

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Richland County
In the Court of Common Pleas

Casey L. Manning, Presiding Judge

Case No. 2007-CP-40-6289

Ursula R. Pallares.....Appellant,

v.

Sharon R. Seinar and Lisa Maseng.....Respondents,

RECORD ON APPEAL

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ATTORNEY FOR SHARON R. SEINAR

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SC Court of Appeals

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STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Ursula R. Pallares,

Plaintiff,

Vs.

Sharon R. Seinar & Lisa A. Maseng,

Defendants

) IN THE COURT OF COMMON PLEAS

)

) C/A No.: 07-CP-40-6289

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**ORDER FOR PARTIAL
SUMMARY JUDGMENT**

RICHLAND COUNTY
FILED
2011 SEP - 1 AM 10:52
JEANETTE W. MCBRIDE
C.C.P. & G.S.

The Defendants, Sharon R. Seinar ("Seinar") and Lisa A. Maseng ("Maseng"), moved this court pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for summary judgment as to the allegations of the malicious prosecution, abuse of process, invasion of privacy, intentional infliction of emotional distress, and civil conspiracy causes of action of the Plaintiff's Amended Complaint. The grounds for this motion were that the Plaintiff has suffered no cognizable damages and that there are no genuine issues of material fact such that Seinar and Maseng are entitled to judgment as a matter of law. After reviewing the pleadings, hearing the argument of counsel, and considering the evidence properly before the court, the court rules as follows:

1. MALICIOUS PROSECUTION

"To recover in an action for malicious prosecution, the plaintiff must show (1) the institution or continuation of original judicial proceedings, either civil or criminal (2) by, or at the instance of, the defendant (3) termination of such proceedings in plaintiff's favor (4) malice in instituting such proceedings (5) want of probable cause and (6) resulting injury or damage. The mere fact that the defendant was unsuccessful in the prior action has no bearing on the issue of probable cause." *Gaar v. North Myrtle Beach Realty Co.*,

Inc. 287 S.C. 525, 339 S.E.2d 887 (Ct.App.1986) (citations omitted). As for the element of "want of probable cause," the Court of Appeals has held that "[w]hen determining if probable cause exists, the court must consider the facts from the point of view of the party prosecuting. The question is not what the actual facts were, but what [the prosecuting party] honestly believed them to be." *Guider v. Churpeyes, Inc.*, 370 S.C. 424, 635 S.E.2d 562 (Ct. App. 2006) (citations omitted).

In the present case, the Plaintiff has failed to allege any material facts that would suggest that the Seinar and Maseng did not honestly believe they had probable cause to lodge their complaints.

ANIMAL NUISANCE

The record in this case shows that Seinar called Animal Control on three separate occasions to lodge complaints about the Plaintiff's dogs excessive barking with Columbia Police. Each police incident report on those complaints sets forth information detailing the existence of probable cause for each complaint. Indeed, the reporting officer recommended that Seinar pursue an arrest warrant based on prior complaints with the barking dogs. Columbia City Ordinance Section 4-70 states that an animal constitutes a nuisance if allowed or permitted to "bark, whine, howl, crow or crackle in an excessive, continuous or untimely fashion, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises." Based on the incident reports, it is clear that Seinar had probable cause for each complaint. Under these undisputed facts, this court grants summary judgment in favor of both defendants.

CODE VIOLATIONS

It was undisputed that Seinar and Maseng made complaints with the City of Columbia for housing and code violations concerning the Plaintiff's property. The City then served the Plaintiff with warning notices of these violations, and the violations were thereafter remedied by the Plaintiff. The City affirmed Seinar's and Maseng's complaints by serving the Plaintiff warning notices of code violations, and thus it is clear Seinar and Maseng had probable cause to initiate the complaints. Also, the decision as to whether to enforce code violations after Seinar's and Maseng's complaints was made by the City, not Seinar and Maseng. Thus, because Seinar and Maseng had probable cause, this court grants summary judgment in favor of both defendants.

2. ABUSE OF PROCESS

"The abuse of process tort provides a remedy for one damaged by another's perversion of a legal procedure for a purpose not intended by the procedure." *Guider v. Churpeyes, Inc.* 370 S.C. 424, 635 S.E.2d 562 (Ct. App. 2006) (citations omitted). "The essential elements of abuse of process are an ulterior purpose and a willful act in the use of the process not proper in the conduct of the proceeding. An ulterior purpose exists if the process is used to gain an objective not legitimate in the use of the process. The improper purpose usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself. Regardless, there is no liability when the process has been carried to its authorized conclusion, even though with bad intentions." *Id.*

In the present case, the only evidence was that City found probable cause for the complaints in both the animal nuisance and code violations, and that the complaint

process initiated by Seinar and Maseng were carried to its authorized conclusion. Even if Seinar and Maseng had an ulterior motive, the Plaintiff has failed to present evidence to suggest that there was a "willful act" by Seinar and Maseng. A "willful act" comprises three components: (1) a willful or overt act, (2) in the use of the process, (3) that is improper because it is either (a) unauthorized or (b) aimed at an illegitimate collateral objective. *Food Lion, Inc. v. United Food & Commercial Workers Intern. Union*, 351 S.C. 65, 71, 567 S.E.2d 251, 254 (2003). The Supreme Court has held that the collective actions of filing and amending a complaint, taking formal and informal discovery, taking depositions, filing a motion to release from a Confidentiality Order, and filing non-privileged publication of various allegations for collateral purposes fail to meet the second element of the abuse of process. *Id.* at 72, 567 S.E.2d at 254. Additionally, the District Court of South Carolina has held the court cannot infer improper acts from the existence of an improper motive alone. *Cosby v. Legal Services Corp.*, 2006 WL 4781412, 5 (D.S.C). Moreover, bad motive, standing alone, is insufficient to assert a claim for abuse of process. *Id.* The Plaintiff has failed to present any evidence that satisfies the willful act element. Therefore, the court grants summary judgment in favor of Seinar and Maseng on the issue of abuse of process.

3. INVASION OF PRIVACY

The Plaintiff next alleges that the "defendants' conduct in causing government authorities to enter her premises and private life willfully and maliciously constitutes a wrongful intrusion into the plaintiff's private activities in such a manner as to outrage or cause mental suffering, shame and humiliation to a person of ordinary sensibilities." The tort of wrongful intrusion into private affairs, consists of the following elements,

which must be pleaded and proved: (1) Intrusion (2) into that which is private (3) substantial and unreasonable enough to be legally cognizable (4) that was intentional. *Snakenberg v. Hartford Cas. Ins. Co., Inc.* 299 S.C. 164, 383 S.E.2d 2 (S.C.App.1989).

This court concludes that the defendants' motion for summary judgment on the issue of invasion of privacy based on the absence of evidence that the Plaintiff's damages were so severe "as to outrage or cause mental suffering, shame and humiliation to a person of ordinary sensibilities" should be denied at this time.

4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

"To establish the tort of intentional infliction of emotional distress, or outrage, the plaintiff must establish the following: (1) the defendants intentionally or recklessly inflicted severe emotional distress, or knew that distress would probably result from his conduct; (2) the defendants' conduct was so extreme and outrageous that it exceeded all possible grounds of decency and was furthermore atrocious, and utterly intolerable in a civilized community; (3) the actions of the defendants caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it. *Dye v. Gainey* 320 S.C. 65, 463 S.E.2d 97 (Ct.App.1995) (citations omitted).

This court concludes that the defendants' motion for summary judgment on the issue of intentional infliction of emotional distress should be denied at this time.

5. CIVIL CONSPIRACY

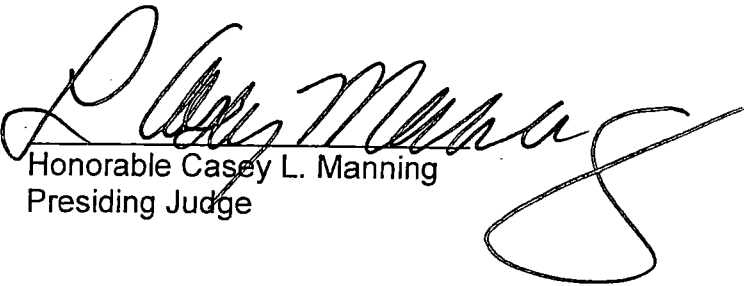
The elements a plaintiff must demonstrate in order to prove civil conspiracy include: (1) the combination of two or more people; (2) for the purpose of injuring the plaintiff; (3) causing special damages. *Moore v. Weinberg* 373 S.C. 209, 644 S.E.2d 740 (Ct. App. 2007) (citations omitted).

The Supreme Court of South Carolina has held that there is no cause of action for civil conspiracy when the claim "does no more than incorporate the prior allegations and then allege the existence of a civil conspiracy." *Vaught v. Waites*, 300 S.C. 201, 209, 387 S.E.2d 91, 95 (1989). In the present case, the Plaintiff has failed to allege additional allegations beyond merely asserting the prior allegations as though they constitute civil conspiracy. The Plaintiff admits that the civil conspiracy wrongdoing is no different from the allegations in the other complaints (Exhibit C, p. 55). In addition, the Plaintiff has failed to allege any special damages. The Plaintiff admits that the damages from civil conspiracy are "all connected" to the damages alleged throughout the other complaints (Exhibit C, p. 55-56). Also, the plaintiff has not presented evidence of monetary damages (Exhibit C, p. 48-49). Therefore this court finds that the Plaintiff has failed to offer evidence of any special damages, and has not even presented allegations sufficient to support civil conspiracy, and therefore, grants summary judgment in favor of Seinar and Maseng on the claim for civil conspiracy.

CONCLUSION

For the reasons stated above, this court grants the defendants, Seinar and Maseng, summary judgment as to the Plaintiff's abuse of process, civil conspiracy and malicious prosecution causes of action, and denies summary judgment as to the Plaintiff's intentional infliction of emotional distress and invasion of privacy causes of action.

Aug 31, 2010.
2011


Honorable Casey L. Manning
Presiding Judge

STATE OF SOUTH CAROLINA

JUDGMENT IN A CIVIL CASE

COUNTY OF RICHLAND

CASE NO: 2007CP4006289

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares

vs.

Sharon Ray Seinar

Plaintiff

Defendant

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: _____

☐ **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;☐ Statement of Judgment by the Court:

summary judgment for intentional infliction of emotional distress and invasion of privacy are denied

summary judgment for abuse of process, civil conspiracy, and code violations is granted

Dated at Columbia, South Carolina, this 2 day of December, 2008.

PRESIDING JUDGE

This judgment was entered on the 4th day of December, 2008, and a copy mailed first class this 4th day of December, 2008, to attorneys of record or to parties (when appearing pro se) as follows:

John D. Elliott

ATTORNEY(S) FOR THE PLAINTIFF(S)

Evans T Barnette
Tobias Gavin Ward Jr

ATTORNEY(S) FOR THE DEFENDANT(S)

Amy W. McCulloch

Clerk of Court

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares)

Civil Action No.:

Plaintiff,)

vs.)

COMPLAINT

Sharon Ray Seinar and)

Lisa A. Maseng,)

Defendants.)

Plaintiffs, complaining of the defendants herein, would respectfully show this court as follows:

1. Plaintiff and defendants are citizens and residents of Richland County, South Carolina and have been so for more than three months prior to the commencement of this action.
2. Plaintiff alleges the defendants have mounted a campaign to harass and humiliate the plaintiff, attempting to injure her and drive her from her home.
3. Plaintiff alleges that the defendants have filed baseless complaints against her with the City of Columbia for various housing and building code violations, only to have those complaints dismissed by the authorities, on or about April 27th, 2006.
4. Plaintiff alleges that on August 4th, 2006 defendant Seinar instigated criminal charges against the plaintiff alleging that the plaintiff's pet dogs were a nuisance, in violation of the city's criminal ordinances. Plaintiff alleges that on October 30th, 2006 these charges were dismissed as groundless.

5. Plaintiff alleges that on May 18, 2007 defendant Seinar filed a petition with the Richland County Probate Court alleging that she was mentally ill, and in need of a mandatory mental evaluation. Plaintiff alleges the evaluation was normal, and the petition was dismissed.

6. Undaunted, and acting in concert, the defendants have now filed actions in the magistrate's court for Richland County, seeking restraining orders against the plaintiff, in actions which are currently pending. Plaintiff alleges the grounds for these actions are baseless, and are brought for ulterior purposes, to subject the plaintiff to harassment and ridicule, among other reasons.

7. Plaintiff alleges that the actions of the defendants are deliberate and with conscious indifference to the rights of the plaintiff, and are the result of a collaborative effort, intended to drive her from her home ultimately.

FOR A FIRST CAUSE OF ACTION
(Malicious Prosecution)

6. Plaintiff alleges that the defendants instituted the proceedings or complaints against the plaintiff, with malice and without probable cause and those proceedings were terminated in favor of the plaintiff, causing the plaintiff damages.

FOR A SECOND CAUSE OF ACTION
(Abuse of Process)

7. Plaintiff alleges that the defendants willfully instituted the proceedings or complaints against the plaintiff for an ulterior purpose, in an attempt to drive her from her residence and her neighborhood.

8. Plaintiff alleges the acts and conduct of the defendants in instituting the process were not proper in a regular conduct of such proceedings, causing the plaintiff damages.

FOR A THIRD CAUSE OF ACTION
(Invasion of Privacy)

9. Plaintiff alleges the defendants' conduct in causing government authorities to enter her premises and private life willfully and maliciously constitutes a wrongful intrusion into the plaintiff's private activities in such a manner as to outrage or cause mental suffering, shame and humiliation to a person of ordinary sensibilities.

