely impact the animal's health as determined by the Society's veterinary staff, an animal control officer of the Charleston County Sheriff's Office (the "Animal Control Officer") or citizen will be so informed, and will be directed to take the animal to an appropriate subcontractor as described below.

The Society shall make good faith efforts to enter into subcontracts for the impoundment and care of animals which cannot be safely and adequately kept at the shelter. The County shall reimburse the Society for reasonable costs for a period of time no less required by State and local law.

Animal control officers will identify and document a verifiable physical street address for where the animal is picked up, by said officers, prior to delivering the animal to the Society. Animal control officers will make every reasonable effort, including scanning animals for microchips in the field, to return at-large animals to their owners prior to delivering them to the Animal Society. The Society shall immediately undertake a reasonable effort to notify the owners of properly tagged pets as set forth in Charleston County Code Section 3-5(b). The Society shall also follow the requirements of SC Code Section 47-3-55 regarding scanning for tattoos, microchips or similar devices.

Section 1.03 The Society shall immediately place animals accepted at the shelter in a suitable enclosure and care for said animals at the expense of the County as set forth in Section 1.12, for a period of time no less than that required by State and local law. Following the holding period, pursuant to County Code Section 3-5(c) and at the discretion of the Society, unless the animal must be kept pending disposition of a criminal or civil trial involving the animal or unless a hearing on the disposition of the animal is held prior to the trial, at-large animals and pets not redeemed under County Code Section 3-6 shall be provided with a disposition that is in the best interest of public health and safety, as determined by the Society in accordance with State law (may include euthanasia).

Section 1.04 If any animals delivered into the custody of the Society shall, in the opinion of the Society, be deemed ill or injured to such an extent that it would be inhumane to allow said animals to live, or be deemed a threat to the health and safety of the Society's staff, based on the animal's behavior, the Society shall have the right to dispose of the animals in a humane manner, in accordance with state law.

Section 1.05 The Society shall maintain suitable office hours for the convenience of the public and for the purpose of transacting business in connection with its duties under this Agreement.

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Section 1.06 The Society shall employ a competent and qualified agent for executing the responsibilities under this Agreement who shall report to the Board of Directors of the Society.

Section 1.07 The operation, supervision and management of the Animal Shelter shall be under the sole control of the Society; however, the County or its designated agents may at reasonable time enter in or upon the subject premises for purposes of inspection, observation and performance of an operational audit. Additionally, the Society shall designate an area for use of a computer, filing purposes, and other office related activities (office space) at the Society for the County's Animal Control Officers.

Section 1.08 Nothing herein shall impair the ability of the Society, at its discretion, to receive and provide for the humane disposition of dogs and cats running at-large, delivered into its custody by municipalities or citizens of the County of Charleston. Any fees or expenses paid to the Society from such municipalities covering services paid for by the County hereunder will be sent to the County in a timely manner; provided, however, that nothing in this section shall obligate the Society to negotiate with or bill municipalities for such services. Any fees collected from citizens, and any moneys collected by the Society as a result of fund-raising activities shall be the Society's sole money and not a set-off against fees to be paid by the County.

Section 1.09 The Society shall require sterilization of every dog and cat adopted from the shelter in accordance with South Carolina State Law.

Section 1.10 Pursuant to County Code Section 3-6, the Society shall require that all persons who wish to reclaim possession of an Animal delivered to the custody of the Society show proof that the Animal is currently inoculated against rabies and also pay redemption and boarding fees as set by law.

Section 1.11 The Society shall keep full and accurate financial and/or operational records on all animals delivered into its custody by the County and by municipalities and citizens, which records shall, among other information, include the date, place (specific street address), reason and manner whereby animals were brought into custody, together with a description of the animal and a record of its final disposition. All such records of the Society shall upon reasonable request by the County be made available to the County or its designated agents for auditing purposes.

Section 1.12 In consideration of the above-mentioned covenants of the Society, the County agrees to pay the Society a yearly fee as determined by Charleston County Council ("Yearly Fee"). The fees set forth herein will be evaluated on an annual basis and may be increased or decreased by agreement of the parties hereto. There shall not be an automatic annual adjustment of fees; however, the Society shall submit budget requests annually pursuant to the County's usual budget procedures. The County shall not be responsible for payment of costs of animals identified as not coming from Charleston County. The total amount that Charleston

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County shall pay in any one year for the humane care and disposition of at-large animals brought into the Society by citizens of Charleston County shall not exceed the amount approved annually in the County Budget ("Budgeted Amount"), said amount subject to modification at mid-year budget review. The Society will receive payments of 1/12 the annually approved amount in the County Budget, set by County Council, in monthly installments. Society is in charge of all aspects of managing the Animal Shelter, including but not limited to: maintaining strict compliance with all applicable local, state, and federal rules and regulations, managing the budget and diligently controlling all monetary aspects of the Society.

Article II. Management

Section 2.01 The parties agree the Society shall own, operate and maintain all aspects of the Animal Shelter (or animal care campus) located at 2455 Remount Road, North Charleston, South Carolina 29406.

Section 2.02 Financing. During the Term of this Agreement, any financing or sale of the Property by the Society must have prior approval from the County, which approval shall not be unreasonably withheld.

Article III. Default and Remedies

Section 3.01 Default. Any one of the following events shall be deemed a default and a breach of this Agreement, namely:

(a) If a party fails to observe or perform any of the terms, covenants or conditions of this Agreement, and such failure continues after the expiration of 30 days from the date the non-defaulting party gives written notice to the defaulting party calling attention to the existence of such failure, provided however, that if the defaulting party cannot reasonably correct the default within said 30 day period, the defaulting party shall be given a mutually agreeable period of time to correct the default; or

(b) If a party is declared bankrupt or insolvent by judicial decree; or

(c) If a party takes the benefit of any federal reorganization; or

(d) If a party makes a general assignment for benefit of creditors.

Section 3.02 Rights in Event of Default. In the event of any default by a party as herein provided, the non-defaulting party at any time thereafter, shall have the right to terminate this Agreement by giving the defaulting party written notice of such termination, whereupon, this Agreement shall be regarded as canceled as of the date of the non-defaulting party's termination notice and to pursue all other remedies available at law or equity.

Article IV. Miscellaneous

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Section 4.01 Assignment. Neither the Society nor the County may assign this Agreement or any of its rights or obligations hereunder without the other parties' written consent.

Section 4.02 Notices. All notices and other communications under this Agreement shall be in writing and shall be deemed duly given if personally delivered or if mailed by registered mail or certified mail, return receipt requested, first class, postage prepaid as follows:

If to the Society:
2455 Remount Road
North Charleston, SC 29406
Attn: Chief Executive Officer

If to the County:
Lonnie Hamilton, III Public Service Building
4045 Bridge View Drive
North Charleston, SC 29405
Attn: County Administrator

Lonnie Hamilton, III Public Service Building
4045 Bridge View Drive
North Charleston, SC 29405
Attn: Chief Financial Officer

The parties shall be responsible for notifying each other of any changes in address or contact person(s).

Section 4.03 Entire Agreement. This Agreement contains the entire agreement between the parties hereto. There are no promises, agreements, conditions, undertakings, warranties or representations, oral or written, express or implied, between them, other than as herein set forth.

Section 4.04 Integration. This Agreement is intended by the parties hereto to be an integration of all prior and contemporaneous promises, agreements, conditions, negotiations and undertakings between the parties hereto.

Section 4.05 Modification. This Agreement may not be modified orally or in any other manner than by an agreement in writing signed by all the parties hereto or their respective successors in interest.

Section 4.06 Partial Invalidity. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby (provided that neither party is substantially denied the benefit of its bargain hereunder), and each term, covenant, condition and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

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Section 4.07 Headings. The headings used in this Agreement are for reference and convenience only, and shall not enter into the interpretation hereof.

Section 4.08 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

Section 4.09 Gender. Whenever herein the singular number is used, the same shall include the plural, and the masculine in gender shall include the feminine and neuter genders, and vice versa, all as the context shall require.

Section 4.10 Application of Law. It is the intention of the parties hereto that all questions with respect to the construction of this Agreement and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of South Carolina.

Section 4.11 Binding Effect. Subject to the limitations set forth herein, all of the covenants, conditions and obligations contained in this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

Section 4.12 No Joint Venture. Nothing in this Agreement shall be interpreted or deemed to constitute County and the Society as partners or joint venturers in regard to the transactions contemplated in this Agreement, or in any aspect thereof.

Section 4.13 Delays. Neither party shall be responsible or liable, or deemed in breach hereof, to the extent the performance of their respective obligations hereunder are prevented or delayed due solely to circumstances beyond the reasonable control and without the fault or negligence of the party experiencing such impediment to performance, including but not limited to acts of God; unusually severe weather; flood, cyclone, hurricane, tornado, earthquake or other similar catastrophe; war, hostility or acts of a public enemy; riots; labor difficulties; fire, epidemics, quarantine restrictions; inability despite due diligence to obtain required licenses; fire; or other casualty for which such party claiming the Force Majeure is not responsible (such causes hereinafter called 'Force Majeure').

The party experiencing the Force Majeure shall exercise due diligence in endeavoring to overcome any Force Majeure impediment to its performance. The party experiencing the Force Majeure shall promptly give written notification to the other party. This written notification shall include a full and complete explanation of the Force Majeure and its cause, the status of the Force Majeure, and the actions such party is taking and proposes to take to overcome the Force Majeure. If performance by either party is delayed due to Force Majeure, the time for that performance shall be extended for a period reasonably necessary to overcome the effect of the delay.

Section 4.14 Termination. The County, by advance written notice, may terminate this Contract when it is in the best interests of the County. If this Contract is so terminated, the Society shall be compensated for all necessary and reasonable direct costs of performing the services actually accomplished. The Society will not be

compensated for any other costs in connection with a termination for convenience. The Society will not be entitled to recover any damages in connection with a termination for convenience.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CHARLESTON COUNTY

WITNESSES:

Kerry S. Badger

BY: K Bustraan for WK
,Its,
KEITH BUSTRAAN, DEP CO. ADMIN/CFO

CHARLESTON ANIMAL SOCIETY

Jay Huber

BY:
,Its,
JOE ELMORE, CEO

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EXHIBIT 6

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CHARLESTON ANIMAL SOCIETY

FINANCIAL REPORT

DECEMBER 31, 2018 and 2017

CHARLESTON ANIMAL SOCIETY

FINANCIAL REPORT

DECEMBER 31, 2018 and 2017

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DAVIS & COMPANY
CERTIFIED PUBLIC ACCOUNTANTS

INDEPENDENT AUDITORS' REPORT

To the Board of Directors
Charleston Animal Society
North Charleston, South Carolina

We have audited the accompanying financial statements of Charleston Animal Society which comprise the statements of financial position as of December 31, 2018 and 2017, and the related statements of activities, functional expenses and cash flows for the years then ended, and the related notes to the financial statements.

Management's Responsibility for the Financial Statements

Management is responsible for the preparation and fair presentation of these financial statements in accordance with accounting principles generally accepted in the United States of America; this includes the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

Auditors' Responsibility

Our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditors' judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. Accordingly, we express no such opinion. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Opinion

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Charleston Animal Society as of December 31, 2018 and 2017, and the changes in their net assets and their cash flows for the years then ended in accordance with accounting principles generally accepted in the United States of America.

Emphasis of Matter

As discussed in Note 1, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2016-14, Not for Profit Entities: Presentation of Financial Statements of Not-for-Profit Entities. The Society adopted ASU 2016-14 during the year ended December 31, 2018, and it was applied retrospectively. The adoption of this standard did not have any impact on the Society's net assets or changes in net assets. Our opinion is not modified with respect to this matter.

DCPAS, LLC dba Davis & Company CPAs
Mount Pleasant, South Carolina
March 18, 2019

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CHARLESTON ANIMAL SOCIETY
STATEMENTS OF FINANCIAL POSITION
AS OF DECEMBER 31, 2018 and 2017

ASSETS	2018	2017
CURRENT ASSETS		
Cash and cash equivalents, unrestricted	$ 1,695,766	$ 1,575,254
Accounts receivable	37,066	32,763
Bequests receivable	500,000	-
Contributions receivable, net	251,481	276,156
Prepaid expense	67,342	38,024
Inventories	135,618	97,881
Security deposits	15,311	-
Total current assets	2,702,584	2,020,078
PROPERTY AND EQUIPMENT		
Land	641,000	641,000
Property and equipment, net	8,942,038	9,109,958
Total property and equipment	9,583,038	9,750,958
INVESTMENTS, LONG TERM	7,669,408	8,193,920
OTHER ASSETS		
Beneficiary interest in perpetual trusts held by others	898,054	1,019,185
Total other assets	898,054	1,019,185
TOTAL ASSETS	$ 20,853,084	$ 20,984,141
LIABILITIES AND NET ASSETS		
CURRENT LIABILITIES		
Accounts payable and accrued expenses	$ 119,843	$ 143,204
Payroll related liabilities	130,065	200,452
Current portion of long term debt	115,781	112,317
Total current liabilities	365,689	455,973
LONG-TERM LIABILITIES		
Note payable	989,884	1,105,665
Total long-term liabilities	989,884	1,105,665
TOTAL LIABILITIES	1,355,573	1,561,638
NET ASSETS		
Without donor restrictions	4,685,943	4,275,197
Board designated - property fund	9,583,038	9,750,958
Board designated - working capital fund	500,000	500,000
Board designated - endowment fund	3,122,515	3,122,515
With donor restrictions	1,606,015	1,773,833
Total net assets	19,497,511	19,422,503
TOTAL LIABILITIES AND NET ASSETS	$ 20,853,084	$ 20,984,141

See accompanying notes.

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CHARLESTON ANIMAL SOCIETY
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2018

	Without Donor Restrictions	With Donor Restrictions	Total
SUPPORT AND REVENUES			
Contributions	$ 2,223,940	$ 766,251	$ 2,990,191
Resale contributions	108,446	-	108,446
Grants	967,161	5,500	972,661
In-kind contributions	457,586	-	457,586
Program and service	1,366,182	-	1,366,182
Government service contract	1,654,778	-	1,654,778
Special events, net $182,382 expense	492,176	-	492,176
Investment income, net of $93,988 in fees	233,689	-	233,689
Realized loss on investments	(58,244)	-	(58,244)
Unrealized loss on investments	(699,869)	-	(699,869)
Change in value of beneficiary interest	-	(121,131)	(121,131)
Bingo income	39,089	-	39,089
	6,784,934	650,620	7,435,554
Net assets released from restrictions	818,443	(818,443)	-
Total support and revenues	7,603,377	(167,823)	7,435,554
EXPENSES			
Program and services	5,725,802	-	5,725,802
Management	343,620	-	343,620
Fundraising	1,291,124	-	1,291,124
Total expenses	7,360,546	-	7,360,546
INCREASE (DECREASE) IN NET ASSETS	242,830	(167,818)	75,008
NET ASSETS, beginning of year	17,648,670	1,773,833	19,422,503
NET ASSETS, end of year	$ 17,891,500	$ 1,606,015	$ 19,497,511

See accompanying notes.

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CHARLESTON ANIMAL SOCIETY
STATEMENT OF ACTIVITIES
FOR THE YEAR ENDED DECEMBER 31, 2017

	Without Donor Restrictions	With Donor Restrictions	Total
SUPPORT AND REVENUES			
Contributions	$ 1,625,077	$ 833,234	$ 2,458,311
Grants	926,792	245,000	1,171,792
In-kind contributions	254,010	-	254,010
Program and service	1,338,761	-	1,338,761
Government service contract	1,425,000	-	1,425,000
Special events, net $322,228 expense	738,948	-	738,948
Investment income, net of $8,874 in fees	9,635	-	9,635
Realized gain on investments	307,861	-	307,861
Unrealized gain on investments	695,155	-	695,155
Change in value of beneficiary interest	-	75,241	75,241
Gain on sale of assets	5,925	-	5,925
Bingo income	31,577	-	31,577
	7,358,741	1,153,475	8,512,216
Net assets released from restrictions	1,052,398	(1,052,398)	-
Total support and revenues	8,411,139	101,077	8,512,216
EXPENSES			
Program and services	5,727,164	-	5,727,164
Management	265,649	-	265,649
Fundraising	1,055,236	-	1,055,236
Total expenses	7,048,049	-	7,048,049
INCREASE IN NET ASSETS	1,363,090	101,077	1,464,167
NET ASSETS, beginning of year	16,285,580	1,672,756	17,958,336
NET ASSETS, end of year	$ 17,648,670	$ 1,773,833	$ 19,422,503

See accompanying notes.

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CHARLESTON ANIMAL SOCIETY
STATEMENT OF FUNCTIONAL EXPENSES
FOR THE YEAR ENDED DECEMBER 31, 2018

	Program and Services	Manage-ment	Fund-raising	Total
COMPENSATION AND RELATED EXPENSES				
Salaries	$ 2,563,745	$ 272,541	$ 501,786	$ 3,338,072
Employee benefits	325,701	9,337	25,522	360,560
Payroll taxes	189,443	38,934	22,142	250,519
Total compensation and related expenses	3,078,889	320,812	549,450	3,949,151
OTHER EXPENSES				
Animal expenses	943,482	-	23,138	966,620
Public relations	112,808	-	531,197	644,005
Veterinary care expenses	309,032	-	-	309,032
Utilities	198,033	-	49,200	247,233
Building maintenance	111,512	-	-	111,512
Insurance	101,809	6,050	-	107,859
Computer and equipment	43,765	215	55,171	99,151
Bank fees	31,275	6,175	54,578	92,028
Contract services	53,520	-	-	53,520
Outreach expenses	51,978	-	-	51,978
Professional fees	48,795	-	2,417	51,332
Office expense	27,588	642	12,261	40,491
Education expenses	36,138	-	-	36,138
Employee training	23,832	3,661	8,254	35,747
Interest	35,486	-	-	35,486
Miscellaneous	20,972	6,065	5,160	32,197
Automobile	20,461	-	-	20,461
Travel and entertainment	2,401	-	298	2,679
TOTAL EXPENSES BEFORE DEPRECIATION	5,251,876	343,620	1,291,124	6,886,620
Depreciation	473,926	-	-	473,926
TOTAL FUNCTIONAL EXPENSES	$ 5,725,802	$ 343,620	$ 1,291,124	$ 7,360,546

See accompanying notes.

Page 1

IN THE COURT OF COMMON PLEAS
FOR THE STATE OF SOUTH CAROLINA
CHARLESTON COUNTY

VIDEO DEPOSITION OF BRODERICK CHRISTOFF
VOLUME II

CHARLESTON CARRIAGE WORKS, LLC,

Plaintiff,

vs CASE NO. 2018-CP-10-4083

CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY and CHARLESTON CARRIAGE HORSE ADVOCATES, INC.,

Defendants

DEPONENT BRODERICK CHRISTOFF

DATE MARCH 28, 2019

TIME 10:05 A.M.

LOCATION ROSEN HAGOOD
CHARLESTON, SC

REPORTED BY: RUTH L. MOTT, RPR, CRR
CLARK & ASSOCIATES, INC.
P.O. BOX 73129
CHARLESTON, SC 29415
843-762-6294
WWW.CLARK-ASSOCIATES.COM

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APPEARANCES

ON BEHALF OF PLAINTIFF

BELK, COBB, INFINGER & GOLDSTEIN
BY: TOMMY GOLDSTEIN
PO Box 71121
North Charleston, SC 29415

ON BEHALF OF DEFENDANT CHARLESTON ANIMAL SOCIETY

ROSEN HAGOOD
BY: ELIZABETH J. PALMER
151 Meeting Street, Suite 400
Charleston, SC 29402

ON BEHALF OF DEFENDANTS ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC.

HALL BOOTH SMITH
BY: SPENCER CRAIG
111 Coleman Boulevard
Suite 301
Mt. Pleasant, SC 29464

ROGERS LEWIS JACKSON MANN & QUINN
BY: JENKINS MANN (BY PHONE)
PO Box 11803
Columbia, SC 29211

THE VIDEOGRAPHER: MATTHEW STARLING

ALSO PRESENT

JOE ELMORE
ALDWIN ROMAN
ELLEN HARLEY (BY PHONE)

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as their spokesperson
Q Okay
A But I was the -- there was one seat on that committee for an industry representative and that was me
Q All right The next is going to be Exhibit 9, which I think you already --
THE WITNESS Oh, I'm sorry I was lost Did I answer your last question correctly?
Q Yes
A If we weren't on Exhibit 9, that's what I was talking about
Q We weren't yet, but that's fine
A All right Well
Q But the previous article also dealt with that committee and so no worries
A Well, the previous one is from 2011
Q Oh, yes, but it's -- we're going into this one We're good
A Okay
Q So this article is the August 23rd, 2016 concerning the heat index committee
A Okay
Q The quotes, it's not really quotes, but the -- the language attributed to you on that

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second page, do you believe all of that is -- that's accurately stated? Are these statements that you made? The paragraph starting Broderick Christoff and then the next paragraph starting he also said?
A Right Yup
Q Okay Did you say -- did you make these comments to a reporter or do you think these were taken from comments you made at a meeting?
A My guess, I don't really talk to reporters I don't like talking to reporters If I do, I usually issue written statements and they're usually long I don't -- this is probably comments taken from a meeting
Q Okay
A That would be my guess
Q The next one, which will be Exhibit 10
(Exhibit No. 10 marked for identification)
Q Is the December 14th, 2016 article, Charleston panel backs lower temperature limits for carriage tours The very last page there is just one sentence attributed to you
A Right
Q But Broderick Christoff of Charleston

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Carriage Works said the industry would be wary of participating in any study backed by an animal rights group
A Right
Q Again, do you recall if you said that to a reporter or in a meeting?
A I probably said that at the meeting
Q And the animal rights -- backed by an animal rights group, were you referring to Charleston Animal Society?
A No, I was referring to HSUS
Q What -- what's your beef with animal rights groups?
A Animal rights groups believe that -- that animals should have the same rights as people, but at the same time, they -- they don't believe that animals have any responsibility You can't have one without the other
There is a large movement in this country where people start animal welfare or rights nonprofits because they make a lot of money The large animal rights groups make hundreds of millions of dollars and have, oh, my gosh, 50-plus people, quarter-of-a-million-dollar-a-year salaries flying around and having meals and talking about

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animals I mean, it's big business, so
And I don't have a problem with people that want to advocate for animals I'm all -- I think it's -- some parts of what even the groups I don't like do are great, but there's a lot of parts of what they do that are not great, and scary, you know, and I don't -- I don't think the good necessarily mitigates the bad
But animal rights groups always have alternate agendas to what's really going on And a common tactic is advocacy or welfare as a disguise, so that's very common in that group
And it can be hard when you're the subject of their, you know, whatever they -- of their program or of their energy It can be hard sometimes to figure out which one they are
And true animal welfare groups would tell you that animal rights groups harm them, because that -- people -- some people can't tell whether they're one or the other You know, and HSUS is one of those groups that, you know, does a -- does a handful of good things, but they -- they do a lot of, you know, things that aren't on the level and a lot of things that have alternate agendas and they want carriage tours banned

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STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION TO COMPEL PLAINTIFF'S DISCOVERY RESPONSES**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

YOU WILL PLEASE TAKE NOTICE that within ten (10) days of the date of this Motion or as soon thereafter as counsel may be heard, the undersigned will move this Court for an Order pursuant to Rule 37 SCRCP compelling Plaintiff to produce discovery as follows:

1. Defendant Charleston Carriage Horse Advocates (CCHA) served its First Set of Interrogatories upon Plaintiff's counsel on December 20, 2018 (attached hereto as "Exhibit A"). Plaintiff has failed to sufficiently answer the following Interrogatories:

NO.	INTERROGATORY	PLAINTIFF'S ANSWER
12	For each act complained of in the Complaint, identify with specificity which acts occurred before the date CCHA registered with the South Carolina Secretary of State's office, January 3, 2107, and which acts occurred after the date of registration.	Plaintiff stated it could not provide an answer until CCHA answered discovery
13	Identify each and every alleged defamatory statement and/or representation made by or on behalf of CCHA . . .	Plaintiff claims it could not provide this information
14	For each statement and/or representation that you allege constitutes "materially false information" in Paragraph 6 of your Complaint, identity . . .	Plaintiff directed CCHA to No. 13 and stated it could not identify folks until CCHA answered discovery
15	Identify all "materially false information" that you allege CCHA published in Paragraph 8 of your Complaint, including . . .	Nonresponsive
16	For each and every false and misleading statement and/or representation that you alleged CCHA disseminated to **third parties**, provide . . .	Plaintiff directed CCHA to the discovery produced on a disc (but the disc contents fail to specifically identify the requested information in the ROG)

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17	For each and every false and misleading statement and/or representation that you allege CCHA disseminated to **governmental agencies**, provide . . .	Plaintiff directed CCHA to the discovery produced on a disc (but the disc contents fail to specifically identify the requested information in the ROG)
18	Identify with specificity all video statements that you allege CCHA edited to create false impressions.	Plaintiff directed CCHA to the discovery produced on a disc (but the contents of the disc fail to breakdown this information)
19	Identify each and every employee that you allege received a death and/or arson threat, including . . .	Plaintiff directed CCHA to the discovery produced on a disc (but the contents of the disc and reports produced do not provide the requested information)
28	Describe in detail how Plaintiff's use of its own property was "restricted" and/or "curtailed" by the City of Charleston.	Plaintiff claims it could not answer this interrogatory because it was vague
29	State with specificity the acts which constituted such recklessness, willfulness and wanton misconduct sufficient to raise the presumption of conscious indifference to the consequences that entitle you to recover punitive damages from CCHA.	Plaintiff claims the repeated publication of the false narrative that Big John died, collapsed and was worked to death and the blocking by commentators to publish the correct story that Big John fell (but no specific evidence is outlined as requested with specificity)
30	Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained.	Plaintiff directs CCHA to the charts it prepared but provides no itemization of damages and no supportive documentation
31	Set forth the calculation/qualifications of all economic loss damages claimed in the subject case.	Plaintiff directs CCHA to the charts it prepared but provides no itemization of damages and no supportive documentation

2. CCHA served its First Set of Requests for Production upon Plaintiff's counsel on December 20, 2018 (attached hereto as "Exhibit B"). Plaintiff has failed to produce part and/or all of the materials sought in the following Requests:

a. Request No. 1: Any and all documents or other materials relied upon, referred to or identified in your responses to CCHA's Interrogatories. According to Plaintiff's response, all documents in Plaintiff's possession regarding this case were produced to counsel via a compact disc. Additionally, tax returns for 2014 through 2018 were hand delivered and furnished by file share. Plaintiff identified personnel and payroll records in its Interrogatories; however, Plaintiff has not produced either to date. Additionally, Plaintiff has not produced any tax returns. The only tax returns received were produced by Plaintiff's accountant. Based on a review of those materials, it appears that tax returns for 2014 have not been produced.

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b. Request No. 6: A list of all individuals and entities from whom you or your attorney have sought and/or received tangible evidence related to this case. While Plaintiff's response indicates that all documents in its possession have been produced, Plaintiff objects to the production of a list of individuals that Plaintiff's counsel has talked to in preparation of the case asserting the attorney-work product privilege.

c. Request No. 11: Any and all records, receipts, bills, payment stubs, invoices, or any other documents claiming to be either a bill or expenses incurred by you or on your behalf related to the subject matter of this litigation. While Plaintiff's response indicates that all documents in its possession have been produced, Plaintiff's production does not appear to include any expenses associated with web-based managers and security systems as stated in its response. Additionally, Plaintiff has not provided copies of tax returns for 2014.

d. Request No. 28: Copies of any and all records generated to ensure compliance with all applicable ordinances and laws (i.e., schedules, excel spreadsheets, etc.) since 2013. According to Plaintiff's response, temperature logs are maintained for three full years. Plaintiff produced temperature logs for 2015, 2016 and 2017. Based on that production, the following temperature logs were missing (identified by date):

Temperature Logs	
January 2015	01.08.15 01.12.15 01.23.15
February 2015	02.02.15 02.19.15 02.20.15
June 2015	06.26.15
October 2015	10.17.15
November 2015	11.09.15
January 2016	01.01.16 01.02.16 01.03.16 01.04.16 01.24.16
February 2016	02.22.16
May 2016	05.20.16

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September 2016	09.02.16 09.06.16 09.14.16 09.16.16
December 2016	12.11.16 12.15.16

13 2016

e. Request No. 32: Copies of any and all records for each tour offered and/or provided since 2013. Plaintiff only produced tour logs for 2015, 2016 and 2017 and, from that production, the following tour logs were missing (identified by date):

Tour Schedules	
Q 1 2015	01.02.15 01.04.15 01.07.15 thru 01.09.15 01.11.15 & 01.12.15 01.15.15 thru 01.17.15 01.21.15 01.23.15 thru 01.25.15 01.27.15 & 01.28.15 02.01.15 thru 02.25.15 02.28.15 03.04.15 03.06.15 & 03.07.15 03.10.15 03.14.15 03.16.15 thru 03.18.15 03.20.15 thru 03.23.15 03.26.15
Q 2 2015	04.02.15 04.04.15 04.09.15 04.12.15 04.15.15 04.21.15 & 04.22.15 04.27.15 & 04.28.15 05.03.15 05.05.15 05.09.15 05.11.15 05.14.15 05.17.15 05.19.15 & 05.20.15 05.22.15 05.26.15 05.28.15 05.31.15 06.01.15 thru 06.22.15 06.26.15 06.29.15
Q 3 2015	07.02.15

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	07.06.15 07.08.15 07.11.15 07.14.15 & 07.15.15 07.19.15 07.21.15 07.23.15 07.25.15 07.27.15 07.28.15 08.03.15 thru 08.31.15 09.01.15 thru 09.17.15 09.21.15 09.24.15 & 09.25.15 09.28.15 & 09.29.15
Q 4 2015	10.01.15 thru 10.06.15 10.09.15 thru 10.13.15 10.21.15 10.23.15 10.26.15 thru 10.29.15 11.01.15 thru 11.03.15 11.06.15 thru 11.09.15 11.11.15 & 11.12.15 11.17.15 & 11.18.15 11.21.15 thru 11.23.15 11.26.15 11.28.15 thru 11.30.15 12.02.15 12.04.15 & 12.05.15 12.07.15 thru 12.25.15 12.30.15 & 12.31.15
Q 1 2016	01.01.16 01.03.16 & 01.04.16 01.08.16 01.12.16 & 01.13.16 01.15.16 01.18.16 & 01.19.16 01.22.16 01.24.16 thru 01.26.16 02.01.16 02.03.16 & 02.04.16 02.07.16 thru 02.24.16 02.29.16 03.01.16 03.03.16 & 03.04.16 03.08.16 03.11.16 03.13.16 & 03.14.16 03.18.16 03.24.16 03.26.16 & 03.27.16 03.31.16
Q 2 2016	04.01.16 04.03.16 04.05.16

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	04.11.16 04.17.16 thru 04.20.16 04.25.16 04.28.16 05.02.16 05.05.16 05.08.16 thru 05.19.16 05.21.16 & 05.22.16 05.26.16 05.28.16 05.30.16 06.05.16 thru 06.15.16 06.20.16 thru 06.22.16 06.26.16
Q 3 2016	07.03.16 & 07.04.16 07.06.16 07.10.16 07.17.16 07.23.16 & 07.24.16 07.26.16 thru 07.28.16 07.30.16 & 07.31.16 08.02.16 08.07.16 thru 08.09.16 08.12.16 08.14.16 thru 08.17.16 08.19.16 08.21.16 08.23.16 thru 08.31.16 09.01.16 thru 09.04.16 09.06.16 thru 09.16.16 09.18.16 09.21.16 thru 09.24.16 09.26.16 & 09.27.16 09.29.16
Q 4 2016	10.01.16 thru 10.15.16 10.17.16 10.20.16 10.22.16 thru 10.25.16 10.27.16 thru 10.29.16 10.31.16 11.01.16 thru 11.10.16 11.13.16 thru 11.18.16 11.22.16 thru 11.24.16 11.27.16 thru 11.30.16 12.01.16 thru 12.19.16 12.21.16 & 12.22.16 12.24.16 & 12.25.16 12.28.16 & 12.29.16
Q 1 2017	01.01.17 01.03.17 & 01.04.17 01.06.17 thru 01.31.17 02.01.17 thru 02.21.17 02.23.17 02.26.17 02.28.17 03.02.17

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	03.07.17 03.10.17 03.12.17 03.14.17 03.16.17 & 03.17.17 03.19.17 thru 03.26.17 03.28.17 & 03.29.17
Q 2 2017	04.03.17 & 04.04.17 04.07.17 & 04.08.17 04.13.17 04.16.17 thru 04.18.17 04.20.17 thru 04.25.17 04.27.17 & 04.28.17 04.30.17 05.01.17 thru 06.30.17

f. Request No. 50: Copies of any and all rolled-up financial records of Charleston Carriage Works since 2013, including but not limited to, tax returns; profit-and-loss statements; year-end financial statements; general ledgers; general journals; sales journals; and any other records Charleston Carriage Works, LLC used to record income and expenses since 2013. While Plaintiff's response indicates that all documents in its possession have been produced, Plaintiff did not provide financial records to the undersigned on June 24, 2019, as stated in its response . Additionally, Plaintiff has not provided copies of tax returns for 2014.

e. Finally, Plaintiff has failed to produce part and/or all of the materials sought in the Requests identified in the chart below. If Plaintiff is not in possession of these materials, CCHA has requested that Plaintiff confirm.

NO.	REQUEST FOR PRODUCTION
13	Any and all corporate governance documents
14	All records associated with the rental and/or lease of 20 Anson Street since 2013
15	All records associated with the option to purchase the 20 Anson Street since 2013
18	All records associated with 3033 Old Pond Road property since 2009
19	Documents associated with 3078 Murrywood Road since 2013
22	Any and all documents/contracts associated with SPEAK Strategic since 2013
27	Copies of any and all franchise agreements with the City of Charleston
31	Records associated with the cost and maintenance of equipment used in the management and operation of the business since 2013
33	Copies of any and all documents identifying passengers in the carriage on April 19, 2017
34	Copies of any and all documents identifying passengers in the carriage on Mary 25, 2017
35	Records demonstrating the costs associated with the care and maintenance of all horses
40	Feed schedules since 2013

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41	Any and all records associated with costs and care of hooves since 2013
47	Records to identify employees who worked on specific dates (i.e., payroll records) since 2013
49	Contact information for Amy Smith (witness who allegedly cancelled her tour as a result of the video)
51	Copies of tax returns filed on behalf of Broderick Christoff since 2013
53	Documents regarding month-to-month sales since 2013
54	Records showing the number of ticket sales since 2013
56	Records associated with donations provided by Plaintiff since 2013

3. On June 1, 2020, the undersigned contacted Plaintiff's counsel regarding deficiencies in Plaintiff's responses to CCHA's initial discovery requests (attached hereto as "Exhibit C").

4. On June 10, 2020, the undersigned contacted Plaintiff's counsel for a second time regarding Plaintiff's deficient discovery requests (attached hereto as "Exhibit D").

5. On June 25, 2020, the undersigned contacted Plaintiff's counsel for a third time regarding Plaintiff's deficient discovery responses (attached hereto as "Exhibit E").

6. On July 16, 2020, Plaintiff supplemented its responses to Requests for Production. However, Plaintiff's production failed to include any documents responsive to CCHA's June 2020 correspondence (attached hereto as "Exhibit F").[1] Additionally, Plaintiff's counsel's letter dated July 17, 2020, demonstrates Plaintiff's refusal to address the deficiencies cited in CCHA's June 2020 correspondence (attached hereto as "Exhibit G").

7. The discovery sought is relevant and/or is calculated to lead to the discovery of relevant evidence in this case.

8. As of the date of this Motion, Plaintiff has not provided sufficient discovery responses to CCHA's initial discovery requests.

Based on the foregoing, CCHA respectfully requests this Court order Plaintiff to provide sufficient responses CCHA's First Set of Interrogatories and Requests for Production of Documents as

[1] Plaintiff only produced documents received in response to a Town of Mt. Pleasant FOIA requests for Vendor Activity Reported related to Charleston Animal Society.

outlined herein above and award CCHA the costs and fees for pursuing this Order. Additionally, CCHA requests that a hearing be scheduled to allow for oral arguments to be presented by the parties.