10. Plaintiff alleges that as a result of the defendants' invasion of her privacy she has suffered damages, including without limitation, shame, humiliation and mental suffering.

FOR A FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

11. Plaintiff alleges that the defendants intentionally and recklessly inflicted severe emotional distress, and were certain that such distress would result from their conduct.

12. The defendants' conduct is so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized society.

13. The actions of the defendants caused the plaintiff emotional distress.

14. The emotional distress suffered by the plaintiff was severe so that no reasonable person could be expected to endure it.

15. As a result, the plaintiff suffered damages, including, without limitation, shame, humiliation and mental suffering.

FOR A FIFTH CAUSE OF ACTION
(Civil Conspiracy)

16. Plaintiff alleges the defendants joined together for the purposes of injuring the plaintiff by doing unlawful acts, and lawful acts in an unlawful way, to cause the plaintiff damages. Plaintiff alleges the succeeded in doing so, resulting in damages to the plaintiff.

WHEREFORE, plaintiff prays for actual damages, punitive damages and costs, to be assessed by a trial by jury, together with such other and further relief as this court deems just and equitable.

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By: 
JOHN D. ELLIOTT

Columbia, South Carolina

September 21st, 2007

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares)

Civil Action No.: 2007-CP-40-6289

Plaintiff,)

vs.)

Sharon Ray Seinar and)

Lisa A. Maseng,)

Defendants.)

AMENDED COMPLAINT

BARB/PA A. SCOTT
C.C.P. & G.S.

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Plaintiff, complaining of the defendants herein, would respectfully show this court as follows:

1. Plaintiff and defendants are citizens and residents of Richland County, South Carolina and have been so for more than three months prior to the commencement of this action.
2. Plaintiff alleges the defendants have mounted a campaign to harass and humiliate the plaintiff, attempting to injure her and drive her from her home.
3. Plaintiff alleges that the defendants have filed baseless complaints against her with the City of Columbia for various housing and building code violations, only to have those complaints dismissed by the authorities, on or about April 27th, 2006. Plaintiff further alleges that the Defendants instituted these complaints with malice and without probable cause to support them.
4. Plaintiff alleges that on August 4th, 2006 defendant Seinar instigated criminal charges against the plaintiff alleging that the plaintiff's pet dogs were a nuisance, in violation of the city's criminal ordinances. Plaintiff alleges that on October 30th, 2006 these charges were

dismissed as groundless. Defendant Seinar instigated these charges with malice and without probable cause to support them.

5. Plaintiff alleges that on May 18, 2007 defendant Seinar filed a petition with the Richland County Probate Court alleging that the plaintiff was mentally ill, and in need of a mandatory mental evaluation. Plaintiff alleges the evaluation was normal, and the petition was dismissed. Defendant Seinar instigated these charges with malice and without probable cause to support them.

6. Undaunted, and acting in concert, the defendants filed actions in the magistrate's court for Richland County, seeking restraining orders against the plaintiff. Those actions were dismissed. Plaintiff alleges the grounds for these actions were baseless, and were brought for ulterior purposes, to subject the plaintiff to harassment and ridicule, among other reasons. The Defendants brought these actions with malice and without probable cause to support them.

7. Plaintiff alleges that the actions of the defendants are deliberate and with conscious indifference to the rights of the plaintiff, and are the result of a collaborative effort, intended to drive her from her home ultimately.

FOR A FIRST CAUSE OF ACTION
(Malicious Prosecution)

8. Plaintiff alleges that the defendants instituted the proceedings or complaints against the plaintiff, with malice and without probable cause and those proceedings were terminated in favor of the plaintiff, causing the plaintiff damages.

FOR A SECOND CAUSE OF ACTION
(Abuse of Process)

9. Plaintiff alleges that the defendants willfully instituted the proceedings or complaints against the plaintiff for an ulterior purpose, in an attempt to drive her from her residence and her neighborhood.

10. Plaintiff alleges the acts and conduct of the defendants in instituting the process were not proper in a regular conduct of such proceedings, causing the plaintiff damages.

FOR A THIRD CAUSE OF ACTION
(Invasion of Privacy)

11. Plaintiff alleges the defendants' conduct in causing government authorities to enter her premises and private life willfully and maliciously constitutes a wrongful intrusion into the plaintiff's private activities in such a manner as to outrage or cause mental suffering, shame and humiliation to a person of ordinary sensibilities. Further, the defendants' actions were substantial and unreasonable enough to be legally cognizable, and were intentional.

12. Plaintiff alleges that as a result of the defendants' invasion of her privacy she has suffered damages, including without limitation, shame, humiliation and mental suffering.

FOR A FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)

13. Plaintiff alleges that the defendants intentionally and recklessly inflicted severe emotional distress, and were certain that such distress would result from their conduct.

14. The defendants' conduct is so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious, and utterly intolerable in a civilized society.

15. The actions of the defendants caused the plaintiff emotional distress.

16. The emotional distress suffered by the plaintiff was severe so that no reasonable person could be expected to endure it.

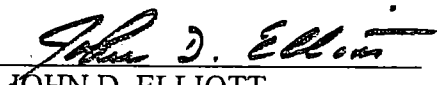
17. As a result, the plaintiff suffered damages, including, without limitation, shame, humiliation and mental suffering.

FOR A FIFTH CAUSE OF ACTION
(Civil Conspiracy)

18. Plaintiff alleges the defendants joined together for the purposes of injuring the plaintiff by doing unlawful acts, and lawful acts in an unlawful way, to cause the plaintiff damages. Plaintiff alleges the succeeded in doing so, resulting in special damages to the plaintiff. Plaintiff alleges these damages include without limitation shame, humiliation, and mental suffering.

WHEREFORE, plaintiff prays for actual damages, punitive damages and costs, to be assessed by a trial by jury, together with such other and further relief as this court deems just and equitable.

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By: 
JOHN D. ELLIOTT

Columbia, South Carolina
February 22nd, 2008.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	C/A No.: 07-CP-40-6289
	)	
Ursula R. Pallares,	)	
	)	
Plaintiff,	)	ANSWER
	)	
Vs.	)	
	)	
Sharon R. Seinar & Lisa A. Maseng,	)	
	)	
<u>Defendants</u>	)	

THE DEFENDANT SHARON R. SEINAR, ANSWERING THE PLAINTIFF'S COMPLAINT, ALLEGES THAT:

FOR A FIRST DEFENSE

1. Defendant Sharon R. Seinar admits the allegations of Paragraph 1.
2. Defendant Sharon R. Seinar denies the allegations of Paragraph 2.
3. Defendant Sharon R. Seinar admits so much of Paragraph 3 as alleges she made complaints to the City for property code violations at 407 [REDACTED] [REDACTED] in the City, but denies the remaining allegations of Paragraph 3.
4. Defendant Sharon R. Seinar admits so much of Paragraph 4 as alleges that she signed an affidavit concerning barking dogs at 407 [REDACTED] in the City, following investigations by, at the suggestion of, and as prepared by the City, but denies the remaining allegations of Paragraph 4.
5. Defendant Sharon R. Seinar admits the so much of Paragraph 5 as alleges she signed a petition under Chapter 17 of Article 44 of the SC Code of Laws following disclosure of the matter to, at the suggestion of, and as prepared by an official of the State or County, and that the petition was dismissed, but denies the remaining allegations of Paragraph 5.
6. Defendant Sharon R. Seinar admits so much of Paragraph 6 as alleges she commenced an action in Magistrate's Court for a restraining order based upon the actions of the Plaintiff, and that the action was dismissed, but denies the remaining allegations of Paragraph 6.

7. Defendant Sharon R. Seinar denies the allegations of Paragraphs 7 through 18.

FOR A SECOND DEFENSE

8. Plaintiff's Amended Complaint, and each cause of action alleged therein, must be dismissed for failure to state facts sufficient to constitute a cause of action.

FOR A THIRD DEFENSE

9. Plaintiff is estopped by her acts and conduct from asserting the causes of action attempted to be alleged in Plaintiff's Amended Complaint.

FOR A FOURTH DEFENSE

10. Defendant Sharon R. Seinar admits that she exercised her rights under the United States Constitution, the South Carolina Constitution and applicable law to communicate with government.

FOR A FIFTH DEFENSE

11. Any loss or damage claimed by the Plaintiff was not caused or proximately caused by acts and conduct of Defendant Sharon R. Seinar ; to the contrary, any decision by the City, County or State to take any action was the result of the acts of unaffiliated citizens exercising their right to petition government in response to the actions of the Plaintiff.

FOR A SIXTH DEFENSE

12. The acts of the City, County or State constituting a breach of any right of the Plaintiff were not directly caused or proximately caused by acts and conduct of Defendant Sharon R. Seinar. To the contrary, any acts by the City, County or State constituting a breach of any right of the Plaintiff were the result of independent governmental decisions made by the City, County or State.

FOR A SEVENTH DEFENSE

13. Any communication between Defendant Sharon R. Seinar and the City, County or State respecting the subject of Plaintiff's Amended Complaint, constituted speech which is protected by the First Amendment to the Constitution of the United States. This constitutionally protected speech

cannot be the subject of or predicate for the causes of action alleged in Plaintiff's Amended Complaint and Plaintiff's Amended Complaint must therefore be dismissed.

FOR A EIGHTH DEFENSE

14. Any communication between Defendant Sharon R. Seinar and the City, County or State respecting the Plaintiff, constitutes speech protected by Article I, Section 2, Constitution of South Carolina. This constitutionally protected speech cannot be the subject of or predicate for the causes of action alleged in Plaintiff's Amended Complaint and Plaintiff's Amended Complaint must therefore be dismissed.

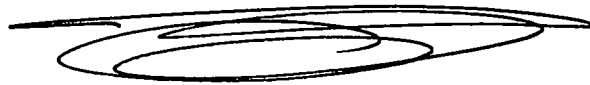
FOR A NINTH DEFENSE

15. Any acts and conduct by Defendant Sharon R. Seinar in communicating with the City, County or State respecting matters which are the subject of Plaintiff's Amended Complaint were justified as being in the public interest of causing the Plaintiff to comply with the laws of the City, County or State.

FOR A TENTH DEFENSE

16. Any acts and conduct by Defendant Sharon R. Seinar in communicating with the City, County or State respecting matters which are the subject of Plaintiff's Amended Complaint are immune from civil liability pursuant to the Noerr-Pennington Doctrine.

WHEREFORE, for the reasons set forth above, the Defendant Sharon R. Seinar is informed and believes that this court should dismiss the Plaintiff's Amended Complaint.



Tobias G. Ward, Jr.
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(803) 779-4383
Attorney for Defendant Sharon R. Seinar

March 21, 2008

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2007-CP-40-006289

URSULA R. PALLARES,

Plaintiff,

v.

SHARON R. SEINAR & LISA A.
MASENG,

Defendants.

**ANSWER AND COUNTERCLAIM
ON BEHALF OF LISA MASENG**

The Defendant, Lisa A. Maseng, answering the Complaint of the Plaintiff and reserving her rights under Rule 12 of the South Carolina Rules of Civil Procedure, respectfully states as follows:

FOR A FIRST DEFENSE

1. The Defendant denies each and every allegation of the Plaintiff's Complaint not specifically admitted herein.
2. The Defendant admits the allegations of paragraph 1 of the Plaintiff's Complaint.
3. The Defendant denies the allegations of paragraphs 2 of the Plaintiff's Complaint.
4. The Defendant, Lisa A. Maseng, is not required to respond to the allegations of paragraph 4 of the Plaintiff's Complaint in that said allegations assert a claim against a

Defendant other than the answering Defendant. Answering further, to the extent the allegations of paragraphs 3, 4, and 5 of the Plaintiff's Complaint are construed to assert wrongful acts and/or omissions on the part of the Defendant, Lisa A. Maseng, giving rise to liability and damages, the same are denied.

5. In response to paragraph 6 of the Plaintiff's Complaint, the Defendant admits there was an action filed in Magistrate's Court for Richland County seeking a Restraining Order against the Plaintiff. The Defendant craves reference to the records of the Magistrate's Court as to the specific nature of the action. The Defendant denies the remaining allegations of paragraph 6 of the Plaintiff's Complaint.

6. The Defendant denies the allegations of paragraph 7 of the Plaintiff's Complaint.

7. The Defendant denies the allegations of the Plaintiff's first cause of action for Malicious Persecution mis-numbered as paragraph 6.

8. The Defendant denies the allegations of the Plaintiff's Second Cause of Action for Abuse of Process mis-numbered as paragraph 7.

9. The Defendant denies the allegations of paragraph 8 of the Plaintiff's Complaint.

10. The Defendant denies the allegations of paragraphs 9 and 10 of the Plaintiff's Complaint.

11. The Defendant denies the allegations of paragraphs 11, 12, 13, 14 and 15 of the Plaintiff's Complaint.

12. The Defendant denies the allegations of paragraph 16 of the Plaintiff's Complaint.

FOR A SECOND DEFENSE

13. The Defendant reiterates the defenses set forth in paragraphs 1 through 12 above as if repeated verbatim herein.

14. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against the answering Defendant and should be dismissed pursuant to Rule 12(b)(6) or Rule 56 of the South Carolina Rules of Civil Procedure.