Respectfully submitted this 17th day of August 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
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Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

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Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT A

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES, INC.'S INTERROGATORIES TO PLAINTIFF**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

Pursuant to Rule 33, SCRCP, you are required to respond to the following Interrogatories under oath and in writing within thirty (30) days from the date of service hereof.

INTERROGATORIES

1. Provide the names and addresses of persons known the parties or counsel to be witnesses concerning the facts of the case indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

2. Provide the names and addresses of all witnesses known to you or your attorney who have any relevant knowledge concerning the occurrences and claims set forth in your Complaint and designate which of these persons, if any, are expert witnesses and which of these persons, if any, were eyewitnesses.

3. For each witness identified in your response to Interrogatory No. 1, state whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

4. Identify each person you expect to call as an expert witness at the trial of this case and state the following:

(a) The subject matter on which the expert is expected to testify;
(b) The facts and opinions to which the expert is expected to testify and the factual basis for each;

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(c) Provide a summary of the grounds for each opinion;
(d) Identify the documents utilized by the expert in reaching such opinion; and
(e) All treatises relied upon by the expert in forming an opinion.

5. Provide the names, addresses and job titles of all current and former employees of Charleston Carriage Works, LLC since 2013. Include a summary of their education, the tasks perform for Charleston Carriage Works, LLC, and their experience in working with horses.

6. Provide the nicknames, registered names, and microchip numbers of all horses under the care, custody, and/or control of Charleston Carriage Works, LLC since 2013.

7. For each and every horse identified in your response to Interrogatory No. 6, provide the names and address of all prior owners from whom Charleston Carriage Works, LLC has purchased horses, the amount paid for each horse, and the current location of each horse (regardless of whether the horse is still in the custody of Charleston Carriage Works, LLC).

8. For each and every horse identified in your response to Interrogatory No. 6, provide the name and contact information of the current owner for each horse returned, sold and/or donated by Charleston Carriage Works, LLC.

9. For each horse identified in your response to Interrogatory No. 6 that is deceased, provide the date and manner of death for said horse, and identify the person who had custody and/or control of the horse upon the date of death.

10. For each and every horse identified in your response to Interrogatory No. 6, provide the names and addresses of all horse health care providers including, but not limited to, veterinarians, veterinarian technicians, chiropractors, equine dentists, massage therapists, dermatologists, and any other specialists since 2013.

11. Provide the names and addresses of all farriers who have provided equine hoof care including, but not limited to, the trimming and balancing of hooves and the placing and/or removal of shoes, for the horses of Charleston Carriage Works, LLC since 2013.

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12. For each act complained of in the Complaint, identify with specificity which acts occurred before the date Charleston Carriage Horse Advocates registered with the South Carolina Secretary of State's office, January 3, 2017, and which acts occurred after the date of registration.

13. Identify each and every alleged defamatory statement and/or representation made by or on behalf of CCHA including:

(a) The names of the persons making the allegedly defamatory statement and/or representation;
(b) The dates and times the allegedly defamatory statement and/or representation was made;
(c) The exact language and context of the allegedly defamatory statement and/or representation; and
(d) To whom, or in whose presence, the allegedly defamatory statement and/or representation was made.

14. For each statement and/or representation that you allege constitutes "materially false information" in Paragraph 6 of your Complaint, identify:

(a) The names of the persons making the allegedly defamatory statement and/or representation;
(b) The dates and times the allegedly defamatory statement and/or representation was made;
(c) The exact language and context of the allegedly defamatory statement and/or representations; and
(d) To whom, or in whose presence, the allegedly defamatory statement and/or representation was made.

15. Identify all "materially false information" that you allege CCHA published in Paragraph 8 of your Complaint, including:

(a) The names of the persons who allegedly published the "materially false information";
(b) The dates and times the "materially false information" was allegedly published;
(c) The exact language and context of the "materially false information" that was allegedly published; and
(d) The medium in which the "materially false information" was published.

16. For each and every false and misleading statement and/or representation that you allege CCHA disseminated to third parties, provide:

(a) The names of the persons who allegedly disseminated false and misleading information;
(b) The dates and times the false and misleading information was allegedly disseminated;
(c) The exact language and context of the false and misleading information that was allegedly disseminated;
(d) The medium in which the false and misleading information was allegedly disseminated; and

(e) The names of the third-party recipients who allegedly received false and misleading information.

17. For each and every false and misleading statement and/or representation that you allege CCHA disseminated to governmental agencies, provide:

(a) The names of the persons who allegedly disseminated false and misleading information;
(b) The dates and times the false and misleading information was allegedly disseminated;
(c) The exact language and context of the false and misleading information that was allegedly disseminated;
(d) The medium in which the false and misleading information was allegedly disseminated; and
(e) The names of persons and their respective governmental agencies that allegedly received false and misleading information.

18. Identify with specificity all video statements that you allege CCHA edited to create false impressions.

19. Identify each and every employee that you allege received a death and/or arson threat, including:

(a) The names of the persons who allegedly made the threat;
(b) The dates and times the alleged threat was made;
(c) The exact language and context of the alleged threat; and
(d) If reported, the dates and times the alleged threat was reported to authorities.

20. Identify each and every employee that you allege was harassed by the CCHA, including:

(a) The names of the persons who allegedly harassed the employees;
(b) The dates and times the alleged harassment occurred;
(c) The specific facts upon which you base each such allegation of harassment; and
(d) If reported, the dates and times the alleged harassment was reported to authorities.

21. State whether you have been cited for violating any city ordinance, local, state and/or federal laws since 2013 and, if so, provide the dates of each citation.

22. State whether any of the horses identified in your response to Interrogatory No. 6 have ever been diagnosed and/or treated for exhaustion and/or dehydration since 2013 and, if so, provide the names of said horses.

23. State whether Charleston Carriage Works, LLC adheres to a hydrating and/or cooling regimen and, if so, describe the process for how said regiment is implemented.

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24. Describe in detail the measures Charleston Carriage Works, LLC uses to monitor and regulate body temperatures of its horses.

25. State whether Charleston Carriage Works, LLC adheres to a feeding regimen and, if so, describe the process for how said regiment is implemented.

26. State whether any of the horses identified in your response to Interrogatory No. 6 have ever received nutritional and/or dietary supplements since 2013 and, if so, identify the supplement and provide the names of the horses receiving said supplement.

27. Describe in detail the "regulatory scheduled time off" each horse receives as described on your website.

28. Describe in detail how Charleston Carriage Works, LLC's use of its own property was "restricted" and/or "curtailed" by the City of Charleston.

29. State with specificity the acts which constituted such recklessness, willfulness and wanton misconduct sufficient to raise the presumption of conscious indifference to the consequences that entitle you to recover punitive damages from CCHA.

30. Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained.

31. Please set forth the calculation/quantifications of all economic loss damages claimed in the subject case.

These Interrogatories shall be deemed continuing so as to require you to supplement your answers if the parties or any representative or counsel obtain further information between the time your answers are served and the time of trial.

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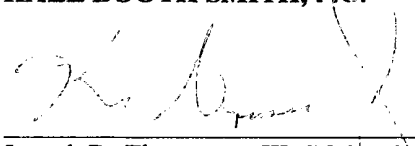
Respectfully Submitted,

HALL BOOTH SMITH, P.C.



Joseph D. Thompson, III, SC Bar No. 66580
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Jenkins M. Mann, Esq.
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Columbia, South Carolina 29201
Phone: 803-978-2831

Attorneys for Defendants Ellen Harley and Charleston Carriage Horse Advocates, Inc.

December 20, 2018

Charleston, South Carolina

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ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **Defendant Charleston Horse Advocates, Inc.'s Interrogatories to Plaintiff** upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

Thomas R. Goldstein, Esq.
Belk, Cobb, Infinger & Goldstein, PA
Post Office Box 71121
Charleston, SC 29415-1121

Attorneys for Plaintiff

Elizabeth Palmer, Esq.
Rosen Hagood
151 Meeting Street
Suite 400
Charleston, SC 29401

Attorneys for Defendant Charleston Animal Society

This 20th day of December 2018.

HALL BOOTH SMITH, PC

By: Penny Davis
Penny Davis, Legal Assistant to
Joseph D. Thompson, III and
K. Spencer Craig
Email: psdavis@hallboothsmith.com

66563022-1

Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT B

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES, INC.'S REQUESTS FOR PRODUCTION TO PLAINTIFF**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

TO: THOMAS R. GOLDSTEIN, ESQ., ATTORNEY FOR PLAINTIFF

Pursuant to Rule 34, SCRCP, you are required to produce the materials requested below to Hall Booth Smith, P.C., located at 111 Coleman Blvd., Suite 301, Mt. Pleasant, South Carolina, 29464, within thirty (30) days from the date of service hereof.

REQUESTS FOR PRODUCTION

1. Any and all documents or other materials relied upon, referred to, or identified in your responses to CCHA's Interrogatories.

2. Any correspondence or memorandum written to, or received from CCHA, in any way related to the allegations contained in your Complaint, either by you or on your behalf.

3. Any correspondence made by or on your behalf with any local, state and/or federal agencies related to the allegations contained in your Complaint.

4. Any and all diaries, journals, or other written entries that memorialize in any way the facts and circumstances at issue or any allegations contained in your Complaint.

5. Any and all statements made by witnesses concerning the occurrences in question, including any written statement signed or otherwise adopted or approved, and any stenographic, mechanical, electrical or other such recording or transcription therefor.

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6. A list of all individuals and entities from whom you or your attorney have sought and/or received tangible evidence related to this case.

7. All curriculum vitae for all expert witnesses identified by you, along with any and all written reports or opinions as to said expert's review of the case.

8. Any and all photographs, movies, videotapes or other pictorial representations that have been taken in connection with the with this case or in connection with the damages alleged in this action.

9. Any and all documentary, physical, or tangible evidence tending in any way to support your claims or contentions.

10. Any and all investigations conducted by you or on your behalf in connection with the occurrences in question that were not done in anticipation of litigation.

11. Any and all records, receipts, bills, payment stubs, invoices, or any other document claiming to be either a bill or expense incurred by you or on your behalf related to the subject matter of this litigation.

12. All correspondence between or among Charleston Carriage Works, LLC, its agents, employees, owners, or officers and City of Charleston elected officials and employees since 2013.

13. Copies of any and all corporate governance documents for Charleston Carriage Works, LLC (regardless of whether same have been filed with the State) since 2013.

14. Copies of any and all records associated with the rental and/or lease for use of the property commonly known as 20 Anson Street, including but not limited to, correspondence, rental agreements, lease agreements, asset purchase agreements, draft proposals, addendums, memorandums, exhibits, payments, invoices, billing statements, ledgers, and any other documents related to the subject property since 2013.

15. Copies of any and all records associated with the option to purchase the real property commonly known as 20 Anson Street, including but not limited to, correspondence, offers, counteroffers, agreements, contracts, draft proposals, addendums, memorandums, exhibits, appraisals, financing, and any other documents related to the subject property since 2013.

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16. Any and all drawings, sketches, plats, photographs, videotapes or other pictorial representations that have been taken of the real property commonly known as 20 Anson Street, including any structures affixed thereto, since 2013.

17. Copies of any and all corporate governance documents for Thirty Thirty-Three, LLC (regardless of whether same have been filed with the State) since 2009.

18. Copies of any and all records associated with the property commonly known as 3033 Old Pond Road, Johns Island, including but not limited to, correspondence, rental agreements, lease agreements, contracts, payments, invoices, billing statements, ledgers, and any other documents related to the property since 2009.

19. Copies of any and all records associated with the property commonly known as 3078 Murrywood Road, Johns Island, including but not limited to, correspondence, rental agreements, lease agreements, contracts, draft proposals, addendums, memorandums, payments, invoices, billing statements, ledgers, and any other documents related to the subject property since 2013.

20. Any and all drawings, sketches, plats, photographs, videotapes or other pictorial representations that have been taken of the real property commonly known as 3078 Murrywood Road, including any structures affixed thereto, since 2013.

21. Copies of any and all records associated with Charleston C.A.R.E.S., its agents and members, including but not limited to, correspondence, agreements, contracts, meetings, practice standards, publications, memberships, donations, funding, invoices, billing statements, ledgers, and any other documents related to the operation and management of Charleston C.A.R.E.S. since 2017.

22. Copies of any and all records associated with SPEAK Strategic, including but not limited to, correspondence, agreements, contracts, meetings, publications, invoices, billing statements, itemized statements for services, ledgers, and any other documents related to SPEAK Strategic since 2013.

23. Any and all complaints made to any governmental agency concerning the operation and management of Charleston Carriage Works, LLC since 2013.

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24. Any and all citations, tickets and/or fines received as a result of violating any city ordinances, local, state and/or federal laws since 2013.

25. Any and all statements, internal reports, Equine Management Reports, and Tour Vehicle Incident/Accident Reports completed since 2013 (regardless of whether same were submitted to the City of Charleston).

26. Copies of any and all records associated with the inspection of the facilities, horses, equipment, operations, and management of Charleston Carriage Works, LLC since 2013.

27. Copies of any and all franchise agreements with the City of Charleston.

28. Copies of any and all records generated to ensure compliance with all applicable ordinances and laws (i.e., schedules, excel spreadsheets, etc.) since 2013.

29. Copies of all Certificates of Appropriateness since 2013.

30. Copies of any and all records showing the weight of the carriages since 2013.

31. Copies of any and all records associated with the costs, purchase, and maintenance of all equipment used in the management and operation of the business, including but not limited to, registration fees, titles, proof of insurance, bill of sale, repairs, invoices, billing statements, and any other related documents since 2013.

32. Copies of any and all records for each tour offered and/or provided since 2013.

33. Copies of any and all credit card receipts, reimbursements and any other documents revealing the identity of the passengers in the carriage on April 19, 2017.

34. Copies of any and all credit card receipts, reimbursements and any other documents revealing the identity of the passengers in the carriage on May 25, 2017.

35. Copies of any and all records demonstrating the costs associated with the care and maintenance of all horses, including but not limited to, boarding, stall mats and shavings, feed, supplements, hay, and any other related items since 2013.

36. Copies of all Certificates of Serviceability for each horse since 2013.

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37. Copies of any and all correspondence, photos, videos, contracts, agreements, and any other documents provided for the purpose of selling horses to Charleston Carriage Works, LLC.

38. Copies of any and all records maintained for each horse that was leased, purchased, sold, donated, and/or under the care and control of Charleston Carriage Works, LLC for any amount of time since 2013.

39. Copies of any and all records associated with the costs and purchase of each horse, including but not limited to, transportation, registration fees, bill of sale, and any other related documents since 2013.

40. Copies of any and all documents or logs that record the work, service, or care of each horse in the custody, possession, or control of Charleston Carriage Works, LLC since 2013, including but not limited to, feed schedules, temperature logs, work logs, and rotation logs.

41. Any and all records associated with the costs and care of hooves for each horse, including but not limited to, farriers, schedules, treatment, invoices, and any other related documents since 2013.

42. Any and all documents which support your assertion that other cities permit 16 or more passengers in carriages pulled by horses.

43. Any and all records related to workers' compensation, including but not limited to, applications, claims and coverage since 2013.

44. Any and all documents associated with arson threats, including but not limited to, correspondence, e-mails, voicemails, social media posts, police reports, and any other evidence in support of the alleged threats since 2013.

45. Any and all documents associated with death threats, including but not limited to, correspondence, e-mails, voicemails, social media posts, police reports, and any other evidence in support of the alleged threats since 2013.

46. Copies of any and all records related to former and current employees of Charleston Carriage Works, LLC since 2013.

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47. Copies of any and all records identifying employees who worked on specific dates and times, including but not limited to, employee schedules, time punches, payroll, and any other related documents since 2013.

48. Any and all contact information for Gabby Byrd.

49. Any and all contact information for Amy Smith.

50. Copies of any and all rolled-up financial records of Charleston Carriage Works, LLC since 2013, including but not limited to, tax returns; profit-and-loss statements; year-end financial statements; general ledgers; general journals; sales journals; and any other records Charleston Carriage Works, LLC used to record income and expenses since 2013.

51. Copies of all tax returns filed on behalf of Broderick Christopher since 2013, including all schedules affixed thereto.

52. Copies of any and all documents provided to Hinske & Clarey in preparing your individual taxes as well as taxes for Charleston Carriage Works, LLC since 2013.

53. Documents sufficient to identify Charleston Carriage Works, LLC's month-to-month sales since 2013.

54. Copies of any and all records documenting the quantity of ticket sales since 2013.

55. Copies of any and all records in support of your assertion that additional monies were spent on the business, such as marketing/ advertising, as a result of the events alleged in your Complaint.

56. Copies of any and all records associated with donations provided by Charleston Carriage Works, LLC since 2013.

57. Any and all financial information provided to lenders to secure loans since 2013.

58. Copies of any and all deposition, hearing, and trial transcripts in your possession from other lawsuits filed against and/or on behalf of Charleston Carriage Works, LLC since 2013.

59. Any and all documents obtained by the parties via subpoenas duces tecum and/or Freedom of Information Act (FOIA) requests.

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60. Copies of any and all documents of any kind that you intend to use as an exhibit at the trial of this case including, but not limited to, for the purposes of impeachment.

Respectfully Submitted,

HALL BOOTH SMITH, P.C.

Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
Email: scraig@hallboothsmith.com
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Columbia, South Carolina 29201
Phone: 803-978-2831

Attorneys for Defendants Ellen Harley and Charleston Carriage Horse Advocates, Inc.

December 20, 2018

Charleston, South Carolina

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ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the **Defendant Charleston Horse Advocates, Inc's Requests for Production to Plaintiff** upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

Thomas R. Goldstein, Esq.
Belk, Cobb, Infinger & Goldstein, PA
Post Office Box 71121
Charleston, SC 29415-1121

Attorneys for Plaintiff

Elizabeth Palmer, Esq.
Rosen Hagood
151 Meeting Street
Suite 400
Charleston, SC 29401

Attorneys for Defendant Charleston Animal Society

This 20th day of December 2018.

HALL BOOTH SMITH, PC

By: _____
Penny Davis, Legal Assistant to
Joseph D. Thompson, III and
K. Spencer Craig
Email: psdavis@hallboothsmith.com

66563033-1

Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT C

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ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Veronica Benson

From: Spencer Craig Gill <sgill@hallboothsmith.com>
Sent: Monday, June 1, 2020 1:59 PM
To: tgoldstein@cobblaw.net
Cc: Joseph Thompson, III; Jenkins Mann
Subject: CCW Re: Deficient Discovery Responses [IWOV-chdms.FID50908]

Tommy:

Below please find a list of Interrogatories and Requests for Production that we have identified as being deficient.

Deficient Interrogatories:

NO.	INTERROGATORY	NOTES
12	For each act complained of in the Complaint, identify with specificity which acts occurred before the date CCHA registered with the SC Secretary of State's office, January 3, 2107, and which acts occurred after the date of registration.	Plaintiff stated it could not provide an answer until defendant answered discovery.
13	Identify each and every alleged defamatory statement and/or representation made by or on behalf of CCHA . . .	Plaintiff claims he could not provide this information (however, in the deposition Plaintiff claims that all defamatory statements have been produced)
14	For each statement and/or representation that you allege constitutes "materially false information" in Paragraph 6 of your Complaint, identity . . .	Plaintiff directed CCHA to No. 13 and stated he could not identify folks until CCHA answered discovery.
15	Identify all "materially false information" that you allege CCHA published in Paragraph 8 of your Complaint, including . . .	Nonresponsive
16	For each and every false and misleading statement and/or representation that you alleged CCHA disseminated to **third parties**, provide . . .	Plaintiff directed CCHA to the disc provided (but the disc contents fails to specifically identify the requested information in the ROG)
17	For each and every false and misleading statement and/or representation that you alleged CCHA disseminated to **governmental agencies**, provide . . .	Plaintiff directed CCHA to the disc provided (but the disc contents fails to specifically identify the requested information in the ROG)
18	Identify with specificity all video statements that you allege CCHA edited to create false impressions.	Plaintiff directed CCHA to the disc provided (but the contents of the disc fail to breakdown this information)
19	Identify each and every employee that you allege received a death and/or arson threat, including . . .	Plaintiff directed CCHA to the disc provided (but the contents of the disc and reports produced to not provide the requested information – plus Plaintiff could not identify any of these folks by name in his deposition)
28	Describe in detail how Plaintiff's use of its own property was "restricted" and/or "curtailed" by the City of Charleston.	Plaintiff claims he could not answer this interrogatory b/c it was vague
29	State with specificity the acts which constituted such recklessness, willfulness and wanton misconduct sufficient to raise the presumption of conscious indifference to the consequences that entitle you to recover punitive damages from CCHA.	Plaintiff claims the repeated publication of false narrative that Big John died, collapsed and was worked to death and the blocking by commentators to publish the correct story that Big Jon fell (but no specific evidence is outlined as requested with specificity)
30	Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained.	Plaintiff directs CCHA to the charts Brody prepared but provides no itemization of damages and no supportive documentation.
31	Set forth the calculation/qualifications of all economic loss damages claimed in the subject case.	Plaintiff directs CCHA to the charts Brody prepared but provides no itemization of damages and no supportive documentation.

Deficient Requests for Production:

- No. 1: Produce personnel records and payroll records (which were documents identified in Plaintiff's Interrogatories)
- No. 6: Please confirm that all witnesses have been identified (conflicts with Interrogatory No. 1)
- No. 11: All receipts, bills payment stubs, invoices and any other documents claiming to be a bill or expense incurred by Plaintiff related to the subject of this litigation. If Plaintiff is not in possession of any documents responsive to this request (other than those produced by his accountant), please confirm.
    - Documents Produced by Plaintiff's Accountant at Deposition (for reference):
        - Exhibit 1: 2014 Summary of Accounts, Payroll Analysis, Expenses, Etc.
        - Exhibit 2: 2015 Summary of Accounts, Payroll Analysis, Etc.
        - Exhibit 3: 2016 Summary of Accounts, Payroll Analysis, Expenses, Etc.
        - Exhibit 4: 2017 Summary of Accounts, Payroll Analysis, Expenses, List of Horses, Etc.
        - Exhibit 5: 2018 Summary of Accounts, Horse List, Payroll Analysis, Etc.
        - Exhibit 6: Tax Asset Detail (01.01.18 thru 12.31.18)
        - Exhibit 7: Power of Attorney and Declaration of Representative
        - Exhibit 8: 2015 Tax Return
        - Exhibit 9: 2016 Tax Return
        - Exhibit 10: 2017 Tax Return
        - Exhibit 11: 2018 Tax Return
- No. 13: Plaintiff has not produced any corporate government documents related to Charleston Carriage Works
    - States Articles of Incorporation are attached but they were not attached
- Nos. 14-15: Copies of any and all records associated with the rental and lease for use of the barn property as well records associated with the option to purchase
- No. 18: Produce contracts, billing statements, etc. associated with the 3033 Old Pond Road property

- **Please confirm that Plaintiff is not in possession of the following documents**:

    - No. 19: Documents associated with 3078 Murrywood Road (place where horses kept in rotation)
    - No. 22: Contract with SPEAK Strategic
    - No. 27: Franchise agreement
    - No. 31: Records associated with the cost and maintenance of equipment used in the management and operation of the business
    - Nos. 33-34: Credit card receipts for passengers on April 19. 2017 and May 25, 2017 (contrary to deposition testimony)
    - No. 35: Records demonstrating the costs associated with the care and maintenance of all horses
    - No. 40: Feed schedules
    - No. 41: Farrier documentation
    - No. 47: Records to identify employees who worked on specific dates (what about payroll records)
    - No. 49: Contact information for Amy Smith (witness who allegedly cancelled her tour as a result of the video)
    - No. 50: Plaintiff claims all financial records for the business were produced by the accountant
    - No. 51: Copies of tax returns filed on behalf of Brody
    - No. 53: Documents re: month-to-month sales are all maintained by the City of Charleston
    - No. 54: Records showing the number of ticket sales since 2013
    - No. 56: Records associated with donations

- No. 28: Requested temperature logs since 2013. Plaintiff only produced temperature logs for 2015, 2016, 2017. The following logs were missing (identified by date):

Temperature Logs	
January 2015	01.08.15 01.12.15 01.23.15
February 2015	02.02.15 02.19.15 02.20.15
March 2015	
April 2015	
May 2015	
June 2015	06.26.15
July 2015	

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August 2015	
September 2015	
October 2015	10.17.15
November 2015	11.09.15
December 2015	
January 2016	01.01.16 01.02.16 01.03.16 01.04.16 01.24.16
February 2016	02.22.16
March 2016	
April 2016	
May 2016	05.20.16
June 2016	
July 2016	
August 2016	
September 2016	09.02.16 09.06.16 09.14.16 09.16.16
October 2016	
November 2016	
December 2016	12.11.16 12.15.16
January 2017	
February 2017	
March 2017	
April 2017	
May 2017	

- No. 32: Plaintiff did not provide copies of all records for all tours offered since 2013. Plaintiff only produced tour logs for 2015, 2016, 2017. The following logs were missing (identified by date):

Tour Schedules	
Q 1 2015	01.02.15 01.04.15 01.07.15 thru 01.09.15 01.11.15 & 01.12.15 01.15.15 thru 01.17.15 01.21.15 01.23.15 thru 01.25.15 01.27.15 & 01.28.15 02.01.15 thru 02.25.15 02.28.15 03.04.15 03.06.15 & 03.07.15 03.10.15 03.14.15 03.16.15 thru 03.18.15 03.20.15 thru 03.23.15 03.26.15
Q 2 2015	04.02.15 04.04.15 04.09.15 04.12.15 04.15.15

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	04.21.15 & 04.22.15 04.27.15 & 04.28.15 05.03.15 05.05.15 05.09.15 05.11.15 05.14.15 05.17.15 05.19.15 & 05.20.15 05.22.15 05.26.15 05.28.15 05.31.15 06.01.15 thru 06.22.15 06.26.15 06.29.15
Q 3 2015	07.02.15 07.06.15 07.08.15 07.11.15 07.14.15 & 07.15.15 07.19.15 07.21.15 07.23.15 07.25.15 07.27.15 07.28.15 08.03.15 thru 08.31.15 09.01.15 thru 09.17.15 09.21.15 09.24.15 & 09.25.15 09.28.15 & 09.29.15
Q 4 2015	10.01.15 thru 10.06.15 10.09.15 thru 10.13.15 10.21.15 10.23.15 10.26.15 thru 10.29.15 11.01.15 thru 11.03.15 11.06.15 thru 11.09.15 11.11.15 & 11.12.15 11.17.15 & 11.18.15 11.21.15 thru 11.23.15 11.26.15 11.28.15 thru 11.30.15 12.02.15 12.04.15 & 12.05.15 12.07.15 thru 12.25.15 12.30.15 & 12.31.15
Q 1 2016	01.01.16 01.03.16 & 01.04.16 01.08.16 01.12.16 & 01.13.16 01.15.16 01.18.16 & 01.19.16 01.22.16 01.24.16 thru 01.26.16 02.01.16 02.03.16 & 02.04.16 02.07.16 thru 02.24.16 02.29.16

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	03.01.16 03.03.16 & 03.04.16 03.08.16 03.11.16 03.13.16 & 03.14.16 03.18.16 03.24.16 03.26.16 & 03.27.16 03.31.16
Q 2 2016	04.01.16 04.03.16 04.05.16 04.11.16 04.17.16 thru 04.20.16 04.25.16 04.28.16 05.02.16 05.05.16 05.08.16 thru 05.19.16 05.21.16 & 05.22.16 05.26.16 05.28.16 05.30.16 06.05.16 thru 06.15.16 06.20.16 thru 06.22.16 06.26.16
Q 3 2016	07.03.16 & 07.04.16 07.06.16 07.10.16 07.17.16 07.23.16 & 07.24.16 07.26.16 thru 07.28.16 07.30.16 & 07.31.16 08.02.16 08.07.16 thru 08.09.16 08.12.16 08.14.16 thru 08.17.16 08.19.16 08.21.16 08.23.16 thru 08.31.16 09.01.16 thru 09.04.16 09.06.16 thru 09.16.16 09.18.16 09.21.16 thru 09.24.16 09.26.16 & 09.27.16 09.29.16
Q 4 2016	10.01.16 thru 10.15.16 10.17.16 10.20.16 10.22.16 thru 10.25.16 10.27.16 thru 10.29.16 10.31.16 11.01.16 thru 11.10.16 11.13.16 thru 11.18.16 11.22.16 thru 11.24.16 11.27.16 thru 11.30.16 12.01.16 thru 12.19.16 12.21.16 & 12.22.16 12.24.16 & 12.25.16 12.28.16 & 12.29.16
Q 1 2017	01.01.17

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	01.03.17 & 01.04.17 01.06.17 thru 01.31.17 02.01.17 thru 02.21.17 02.23.17 02.26.17 02.28.17 03.02.17 03.07.17 03.10.17 03.12.17 03.14.17 03.16.17 & 03.17.17 03.19.17 thru 03.26.17 03.28.17 & 03.29.17
Q 2 2017	04.03.17 & 04.04.17 04.07.17 & 04.08.17 04.13.17 04.16.17 thru 04.18.17 04.20.17 thru 04.25.17 04.27.17 & 04.28.17 04.30.17 05.01.17 thru 06.30.17

- Finally, please provide us with a copy of the ShareFile link sent to Beth on June 24, 2019 re: Tax Returns.

As always, please let us know if you have any questions.

Many thanks,

Spencer

Spencer Craig Gill

Hall Booth Smith, P.C.
111 Coleman Boulevard
Suite 301
Mount Pleasant, SC 29464

D: 843.720.3468 C: 803.230.3695
O: 843.720.3460 F: 843.606.6536
sgill@hallboothsmith.com www.hallboothsmith.com

Until further notice, many attorneys and support staff in our office will be working remotely. To help us with this process, please refrain from sending written correspondence via mail when possible and instead direct all communications to us via email. If something requires shipment to our office, please notify us via email so that it can be promptly addressed.

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Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT D

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Veronica Benson

From: Spencer Craig Gill <sgill@hallboothsmith.com>
Sent: Wednesday, June 10, 2020 10:08 AM
To: tgoldstein@cobblaw.net
Cc: Joseph Thompson, III; Jenkins Mann; Diane Rice
Subject: CCW Re: Deficient Discovery Responses [IWOV-chdms.FID50908]

Tommy:

I hope you are doing well. Please provide us with an update on the below. Additionally, what is the status of your search terms and the proposed consent order discussed?

Many thanks,

Spencer

Spencer Craig Gill

Hall Booth Smith, P.C.
111 Coleman Boulevard
Suite 301
Mount Pleasant, SC 29464

D: 843.720.3468 C: 803.230.3695
O: 843.720.3460 F: 843.606.6536
sgill@hallboothsmith.com www.hallboothsmith.com

From: Spencer Craig Gill <sgill@hallboothsmith.com>
Sent: Monday, June 01, 2020 1:59 PM
To: tgoldstein@cobblaw.net
Cc: Joseph Thompson, III <JThompson@hallboothsmith.com>; Jenkins Mann <jmann@rogerslewis.com>
Subject: CCW Re: Deficient Discovery Responses [IWOV-chdms.FID50908]

Tommy:

Below please find a list of Interrogatories and Requests for Production that we have identified as being deficient.

Deficient Interrogatories:

NO.	INTERROGATORY	NOTES
12	For each act complained of in the Complaint, identify with specificity which acts occurred before the date CCHA registered with the SC Secretary of State's office, January 3, 2107, and which acts occurred after the date of registration.	Plaintiff stated it could not provide an answer until defendant answered discovery.
13	Identify each and every alleged defamatory statement and/or representation made by or on behalf of CCHA . . .	Plaintiff claims he could not provide this information (however, in the deposition Plaintiff claims that all defamatory statements have been produced)
14	For each statement and/or representation that you allege constitutes "materially false information" in Paragraph 6 of your Complaint, identity . . .	Plaintiff directed CCHA to No. 13 and stated he could not identify folks until CCHA answered discovery.
15	Identify all "materially false information" that you allege CCHA published in Paragraph 8 of your Complaint, including . . .	Nonresponsive

16	For each and every false and misleading statement and/or representation that you alleged CCHA disseminated to **third parties**, provide . . .	Plaintiff directed CCHA to the disc provided (but the disc contents fails to specifically identify the requested information in the ROG)
17	For each and every false and misleading statement and/or representation that you alleged CCHA disseminated to **governmental agencies**, provide . . .	Plaintiff directed CCHA to the disc provided (but the disc contents fails to specifically identify the requested information in the ROG)
18	Identify with specificity all video statements that you allege CCHA edited to create false impressions.	Plaintiff directed CCHA to the disc provided (but the contents of the disc fail to breakdown this information)
19	Identify each and every employee that you allege received a death and/or arson threat, including . . .	Plaintiff directed CCHA to the disc provided (but the contents of the disc and reports produced to not provide the requested information – plus Plaintiff could not identify any of these folks by name in his deposition)
28	Describe in detail how Plaintiff's use of its own property was "restricted" and/or "curtailed" by the City of Charleston.	Plaintiff claims he could not answer this interrogatory b/c it was vague
29	State with specificity the acts which constituted such recklessness, willfulness and wanton misconduct sufficient to raise the presumption of conscious indifference to the consequences that entitle you to recover punitive damages from CCHA.	Plaintiff claims the repeated publication of false narrative that Big John died, collapsed and was worked to death and the blocking by commentators to publish the correct story that Big Jon fell (but no specific evidence is outlined as requested with specificity)
30	Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained.	Plaintiff directs CCHA to the charts Brody prepared but provides no itemization of damages and no supportive documentation.
31	Set forth the calculation/qualifications of all economic loss damages claimed in the subject case.	Plaintiff directs CCHA to the charts Brody prepared but provides no itemization of damages and no supportive documentation.