FOR A THIRD CAUSE OF ACTION

15. The Defendant reiterates the defenses set forth in paragraphs 1 through 14 above as if repeated verbatim herein.

16. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for which punitive damages may be awarded under South Carolina law.

FOR A FOURTH DEFENSE

17. The Defendant reiterates the defenses set forth in paragraphs 1 through 16 above as if repeated verbatim herein.

18. The Plaintiff's claim for punitive damages violates the Constitution of the State of South Carolina and the United States of American.

FOR A FIFTH DEFENSE AND BY WAY OF COUNTERCLAIM

19. The Defendant reiterates the defenses set forth in paragraphs 1 through 17 above as if repeated verbatim herein.

20. The Plaintiff, Ursula R. Pallares maintains a private residence in close proximity to the residence of the Defendant, Lisa A. Maseng, located at 418 [REDACTED] Street, Columbia, SC.

21. The Plaintiff has failed to properly maintain her property and maintains her property in such a manner that trash, debris, and junk have accumulated to the extent that the condition of her property constitutes an unreasonable interference with the use and enjoyment of the land of the Defendant and that the actions and/or failure to act to maintain her property on the part of the Plaintiff are the proximate cause of this private nuisance.

22. The Defendant, Lisa A. Maseng, is entitled to an Order of this Court requiring an abatement of the nuisance and for damages as may have been sustained by the Defendant, Lisa A. Maseng, and is determined at trial.

WHEREFORE, the Defendant, Lisa A. Maseng, having fully answered the Complaint of the Plaintiff prays that the same be dismissed, for the costs of this action, and for such other and further relief as this Court deems just and proper. The Defendant, Lisa A. Maseng, further prays for abatement and damages on her counterclaim for private nuisance.

[Signature on Following Page]

McCutchen, Blanton, Johnson & Barnette, LLP

By: Evans Taylor Barnette

Evans Taylor Barnette

1414 Lady Street

Post Office Drawer 11209

Columbia, South Carolina 29211-1209

803-799-9791

Attorneys for the Defendant Lisa A. Maseng

Columbia, SC

November 19, 2007

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares)
)
Plaintiff,)
)
vs.)
)
Sharon Ray Seinar and)
Lisa A. Maseng,)
)
Defendants.)

Civil Action No.: 07-CP-40-6289

**REPLY TO COUNTERCLAIM OF
LISA A. MASENG**

JEANETTE M. McBRIDE
C.C.P. & G.S.

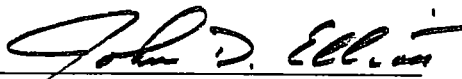
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RICHLAND COUNTY
FILED

The plaintiff, replying to the counterclaim of the defendant, Lisa A. Maseng, would respectfully show this court as follows:

1. The plaintiff repeats the allegations of her complaint, and denies each and every allegation of the defendant's answer inconsistent therewith.
2. The plaintiff admits the allegations of Paragraph Twenty of defendant's counterclaim.
3. The plaintiff denies the allegations of Paragraphs Nineteen, Twenty-One and Twenty-Two of the defendant's counterclaim.

WHEREFORE, plaintiff prays that the counterclaim of the defendant be dismissed, with costs, and that she be given judgment on her complaint, together with such other and further relief as this court deems just.



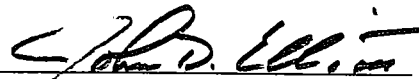
JOHN D. (JAY) ELLIOTT
Attorney for the Plaintiff
1122 Lady Street - Fifth Floor
Post Office Box 607
Columbia, South Carolina 29202
Phone: (803) 252-9236
Fax: (803) 799-2079
E-Mail: jayel@mindspring.com

CERTIFICATE OF SERVICE

As counsel for the plaintiff, I certify that I have served the foregoing Reply to the defendant's counterclaim on all parties by depositing a copy of the same in the United States Mail, postage prepaid, and addressed as follows:

Evans Taylor Barnette, Esquire
Attorney at Law
P.O. Drawer 11209
Columbia SC 29211-1209

This 18th day of December, 2007.



JOHN D. ELLIOTT
Attorney for Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2007-CP-40-006289

URSULA R. PALLARES,

Plaintiff,

v.

SHARON R. SEINAR & LISA A.
MASENG,

Defendants.

**AMENDED
ANSWER AND COUNTERCLAIM
ON BEHALF OF LISA MASENG**

The Defendant, Lisa A. Maseng, answering the Amended Complaint of the Plaintiff and reserving her rights under Rule 12 of the South Carolina Rules of Civil Procedure, respectfully states as follows:

FOR A FIRST DEFENSE

1. The Defendant denies each and every allegation of the Plaintiff's Amended Complaint not specifically admitted herein.
2. The Defendant admits the allegations of paragraph 1 of the Plaintiff's Amended Complaint.
3. The Defendant denies the allegations of paragraph 2 of the Plaintiff's Amended Complaint.
4. The Defendant denies the allegations of paragraph 3 of the Plaintiff's Amended Complaint.

5. The Defendant, Lisa A. Maseng, is not required to respond to the allegations of paragraph 4 of the Plaintiff's Amended Complaint in that said allegations assert a claim against a Defendant other than the answering Defendant. Answering further, to the extent the allegations of paragraphs 4, and 5, of the Plaintiff's Amended Complaint are construed to assert wrongful acts and/or omissions on the part of the Defendant, Lisa A. Maseng, giving rise to liability and damages, the same are denied.

5. In response to paragraph 6 of the Plaintiff's Complaint, the Defendant admits there was an action filed in Magistrate's Court for Richland County seeking a Restraining Order against the Plaintiff. The Defendant craves reference to the records of the Magistrate's Court as to the specific nature of the action. The Defendant denies the remaining allegations of paragraph 6 of the Plaintiff's Amended Complaint.

6. The Defendant denies the allegations of paragraph 7 of the Plaintiff's Amended Complaint.

7. The Defendant denies the allegations of paragraph 8 of the Plaintiff's Amended Complaint.

8. The Defendant denies the allegations of paragraphs 9 and 10 of the Plaintiff's Amended Complaint.

9. The Defendant denies the allegations of paragraphs 11, 12, 13, 14 and 15 of the Plaintiff's Amended Complaint.

10. The Defendant denies the allegations of paragraphs 16, 17, and 18 of the Plaintiff's Amended Complaint.

FOR A SECOND DEFENSE

11. The Defendant reiterates the defenses set forth in paragraphs 1 through 10 above as if repeated verbatim herein.

12. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against the answering Defendant and should be dismissed pursuant to Rule 12(b)(6) or Rule 56 of the South Carolina Rules of Civil Procedure.

FOR A THIRD CAUSE OF ACTION

13. The Defendant reiterates the defenses set forth in paragraphs 1 through 12 above as if repeated verbatim herein.

14. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for which punitive damages may be awarded under South Carolina law.

FOR A FOURTH DEFENSE

15. The Defendant reiterates the defenses set forth in paragraphs 1 through 14 above as if repeated verbatim herein.

16. The Plaintiff's claim for punitive damages violates the Constitution of the State of South Carolina and the United States of American.

FOR A FIFTH DEFENSE AND BY WAY OF COUNTERCLAIM

17. The Defendant reiterates the defenses set forth in paragraphs 1 through 16 above as if repeated verbatim herein.

18. The Plaintiff, Ursula R. Pallares maintains a private residence in close proximity to the residence of the Defendant, Lisa A. Maseng, located at 418 [REDACTED]

Street, Columbia, SC.

19. The Plaintiff has failed to properly maintain her property and maintains her property in such a manner that trash, debris, and junk have accumulated to the extent that the condition of her property constitutes an unreasonable interference with the use and enjoyment of the land of the Defendant and the actions and/or failure to act to maintain her property on the part of the Plaintiff are the proximate cause of this private nuisance.

20. The Defendant, Lisa A. Maseng, is entitled to an Order of this Court requiring an abatement of the nuisance and for damages as may have been sustained by the Defendant, Lisa A. Maseng, and as may be determined at trial.

WHEREFORE, the Defendant, Lisa A. Maseng, having fully answered the Complaint of the Plaintiff prays that the same be dismissed, for the costs of this action, and for such other and further relief as this Court deems just and proper. The Defendant, Lisa A. Maseng, further prays for abatement and damages on her counterclaim for private nuisance.

[Signature on Following Page]

McCutchen, Blanton, Johnson & Barnette, LLP

By: Evans Taylor Barnette

Evans Taylor Barnette

1414 Lady Street

Post Office Drawer 11209

Columbia, South Carolina 29211-1209

803-799-9791

Attorneys for the Defendant Lisa A. Maseng

Columbia, SC
March 17, 2008

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares)
)
Plaintiff,)
)
vs.)
)
Sharon Ray Seinar and)
Lisa A. Maseng,)
)
Defendants.)
_____)

Civil Action No.: 07-CP-40-6289

A M E N D E D
REPLY TO COUNTERCLAIM OF
LISA A. MASENG

BARBARA A. SCOTT
C.G.C. & G.S.

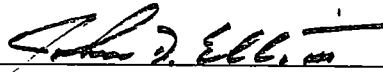
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FILED

The plaintiff, replying to the counterclaim of the defendant, Lisa A. Maseng, amended March 14th, 2008, would respectfully show this court as follows:

1. The plaintiff repeats the allegations of her complaint, and denies each and every allegation of the defendant's answer inconsistent therewith.
2. The plaintiff admits the allegations of Paragraph Eighteen of defendant's counterclaim.
3. The plaintiff denies the allegations of Paragraphs Nineteen, and Twenty of the defendant's counterclaim.

WHEREFORE, plaintiff prays that the counterclaim of the defendant be dismissed, with costs, and that she be given judgment on her complaint, together with such other and further relief as this court deems just.



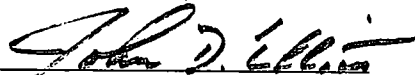
JOHN D. (JAY) ELLIOTT
Attorney for the Plaintiff
1122 Lady Street - Fifth Floor
Post Office Box 607
Columbia, South Carolina 29202
Phone: (803) 252-9236
Fax: (803) 799-2079
E-Mail: jayel@mindspring.com

CERTIFICATE OF SERVICE

As counsel for the plaintiff, I certify that I have served the foregoing Amended Reply to the defendant's counterclaim on all parties by depositing a copy of the same in the United States Mail, postage prepaid, and addressed as follows:

Evans Taylor Barnette, Esquire
Attorney at Law
P.O. Drawer 11209
Columbia SC 29211-1209

This 31st day of March, 2008.



JOHN D. ELLIOTT
Attorney for Plaintiff

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2010-40-03898R

URSULA R. PALLARES,

Plaintiff,

v.

SHARON R. SEINAR & LISA A.
MASENG,

Defendants.

**SECOND AMENDED
ANSWER AND COUNTERCLAIM
ON BEHALF OF LISA MASENG**

The Defendant, Lisa A. Maseng, answering the Amended Complaint of the Plaintiff and reserving her rights under Rule 12 of the South Carolina Rules of Civil Procedure, respectfully states as follows:

FOR A FIRST DEFENSE

1. The Defendant denies each and every allegation of the Plaintiff's Amended Complaint not specifically admitted herein.
2. The Defendant admits the allegations of paragraph 1 of the Plaintiff's Amended Complaint.
3. The Defendant denies the allegations of paragraph 2 of the Plaintiff's Amended Complaint.
4. The Defendant denies the allegations of paragraph 3 of the Plaintiff's Amended Complaint.

CYB

- 35 -

5. The Defendant, Lisa A. Maseng, is not required to respond to the allegations of paragraph 4 of the Plaintiff's Amended Complaint in that said allegations assert a claim against a Defendant other than the answering Defendant. Answering further, to the extent the allegations of paragraphs 4, and 5, of the Plaintiff's Amended Complaint are construed to assert wrongful acts and/or omissions on the part of the Defendant, Lisa A. Maseng, giving rise to liability and damages, the same are denied.

5. In response to paragraph 6 of the Plaintiff's Complaint, the Defendant admits there was an action filed in Magistrate's Court for Richland County seeking a Restraining Order against the Plaintiff. The Defendant craves reference to the records of the Magistrate's Court as to the specific nature of the action. The Defendant denies the remaining allegations of paragraph 6 of the Plaintiff's Amended Complaint.

6. The Defendant denies the allegations of paragraph 7 of the Plaintiff's Amended Complaint.

7. The Defendant denies the allegations of paragraph 8 of the Plaintiff's Amended Complaint.

8. The Defendant denies the allegations of paragraphs 9 and 10 of the Plaintiff's Amended Complaint.

9. The Defendant denies the allegations of paragraphs 11, 12, 13, 14 and 15 of the Plaintiff's Amended Complaint.

10. The Defendant denies the allegations of paragraphs 16, 17, and 18 of the Plaintiff's Amended Complaint.

273

FOR A SECOND DEFENSE

11. The Defendant reiterates the defenses set forth in paragraphs 1 through 10 above as if repeated verbatim herein.

12. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action against the answering Defendant and should be dismissed pursuant to Rule 12(b)(6) or Rule 56 of the South Carolina Rules of Civil Procedure.

FOR A THIRD CAUSE OF ACTION

13. The Defendant reiterates the defenses set forth in paragraphs 1 through 12 above as if repeated verbatim herein.

14. The Plaintiff's Complaint fails to state facts sufficient to constitute a cause of action for which punitive damages may be awarded under South Carolina law.

FOR A FOURTH DEFENSE

15. The Defendant reiterates the defenses set forth in paragraphs 1 through 14 above as if repeated verbatim herein.

16. The Plaintiff's claim for punitive damages violates the Constitution of the State of South Carolina and the United States of American.