Deficient Requests for Production:

- No. 1: Produce personnel records and payroll records (which were documents identified in Plaintiff's Interrogatories)
- No. 6: Please confirm that all witnesses have been identified (conflicts with Interrogatory No. 1)
- No. 11: All receipts, bills payment stubs, invoices and any other documents claiming to be a bill or expense incurred by Plaintiff related to the subject of this litigation. If Plaintiff is not in possession of any documents responsive to this request (other than those produced by his accountant), please confirm.
    - Documents Produced by Plaintiff's Accountant at Deposition (for reference):
        - Exhibit 1: 2014 Summary of Accounts, Payroll Analysis, Expenses, Etc.
        - Exhibit 2: 2015 Summary of Accounts, Payroll Analysis, Etc.
        - Exhibit 3: 2016 Summary of Accounts, Payroll Analysis, Expenses, Etc.
        - Exhibit 4: 2017 Summary of Accounts, Payroll Analysis, Expenses, List of Horses, Etc.
        - Exhibit 5: 2018 Summary of Accounts, Horse List, Payroll Analysis, Etc.
        - Exhibit 6: Tax Asset Detail (01.01.18 thru 12.31.18)
        - Exhibit 7: Power of Attorney and Declaration of Representative
        - Exhibit 8: 2015 Tax Return
        - Exhibit 9: 2016 Tax Return
        - Exhibit 10: 2017 Tax Return
        - Exhibit 11: 2018 Tax Return
- No. 13: Plaintiff has not produced any corporate government documents related to Charleston Carriage Works
    - States Articles of Incorporation are attached but they were not attached
- Nos. 14-15: Copies of any and all records associated with the rental and lease for use of the barn property as well records associated with the option to purchase
- No. 18: Produce contracts, billing statements, etc. associated with the 3033 Old Pond Road property

- **Please confirm that Plaintiff is not in possession of the following documents**:

    - No. 19: Documents associated with 3078 Murrywood Road (place where horses kept in rotation)
    - No. 22: Contract with SPEAK Strategic
    - No. 27: Franchise agreement
    - No. 31: Records associated with the cost and maintenance of equipment used in the management and operation of the business

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- Nos. 33-34: Credit card receipts for passengers on April 19. 2017 and May 25, 2017 (contrary to deposition testimony)
- No. 35: Records demonstrating the costs associated with the care and maintenance of all horses
- No. 40: Feed schedules
- No. 41: Farrier documentation
- No. 47: Records to identify employees who worked on specific dates (what about payroll records)
- No. 49: Contact information for Amy Smith (witness who allegedly cancelled her tour as a result of the video)
- No. 50: Plaintiff claims all financial records for the business were produced by the accountant
- No. 51: Copies of tax returns filed on behalf of Brody
- No. 53: Documents re: month-to-month sales are all maintained by the City of Charleston
- No. 54: Records showing the number of ticket sales since 2013
- No. 56: Records associated with donations

- No. 28: Requested temperature logs since 2013. Plaintiff only produced temperature logs for 2015, 2016, 2017. The following logs were missing (identified by date):

Temperature Logs	
January 2015	01.08.15 01.12.15 01.23.15
February 2015	02.02.15 02.19.15 02.20.15
March 2015	
April 2015	
May 2015	
June 2015	06.26.15
July 2015	
August 2015	
September 2015	
October 2015	10.17.15
November 2015	11.09.15
December 2015	
January 2016	01.01.16 01.02.16 01.03.16 01.04.16 01.24.16
February 2016	02.22.16
March 2016	
April 2016	
May 2016	05.20.16
June 2016	
July 2016	
August 2016	
September 2016	09.02.16 09.06.16 09.14.16 09.16.16
October 2016	
November 2016	
December 2016	12.11.16 12.15.16
January 2017	
February 2017	
March 2017	
April 2017	
May 2017	

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- No. 32: Plaintiff did not provide copies of all records for all tours offered since 2013. Plaintiff only produced tour logs for 2015, 2016, 2017. The following logs were missing (identified by date):

Tour Schedules	
Q 1 2015	01.02.15 01.04.15 01.07.15 thru 01.09.15 01.11.15 & 01.12.15 01.15.15 thru 01.17.15 01.21.15 01.23.15 thru 01.25.15 01.27.15 & 01.28.15 02.01.15 thru 02.25.15 02.28.15 03.04.15 03.06.15 & 03.07.15 03.10.15 03.14.15 03.16.15 thru 03.18.15 03.20.15 thru 03.23.15 03.26.15
Q 2 2015	04.02.15 04.04.15 04.09.15 04.12.15 04.15.15 04.21.15 & 04.22.15 04.27.15 & 04.28.15 05.03.15 05.05.15 05.09.15 05.11.15 05.14.15 05.17.15 05.19.15 & 05.20.15 05.22.15 05.26.15 05.28.15 05.31.15 06.01.15 thru 06.22.15 06.26.15 06.29.15
Q 3 2015	07.02.15 07.06.15 07.08.15 07.11.15 07.14.15 & 07.15.15 07.19.15 07.21.15 07.23.15 07.25.15 07.27.15 07.28.15 08.03.15 thru 08.31.15 09.01.15 thru 09.17.15 09.21.15 09.24.15 & 09.25.15 09.28.15 & 09.29.15

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Q 4 2015	10.01.15 thru 10.06.15 10.09.15 thru 10.13.15 10.21.15 10.23.15 10.26.15 thru 10.29.15 11.01.15 thru 11.03.15 11.06.15 thru 11.09.15 11.11.15 & 11.12.15 11.17.15 & 11.18.15 11.21.15 thru 11.23.15 11.26.15 11.28.15 thru 11.30.15 12.02.15 12.04.15 & 12.05.15 12.07.15 thru 12.25.15 12.30.15 & 12.31.15
Q 1 2016	01.01.16 01.03.16 & 01.04.16 01.08.16 01.12.16 & 01.13.16 01.15.16 01.18.16 & 01.19.16 01.22.16 01.24.16 thru 01.26.16 02.01.16 02.03.16 & 02.04.16 02.07.16 thru 02.24.16 02.29.16 03.01.16 03.03.16 & 03.04.16 03.08.16 03.11.16 03.13.16 & 03.14.16 03.18.16 03.24.16 03.26.16 & 03.27.16 03.31.16
Q 2 2016	04.01.16 04.03.16 04.05.16 04.11.16 04.17.16 thru 04.20.16 04.25.16 04.28.16 05.02.16 05.05.16 05.08.16 thru 05.19.16 05.21.16 & 05.22.16 05.26.16 05.28.16 05.30.16 06.05.16 thru 06.15.16 06.20.16 thru 06.22.16 06.26.16
Q 3 2016	07.03.16 & 07.04.16 07.06.16 07.10.16 07.17.16 07.23.16 & 07.24.16 07.26.16 thru 07.28.16

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	07.30.16 & 07.31.16 08.02.16 08.07.16 thru 08.09.16 08.12.16 08.14.16 thru 08.17.16 08.19.16 08.21.16 08.23.16 thru 08.31.16 09.01.16 thru 09.04.16 09.06.16 thru 09.16.16 09.18.16 09.21.16 thru 09.24.16 09.26.16 & 09.27.16 09.29.16
Q 4 2016	10.01.16 thru 10.15.16 10.17.16 10.20.16 10.22.16 thru 10.25.16 10.27.16 thru 10.29.16 10.31.16 11.01.16 thru 11.10.16 11.13.16 thru 11.18.16 11.22.16 thru 11.24.16 11.27.16 thru 11.30.16 12.01.16 thru 12.19.16 12.21.16 & 12.22.16 12.24.16 & 12.25.16 12.28.16 & 12.29.16
Q 1 2017	01.01.17 01.03.17 & 01.04.17 01.06.17 thru 01.31.17 02.01.17 thru 02.21.17 02.23.17 02.26.17 02.28.17 03.02.17 03.07.17 03.10.17 03.12.17 03.14.17 03.16.17 & 03.17.17 03.19.17 thru 03.26.17 03.28.17 & 03.29.17
Q 2 2017	04.03.17 & 04.04.17 04.07.17 & 04.08.17 04.13.17 04.16.17 thru 04.18.17 04.20.17 thru 04.25.17 04.27.17 & 04.28.17 04.30.17 05.01.17 thru 06.30.17

- Finally, please provide us with a copy of the ShareFile link sent to Beth on June 24, 2019 re: Tax Returns.

As always, please let us know if you have any questions.

Many thanks,

Spencer

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Spencer Craig Gill

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Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT E

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H|B|S HALL BOOTH SMITH, P.C.
ATTORNEYS AT LAW

Joseph D. Thompson, III
Phone: (843) 720-3469
jthompson@hallboothsmith.com

111 Coleman Boulevard
Suite 301
Mount Pleasant, SC 29464

Office: (843) 720-3460
www.hallboothsmith.com

June 25, 2020

VIA EMAIL & U.S. MAIL
Thomas R. Goldstein, Esq.
Belk, Cobb, Infinger & Goldstein, PA
Post Office Box 71121
Charleston, SC 29415-1121

R: Charleston Carriage Works, L.L.C. v. Charleston Animal Society, et al.
Case No.: 2018-CP-10-04083
HBS File No.: 6740.0010

Dear Tommy:

As indicated in our emails dated June 1, 2020, and June 10, 2020, we identified numerous deficiencies in Plaintiff's responses to our initial discovery requests. To date, we still have not received a response from you regarding these deficiencies. Please be advised that if we have not received responses to the discovery outlined herein below, on or before **Monday, July 6, 2020,** we will be forced to file a Motion to Compel.

DEFICIENT INTERROGATORY RESPONSES

NO.	INTERROGATORY	NOTES
12	For each act complained of in the Complaint, identify with specificity which acts occurred before the date CCHA registered with the SC Secretary of State's office, January 3, 2107, and which acts occurred after the date of registration.	Plaintiff stated it could not provide an answer until Defendant answered discovery
13	Identify each and every alleged defamatory statement and/or representation made by or on behalf of CCHA . . .	Plaintiff claims he could not provide this information (however, in the deposition Plaintiff claims that all defamatory statements have been produced)
14	For each statement and/or representation that you allege constitutes "materially false information" in Paragraph 6 of your Complaint, identity . . .	Plaintiff directed CCHA to No. 13 and stated it could not identify folks until CCHA answered discovery
15	Identify all "materially false information" that you allege CCHA published in Paragraph 8 of your Complaint, including . . .	Nonresponsive
16	For each and every false and misleading statement and/or representation that you alleged CCHA disseminated to **third parties**, provide . . .	Plaintiff directed CCHA to the discovery provided (but the disc contents fail to specifically identify the requested information in the ROG)

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17	For each and every false and misleading statement and/or representation that you allege CCHA disseminated to **governmental agencies**, provide . . .	Plaintiff directed CCHA to the disc provided (but the disc contents fail to specifically identify the requested information in the ROG)
18	Identify with specificity all video statements that you allege CCHA edited to create false impressions.	Plaintiff directed CCHA to the disc provided (but the contents of the disc fail to breakdown this information)
19	Identify each and every employee that you allege received a death and/or arson threat, including . . .	Plaintiff directed CCHA to the disc provided (but the contents of the disc and reports produced do not provide the requested information – plus Plaintiff could not identify any of these folks by name in his deposition)
28	Describe in detail how Plaintiff's use of its own property was "restricted" and/or "curtailed" by the City of Charleston.	Plaintiff claims he could not answer this interrogatory because it was vague
29	State with specificity the acts which constituted such recklessness, willfulness and wanton misconduct sufficient to raise the presumption of conscious indifference to the consequences that entitle you to recover punitive damages from CCHA.	Plaintiff claims the repeated publication of the false narrative that Big John died, collapsed and was worked to death and the blocking by commentators to publish the correct story that Big John fell (but no specific evidence is outlined as requested with specificity)
30	Set forth an itemized statement of all damages, exclusive of pain and suffering, claimed to have been sustained.	Plaintiff directs CCHA to the charts Brody prepared but provides no itemization of damages and no supportive documentation
31	Set forth the calculation/qualifications of all economic loss damages claimed in the subject case.	Plaintiff directs CCHA to the charts Brody prepared but provides no itemization of damages and no supportive documentation.

DEFICIENT RESPONSES TO REQUESTS FOR PRODUCTION

NO.	REQUEST FOR PRODUCTION	NOTES
1	Produce personnel records and payroll records	Identified in Plaintiff's Interrogatories
6	Please confirm all witnesses have been identified	Responses conflicts with ROG No. 1
11	All receipts, bills, payment stubs, invoices and any other documents claiming to be a bill or expense incurred by Plaintiff related to the subject of this litigation.	If Plaintiff is not in possession of any documents responsive to this request (other than those produced by his accountant), please confirm.[1]
13	Produce any an all corporate governance documents.	Plaintiff has not produced any corporate governance documents (states Articles of Incorporation are attached but they were not attached)

[1] Documents Produced by Plaintiff's Accountant at Deposition (for reference): Exhibit 1: 2014 Summary of Accounts, Payroll Analysis, Expenses, Etc.; Exhibit 2: 2015 Summary of Accounts, Payroll Analysis, Etc.; Exhibit 3: 2016 Summary of Accounts, Payroll Analysis, Expenses, Etc.; Exhibit 4: 2017 Summary of Accounts, Payroll Analysis, Expenses, List of Horses, Etc.; Exhibit 5: 2018 Summary of Accounts, Horse List, Payroll Analysis, Etc.; Exhibit 6: Tax Asset Detail (01.01.18 thru 12.31.18); Exhibit 7: Power of Attorney and Declaration of Representative; Exhibit 8: 2015 Tax Return; Exhibit 9: 2016 Tax Return; Exhibit 10: 2017 Tax Return; and Exhibit 11: 2018 Tax Return.

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14 & 15	Copies of any and all records associated with the rental and lease for use of the barn property as well records associated with the option to purchase	Plaintiff has not produced any documents responsive to these requests
18	Produce contracts, billing statements, etc. associated with the 3033 Old Pond Road property	Plaintiff has not produced any documents responsive to this request

Additionally, please confirm that Plaintiff is not in possession of the following documents:

NO.	REQUEST FOR PRODUCTION
19	Documents associated with 3078 Murrywood Road
22	Contract with SPEAK Strategic
27	Franchise agreement
31	Records associated with the cost and maintenance of equipment used in the management and operation of the business
33-34	Credit card receipts for passengers on April 19, 2017 and May 25, 2017 (contrary to deposition testimony)
35	Records demonstrating the costs associated with the care and maintenance of all horses
40	Feed schedules
41	Farrier documentation
47	Records to identify employees who worked on specific dates (i.e., payroll records)
49	Contact information for Amy Smith (witness who allegedly cancelled her tour as a result of the video)
50	Plaintiff claims all financial records for the business were produced by the accountant – confirm
51	Copies of tax returns filed on behalf of Broderick Christoff
53	Documents regarding month-to-month sales
54	Records showing the number of ticket sales since 2013
56	Records associated with donations

REQUEST FOR PRODUCTION NO. 28

Request for Production No. 28 seeks temperature logs since 2013. Plaintiff only produced temperature logs for 2015, 2016, 2017. From that production, the following temperature logs were missing (identified by date):

Temperature Logs	
January 2015	01.08.15 01.12.15 01.23.15
February 2015	02.02.15 02.19.15 02.20.15
June 2015	06.26.15
October 2015	10.17.15
November 2015	11.09.15
January 2016	01.01.16 01.02.16 01.03.16 01.04.16 01.24.16

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February 2016	02.22.16
May 2016	05.20.16
September 2016	09.02.16 09.06.16 09.14.16 09.16.16
December 2016	12.11.16 12.15.16

REQUEST FOR PRODUCTION NO. 32

Request for Production No. 32 seeks copies of all records for all tours offered since 2013. Plaintiff's only produced tour logs for 2015, 2016, 2017. From that production, the following tour logs were missing (identified by date):

Tour Schedules	
Q 1 2015	01.02.15 01.04.15 01.07.15 thru 01.09.15 01.11.15 & 01.12.15 01.15.15 thru 01.17.15 01.21.15 01.23.15 thru 01.25.15 01.27.15 & 01.28.15 02.01.15 thru 02.25.15 02.28.15 03.04.15 03.06.15 & 03.07.15 03.10.15 03.14.15 03.16.15 thru 03.18.15 03.20.15 thru 03.23.15 03.26.15
Q 2 2015	04.02.15 04.04.15 04.09.15 04.12.15 04.15.15 04.21.15 & 04.22.15 04.27.15 & 04.28.15 05.03.15 05.05.15 05.09.15 05.11.15 05.14.15 05.17.15 05.19.15 & 05.20.15 05.22.15 05.26.15 05.28.15 05.31.15 06.01.15 thru 06.22.15 06.26.15

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	06.29.15
Q 3 2015	07.02.15 07.06.15 07.08.15 07.11.15 07.14.15 & 07.15.15 07.19.15 07.21.15 07.23.15 07.25.15 07.27.15 07.28.15 08.03.15 thru 08.31.15 09.01.15 thru 09.17.15 09.21.15 09.24.15 & 09.25.15 09.28.15 & 09.29.15
Q 4 2015	10.01.15 thru 10.06.15 10.09.15 thru 10.13.15 10.21.15 10.23.15 10.26.15 thru 10.29.15 11.01.15 thru 11.03.15 11.06.15 thru 11.09.15 11.11.15 & 11.12.15 11.17.15 & 11.18.15 11.21.15 thru 11.23.15 11.26.15 11.28.15 thru 11.30.15 12.02.15 12.04.15 & 12.05.15 12.07.15 thru 12.25.15 12.30.15 & 12.31.15
Q 1 2016	01.01.16 01.03.16 & 01.04.16 01.08.16 01.12.16 & 01.13.16 01.15.16 01.18.16 & 01.19.16 01.22.16 01.24.16 thru 01.26.16 02.01.16 02.03.16 & 02.04.16 02.07.16 thru 02.24.16 02.29.16 03.01.16 03.03.16 & 03.04.16 03.08.16 03.11.16 03.13.16 & 03.14.16 03.18.16 03.24.16 03.26.16 & 03.27.16 03.31.16

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Q 2 2016	04.01.16 04.03.16 04.05.16 04.11.16 04.17.16 thru 04.20.16 04.25.16 04.28.16 05.02.16 05.05.16 05.08.16 thru 05.19.16 05.21.16 & 05.22.16 05.26.16 05.28.16 05.30.16 06.05.16 thru 06.15.16 06.20.16 thru 06.22.16 06.26.16
Q 3 2016	07.03.16 & 07.04.16 07.06.16 07.10.16 07.17.16 07.23.16 & 07.24.16 07.26.16 thru 07.28.16 07.30.16 & 07.31.16 08.02.16 08.07.16 thru 08.09.16 08.12.16 08.14.16 thru 08.17.16 08.19.16 08.21.16 08.23.16 thru 08.31.16 09.01.16 thru 09.04.16 09.06.16 thru 09.16.16 09.18.16 09.21.16 thru 09.24.16 09.26.16 & 09.27.16 09.29.16
Q 4 2016	10.01.16 thru 10.15.16 10.17.16 10.20.16 10.22.16 thru 10.25.16 10.27.16 thru 10.29.16 10.31.16 11.01.16 thru 11.10.16 11.13.16 thru 11.18.16 11.22.16 thru 11.24.16 11.27.16 thru 11.30.16 12.01.16 thru 12.19.16 12.21.16 & 12.22.16 12.24.16 & 12.25.16 12.28.16 & 12.29.16
Q 1 2017	01.01.17 01.03.17 & 01.04.17 01.06.17 thru 01.31.17 02.01.17 thru 02.21.17

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	02.23.17 02.26.17 02.28.17 03.02.17 03.07.17 03.10.17 03.12.17 03.14.17 03.16.17 & 03.17.17 03.19.17 thru 03.26.17 03.28.17 & 03.29.17
Q 2 2017	04.03.17 & 04.04.17 04.07.17 & 04.08.17 04.13.17 04.16.17 thru 04.18.17 04.20.17 thru 04.25.17 04.27.17 & 04.28.17 04.30.17 05.01.17 thru 06.30.17

Finally, please provide us with a copy of the ShareFile link sent to Beth Palmer on June 24, 2019 regarding Plaintiff's Tax Returns.

Should you have any questions or concerns regarding the items discussed herein, please do not hesitate to contact us. Otherwise, we look forward to hearing from you in the near future.

Very truly yours,

Joseph D. Thompson, III
Spencer Craig Gill

JDT,III/sec

67753607-1

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT F

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**SUPPLEMENTAL RRESPONSES TO DEFENDANTS' REQUESTS FOR PRODUCTION**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.		

TO: JOSEPH THOMPSON, ESQ., ELIZABETH PALMER, *et. al.* ATTORNEYS FOR DEFENDANTS:

Pursuant to Rules 33 and 34, *South Carolina Rules of Civil Procedure*, the plaintiff supplements its Answers to Interrogatories and Responses to Request for Production as follows:

ANSWER:

The plaintiff adds the following witnesses:

Representatives of the Cities of Charleston, North Charleston, Mt. Pleasant, and the County of Charleston as may be necessary to authenticate amounts paid to Charleston Animal Society.

County of Charleston Responses to F.O.I.A. requests for accounting of payments made to Charleston Animal Society. The County responded by identifying the payments as being available online at *Charlestoncounty.org*. The plaintiff provides printed sample Transaction Reports for the months January – March 2020 ($175,000.00 per month) and October – December 2019 ($175,000.00 per month) and June 2011 ($92,606.77) are attached to assist the defendants in locating the documents online.

Also attached is the Town of Mt. Pleasant's F.O.I.A. response to a request for "Vendor Activity Reports" from 2015 to 2019, summarizing payments made to the Charleston Animal Society.

BELK, COBB, INFINGER & GOLDSTEIN, P.A.

July 16, 2020

/s/Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar No. 2186
P. O. Box 71121
N. Charleston, S. C. 29415-1121
(843 554 4291)
Email: tgoldstein@cobblaw.net
Attorneys for Plaintiff

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the Plaintiff's Fourth Supplemental Answers to the defendants' Interrogatories and Request to Produce to Plaintiff upon all parties to this matter by depositing a true copy of same in the U.S. Mail, proper postage prepaid, properly addressed to the following:

Joseph D. Thompson, Esq.
Hall Booth Smith, P.C.
111 Coleman Blvd.
Suite 301
Mt. Pleasant, S. C. 29464

Attorneys for Defendant, Charleston Carriage Horse Advocates

Elizabeth Palmer, Esq.
Rosen Hagood
151 Meeting Street
Suite 400
Charleston, S. C. 29401

Attorneys for Defendant Charleston Animal Society

This 16th day of June 2020.

By: /s/ Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar 2186

Charleston Carriage Works, LLC v. Harley, et al.
Civil Action No. 2018-CP-10-04083

Defendant CCHA's Motion to Compel Plaintiff's Discovery Responses

EXHIBIT G

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

BELK, COBB, INFINGER AND GOLDSTEIN, P.A.
ATTORNEYS AT LAW
2344 COSGROVE AVENUE
CHARLESTON, SC 29405

Harry C. Belk (1919-2003)
Dale T. Cobb, Jr.

Peggy M. Infinger
pinfinger@cobblaw.net
Thomas T. Goldstein
tgoldstein@cobblaw.net

Mailing Address:
P.O. Box 71121
Charleston, SC
zip 29415-1121
Ph: (843) 554-4291
Fax: (843) 554-5566

July 17, 2020

Mr. Joseph Thompson
Haff Booth & Smith, P.C.
111 Coleman Boulevard
Mt. Pleasant, S. C. 29464

Re: Charleston Carriage v. Harley, *et. al.*, 2018-CP-10-04083

Dear Trey,

I am in receipt of your June 25th letter. I am **assuming** that your alleged deficiencies are solved by the detailed supplemental responses previously furnished to Beth Palmer and you. I also realize that your letter is window dressing, and that you are attempting to create a faux patina of uncooperativeness to paper over your client's refusal to provide meaningful discovery. Your putative "deficiencies" are not deficiencies, but rather your client's unsatisfaction with our answers. Most of your dilemma results from your client's (and Charleston Animal Society's) decision to depose Brody for 13 hours **BEFORE** you did discovery. Had your client pursued discovery in the normal course, you would have an opportunity to ask him specific questions about specific documents. To the extent your letter of June 25th represents a good faith effort to clarify the documents produced, I am happy to set up a conference call with you and set aside sufficient time for Brody and I to go down the list with you so we can walk your through our production.

On the other hand, we still have no meaningful production from your client. Her entire e-mail production consists of a single e-mail, which we know is false as evidenced from the documents provided by the Charleston Animal Society, which detail almost daily coordination between Joe Elmore and Ellen Harley. Even your client's May 3, 2019, promise to forward us Elizabeth Fort's e-mails and video footage turned out to be a lie:

Q. And do you still have that original video?
A. It was my phone, yes sir.
Q. And do you still have that original video?
A. I do.
Q. Would you do me a favor and just transmit it to your lawyer, just your version of the video?
A. Yes.

. . .

Q. And so, you don't have any objection to sending that to her?
A. No, sir, not at all.

. . .

Q. You could go back in your e-mails and you could see?
A. Yes, I will look for that for sure.
Q. And send that to your lawyer?
A. Yes, sir I will definitely do that.
Elizabeth Fort, page 59, lines 6-18; page 72, lines 4-8

HAL BOOTH SMITH P.C.
DATE 7/22/20
CL. 6740.0010

ELECTRONICALLY FILED - 2020 Aug 17 12:37 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

The fact is, Trey, that your client is a liar and a fraud. Her dismissive conduct towards us demonstrates she considers herself above the rules because of her wealth. She thumbs her nose at discovery, and when you identify our answer to interrogatory number 12 as being "incomplete," you highlight her intransigence. How in the world do we know what your client was up to either before January 3, 2017 (date of incorporation) or after when she has produced nothing more substantial than a single e-mail? I do not expect a Perry Mason moment when my expert cross examination breaks her down on the stand and she tearfully confesses to a jury and we cut to commercial. Have you LOOKED at the e-mails Charleston Animal Society produced? Ellen Harley stepped out of her protection as a private citizen when she chose to create a South Carolina charity called the Charleston Carriage Horse Advocates. Running a tax exempt charity comes with the responsibility to be open and transparent. In all her filings, she identifies herself as the repository of the charity's records, and yet, we have a single e-mail from her and not a single financial record other than her publicly filed tax returns. We know from the documents produced from Charleston Animal Society that she is in near daily contact with Charleston Animal Society, and it is an established fact that these documents demonstrate the Charleston Carriage Horse Advocates is the alter ego of the Charleston Animal Society under its current leadership. And yet, your client has provided nothing other than copies of publicly posted Facebook pages. We know she censored truthful information and she banned commenters who provided truthful corrections to her misinformation in order to create a false impression of Brody, which she designed to drive him out of business. As Officer Riccio testified in his deposition, she is a bully, a character straight out of *The Great Gatsby*:

"They were careless people, Tom and Daisy- they smashed up things and creatures and then retreated back into their money or their vast carelessness or whatever it was that kept them together, and let other people clean up the mess they had made."

I have seen for a long time that she is not going to allow you to participate in meaningful discovery, and for that reason, I am going to have to depose her twice, first to find out who has the administrator's keys so that Steve Abrams can get for us what you should be providing voluntarily, and then a second time to ask her about the information related to the operation of her putative South Carolina charity after we force her to disgorge it. I am not going to let you paper over her contempt for the process by creating a false impression that we have failed to provide discovery materials to you, and for that reason, as set forth above, I will make Brody and myself available to sit with you and walk you through the discovery in an effort to meet any alleged deficiencies. In the meantime, however, I no longer believe you can control Ms. Harley to persuade her to operate within the rules that govern the rest of us. So, please let me know when you have time available for us to walk through the discovery with you, and once that is complete, I plan on asking the Court to impose sanctions against Ms. Harley, including dismissing her pleadings and reimbursing Brody for fees incurred in trying to get her to comply. You can solve all this by simply providing the computer access to our expert, Steve Abrams so we are relieved from the delusion that Ms. Harley will turn over anything meaningful. With kind regards, I am

Very truly yours,

TRG/

BELK, COBB, INFINGER & GOLDSTEIN, P.A.
Thomas R. Goldstein

cc: Elizabeth Palmer, Jenkins Mann

ELECTRONICALLY FILED - 2020 Aug 19 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES INC'S MOTION TO QUASH**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	
	)	

PLEAS TAKE NOTICE that Defendant Charleston Carriage Horse Advocates. Inc. ("CCHA"), by and through its undersigned attorneys, hereby moves this Honorable Court pursuant to SCRCP 26(c), 30(d) and 45(c)(3)(A) for an Order quashing the deposition notice and subpoena served by Plaintiff on South State Bank on or about August 13, 2020 on the grounds that the deposition notice and subpoena do not comply with the South Carolina Rules of Civil Procedure; the discovery effort is being initiated six months after the close of discovery pursuant to the applicable Scheduling Order (discovery deadline February 7, 2020); and the purported "discovery" is not relevant to any issue in Plaintiff's Complaint but, instead, the inquiry into Defendant CCHA's bank records is a fishing expedition to identify donors and/or vendors working with CCHA for purposes other than the legitimate prosecution of the subject case. Defendant CCHA requests a hearing on this Motion and, to the extent a hearing is not available, Defendant CCHA respectfully requests notification and time to submit a supporting memorandum.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, any affidavits and/or memoranda submitted at or prior to the time of a hearing on this matter and other such materials the Court may receive in support of the Motion.

Respectfully submitted this 19th day of August 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
Spencer Craig Gill, SC Bar No. 100917
Email: sgill@hallboothsmith.com
111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
Phone: 843.720.3469

Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

ELECTRONICALLY FILED - 2020 Aug 19 10:59 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Sep 11 10:31 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), improperly identified as Charleston Carriage Horse Advocates, Inc., by and through its undersigned counsel, hereby moves this Honorable Court for an Order granting CCHA judgment as a matter of law, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In short, Plaintiff has failed to produce any evidence of liability on behalf of CCHA, as to any cause of action, and has failed to produce evidence of damages relating to the alleged actions and/or conduct of CCHA. As such, CCHA is entitled to summary judgment as a matter of law as to all causes of action.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, deposition excerpts and any supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

Respectfully submitted this 11th day of September 2020.

s/ Jenkins M. Mann
Jenkins M. Mann (S.C. Bar #74894)
Shaun C. Blake (S.C. Bar #76349)
ROGERS LEWIS JACKSON MANN & QUINN, LLC
1901 Main Street, Suite 1200
P.O. Box 11803 (29211)
Columbia, SC 29201
Tel: (803) 256-1268
Email: jmann@rogerslewis.com
sblake@rogerslewis.com

Columbia, South Carolina

ELECTRONICALLY FILED - 2020 Sep 11 10:21 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Sep 11 [illegible] AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	**DEFENDANT ELLEN HARLEY'S NOTICE OF MOTION AND MOTION FOR SUMMARY JUDGMENT**
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Ellen Harley ("Harley") by and through her undersigned counsel, hereby moves this Honorable Court for an Order granting Harley judgment as a matter of law, pursuant to Rule 56 of the South Carolina Rules of Civil Procedure. In short, Plaintiff has failed to produce any evidence of liability on behalf of Harley, as to any cause of action, and has failed to produce evidence of damages relating to the alleged actions and/or conduct of Harley. As such, Harley is entitled to summary judgment as a matter of law as to all causes of action.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, deposition excerpts and any supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

Respectfully submitted this 11th day of September 2020.

s/Jenkins M. Mann
Jenkins M. Mann (S.C. Bar #74894)
Shaun C. Blake (S.C. Bar #76349)
ROGERS LEWIS JACKSON MANN & QUINN, LLC
1901 Main Street, Suite 1200
P.O. Box 11803 (29211)
Columbia, SC 29201
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sblake@rogerslewis.com

Columbia, South Carolina.

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	
	)	CIVIL ACTION NO.: 2018-CP-10-04083
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	**DEFENDANT CHARLESTON CARRIAGE HORSE ADVOCATES' MOTION FOR A PROTECTIVE AND/OR CONFIDENTIALITY ORDER**
	)	
v.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.	)	
	)	
Defendants.	)	

YOU WILL PLEASE TAKE NOTICE that Defendant Charleston Carriage Horse Advocates ("CCHA"), by and through its undersigned counsel, hereby moves this Honorable Court for a Protective/Confidentiality Order for the governance of this case. CCHA states that documents have been requested that contain confidential materials that should not be disclosed or used in a manner other than as set forth in the attached proposed Protective Order. Disclosure, other than as set forth in the proposed Order (attached as Exhibit "A"), would be harmful to CCHA, and other parties in the case, in that it would fail to protect confidential information.

This Motion is supported by the South Carolina Rules of Civil Procedure, applicable case law, supporting memoranda and/or affidavits, and any other such materials the court may receive at or prior to the time of a hearing on this Motion.

(Signature on Following Page)

Respectfully submitted this 30th day of January 2020, in Mount Pleasant, South Carolina.

HALL BOOTH SMITH, P.C.

/s/Joseph D. Thompson, III
Joseph D. Thompson, III, SC Bar No. 66580
Email: jthompson@hallboothsmith.com
K. Spencer Craig, SC Bar No. 100917
Email: scraig@hallboothsmith.com
111 Coleman Boulevard, Suite 301
Mount Pleasant, South Carolina 29464
Phone: 843.720.3469

Attorneys for Ellen Harley and Charleston Carriage Horse Advocates

ELECTRONICALLY FILED - 2020 Jan 30 12:22 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2020 Oct 02 11:53 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	**MOTION FOR SANCTIONS**
)	(RULE 37, *S. C. RULES OF CIVIL PROCEDURE*)
Charleston Animal Society, Ellen)	
Harley and Charleston Carriage)	
Horse Advocates, Inc.,)	
)	
Defendants.)	
)	

TO THE DEFENDANTS, ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC., ABOVE NAMED:

The plaintiff moves for an Order of the Court striking the defendants' answers or imposing such other sanction, including a reasonable attorney's fee, as to the defendants, Ellen Harley and Charleston Carriage Horse Advocates, Inc., as the Court deems just and proper for the defendants' continuing and willful refusal to participate in discovery in good faith. This motion is based on Rule 37 of the *South Carolina Rules of Civil Procedure* and the applicable case law and upon the defendants' willful refusal to respond to discovery requests.

October 2, 2020

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar #2186
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
N. Charleston, S. C. 29405
(843) 554-4291; (843) 554-5566 (fax)
tgoldstein@cobblaw.net

ELECTRONIC FILED - 2020 Oct 02 11:53 AM - CHARLESTON - COMMON P ɔ - CASE#2018CP1004083

RULE 11 CERTIFICATE

I certify that I have had numerous conversations with opposing counsel in an effort to resolve the outstanding discovery deficiencies and have been unable to resolve the impasse.

October 2, 2020

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S.C. Bar No. 2186

ELECTRONICALLY FILED - 2020 Oct 20 3:39 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	**MOTION FOR AMENDED SCHEDULING ORDER**
)	
Charleston Animal Society, Ellen)	
Harley and Charleston Carriage)	
Horse Advocates, Inc.,)	
)	
Defendants.)	
)	

TO THE DEFENDANTS, CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC., ABOVE NAMED:

The plaintiff moves for an Order of the Court amending the scheduling Order in this case. This motion is based on the following grounds:

1. The Court entered a scheduling Order on July 16, 2019.

2. Plaintiff's counsel suffered a heart attack in April, 2019, followed by open heart surgery in August, 2019, and missed about half the year in the care of M.U.S.C. physicians, nurses, medical technicians, *etc.*, about whom the undersigned cannot thank enough.

3. 2020 has been marked by stay-at-home Orders, social distancing, *etc.*, making the efficient practice of law more difficult than usual.

4. The defendants, Ellen Harley and Charleston Carriage Horse Advocates, have intentionally delayed discovery interposing numerous delaying and dilatory tactics for which several motions to

compel are now pending, preventing the plaintiff from meaningful discovery. These dilatory tactics are the subject of three earlier motions.

Based on the foregoing, the plaintiff prays for an amended scheduling Order, or in the alternative, an Order to strike pursuant to Rule 40(j) provided discovery is permitted to continue and the Court reaches a decision on plaintiff's pending motion to add new parties, to allow the plaintiff to complete discovery.

October 20, 2020

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar #2186
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
N. Charleston, S. C. 29405
(843) 554-4291; (843) 554-5566 (fax)
tgoldstein@cobblaw.net

RULE 11 CERTIFICATE

I certify that I have consulted with opposing counsel concerning the extension of the scheduling Order. Counsel for Charleston Animal Society does not consent. Counsel for Ellen Harley and Charleston Carriage Horse Advocates consents to an amended scheduling Order but denies that the defendants have engaged in dilatory tactics regarding discovery and consents solely on the grounds of plaintiff's counsel's health issues and the 2020 COVID-19 pandemic.

October 20, 2020

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S.C. Bar No. 2186

ELECTRONICALLY FILED - 2020 Oct 20 3:39 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

CIRCUIT COURT

CHARLESTON CARRIAGE WORKS LLC. v. CHARLESTON ANIMAL SOCIETY, ET AL.

Docket No. 2018-CP-10-04083

PROOF OF ADR

Pursuant to the South Carolina Alternative Dispute Resolution Rules (SCADR):

1. Alternative Dispute Resolution (ADR) was conducted on October 25, 2021 and afterward through post-conference mediation efforts with counsel, in the form of: **Mediation**.

2. The neutral was: **Karl A. Folkens**

3. Present at the ADR conference were:

__X__ Plaintiff
__X__ Defendants (*individually and through representatives)*
__X__ Lawyers for Plaintiff: *Thomas R. Goldstein, Esq.*
__X__ Lawyers for Defendants: *Elizabeth J. Palmer, Esq. & Jenkins M. Mann, Esq.*
_____ Representative for insurance carrier:
_____ Guardian ad Litem:
_____ Expert:
_____ Others:

4. As a result of ADR, this case should be considered (check one):

_____ fully Settled by Consent Judgment to be filed by

_____ fully settled by Voluntary Dismissal to be filed by the parties' counsel.

_____ partially settled

__X__ at an impasse.

5. Further comments of the neutral: *None.*

Submitted: April 2, 2022

Karl A. Folkens, Mediator
karl@folkenslaw.com
P. O. Box 6139, Florence, SC 29502-6139
(843) 665-0100; FAX (843) 665-0500

MA21-158
SCADR 104A (04/2021)

ELECTRONICALLY FILED - 2022 Apr 06 11:53 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2022 May 12 4:24 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	**MOTION FOR RECONSIDERATION**
)	Rule 59(e), *S. C. Rules of Civil Procedure*
Charleston Animal Society, Ellen)	Rule 60, S. C. *Rules of Civil Procedure*
Harley and Charleston Carriage)	
Horse Advocates, Inc.,)	
)	
Defendants.)	
)	

TO JENKINS MANN, *et. al.*, ATTORNEYS FOR THE DEFENDANTS, ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC., ABOVE NAMED:

The plaintiff moves for an Order of the Court altering or amending the Court's May 5, 2022, Order denying Sanctions, said Order dated May 5, 2022 and received by counsel that date. The plaintiff seeks an Order amending the Order to correct:

1. The ambiguity contained in the Order concerning whether the decision is a final decision on the merits of sanctions, or an interim procedural decision based on an alleged improper sequence of procedural filings alleging the motion for sanctions is premature, and/or

2. To address and correct material factual errors regarding the timing of certain motions and incorrect representations concerning documents allegedly produced and putative agreements of counsel that are not supported by the record, and/or

3. To correct the Court's improper reliance on authority of *Richardson on Behalf of 15th Circuit Drug Inf't Unit v. Twenty-One Thousand and no/100 Dollars*, 430 S.C. 594, 846 S.E.2d 14 (Ct. App. 2020)

This motion is based on Rules 59 and 60 of the *South Carolina Rules of Civil Procedure* and upon the memorandum in support filed simultaneously herewith.