FOR A FIFTH DEFENSE

17. The Defendant reiterates the defenses set forth in paragraphs 1 through 16 above as if repeated verbatim herein.

18. Any acts and conduct by the Defendant, Lisa Maseng, in communicating with the City, County, or State respecting matters which are subject of Plaintiff's Amended

Complaint are immune from civil liability pursuant to the Noerr-Pennington Doctrine.

FOR A SIXTH DEFENSE AND BY WAY OF COUNTERCLAIM

19. The Defendant reiterates the defenses set forth in paragraphs 1 through 18 above as if repeated verbatim herein.

20. The Plaintiff, Ursula R. Pallares maintains a private residence in close proximity to the residence of the Defendant, Lisa A. Maseng, located at 418 [REDACTED] Street, Columbia, SC.

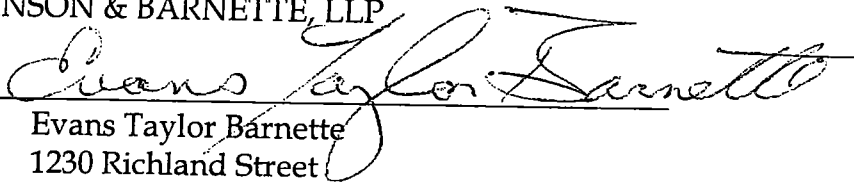
21. The Plaintiff has failed to properly maintain her property and maintains her property in such a manner that trash, debris, and junk have accumulated to the extent that the condition of her property constitutes an unreasonable interference with the use and enjoyment of the land of the Defendant and the actions and/or failure to act to maintain her property on the part of the Plaintiff are the proximate cause of this private nuisance.

22. The Defendant, Lisa A. Maseng, is entitled to an Order of this Court requiring an abatement of the nuisance and for damages as may have been sustained by the Defendant, Lisa A. Maseng, and as may be determined at trial.

WHEREFORE, the Defendant, Lisa A. Maseng, having fully answered the Complaint of the Plaintiff prays that the same be dismissed, for the costs of this action, and for such other and further relief as this Court deems just and proper. The Defendant, Lisa A. Maseng, further prays for abatement and damages on her counterclaim for private nuisance.

JOHNSON & BARNETTE, LLP

By:



Evans Taylor Barnette

1230 Richland Street

Post Office Drawer 11209

Columbia, South Carolina 29211-1209

803-799-9791

Attorney for the Defendant Lisa A. Maseng

Columbia, SC

June 22, 2011

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2007-CP-40-006289

URSULA R. PALLARES,

Plaintiff,

v.

SHARON R. SEINAR & LISA A.
MASENG,

Defendants.

**MOTION FOR
SUMMARY JUDGMENT**

TO: JOHN D. ELLIOTT, ESQUIRE, ATTORNEY FOR THE PLAINTIFF AND THE
PLAINTIFF:

The Defendant, Lisa A. Maseng, will move before the Court of Common Pleas for the Fifth Judicial Circuit, pursuant to Rule 56, SCRCP, ten days after service hereof, for an Order granting the Defendant, Lisa A. Maseng, Summary Judgment as to all causes of action as set forth in the Plaintiff's Amended Complaint filed in this civil action,

This Motion for Summary Judgment is based on the grounds that there are no genuine issues of material fact, and the Defendant, Lisa A. Maseng, is entitled to Summary Judgement as a matter of law.

[Signature on Following Page]

The grounds for this Motion will be more fully set forth in the Memorandum to be filed in support of this Motion for Summary Judgement, the pleadings in this matter, discovery responses, deposition testimony, and such other and further information as this Court deems appropriate.

This Motion for Summary Judgement is further based on the South Carolina Rules of Civil Procedure, case decisions, and statutory provisions applicable hereto.

JOHNSON & BARNETTE, LLP



Evans Taylor Barnette

1320 Main Street, Suite 650

Post Office Drawer 11209

Columbia, South Carolina 29211-1209

803-799-9791

Columbia, SC
October 2, 2008

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT
CASE NO.: 2007-CP-40-03898R

URSULA R. PALLARES,

Plaintiff,

v.

SHARON R. SEINAR & LISA A.
MASENG,

Defendants.

**MOTION FOR
SUMMARY JUDGMENT**

TO: JOHN D. ELLIOTT, ESQUIRE, ATTORNEY FOR THE PLAINTIFF AND THE PLAINTIFF:

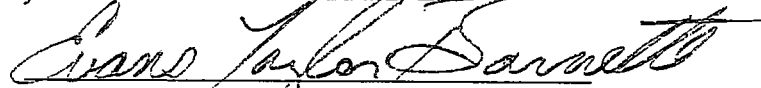
The Defendant, Lisa A. Maseng, will move before the Court of Common Pleas for the Fifth Judicial Circuit, pursuant to Rule 56, SCRCP, ten days after service hereof, for an Order granting the Defendant, Lisa A. Maseng, Summary Judgment as to all causes of action in the above-captioned civil action,

This Motion for Summary Judgment is based on the grounds that the Noerr Pennington Doctrine is a bar to all claims asserted by the Plaintiff against the Defendant, Lisa Maseng, and the Defendant, Lisa A. Maseng, is entitled to Summary Judgment as a matter of law.

The grounds for this Motion will be more fully set forth and supported in the Memorandum to be filed in support of this Motion for Summary Judgement, the pleadings in this matter, discovery responses, deposition testimony, and such other and further information as this Court deems appropriate.

This Motion for Summary Judgement is further based on the South Carolina Rules of Civil Procedure, case decisions, and statutory provisions applicable hereto.

JOHNSON & BARNETTE LLP



Evans Taylor Barnette

1230 Richland Street

Post Office Drawer 11209

Columbia, South Carolina 29211-1209

803-799-9791

Attorney for the Defendant Lisa Maseng

Columbia, SC
June 22 2011

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
COUNTY OF RICHLAND	)	C/A No.: 07-CP-40-6289
Ursula R. Pallares,	)	
Plaintiff,	)	
Vs.	)	DEFENDANT SHARON SEINAR'S
Sharon R. Seinar & Lisa A. Maseng,	)	MOTION FOR SUMMARY JUDGMENT
Defendants	)	

2009 JUN -2 PM 4:44
 CLERK OF COURT
 S.C. & C.S.

TO: THE PLAINTIFF AND HER ATTORNEY OF RECORD, JOHN D. ELLIOT, ESQUIRE:

The Defendant Sharon R. Seinar ("Seinar") hereby moves this court pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for summary judgment as to the allegations of the malicious prosecution, abuse of process, invasion of privacy, intentional infliction of emotional distress, and civil conspiracy causes of action of the Plaintiff's Amended Complaint. The grounds for this motion are that the Plaintiff has suffered no cognizable damages and that there are no genuine issues of material fact such that the Defendant is entitled to judgment as a matter of law. These grounds are set forth in more detail as follows:

1. MALICIOUS PROSECUTION

"To recover in an action for malicious prosecution, the plaintiff must show (1) the institution or continuation of original judicial proceedings, either civil or criminal (2) by, or at the instance of, the defendant (3) termination of such proceedings in plaintiff's favor (4) malice in instituting such proceedings (5) want of probable cause and (6) resulting injury or damage. The mere fact that the defendant was unsuccessful in the prior action has no bearing on the issue of probable cause." *Gaar v. North Myrtle Beach Realty Co.*,

Inc. 287 S.C. 525, 339 S.E.2d 887 (Ct.App.,1986) (citations omitted). As for the element of "want of probable cause," the Court of Appeals has held that "[w]hen determining if probable cause exists, the court must consider the facts from the point of view of the party prosecuting. The question is not what the actual facts were, but what [the prosecuting party] honestly believed them to be." *Guider v. Churpeyes, Inc.*, 370 S.C. 424, 635 S.E.2d 562 (Ct.App., 2006) (citations omitted).

In the present case, the Plaintiff has failed to allege any material facts that would suggest that the Defendant Seinar did not honestly believe she had probable cause to prosecute her claims.

ANIMAL NUISANCE

The record in this case shows that Seinar called Animal Control on three separate occasions to lodge a complaint about the Plaintiff's dogs excessive barking. (See authentic incident reports attached as Exhibit A hereto incorporated by reference). On January 4, 2005, Seinar filed an incident report with Columbia Police complaining that the Plaintiff's two dogs constantly barked in which the reporting officer observed that the constant barking caused a disturbance in the neighborhood. (See Exhibit A). Again on April 5, 2005, Seinar filed an incident report in which the reporting officer stated that the dogs were heard barking for almost the entire time (thirty minutes to an hour) that the officer was talking to the Plaintiff. (See Exhibit A). On August 2, 2006, Seinar filed a third incident report in which the responding officer, after hearing the dogs barking and keeping up the neighborhood, advised the complainant to sign a warrant on the subject. (See Exhibit A). On August 4, 2006, Seinar filed an arrest warrant which states that "upon arrival at the incident location, the [reporting officer] observed the dog

constantly barking causing a disturbance in the neighborhood." (See Exhibit A). Thus, it is shown on each incident report that there was a probable cause for each complaint. Indeed, the reporting officer recommended that the Defendant pursue an arrest warrant based on prior complaints with the barking dogs. (See Exhibit A). Columbia City Ordinance Section 4-70 states that an animal constitutes a nuisance if allowed or permitted to "bark, whine, howl, crow or crackle in an excessive, continuous or untimely fashion, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises." (See Exhibit D). Based on the incident reports, it is clear that Seinar had probable cause for each complaint. Under these facts, this court should grant summary judgment in favor of Seinar.

CODE VIOLATIONS

#3
Seinar made complaints concerning the Plaintiff's property with the City of Columbia for various housing and code violations. (See City Ordinance Violation documents attached as Exhibit B hereto incorporated by reference). The City then served the Plaintiff with notice of these violations. (See Exhibit B). Subsequently the violations were remedied by the Plaintiff. Therefore, because the City of Columbia affirmed the complaints by serving upon the Plaintiff warning notices of code violations, Seinar had probable cause to initiate the complaints.

Moreover, the decision as to whether to prosecute the Plaintiff with regard to code violations is made by the City not by Seinar; therefore, Seinar should not be held liable for the prosecution of city ordinances. Thus, because there is no evidence to support the Plaintiff's claim that the Defendant Seinar's prosecution of code violations

constitutes malicious conduct, this Court should grant summary judgment in favor of Seinar.

2. ABUSE OF PROCESS

"The abuse of process tort provides a remedy for one damaged by another's perversion of a legal procedure for a purpose not intended by the procedure." *Guider v. Churpeyes, Inc.* 370 S.C. 424, 635 S.E.2d 562 (Ct.App.,2006) (citations omitted). "The essential elements of abuse of process are an ulterior purpose and a willful act in the use of the process not proper in the conduct of the proceeding. An ulterior purpose exists if the process is used to gain an objective not legitimate in the use of the process. The improper purpose usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself. Regardless, there is no liability when the process has been carried to its authorized conclusion, even though with bad intentions." *Id.*

#4
In the present case, the Plaintiff has failed to allege any facts that would suggest that the Defendant Seinar's alleged prior use of process was for an ulterior purpose or to gain a collateral advantage not involved in the proceeding itself. The evidence presented above suggests that City officials supported the legitimacy of the complaints against the Plaintiff in both the animal nuisance and code violations and thus suggesting that the primary cause of both actions were to remedy the dog barking and the housing and building violations, respectively. Therefore, the Court should grant summary judgment in favor of Seinar on the issue of abuse of process.

45
Even if the Court finds that there was an ulterior motive, the Plaintiff has failed to present evidence to suggest that there was a "willful act" by Seinar. A "willful act" comprises three components: (1) a willful or overt act, (2) in the use of the process, (3) that is improper because it is either (a) unauthorized or (b) aimed at an illegitimate collateral objective. *Food Lion, Inc. v. United Food & Commercial Workers Intern. Union*, 351 S.C. 65, 71, 567 S.E.2d 251, 254 (2003). The Supreme Court has held that the collective actions of filing and amending a complaint, taking formal and informal discovery, taking depositions, filing a motion to release from a Confidentiality Order, and filing non-privileged publication of various allegations for collateral purposes fail to meet the second element of the abuse of process. *Id.* at 72, 567 S.E.2d at 254. Additionally, the District Court of South Carolina has held the court cannot infer improper acts from the existence of an improper motive alone. *Cosby v. Legal Services Corp.*, 2006 WL 4781412, 5 (D.S.C). Moreover, bad motive, standing alone, is insufficient to assert a claim for abuse of process. *Id.* The Plaintiff has failed to present any evidence that satisfies the willful act element. Therefore, the Court should grant summary judgment in favor of Seinar on the issue of abuse of process.

3. INVASION OF PRIVACY

The Plaintiff next alleges that the "defendants' conduct in causing government authorities to enter her premises and private life willfully and maliciously constitutes a wrongful intrusion into the plaintiff's private activities in such a manner as to outrage or cause mental suffering, shame and humiliation to a person of ordinary sensibilities." The tort of wrongful intrusion into private affairs, consists of the following elements, which must be pleaded and proved: (1) Intrusion (2) into that which is private (3)

substantial and unreasonable enough to be legally cognizable (4) that was intentional. *Snakenberg v. Hartford Cas. Ins. Co., Inc.* 299 S.C. 164, 383 S.E.2d 2 S.C.App., 1989. In the present case, the actions complained of are presumably related to the alleged visits by city officials; however, such an allegation does not satisfy the elements of the tort.

First, the Plaintiff does not allege that the Defendant Seinar made any such intrusion, but instead, the only alleged intrusion was made by city officials. The Plaintiff stated in her deposition that the only unlawful act committed by the Defendant Seinar consisted of "trying to use the police to do certain things, parking" (See Plaintiff's Deposition attached as Exhibit C hereto incorporated by reference p. 54). The Plaintiff alleges, without any supporting evidence, that the Defendant reported the Plaintiff for unlawfully parking the wrong direction on the street for which the Plaintiff received a ticket (Exhibit C, p. 54).

Second, the South Carolina Supreme Court has held that "[w]here . . . a plaintiff bases an action for invasion of privacy on 'intrusion,' bringing forth no evidence of public disclosure, it is incumbent upon him to show a blatant and shocking disregard of his rights, and serious mental or physical injury or humiliation resulting therefrom. *O'Shea v. Lesser* 308 S.C. 10, 416 S.E.2d 629 (1992). In the present case, the Plaintiff has made no allegations that any information was disclosed to the public, nor has she alleged that she suffered a "blatant and shocking disregard of [her] rights, and serious mental or physical injury or humiliation to [her]self resulting therefrom." Indeed, the Plaintiff admits that she did not seek any medical advice until after her Complaint had been filed and thereafter she only saw one medical professional for a period of less than one hour.

(See Exhibit C, p. 49-50). Additionally, the Plaintiff alleges in her Amended Complaint that as a result of the defendants' invasion of privacy, the Plaintiff has suffered damages; yet, the Plaintiff failed to supply any statements alleging specific monetary damages suffered as a result of being upset from this series of events. (Exhibit C, p. 79). The Plaintiff further admitted that none of her property had been damaged or devalued and that she had not suffered a loss of income. (Exhibit C, p. 79). Therefore, this court should grant Seinar's motion for summary judgment on the issue of invasion of privacy because of the absence of evidence that the Plaintiff's damages were so severe "as to outrage or cause mental suffering, shame and humiliation to a person of ordinary sensibilities."

4. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

47
#7
"To establish the tort of intentional infliction of emotional distress, or outrage, the plaintiff must establish the following: (1) the defendant intentionally or recklessly inflicted severe emotional distress, or knew that distress would probably result from his conduct; (2) the defendant's conduct was so extreme and outrageous that it exceeded all possible grounds of decency and was furthermore atrocious, and utterly intolerable in a civilized community; (3) the actions of the defendant caused the plaintiff's emotional distress; and (4) the emotional distress suffered by the plaintiff was so severe that no reasonable person could be expected to endure it. *Dye v. Gainey* 320 S.C. 65, 463 S.E.2d 97 (Ct.App., 1995) (citations omitted).

In the present case, the Plaintiff has again failed to allege any facts that would suggest that the Defendant Seinar engaged in conduct that was "so extreme and outrageous that it exceeded all possible grounds of decency and was furthermore

atrocious and utterly intolerable in a civilized community," nor has she alleged any facts that would suggest that her alleged emotional distress was "so severe that no reasonable person could be expected to endure it." The sole allegation of damages, which allegedly resulted from being served Interrogatories and Request to Produce in this lawsuit, consists of a single visit to the Physiological Center at USC that lasted for about one hour (Exhibit C, p. 49-50). The Plaintiff was not charged a fee for the visit nor incurred any other costs associated with the visit (Exhibit C, p. 52). Thus, viewing evidence in light most favorable to the Plaintiff, this court should grant summary judgment in favor of Seinar because of the absence of damages, specifically the lack of evidence that damages were "so severe that no reasonable person could be expected to endure it."

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As discussed above, the allegations, at the most, suggest that the Defendant Seinar was exercising her legal rights. Moreover, the Plaintiff has failed to allege any facts that would suggest that these alleged actions, which include the investigation of ordinance violations by the city or appearing in probate and magistrate's court, were extreme and outrageous. Therefore, this court should grant Seinar's motion for summary judgment on the issue of intentional infliction of emotional distress.

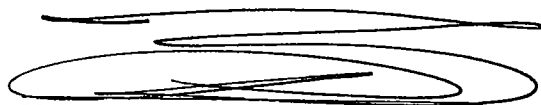
5. CIVIL CONSPIRACY

The elements a plaintiff must demonstrate in order to prove civil conspiracy include: (1) the combination of two or more people; (2) for the purpose of injuring the plaintiff; (3) causing special damages. *Moore v. Weinberg* 373 S.C. 209, 644 S.E.2d 740 (Ct.App.,2007) (citations omitted).

The Supreme Court of South Carolina has held that there is no cause of action for civil conspiracy when the claim "does no more than incorporate the prior allegations and then allege the existence of a civil conspiracy." *Vaught v. Waites*, 300 S.C. 201, 209, 387 S.E.2d 91, 95 (1989). In the present case, the Plaintiff has failed to allege additional allegations beyond merely asserting the prior allegations as though they constitute civil conspiracy. The Plaintiff admits that the civil conspiracy wrongdoing is no different from the allegations in the other complaints (Exhibit C, p. 55). In addition, the Defendant has failed to allege any special damages. The Plaintiff admits that the damages from civil conspiracy are "all connected" to the damages alleged throughout the other complaints (Exhibit C, p. 55-56). Also, the plaintiff has not presented evidence of monetary damages (Exhibit C, p. 48-49). Therefore, because the Plaintiff has failed to allege any special damages and has not presented additional allegations sufficient to support civil conspiracy, this court should grant summary judgment in favor of the Defendant Seinar on the issue of civil conspiracy.

CONCLUSION

For the reasons stated above, this court should grant the Defendant Sharon Seinar summary judgment as to the Plaintiff's malicious prosecution, abuse of process, invasion of privacy, intentional infliction of emotional distress, and civil conspiracy causes of action.



Tobias G. Ward, Jr. Esquire
Todd & Ward, PC
Post Office Box 1549
Columbia, South Carolina 29202
(803) 779-4383

June 2, 2008.

FOLLOW-UP

COLUMBIA POLICE
SC0400100

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

05-01021

NCIC

INO. ENTD.

☒ ORIGINAL
REPORT
☐ MODIFIES
ORIGINAL

☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE

☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS

☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 of 2 PAGES.

VICT./SUBJ. I.D. OVERFLOW

☐ COMPLAINANT
☐ VICTIM #
☒ SUBJECT #1
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE)

Pallares-Ursula R

VICTIM RELATIONSHIP TO SUBJECT:

#1 ACQ

#2

#3

RESIDENT

0 S O U

RACE

F

SEX

AGE

D.O.B.

ETH.

N

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS

4075.

CITY

Columbia

STATE

SC

ZIP CODE

29205

LOCATION NO.

DAY PHONE

EVENING PHONE

☐ VICTIM NO. VISIBLE INJURY: ☐ NO ☐ YES

COMPLAINT OF
NON-VISIBLE INJURIES:

☐ NO ☐ YES

VICTIM USING ALCOHOL ☐ NO ☐ YES ☐ UNK.

DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK.

☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT.

☒ ONE-MAN VEHICLE ☐ OTHER

☐ ALONE

☐ ASSISTED

☒ SUBJECT NO. 1: USING ALCOHOL: ☐ NO ☐ YES

USING DRUGS: ☐ NO ☐ YES ☒ TYPE:

UNK

VICT./SUBJ. I.D. OVERFLOW

☐ COMPLAINANT
☐ VICTIM #
☐ SUBJECT #
☐ RUNAWAY
☐ WANTED
☐ WARRANT
☐ ARREST
☐ JAIL
☐ SUMMONS

NAME (LAST, FIRST, MIDDLE)

VICTIM RELATIONSHIP TO SUBJECT:

#1

#2

#3

RESIDENT

J S O U

RACE

AGE

D.O.B.

ETH.

HEIGHT WEIGHT HAIR EYES FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.

ADDRESS

CITY

STATE

ZIP CODE

LOCATION NO.

DAY PHONE

EVENING PHONE

☐ VICTIM NO. VISIBLE INJURY: ☐ NO ☐ YES

COMPLAINT OF
NON-VISIBLE INJURIES:

☐ NO ☐ YES

VICTIM USING ALCOHOL ☐ NO ☐ YES ☐ UNK.

DRUGS: ☐ NO ☐ YES TYPE: ☐ UNK.

☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLASMT.

☐ ONE-MAN VEHICLE ☐ OTHER

☐ ALONE

☐ ASSISTED

☐ SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES

USING DRUGS: ☐ NO ☐ YES ☒ TYPE:

UNK

*J - This Jurisdiction. S - State. O - Out of State. U - Unknown

NARRATIVE

Reporting officer was unable to make contact with animal owner, due to no one at home. Complainant is Subject #1 neighbor.

JURISDICTION OF THEFT
LAW ENFORCEMENT AGENCY

JURISDICTION OF RECOVERY
LAW ENFORCEMENT AGENCY

VEH. / GUN / ETC. 1

STATUS TYPE
☐ STOLEN ☐ VEHICLE
☐ RECOVERED ☐ GUN
☐ FOUND ☐ BOAT
☐ TOWED ☐ LICENSE PLATE
☐ SUSPECT ☐ SECURITIES/BONDS, STOCKS
☐ VICTIM ☐ ARTICLE

VIN AND/OR LICENSE NO.

BOAT HULL NO. AND/OR REG. NO.

SERIAL AND/OR OWNER APPLIED NO.

STATE

YEAR OF REGISTRATION

YEAR OF EXPIRATION

YEAR

MAKE

TYPE

MODEL

STYLE

COLOR

BRAND NAME

CALIBER

NIC NO.

DENOMINATION

ISSUER

SECURITIES DATE

MISCELLANEOUS

PROPERTY EST.

TYPE (GROUP)
STOLEN
DAMAGED
BURNED
RECOVERED
SEIZED

ADMINISTRATIVE

SUBJECT IDENTIFIED
☒ YES ☐ NO

SUBJECT LOCATED
☐ YES ☒ NO

S.F. AD

☒ ACTIVE ☐ ADM. CLOSED

☐ UNFOUNDED

☐ ARRESTED UNDER 18

☐ ARRESTED 18 AND OVER

☐ EX-CLEAR UNDER 18

☐ EX-CLEAR 18 AND OVER

REASON FOR EXCEPTIONAL CLEARANCE 1. ☐ OFFENDER DEATH.

2. ☐ NO PROSECUTION

3. ☐ EXTRADITION DENIED

4. ☐ VICTIM DECLINES COOPERATION

5. ☐ JUVENILE - NO CUSTODY

REPORTING OFFICER(S)

White A

DATE

01-09-05

UNIT
NUMBER

14834

APPROVING OFFICER

SGT E.J. Morgan

DATE

01 09 05

UNIT
NUMBER

8961

FOLLOW-UP

OFFICER

INVESTIGATION ☐ YES ☐ NO

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AP
Terry T. N.

WARNING NOTICE OF VIOLATION

The Municipal Code of the City of Columbia, SC, Sections 8-31, 8-32, 8-33, 8-34, 8-35, 8-301, 8-302, 8-303, 8-304 and 8-305, prohibits the following accumulations:

EXHIBIT B

VIOLATION

Lots and premises are required to be properly cut and cleared of all overgrowth, undergrowth, trash, debris, vines, weeds, and rank vegetation. This includes hedge rows, ditches, fences, and around trees. Such accumulations of growth or debris have been found to be a health detriment by the City of Columbia.

FAILURE TO COMPLY WITH NOTICE

If the person, to whom the notice is directed, fails to comply with the City Ordinance(s) within (10) days after such notice is served, accumulations may then be removed by a duly authorized agent of the City, and the cost of doing so shall become a lien upon the property affected and shall be collected in the same manner as municipal taxes are collected.

According to the property ownership records, you are the owner of the property located at: 407 [REDACTED]

NAME: URSULA PALLARES

ADDRESS: 407 S. [REDACTED] SC 2920

T.M.S. NUMBER: 13801-03-09

ISSUED NOTICE: 6-17-04

NOTICE EXPIRES: 6-1-04

REMARKS: Remove Misc. Items, materials AND Debris From Premise
IF NO ACTION HAS BEEN TAKEN WITHIN TEN (10) DAYS, YOU MAY BE SUBJECT TO THE PENALTIES PRESCRIBED FOR VIOLATIONS OF THIS ORDINANCE.

DATE: 6-17-04

ISSUING OFFICIAL: D. B. [REDACTED]

CITY INSPECTIONS DEPARTMENT (803) 545-3430

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URSULA R. PALLARES

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1 Q: Have you ever taken any pictures of Lisa or her
2 house?

3 A: No.

4 Q: Have you for any reason ever slept in your car in
5 front of your house?

6 A: No.

7 Q: Would there be any reason why anyone would have
8 thought you were sleeping in your car in front of
9 your house?

10 A: No.

11 Q: Now what are your damages as a result of your first
12 four Causes of Action for malicious prosecution,
13 abuse of process, invasion of privacy, and
14 intentional infliction of emotional distress?

15 A: I don't really understand what you're asking me.

16 Q: Well, you've got to have some sort of damages or you
17 claim damages anyway. I don't know whether you have
18 them or not, but you claim that you've been damaged
19 and you're seeking a monetary recovery. I'm asking
20 you what your damages are.

21 A: Emotional distress, invasion of privacy, harassment,
22 not having peace, having my, my civil rights
23 basically questioned, my character questioned.