Based on the foregoing, as explained in more detail in the supporting memorandum of law, the plaintiff prays for the Court to grant the plaintiff an evidentiary hearing and to amend its Order to conform to the correct facts as they appear in the record.

May 12, 2022

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar #2186
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
N. Charleston, S. C. 29405
(843) 554-4291; (843) 554-5566 (fax)
tgoldstein@cobblaw.net

RULE 11 CERTIFICATE

I certify that there is no duty of consultation on a Rule 59 motion for reconsideration.

May 12, 2022

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S.C. Bar No. 2186

ELECTRONICALLY FILED - 2022 May 12 4:2[illegible] PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2022 May 20 10:30 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	
vs.)	**MOTION FOR RECONSIDERATION**
)	Rule 59(e), *S. C. Rules of Civil Procedure*
Charleston Animal Society, Ellen)	Rule 60, S. C. *Rules of Civil Procedure*
Harley and Charleston Carriage)	
Horse Advocates, Inc.,)	
)	
Defendants.)	
)	

TO JENKINS MANN, *et. al.*, ATTORNEYS FOR THE DEFENDANTS, ELLEN HARLEY AND CHARLESTON CARRIAGE HORSE ADVOCATES, INC., ELIZABETH PALMER, ATTORNEY FOR CHARLESTON ANIMAL SOCIETY, ABOVE NAMED:

The plaintiff moves for an Order of the Court altering or amending the Court's three May 12, 2022, Orders denying Plaintiff's Request to Amend Scheduling Order, Request to Amend Complaint and Order Granting Summary Judgment said three Orders dated May 12, 2022 and received by counsel that date. The plaintiff seeks an Order amending the Order to correct:

1. The material conflicting findings in the Court's Order denying motion to amend complaint, and/or

2. To address and correct material factual and legal errors regarding the timing of discovery and the inability of the Plaintiff to conform to the original deadlines due to the Defendants' obstructionist and dilatory conduct, Plaintiff's counsel's illness, and the restrictions on in person contact during periods of COVID infection, and/or

3. Correcting the numerous incorrect legal conclusions and failure to apply the proper summary judgment standard to the Plaintiff's claims.

These consolidated motions are based on Rules 59 and 60 of the *South Carolina Rules of Civil Procedure* and upon the memorandum in support filed simultaneously herewith.

This motion is based on the pleadings, affidavits, numerous memoranda of law and further based on the additional supporting memorandum of law to be filed in support of these motions, the plaintiff prays for the Court to alter and amend its three Orders and amend them to apply the correct facts under the correct legal standard for summary judgment as they appear in the record and to grant the Plaintiff leave to amend the complaint, complete discovery, and receive a trial on the merits for the causes of actions alleged.

May 20, 2022

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S. C. Bar #2186
Belk, Cobb, Infinger & Goldstein, P.A.
P. O. Box 71121
N. Charleston, S. C. 29405
(843) 554-4291; (843) 554-5566 (fax)
tgoldstein@cobblaw.net

RULE 11 CERTIFICATE

I certify that there is no duty of consultation on a Rule 59 motion for reconsideration.

May 20, 2022

/s/ Thomas R. Goldstein
Thomas R. Goldstein, S.C. Bar No. 2186

ELECTRONICALLY FILED - 2022 May 20 10:36 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	**NOTICE OF FILING CORRECTED EXHIBIT**
	)	Rule 59(e), *S. C. Rules of Civil Procedure*
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	Rule 60, S. C. *Rules of Civil Procedure*
	)	
Defendants.	)	
	)	

On May 20, 2022, the Plaintiff filed a memorandum of law in support of Motion for Reconsideration, which contains 11 exhibits. Exhibit 2 was supposed to be a 2-page exhibit, and only one page was filed. Plaintiff submits the attached exhibit as page 2 as a Supplement to Exhibit 2 to correct this deficiency.

May 23, 2022

/s/ Thomas R. Goldstein
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ELECTRONICALLY FILED - 2022 May 23 5:00 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2022 May 23 5:08 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

From: Ellen Harley
To: Dan Krosse; Joe Elmore; Hank Greer; Elizabeth Bradham; Peter Waters
Subject: Fwd: Collapsed horse
Date: Thursday, April 20, 2017 8:44:35 AM

I read, with dismay, the Channel 2 report on the collapsed horse.
http://counton2.com/2017/04/19/carriage-horse-falls-during-tour-in-downtown-charleston/
I sent this note to the Channel 2 interviewer. Dan, I hope it is "nice" enough. I think the record needs to be constantly set straight. There is so much confusion and that is where Riccio and the Industry are allowed to say whatever makes the Industry look like they are not at fault.

Begin forwarded message:

From: Ellen Harley <ellen.harley@gmail.com>
Subject: Collapsed horse
Date: April 20, 2017 at 8:37:31 AM EDT
To: sarazoza@wcbd.com

Sophia; Thank you for interviewing us yesterday on the collapsed horse incident. I enjoyed meeting you.
Just a couple of things of which you may not be aware;
1) the Equine Manager for the City has no veterinary science education. She apparently has some online courses on animal issues but no formal schooling in veterinary science (she's not a vet nor a vet tech).
2) the police are apparently relying on what happened not by interviewing witnesses or passengers to corroborate the story, but rather relying on the Industry employees/owner for information. As you are well aware, typically in auto accidents (and this was an accident on city streets affecting traffic and pedestrians) witnesses are asked (or should be!) what happened.
3) The City's vet as well as the Industry's vet both have financial interests with the for-profit Industry and the City, who financially benefits from the Industry, and therefore are not Independent.
4) Dan Riccio, the Livability Officer was not present at the scene. I was present at the scene as were others including Elizabeth Fort whom you interviewed, and the horse did not get up immediately nor did he raise his head immediately. If you would like for us to re-send the videos to you proving that the horse did not raise its head immediately or get up immediately, as Riccio claims, please let me know and I am happy to provide.
5) Horses do not typically fall nor do they typically stumble over their feet. To do so would be subject to a thorough investigation of the horse's health.
6) The pavement was dry and flat indicating no danger for a slip. If the pavement was unsafe, then the City and Industry are supposed to have requirements for animals to avoid that area.
7) There is no protocol established by the City and Industry for handling carriage accidents. The Charleston Animal Society has repeatedly asked the City to establish a protocol but to no avail.

ELECTRONICALLY FILED - 2022 Aug 11 11:49 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No.: 2018-CP-10-4083

Charleston Carriage Works, L.L.C., Appellant,

v.

Charleston Animal Society, Ellen Harley and
Charleston Carriage Horse Advocates, Inc., Respondents.

NOTICE OF APPEAL

Charleston Carriage Works, L.L.C. appeals the Orders of the Honorable Mikell R. Scarborough dated May 5, 2022, May 12, 2022 and August 2, 2022. Appellant received written notice of the entry of the final orders (denying reconsideration) on August 2, 2022

August 11, 2022

/s/Thomas R. Goldstein
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tgoldstein@cobblaw.net
Attorneys for Appellant)

Other counsel of record:

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June 2, 2020	Confidentiality Order
June 17, 2020	Plaintiff's Motion to Compel is Granted
July 30, 2020	Order Resolving Cross Motions to Compel
May 27, 2021	Order referring case
July 8, 2021	Order referring case
May 5, 2022	Order denying sanctions
May 12, 2022	Order denying amendments
May 12, 2022	Order denying amended scheduling Order
May 12, 2022	Order granting summary judgment
August 2, 2022	Order denying motions for reconsideration

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THE STATE OF SOUTH CAROLINA

In the Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

Mikell R. Scarborough, Master-in-Equity

Case No.: 2018-CP-10-4083

Charleston Carriage Works, L.L.C., Appellant,

v.

Charleston Animal Society, Ellen Harley and
Charleston Carriage Horse Advocates, Inc., Respondents.

PROOF OF SERVICE

I certify that I have served the Notice of Appeal on Charleston Animal Society, Charleston Carriage Horse Advocates and Ellen Harley by depositing a copy of it in the United States Mail (and by providing an electronic copy), postage prepaid on August 11, 2022, addressed to their attorneys of record, Elizabeth Palmer at her office Saxton & Stump at 151 Meeting Street, Suite 350, Charleston, South Carolina 29401 and to Joseph Thompson at his office Hall Booth Smith, P.C. at 111 Coleman Boulevard, Mt. Pleasant, S. C. 29464, and to Jenkins Mann at his office, Mann Blake & Jackson at 1901 Main Street, Suite 1205, Columbia, South Carolina 29201.

August 11, 2022

/s/Thomas R. Goldstein
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Attorneys for Appellant)

ELECTRONICALLY FILED - 2020 Feb 25 9:24 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	**AFFIDAVIT OF BRODERICK CHRISTOFF**
vs.)	
)	
Charleston Animal Society, Ellen)	
Harley and Charleston Carriage)	
Horse Advocates, Inc.,)	
)	
Defendants.)	
)	

Personally, appeared before me, Broderick Christoff, who being duly sworn, does depose and say:

I am the principal of Charleston Carriage Works, L.L.C. This is a single member limited liability company operated by my wife, Amber, and me. We usually have about 20 employees, and we provide horse drawn tours as allowed by the City of Charleston. We own 15 draft horses, 2 of which are retired and a pony. I have a degree in Biology and have worked in scientific labs in the past, but I abandoned the inside work of a laboratory for the outside work of running a carriage company because Amber and I love horses. We purchase them usually from the same Amish farmer and then carefully train them to be carriage horses in Charleston. I cannot begin to describe the horrors that befall the horses that no one purchases for carriage work. When Amber and I have retired a horse, such as Big John, we have always kept him or her with us or found a suitable home with someone who will love and cherish them. I have been around the carriage horses now for 25 years, and while there have been accidents and mishaps over the years, no one

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has ever been seriously injured in an accident involving a horse. The most serious incidents I am aware of involve animal activists (a lady dressed up like a dinosaur) or City negligence (refusing to let a horse pass when a bagpipe band was approaching).

I cannot hope to capture in this affidavit the harm and terror inflicted on my wife and me by the defendants, Ellen Harley and Charleston Carriage Horse Advocates. Ellen Harley is a well-known animal rights person, and since she moved to Charleston, she has spent an incredible amount of time and resources to put us out of business. She draws on her considerable experience as a successful Republican politician, and she puts her considerable political skills[1] and unlimited wealth to make sure that Amber and I lose our business.

At first, Ms. Harley limited herself to political efforts. This is something she has every right to do. Because she had been a successful candidate for the Pennsylvania House of Representatives (and an unsuccessful candidate for the United States Congress), her first steps against us were through the legislative process. She ran for Charleston City Council against Henry Fishburne and was defeated. In the early-mid 2000s, she alone spawned a nearly 3-year examination and overhaul of the City's extensive carriage regulations. In response to her lobbying efforts, the City of Charleston created a well-rounded City Committee comprised of, among others, a veterinarian, City officials, and the JASPCA, now known as Charleston Animal Society, during which time, the Committee rejected the same claims her 'organization' is making now after it thoroughly examined, debated, and largely dismissed her allegations.[2] Despite the Committee's

[1] Her campaign manager, Allen Raymond, wrote a book called *How to Rig an Election* (Simon & Schuster, 2008) in which he describes her as "aside from presenting well, Ellen was politically experienced, pragmatic, and had an aggressive taste for the jugular." Page 50.

[2] One of the allies of the Carriage Horse Advocates, a wealthy retired lawyer from Boston, proposed to the Tourism Committee that the City of Charleston erect a gate at Calhoun Street through which only vehicles of residents or their "help" could pass. All others would be required to pay for a 24-hour pass.

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decisions having been made based on scientific studies and information, Ms. Harley publicly published the lie that the carriage operators "own[ed] the committee."

Having failed to get elected to City Council, and then after failing in persuading the City's Committee to bend to her will through the previously described process, she became a fixture at the City of Charleston Tourism Commission and Charleston City Council where she has variously represented herself as Charleston Carriage Horse Advocates and as a Board member speaking on behalf of the Charleston Animal Society. She continued to lobby hard the Tourism Commission, the agency that regulates carriages, for changes to the extensive City regulations governing carriage tours with the view to eliminate us entirely. She pretty much wore out her welcome with City Council and with the Tourism Commission and that is when she stepped up her efforts against me personally. For the past two decades, she and I frequently opposed one another at Tourism Commission meetings, and thus the "Charleston Carriage Horse Advocates" was born, a name selected to be as close to my name as possible to send me a personal message. (This affidavit would be far too long if I attempted to explain the network of Animal Rights organizations and their tactics, but they are so well known, I hope the Court will be aware of them just from the publicity surrounding them, such as the ASPCA v. Feld Entertainment suit, which resulted in a multi-million dollar judgment against the ASPCA for the same kind of tactics being employed against me.)

On April 19, 2017, one of my horses, Big John, tripped on Meeting Street, sat down, and then laid down until we could unhook him from his harness. (Horses are smart. A trained horse knows that if he is on the ground, he cannot stand up until unhooked from the harness. The fact that Big John lay there and did not struggle shows how well-trained he is because a horse off his feet surrounded by a crowd must be comfortable around people to remain calm.) Numerous

witnesses reported the correct sequence of events to responding police officers, and within a few hours the police officers' reports were released to the public.

After Big John slipped, sat down, then laid down, Ms. Harley was on the scene within minutes because she frequently follows tours around Charleston and has harassed drivers and guests. She took a video of Big John lying on the ground and pushed it out through her Facebook Page, posting to viewers that the video was an example of a horse "collapsing" from heat and exhaustion. All her statements were false, and she knew they were false. The horse did not "collapse" any more than when a human being trips and falls is said to have "collapsed." Second, the temperature on April 19th was in the 70's, and Ms. Harley has admitted that it was not hot that day. Third, Ms. Harley understands the City requires we take the temperature of each horse **after every tour** and we maintain that information in our barns for the City to retrieve. (The City also puts a cap on ambient temperature, the number of days worked, mandatory veterinarian examinations, pasture rest, *etc.*)

When Ms. Harley's false statements went out, I do not have the skill to describe fully what it was like. The public was predictably outraged after Ms. Harley led them to believe that I had worked Big John to an exhaustive death. In no time, there were over 12 million views of Big John, and we all became subject to a deluge of death threats, arson threats, and threats of violence. (When I say "we," I mean the threats were directed toward me, toward Amber, and toward our employees.) My reputation was immediately and irreparably damaged. Once you have been smeared on social media, it is impossible to unwind the damage, and as explained below, when commenters would attempt to publish accurate facts, Ms. Harley and her group would delete the post and ban the commentator in order to preserve the smear.

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Not all the threats were electronic. Some unknown person found his or her way to our home and fired a gun down our driveway. In the immediate days after, people would stop by my barn and ask about the horse who died on Meeting St.—to which my employees would point to Big John and say "You mean Big John? He's right there." People sill ask about it from time to time. More than 2 years later, one angry and agitated person showed up in our barn and told our employee that he had something to take care of her with and would be back. On April 25, 2017, almost immediately following Ms. Harley's unleashing the violence of social media on us, we wrote her a polite letter, informing her that Big John was fine (he is still fine), not injured, examined by a competent veterinarian immediately following his fall, and cleared for work. (Even though a veterinarian cleared Big John for immediate return to work, Amber and I soon retired him due to the large volume of threats of violence.[3] Big John remains a happy part of our family to this day.)

When we requested that Ms. Harley publish the correct information and stop misleading people that Big John "collapsed" from "exhaustion" and was, in fact, fine, she became even more aggressive. I can only assume she did because she felt she made us vulnerable as the result of the violence she whipped up (and we were). Throughout this case, the defendants have taken the position that they are not responsible for what third parties say, but they ignore the fact that they deliberately mislead third parties in order to whip them up to a frenzy and also to solicit contributions from them. In fact, an animal rights/rescue group in New Jersey to whom the Charleston Carriage Horse Advocates sent the video, ran a fictitious campaign to purchase and

[3] I have no idea if the Court is interested horse behavior or not, but horses have a hierarchy in their herd. When Big John retired, the other horses pushed him down to the tail end. Amber and I bought a pony to keep him company, and the two are inseparable.

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rescue Big John. This rescue organization, who reported less than $6,000 in donations in 2015, raised over $100,000 in the 7 days that followed the Big John incident.

Here is an example of how Ms. Harley perpetrates her fraud: She publishes a video of Big John on the ground, and she asserts that he "collapsed" from exhaustion. Almost immediately, a third party would post a comment and correct her by saying, "no, Big John is fine; he was not hurt." Ms. Harley then responds by deleting that comment and banning that person from further posting. In other words, she carefully controls the narrative to escalate the anger and the viciousness of outraged third parties who she falsely informs they are seeing a video of a horse worked to death. Everyone knows that free speech does not mean we can shout "FIRE!" in a crowded theater, but that is exactly what she does through social media.

The examples of Harley's and Charleston Carriage Horse Advocates' published lies could fill up a volume. I will give the Court just a few examples. Here is a typical post from May 20, 2017, Charleston Carriage Horse Advocates Home Page:

> Did you know that (despite a mandatory 15-minute break between tours) animals are permitted to work eight consecutive hours connected to wagons[4] OR ten hours with a ninety-minute break in a 24-hour period? How would you feel pulling that much weight around with limited breaks?[5]

[4] The choice of the word "wagon" to denote "carriage" is not an accident. It is part of the defendants' efforts to demonize carriage tours. As for Ms. Harley's canard about exertion, a healthy Belgian draft horse can pull a fully loaded carriage with little exertion, especially over flat ground with large diameter wheels. (Think of the large sprocket on a 10-speed bicycle.) In fact, the physics works out to less than ½ horsepower to pull a fully loaded carriage. In accordance with the laws of physics, once the wheels are turning, the amount of force necessary to maintain momentum decreases, which is why automobiles get better gas mileage on the highway than in the City. "Horsepower" is a unit of measurement devised by James Watt, the inventor of the steam engine, utilizing horses pulling ropes with weights. When a steam engine could lift the same amount of weight in the same amount of time, that energy measurement became "one horsepower."

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Here is Charleston Carriage Horse Advocates on February 28, 2018, alleging animal "abuse," which is a crime:

> It's not an option to give up, who will speak for the oppressed and abused if you don't? Advocates and change makers will always have obstacles they are empowering.

Here is Charleston Carriage Horse Advocates on December 12, 2018 (replying to a comment that the horses "looked so sad and tortured" :

> There are so many reasons, where to begin? Safety. Non-compliance of city ordinances, suspicious record keeping, alarming stories from disgruntled employees, animal abuse. Traffic congestion, cozy City Official relationships, Wagons and not carriages, strong arm tactics (so tedious) stench of urine in the streets and more. What do I approve of? Hard to say.

There is a lot of libel in that post, but it is worth pointing out, the alleged "disgruntled employee" canard is a play lifted straight out of the Animal Rights Playbook examined in detail in the Feld Entertainment case, a case that so upset the presiding judge that he imposed severe sanctions against the ASPCA. Here is the Charleston Carriage Horse Advocates on April 5, 2019:

> Take a stand with the horses and mules that pull the heaviest loads and in the most extreme temperatures[6] in the U.S. Together, we can effect change in their inhumane working and living conditions.

In the same repost in which the defendants describe us as "inhumane," a commenter points out that animal abuse is a crime in South Carolina and asks if the defendants have notified the police. The list goes on and on, but each time someone would post a point of view at variance with the Charleston Carriage Horse Advocates, Ellen Harley deletes it and bans the poster, thereby creating a false narrative to cast me in a false light as an animal abuser, animal torturer, rule

[6] Temperature is relative. Ms. Harley, a part-time resident of Charleston, who spends time at her home in Edgartown, Massachusetts on Martha's Vineyard, probably believes summer in Charleston is "extreme." Likewise, Martha's Vineyard winter temperatures would feel extreme to me. Charging me with subjecting our horses to inhumane treatment is not relative. She slanders me to encourage donations.

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breaker, and to convict me in the court of social media as guilty of animal cruelty. This has, obviously, inflicted serious financial damages on our company.

It is hard to describe what these defendants have done to me because the viciousness and threatened violence came so often for so long. With the Big John video, at regular intervals, other animal right groups and sites share (repost) the Charleston Carriage Horse Advocates' video, typically right before a holiday or busy month. This reposting is done with impunity as the law provides no remedy for me against others republishing false information on social media. It is like shouting "FIRE!" in a crowded theater and then broadcasting it. I usually become aware of the reposting when the hateful comments, threats and bad reviews start pouring in. As the result of the millions and millions and millions of "views" of what the defendants led people to believe was a dead or dying horse, we had to hide Big John, install expensive surveillance, arm ourselves, and be constantly on guard. For many weeks, Amber and I barely slept as one of us was always on guard for what we were sure were attacks coming from Animal Rights adherents. We even considered moving out of our house for some period after someone fired shots down our driveway and commenters had identified, named, and posted about us personally. The violence of animal rights activists is well known. Such violence prompted Congress to pass the Animal Enterprise Terrorism Act. What happened to us is the same thing that happened to Feld Entertainment in that case when the A.S.P.C.A. paid witnesses to lie and manufacture evidence of animal cruelty and what happened to the Gibson's in the Oberlin College case. Following the defendants' creation of the lie that I worked a horse to "collapse" or exhaustive death, I had to block entire countries from our Facebook page due to the volume of threats and attacks. We spent thousands and thousands of dollars on trying to protect our Internet presence due to the harm caused by these defendants, and, of course, Ms. Harley selected her name, "Charleston Carriage Horse Advocates" to be so

close to mine as to cause confusion. Lots of people cancelled tours (the defendants' ultimate intention), and the defendants did a splendid job of painting me as someone who abuses animals, cheats on regulations, and is unfit to provide horse drawn tours.

Let me be clear: I acknowledge and respect the Charleston Carriage Horse Advocates' right to advocate for elimination of horse drawn carriages. They have the same First Amendment right I do. If they had published a video of Big John and informed people it was an example of a horse who tripped and fell on Meeting Street, none of this would be before the Court. And after they published their false narrative, we wrote to them and asked them to please publish a correction. They have every right to lobby the City to tighten up the rules or to eliminate horse drawn carriages entirely, but they do not have a right to publish statements to lead viewers to think that we abuse our horses or treat them cruelly. (It is a hard sell to call for a ban since South Carolina law gives horse drawn carriages the same rights to a roadway as anyone else.) We run a lawful business, and we comply with the extensive City regulations that govern our operation. We love our horses and we take excellent care of them, and we consider them members of our family. At a recent deposition, a veterinarian, Dr. Justin Miller, testified that horses like to work and they like having a routine just like people. He testified about a scientific study that measured the stress (cortisol levels) of carriage horses, and the scientists found that working horses had much less stress than while at rest in pasture.

This case has similarities to the Feld Entertainment and Oberlin College cases. In the Feld case, the A.S.P.C.A. had every right to urge Feld Entertainment to stop using elephants, or pursue regulations, but they went much too far when they paid a "disgruntled employee" to lie about the abuse of elephants that never occurred. Likewise, Oberlin College faculty and students had every right not to shop at Gibson's Bakery if they did not like the way it was run, but when they

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distributed fliers calling the Gibson's racists because they called the police on a shoplifter, they went too far as well. The defendants falsely charge me with acts that paint me as a person who mistreats and abuses animals and who is unfit for the exercise of my lawful business. They do it premeditatedly, and they do it with one goal in mind—to stir up so much public hostility for me that I will be forced to go out of business. They know the narrative they are pushing is false, but to them, the end justifies the means. They have defamed me and caused me significant damages in lost profits, loss of growth, and caused me to expend thousands of dollars to blunt the digital effects of their coordinated attacks on me.

There is a lot of evidence in this case, and a lot more to be developed, to show that the defendants have intentionally defamed me, and in refusing to participate in discovery, they display the same arrogance to the judicial system that they display toward me—that they are above and beyond the rules. I have waited 17 months and counting for responses to basic discovery requests despite several letters requesting the same.[7] While I have had to endure boilerplate objections, I sat for a 13-hour deposition, including 10 hours in one day. When we could not get answers to basic questions in discovery and scheduled a 30(b)(6) deposition of the organization, I had to sit through numerous coaching speaking objections on behalf of the Defendant, Charleston Carriage Horse Advocates. For all these reasons, I respectfully pray that the Court not grant each Defendant's Motion for Summary Judgement and allow me the opportunity to present the evidence I have along with the additional evidence I expect to have after the Defendants are required to play by the rules. Furthermore, all Defendants have long asserted their various claims against me in

[7] To be fair, I acknowledge that my lawyer's medical issues caused delay in the court addressing these matters.

various forums, and they, too, deserve the opportunity, and have the responsibility, to prove the truthfulness of their assertions.

Further you deponent says not.

Broderick Christoff

SWORN TO BEFORE ME THIS
24th DAY OF FEBRUARY, 2020

Notary Public for South Carolina
My Commission expires: 4-16-2020

THOMAS R. GOLDSTEIN NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. 04-16-2020

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ELECTRONICALLY FILED - 2020 Dec 02 12:11 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2018-CP-10-04083
CHARLESTON CARRIAGE WORKS, LLC, Plaintiff, vs. CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY, and CHARLESTON CARRIAGE HORSE ADVOCATES, INC., Defendants.	)	**SUPPLEMENTAL AFFIDAVIT OF BRODERICK CHRISTOFF**

Personally appeared before me, Broderick Christoff, who, being duly sworn, deposes and says:

I am the principal behind Charleston Carriage Works, which I operate along with my wife, Amber, and 20 employees. I have a Bachelor of Science degree in Biology from Christian Brothers University from which I graduated in 1992. After I spent years working in laboratories, most recently for Pharmacy Services at the Medical University of South Carolina, I decided I did not want to spend my life in a laboratory and eventually, Amber and I decided to make a career out of something we both love: horses.

I began working for Classic Carriage Company in 1995 as a tour guide and worked my way up to manager. In October of 2013, I left Classic Carriage and started and began operating Charleston Carriage Works. We are located at 20 Anson Street, and Amber and I keep our horses at our property on Johns Island. (After Ellen Harley and the Charleston Animal Society distributed the video of Big John, Amber and I have continued to house horses to a non-disclosed location due to the volume of threats we were receiving.)

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As will be detailed below, the Charleston Animal Society (CAS) and Ellen Harley's Charleston Carriage Horse Advocates (CCHA) groups have coordinated their efforts to put me out of business by painting me as an animal abuser. Let me say at the outset that Amber and I have been around horses for many years, and we regard them as members of our family. We know each horse and each horse's individual personality. When a horse retires, we either keep him or her on the farm or we locate a loving home for him or her. All our horses come from Pennsylvania or Ohio as mature Belgian draft or Percheron horses being sold by Amish farmers. Anyone who knows anything about horses knows that a fully grown Belgian or Percheron weighs approximately 2000 lbs. and can pull a fully loaded carriage, which has 35-inch wheels (the average of the rear wheels of 40 and the front of 30), with 16 passengers over level ground with about the same amount of effort as I spend pushing a lawn mower. For some reason, both CAS and CCHA spend a lot of time falsely asserting that the weight of a carriage overtaxes our horses when the force required to pull it is not equivalent to its weight. The energy necessary to propel a bicycle forward is almost identical for a 150 lb. rider as for a 250 lb. rider, which can be thought of a different, more intuitive way: A 150 lb. person falling off a roof will accelerate toward the ground at the same rate as a 250 lb. person. Rather than weight, the material elements in the formula to calculate the energy needed to pull a carriage are governed by: 1. The diameter of the wheels, 2. The grade of the ground over which it is being pulled, and 3. The coefficient of friction of the wheels. As anyone who as pushed a stalled automobile knows, the weight of the carriage is not a material factor. An average sized human being can push an automobile across level ground even though an automobile is on four wide 15-inch pneumatic tires. If an automobile sat on 40-inch inflexible, narrow wheels, the amount of force needed to push the same automobile would be much less. This is why trains ride on narrow, steel wheels where an

ordinary diesel engine or electric motor pulls thousands of tons. As for the diameter of the wheels, anyone who has ridden a ten-speed bike knows exactly how the force needed to turn the pedals of the bicycle lessen by shifting to a bigger sprocket. The universal rules of physics determine that a 2000 lb. draft horse uses less than 5% of its power to pull a carriage.

It is obvious that CAS and CCHA labeling us as "cruel" and animal "abusers" is slanderous and designed to cast us in a false light to drive away customers and destroy our business. Animal cruelty is a crime in South Carolina. §§ 47-1-40, 50, S. C. Code, ann. If anyone spent 15 minutes at a Pennsylvania or Ohio horse auction and witnessed what happens to horses that are not lucky enough to get second careers with us, no one would dare accuse me or Amber of "abusing" horses or pulling carriages as "cruel." The overwhelming majority of draft horses in the U.S. are sold for meat, and we refer to those buyers as 'kill buyers.' The auctions even have places called 'kill pens.' Many horses sold for food are immediately shipped and spend the remaining hours of their existence confined in a crate without food or water until they are slaughtered and processed for consumption. https://www.theglobeandmail.com/canada/bristish-columbia/article-cfia-documents-raise-concerns-over-horses-shipped-from-calgary-to/. It breaks our hearts that we cannot save them all.

The genesis of this case starts years before the April 19th Big John incident in 2017. Ellen Harley and Joe Elmore share Directors on their Boards and supporters/members in common and frequently identify themselves as co-equal organizations before City Council and the City's Tourism Commission. In fact, a member sitting on the Charleston Tourism Commission and close friend of Mr. Elmore, Randolph Cooper, informed the Commission that the CCHA is a Subcommittee of the CAS. See City of Charleston Tourism Commission Minutes dated April 26, 2017. (This was seven days after the Big John incident.) Joe Elmore came to

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Charleston from the ASPCA where he was a Senior Director, and the ASPCA's stance against carriages is widely known. Anyone can read the ASPCA's carriage ban platform as set forth in its 2014 statement, which includes the following: "We applaud efforts clearly in motion to take these horses off city streets, pushing both them and New York itself into a more civilized future that should be welcomed, not feared." https://www.cnn.com/2014/01/23/opinion/bershadker-ban-horse-drawn-carriages/index.html There are a couple of things notable about the ASPCA statement that shed light on this case. First, as I said at the outset, Amber and I love our horses and regard them as members of our family, and both Joe Elmore and Ellen Harley have turned an intentional blind eye to the love and care we provide them. Each horse receives excellent medical care from qualified veterinarians and farriers, and the City of Charleston imposes rigorous operating conditions on us, to which we adhere. These regulations are extensive and regulate the number of hours a horse can work, how much rest a horse receives, how much vacation a horse receives, the temperature at which they must stop working, *etc.* The City adopted these regulations with input by both Ellen Harley and the CAS, and these regulations require that we take the temperature of each horse after each tour to make sure a horse is not overheated. Both Ellen Harley and Joe Elmore have made numerous statements that our temperature readings are not accurate because our employees take them and log them for the City. I am not qualified to make a psychological analysis of them, but my common experience has been that people who constantly accuse others of cheating are revealing more about themselves than the objects of their slander. Not once have either of them ever asked to observe the temperature recording process; instead, they just assert without evidence that we cheat. They attack my reputation on every ground and at every opportunity, and they have no regard for the work involved in creating my company's business goodwill. These temperature and work

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records are maintained at the barn for the City's inspection, and the City has a full-time Tourism Code Enforcement staff and a full-time equine manager who routinely review the records. It is notable, however, that like the defendants in this case, the ASPCA has likewise shifted its strategy to disguise its existential attack on carriage horses to a policy to promote so much regulation as to regulate us out of business as opposed to calling for an outright ban. This explains the emphasis on the false allegations that we do not adhere to regulations and/or cheat on the reporting. See their updated position:

The ASPCA is not opposed to the use of horses and other equines in pulling carts and carriages for hire, provided that all of the animals' physiological and behavioral needs are fully met, housing and stable conditions are humane and their working hours and conditions are carefully regulated as to temperature, humidity, proximity to traffic, rest periods, etc. Working equines should receive regular veterinary and farrier care and be provided a humane retirement when no longer able to work. (https://www.aspca.org/about-us/aspca-policy-and-position-statements/carriage-horses)

As I stated above, their coordinated effort to put me out of business started at least by 2015 through the Charleston Animal Society's formation of its "Equine Cruelty Committee" headed by Ellen Harley and Joe Elmore with a name selected to be slanderous. Animal cruelty is a crime in South Carolina. Because I stood up to them at Tourism Commission meetings, Harley and Elmore identified me as the impediment to their plan to shut down the carriage tours because our frequent conflict, my science background, and my long history with horses prepared me to challenge their unscientific assertions to the City. On August 18, 2015, the Charleston Animal Society's Board Minutes document the "Special Report" given by Joe Elmore and Ellen Harley in which they recommend that Charleston Animal Society spend up to $95,000.00 to pull together and "leverage" their social media presence to create hostility for carriage tours. They called their plan their so-called "Phase 1" to drum up support to shut carriages down. The Minutes of this meeting reflect that after Joe Elmore made the recommendation, Elizabeth

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Bradham made a motion to adopt the plan, seconded by Ellen Harley. Thus, they passed their "Phase 1" plan to hire an expert to advise them how to "leverage their social media," and this motion passed unanimously without discussion.

In 2017 Ellen Harley registered "Charleston Carriage Horse Advocates," a name carefully selected and designed to confuse my customers looking for me on the Internet and divert my customers to its and to the Charleston Animal Society's web page. Look how similar the names are:

Charleston Carriage Works

Charleston Carriage Horse Advocates

Against this background of their joint effort (and if I detailed every false or misleading statement they made to the public and to the Charleston Tourism Commission in support of this effort, this affidavit would be so long no one would read it), both the CCHA and the CAS thought they received a windfall when Big John slipped and fell on April 19, 2017. The evidence in this case demonstrates the collaboration between Elmore and Harley to collect footage—to date, the Charleston Carriage Horse Advocates has not responded to discovery—to be used in a campaign to attack me and motivate viewers to make donations. Even though the entire Big John event lasted approximately eleven minutes, **at least** two of the Charleston Carriage Horse Advocates' and CAS Directors were on the scene in seconds gathering footage, and video evidence demonstrates how aggressive and inconsiderate Ellen Harley was on the scene, stepping around employees who were unharnessing Big John so he could stand up. The raw video footage—which CAS and Harley carefully edited out—shows how aggressive Harley became to capture close up footage, no doubt because she intended to capture images that she knew she could manipulate on social media. Ellen Harley sometimes spends her days following tours,

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photographing and harassing us. Within hours of Big John lying down on Meeting Street, both the CCHA and the CAS pushed out an edited video of the event with the caption and editorial comments designed to create the impression that Big John died from heat exhaustion and overwork. The caption read: "Why were eyewitnesses intimidated to stop taking video when a horse collapsed?" "Was Big John exhausted or did he just trip?" "By law, the city is required to weigh each carriage, filled with passengers, before each tour, but Charleston does not enforce this." These statements were false, and both CAS and CCHA knew they were false, not the least because the "witness" is Ellen Harley, and the unedited video evidence demonstrates that any intimidation on the scene flowed from her in her interference with employees unharnessing Big John.

The temperature on April 19th was 75 degrees. Even Ellen Harley stated it was not that hot, but yet each one of them deliberately led viewers to believe that Big John "collapsed" from exhaustion and heat. The Charleston Animal Society inserted captions on the video to inform the millions of viewers that the video depicted a horse who "collapsed" and was "exhausted," neither one of which is true. Big John did not "collapse." Rather, he was wearing new shoes on April 19th, and horses do trip just like human beings. Just like humans, horses take a little time getting adjusted to new shoes. Big John tripped over his rear new shoes and sat down. Because he was harnessed, he knew he could not stand up, so he laid down until the harness was removed, which took about ten minutes. It was during the process to unharness him that Ms. Harley pushed her way forward and interfered in the process as depicted on video we obtained in discovery from CAS. Likewise, the CAS caption that Big John could not stand up is equally false. Big John could stand up anytime he felt like it. The reason barn hands were encouraging him to stand up was not because he was incapable but because they were controlling the process because

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Meeting Street is a busy street. Of course, when CAS and CCHA pushed out their edited video, they deleted the footage of Harley's aggressive interference, which demonstrates the coordinated effort to paint the incident in a specifically tailored way to create a deliberately false statement to be distributed.

The CAS knew the horse had tripped, was not overworked/exhausted/overloaded *etc.* as the City and the City's Police Department released reports about the incident the same day it occurred and prior to the CAS' publication of the video. The allegation about each carriage having to be weighed on each trip is completely false. Moreover, as the video demonstrates, the carriage was carrying school children, and thus weight could not have been a factor. Notwithstanding the fact that both CCHA and CAS were aware of these circumstances, CCHA's and CAS' "media specialist," Dan Krosse, an employee of CAS, edited and captioned the video published on each entity's Facebook and other media platforms. The limited evidence provided by the defendant, CCHA and the more full evidence provided by CAS document that CAS directed Dan Krosse to assist the CCHA with video production the year before, and this assistance created the false video of the April 19th event that both defendants disseminated.

Once the predictable recoil and outrage flowed in from the defendants' pushing out a video of putative "collapsed" and "exhausted" horse to millions of viewers, I begged the Charleston Animal Society to stop misleading people into thinking that I conducted an unlawful business or abused my horses, and I even sent them a letter, which they ignored. Following the defendants' publications, many customers immediately canceled tours after seeing the CAS and CCHA video of "the horse that died" on Facebook. I was under a tsunami of threats against me, my business, and the horses. My business and my life were in turmoil, and I had to spend thousands of dollars in purchasing and installing surveillance equipment and combatting the

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negative reviews generated by their false statements. However, the Charleston Animal Society, in collaboration with the CCHA, realized that by painting me as an abuser, they were turbo charging their donation efforts. To give you an example how the video of Big John lying on his side affected donations, consider the fund raising of "Rancho Relaxo," an alleged New Jersey animal rescue organization and how they used the Big John video. Alerted by CCHA, Rancho Relaxo asked for donations to "rescue" Big John. Prior to the video, it had some $5.000.00 on hand, and after just one week of promoting the video of Big John and telling viewers it needed the money to come to Charleston and "rescue" Big John, it collected $100,000.00. Charleston Animal Society pushed out the same fraud. It also used the same video to stir up animosity and then solicit donations. According to CAS, it collected more donations than that in ONE DAY just two weeks after the incident. Moreover, they continually republish the video, and so do any number of animal rights groups who share the same goals as CAS. Interestingly, the CAS has nothing to do with equine rescue. The equine rescue organization in the Lowcountry is handled by L.E.A.R.N., the charity located in Meggett. Elizabeth Steed from L.E.A.R.N. is on our witness list.

Charleston Animal Society is a taxpayer supported institution, receiving millions of dollars in tax money from Charleston County, the City of North Charleston, and the Town of Mt. Pleasant. As a charitable organization supported by tax dollars, it is forbidden from using false or misleading information to generate donations, but the donations to Charleston Animal Society have steadily climbed since using Big John and the manufactured "plight of carriage horses" as a prop to induce donations.

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Throughout this litigation Charleston Animal Society contends it did nothing wrong with regards to Big John by asserting that when someone falls, he or she "collapses." The CAS contends that none of its statements harmed me, but that is a position that can only be sustained by willfully ignoring not only the definition of collapse as related to living beings, but the volume of evidence, including statements to the public, fraudulent push polls, misleading comments on Big John, misleading statements to the Tourism Commission, and most importantly, the careful manipulation of social media to cast me in a false light and whip up hysteria against me. The CAS slander also includes the active prevention of dissemination of any truthful correction. It may be true that the CAS never published a statement specifically urging customers not to use our specific company by name, but it certainly published identifiable pictures and videos of my business, and it engaged in a course of conduct on multiple levels designed to defame me and put me out of business:

- Making false statements to the Tourism Commission and its committees
- Creating a false impression of me as an animal abuser.
- Creating a false impression of me as ignoring the law.
- Creating a false impression of me as overworking horses.
- Publishing statements calling me out by name and saying that "Christoff's statement is a reaction to the fact that more than 11-million people saw the video of his horse "Big John" collapse . . ." and further suggesting I am hiding something that should raise a "red flag" with the public.
- Controlling the messaging on social media by deleting accurate information and banning commenters who provide it.
- Publishing numerous false statements, as evidenced in their discovery production, including:
    - Horses are only given rest in the hot sun and often without water
    - They witnessed carriage horses worked to exhaustion
    - Carriage horses in Charleston are dying as a result of the City not enforcing the ordinances
    - Carriage horses in Charleston are dying as a result of mistreatment

Once the Animal Society published the Big John video and edited the comments to fit their false narrative, all the above was leveraged against me. Then, Amber and I received death

threats, arson threats and threats from people that they were coming to get Big John and "rescue" him. (Big John, by the way, remains happy and healthy on an undisclosed farm.) All this occurred in spite of the fact that a qualified veterinarian and the City Equine Manager examined Big John on April 19th and pronounced him fit and unharmed. Both CCHA and CAS possessed this information the same day of the event. As a result of the CCHA and CAS' efforts, I had to cut off entire countries from viewing our Facebook page due to the volume of hate mail and threats. Amber and I took turns sleeping in shifts for weeks as one of us stood guard against threats of violence. We considered temporarily moving out of our house after someone fired shots down our driveway. We filed a report of the threats with both the Charleston County Sheriff's Department and the FBI.

When the efforts to paint me as an animal abuser did not work fast enough for the defendants' coordinated effort to put me out of business, they stepped up their campaign against us by spending taxpayer money to purchase Google ads to divert my customers to their web page. As a result, when a customer would search for me under "Charleston Carriage Works," instead of my web site coming up, the first result the customer would see was a paid ad from the CAS diverting them to the CAS' web site and a picture of Big John on the ground subtitled with the false "collapse" narrative. As a result of the Animal Society's web campaign, I had to spend thousands of dollars to bid against this Internet search redirection. The CAS purchase of these ads is clear evidence demonstrating how the CAS was targeting no other carriage company—only me.

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In closing, the Charleston Animal Society knowingly abused its privilege of being recognized as an authority on animals—authority granted to them through the taxpayer funded support of Charleston County, various municipalities, and law enforcement agencies. They published statements they knew were false, whipped up hostility, carefully controlled the narrative, collaborated with at least one Board member to do the same with her organization that they at best aided and at worst created, and then leveraged all of that in a calculated effort to destroy me and my business. They absolutely knew the outrage that claims of animal abuse would elicit. Freedom of speech is not freedom from consequence and the intention of that freedom is certainly predicated on an implication of honest engagement and good faith—especially from an authority whose tax-exempt status is conditioned upon being truthful. The Charleston Animal Society cannot shout "Fire!" in a theatre to cause a panic and then assert immunity from the harm by claiming they never specifically directed any individual be trampled.

Further your deponent says naught.

Broderick J. Christoff

SWORN TO BEFORE ME THIS
23rd day of June, 2020

Notary Public for South Carolina
My Commission Expires: Apr. 1 22, 2030

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2018-CP-10-04083
CHARLESTON CARRIAGE WORKS, LLC, Plaintiff, vs. CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY, and CHARLESTON CARRIAGE HORSE ADVOCATES, INC., Defendants.	)))))))))))	**SECOND SUPPLEMENTAL AFFIDAVIT OF BRODERICK CHRISTOFF** RULE 56(f), *S. C. Rules of Civil Procedure*

This affidavit is being submitted in support of the Plaintiff's assertion that the Court's entertaining summary judgment at this stage is premature because the defendants, Ellen Harley and Charleston Carriage Horse Advocates have refused to participate in discovery.

Personally appeared before me, Broderick Christoff, who, being duly sworn, deposes and says:

As set forth in my original February 24, 2020 and December 20, 2020 supplemental affidavit, I am the principal of Charleston Carriage Works, which I operate along with my wife, Amber, and approximately 20 employees. I am filing this second supplemental affidavit to demonstrate why this case is not properly considered for summary judgment.

As set forth in the extensive pleadings in this case, the defendant, Ellen Harley and her putative charity, Charleston Carriage Horse Advocates, have not participated in discovery in good faith, and Ms. Harley's pattern of not complying with our requests for discovery and misuse of a charity continue right up through the present because, to date, no one has held her

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accountable. To date, in response to our requests for discovery, Ms. Harley has produced a single e-mail, lied under oath during her 30(b)(6) deposition, and refused to turn over her electronic devices to our computer expert despite agreeing to do so. Her conduct fits a pattern, and perhaps some background about the Charleston Carriage Horse Advocates in particular and the animal rights movement in general will assist the Court in understanding her strategy and why it will never change until a Court forces her to change.

Ms. Harley is an experienced politician. After losing her race to represent Philadelphia in the United States Congress, she moved to Charleston part-time, first on East Bay Street and currently at 23 Wentworth Street. Even though she spends half the year in Charleston and half the year in Martha's Vineyard, when she is in Charleston, her residence at 23 Wentworth is on the route for carriage tours. (Her first home on East Bay was also on a carriage tour route. The carriage routes are dictated by the City, and we are required to adhere to them.) Soon after moving to Charleston, she ran for Charleston City Council against Henry Fishburne. She failed to get elected to City Council, and then turned her attention to the Charleston Tourism Commission where she became a fixture, urging the Tourism Commission to promulgate rules that would effectively ban carriage tours. At the Tourism Commission and at City Council, I frequently opposed her and Joe Elmore and so, unfortunately, I became known to her. She is not accustomed to people standing up to her, and she has made it a point to retaliate against me.

After she failed to persuade either the Tourism Commission or the City Council to enact her regulations for "humane" treatment of horses, which she has every right to do, she decided to try to achieve her ends by, as she says, "depressing" my income, which she has done by smearing us in numerous campaigns, calling me an animal abuser and accusing me of failing to provide "humane" treatment for my horses. She chose the name of her putative charity with me

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in mind in order to facilitate her campaign to slander me and my business. Rather than confront me directly, she attacks me in the guise of an alleged "charity" in an effort to shield her from her fraud even though South Carolina law specifically prohibits charities from disseminating false information to promote fundraising. The reason I say her charity is a fraud is because there is an equine charity in the Low Country, an equine rescue center known as L.E.A.R.N. in Meggett, and the founders of that charity are on our witness list. Last time I checked, neither Ms. Harley nor the Charleston Carriage Horse Advocates supported L.E.A.R.N. either financially or otherwise even though it is the organization in this area that cares for neglected horses.

Despite this suit being filed in 2018, Ms. Harley has resisted all efforts at furnishing us information about how her alleged charity works, and she will never participate in discovery until this Court compels her and her putative charity to conform. As I said above, in her frequent appearances before City Council and the Tourism Commission, I often challenged her, pointing out that her information was not correct. I did the same thing with Charleston Animal Society. She did not like that, and neither did Joe Elmore. (Joe Elmore came to Charleston from the ASPCA, and that organization's call for a ban on carriage tours is well known and well publicized. I provided a link to it in my December 2, 2020 affidavit at page 5) As the e-mails and the Board Minutes provided by Charleston Animal Society demonstrate, the Charleston Carriage Horse Advocates is the alter ego of the Charleston Animal Society, born from the Charleston Animal Society Committee on "Equine Cruelty" chaired by Ms. Harley, and they are engaged in a joint operation to put me out of business. See Charleston Animal Society Minutes, April 21, 2015, and August 8, 2015, attached here as Exhibit 1. (They also represent themselves as being parts of the same organization as detailed in my previous affidavits.) For example, on March 30, 2017, Ellen Harley sent an e-mail to Joe Elmore, C.E.O. of the Charleston Animal

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Society, Dan Krosse, the director of communications of the Charleston Animal Society, and Kurt Taylor, the lobbyist for the Charleston Animal Society in which she boasted about their ad which was running:

> Started today. Running 150K through next Wednesday. I am thinking the only way to defeat this City/Industry cartel is by depressing their income. The corruption is too great to fight and win. (Harley e-mail, March 30, 2017, attached here as Exhibit 2.)

Ellen Harley and Joe Elmore decided early on to single me out and get me out of business, and for those reasons, she picked a name for her "charity" to mimic my company's name so she and the Charleston Animal Society could try to put me out of business by making sure that my customers searching for "Charleston Carriage Works" are diverted to her "charity." As set forth in my previous affidavits, I have spent thousands of dollars, and incalculable hours, combatting this confusion. Setting up a web site with a similar name to a target is a well-known hacking strategy. Everyone who uses e-mail is constantly on alert for receiving "phishing" scams in which hackers create facsimiles of well-known internet providers in hopes of tricking on an unsuspecting target to click on it. It is no different with "Charleston Carriage Horse Advocates." By setting up under that name, Harley and her group have played havoc with my Internet presence, and it is common for customers looking for my site to be diverted to hers.

Most importantly, her organization is not a charity, and if we ever get a look at its operation, I am confident her documents will demonstrate this. As stated above, there is a local charity that looks after horses in Meggett called L.E.A.R.N. Rescue (Livestock & Equine Awareness & Rescue Network), which is run by Elizabeth and Kelly Steed. The Steed's are on our witness list and fully supportive of us because they know the care our horses receive. (And as stated throughout my previous affidavits, the City requires rigorous examination of our horses down to such details as taking each horse's temperature after every tour to monitor whether a

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horse is overheated. Human beings in hospitals receive less monitoring than our horses. The defendants know this—they helped promulgate the rules, so they know we do not "abuse" our horses or treat them "inhumanely.") Because Harley does not have the facts to support her (there is a wealth of scientific literature that carriage horses have lower stress levels and are in better health than wild horses), Ms. Harley resorts to, and has a long history and pattern of, presenting unsupported "facts" and employing underhanded tricks such as choosing a name to confuse my customers following carriages, harassing drivers, and frequently monitoring my barn. Aside from naming her "charity" so as to confuse Internet browsers with my company, she has—either on her own or in conjunction with Joe Elmore of the Charleston Animal Society:

- Filed a complaint with the Supreme Court against my lawyer, asking that the Court discipline him or suspend his license.
- Filed a complaint with Labor Licensing and Review against my veterinarian, asking that his license be suspended.
- Lobbied to have Tyler Jones, a carriage spokesperson, fired from his job.
- Reported my company to O.S.H.A.
- Bullied the City's Livability and Tourism Director, Dan Riccio.

Regarding discovery, to date, Ellen Harley and her putative charity have produced a single e-mail in response to our request for documents. Her lawyer repeatedly represents that he has over 8000 e-mails and text messages that he is going to turn over "any day" now. When we scheduled and completed a 30(b)(6) deposition of Charleston Carriage Horse Advocates, Ellen Harley appeared as the designated witness and equivocated and lied about where we can locate the records of her "charity," telling us that "A-1 Bookkeeping" handles all the disbursements, but the checks they have produced are all signed by Ellen Harley. When we requested bank

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statements from her bank, she interfered in that as well, filing a motion to quash the subpoena, and producing what appears to be hand created documents that are not close to being bank statements. Moreover, when we deposed a "charity officer and director," Elizabeth Fort, Ms. Fort testified that the "charity" never kept Minutes or records, just gathered in Ellen's house informally to discuss the issues:

Q. But you were on the board of directors? You did have—y'all did have a board of directors?

A. I don't think we had necessarily a board of directors. It was my understanding I was on the board, but I never—I just I never felt like I was—I didn't have a specific role.

Q. Did y'all have regular meetings?

A. We had like—we gathered, the four of us, at Ellen's house. And so if that was like a formalized meeting, yes, but it was nothing like a board that I've been on in the past in terms of like we had a space. We'd just go to Ellen's It was probably, I mean, I was over there maybe twice. (page 14, lines 9—23, May 3, 2019)

However since then, Harley has produced a few alleged Minutes, which appear to be produced after-the-fact to give the appearance of running a bona fide organization, another reason we have asked for access to her electronic devices in order to determine when the documents were created and by whom. The metadata in these documents will reveal the identity of the author and the date the document was created. Most importantly, an examination of her devices will reveal if she has deleted information, something she admitted in her 30(b)(6) deposition she would not do. In spite of her attorney's pervasive attempts to shape her testimony, in her January 31, 2020 30(b)(6) deposition Harley admitted that the documents of her organization are spread out among the personal devices of her "Board" as well as her "media

consultant":

Q. Okay. And where are those documents?

A. Well they would be on—

MR. THOMPSON: Hold on. Stop. Stop.

(Interruption)

BY MR. GOLDSTEIN: Q. They would be where?

A. They would be on various computers.

Q. Okay. And who—who would maintain those computers?

A. They would be personal computers of Board members.

January 31, 2020 30(b)(6) Deposition, page 34, lines 8--23

In her May 3, 2019, deposition, the former "Director" of Charleston Carriage Horse Advocates, Elizabeth Fort, testified she had submitted all the documents in her possession and that she would provide the original April 19, 2017 video footage she took of Big John stored on her phone. To date, we have received neither. (The Charleston Animal Society has provided all of its video footage, which may or may not contain the video shot by Elizabeth Fort on April 19, 2017, but until she provides what she has, we cannot determine if we do or do not.)

When we realized we were never going to get accurate records from either Harley or Charleston Carriage Horse Advocates, in 2019, we hired Steve Abrams to conduct a forensic examination of the "charity's" computer system because Harley has already demonstrated she is willing to fabricate evidence, and there is no way ever to reach the truth without examining the computers. Here is a recent example of the type of activity Harley creates to cast me in a false light:

On July 22, 2021, her "charity" website posted an alleged negative review from "Sarah

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M," an alleged visitor to Charleston in which this anonymous visitor claimed she took a tour on one of my carriages, which she claimed was operated by an unidentified allegedly intoxicated driver. (Ms. Harley has since deleted the post.) Here is the posting:

> We brought six guests with us to experience a historic carriage ride. Sadly, it didn't live up to previous experiences. Our guide appeared intoxicated—red, glassy eyes, and slurred speech. My main disappointment with this tour, was his incessant use of sarcasm and 'digs' on the North. It made us uncomfortable and wishing to get off. Having done carriage rides with different companies in the past, they can be very informative and enjoyable. This one though was a waste of our time and money. I realize that there are probably many great guides with this company and you get what you get. I guess it is a chance we take when visiting this amazing city.
>
> We were on the 4:00 p.m. tour on 11/7/19.

There are several things notable about this Charleston Carriage Horse Advocates' posting that shed light on why I need the Court to enforce the discovery rules:

The most obvious thing about this post is that it has nothing to do with horse welfare, which is allegedly the purpose of the Charleston Carriage Horse Advocates, which advocates for "humane" treatment of horses.

Second, the review is posted by "Sarah M." According to "Sarah M," she has posted 8 reviews from 2012 to 2019 about places she allegedly visited in Wisconsin, South Dakota, Bryson City, and Charleston. The limited information available from her post demonstrates that she has no followers and has generated no responses. The reason this is suspicious is that a well-known fraud on the Internet is to pay companies to generate false reviews. The discovery that we have from the Charleston Animal Society demonstrates that the defendants already voted to allocate $95,000.00 to "leverage" social media presence to "depress" my income. It is possible that Ms. Harley either created a false review and posted it or hired a company to generate such reviews. It might even be a legitimate review, but we can never reach a determination without access to her Administrator's key to search for this and other information.

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Third, because the City requires detailed records of tours, we can determine that the 4:00 tour on Thursday, November 7, 2019 was not only my carriage, but also that it was driven by Eric Klatt, whom I have known and worked with for nearly twenty (20) years. The allegation that Eric Klatt would drive a carriage while intoxicated has the same probability as my traveling back to the future in a DeLorean. Eric has been one of the most reliable, knowledgeable, and personable tour guides we ever had, and there is no chance he was driving a carriage while drinking, and if he—or any driver—were, not only would many people notice, but the City's representative at the Gate would never hand over a medallion for a tour. It seems unlikely that only one person on a carriage would notice that the carriage was being guided by an allegedly intoxicated driver, and our records reflect that no one complained or asked for a refund. What "Sarah M" alleges is equivalent to a drunk driver asking a police officer for permission to drive because every tour leaves from the City's gate on Market Street, which requires the driver to obtain a medallion from the City's representative. When Eric has driven for me, I have never had a single complaint about him—or any other driver—taking a tour out while intoxicated. Since all tour guides increase their compensation by providing a good service to promote gratuities, the idea that Eric, or any tour guide, would insult his or her riders is preposterous. Workers who depend on gratuities to increase their income do not insult the customers who are providing the gratuity.

Fourth, "Sarah M" never complained to anyone at our company, and we also checked with the City to see if it had any record of an allegedly intoxicated driver, and as far as the City is aware, not surprisingly, no one made a complaint about an intoxicated driver guiding a carriage.

There are only two conclusions we draw from Ellen Harley's suspicious post:

1) It is a recent example of her long history of fraud to cast me in a false light. She will

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say that her July 22nd posting does not identify me by name—this has been a consistent excuse, but anyone can check the records of the City and determine that the 4:00 p.m. tour was mine, and, according to her, she allegedly took the negative posting off **my** web-page; of course, while ignoring the hundreds of positive reviews in order to pluck the most negative one she can find—unless she, of course, planted it, something than can only be determined by a forensic review of her Internet activities. I suspect that a forensic review of her charity's computers will generate evidence of all kinds of fraud, which explains why she has fought so hard to turn anything over. (The reason they have promised for months they are on the verge of turning over 8000 e-mails and texts without doing so is because, more likely than not, she is going through them one-by-one to see which ones the Charleston Animal Society has turned over in order to delete the rest. This is another reason why we requested Mr. Abrams to conduct a forensic examination.)

When the defendants pushed out their video of Big John and represented to the world that the video represented a horse "collapsed" from exhaustion or even worked to death, just weeks after sending each other e-mails about shifting strategy and "depressing" my income, they unleashed a torrent of abuse even though they both knew from the City's same day examination of Big John and the veterinarian's same day examination of Big John that he suffered nothing more than a minor abrasion and was released for work the same day. They then were extremely vigilant to purge any correct information from getting through in order to stoke the anger and cause indescribable mental anguish and fear.

2) The July 22nd posting demonstrates exactly why she has withheld discovery from us—even though she told us under oath on January 31, 2020 in her 30(b)(6) deposition that she had no objection to Mr. Abrams conducting his forensic examination. Only a forensic examination will answer the question about whether "Sarah M" is a real post or a plant. We

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cannot see inside Ms. Harley's mind, but we can infer why she has steadfastly refused to hand over the electronic evidence of her "charity," and why she wants the Court to end the case **before she turns over discovery**. The reasonable inference is that she knows an examination into her activities will reveal further evidence of her fraudulent activities, and she hopes that a Court will bail her out by ending the case before she has been required to produce documents. I believe it is even possible that a forensic investigation of Harley's computer might reveal that the "Sarah M" post might turn out to be manufactured and false—or that she has willfully deleted all the incriminating evidence because she has been so successful at dodging our discovery requests. Furthermore, as her 30(b)(6) deposition on January 31, 2020, she stated on the record that she had no objection to Mr. Abrams examining her electronic devices, and yet, here we are over a year later with no ability to conduct a forensic evaluation and no production of a single additional e-mail or other correspondence. For purposes of summary judgment, her duplicity and intentional suppression of evidence is evidence to support my claims and further demonstrates how her dishonesty and bad faith has made it impossible to get to the truth. As a result, we cannot possibly be prepared to meet her allegations fully and fairly. The Court should not reward bad behavior and end my case before I have had an opportunity to examine the evidence, and I cannot get to that evidence until a Court forces her to comply.

Further your deponent says naught.

Broderick J. Christoff

SWORN TO BEFORE ME THIS
19th day of August, 2021

Notary Public for South Carolina
My Commission Expires: 6/22/2030

THOMAS R. GOLDSTEEN NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. 6/22/2030

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Charleston Animal Society
Board of Directors Meeting Minutes
August 18, 2015
CAS Education Room

In attendance: Aussie Geer, Bob Rife, Elizabeth Bradham, Ellen Harley, Gerri Greenwood, Hank Greer, Hal Creel, Helen Pratt-Thomas, Hilton Smith, Johnny Maybank, Julie Bresnan, Kiara Barnett, Laurel Greer, Mary Black (via phone), Meg Phillips, Perry Jameson, Sarah-Hamlin Hastings, Tami Zerbst, Joe Elmore, Joy Huber, Lucy Fuller, Aldwin Roman, Debbie O'Hara, Dan Krosse, Kay Hyman, Angel Waterfield, Elena Lawson, Jennifer Winchester, Jamie Healy

Apologies: Andrea Ferguson, Ann Long Merck, Britton Hawk, Cynthia Hayes, Dean Riegel, Elliott Summey, Eugenia Burtschy, Jeff Webster, John Cawley, Joe Waring, Matt Watson, Nancy Worsham, Bob Rife, Tara Gerardi

Agenda
The meeting was called to order by Elizabeth Bradham at 3:01 p.m.

Joe introduced four new staff members:

- Angel Waterfield, Human Resources Specialist
- Jamie Healy, Grants Administrator
- Jennifer Winchester, Director of Philanthropy (Donor Stewardship)
- Elena Lawson, Director of Special Projects & Business Partnerships (Chili Cook-off)

Perry Jameson made a motion to approve the Board Meeting minutes from June 23, 2015. Hilton Smith seconded the motion. The motion passed unanimously.

Updates on Lives Saved – Kay Hyman

- Kay introduced a healthy Louis with his foster parents Faith and Kevin Blackburn. Louis, who is recovering nicely, made the rounds and greeted the Board.

Consensus Agenda
Animal Flow Report – Pearl Sutton, Sr. Director, Animal Services

- Pearl reported on our PetPoint statistics for July versus last year.
  - Intake numbers increased slightly by 142 (3%)
    - Adult Dogs increased by 5%
    - Kittens increased by 11%
    - Puppies decreased by 28%
      - Due in part to our increased outreach and discounted spay/neuter program
    - Cats decreased by 2%
  - Last twelve months LRR 89%
    - Cat LRR is 98% versus 18% in 2006

First meeting of the Review Committee will be on Wednesday, August 19

- We have 142 years of tradition in equine welfare
- We will take the position of the voice of reason
- Dr. Lucy Fuller will participate. We have also requested that Aldwin Roman participate.
- Scope of the review could be contained to just the incident or broader to include the industry

We are posing this question to mayoral candidates:

- How will you address the sentiment of citizens who are against the carriage horse industry?

Joe Elmore made the recommendation that we procure Forbes-Tate to assist in initiating strategy development, polling with focus group(s) and plan to effectively eliminate the inhumane treatment of horses used in Charleston's carriage horse industry. He estimates that phase 1 of the project could cost between $82,000 and $95,000.

Elizabeth made the motion that the Board authorizes Joe to spend the funds to go ahead with phase 1 and poll the populace. Ellen seconded the motion. The motion passed unanimously. Please keep this confidential.

Leadership Directory Distribution

- Please keep the Directory confidential

Watch for the Fall Calendar of Events in your email

Good and Welfare

- The complimentary letter from Joseph Frederick, volunteer
- Johnny's father is getting better
- Caroline got married
- Elizabeth's great niece and nephew adopted a collie/sheperd mix

The meeting was adjourned at 4:46.
Submitted by Debbie O'Hara

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Charleston Animal Society
Board of Directors Meeting Minutes
April 21, 2015
CAS Education Room

The meeting was called to order by Elizabeth Bradham at 4:36 p.m.

In attendance: Elizabeth Bradham, Tami Zerbst, Hal Creel, Ellen Harley, Meg Phillips, Andrea Ferguson, Aussie Geer, Matt Watson, Hilton Smith, III, Gerri Greenwood, Bob Rife, Cynthia Hayes, Ann Long Merck, Nancy Worsham, Dean Riegel, Helen Pratt-Thomas, Kiara Barnett, Perry Jameson and Mary Black.

Apologies: Julie Bresnan, Elliot Summey, Joe Waring, Eugenia Burtschy, Tara Gerardi, Jeff Webster, Britton Hawk, Johnny Maybank, Sarah-Hamlin Hastings, and John Cawley.

Tami Zerbst made a motion to approve the Board Meeting minutes from January 20, 2015. Ellen Harley seconded the motion. The motion passed unanimously.

Board Progress - Elizabeth Bradham, President

- Elizabeth gave a big hand and thank you to Andrea Ferguson and her committee for the incredible, seamless execution of the 141st Annual Meeting.
- Elizabeth thanked Joe Waring and the Post & Courier Foundation for the $50,000 donation.
- Elizabeth thanked Aussie Geer for all the hard work that she has donated toward the Animal Behavioral Enrichment Dog Park.
- Elizabeth thanked Joe Waring and his committee for all their efforts on the special Employee Compensation Project.

Discussion Agenda

There were four motions put before the Board.

1.) Endowment Account (Pulleyn Estate). Elizabeth made a motion to establish a separate investment account for the purpose of receiving endowment designated or restricted gifts. Matt Watson seconded the motion. The motion passed unanimously.
2.) Real Estate Sale. Hilton Smith III made a motion to authorize two Board members (Hilton Smith III, Treasurer or Matt Watson, Finance Committee Chair) or one Board member and a senior management employee (Joe Elmore, CEO or Joy Huber, Senior Director of Finance & Administration) to bind the organization in real estate contracts related to the Pulleyn estate. Hal Creel seconded the motion. The motion passed unanimously.
3.) Audit. Matt Watson made a motion to approve the audit. Meg Phillips seconded the motion. The motion passed unanimously.
4.) Board Designated Funds. Bob Rife made a motion to specify the Board Designated Property Fund and Board Designated Working Capital Fund in statements of financial position (balance sheets) for the purpose of communicating that these funds are not included in the general buget. Helen Pratt Thomas seconded the motion. The motion passed unanimously.

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Special Presentation – Ellen Harley, Chair, Equine Cruelty Committee

Internal Conversation: Does the carriage horse industry, as currently practiced in Charleston, overwork or overdrive horses, violating South Carolina cruelty law and the Five Freedoms.

After the presentation and discussion Matt Watson made a motion that "Based on the presentation today, the Board find the practices of the carriage horse industry cruel and that we should study the situation further". Andrea Ferguson seconded the motion. The motion passed.

Joe Elmore proposed developing a committed task force to explore the issue further.

Good and Welfare

- Aussie Geer's husband David doing well after surgery
- De Daltorio secured the 2016 National Humane Educator's Conference for Charleston
- The Post & Courier won a Pulitzer
- Harry Barker has developed Charleston Animal Society-branded products from which we will get a portion of every sale
- Hallie Hill Sanctuary is inviting the Board to spend a day in the country on Sunday, May 17 2015
- The Kitten ICU Dedication was a wonderful event
- Lowcountry Giving Day is Tuesday, May 5 2015. Fundraising goal is $125,000

The meeting was adjourned at 6:10.

Submitted by Debbie O'Hara

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From: Ellen Harley
To: Joe Elmore; Dan Krosse; Kurt Taylor, Esquire
Subject: Channel 5 Digital Impressions
Date: Thursday, March 30, 2017 6:51:30 PM

Started today. Running 150K through next Wednesday.
I am thinking the only way to defeat this City/Industry cartel is by depressing their income.
The corruption is too great to fight and win.

Hi Amy,

Currently we are targeting anyone who is searching for the keywords or reading about things to do in Charleston for the whole Charleston DMA (this includes the islands, so they are covered). For the rooftop targeting component of targeting by virtual perimeter, we are targeting hotels and tourist locations. With these online and offline mechanisms in place, we are able to capture all tourists. Does that make sense? Any other questions?

Thanks,

Erin

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STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON	)))	IN THE COURT OF COMMON PLEAS FOR THE NINTH JUDICIAL CIRCUIT CASE NO: 2018-CP-10-04083
CHARLESTON CARRIAGE WORKS, LLC, Plaintiff, vs. CHARLESTON ANIMAL SOCIETY, ELLEN HARLEY, and CHARLESTON CARRIAGE HORSE ADVOCATES, INC., Defendants.	)	**THIRD SUPPLEMENTAL AFFIDAVIT OF BRODERICK CHRISTOFF** RULE 56(f), *S. C. Rules of Civil Procedure*

This affidavit is being submitted to point out to the Court the continuing contumacious conduct of the Charleston Carriage Horse Advocates and to point out the number of demonstrable false statements submitted in support of both Defendants' motions for summary judgment.

1. Charleston Carriage Horse Advocates and Ellen Harley's refusal to engage in discovery

At this point in time, it is indisputable that neither the Charleston Carriage Horse Advocates nor Ellen Harley will participate in meaningful discovery production. The only way the Court can address this is by compelling the defendants to make their electronic devices available for review by our forensic expert, Steve Abrams as we have requested many times and to which they have agreed on the record (see page 10 of Ellen Harley's January 31, 2020 30(b)(6) deposition: "Q. Do you have an objection to making the devices owned and operated

by Charleston Carriage Horse Advocates available to Mr. Abrams for imaging? A. No, I don't.") but never kept their promise or followed through.

It is important for the Court to understand the timeline of this case. We filed our suit on August 17, 2018, and on October 19, 2018, the defendants all filed motions to dismiss. Before the Court heard those motions to dismiss and before the parties had engaged in discovery, the defendants took my deposition for 10 hours on December 7, 2018 and then a second time for 3 hours on March 28, 2019. This was 4 months after we filed our complaint and 2 months after they filed their motions to dismiss and 11 months **before** they filed their Answers. At that point, we had engaged in no meaningful discovery.

The defendants finally answered the complaint on November 20, 2019, and since that time, I have been involved in a non-stop struggle with Ellen Harley and the Charleston Carriage Horse Advocates to get access to their records. The Charleston Animal Society initially cooperated more (even though we had a few disagreements that took long periods of time to resolve), but even the Charleston Animal Society has refused subsequent discovery/depositions citing a scheduling order they contend ended discovery 3 months after they filed their answers.

Even when we conducted depositions, such as Ellen Harley's January 31, 2020 30(b)(6) deposition, the transcript shows that her lawyer coached her throughout and continuously objected. In short, the Charleston Carriage Horse Advocates and Ellen Harley have flouted their responsibilities because so far there has been no consequence for their conduct. I am not a lawyer, but I thought it was odd that the opposing parties would depose me before discovery while I intended to have discovery in hand before I conducted depositions. As the recent document dumps of over 10,000 pages on August 19, 2021 and September 21, 2021 (examined in detail below) demonstrate, both Harley and the Charleston Carriage Horse Advocates have

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contempt for me, for court rules, and fear no consequence from their actions.

2. Recent discovery productions

A. The August 19, 2021 Production

On August 19, 2021, the defendants, Harley and Charleston Carriage Horse Advocates, provided 8258 pages of documents to us just days before the originally scheduled court date, supposedly in response to our discovery request that we made nearly 3 years prior on September 20, **2018**. None of this production included the documents they promised on the record on January 31, 2020 during our 30(b)(6) deposition of Charleston Carriage Horse Advocates – a deposition riddled with speaking objections and interruptive substitute answers by their attorney. The breakdown of this August 19, 2021 "production" is as follows:

2913 pages (35.3%) are duplicate pages. (This is shocking because the defendants have been telling us for months that the delay was caused by their efforts to avoid duplication.)

1604 pages (19.4%) are copies of documents filed in the case

1192 pages (14.4%) are signatures of persons advocating for the ban of carriages

726 pages (8.8%) are Google Analytic Performance Statistics

190 pages (2.3%) are e-mails. What is noteworthy about this figure is that the 182 pages represents 37 e-mails that we have not previously seen. By contrast we previously obtained 689 pages of e-mails from Charleston Animal Society communicating with Charleston Carriage Horse Advocates and Harley.

174 pages (2.1%) are documents previously submitted in response to the 30(b)(6) deposition. (articles of incorporation, secretary of state filings, etc.)