24 Q: Have you quantified your damages, your monetary
25 damages?

-58-

1 A: No. No.

2 Q: Have you sought any medical, professional treatment
3 as a result of any of these problems?

4 A: Most recently, yes.

5 Q: All right. Tell me what you've done.

6 A: At the Psychological Center at USC. I've talked
7 with someone there.

8 Q: Who did you talk with?

9 A: I can't remember if her name's Victoria or Veronica,
10 someone in that office.

11 Q: All right. How many times have you been to that
12 office?

13 A: Once.

14 Q: And the date of that visit?

15 A: I don't remember.

16 Q: Last month, last week, yesterday?

17 A: Within two months.

18 Q: And was a report issued?

19 A: Yes.

20 Q: Can you provide that to your attorney so he can
21 provide us with a copy of that?

22 A: Yes.

23 Q: Any other treatment?

24 A: No.

25 Q: How long did this session last?

-59-

1 A: About an hour.

2 Q: And what were your complaints?

3 A: The having to go to oh, I know. When they
4 filed the last thing that I received, their, I
5 forgot what's that called, their list of things that
6 you wanted, the witness, the professional, all of
7 that, it just was very upsetting to have to I
8 was trying to deal with a lot of things from them,
9 and to have to relive and revisit everything that
10 they've done over the years was very upsetting. So
11 it was in a crisis situation that I went to that
12 Psychological Center because the thought of having
13 to go and go through all of this, remember, relive
14 everything that I've tried to forget is not easy.

15 Q: Okay. So your testimony is that your only medical
16 treatment came as a result of you being served with
17 what's known as Interrogatories and Request to
18 Produce in this lawsuit, is that right?

19 A: Right. But that was symbolic of what had happened
20 over the years.

21 Q: Is that correct, or is it not correct?

22 A: Yes.

23 Q: Okay. And you actually filed suit against my
24 client?

25 A: Yes.

-60-

1 Q: And I'm sure your attorney has explained to you the
2 Rules of Civil Procedure that allow for the
3 discovery process to take place?

4 A: Yes.

5 Q: And it's your testimony that is what in your mind
6 made it necessary for you to go see

7 A: That did not make it necessary.

8 Q: Well, that's what you just told me.

9 A: The thought of having to relive everything and to go
10 through that and what all this is about. Not the
11 proceedings as they're, should happen.

12 Q: But up to that point in time, you had not sought any
13 treatment or counseling or anything of that nature?

14 A: No.

15 Q: Do you know how much you were charged for this
16 session?

17 A: No.

18 Q: Were you charged anything?

19 A: No.

20 Q: Was it someone who is connected with your father?

21 A: No.

22 Q: Was it a friend?

23 A: No.

24 Q: How do you go about getting free treatment like
25 that?

-61-

1 A: They're open to the public and to students, and if
2 you're in a crisis situation, they see you pretty
3 quickly, and then you're on a they try to have
4 you see someone regularly, and so I'm on a wait list
5 for that.

6 Q: All right. So you have not seen anyone else to
7 follow up on that visit?

8 A: No.

9 Q: Are you taking any medication as a result of that
10 visit?

11 A: No.

12 Q: Are you claiming any type of economic loss as a
13 result of any conduct on the part of my client?

14 A: Possibly.

15 Q: Well, unless something unusual happens, today is the
16 only day I'll have an opportunity to question you.
17 As you sit here today, May 19, 2008, do you have a
18 claim for economic loss against my client, Lisa
19 Maseng?

20 A: I have to answer the same way, possibly.

21 Q: As we sit here today, May 19, 2008, do you have a
22 claim for economic loss that you can testify to
23 today against my client, Lisa Maseng?

24 MR. ELLIOTT: I'll tell you what. I'll look
25 into it. If her documents and records demonstrate

1 attempted to one thing is the city. One thing
2 is the animal. But to question my character and my
3 mental ability, to have to go through that part is
4 something that is just imaginative, but apparently
5 they were able to do that.

6 Q: You've alleged that they've engaged in unlawful acts
7 and lawful acts in an unlawful manner. What
8 unlawful acts have they engaged in?

9 A: Well, I believe trying to use the police to do
10 certain things, parking, I don't know who called,
11 but once I parked my car well, often I park my
12 car in front of the house. Apparently it was facing
13 the wrong direction. To get a ticket in the evening
14 on my street, which is in the residential area, a
15 policeman isn't going to just normally do that. So
16 they, one of them called.

17 Q: What evidence do you have that one of them called?

18 A: The ticket. The ticket.

19 Q: Did the ticket identify the complaining party?

20 A: No. They just said someone from the neighborhood
21 called.

22 Q: So you have no evidence

23 A: No.

24 Q: that Lisa Maseng did it, is that correct?

25 A: No.

-63-

1 Q: All right. What other unlawful acts have they, has
2 she engaged in, and I'm speaking of my client now.

3 A: That's it.

4 Q: All right. What lawful acts have they engaged in in
5 an unlawful way or manner? You don't know?

6 A: Huh-uh. No.

7 Q: So you can't, you can't tell me what they've done as
8 a result of this claim Civil Conspiracy, is that
9 correct?

10 A: I just know what I have gone through, what they have
11 put me through over the years for their constant
12 watchful, overly watchful

13 Q: And that, would that be the same wrongful conduct
14 that we discussed with regards to the First Cause of
15 Action, the Second Cause of

16 A: They're all connected up.

17 Q: They're all the same?

18 A: They're all connected, yes.

19 Q: Okay. So the Civil Conspiracy wrongdoing is no
20 different from what you have alleged in your other
21 complaints, is that right?

22 A: Well, they're all connected.

23 Q: All connected. All right. Do your damages under
24 the Civil Conspiracy claim in any way differ from
25 your other claimed damages, or is it also all

connected too?

A: It's all connected.

MR. BARNETTE: Let me have just a minute to speak to my client, and I think I may have wrapped it up.

MR. ELLIOTT: All right.

(A short break was taken)

MR. BARNETTE: That's all I have.

MS. PALLARES - EXAMINATION BY MR. WARD:

Q: Ms. Pallares, as you know, I'm Toby Ward, and I represent Sharon Seinar. In much like was the case with Mr. Barnette, I'm here today to ask you some questions. This is likely the only chance that I'll get to ask you questions. I'm going to try to the greatest extent possible not to duplicate what Mr. Barnette asked you, but I will be asking you questions, and if at any time you don't understand my question, please let me know. My responsibility is to ask you a question that makes sense to you. Your responsibility is to answer that question truthfully, and as Mr. Barnette pointed out, it really has to be your answer, and so if you don't know the answer to a question, you're certainly entitled to tell us that because that's the truth. And if I don't ask a question correctly or in a way

1 Q: Now tell me about how you've been damaged as a
2 result of the things that you say Ms. Seinar did.
3 First of all, have you lost any income that you know
4 of?

5 A: To put a monetary, I can't do that. I don't know.

6 Q: Have you, has any of your property been damaged or
7 devalued?

8 A: No.

9 Q: And you testified earlier that you were upset by
10 this series of events, is that correct?

11 A: Yes.

12 Q: Have you quantified that?

13 A: Can you explain that a little bit more?

14 Q: Do you have a dollar value to assign to it?

15 A: No.

16 Q: How about a time frame when you believe that what
17 was happening was worthy of compensation?

18 A: It's been over the years that I couldn't even tell
19 you how much time, energy, and emotion has been
20 wasted and taken that can never be replaced.

21 Q: And then you put in your Answers to Interrogatories
22 about an attorney's fee. What was that attorney's
23 fee brought into?

24 A: One was a dog issue, and one was a city thing. I
25 don't remember exactly at this time.

1 A: Yes.

2 Q: And am I the one that drafted that Complaint?

3 A: Yes.

4 Q: And am I the one that you're looking to for legal
5 advice?

6 A: Yes.

7 Q: Am I the one you're looking to develop your evidence
8 and marshal your witnesses and that kind of thing?

9 A: Yes.

10 Q: All right. Now, so would it be the truth in this
11 deposition today for you to say I have now disclosed
12 all of my evidence that I'm going to put in the
13 court in your case?

14 A: Yes.

15 Q: No. Let me ask it again. Is it the truth

16 MR. WARD: I object. Instructing the witness
17 how to answer.

18 Q: Would it be the truth that what you said here today
19 will constitute your entire case?

20 A: Of course not.

21 Q: All right. Do you have health insurance to go to
22 counseling?

23 A: I don't have health insurance.

24 Q: All right. And you rely on you have a friend
25 Stacy Brennan?

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EXHIBIT D**Sec. 4-70. Nuisance animals.**

(a) *Generally.* The actions of an animal constitute a nuisance when an animal disturbs the rights of, threatens the safety of or damages a member of the general public, or interferes with the ordinary use and enjoyment of their property.

(b) *Prohibited acts.* It shall be unlawful for any person to own, keep, possess or maintain an animal in such a manner as to constitute a public nuisance. By way of example and not of limitation, the following acts or actions by an owner or possessor of any animal are declared to be a public nuisance and are therefore unlawful:

(1) Failure to exercise sufficient restraint necessary to control an animal as required by section 4-64.

(2) Allowing or permitting an animal to damage the property of anyone other than its owner, including but not limited to turning over garbage containers or damaging gardens, flowers or vegetables.

(3) Maintaining a dangerous animal as defined in this article.

(4) Maintaining animals in an environment of unsanitary conditions which results in offensive odors or is dangerous to the animal or to the public health, welfare or safety.

(5) Maintaining his property in a manner that is offensive, annoying or dangerous to the public health, safety or welfare of the community because of the number, type, variety, density or location of the animals on the property.

(6) Allowing or permitting an animal to bark, whine, howl, crow or cackle in an excessive, continuous or untimely fashion, or make other noise in such a manner so as to result in a serious annoyance or interference with the reasonable use and enjoyment of neighboring premises.

(7) Maintaining an animal that is diseased and dangerous to the public health.

(8) Maintaining an animal that habitually or repeatedly chases, snaps at, attacks or barks at pedestrians, bicycles or vehicles.

(c) *Impoundment.* Any pet found in continued violation of the provisions of this section or identified as a public nuisance may be impounded and not released unless authorized by the animal control supervisor.

(d) *Confinement of female animals in heat.* Every female pet in heat shall be kept confined in a building or secure enclosure in such manner as will not create a nuisance by attracting other animals.

(Code 1979, § 9-5035; Ord. No. 2001-070, 6-26-02)

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF RICHLAND

)

C/A No.: 07-CP-40-6289

Ursula R. Pallares,

)

Plaintiff,

)

**DEFENDANT SEINAR'S
MOTION FOR SUMMARY JUDGMENT**
(Noerr Pennington, Judicial Immunity)

Vs.

)

Sharon R. Seinar & Lisa A. Maseng,

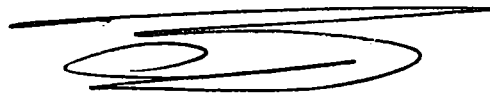
)

Defendants

)

**TO: THE PLAINTIFF AND HER ATTORNEY OF RECORD, JOHN D. ELLIOT,
ESQUIRE:**

The Defendant Sharon R. Seinar ("Seinar") hereby moves this court pursuant to Rule 56 of the South Carolina Rules of Civil Procedure for summary judgment as to Plaintiff's remaining causes of action for invasion of privacy and intentional infliction of emotional distress because the alleged conduct by Seinar is protected under the *Noerr-Pennington* doctrine as well as judicial immunity. As will be discussed in more detail in the attached brief which is incorporated by reference, all of the Plaintiff's claims are based on Seinar's contacting or petitioning state and local governments for redress; however such conduct is protected from tort claims under both the *Noerr-Pennington* doctrine and judicial immunity. Therefore, Seinar is entitled to summary judgment on the Plaintiff's remaining claims¹.



Tobias G. Ward, Jr. Esquire
TOBIAS G. WARD, JR., PA
Post Office Box 6138
Columbia, South Carolina 29260
(803) 708-4200

July 13, 2011.

¹ Judge Manning issued a form order granting Defendants summary judgment as to abuse of process, malicious prosecution, and civil conspiracy, while denying summary judgment as to the causes of action for invasion of privacy and intentional infliction of emotional distress. Judge Manning did not consider application of *Noerr Pennington* doctrine or judicial immunity.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	C/A No.: 07-CP-40-6289
	)	
Ursula R. Pallares,	)	
	)	
Plaintiff,	)	DEFENDANT SEINAR'S
	)	MEMORANDUM IN SUPPORT
Vs.	)	OF SUMMARY JUDGMENT
	)	
Sharon R. Seinar & Lisa A. Maseng,	)	
	)	
<u>Defendants</u>	)	

The Defendant Seinar has moved for summary judgment as to the causes of action in the Plaintiff's Amended Complaint for intentional infliction of emotional distress and invasion of privacy. The Defendant was previously granted summary judgment as to abuse of process, malicious prosecution, and civil conspiracy, but the judge did not consider the application of *Noerr-Pennington* or judicial immunity to the remaining causes of action.

#1
This civil action arises out of the Defendants' efforts to cause the Plaintiff to bring her property into compliance with City of Columbia land use and zoning ordinances. The remaining causes of action relate to reports and filings the Defendants made with city police, county magistrate and probate court officials.