163 pages (2%) are news articles

143 pages (1.7%) are comments from ban petitions

136 pages (1.6%) are random letters of support and miscellaneous topics

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125 pages (1.5%) are miscellaneous ordinances, PETA Carriage Incidents, Police Reports and Ellen Harley slides used in her various presentations

119 pages (1.4%) are F.O.I.A. requests and protest permits

102 pages (1.2%) Billboard agency spec sheets

84 pages (1%) Insurance Policy Documents

77 pages (0.9%) Social Media performance statistics

73 pages (0.9%) 4 horse care manuals

55 pages (0.7%) Chicago Defamation Suit

54 pages (0.6%) Charleston Carriage Works (my) Facebook Posts

51 pages (0.5%) City of Charleston Incident Reports, Agendas, and Minutes

44 pages (0.5%) blank pages

43 pages (0.4%) City of Charleston public information

35 pages (0.4%) Charleston Carriage Horse Advocates e-blasts

34 pages (0.4%) Facebook screenshots

33 pages (0.2%) Charleston carriage horse records supplied to Charleston Carriage Horse Advocates, *et. al.*

18 pages (0.2%) Chicago city ordinances

15 pages (0.2%) Charleston Animal Society Publications

15 pages (0.1%) 2017/2018 Profit and Loss statements and Schedule B's

14 pages (0.1%) Screenshots of miscellaneous summons

9 pages (0.1%) Book-keeping and social media invoices

6 pages (0.0%) Veterinarian reports

5 pages (0.0%) C.C.H.A. GuideStar info

3 pages (0.0%) Ellen Harley 2008 other charity "Campaign for Charleston's Future"

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3 pages (0.0%) Screenshot of Charleston Carriage Web

I draw many obvious conclusions from this production. Giving Ms. Harley the benefit of the doubt that she sent us 43 blank pages by accident, there is certainly no excuse for sending me 1604 pages of filings in my case. More importantly, very little of this 11th hour 8258 page production is relevant to the case. By contrast, she does not hesitate to send me thousands of pages of duplicates and documents already on file, and yet, despite being the chief officer of a registered charity, she sends me only 182 pages of e-mail communications, representing a total of 37 e-mails even though we received 689 pages of e-mails from Charleston Animal Society in which she is a correspondent! She has not produced a single e-mail between the Charleston Carriage Horse Advocates and their supporters, despite her sworn 30(b)(6) testimony that they frequently send photos and video to the CCHA e-mail address, and there are no such e-mails, photos or videos. I know for a fact that she routinely surveils my barn because I have seen her, but she produced none of those videos. There are very few e-mails between her and her fellow members of Charleston Carriage Horse Advocates, which is not possible.

B. The September 21, 2021 Production

On September 21, 2021 the defendants, Harley and Charleston Carriage Horse Advocates provided another 1,815 pages of documents one week before the rescheduled hearing. True to form, these documents contain very little relevant production and instead contain numerous duplications, hundreds of pages of New York Times' "morning briefings" and Martha's Vineyard events and shopping ads among other irrelevancies. (Ellen Harley lives in Edgartown, Martha's Vineyard and has a part-time residence at 23 Wentworth Street.) They contain detailed schedules of numerous wine tastings and events for the yacht club in Martha's Vineyard, but **not**

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one single incoming or outgoing email from the CCHA email address. Furthermore, the first document production of 825 pages contains only content from August 2018 and the second 990 pages of documents comprises only the dates of the month of March 2018, the month of May 2018 and August 1-4, 2018. There is nothing from any other year or month! Defendants' attorney told us that they submitted one laptop as the source for the records we requested. During the 30(b)(6) deposition, Ms. Harley testified that the records of the organization are stored on the personal computers and phones of Board members and that CCHA emails are stored on the computers of the consultants and computers and phones of Board members. To date, none of this has been provided.

It is obvious that the records are incomplete. This kind or production is not only far less than adequately responsive to our requests, but also flouts the rules of discovery while demonstrating contempt for both the Court and the process. It has been going on for **years** at great expense to me. Moreover, the main thrust of our case is that Ms. Harley and the CAS combine their efforts to use the Charleston Carriage Horse Advocates social media to maintain and "leverage" a false narrative to create the impression that I abuse my horses. For example, as recently as September 16, 2021, Harley posted a recycled photo of my carriage after an accident in 2014 with the following caption:

> **Some folks say that drug and alcohol screening for drivers of carriage wagons is not a safety issue for our neighborhood. So, is it o.k. if a drugged or drunk driver is in control of a truck or a wagon in our neighborhood?**

There are several things obvious about this post. The first is that it is typical. The second is that she is creating a false implication that the driver of my carriage was drunk or on drugs in 2014 even though she is acutely aware that our horse slipped his bridle. The City of Charleston thoroughly investigated this incident, Ms. Harley is aware of it, and there was never the slightest

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suggestion that either drugs or alcohol were involved. Ms. Harley knows this, yet she knowingly publishes the above statement over a photo of my carriage to create the false impression that drugs or alcohol were involved for the purpose of whipping up hysteria about my operation. This is exactly what the Charleston Animal Society did when Dan Krosse edited the video of Big John. This is a common strategy of both the Charleston Carriage Horse Advocates and the Charleston Animal Society and is a well-known strategy of animal rights groups.

In summary, Ellen Harley and Charleston Carriage Horse Advocates have refused to participate in meaningful discovery, and they are not going to until the Court compels them.

3. The defendants' demonstrably false statements filed in support of their motion for summary judgment.

There are too many false statements to list in this affidavit; however, I will set out for the Court a sample of the most salient and obvious. For example, in her affidavit in support of summary judgment filed August 20, 2021, Ellen Harley tells the Court under oath that she never received a pre-suit letter on my behalf asking her to correct her misstatement about my horse, Big John. Compare her August 20, 2021 statement under oath with the statement she gave on January 31, 2020 under oath on the same issue:

Ellen Harley 30(b)(6) deposition January 31, 2020, p26, line 4

Q. Let me draw your attention to Exhibit 3, that's an April 25th, 2017, letter from me to you. Do you recall getting that letter?
A. I do.
Q. Okay. And what steps did the Charleston Carriage Horse Advocates take as result of receiving that letter?

Objection: "Okay. I'm going to object for the record. At this time, Tommy, this is outside of the scope of any of the topics that you listed on your 30(b)(6) notice. I've also served notice to you that for the purposes of this deposition, any and all questions outside of the bunds of the topics that you have presented are

objectionable and will not be bound against Charleston Carriage Horse Advocates today.

Q. Now, can you answer the question? What steps did Charleston Carriage Horse Advocates take as a result of receipt of the letter of April 25, 2017?
A. I consulted with two different attorneys—and

Compare this statement under oath with the affidavit just filed with the Court:

Ellen Harley Affidavit filed August 20, 2021

21. Neither I nor CCHA ever received any April 25, 2017 letter from the Plaintiff or Mr. Christoff.
22. Neither I nor CCHA ever received any request from the plaintiff that we "publish the correct information and stop misleading people that Big John 'collapsed' from 'exhaustion.'

To compound her mendacity further, the letter she claims she never received in her August 20, 2021 sworn affidavit, she supplied to us the day before in her August 19, 2021 production at page numbers 655-656! I have been dealing with this level of bad faith the whole time we have been trying to get through discovery. Even in her January 31, 2020 30(b)(6) deposition, Ms. Harley testified at page 62, line 4—8 that she had no written contract with her consultant, yet she provided a written contract of her consultant the same day. (Exhibit 6, page 73)

Ms. Harley also tells the Court in her August 20 2021 sworn affidavit:

17. I did not shoot the video that was posted regarding Big John's collapse on April 19, 2017 . . . (Big John Video") . . .

Not only do we have pictures and video of Ms. Harley filming the "Big John Video" supplied by the Charleston Animal Society in their discovery response, but also compare this statement to her testimony at our 30(b)(6) deposition, page 77, line 11 – page 78, line 6:

Q. Now, the video of Big John's incident, how did you have -- and again, when I say

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"you," Charleston Carriage Horse Advocates, how did you obtain a copy of that video?

A. Of which video?

Q. Big John's incident.
A. There were a number of people who took videos is my understanding. There were a number of people who were on the streets and that were taking videos.

Q. Right. Okay. Every copy that we've been able to obtain has been edited, so I want to know if you have any unedited versions? I would like to see them.

MR. THOMPSON: Objection.

THE WITNESS: I think Elizabeth Fort, I think you deposed her, and I think she probably gave you that information.

BY MR. GOLDSTEIN:

Q. Did you take a video of the incident that day?

A. I did.

Q. Okay. Where is your video maintained?

A. I have that video.

Q. Okay. And where would we obtain a copy -- how would we obtain a copy of it?

A. I'm happy to share that with you

To date, neither Harley nor Charleston Carriage Horse Advocates has provided this or any video footage.

Joe Elmore is no better. Because Mr. Elmore is at the helm of a mult-million dollar, *quasi*-governmental agency with over 24 million dollars in net assets and a 12 million dollar position in long term investment speculation, he tends to be less flagrant than Harley because he has more at stake. Harley is a wealthy part-time resident of Charleston and is not threatened by the possibility of an adverse decision in this case. Mr. Elmore, on the other hand, has deeper roots in Charleston as the head of the Charleston Animal Society, a charity substantially

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supported by taxpayers. Charleston County alone provides $175,000.00 a month to the organization. Nonetheless, Mr. Elmore has been an active participant in attempting to drive me out of business, and he uses Harley's organization to do just that. Moreover, he and Harley have established a pattern of harassing anyone who does not adhere to their views, including, but not limited to reporting me to O.S.H.A., reporting my vet, Dr. Miller, to Labor, Licensing, and Review, reporting my attorney, Tommy Goldstein, to Disciplinary Counsel, demanding Tyler Jones' employer fire him, and most recently sending a threatening letter to Katherine Vaughn, who is on our witness list, threatening to sue her because of an alleged "trademark" infringement.

In his August 20, 2021 affidavit Mr. Elmore says: "The Minutes of the meeting demonstrate the falsity of [Christoff's] statement." What he is talking about is my statement that both he and Harley have worked together to leverage their social media presence to depress my income and drive me out of business. In a December 15, 2016 e-mail (before Charleston Carriage Horse Advocates was incorporated), Joe Elmore wrote to Ellen Harley: "Ask Sue [Limehouse] to **leverage** the fact that this thing is going to blow up and tarnish the City's image if it's not done right." On April 23, 2017, Elmore sent an email to Ellen Harley, *et. al.* "Kudos to Charleston Carriage Horse Advocates (CCHA) for immediately uploading the video [of my horse, Big John], which has now been viewed by 10,700,000+ people, perhaps it will top 11 million by Wednesday's tourism commission." Mr. Elmore admits in his statement that **he directed** that the video be created and published. Remember, this video contains demonstrably false and libelous assertions.

The uploaded video edited by the Charleston Animal Society and published by the Charleston Carriage Horse Advocates is a compilation of two or more videos edited by Dan

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Krosse. Krosse and the Charleston Animal Society edited the videos to mislead viewers into believing that Big John was either dead or severely injured, and evidence shows that is what people believed. I sent the Charleston Animal Society and Mr. Elmore a letter on May 11, 2017 informing them exactly how they were misleading people into thinking Big John suffered a catastrophic injury. Instead of communicating with me, they responded by intensifying their distribution efforts and by running ads featuring the false information, in part because they use it to solicit donations.

Charleston Animal Society featured on its home page is a photo of Big John, lying on his side with the following caption:

> Do the Study Before Another Horse Collapses. Was Big John exhausted or did he just "trip"? (See Exhibit 1, attached here.)

The Charelston Animal Society knew that Big John was not "exhausted" and they knew he did not "collapse." In response to the Charleston Animal Society's numerous false postings, we received thousands of messages, death threats, and arson threats such as the one dated May 21, 2017 from Natalie Powers, which reads: "Can't wait to see what CAS does to keep destroying y'all. Y'all suck." (Exhibit 2) My efforts to communicate with Mr. Elmore to advise him of the danger he was placing all of us in by promoting a false narrative that Big John suffered either a "collapse" or a serious injury were met with complete unconcern.

In addition, despite the CAS 'ending discovery,' there are numerous emails demonstrating coordination between the Charleston Animal Society and Charleston Carriage Horse Advocates to work together on numerous media projects to gain influence – the very definition of leveraging. There is even e-mail from Joe Elmore in 2016 describing their continuing efforts as "Phase II." In asking for help "to leverage the fact," Elmore was directly

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involved in attempting to damage my business.

Mr. Elmore also takes issue with my statement that CAS has nothing to do with equine rescue, calling it "absolutely false." He says that since 2015 the CAS has "rescued" 14 horses. In that same time, according to the CAS' annual reports, they have sheltered at least 54,000 animals. Looking at Elmore's statement in the light most favorable to him, that makes horses .026% of their rescues, which is a rounding error to zero. The CAS also does not help either of the two local equine rescues in the area and has disparaged one publicly. The largest equine rescue organization in Charleston is L.E.A.R.N. (Lowcountry Equine and Rescue Network), and they are on our witness list. The photos that CAS publishes of their "rescued" horses demonstrate what their definition of what a rescued horse is, and anyone looking at the photos can see that what they are describing as "rescued" horses are horses surrendered. (I would attach these photos if I could, but electronic filing will not allow a jpeg file, so I will bring them to Court.) Even a cursory glance of the rescue horses published on the L.E.A.R.N. web site demonstrates the difference.

Mr. Elmore's numerous claims that my statements are false are based on nothing more than he simply disagrees with them – not because he can demonstrate them as false. If our opinions were aligned, we would not be adversaries in this matter, nor would we need the help of the Court. I have evidence to support my statements. For example, the Charleston Animal Society contends that I have no evidence of statements made by it or by people on its behalf that can be considered libelous or slanderous. Before I provide the Court some specific examples, let me be clear: the Charleston Carriage Horse Advocates and the Charleston Animal Society are one and the same. I have many communications between them coordinating their efforts to "depress my income" in all manner of ways and demonstrating that the CAS not only

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participates in but also directs the activities of the CCHA. At more than one City Council or Tourism Commission meeting Harley, who served on the Boards of both organizations simultaneously, has represented herself and her organization as being amalgamated with the Charleston Animal Society. In fact, at the April 26, 2017, Tourism Commission meeting one week after the Big John incident, mayoral advisor Rick Jerue asked who the Charleston Carriage Advocates were. Mr. Elmore's former boyfriend, CAS insider and Tourism Commission member Randolph Cooper replied: "It's Ellen Harley's subcommittee group from the Animal Society." (See April 26, 2017 Tourism Commission Minutes attached here as Exhibit 3. Note also the comment from Elizabeth White, attesting to the defendants'' policy of creating a false narrative by deleting truthful information.) A little more than a month earlier, in a March 8, 2017, email collaborating on strategy regarding City Council and the Tourism Commission, Mr. Elmore directed Ms. Harley "make sure you are clearly representing Charleston Carriage Horse Advocates, not Charleston Animal Society, to thwart attempts by the City to marginalize CAS." Ms. Harley responded "I don't indicate that I'm from CAS and will continue to do so."

The Charleston Animal Society, both alone and via the CCHA, has maintained a vicious campaign against me and my business by publicly stating that we do not follow City ordinances, which is false, that we are cruel, which is false, that we are inhumane, which is false, and that we overwork our horses, which is false. They have published statements implying that I have worked horses to exhaustion and manipulated social media to eliminate any attempts to provide the truth.

In summary Mr. Elmore's statements illustrate that there is a huge dispute over the facts of this case, and these are the types of questions that juries are called upon to make. I know the defendants' numerous statements and efforts are undertaken to destroy my business, and I have

suffered greatly, both financially and emotionally. The defendants believe their statements are true and protected by the First Amendment. If a jury accepts their explanations, I am prepared to accept my loss, but, on the other hand, I do not think they will ever stop until a jury makes them stop. If they are confident in their words and acts, then they should not fear having a randomly selected jury of their peers evaluate their conduct. However, as this case now stands, I have not received full disclosure of the materials I am entitled to review prior to this case coming before the Court for summary judgment. By contrast, I have given the defendants everything they have asked for and everything I have without burdening them with thousands of pages of irrelevant and duplicate pages mixed in. Harley and the Charleston Carriage Horse Advocates will never turn over the information we are entitled to receive, and for that reason, I ask the Court to order them to make their electronic devices available for forensic inspection, including Admin access to their Facebook page, which is the only way we will ever get a look at what is really going on in Harley's fake charity.

Further your deponent says naught.

Broderick J. Christoff

SWORN TO BEFORE ME THIS
24th day of September, 2021

Notary Public for South Carolina
My Commission Expires: April 22, 2030

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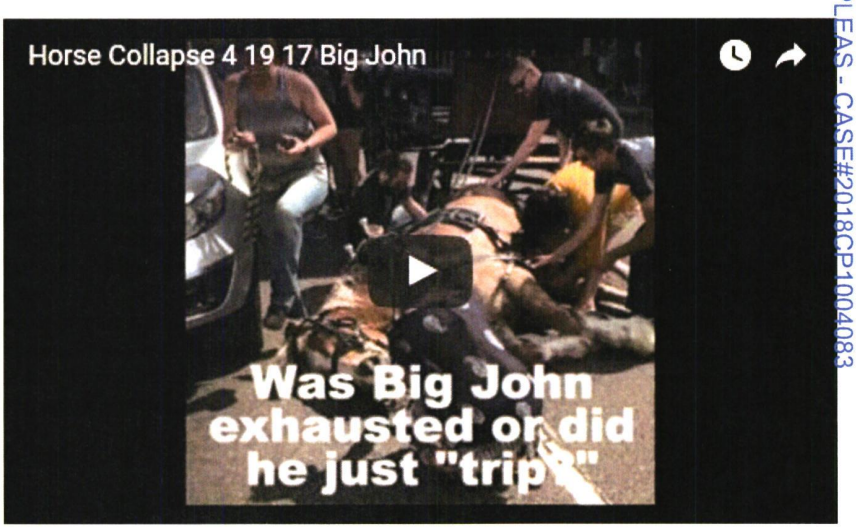
Do the Study Before Another Horse Collapses

On April 19, another working horse collapsed in the streets of Charleston. Was the load "Big John" was carrying weighed as it is suppose to be by law? Was he exhausted or did he "trip?" Eyewitnesses documented Big John's ordeal, despite those on the scene who wanted them to stop filming. It is time for an independent, scientific, peer-reviewed study to determine if Big John and other horses are truly working in a safe and humane environment. Charleston Animal Society, Pet Helpers and several other local and national animal welfare organizations want to see a study conducted.



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Charleston Carriage Works

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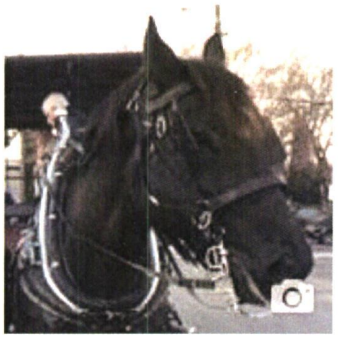

Charleston Carriage Works

@charlestoncarriageworks

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Solutions are on the way!!

Background

Over the last few years, the Charleston Animal Society (CAS) has suddenly and very publicly adopted a position against the carriage industry in Charleston. They say that 2 ½ years ago many parties, most notably the City of Charleston Police Department, filed so many complaints with them that they decided to conduct an investigation . Based on the...

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Natalie Powers Can't wait to see what CAS does to keep destroying y'all. Y'all suck.
Like · Reply · Message · 10 hrs

Joyce Mansolf Martell I am interested to know why you say that. Please share. Just curious.
Like · Reply · Message · 6 hrs · Edited

Natalie Powers What's it to you ? Please share .
Like · Reply · Message · 6 hrs

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CITY OF CHARLESTON TOURISM COMMISSION
April 26, 2017

A meeting of the City of Charleston Tourism Commission was held this date at City Hall, Council Chamber, 80 Broad Street.

Notice of this meeting was sent to all local news media.

PRESENT

Mr. Robert Seidler, Chair, Mrs. Elizabeth Bradham, Mr. Alphonso Brown, Mr. Randolph Cooper, Mrs. Lorraine Evans, Mr. Barry Kalinsky, Mr. Ernest Long, Mr. James Saboe, Mr. Richard Stello, Ms. Vanessa Turner Maybank, and Dr. Louis Weinstein. **STAFF**: Ms. Davida Allen, Manager, Arts and History Commission/ Tourism Commission, Mr. Tim Domin, Esq, Clawson and Staubes, LLC, Mr. Dan Riccio, Director, City of Charleston Department of Livability and Tourism, Mr. Robert Somerville, Interim Director, City of Charleston Department of Traffic and Transportation, and Mrs. Amy Southerland, Tourism and Special Events Manager, City of Charleston Department of Livability and Tourism.

The meeting was opened with a moment of silence.

Approval of Minutes: February 22, 2017 – **Deferred**

City Attorney Report – Mr. Tim Domin, Esq.

Mr. Domin had no report.

Dr. Weinstein asked Mr. Domin asked what happened with the lawsuit regarding the tour guide licensing.

Mr. Domin said the court decided not to make any final decisions right now.

Citizen Output

Elizabeth Ford, representing Charleston Carriage Horse Advocates, said they are a group of residents who are increasingly concerned about the working conditions of carriage animals in Charleston. They are not against the use of working animals on the streets of Charleston but they can't support the current working and living conditions of these animals in Charleston because they don't believe they are humane. Last week a horse collapsed while pulling a heavy load of passengers down Meeting Street. The incident was videotaped and placed on social media. Within 48 hours, USA Today picked up the story and the link to the video. Ten other national producers had requested the use of the video and with social media exposure; the video garnered 11 million views.

Since the viewing of the video of the collapsed horse by 11 million people, 125,000 people have signed a petition calling for a ban of industry in Charleston. Ms. Ford noted many thousands of those who signed are Charleston. She said if the Charleston government and the wagon industry do not agree to a study as requested by the Charleston Animal Society and many other animal organizations, then a move towards a ban will be an alternative that will likely be inevitable. It is time that the Charleston city government and the animal drawn wagon industry in Charleston agree to a peer review independent science based study as proposed by the Charleston Animal Society. They asked the Tourism Commission to move to support the study.

Benjamin Doyle of Palmetto Carriage Works said the carriage industry study currently being proposed by the Animal Society is not based on science. It is about achieving a predetermined outcome long desired by the Animal Society, which is to end his industry in Charleston. This was why the industry proposed the Society do their own study with their own horses. The outcome of the study conducted by the Charleston Animal Society would clearly be biased. That same bias is already written and evidenced in their public statements and activities.

Barbara Hart of Ansonborough asked the Commission to consider the negative neighborhood impact, the potential harm for tourists riding in wagons and the negative image for the city with these accidents that are factored in along with new development and traffic congestion that is the new reality in

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downtown Charleston. She asked the Commission to consider how the recent accident will affect to come how long tourists remain in the city as well as neighbors who intend to live here against the congestion.

Ms. Hart noted the Ansonborough neighborhood is slated for two new hotels pushed up against the barns where the horses are supposed to rest. She quoted from petMD in their November 11, 2014 blog (*Contrary to Popular Belief, Horses Do Not Sleep Standing* by Dr. Anna O'Brien): *"Very busy, loud barns, or an area that is too small for the horse to feel comfortable lying down are some common problems for the modern horse. And the result? Horses that go without REM sleep over the course of weeks will have a negative effect on physical performance, and may even factor into irritability or behavioral problems."* She said when horses stand and sleep they are only snoozing. They do not get REM sleep. If they don't have enough REM sleep they will collapse. She said they have to wonder about if that's the real problem with Big John last week if John is living in stalls that are too small in many cases for these animals to lie down.

Dr. Justin Miller of the Charleston Equine Clinic said his associate examined Big John after he went down. He did not actually collapse and to imply so is to indicate that there is some sort of a pathological medical condition. He, in fact, stumbled in his harness and waited until he could be unhitched then he walked back to the barn.

Dr. Miller met with a Charleston Animal Society executive a few weeks ago. They invited him there and he went with the blessing of the leaders of the carriage companies to open up a dialogue and to try to come to some common grounds. He did so with the idea that what he wanted to have happen was that there would be at least while there was some open talks a cease fire, that there would be no more banners, no more social media presentations, no more videos and no more activists' antics. That didn't even last a week. Even though he and the carriage companies are not opposed to a peer review prospective study it's not going to happen. No one, no individual, no group has the right to impose scientific research testing on someone else or their animals. If they can't get the cooperation of the local carriage companies, they are not going to get their study and that's their fault. He noted they tried to talk to them and tried to mediate. There are too many moving parts, too many subgroups, and too many people doing too many things on their own. It's either the Charleston Animal Society or Charleston Animal Society inspired. It doesn't make any difference. It's the same problem.

Kim Kelly, South Carolina senior state director for the Humane Society of the United States and resident of the City of Charleston, said she was there to join local animal organizations to ask the City to support a scientific prospective peer reviewed study on the carriage horse industry. Carriage horse rides in various settings can and do place horses in danger. Exposure to exhaust fumes, hard road surfaces and busy traffic patterns has all caused injuries to carriage horses. In addition even the most well-mannered and best trained horses are at risk at being spooked which can ultimately cause traffic collisions harming both humans as well as horses. Right now the most pressing concern in Charleston is the horses' exposure to heat. The City's current guidelines, which allows horses to work until its 95° and inexplicitly requires multiple readings of a thermometer that is high above street level all while carrying excessively heavy loads making Charleston's carriage horses working conditions among the hardest, if not the harshest in the nation. The Humane Society Veterinary Medical Association believes this creates an unreasonably dangerous work environment for horses. She asked the Commission to support the study.

Louise Palmer read a letter from Nancy Perry of the ASPCA who supported the science based peer reviewed study of the carriage horses. They aren't opposed to the use of horses or other equines pulling carriages and carts as long as "all their physiological and behavioral needs are met, housing and stable conditions are humane and their working hours and conditions are carefully regulated to temperature, humidity, proximity to traffic, rest periods, etc."

Tamara Brown said she is a local horse person and not affiliated with the Charleston Animal Society or the carriage companies. When all of this controversy started she decided to visit the carriage companies and check them out. She walked around, asked questions, and went on tours. She has been on three tours out of the five companies. She walked to the back area of the barns and was allowed to take pictures and videos. When she asked permission to post her pictures and videos, she was told she could post anything she felt like posting. She said they are not hiding anything. She met with a couple of companies and toured a plantation where the company keeps their horses. The one thing she found

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consistently through the three that she have had time to tour in the past three weeks is the level of care that they offer the horses is beyond anything that anybody in the chamber would think about giving them. They love their horses. She listened to Broderick Christoff talk excitedly about what he does for an hour and half. She said unless you have been into these companies, looked around, asked questions, take a tour and watch these horses the majority of the time who are quiet and happy, you are missing out on the point.

Carol Linville, president of Pet Helpers and representing the Pet Helper board, said they support the study. At the end of the day, she wanted to see the carriage industry, the Animal Society and those that are concerned about the humane working conditions of the horses be resolved. This doesn't look good for the City of Charleston. Perception is the reality. No one here is happy about dealing with what they are doing. But they do have to come to some of solution. She didn't believe the carriage horses are mistreated in their barns. She doesn't believe Mr. Christoff has anything but massive love for his animals. She saw a carriage go across the street today – one horse and two people in a princess carriage. She turned a corner and saw a wagon with 14 people and one horse plodding along. She turned another corner and there were two horses pulling a wagon with about ten people. She said the issue is coming together, somehow getting both sides to sit down and have a conversation, really listen to what to what's involved in the study and what's involved in the horses doing that. She said obviously it's got to be working horses in the community. You can't bring horses down here to do a study, build a barn and go through of nine months of what it will take to do the study.

Ms. Linville said she didn't understand why they couldn't get back to two temperature readout like we had before and bring the thermometer down on the ground. That will relieve some of this perception and heat issues.

Joe Elmore, CEO of the Charleston Animal Society, noted as Dr. Miller said they agreed to meet with the carriage horse companies again. A day or two afterwards they were found out the carriage companies refused to meet with them and declined their offer. He understood. He understood there is volatility on both sides. It's a controversial issue. Social media is all over the place on this.

Mr. Elmore wanted to remind the Commission that the Animal Society was founded specifically to prevent cruelty to all animals, all species, with a focus on livestock and equines. He had never called out a carriage horse company or carriage horse employee as being cruel. This is not about how individuals care for their animals if they care for their animals. He didn't doubt that these individuals cared for their animals. It is the system that is inhuman and cruel. Two years ago the Animal Society, based on the number of complaints received from tourists, residents, City employees, former carriage horse employees, and horse lovers, started its own investigation. They found that this decade long law that is in place, that the Animal Society was a part of creating, wasn't being followed in many of its provisions and not being enforced in many of its provisions.

Mr. Elmore told Chair Seidler he could arbitrarily set up something up and he will provide him with proposal for a science based peer reviewed study.

Vicki Touché, a former employee of Dr. Simmons, who worked on the animal care guidelines, said she worked with him on these horses and mules. They were very well taken care of and if you go into a barn they are happy to let you see everything. You can take pictures and post them but you can't escape the media and Facebook. She said to condemn them because the horse fell down, which he was trained to stay still in his traces, is awful. She felt they should have an outside company to do the study and not someone from Charleston because of the bias.

Broderick Christoff, of Charleston Carriage, said it has his horse, Big John that tripped in the streets. He said he had a different side of this and wanted to explain to everyone and submit his comments in to record as well a glimpse into what his life has been like for the past week.

Mr. Christoff said for the past week the Charleston Animal Society has maintained a false and malicious campaign both against his business and him personally. Their board member Ellen Harley's shop video had been viewed 12 million times and of which they are admittedly proud, was crafted and published to suggest that his horse Big John was worked to an exhaustive death collapsing on Meeting Street. The expected outrage that resulted from all of America watching, as they republished in their letter leading to the latest press release, has inspired a tremendous and predictable volume of serious threats

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to not only his business but to him personally and, most importantly, his safety and his wife's safety. His wife has not slept more than a few hours solid at a time for a week and wakes up at the slightest sound as a result of the sheer volume of threats.

While he may have a 20 year record of complete disagreement in this room he has always respected the process and has always been civil. In his over 20 years as a carriage operator, and at the end of the 20th he hopefully remain, the number of people to whom he will have represented in both his business and this City exceptionally will still be more than five times less than that video reached in its first five days. His only question to this Commission and every City representative here is how far are you going to let this go? If this recklessness is going to continue to be rewarded and his situation has to get to the point where his is stable is set on fire or his wife injured or worse in order for this City to grant the industry relief from the Charleston Animal Society, he will instead concede to both the City and Charleston Animal Society and voluntarily shut his carriage company down himself.

This Tourism Commission is going to grant agenda time and consideration to the Charleston Animal Society after what they have publically done to him as both a business and a citizen, and while their former board chair and 2017 Humanitarian of Year sits in an appointed voting seat, then will do so having heard his appeal and in the face of what is indisputable evidence that the Charleston Animal Society's publication of demonstrably false information accompanied by their intimidation and harassment.

Elizabeth White, a new resident to Charleston, has been around horses for 29 years. She agreed with a study being done. Her biggest issue is she has been informing people on the internet via Facebook of the facts for more than three days consistently on both the Charleston Animal Society Facebook page and the Charleston Carriage Advocate page. As far as she is aware, she can tell they are most probably monitored by Ellen Harley. After three days of providing facts and no emotion, she was actually banned from their site with her factual responses being removed. This made her question the ulterior motives behind all of this. If they were genuinely concerned about the animal's welfare, why was the public not allowed to read that factual information to reassure them about the nature of this. This happened yesterday.

Mr. Jerue asked who the Charleston Carriage Advocates were.

Mr. Cooper said they were Ellen Harley's subcommittee group from the Animal Society

Dr. Janet McKim, a resident and a practicing veterinarian, said she was here on the behalf of science. She noted this issue is extremely emotional for both sides and she couldn't understand why either side would be objecting to getting facts. At this point with this incident that got so many views it gives a black mark to this industry, tourism and the City of Charleston. Is it deserved? Apparently not. Is it going to be there? Absolutely. Having a peer reviewed scientific study could support this industry. It would allow them to have the facts to communicate what happened, why it wasn't a problem, that they are concerned and they have something to stand on. That Animal Society has offered to pay for it she thinks it's a gift. There seems to be some confusion as to what the terms means. "Peer reviewed" means not anybody can just write the study and publish it. It has to be reviewed by experts in the field. This is not going to be a sham study that's being done by local people who have an agenda. She encouraged everyone to bring down the volume, reduce the emotion, support the study and move this along.

Chair Seidler thanked everyone for their input.

Tourism/Livability Report – Mr. Dan Riccio

Mr. Riccio noted City Council passed the heat index ordinance and it has been ratified. His officers are preparing themselves for the summer and are looking forward to implementing the new ordinance.

Mr. Riccio introduced the newest and fifth Tourism Enforcement Officer (TEO) Gerald Jackson. Mr. Jackson retired from the US Navy with 21 years of service. He joined Los Angeles Police Department (LAPD) where he served as a patrol officer, training officer, detective, and community service officer at a Korean substation due to his ability to speak Korean. Under the LAPD he received numerous commendations including the Medal of Valor, the highest award given by the City of Los Angeles. After serving 11 years with the LAPD, he laterally transferred to the Los Angeles County Sheriff Department

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where he served as custody deputy, court services deputy, patrol deputy and station jail deputy. He retired after 14 years in law enforcement and moved to South Carolina. He was hired by State of South Carolina Department of Corrections where he was corrections officer for Lieber Correctional Institute. He later went to school full time to earn his Criminal Justice degree.

Update on Zone 4 and 5 Pilot Program – Mrs. Amy Southerland

Mrs. Southerland said the pilot program was for 60 days and will end April 30. They went before the City Council's Traffic and Transportation Standing Committee yesterday and asked for a 90 day extension of the pilot program. She said they don't believe at this time they are ready to adopt it. There are a few changes they would like to make and test. They needed more time to review the new routes and new processes. The request for the 90 day extension was granted.

Dr. Weinstein said he lives in Zone 4 and he bikes everywhere. His concern has been not in his neighborhood, but they are going out on Meeting Street and King Street. He felt sooner or later there is going to be an accident. He was concerned about the drivers. He noted the cars don't stop for red lights.

Mrs. Southerland said they are going to bring original neighborhood representatives and carriage industry representatives who worked on the program back together. They will look at what they proposed, what's been tested and any changes that need to be made.

Chair Seidler asked Mrs. Southerland if she would say the efforts on the pilot program was generally successful and this is a tweaking.

Mrs. Southerland said the one big success has been altering the time. There was ban on traffic on Meeting Street between the hours of 4 p.m. to 6 p.m. That has proved to be a nonissue. There haven't been any incidents, complaints or concerns throughout the three month period. They have heard concerns about specific streets that weren't used to seeing traffic but do now and very specific areas repeatedly being reported. These are some of the things they will look at and Dr. Weinstein's concerns have been voiced.

Dr. Weinstein said he was concerned about the safety, not them being there. He was concerned that someone is going to get hurt.

In response to a question by Mr. Brown regarding the Mrs. Southerland's comment about the traffic ban on Meeting Street, Mrs. Southerland said the routes are open from 9 a.m. to 6 p.m. DST and 9 a.m. to 5 p.m. EST. The part she was referring to was there used to be a ban on Meeting Street between 4 p.m. to 6 p.m.

Coordinator's Report – Ms. Davida Allen

Ms. Allen noted the bus statistics on the sheet were for the actual motor coach buses, which are the permitted buses, not the small buses and the carriages for February and March. At the last meeting she accumulated the numbers for January so it will be the prior March prior to the meeting.

The numbers for the operation of motor coaches have increased for the month of March for 2017. The carriage numbers have increased for February 2017 and decreased in March. She noted as she stated during last month's meeting, she didn't think they had a down season this year for either the carriages or buses due to the wonderful weather we have in Charleston. There were only about five days of winter in the actual winter season. She added they were in the busy season now so they will definitely see the numbers increase.

New Business

1. *Small Business Replacements* – Ms. Allen
    a. Gullah Tours Bus Replacement – Alphonso Brown
    b. Sights and Insights Bus Replacement – Alfonzia Miller

Ms. Allen said Mr. Brown is replacing his one bus. The bus is the same size 25 feet.