NOERR-PENNINGTON

The *Noerr-Pennington* doctrine provides the Defendant Seinar with a complete defense to all causes of action. The First Amendment to the Constitution of the United States guarantees the right to petition the government for redress. See *City of Columbia v. Omni Outdoor Advertising*, 499 U.S. 365, 379 (1991). The *Noerr-Pennington* doctrine protects this right by immunizing parties from liability for efforts to seek relief from the government. See *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365

U.S. 127, 140-141 (1961); *A Fisherman's Best, Inc. v. Rec. Fishing Alliance*, 310 F.3d 183, 189-191 (4th Cir. 2002). The Defendant Seinar's motivation for trying to influence the government is irrelevant, as *Noerr-Pennington* protects any "concerted effort to influence public officials regardless of intent or purpose." *City of Columbia*, 499 U.S. at 379 (internal quotes omitted). The immunity applies even if the means employed "can be termed unethical." *Noerr*, 365 U.S. at 140-141.

In *Ludwig v. Superior Court*, 37 Cal. App. 4th 8, 43 Cal. Rptr. 2d 350, 23 Media L. Rep. (BNA) 2313 (4th Dist. 1995), the court held that the *Noerr-Pennington* doctrine, under which those who petition the government are generally immune from antitrust liability, applies to virtually any tort, including unfair competition and interference with contract, commercial speech, and both competitive and anticompetitive activity. Although the *Noerr-Pennington* doctrine of immunity is most often asserted against antitrust claims, the court acknowledged in *Zeller v. Consolini*, 59 Conn. App. 545, 758 A.2d 376, 94 A.L.R.5th 717 (2000), the doctrine is equally applicable to many types of claims that seek to assign liability on the basis of a defendant's exercise of its First Amendment rights.

#2
The *Noerr-Pennington* doctrine is not limited to federal antitrust actions, the court held in *Arim v. General Motors Corp.*, 206 Mich. App. 178, 520 N.W.2d 695 (1994), and may be invoked in other actions under state and federal law to protect the First Amendment right to petition the government.

In this case, Seinar's conduct in petitioning the government should be protected by the *Noerr-Pennington* doctrine.

JUDICIAL IMMUNITY

As discussed above, the Plaintiff's complaints are focused on various filings the Defendant admittedly made as part of judicial process before the city and county. The Plaintiff alleges "the defendants have filed baseless complaints against her with the City of Columbia for various housing and building code violations," (Amended Complaint,

paragraph 3) "Seinar instigated criminal charges against the plaintiff alleging that the plaintiff's pet dogs were a nuisance, in violation of the city's criminal ordinances", (Amended Complaint, paragraph 4), filed a petition with the Richland County Probate Court alleging that the plaintiff was mentally ill, and in need of a mandatory mental evaluation (Amended Complaint, paragraph 5) and filed actions in the magistrate's court for Richland County, seeking restraining orders against the plaintiff (Amended Complaint, paragraph 6). All of these actions are privileged by judicial immunity.

Defamatory statements made during the course of a judicial proceeding are absolutely privileged. *Texas Co. v. C. W. Brewer & Co.*, 180 S. C. 325, 185 S. E. 623 (1936); see *Redfearn v. Pusser*, 276 S. C. 506, 280 S. E. 2d 206(1981); *McKesson & Robbins, Inc. v. Newsome*, 206 S. C. 269, 33 S. E. 2d 585 (1945). This privilege applies even though the statements were made maliciously and with knowledge of their falsity. *Texas Co. v. C. W. Brewer & Co.*, 180 S. C. 325, 185 S. E. 623 (1936); C.J.S., *Libel and Slander* § 71a; 50 Am. Jur. 2d, *Libel and Slander* § 231. Moreover, the privilege extends to communications that are preliminary to the judicial proceedings. *Crowell v. Herring*, 301 S. C. 424, 392 S. E. 2d 464 (Ct. App. 1990) (per curiam); see *Restatement Second, Torts* § 585-587 (1977). The privilege protects the statements of judges, parties, and witnesses offered in the course of judicial proceedings. *Id.* It protects not only trial and deposition testimony, but also statements in pleadings, affidavits, communications between counsel, statements by counsel to prospective witnesses, *Corbin v. Washington Fire & Marine Insurance Co.*, 278 F. Supp. 393, 398 (D. S. C.) (dicta), aff'd per curiam, 398 F. 2d 543 (4th Cir. 1968); *Crowell v. Herring*, 301 S. C. 424, 392 S. E. 2d 464 (Ct. App. 1990) (per curiam); see *McKesson & Robbins, Inc. v. Newsome*, 206 S. C. 269, 33 S. E. 2d 585 (1945); *Rodgers v. Wise*, 193 S. C. 5, 7 S. E. 2d 517 (1940); *Texas Co. v. C. W. Brewer & Co.*, 180 S. C. 325, 185 S. E. 623 (1936) and in general "any utterance arising out of any judicial proceeding and having any reasonable relation to it, including preliminary steps leading to judicial actions of any official nature provided those steps bear reasonable relationship to it." *Crowell v.*

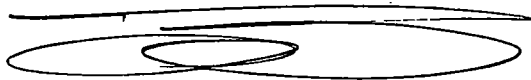
Herring, 301 S. C. 424, 431, 392 S. E. 2d 464, 467 (Ct. App. 1990). Whether a particular statement is "relevant" to the judicial proceeding is for the court to decide, with all doubts resolved in favor of relevancy. *McKesson & Robbins, Inc. v. Newsome*, 206 S. C. 269, 33 S. E. 2d 585 (1945); *Texas Co. v. C. W. Brewer & Co.*, 180 S. C. 325, 185 S. E. 623 (1936).

As the court noted in *Crowell v. Herring*, 301 S. C. 424, 432 392 S. E. 2d 464, 468 (Ct. App. 1990), "The threat of a civil action in slander or libel would undoubtedly have a chilling effect on those tempted to initiate legitimate investigations or inquiries into others' supposed wrongdoings." This court should grant summary judgment to Seinar and hold that her acts arising out of judicial proceedings are privileged under judicial immunity except as to claims for abuse of process and malicious prosecution.

CONCLUSION

For the reasons set forth herein, because the torts alleged by the Plaintiff are subject to the Noerr-Pennington doctrine and judicial immunity, this court should grant the motion for summary judgment.

TOBIAS G. WARD, JR., PA



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July 13, 2011

State of South Carolina)
County of Richland)

In The Court of Common Pleas
Fifth Judicial Circuit
2007-CP-40-6289

Ursula R. Pallares,
Plaintiff,

vs.

Sharon Ray Seinar, et al.,
Defendants.

Transcript of Record

November 10, 2008
Columbia, South Carolina

B E F O R E:

The Honorable L. Casey Manning, Judge

A P P E A R A N C E S:

John D. Elliott, Esquire
Attorney for the Plaintiff.

Evans T. Barnette, Esquire
Attorney for Defendant Seinar

Tobias G. Ward, Jr., Esquire
Attorney for Defendant Maseng

Elizabeth B. Harris, CVR-M
Circuit Court Reporter

I N D E X

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E X H I B I T S

<u>No.</u>	<u>Description</u>	<u>I.D.</u>	<u>Ev.</u>
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No Exhibits Introduced.

1 THE COURT: Yes, sir, Mr. Ward.

2 MR. WARD: Thank you, Your Honor. May it please the
3 court? Your Honor, this is a civil action that was
4 commenced by one neighbor against two other neighbors. And
5 it involves -- these folks live in the Rosewood area of the
6 City of Columbia, and Jays represent the plaintiff, and I
7 and Van represent two defendants.

8 There are only two defendants, two. They're not
9 identical, but they are similarly situated. They are
10 different people. And I'm making a motion for summary
11 judgment relative to all but one, I think, of the causes of
12 action, and I've filed a motion that has a lot of
13 information in it. And it has attached to it some things
14 that I'll refer to in my argument. I'm not going to
15 re-argue what I wrote in there.

16 THE COURT: All right, sir.

17 MR. WARD: But I'm going to tell you that the
18 plaintiff is suing defendants for -- it's either five or
19 six causes of action all rising out of four separate
20 factual occurrences.

21 THE COURT: Malicious prosecution, animal nuisance,
22 code violation, abuse of process?

23 MR. WARD: Yes, sir.

24 THE COURT: Invasion of privacy, all right,
25 intentional infliction.

1 MR. WARD: There's a good number of claims there.

2 THE COURT: Civil conspiracy.

3 MR. WARD: It really arises out of four different
4 things that happened. Number one, the defendants are
5 alleged to have made complaints about barking dogs, and
6 those complaints are -- were made to the City of Columbia.
7 And there's two or three incident reports that are attached
8 to our motion where the investigating officer wrote in his
9 report that there were dogs barking, okay, and we think
10 that's important, and we'll get to that in a minute.

11 The second basic factual occurrence that gives rise to
12 the plaintiff's complaints is that there were numerous code
13 violations that were cited by the City of Columbia. That
14 would be like cleanliness and having debris in your yard,
15 and construction type violations. And those citations are
16 attached to the motion. So far you've got the barking dogs
17 and the code violations.

18 THE COURT: All right, sir.

19 MR. WARD: Then the next factual occurrence is a
20 magistrate's court proceeding for certain relief that was
21 dismissed in the plaintiff's favor. And then finally
22 there's a probate court involuntary commitment proceeding
23 that was dismissed in the plaintiff's favor.

24 So, those are the four things that the plaintiff
25 complains about, and here's what I would like to

1 specifically say about the cause of action for malicious
2 prosecution.

3 That is that there are no facts alleged that would let
4 you believe, let anyone believe that the Defendant Seinar
5 didn't honestly believe that there was probable cause for
6 these animal -- barking dogs and the code violations. And
7 that is corroborated by -- on the animal, on the barking
8 dogs, on three separate occasions, the officer put it in
9 his report that the dogs were barking excessively, and it
10 was a problem, and so forth and so on.

11 So, with regard to the barking dogs, there can't be a
12 malicious prosecution if the arresting officer said the
13 dogs were barking because the City of Columbia has a
14 barking dog ordinance, and it's cited in my motion.

15 With respect to the code violations by -- that the
16 Defendant Seinar complained to the City of Columbia and
17 they wrote up a notice of violation. And so again we think
18 that that conclusively established that there was probable
19 cause, or else the City of Columbia would not have written
20 the code violation up. The plaintiff -- I mean, the
21 Defendant Seinar didn't go write the notice of code
22 violation that's attached to the motion. The City of
23 Columbia wrote that up. So, on malicious prosecution, we
24 think that the officer's reports and the code violation
25 documents conclusively establish that there was probable

1 cause to initiate those complaints.

2 On the second, or the abuse of process claim, because
3 I'm not sure I'm following the numerical sequence in the
4 complaint. But on the abuse of process claim, no material
5 fact has been alleged that would suggest that there was an
6 ulterior motive in the proceeding, that being the animal
7 nuisance code violation proceeding. In fact, the evidence
8 is that both of those complaints -- that is, the barking
9 dogs and the code violations -- that they were true because
10 if they weren't, the City of Columbia wouldn't have written
11 a ticket for a code violation. And the officer wouldn't
12 have written in his report that the dogs are barking.

13 And again on an abuse of process, you have to show a
14 bad intention. And here if the dogs are barking and the
15 code was violated -- at least sufficient to cause the city
16 to write a ticket -- that doesn't suggest a bad motive.
17 That just suggests that there was a problem.

18 And so we think that the existence of the process by
19 the City of Columbia demonstrates clearly that there was no
20 ulterior motive. And, in fact, you can't just allege a
21 wilful act or a bad motive to support a claim for abuse of
22 process. And that's really what they're trying to do here
23 is say that there was a bad purpose. But, in fact, all the
24 Defendant Seinar did was carry the barking dog claim and
25 the code violation claim to the city authorities.

1 On the invasion of privacy claim, the only private
2 matter divulged, divulged was that these city officials
3 came to visit the plaintiff. There is no allegation that
4 the Defendant Seinar intruded into the privacy of the
5 plaintiff except with respect to having made these
6 complaints that led the building code folks over there to
7 look at her property to see whether, in fact, there were
8 code violations. And, in fact, after doing so, they wrote
9 documents that are attached to the motion for summary
10 judgment.

11 In fact, in the complaint there's -- I didn't find any
12 allegation that any information was disclosed to the public
13 except that she was cited for these violations.

14 Intentional infliction of emotional distress, I don't
15 believe -- you know, you're a kind of a gatekeeper on that.
16 And we don't believe that any of the facts alleged, even if
17 they were true, rise to conduct so extreme and outrageous
18 that it's exceeded all possible grounds of decency, it's
19 atrocious, and utterly intolerable, particularly when you
20 are merely following legally established procedures, that
21 being the complaint about the barking dogs, the code
22 violations.

23 Going to the magistrate, I believe to obtain a
24 temporary or a restraining order to prevent the plaintiff
25 from allegedly harassing the defendants, and going to the

1 probate court saying that the plaintiff is acting
2 irrationally, I don't believe that any legally authorized
3 means of making a complaint with the government could give
4 rise to a claim for intentional infliction of emotional
5 distress.

6 And finally with the civil conspiracy claim, all that
7 the plaintiff has done is restate the other claims which,
8 you know, you can't do that with civil conspiracy. You
9 have to have more than that, something new to add to it.
10 And that's not alleged, nor have any special damages been
11 alleged.

12 In fact, if you review the evidence of the plaintiff,
13 that is what she said in her deposition, portions of which
14 are attached to the motion. As of this date, we don't know
15 what monetary damage she has, other than one visit to the
16 University of South Carolina psychology department for
17 which she was not given a bill.