Mr. Alfonzia Miller is also replacing his one bus. It is the same bus. Ms. Allen recommended approval of both replacements.

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Mr. Kalinsky moved for approval for both bus replacements.

Mr. Cooper seconded the motion.

Mr. Brown abstained.

The motion was passed.

2. New Bus Company - *The Pineapple Tour Group*

Ms. Allen said the company wanted to enter the world of tourism in Charleston. It is a bus company. The bus is 25 feet. It meets the City's requirements for the measurements of the buses. The company's name is Pineapple Tour Group. The folder contains the logo for the vehicle. They will be part of the shuttle service for the new hotel being constructed on Market Street on the former site of the Wild Wings restaurant. They want to certified and provide tours for the tourists in the City of Charleston.

Mrs. Evans asked where the bus is going to be parked.

Ms. Allen said to be a certified bus they will use the bus shed.

Mr. Benjamin, representing the Pine Apple Tour Group, said they will use the bus shed until the hotel comes on line and they will have adequate parking facilities for the bus at the hotel once it's completed. The bus will park behind the hotel and not on Market Street.

Dr. Weinstein asked if they have a theme for their tours.

Mr. Benjamin said they could probably develop a theme as they go but as a new company they are going to keep it as a general history tour. In response to a question regarding the length of the tour, he said it will be an hour and twenty minutes. They will hire experienced drivers.

Dr. Weinstein asked if they will be able to carry handicapped passengers.

Mr. Benjamin said not on this particular bus. They have plans to purchase a handicapped accessible bus in the future, maybe this calendar year.

Mr. Kalinsky how many buses are there currently on the street.

Ms. Allen said there are currently 27 buses with 25 operating. The ordinance cap for the buses is 36. There are 13 bus companies.

Mrs. Evans asked how often the tours will run.

Mr. Benjamin said they plan to offer two tours daily.

Mr. Brown asked when the hotel is completed will the bus be leaving from the hotel and have the hotel approved it.

Mr. Benjamin said yes they will leave from the hotel and they are owned by the same hotel group.

Mrs. Bradham asked how many buses will there be.

Mr. Benjamin said just one bus.

Mrs. Bradham asked when the bus is put into service will it have to come back for permitting.

Ms. Allen said yes it will come back before the Commission.

Mr. Jerue asked how many tour buses leave from locations other than the bus shed.

Ms. Allen replied currently none.

Mr. Brown asked about the Absolutely Charleston buses.

Ms. Allen said those are not certified buses. They are strictly for transportation.

Mr. Jerue concluded this will be first one that would be allowed to leave from a location other than the bus shed.

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Mr. Brown said it will probably be the second. He used to leave from the Gallery. When they moved to the market place he went to the Visitor's Center.

Mr. Brown moved for approval and Mr. Kalinsky seconded the motion.

The motion passed unanimously.

3. *Market Business Location: Gullah Gullah Tours* – Jeffrey Hill

Chair Seidler said Mr. Hill is requesting the ability to operate out of the Market area. While he currently operates out of the bus shed and he has an approved vehicle, he would like to expand his operations to conducting tours from a Market based motorized tour.

Mr. Hill thanked the Commission for the opportunity to be heard. He was looking for an equal opportunity to sell his tours for the first time in history from the City Market. He noted African Americans represented less than 1% in tourism so he would like the chance for the first time ever to sell his tickets in the City Market area.

Mrs. Evans asked where he would park on Market Street.

Mr. Hill said he would need a parking space.

Chair Seidler suggested this request be referred to the Routes, Parking and Touring Rules Subcommittee to study it and see specifically what they would like to do, interact with City staff to make sure that the area they identify is appropriate and that it falls within the guidelines tourism ordinances. He asked the Routes, Parking and Touring Rules Subcommittee members to meet prior to the next Commission meeting with Mr. Hill.

Mr. Kalinsky asked what the opposition was.

Chair Seidler speculated the opposition was the impact on traffic and congestion in the Market area.

Mr. Kalinsky said they were talking about one vehicle. Chair Seidler said yes.

Mr. Brown noted if there was nothing in the ordinance that says he can't park there he guessed they could make a dent.

Chair Seidler concluded the Routes, Parking and Touring Rules would come back and make a recommendation to the Commission, the Commission approves it and he surmised it would have to get City Council approval.

Mr. Jerue wished they had done that with the previous request because that was a request to also not park in the bus shed. He thought it would have been more appropriate to send that request to the Routes, Parking and Touring Rules Subcommittee.

Chair Seidler said his understanding is that Mr. Benjamin's bus will either be at the bus shed or behind the hotel on private property. What is different is Mr. Hill is asking for space in the Market area parked on the street.

In response to a question by Mr. Cooper regarding if they will be setting a precedent if they do for Mr. Hill, Chair Seidler said this will be something the subcommittee will to work on as to what is the availability of space.

Mr. Long asked if it would also be appropriate to ask the subcommittee to look at the speed of these buses travel on the streets from 2 mph to 0 mph. They do not do not pull over and cannot pull over because sometimes they can't. They just stop on the street. He understood they were giving a tour. He thought it was very inconvenient and wanted to know if it would be appropriate for the subcommittee look into it. Chair Seidler said yes.

Chair Seidler said any member of the Tourism Commission is welcome to the subcommittee meetings. He recalled while they were working on Routes 4 and 5 Tourism Commission members who weren't members of the subcommittee had information that they wanted to make sure was there.

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Mr. Domin noted for a legal point clarity that the Commission members have to be in the audience and not a participating subcommittee member or the second you get to a quorum of the Tourism Commission and not announced, that is then a public meeting of the Tourism Commission.

Commission Member Michael Saboe, who was unable to attend the previous meeting, introduced himself to the Commission.

Presentation by Charleston Animal Society - Kurt Taylor, Director of Government Relations, Charleston Animal Society

Chair Seidler said the Charleston Animal Society will make a PowerPoint presentation. He stated there was a series of meetings facilitated by the City with carriage industry and citizen input that came up with the recently enacted temperature ordinance. As part of that process, the Charleston Animal Society was offered the opportunity to make a presentation to the Tourism Commission.

Mr. Taylor said to the Commission what they were seeing tonight was the reason why they have this proposed scientific study. Nobody wants to have emotions churned up. No one wants to feel they are under attack. No one wants their motives to be questioned. We are all interested in the welfare of the animals.

The Board of Directors of the Charleston Animal Society voted in 2015 to state they support working animals in downtown Charleston as long as the system is humane. The decision was made that under the current system and questions about the enforcement that the current system is not humane. They questioned what could they do to fix that and what the definition of humane was. They decided they could have thrown out a list of limits that differ from the city ordinance but that would be just as arbitrary and uninspired as anything else that is not done in a scientific way. They pondered how they could do some research to find out what is happening and figure out what is a way to proceed.

They got in touch with a number of experts, equestrian veterinarians around the country and the world. They spoke to veterinarian schools around the South, specifically Dr. Paul Lunn, Dean, , NC State University, an inactive equine veterinarian and Dr. Jennie L. Ivey, Assistant Professor, Extension Equine Specialist, University of Tennessee Institute of Agriculture, College of Veterinarian Medicine, whose proposal they studied. This is where they came up with the idea they are presenting.

The objective is there be a regulatory system that doesn't simply regulate animals to the limits of what they can do but it creates a system in which the animals can thrive while they do the work initially based on science, not arbitraries, not conjecture and not mere opinion. Mr. Taylor noted controversy has existed on this issue for many years and no one wanted it to continually come up. They questioned what they could do to try to assist in the issue being settled to the extent that it can so that people on the extremes of both opinions can be satisfied, to the extent it can satisfy the City, the community and the carriage industry. They want this to happen. There has never been a science-based study to collect data regarding stress levels of the carriage animals at work. There have been many studies of horses. Horses and animals of all types are affected by work and stress in higher levels of heat and humidity. But there has never been a study particular to carriage animals, let alone carriage animals in Charleston.

After their consultation with the veterinarians and after hiring another Dr. Andrew Stringer of NC State College of Veterinary Medicine to look for them at whether there were any studies or guidelines particular to carriage animals, Dr. Stringer concluded there has not been a scientific prospective peer-reviewed study on carriage animals and it would add to the scientific literature for one to be done, not just for Charleston but for everywhere.

Dr. Weinstein noted he has heard during the past months the comments that the heat index and the temperature are too hot. He surmised what he (Mr. Taylor) was saying there has never really been a scientific study to determine that. Mr. Taylor said correct. It would study all of the load and stressors together.

Dr Weinstein said but the comment that refer this is all of a sudden inhumane has really never been studied according to what he was saying. Mr. Taylor said that was correct. It was the opinion of the Board of Directors of the Charleston Animal Society that they want to resolve.

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Mr. Taylor continued with the definition of prospective, peer-reviewed and science –based as they were very important to what the study is and how it will be done. *Prospective* means creates data looking forward. *Peer-reviewed* is science for being checked to confirm that it is valid. *Science–based* means it will inform everyone of what the appropriate guidelines are for the welfare of the working horses downtown.

Prospective - a researcher will come in and create the data. They will measure in real time in the work environment the stressors and responses to those stressors on the animal, not looking back at records that have been kept and no one knows the validity or the care with which the records have been kept. It is creating the data pursuant to a model that will have been approved by the university's research department. Data is gathered as it occurs under the conditions of the study parameters.

Science-based – generally involving observation of the phenomena, the formulation of a hypothesis about what the data should or should not provide, the experimentation to test the hypothesis and develop a conclusion that confirms, rejects or modifies the hypothesis. Hypothesis can change as the data is collected. It's a scientific way to look at information that's collected.

Peer-reviewed is an academic term for quality control. The study can't be released or published until it has been reviewed by people who are equally experts in the field as the persons who have done the study. It has to go through multiple steps before it can be concluded and released.

Mr. Taylor said this is not a new idea. The late Dr. John Malark, founder of Edisto Equine and who serviced four carriage companies, stated in 2009 that studies need to focus on these horses and if you wanted answers you need to fund the research. Dr. Julie Rosser, whom some people erroneously said was hired by Palmetto Carriage but actually worked with Dr. Malark in a surgical residency, looked at the records of Palmetto Carriage and other carriage companies, and wrote a retrospective report. After thoroughly reviewing the records, talking about the good conditions under which the animals were typically kept, their performance and whether there were any heat related incidents, she said in a report published February 2014 entitled *Retrospective Review of Carriage Horses in Charleston, 2009-12*, "Further studies are needed to define acceptable minimum standards for carriage animals throughout the United States. *Particularly, prospective studies should be performed to collect objective, evidence-based data regarding stress levels in the animals.*"

Mr. Taylor sent an email to Dr. Rosser in March asking if she believed that is still a legitimate statement since no such study has been done. She replied, "I absolutely support any well conducted, well designed study which would further our knowledge and proper regulation of equine welfare in working conditions…"

The study will measure physiological responses to stressors in the environment of the horses. It will be during different times of the year during the most hot and humid days, as well as other times of the year. Charleston Animal Society has agreed to pay for the cost. It will conducted independently by researchers. He offered the University of Tennessee because that is whom they spoke with and got a proposal from them. The study will be independent of any party with financial ties, directly or indirectly, to the carriage industry. The protocols would have to be submitted to two University of Tennessee boards that approve studies so the design of the study will be approved by the board of the university. The conducting of the initial research will be one board and the actual on the ground work will be approved by a different animal research board. The study results will be peer-reviewed.

Mr. Cooper asked what failsafe is there to maintain that this is a nonbiased independent research.

Mr. Taylor it will be conducted completely and exclusively by the University of Tennessee. He added they hadn't gotten to the point where they could talk about finalizing the design of the study yet because since August of last year when he first proposed it they hadn't gotten to point to be able to talk about what it really needs. The study is not completely designed. It would have to involve meeting with the Animal Society, the City and the carriage operators so they can all get comfortable with what the study is going to do. Once they got that, the researchers could work independently.

Dr. Weinstein said if it's approved by an IRB (institutional review board), it has to be. If its equivalent to a human study, it has to be free of that because that is the role of an IRB. He said we can't

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do any human studies without IRB. He said they do the same thing in medicine and it's no different from what Mr. Taylor is presenting. The IRBs will decide.

Mr. Taylor said in reference to funding, they identified a lot of funding sources that could be sought in the grant world to pay for this. They offered this to get the study off the table. They would rather have it be grant funded or city funded. The Society didn't have to fund it.

Mr. Taylor listed those who endorsed the idea of the study. These were national and international organizations. Dr. Rosser is a veterinarian at the University of Vienna. The American Association of Equine Professionals is the largest entity in the world representing veterinarians who are equine specialists, as well as veterinarian students and technicians. They endorsed the idea of the study but they want to see more, they want to see the design and they want to follow as it goes along. They also received endorsements from the national organization of the Humane Society of the United States and the ASPCA. The Charles Towne Neighborhood Association, who was on the heat index committee, Historic Ansonborough Neighborhood Association, Hallie Hill Animal Sanctuary, Pet Helpers and the Trident Veterinarian Medical Association also endorsed the study. Some of the expert vets they consulted were Dr. Kenneth Marcella, who helped develop heat regulations for the Atlanta Olympics equestrian events, Dr. Rosser, Dr. Stringer, who did the data analysis for the Society, and Dr. Ivey, who will do the work for them if it would go forward as they suggest.

Mr. Taylor said the overriding theme is if the industry is to operate the regulations and practices shouldn't reflect the worst conditions that the animals can survive in. It should be the animals are all very healthy and happy and can work here for decades. Charleston is the epicenter for the carriage tour business. They want to make it the model for the world and they want to make that happen.

Mr. Taylor noted it has been said it can't be done and won't be done. The question is whether the City can require participation in the study. He believed the answer is yes. The City has a current ordinance stating there are 195 different requests to requirements of the limitations that applies to the carriage industry. They must submit the animals for veterinarian testing at least one a year. They must weigh the animals. They must do these things because it is a franchise system that carriage companies get to operate on the public rights-of-way. The City has the right to regulate that industry so he believed yes, while it shouldn't come to that as they should get together and agree on it, the City could require participation in the study. They request the Commission recommend to City Council that a prospective, science-based, peer-reviewed study be conducted.

Dr. Weinstein said his interpretation without seeing the study is there is no experimentation and they are not administering anything. They are doing a prospective analysis of the data obtained in a proper manner as such whoever is assigned as the senior investigator.

Mr. Taylor said the Commission members have an outline on what the study would be and that is the University of Tennessee's proposal that has not been finalized. He knew there was some objection to the placement of a port to take the blood samples to measure blood cortisol levels. That is not the only way the cortisol levels can be measured. The proposal that didn't get fleshed out completely proposed using salivary and fecal cortisol as opposed to blood cortisol. There ways to do this that they can all get together and agree.

Dr. Weinstein surmised there is no experimentation, they are not administering any drugs, and they are not forcing the animal to work overtime.

Mr. Taylor said they are simply measuring them in their environment with the proper controls.

Mr. Cooper concluded they were not moving the horses from their working environment at any time.

Mr. Taylor said no.

Mr. Brown said at the last meeting he thought the attorney said they couldn't do a study on their private property unless they agree.

Mr. Taylor said the Commission's former police officer it that but the attorney said it could be done by amending the franchise ordinance and he agreed with that.

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Mr. Domin said there are certain aspects with a regulated industry like this where you can reasonably, for example, as they already point out, they said they are going to take the temperature of the horse on some certain things and have the right to inspect stalls. There is a point at which you may cross a threshold where you are being too intrusive where you're asking to place a semi-permanent port into the vein that the horse has to stay with. These kinds of things gave him some concern. So he can't say they could do whatever they want. What is appropriate to say is you would need ordinances to force specifically what it is you are going to ask for and you need to be reasonable with respect to the science you put in the business.

Mr. Jerue said there are two ways this study can be passed: 1) a voluntary agreement with the Animal Society and the carriage industry or 2) you have to pass an ordinance to require as a condition of doing business. He noted getting ordinances passed by City Council is a challenge. He didn't know how long the study takes.

Mr. Taylor said it would take approximately a year.

Mr. Brown said it sounds as if the carriage industry does not have to agree to this study.

Mr. Taylor said they hoped that they would.

Mr. Brown said but they don't have to so you can't go on their property to do a study.

Mr. Domin said if the industry is not going to comply then you would need to have an ordinance. That ordinance would have to be constitutional, meaning you have to be not overreaching, you have to be not overly invasive onto the business, meaning that that ordinance would have to have a rational basis. You need to know exactly what you are doing before you pass that ordinance because you would have to say this exactly what the carriage company is obligated to do - a, b, c and d. You can't just say you're passing an ordinance just so you can do a study. It is not specific. You would have to say a carriage company has to give access to an official to measure temperature or measure cortisol.

Mr. Cooper didn't think this specific enough. They were getting so much new information and it is controversial in our community and it has gained national attention as well. Everyone has mentioned the video but he has not seen it. He has just received a number of these documents. He doubts the rest of the Commission has had a chance to review it as well. He would form a subcommittee for the Tourism Commission to further assess and study on this particular issue. He said he would be happy to share the effort.

Chair Seidler said since this is not an agenda item, the Commission is not in the position to make a decision at this time. In reference to Mr. Jerue's point that they could go the ordinance route or a less official route, he recalled in the past iteration of the Tourism Commission they faced two specific controversial questions. One was around Zones 4 and 5. A subcommittee that struggled with it and the suggestion was made to get all the interested parties together - residents of the impacted neighborhoods, the carriage industry and the City. They assembled and what came out of that was the pilot program that has had some initial success though it might need some tweaking but it seems to be based in solid thinking. They also used the same process for the recent temperature issue in the ordinance. He noted that while it is not unanimity around the numbers and methods they did make progress. During the last meeting Councilmember White expressed a pleasant surprise that the Commission had moved to that point after so many years of batting that about.

Chair Seidler also wanted to draw on what Ms. Linville stated which was what is the greater common purpose here? He said his sense is the carriage industry and the Humane Society has the greater common purpose of the animals in mind. So what he thinks will be appropriate is to use a similar strategy that was used for two other issues in the past and get representatives from the carriage industry, the Humane Society, City staff and some Tourism Commission members to sit down and talk through what this is and see what a study entails. He felt before they approach an ordinance they should find out specifically what it is.

Mr. Jerue said thought that made sense as knowing the City Council's schedule for the next several months, it probably won't be an issue before City Council. He thinks there is some time to get the groups together to try to see and if they can't come to some agreement, they can always go about it.

Mrs. Evans questioned why the carriage industries don't want to participate and the objection to using their horses. She said it would behoove them to use their horses to get the proper research done.

In response to questions by Mr. Cooper regarding whether the carriage companies attended a meeting he had with the Charleston Animal Society or were they not invited, Dr. Miller said he was invited to that meeting but the carriage companies didn't attend the meeting because they weren't invited. They wanted to meet with him to see if he would be able to build a bridge between the Charleston Animal Society and the carriage companies.

Mr. Cooper asked if any carriage company owner present who were willing to meet with the Charleston Animal Society.

Mr. Doyle commented he wanted to find a resolution to this issue two to three years ago before any of this began. He thought they could hammer out some of the differences and head off some of the hated and distrust. He said he would be more than willing to speak with them.

Chair Seidler said there has been some recent coverage in the newspaper saying that the carriage industry is not opposed to learning more about it. He thanked Mr. Doyle for being willing to begin discussions.

Mr. Elmore said he will be open to dialogue and they will not be conducting the scientific study. However, scientific study can't be done on horses that are brought in. Bringing horses in that are not trained on the carriage animal routes and working horses will have a higher reaction to the stress, it will have an adverse impact.

Mr. Christoff said this is a good stopping point for them to stop hating each other and meet. He was willing to draw the line on his side and but he insisted the line be drawn on the other side. He didn't want any more public discourse, people driving up threatening the lives of his drivers and passengers on his carriages lying in front of the carriage.

Chair Seidler said well before the next meeting they will convene the beginnings of a discussion between the Charleston Animal Society, the carriage operators, and the Tourism Commission, and begin to understand the legal, financial and operational implications of this study. In response to a comment by Mr. Cooper, he said will act as facilitator to bring together those with the carriage operators and the Animal Society members who wanted to participate.

There being no further to discuss, the meeting was adjourned at 6:26 p.m.

Marcia L Grant
Council Secretary

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ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON)	CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)	
)	
Plaintiff,)	
)	**FOURTH SUPPLEMENTAL AFFIDAVIT OF BRODERICK CHRISTOFF**
vs.)	
)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,)	
)	
Defendants.)	

I previously explained to the Court in prior affidavits how the defendants used the Internet to target and damage my business. I hired Steve Abrams in November of 2019, to perform a forensic examination of the defendants' electronic media, which will reveal, among other things, the manner in which they targeted me on the Internet to, as Ms. Harley says, "depress their income." As the Court knows to date, the defendants have refused to turn over:

- The unedited video footage of the April 19th incident
- The e-mails and text messages from Charleston Carriage Horse Advocates and Harley
- The necessary administrator keys to allow a forensic examination
- Their devices for imaging

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All of which they agreed to do and have not. When we were before the Court on September 29, 2021, counsel for the defendant, Charleston Animal Society accurately summarized the manner in which the defendants targeted me, stating:

MS PALMER: In order to know what—and I've become educated on this issue of how Google ad work campaigns work, and we have an affidavit as Exhibit 23 from someone who is a digital marketing expert.

THE COURT: Okay.

MS PALMER: In order to know—to make a statement like Charleston animal Society used Google ads to target Charleston Carriage Works, you have to know what words Charleston animal Society is bidding on, what words they were using.

. . .

He [Christoff] can't make that statement based on personal knowledge. He doesn't know what the words are. We've never targeted him individually.

Transcript of Record, September 29, 2021, page 86, line 16—page 87, line 11

Ms. Palmer is 100% correct except that:

(1) I do know they targeted me individually because the attached April 30, 2017 screen shots demonstrate this, and

(2) a forensic examination with administrator privileges, will reveal the historical Google reports that will identify not only the words the defendants purchased, but also the price they paid. I know I had to pay Google $5000.00 a month after April 19th to combat what the defendants were doing to me. So, while counsel is correct that I "cannot make that statement based on personal knowledge," I previously produced to the defendants the attached April 30, 2017, word searches that demonstrate the targeting. The only reason I do not have other direct evidence of how much the defendants were paying Google and for what words is only because the defendants refuse to turn over the material they said they would turn over. The attached screen shots demonstrate the

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defendants were specifically targeting only me—and not the other carriage companies—see Exhibit 1. When searching for Charleston Carriage Works, the anti-carriage site appears ahead of me. (I personally captured these on April 30, 2017.) The five screen grabs show that the Charleston Animal Society comes ahead of me and no one else. When customers searched Palmetto (Exhibit 2) or Classic (Exhibit 3) or Carolina Polo (Exhibit 4) or Old South (Exhibit 5), the anti-carriage web page does not appear at the top of the list, but when a customer searched "Charleston Carriage Works," the anti-carriage presence created by the defendant, Charleston Animal Society, appears ahead of me. The only way this happens, as their expert, Kelly Khaladj-Ghom testified (Exhibit 23 filed August 20, 2021) and as counsel stated, is for them to pay Google and tell Google which words to target. These screen grabs demonstrate that the Charleston Animal Society and/or Charleston Carriage Horse Advocates/Harley paid Google some amount of money to target the name of my company with "exact match keywords." (Affidavit of Kelly Khaladj-Ghom, page 4 filed August 21, 2021.)

Moreover, the affidavit of Ms. Khaladi-Ghom is further falsified by the April 30, 2017, screen grab, Exhibit 6, which demonstrates the defendants were not merely "targeting" the words "Charleston" and "carriage." As Exhibit 6 demonstrates, if Ms. Khaladi-Ghom's affidavit were correct, then a Google search for "Charleston carriage" would have displayed the ad. This proves the defendants were specifically targeting the exact business name of "Charleston Carriage Works," and the defendants are hoping to get away with this by suppressing the discovery material. In fact, we obtained a February 7, 2017, email from Ellen Harley to Dan Krosse and Joe Elmore discussing the strategy of "geotargeting" and exact match keywords that include specific carriage company names. See Exhibit 7. The defendants even went further and purchased variations of the domain name used by "Charleston CARES," which is a carriage organization created to combat

the defendants' false narrative. In an email dated May 3, 2018 (Exhibit 8) Ellen Harley to Dan Krosse he reports to her about completing this subterfuge and tells her: "They are going to s#!t their pants!" to which Ms. Harley replied: "DONE!!!" Remember: these are charities, and they are obviously conspiring!

Until the defendants are forced to make the discovery available to my expert, we will never know who paid, how much, for how long, and for which words. The monthly Google reports will reveal this information, and I believe I have a right to see them (along with the other requested discovery material the defendants have withheld) in order to prepare my case for trial.

I am asking the Court, once again, to compel the defendants to provide the information they agreed to provide.

Further your deponent says not.

Broderick Christoff

SWORN TO BEFORE ME THIS
22nd DAY OF APRIL, 2022

Notary Public for South Carolina
My Commission expires: April 2030

THOMAS R. GOLDSTEIN NOTARY PUBLIC SOUTH CAROLINA My Comm. Exp. 04/22/2030

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Our standard pricing is $25 for adults and $15 for children (ages 11 and under). Young children (ages 2 and under) can join the **carriage** ride for FREE but are

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Charleston Carriage Works

Website Directions

4.6 ★★★★½ 67 Google reviews

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Address: 20 Anson St, Charleston, SC 29401

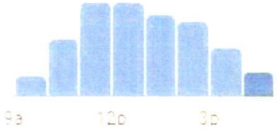
Phone: (843) 779-1279

Suggest an edit

Popular times

Sundays

Now: Usually not busy



Reviews

Write a review Add a photo

67 Google reviews

ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Secure | https://www.google.com/#q=palmetto+carriage+works

Dock St G BOA BoA MS HSA Peek iAccess Stripe Tides Email Payroll ADT

palmetto carriage works

All Maps Shopping Images Videos More Settings Tools

About 804,000 results (0.55 seconds)

Palmetto Carriage Works | Charleston's Oldest Carriage Company
https://palmettocarriage.com/
Tour Historic Downtown Charleston by Mule or Horse-Drawn **Carriage**. Public & Private Tours from The Oldest Family-Owned **Carriage** Company in Town.

Tours
Public Carriage Tours. Click to Choose Your Public Tour ...

Book Your Tour
Public Tours. Tickets start at $15 Click to Choose Your Public ...

Public Carriage Tour ...
A Palmetto Carriage tour offers a ... If you buy a combo with the ...

Contact Us
Feel free to contact us with comments or questions at (843 ...

The Big Red Barn
The Big Red Barn. What the carriage tour in Charleston is ...

Private Carriage Tours
Daytime Private Carriage Tours. Experience Charleston in a ...

More results from palmettocarriage.com »

Palmetto Carriage Works (Charleston, SC): Top Tips Before You Go ...
https://www.tripadvisor.com › ... › Charleston › Things to Do in Charleston
★★★★½ Rating: 4.5 - 2,975 reviews
Book your tickets online for **Palmetto Carriage Works**, Charleston: See 2975 reviews, articles, and 390 photos of **Palmetto Carriage Works**, ranked No.3 on ...

Palmetto Carriage Works & Palmetto Tours - Home | Facebook
https://www.facebook.com › Places › Charleston, South Carolina › Tour Agency
Palmetto Carriage Works & Palmetto Tours, Charleston, SC. 12539 likes · 1569 talking about this · 20315 were here. Tour Agency.

Palmetto Carriage Works - 132 Photos & 228 Reviews - Tours - 8 ...
https://www.yelp.com › Hotels & Travel › Tours
★★★★½ Rating: 4.5 - 228 reviews
(843) 723-8145 · 8 Guignard St Charleston, SC 29401 ... 228 reviews of **Palmetto Carriage Works** 'Great tour thru the French Quarters with Gay. She has a great ...

Palmetto Carriage Works

Website Directions

4.5 ★★★★½ 165 Google reviews
Carriage ride service in Charleston, South Carolina

Sightseers ride behind horses in old-fashioned carriages while receiving a narrated history lesson.

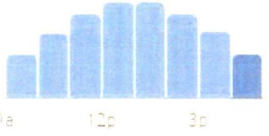
Address: 8 Guignard St, Charleston, SC 29401

Phone: (843) 723-8145

Suggest an edit

Popular times
Sundays

Now: Usually not too busy



Reviews
Write a review Add a photo

Secure | https://www.google.com/#q=classic+carriage+works

Doubletree [redacted] Dock St G BOA BoA MS HSA Peek iAccess [redacted] Futurecast Stripe Tides Email Payroll ADT M Forecast [redacted] Other bookma

Google classic carriage works

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All Maps Shopping Images Videos More Settings Tools

About 4,070,000 results (0.81 seconds)

Classic Carriage Works
https://www.classiccarriage.com/
Classic Carriage provides historical and informative **carriage** rides in Charleston, South Carolina.

Tickets and Information
See our ticket pricing and hours of operation at Classic Carriage ...

FAQs
Please see the most commonly asked questions about our ...

About
Learn more about Classic Carriage and our commitment to ...

Location/Contact
Please drop by and see us or call (843) 853-3747 to learn more ...

More results from classiccarriage.com »

Classic Carriage Works, LLC (Charleston, SC): 2017 Reviews - Top ...
https://www.tripadvisor.com › ... › Charleston › Things to Do in Charleston
★★★★½ Rating: 4.5 - 589 reviews
Classic Carriage Works, LLC, Charleston: See 589 reviews, articles, and 116 photos of **Classic Carriage Works**, LLC, ranked No 11 on TripAdvisor among 125 ...

Classic Carriage Works, LLC. - Home | Facebook
https://www.facebook.com › Places › Charleston, South Carolina › Tour Agency
Classic Carriage Works, LLC , Charleston, SC. 1209 likes · 21 talking about this · 2030 were here. Official Facebook page of **Classic Carriage Works**, ...

Classic Carriage Works - Check Availability - 45 Photos & 62 Reviews ...
https://www.yelp.com › Hotels & Travel › Tours
★★★★½ Rating: 4.5 - 62 reviews
(843) 779-8154 ... 62 reviews of **Classic Carriage Works** "Better than expected. Carriage driver was super knowledgeable, funny and interesting. Highly recommended."

Classic Carriage Works LLC | DataSphere
https://my.datasphere.com/.../classic_carriage_works_llc-travel_lodging_tour_operato...
At **Classic Carriage Works**, we welcome you to our historic home and promise you a horse drawn carriage tour experience with an eye on the traditions of the ...

Classic Carriage LLC - General Information
www.classiccarriagellc.com/

Shop on Google Sponsored

Carriage Works 42212: **Carriage Works** Billet Grilles
$170.97
Summit Racing
★★★★½ (6)

Billet Grille, **Carriage Works** 42202, Polished
$96.69
StylinTrucks.com

More on Google

Classic Carriage Works, LLC
Website Directions

4.5 ★★★★½ 29 Google reviews
Carriage ride service in Charleston, South Carolina

Located in: Rainbow Market
Address: 10 Guignard St, Charleston, SC 29401
Phone: (843) 853-3747

Suggest an edit

0422

ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Secure | https://www.google.com/#q=old+south+carriage+company

Doubletree | Dock St | G | BOA | BoA MS | HSA | Peek | iAccess | Futurecast | Stripe | Tides | Email | Payroll | ADT | M Fore | Other bo

Google old south carriage company

All | Maps | Shopping | News | Images | More | Settings | Tools

About 1,740,000 results (0.87 seconds)

Old South Carriage Company | Charleston Carriage Tours

https://www.oldsouthcarriage.com/

Offering historic horse-drawn Charleston **carriage** tours since 1983. Family owned and operated. NO BOOKING FEES!

- **Historic Charleston Carriage ...** — Historic Residential Tour - Intimate Tour - Haunted Carriage Tour
- **Contact** — Contact Form. We would like to hear from you. Please send us a ...
- **Employment Opportunities** — Employment Opportunities. At Old South Carriage Company, our ...
- **FAQs** — FAQs. How do I purchase tickets? You can buy tickets through ...
- **About** — Old South Carriage Company, owned and operated by the ...
- **Fort Sumter / Old South ...** — Old South is the only carriage company that offers a Fort ...

More results from oldsouthcarriage.com »

Old South Carriage Company (Charleston, SC): Top Tips Before You ...

https://www.tripadvisor.com › ... › Charleston › Things to Do in Charleston

★★★★½ Rating: 4.5 - 2,506 reviews

Book your tickets online for **Old South Carriage Company**, Charleston: See 2506 reviews, articles, and 701 photos of **Old South Carriage Company**, ranked No.7 ...

Old South Carriage Company - Home | Facebook

https://www.facebook.com › Places › Charleston, South Carolina › Tour Agency

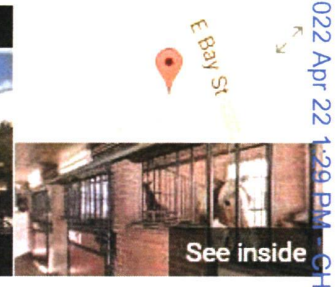
Old South Carriage Company, Charleston, South Carolina. 15267 likes · 232 talking about this. **Old South Carriage Company**, owned and operated by the same.

Old South Carriage Company - 88 Photos & 149 Reviews - Tours - 14 ...

https://www.yelp.com › Hotels & Travel › Tours

★★★★½ Rating: 4.5 - 149 reviews

(843) 723-9712 ... 149 reviews of **Old South Carriage Company** "Charleston comes alive on the tour with Bill and Elliot. Bill knows Charleston. Elliot is a ...



Old South Carriage Company

Website | Directions

4.5 ★★★★½ 153 Google reviews

Carriage ride service in Charleston, South Carolina

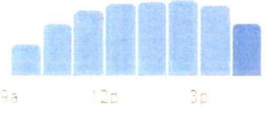
Address: 14 Anson St, Charleston, SC 29401

Phone: (843) 723-9712

Suggest an edit

Popular times

Sundays



Reviews

Write a review | Add a photo

153 Google reviews

Feedback

Google carolina polo and carriage company

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All Shopping News Images Maps More Settings Tools

About 76,400 results (0.62 seconds)

Carolina Polo and Carriage Company

https://cpcc.com/

Historic Public and Private **Carriage** Tours of Charleston, SC.

Our Tours

Let our passionate and engaging guides bring to life the history ...

About Us

Learn about Carolina Polo and Carriage Company, the history ...

Contact Us

If you would like more information, please feel free to contact ...

Meet the Horses

Meet the Horses. Experience a tour of the beauty and history of ...

Purchase Tickets

Check availability and buy tickets for any of our three carriage ...

Private Tour Vis-a-Vis

Book a private "face-to-face" carriage tour around historic ...

More results from cpcc.com »

Carolina Polo and Carriage Company (Charleston, SC): Top Tips ...

https://www.tripadvisor.com › ... › Charleston › Things to Do in Charleston

★★★★½ Rating: 4.5 - 459 reviews

Book your tickets online for **Carolina Polo and Carriage Company**, Charleston: See 459 reviews, articles, and 77 photos of Carolina Polo and Carriage ...

Carolina Polo & Carriage Co. - Home | Facebook

https://www.facebook.com › Places › Charleston, South Carolina › Tour Agency

★★★★ Rating: 4.1 - 21 votes

Carolina Polo & **Carriage Co**., Charleston, South **Carolina**. 196 likes. Historic Tours - Special Occasions, Private Tours

Carolina Polo & Carriage Co - 16 Photos & 23 Reviews - Tours - 45 ...

https://www.yelp.com › Hotels & Travel › Tours

★★★★½ Rating: 4.5 - 23 reviews

(843) 577-6767. 45 Pinckey St Charleston, SC 29401. ... 23 reviews of **Carolina Polo** & **Carriage Co** "I had the pleasure of having Amy, a licensed tour guide, ...

Carolina Polo & Carriage Company - Charleston, SC - The Knot

https://www.theknot.com/.../carolina-polo-and-carriage-company-charleston-sc-3290...

★★★★★ Rating: 5 - 1 review

0424

ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

Secure | https://www.google.com/#q=charleston+carriage

Doubletree Ch... Dock St G BOA BoA MS HSA Peek iAccess Futurecast Stripe Tides Email Payroll ADT M Forec... Other boo

Google charleston carriage

Sign in

All Images Shopping News Maps More Settings Tools

About 520,000 results (0.81 seconds)

The Top 5 Charleston Horse-Drawn Carriage Tours - TripAdvisor
https://www.tripadvisor.com › ... › Coastal South Carolina › Charleston
Top **Charleston** Horse-Drawn **Carriage** Tours. See reviews and photos of horse-drawn **carriage** tours in **Charleston**, South Carolina on TripAdvisor.

Charleston, SC Carriage Tours | Carriage Tours Guide
www.charlestoncvb.com/plan-your-trip/tours-attractions~204/carriage-tours~1151/
Catch a **carriage** tour to really learn about **Charleston's** history, Colonial style. Hear hundreds of years of history set against the sound of hoofbeats. The **carriage** ...

Welcome to Classic Carriage | Charleston Carriage Rides and Tours
https://www.classiccarriage.com/
Classic **Carriage** provides historical and informative **carriage** rides in **Charleston**, South Carolina

Palmetto Carriage Works | Charleston's Oldest Carriage Company
https://palmettocarriage.com/
Tour Historic Downtown **Charleston** by Mule or Horse-Drawn **Carriage**. Public & Private Tours from The Oldest Family-Owned **Carriage** Company in Town.
Public Carriage Tours · Book Your Tour · Private Carriage Tours · The Big Red Barn

Charleston Carriage Horse Advocates - Home | Facebook
https://www.facebook.com/ccha.join/
Charleston Carriage Horse Advocates, Charleston, South Carolina. 13388 likes · 98879 talking about this. "Like" our page and join our mission to ...

Old South Carriage Company | Charleston Carriage Tours
https://www.oldsouthcarriage.com/
Offering historic horse-drawn **Charleston carriage** tours since 1983. Family owned and operated. NO BOOKING FEES!

Historic Charleston Carriage Tours | Old South Carriage Tours
https://www.oldsouthcarriage.com/historic-charleston-carriage-tours/
Old South **Carriage** Company, owned and operated by the same family since 1983, ... of the finest tour guides, draft horses, and **carriages** in historic **Charleston**.

Charleston Carriage Works

Website Directions

4.6 ★★★★½ 67 Google reviews

Carriage ride service in Charleston, South Carolina

Address: 20 Anson St, Charleston, SC 29401

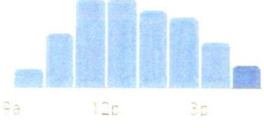
Phone: (843) 779-1279

Suggest an edit

Popular times

Sundays

Now: Usually not busy



Reviews

Write a review Add a photo

"This is the **company** we've started recommending to our friends visiting **town**."

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North Charleston, SC 29406
843.991.9115
www.CharlestonAnimalSociety.org
Can You Make Room for One More? Adopt Today.

On Tue, Feb 7, 2017 at 10:33 AM, Ellen Harley <ellen.harley@gmail.com> wrote:

Joe and Dan; Can you help with Geo targeting, keywords and websites needed below? Thx.

Sent from my iPhone

Begin forwarded message:

From: Jon Godsey <jgodsey@adamsoutdoor.com>
Date: February 7, 2017 at 2:12:53 PM GMT+1
To: "amy@domangueconsulting.com"
<amy@domangueconsulting.com>
Cc: Ellen Harley <ellen.harley@gmail.com>
Subject: Charleston Carriage Horse Advocate

Ladies,

The design team is working on the first round of Bulletin and online imagery to be used in the upcoming campaign. I should have an update later today on when we can review. During this time I need to collect some additional information for targeting the downtown area.

Geofencing – We will be targeting the entire downtown peninsula. This will target mobile and computer users who are in the area.

Geotargeting – This will be a tighter target area to reach the people who are engaging with the carriage companies / kiosk stands and loading points. Also kiosk locations that are offering tickets for carriage rides for timeshare related activities. Please let me know what other locations you would like to include.

- Palmetto Carriage Works
- Old South Carriage Company
- Carolina Polo and Carriage Company
- Classic Carriage Works
- Palmetto Carriage Tours

Keywords – Please include any additional keywords you would like included. Note we will ultimately explore using multiple

combinations of the words provided to ensure proper coverage.

- Charleston Horse Drawn Carriage Tour
- Carriage Rides Downtown
- Charleston Horse Carriage
- Charleston Horse Carriage Tour
- Romantic carriage Ride

Websites - Please provide a listing of websites that you would like to target. Please note that these will need to be sites that presently allow the sale of banner ads on their pages. While I wish we could target the Horse Carriage Sites I have reviewed them and they are not open to dynamic advertising. Call me if you need clarification.

Destination for targeted consumers - Facebook URL: https://www.facebook.com/ccha.join/

Jon Godsey
Account Executive

Adams Outdoor Advertising
4845 O'Hear Ave.
North Charleston, SC 29405

843-901-1393 (m)
843-695-6041 (o)
843-207-1212 (f)
www.adamsoutdoor.com

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ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

From: Dan Krosse
To: Ellen Harley
Subject: Re: Domain Name Use
Date: Wednesday, May 2, 2018 10:32:01 AM

Their website is Charlestoncares.com

On Wed, May 2, 2018, 10:30 AM Ellen Harley <ellen.harley@gmail.com> wrote:

I think they use charleston caretakers and supporters at least as their facebook presence. But I have purchased all of them so I can integrate all of them just to be safe! .org and .com!

> On May 2, 2018, at 10:14 AM, Dan Krosse <dkrosse@charlestonanimalsociety.org> wrote:
>
> You also bought Charleston cares.org that's the big one to redirect...aren't carriage people at Charlestoncares.com
>
> On Wed, May 2, 2018, 10:02 AM Ellen Harley <ellen.harley@gmail.com> wrote:
>
> AMY: We have purchased Charlestoncaretakersandsupporters.com and .org (seems the Industry never bothered to purchase either...)
> We can have any inquiries to those sites revert to our webpage. Can you do that or should we ask someone else to do?
>
> I ran it by Jenkins Mann our attorney and this is what he said:
>
> "I don't believe there's any trademark infringement as long as you're not using a registered name or any trade name that they have conducted business in ... if it's just what they're using to post rants on FB, I think you'll be okay.
>
> A good PR firm though will likely tell you that buying the domain names doesn't really generate any SEO (search engine optimization) on those searches, i.e. building terms like that into your HTML (essentially the metadata of your site) will do a whole lot more to create hits on that front and is not prone to be nearly as controversial."
>
> Can we also do what he is suggesting? Maybe hit it both ways....Let me know and also if you can do. Thanks.

ELECTRONICALLY FILED - 2022 Apr 22 1:29 PM - CHARLESTON - COMMON PL - CASE#2018CP1004083

From: Dan Krosse
To: Ellen Harley
Subject: Re: link to website
Date: Thursday, May 3, 2018 7:31:55 PM
Attachments: image004.jpg
image004.jpg
image004.jpg

They are going to s#!t their pants!

On Thu, May 3, 2018, 6:55 PM Ellen Harley <ellen.harley@gmail.com> wrote:
DONE!!!
THANK YOU!

Begin forwarded message:

From: Ellen Harley <ellen.harley@gmail.com>
Subject: link to website
Date: May 2, 2018 at 11:00:04 AM EDT
To: Amy Dye <amy@domangueconsulting.com>

please make certain we link Charlestoncares.org and cares.com to our webpage since we purchased both. We want everyone who goes to these sites to be routed to our webpage as well as charlestoncaretakersandsupporters.com and .org

charlestoncare.com

charlestoncares.org

Private Registration

charlestoncare.org

Private Registration

charlestoncarriagehorsecaretakersandsupporters.com and .org

ELECTRONICALLY FILED - 2021 Aug 20 4:03 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2018-CP-10-04083
	)	
Charleston Carriage Works, LLC,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	
	)	
Charleston Animal Society, Ellen Harley and Charleston Carriage Horse Advocates, Inc.,	)	
	)	
Defendants.	)	

AFFIDAVIT OF ELLEN HARLEY

PERSONALLY APPEARED before me, Ellen Harley, who being duly sworn does state as follows:

1. My name is Ellen Harley and, since its inception in 2017, I have served as President of Charleston Carriage Horse Advocates, Inc. ("CCHA").

2. I am over the age of 18 and have personal knowledge of and am competent to testify about the matters addressed in this Affidavit.

3. I have reviewed the Affidavit of Broderick Christoff and Supplemental Affidavit of Broderick Christoff, dated June 23, 2020, and am compelled to point out some of the more egregious false statements

4. I served on the Board of Charleston Animal Society from 2014 to 2019.

5. CCHA was organized and exists as a private, charitable 501(c)(3) organization for the purpose educating the public about and advocating for the humane treatment of livestock and animals that work in urban environments, with an emphasis on advocating for greater governmental oversight

ELECTRONICALLY FILED - 2021 Aug 20 4:03 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

and regulation of the carriage horse industry, including concerns for the draught animals' welfare due to heat, size of the load they pull, hours that they work, time between pulling loads, and their stall size and care.

6. CCHA does not utilize a "professional fundraising counsel" or a "professional fundraising solicitor."

7. The name "Charleston Carriage Horse Advocates, Inc." was a name selected by me and other founding members of the group solely because it was befitting of our message and advocacy. It had absolutely nothing to do with any similarity it shares or does not share with the Plaintiff's name.

8. CCHA utilizes numerous forms of communication to educate and inform the public about its mission, legislative developments, its advocacy efforts, and opportunities for community involvement, including its website at https://www.charlestoncarriagehorseadvocates.com/, an online forum on Facebook https://www.facebook.com/ccha.join/ as well as accounts with Instagram and Twitter.

9. CCHA has approximately 19,200 "followers" on Facebook page. Some posts, such as those concerning the carriage horse industry, often spark spirited debates by commentors.

10. CCHA regularly sends out e-blasts via email to to more than 1,000 users.

11. CCHA does not create, and has never created, "a false narrative to cast [Broderick Christoff or Plaintiff] in a false light as an animal abuser, animal torturer, rule breaker, and to convict [Broderick Christoff or Plaintiff]in the court of social media as guilty of animal cruelty."

12. I have never followed Charleston Carriage Works tours or harassed their drivers or guests.

ELECTRONICALLY FILED - 2021 Aug 20 4:03 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

13. I do not have a Facebook page and to my knowledge have never used the website myself.

14. I have a personal Instagram account, but have to my knowledge never posted on it because I do not know how to.

15. I have never myself posted any content to any social media site, either as an individual or as an agent for CCHA.

16. Neither I, nor CCHA, ever posted that Big John "collapsed from heat and exhaustion."

17. I did not shoot the video that was posted regarding Big John's collapse on April 19, 2017 which can be found at https://www.youtube.com/watch?v=WLXdlMsxBZM ("Big John Video"), nor did I or anyone to my knowledge delete any "footage of [my] aggressive interference" on the scene that day.

18. As is indicated at the end of the video, CCHA published the Big John Video to raise awareness and support for the need of an independent, prospective, science-based, peer-reviewed study of the Charleston carriage industry.

19. CCHA did not publish the video with the intent to harm Plaintiff or injure its business.

20. Neither I, nor CCHA, was in possession then or now of any information that would call into question the veracity of the assertion that Big John "collapsed" on April 19, 2017.

21. Neither I nor CCHA ever received any April 25, 2017 letter from Plaintiff or Mr. Christoff.

22. Neither I nor CCHA ever received any request from the Plaintiff that we "publish the correct information and stop misleading people that Big John 'collapsed' from 'exhaustion'."

23. I have never harbored any personal animus toward Mr. Christoff or the Plaintiff.

24. CCHA is regularly asked to comment and give interviews concerning the carriage horse industry and on many occasions has issued and does issue press releases and hold press conferences regarding the same.

FURTHER AFFIANT SAYETH NOT.

Ellen A. Harley

Ellen Harley

SWORN to before me this
20 day of August, 2021

Chelsea Kennedy

Notary Public for South Carolina
My commission expires: 10/30/2025

CHELSEA KENNEDY
Notary Public-State of South Carolina
My Commission Expires
October 30, 2025

ELECTRONICALLY FILED - 2021 Aug 20 4:03 PM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

ELECTRONICALLY FILED - 2021 Sep 28 10:45 AM - CHARLESTON - COMMON PLEAS - CASE#2018CP1004083

STATE OF SOUTH CAROLINA)) COUNTY OF CHARLESTON)	IN THE COURT OF COMMON PLEAS CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)) Plaintiff,)))) Charleston Animal Society, Ellen) Harley and Charleston Carriage) Horse Advocates, Inc.,)) Defendants.)	**AFFIDAVIT OF KATHERINE VAUGHN**

Personally appeared before me Katherine Vaughn, who being duly sworn does depose and say:

I am Katherine Vaughn, and I am over the age of 18 years. Mr. Goldstein asked me if I would offer a brief summary of my efforts to post truthful and polite comments on the Facebook page of the Charleston Carriage Horse Advocates. I have attempted several times to post accurate, truthful, and polite information, and almost immediately the Administrator of the page deletes my comments, bans me from the site, and blocks me from posting additional information.

For example on or about April 8, 2021, I posted in response to a comment urging viewers to contact the governor because carriage tours are "animal abuse." My direct comment was:

Can you explain to me how this is animal abuse? I don't understand.

On April 21, 2021, I posted in response to a comment that accused the City of being "bought and paid for to do nothing." In response, I wrote:

Please stop spreading lies.

Charleston Carriage Horse Advocates deleted both posts and blocked me from commenting further. (The way Facebook works is when the Administrator blocks me, that immediately deletes all of my comments even though my comments were accurate, truthful, and were not inflammatory.)

The above two comments were posted under my account in the name of "Katievaughn." Charleston Carriage Horse Advocates blocked this account within two weeks, and this account is just one of many I have attempted to set up in order to be allowed to provide accurate, truthful, and non-inflammatory information of a public charity's home page.

For example, I attempted to post a correction about misinformation being disseminated about parking brakes. I posted:

> *Charleston City ordinance . . . nothing to do with the individual carriage companies. As for the brakes this is not completely true. There is a parking bake but during operation the driver is the "brake." Let's use our common sense people and think what we would happen if a runaway carriage came to a complete abrupt stop all of the sudden. I thought this page was advocating less accidents and not want to cause more. The drivers are trained to handle the situation if a horse were to spook.*

This completely accurate post got me banned and my comments deleted.

I have previously posted under the name Kat Neal (I changed to Kat Vaughn after the Charleston Carriage Horse Advocates banned me under Kat Neal). After the Charleston Carriage

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Horse Advocates published a photo of a horse on the ground with no information, I posted the following:

Haha. Your picture shows misinformation. You just violated your own rules.

After a Charleston Carriage Horse Advocate supporter, Samantha Suiter, told me my post was "not necessary," and to "move on pls," I responded as follows:

Samantha Suiter it's not necessary to let people know the correct information? If they had just posted the rules that would have been fine but they added the picture without any information.

That post got me banned. Here is another one that got me banned: A supporter named Patty McBride posted a comment of a photo of a carriage horse that "He/she looks so sad." Under the name, Katherine Anna, I replied:

Patty McBride why do you say that?

McBride responded: "Because he/she does to me." This did not seem to be an objective response, so I attempted to furnish some truthful information about horses:

Patty McBride well you are 100% wrong. A horse with his head down is a sign of relaxation and complete trust in his environment. Notice his back hoof propped up. They shift their weight back and forth while relaxing. Just wondering how many times you've ridden a horse?

Anyone who has the slightest familiarity with horses knows that horses in the wild do not drop their heads because they are prey animals and constantly on guard for threats. The only defense a horse has to a predator is to run, and so you will never see a horse in the wild who is not

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alert and ready to run at the slightest hint of danger, and they certainly do not take their weight off their feet. This is why it is so rare to see a horse lying down. Only a domesticated horse who is comfortable with his or her surroundings and feels no fear is going to relax enough to lower his or her head and take some weight off a leg.

The posts listed above are just a few of the posts that got me banned, and when the Facebook Administrator bans a commenter, all the posts are immediately and permanently deleted. This means that no message is ever disseminated unless it meets the approval of the Facebook Administrator. I am not a lawyer, but that seems like the opposite of free speech to me.

The Charleston Carriage Horse Advocates lists its publication rules and policies as follows:

> No profanity
> No misinformation
> No off-topic/irrelevant
> No personal attacks
> No promoting violence
> No promoting illegal or questionable activities
> No rallying on behalf of people or organizations which support animal abuse.
> If you repeatedly violate this policy, you will be removed from our page. If you become a bother to our supporters, since this is a supporter page first and foremost, you will be removed.

As the Court can see from the above representative posts, I never used profanity. I never provided misinformation—in fact, I tried to correct the misinformation being disseminated by the Charleston Carriage Horse Advocates. I never promoted violence, *etc.* In short, all of my posts were short, correct, truthful, and respectful. By deleting my posts and banning me (and I am aware of others who have been likewise banned), the Charleston Carriage Horse Advocates is creating the false impression that a horse pulling a carriage is animal abuse.

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Charleston Carriage Horse Advocates was not done with me by deleting my posts and banning me from being the Facebook page. On December 16, 2020, the Charleston Carriage Horse Advocates' lawyer, Jenkins Mann, wrote to me and threatened to sue me for what Charleston Carriage Horse Advocates alleges is an unlawful use of their "trademark." The letter, which is attached to my affidavit as Exhibit 1, reads in part:

> Please accept this letter as a final notice that you must immediately cease and desist from interfering with Charleston Carriage Horse Advocates' service mark. If you do not take all steps necessary to immediately cease and desist this conduct, including withdrawing any false statements that you published, please know that I will promptly proceed to take all necessary and legal steps on behalf of my clients to ensure your compliance with this demand and to recover all remedies and damages available to them at law, including the recovery of monetary damages and the issuance of an injunction and restraining order.
>
> /s/ Jenkins Mann

I asked Mr. Goldstein to respond for me, and on December 30, 2020, he sent a letter to Charleston Carriage Horse Advocates on my behalf. This reply is attached here as Exhibit 2. I have no firsthand knowledge of complaints against others (other than I know other people who Charleston Carriage Horse Advocates have banned), but I am informed that Ms. Harley has a pattern of filing complaints against persons who do not share her views. All I know firsthand is that I was shocked and intimidated by the letter written to me on December 16, 2020, which I assume was the intent. All of the comments I posted on the Charleston Carriage Horse Advocates' Facebook page that it banned were truthful, accurate and did not violate any of their published guidelines for participation.

Further your deponent says not.

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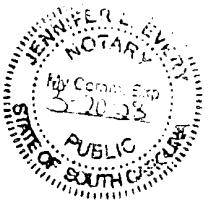
Katherine Vaughn

SWORN TO BEFORE ME THIS

27th DAY OF September, 2021

Notary Public for South Carolina
My Commission expires: 5.20.28



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STATE OF SOUTH CAROLINA)) COUNTY OF CHARLESTON)	IN THE COURT OF COMMON PLEAS CASE NO.: 2018-CP-10-04083
Charleston Carriage Works, L.L.C.,)) Plaintiff,)) vs.)) Charleston Animal Society, Ellen) Harley and Charleston Carriage) Horse Advocates, Inc.,)) Defendants.))	**AFFIDAVIT OF STEVEN M. ABRAMS**

1. My Name is Steven Marc Abrams. I am a licensed Attorney and Counselor at Law, in good standing, in South Carolina, Washington, DC, and New York. I am a retired State Constable in South Carolina. My field of concentration is digital forensics. I have assisted municipal, county, state, and federal law enforcement agencies and the US Department of Defense and the Department of State with digital forensics investigations for over three decades. For 11 years, from 2008 until 2019, until my retirement I held a law enforcement commission from the Governor of South Carolina at the request of the United States Secret Service. My office address is 1154 Holly Bend Drive, Mount Pleasant, South Carolina 29466. My office phone number is (843) 216-1100. My full credentials are included in my CV which is appended to this affidavit.
2. I have completed over 1300 digital forensic examinations during my three decades in this field. I have been qualified by state and federal courts to testify as a digital forensics expert 15 times as of the writing of this affidavit. I have never been found not qualified to testify by any court that has considered my qualifications. I have prepared a digital forensics report

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for use in court on seven additional cases. Additionally, I have been deposed as a digital forensics expert over a dozen times in various other cases.

3. The plaintiff in this case retained me in November 2019 to conduct a forensic examination of the defendants' electronic devices to examine:

    - The use of digital media to manipulate web searches related to the plaintiff
    - The identification of Administrators for defendants' various social media accounts
    - The creation of documents, specifically e-mails and text messages related to the plaintiff
    - The deletion (spoliation) of material information
    - The editing of Facebook comments to delete truthful information, post false information, and cast the plaintiff in a false light
    - The coordination between the defendants in a common scheme to cast the plaintiff in a false light, interfere with and depress the plaintiff's business
    - The creation of false documents

4. To date, I have not been afforded an opportunity to examine the defendants' devices or been provided the necessary Administrator keys in order to conduct a forensic examination of the creation of documents, deletion of material, or perform a standard forensic examination of the defendants' electronic communications and web presence. I have only been given a small amount of information at Defendant's choosing to review in a non-forensic manner.
5. Until I am provided an opportunity to create a mirror image of the defendants' devices and be provided the administrative privileges to their Facebook and other social media pages, I have no way of gathering evidence that is material and forensically valid in this action. In short, I have been unable to provide any forensic information to the plaintiff because the defendants have not permitted my access.
6. In cases such as this, I have routinely conducted forensic examinations without breaching the parties' confidentiality in their electronic devices, and confidentiality agreements. Digital forensic examinations of electronic devices and cloud based content are now routine and non-controversial. I am ready, willing and able to conduct a forensic examination, but I cannot do this unless the defendants grant me the necessary access.
7. I have read the affidavit of defendants' expert Kelley Khaladj-Ghom that was filed in this case on August 20, 2021. I have also reviewed excerpts of hearing transcripts in this case related to the bidding on certain paid keywords on Google. The allegation central to this matter is whether defendants targeted their internet campaign in opposition to the carriage horse tour businesses in Charleston to potential customers of Plaintiff, Charleston Carriage Works, LLC. I have worked as an attorney and non-testifying subject matter expert in a

very similar case here in federal court a few years ago where in an attorney targeted his Google advertising to steal potential legal clients from his father's law firm. Many of the techniques used in that case are in play in this case also. I disagree with the main premise of Ms. Ghom's affidavit that unless defendants used the exact name of Plaintiff as a keyword they were not attempting to divert traffic from Charleston Carriage Works to their anti carriage horse persuasion campaign. By outbidding Plaintiff for keywords that describe Plaintiff's business, defendants would be able to divert search engine traffic based on keywords that potential customers would use to find a carriage tour in Charleston. In fact, given that it is likely that most potential customers do not know the name of Plaintiff's business as they are using Google, it is more likely that they will be searching for what they are looking for such as "Charleston horse and buggy tours", or "Charleston horse drawn carriage tours" rather than the name of Plaintiff's business that they have never heard of. In fact, these terms are among ten similar terms that Ms. Ghom cites in her affidavit were bid on by defendants. Without knowing what defendants' bid for these keywords on Google it is impossible to know how successful they were at diverting traffic from Plaintiff, but it is confirmed by Ms. Gohm's affidavit that they were attempting to obtain the keyword space that would likely be going to Plaintiff without their interference.

Further your deponent says not.

Steven M. Abrams

SWORN TO BEFORE ME THIS

22nd DAY OF APRIL, 2022

Notary Public for South Carolina
My Commission expires: March 18, 2024

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APPENDIX A.

Steven M. Abrams, J.D., M.S.
Curriculum Vitae

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Steven M. Abrams, J.D., M.S.
Attorney, Digital Forensics Examiner and Instructor
1154 Holly Bend Drive
Mount Pleasant, SC 29466
843-216-1100
Steve@AbramsForensics.com

Curriculum Vitae

My key practice areas are Computer Forensics, e-Discovery, and Computer Law.

Education

2016 -Techno Security 2016, Computer Forensics Training Seminar, Myrtle Beach, SC, June 5-8, 2016

2014 -Georgia Bureau of Investigations, Internet Evidence Finder Forensics Training, Decatur, Georgia, February 2014

2013 -Techno Security 2013, Computer Forensics Training Seminar, Myrtle Beach, SC, June 2-5, 2013

2012 -Techno Security 2012, Computer Forensics Training Seminar, Myrtle Beach, SC, June 3-6, 2012

2011 -November 9-12: EnCase 7 Training, Salt Lake City, UT
-November 6 – 9: Paraben Forensics Innovations Conference, Park City, UT
- South Carolina Assoc. of Legal Investigators (SCALI) Annual Training Seminar, May 2011
- April 7, 2011: SC Electronic Crime Task Force Quarterly Meeting and Training

2010 -Techno Security 2010, Computer Forensics Training Seminar, Myrtle Beach, SC, June
- SCALI Annual Training Seminar, May 2010

2009 - Cellebrite Mobile Device Forensics Certification (CCMDE), SEMAR, Mexico City, Mexico
-SCALI Annual Training Seminar, May 2009

2008 - South Carolina Basic Constable Training, Tri-County Technical College / SC Criminal Justice Academy, October – November 2008
- Commissioned as a South Carolina State Constable (LEO) on November 20, 2008.
- Techno Security 2008, Computer Forensics Training Seminar, Myrtle Beach, SC, June

2007 - Charleston School of Law, Charleston, SC, Juris Doctor (J.D. - Magna Cum Laude)

- GMU2007 Computer Forensics Symposium, Regional Computer Forensic Group of the High Technology Crime Investigation Association, Fairfax VA, Aug. 2007 (40 CEU HTCIA)
- Techno Security 2007, Computer Forensics Training Seminar, Myrtle Beach, SC, June

2006 - University of Aberdeen, School of Law, Kings College, Old Aberdeen, Scotland in collaboration with the University of Baltimore Law School Summer Law Program in Comparative Criminal Procedure and UK Business Entities & Taxation
- Techno Security 2006, Computer Forensics Training Seminar, Myrtle Beach, SC, June
- SCALI Annual Training Seminar, May 2006

2005 - SCALI Annual Training Seminar, May 2005
- SCALI Fall Training Seminar, October 2005

2004 - Access Data Advanced Windows Forensics, June 23-25, 2004, New York City. (24 Credit Hours)
- SCALI Annual Training Seminar, May 2004 (10 CEU)

2003 - GMU2003 Computer Forensics Symposium, Regional Computer Forensic Group of the High Technology Crime Investigation Association, George Mason University, Fairfax, VA. Aug.2003, (40 CEU HTCIA)
- Techno Security 2003, Computer Forensics and Security Conference (24 CEU)
- SCALI Annual Training Seminar & PI Training Seminar (16 CEU SLED)

2002 - SCALI Annual & Fall Training Seminars (16 CEU SLED)
- GMU2002 Computer Forensics Symposium, Regional Computer Forensic Group of the High Technology Crime Investigation Association, Fairfax VA, Aug. 2002, (40 CEU HTCIA)
- Access Data Computer Forensic Boot Camp, North Carolina Justice Academy, Edneyville, NC (24 CEU)

1992-1994 Microsoft Internet Developer Workshops NY, NY

1992-1993 Novell NetWare CNE Training, IBM Skills Discovery, Jericho NY

1984-1985 Microcomputer and Electronics Engineering, Hofstra University, Hempstead NY

1982-1983 Ph.D. Studies, Faculty Fellowship, Columbia University, Graduate School of Arts & Sciences

1981-1982 Columbia University, College of Physicians & Surgeons, Master of Science (M.S.)

1977-1981 Allegheny College, Meadville PA, Bachelor of Arts (B.A.) (Psychology - Computer Science)

Professional Licenses

Current

Licensed Attorney in South Carolina
Licensed Attorney in District of Columbia
Licensed Attorney and Counselor at Law in New York

Previous

Licensed as a Private Investigator in South Carolina and New York (2002-2008), South Carolina State Constable (Sworn, 2008-2019).

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Experience (Selected)

2016 – Present, Senior Attorney, Abrams Cyber Law & Forensics, LLC. Mount Pleasant, SC 29466. Concentration on Electronic Privacy and Defamation Cases, Electronic Discovery, and Digital Forensics.

2018 - Continuing Legal Education Instructor, ***Electronic Privacy Violations during Divorce: Legal and Ethical Guidelines for Family Law Practitioners,*** SC Bar, Columbia SC (February 21, 2018).

2016 – Continuing Legal Education Instructor, ***Smartphones as evidence for Personal Injury Cases***, NBI, Charleston SC (December 8, 2016).

2011 – 2016 Sole Practitioner Abrams Law Firm, PC. Mount Pleasant, SC 29466

2011 - Digital Forensics Instructor / Investigator, H-11 Digital Forensics / United States Embassy, Tirane, Albania.

2010 – Facilitator, Instructor, Annual In-Service Legals and CDV Training (SLED), Lowcountry Constable Association.

2009 – Speaker, South Carolina Association for Justice, Hilton Head, SC (August 6, 2009) Topic: Civil Discovery of E-mails after *O'Grady*

2009 – Digital Forensics Instructor/Investigator, H-11 Digital Forensics / United States Embassy, Mexico City, Mexico.

2008 – Digital Forensics Instructor/Investigator, H-11 Digital Forensics / United States Embassy, Mexico City, Mexico.

2008 – Faculty, SC Bar Convention – Family Law Section CLE

2008 – 2011 Shareholder, Abrams Millonzi Law Firm, P.C., Mount Pleasant, SC 29464

2007 - Presenter, "E-Discovery: Definition, FRCP Changes and Application CLE",NBI, Charlotte, NC, December 19, 2007

2007 - Digital Forensics Instructor/Investigator, H-11 Digital Forensics, United States Embassy, Mexico City, Mexico

2007 - Presenter, "Civil to Criminal: Collaborative Computer Forensics Investigations between PIs and Law Enforcement",GMU2007, August 9th & 10th, 2007

2007 - Presenter – "A South Carolina Lawyer's Roadmap to Navigating the New Federal E-Discovery Rules," The South Carolina Bar (CLE Division), April 13, 2007.

2006 - Presenter – "Typical Internet Sexual Activity and its Detection", Family Law CLE, The South Carolina Bar (CLE Division), November 2006.

2006 - Instructor, "3-day Hands-on Computer Forensics Workshop", Trident Technical College, N. Charleston, SC, CLE accredited by The South Carolina Bar, January 2006.

2005 - Lecturer, "Computer Forensic Introduction", Trident Technical College, CLE accredited by South Carolina Bar and CEU / In-Service hours for PIs / LE by SLED.

2001 - Present Steve Abrams & Company, Ltd. (dba Abrams Computer Forensics)
Licensed Private Investigator, Computer Forensics Examiner

1998 - 2001 Steve Abrams & Company, Ltd. Mt. Pleasant, SC, President

1996 - Democratic National Committee, Instructor - Southeast and Northeast Regional Schools for Congressional Campaign Managers.

1995 – 1999 Direct Marketers of Charleston Mt Pleasant, SC, Partner
Co-owner of Political Database Marketing Company and full service political print shop.

1994 - 1995 The Software Studio Mt Pleasant, SC, Owner
Owner of software development company that developed database applications for the Newspaper publishing industry.

1992-1993 Town of North Hempstead, Manhasset, NY, Deputy Commissioner of Finance

1986 - 1992 Digitron Telecommunications, Inc., Huntington, NY, Director of R&D

1984 - 1986 Computer Associates International., Islandia, NY, Senior Systems Programmer

1983 Contel Information Systems Division. Great Neck NY, Software Engineer
(Developed the first Network Forensics Applications for the DoD

Recent Publications

Steven M. Abrams, Knowledge of Computer Forensics Is Becoming Essential for Attorneys in the Information Age, 75 N.Y. St. B. Assn. J. 8, 15 (Feb. 2003).

Steven M. Abrams, Knowledge of Computer Forensics, Essential for 21st Century Private Investigators, 16 PI Mag. 46, 59 (October 2003).

Professional Awards & Honors

2008 – Member, SLED Ad Hoc Committee on Computer Forensics

2007 – CALI Excellence for the Future Award, Aviation Law, Charleston School of Law, Fall 2006

- CALI Excellence for the Future Award, Interviewing, Counseling & Negotiation, Charleston School of Law, Fall 2006

- CALI Excellence for the Future Award, Insurance Law, Charleston School of Law, Fall 2006

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_ Dean's List, Charleston School of Law, Fall 2006, Spring 2007.

2004 - "2004 SCALI Investigator of the Year"

2003 - Member, SLED Private Investigations Business Advisory Committee

Professional Associations

Member, Institute of Electrical and Electronics Engineers - IEEE
Member, Lowcountry Constables Association - LCA

Bar Association Memberships

Admitted to practice in **South Carolina, District of Columbia, and New York.**

Compensation
I receive $425 per hour, plus mileage, travel and lodging expenses, for all Computer Forensics services and for depositions and trial testimony.

Previous Expert Testimony

I have completed over 1200 computer forensics investigations, the overwhelming majority of cases were settled and did not require me to testify.

South Carolina cases in which I was qualified in court as an expert are:

Hillburn v. Hillburn, (2001-DR-08-2354);
Smith v. Smith, (2001-DR-22-212);
Natale v. Natale, (2003-DR-10-775)
Berda v. Berda, (2003-DR-10-1899);
Murphy v. Murphy (2004-DR-10-1510) and
Overstolz v. Fountain of Youth Wellness Centers LLC (2003-CP-10-000761).
Gitter v. Gitter (2008-DR-10-2865)
Ricigliano v. Ricigliano, (2009-DR-18-0102)
Edwards v Junevicus, (2010-DR-10-4736)
BTM Machinery Inc. v. Michael J. Finley *(2013-CP-10-4366)*
Cherry v Cherry (2014-DR-10-95)
Whitfield v. Schimpf and Sweetgrass Plastic Surgery, LLC *(Case No. 2017-CP-10-2758)*

I was qualified as a testifying expert on digital forensics in federal court in the South Carolina Federal District Court

UHLIG, LLC, V JOHN ADAM SHIRLEY, *(CIVIL ACTION NO.. 6:08-1208-HFF) GREENVILLE DIVISION*

I have also prepared expert's reports under Federal Rule 26(a)(2)(B) for the following federal civil suits filed in the United States District Court for the District of South Carolina:

Lumpkin v. Bennani, (Civil Action No. 2:03-2904-23), and
Miller v. American LaFrance Corp. (Civil Action No. 2:04-1668-23)
Microsoft v. **BWC Products Inc.** (Civil Action No. 2:06-CV-2023-CWH)
Quala Systems, Inc, et al., v. Bulkhaul USA, Inc., et al. (Civil Action No. 2:07-CV-00673-PMD)
Mainfreight v. John Marco, et al., (Civil Action No. 9:cv00563 JFA)

And in the United States District Court for the Eastern District of New York:
United States of America v. Keith Raniere (also known as "Vanguard") and Allison Mack (Case 1:18-cr-00204-NGG-VMS)

I was appointed the Court's Expert in United States District Court, District of South Carolina, Rock Hill Division:

The Travelers Home and Marine Ins. Co. v. Pope, C/A No.: 0:10-cv-1688-JFA

I was qualified as a testifying computer forensics expert in North Carolina courts in: ***Hollins v. Lightfoot.***

In addition, I have been deposed in the following matters over the past ten years:

Thomas & Assoc. v. Christopher Humphreys *(Case No. 2018-CP-10-0455)*
Catherine Cope v. Wells Fargo Bank N.A., Century 21 Properties Plus, and Jim Bailey, individually; *(Case No.: 2018-CP-18-00112)*
Rick Gray v. Church Mutual *(2017)*
Calandra v. Calandra *(2004-DR-10-2675)*
McLernon v. McLernon *(2003-DR-10-3090)*
White v. Cassidy (2004-DR-08-256)
Khoury v. Noce (2006-CP-10-001830)
Quala Systems, Inc, et al., v. Bulkhaul USA, Inc., et al. (Civil Action No. 2:07-CV-00673-PMD)
Mainfreight v. John Marco, et al., (Civil Action No. 9:cv00563 JFA)
Beard v. Dunn & Dixon-Hughes et al, (Case No. 2010-CP-08-0776)
UHLIG, LLC, V JOHN ADAM SHIRLEY, *(CIVIL ACTION NO.6:08-1208-HFF)*
ALTMAN, ET AL. V. FIRST CITIZENS BANK AND TRUST COMPANY *(2012-CP-34-0124)*

(Revised: March 2, 2022)

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