18 So, what we're asking Your Honor to do is to grant a
19 partial summary judgment on the claims for malicious
20 prosecution, abuse of process, invasion of privacy,
21 intention infliction of emotional distress, civil
22 conspiracy because the actions complained of with respect
23 to the barking dogs, the code violations, the magistrate's
24 court proceeding, and the probate proceeding do not give
25 rise to liability under the law of South Carolina.

1 THE COURT: All right, sir.

2 MR. WARD: And I've set forth in probably much more
3 specific, specific, if not eloquent, fashion in my brief.

4 THE COURT: All right.

5 MR. WARD: Thank you, Your Honor.

6 THE COURT: Thank you.

7 Mr. Elliott.

8 MR. ELLIOTT: I thought it was pretty elegant,
9 eloquent, but it, you know, it doesn't obscure the facts.
10 Well, in fact, it does. My apologies. It does obscure the
11 facts.

12 Here's what we have. I have Ms. Pallares here, who
13 has been tormented by these two people for years. And they
14 have evil and vicious in the way they've set about it.

15 I have handed up to you a sworn declaration from a
16 neighbor named Christine Overture, who became familiar with
17 these ladies' activities. She is a neighbor. Here's what
18 she said in her sworn declaration.

19 Now, first of all, mind you that these folks, they
20 have -- complaining about everything about Ms. Pallares's
21 life virtually: barking dogs, code violations about her
22 house. Her house is unusual. In addition to that, she is
23 artsy. She has a lot of stuff in her backyard that she
24 creates works of art from, and other kinds of things.

25 Here's what Ms. Overture says, and you're reading

1 along with me, I see:

2 Routinely after Seinar and Maseng contact
3 officials with the City of Columbia to lodge
4 complaints, they would come to my house and look
5 out in order to watch city officials come to Ms.
6 Pallares's house. It was during one of these
7 episodes I heard Ms. Seinar say she would do
8 whatever it took to get Ms. Pallares out of the
9 neighborhood.

10 Then you'll see in the next paragraph. A house was
11 going up for sale. That Ms. Seinar had told Ms. Overture
12 she was interested in buying it because she didn't want the
13 wrong people of the wrong color to be living next to her.
14 And of course routinely maligns Ms. Pallares as a Mexican
15 when, in truth and in fact, she is a citizen of the Unites
16 States. She's Argentinian or Venezuelan -- Peru, sorry.

17 Now let's talk about abuse of process and malicious
18 prosecution. First of all, it is obvious, it is obvious
19 that -- and not just inferentially. It's obvious that, we
20 maintain, they did this with malice. Whatever they've
21 done, they did it to get her out of the neighborhood.

22 With regard to abuse of process, first of all, you
23 don't have to, you know, execute the warrant yourself. You
24 can have somebody, and it's kind of basic now, particularly
25 in light of the case that counsel cited in his memorandum.

1 And also in *Swicegood vs. Lott*, which I've handed up to
2 you, on abuse of process, setting out the elements of abuse
3 of process and the causal connection between the abuse of
4 process and damages occurring to folks like Ms. Pallares.

5 *Huggins vs. Winn-Dixie of Greenville*, Huggins makes it
6 plain that just because the cop goes out and does your
7 bidding doesn't absolve you the responsibility of
8 instigating the action in the first.

9 Let me tell you why the barking dog stuff was an abuse
10 of process. We have the incident reports of the barking
11 dogs dated January of 2005. You know when they swore out
12 the warrants? And I've handed them up to you. Sharon
13 Seinar swore out the warrants in, looks like August or
14 September of 2006, eighteen months later. Sounds like
15 abuse of process to me.

16 With regard to the code violations, I handed up the
17 internal -- the e-mail of Mark Miler, who is the in
18 administrator's office. Enclosing -- he details the
19 various complaints that Seinar and Maseng had about this
20 lady. He says -- and essentially dismisses them as either
21 being resolved or -- and says in closing:

22 I suspect you are disappointed with the above
23 report. However, while you may choose not to
24 keep or otherwise adorn your property in the same
25 manner as Ms. Pallares, she has abated the minor

1 code violation and is not breaking any other
2 laws, notwithstanding the outcome of the inspect

3 ---

4 And so on and so forth. That is dated April 2006, and
5 of course several months later Ms. Seinar swears out
6 warrants for the arrest and prosecution of my client over
7 the barking dogs which occurred in January of '05.

8 Then in the unkindest cut of all, and forget about the
9 -- leave, leave aside the action for the restraining order
10 for a minute. In the unkindest cut of all, in June of 2007
11 Ms. Pallares gets hailed into mental health court for a
12 mental status examination to see if she is crazy. And of
13 course and again she is absolved of any suggestion that she
14 is crazy or mentally ill.

15 And how ironic it is that the form itself plainly
16 notes at the bottom of the next to the late page:

17 Pursuant to section 44-17-5-10, et cetera,
18 petitioner -- this would be Seinar and Maseng who
19 both signed this -- must be a parent, guardian,
20 spouse, adult next of kin, or nearest friend.

21 These people are hardly friends. So, here's what they
22 were doing in terms of malicious prosecution. Clearly they
23 had malice in going after this lady. And of course these,
24 some of these various claims were resolved in her favor.

25 Likewise with regard to the abuse of process, there is

1 no requirement that they be resolved in her favor. It
2 only, it only matters that the process be abused. Clearly
3 we have various processes that have been abused. For
4 example, swearing out warrants after being disappointed
5 with the city officials' actions, swearing out warrants for
6 episodes that occurred eighteen months prior and being
7 nolle prossed by the city attorney, I might add.

8 Having a lady who is none of their concern hauled
9 before the mental health board to see if she's crazy, I
10 think that's abuse of process. Obviously trying to get her
11 out of the neighborhood. With regard to the invasion of
12 privacy, if some stranger hauling you into mental health
13 court, calling you crazy isn't an invasion of privacy, I
14 don't know what is.

15 With regard to the intentional infliction of emotional
16 distress, this lady is in here crying as I talk about all
17 these, all these episodes. It is clear that if nothing
18 else, these people were determined to torment her enough to
19 get her out of the neighborhood.

20 And then finally civil conspiracy, civil conspiracy is
21 important. Seinar did some things that Maseng didn't;
22 Maseng did some thing that Seinar didn't. But in
23 combination, they -- and the law is clear in civil
24 conspiracy. I looked at it before I pled it. In
25 combination, they were, they were doing lawful acts in

1 lawful ways to otherwise drive her out of the neighborhood,
2 causing her damage. And so under civil conspiracy, the --
3 you know, all it takes is a combination and an overt act.
4 So, that's what we've got, and that's why we pled it.

5 Again, Seinar and Maseng may have acted independently
6 of one another in doing certain things, but they were
7 combining in concert for a purpose, and that was to eject
8 her from the neighborhood.

9 So, we deserve a trial on these facts. And in terms
10 of damages, I've handed up my, my answers to
11 interrogatories. There is a, there is a Dr. Stacey Brennan
12 who is a physician but is just simply a friend to this lady
13 who is going to testify about the emotional upset and
14 turmoil and anxiety, the obvious anxiety that these people
15 have caused this lady. And I don't know what kind of
16 number a jury is going to put on it, but I suspect it's
17 going to be substantial. Thank you.

18 THE COURT: Yes, sir, Mr. Barnette.

19 MR. BARNETTE: Your Honor, if it please the court? I
20 represent Lisa Maseng. The allegations in the complaint
21 lump these two defendants together with regards to their
22 actions. So, so I filed a separate motion for summary
23 judgment, but I join in Mr. Ward's argument in every
24 aspect, but most specifically on the civil conspiracy cause
25 of action.

1 The plaintiff admits in her deposition -- I'll hand up
2 to the court before we adjourn excerpts from her deposition
3 -- that the civil conspiracy is merely a restatement of
4 all, of all the other alleged wrongdoings.

5 She further admits that she has no special damages
6 arising from the civil conspiracy. So, I would like to
7 just focus my argument on that particular cause of action
8 where I think the courts have been careful in crafting what
9 actually constitutes a civil conspiracy. And she by her
10 own admission does not meet those essential elements.

11 MR. ELLIOTT: Well, let me just say in response. She
12 doesn't -- they're relying on her deposition to determine
13 whether she's got a cause of action for civil conspiracy.

14 THE COURT: Is that a question or a statement?

15 MR. ELLIOTT: A statement.

16 THE COURT: All right.

17 MR. ELLIOTT: It's not up to her to decide, and she
18 certainly is claiming special damages, and that is the
19 obvious pain and suffered and emotional distress that these
20 people have visited on her.

21 THE COURT: Mr. Ward.

22 MR. WARD: Just briefly. Your Honor, particularly of
23 the malicious prosecution cause of action, there was
24 probable cause for the barking dog and the code violations.
25 In fact, the e-mail referred to by counsel acknowledges

1 there was a building code violation. So, you can't be -- I
2 don't believe you can be liable for malicious prosecution
3 when probable cause existed. And I think the abuse of
4 process claim falls in the same category.

5 I will admit with candor that the -- in the invasion
6 of privacy, there may be something to that with respect to
7 the probate court proceeding. But the other three
8 incidences -- the barking dogs, the code violation, and
9 going to the magistrate for one of these peace bond type
10 restraining order things -- you know, that's just parties
11 trying to get their rights vindicated through a lawful
12 process.

13 And intentional infliction of emotional distress, you
14 know, I don't, I don't believe that at least the first
15 three of the four factual patterns falls into that. Again
16 on the probate court, I'll leave that to your judgment.

17 And then on civil conspiracy, either you plead special
18 damages or you didn't. Here he didn't. The plaintiff
19 didn't. So, I don't believe he can go forward with what
20 he's got pled.

21 This is a motion for summary judgment. This case is,
22 you know, getting near trial. We took her deposition. She
23 didn't allege any special damages; she didn't testify about
24 any special damages. So, we just have to assume there are
25 none there.

1 THE COURT: All right.

2 MR. WARD: Thank you, Your Honor.

3 THE COURT: Anything further?

4 MR. ELLIOTT: No, sir. Thank you.

5 THE COURT: All right, thank you all so very much.

6 I'll let you know my decision in due course.

7 MR. BARNETTE: May I hand this excerpt up?

8 THE COURT: Yes, sir. This is from the deposition?

9 MR. BARNETTE: Pages 55 and 56.

10 MR. WARD: 55 and 56.

11 THE COURT: Okay.

12 MR. WARD: It may already be attached, Judge.

13 THE COURT: I think it is, but I'll double check.

14 --- END OF TRANSCRIPT OF RECORD ---

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares)
)
Plaintiff,)

Civil Action No.: 2007-CP-40-6289

vs.)

PLAINTIFF'S ANSWERS TO INTERROGATORIES

Sharon Ray Seinar and)
Lisa A. Maseng,)
)
Defendants.)
_____)

1. GIVE THE NAMES AND ADDRESSES 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.

a. S.E. Thomas, Animal Control Officer, City of Columbia, c/o 1737 Main Street, Columbia, South Carolina 29201: This is an animal control officer with the City of Columbia who investigated complaints made by one of the defendants about the plaintiff's pets. A copy of his incident report is attached.

b. A. White, Animal Control Officer, City of Columbia, c/o 1737 Main Street, Columbia, South Carolina 29201: This is another animal control officer who investigated another complaint by one of the defendants about the plaintiff's pets. A copy of the incident report is attached.

c. Marc Mylott, assistant City Manager, City of Columbia, 1737 Main Street, Columbia, South Carolina 29201: This is an assistant city manager with the City of Columbia who responded to various complaints made by the defendants about the plaintiff's residence. A copy of -mail correspondence, redacted by him, is attached.

d. Travis Creech, Sr., Rosewood Dairy Bar, 3003 Rosewood Drive, Columbia, South Carolina 29205: This is the general manager of the venerable Rosewood Dairy Bar, who describes an incident involving one of the defendants with the plaintiff. He has given two statements; copies of these statements are attached.

e. Sheila Benebente, 1217 Taylor Street, Apt. 307, Columbia, South Carolina 29201:

This is a friend of the plaintiff. She is a witness to the anxiety and torment the plaintiff has suffered over time due to the acts and conduct of the defendants. She is also a witness to the efforts of the plaintiff to make improvements to her house over time. She accompanied the plaintiff to the hearing on the restraining orders sought by the defendants in the magistrate's court, which were dismissed.

f. Suzan Stafford, [REDACTED], South Carolina 29205: This is also a friend of the plaintiff. She is also a witness to the anxiety and torment the plaintiff has suffered over time due to the acts of the defendants. She is also a witness to the efforts of the plaintiff to make improvements to her house over time. She likewise accompanied the plaintiff to the hearing on the restraining orders sought by the defendants in the magistrate's court.

g. Chris LaCaruba, [REDACTED], Columbia, South Carolina 29205: This is a neighbor of the plaintiff. He will testify about her congeniality as a neighbor, and her efforts to make improvements to her house and yard over time. He will also testify about whether the plaintiff's pets posed any sort of untoward nuisance in the neighborhood.

h. Margaret LaCaruba, [REDACTED], Columbia, South Carolina 29205: This is the wife of Mr. LaCaruba and a neighbor of the plaintiff. She will also testify about her congeniality as a neighbor, and her efforts to make improvements to her house and yard over time. She will also testify about whether the plaintiff's pets posed any sort of untoward nuisance in the neighborhood.

i. Dr. Stacy Brennan, M.D., 207 King Street, Columbia, South Carolina 29205: This is a friend of the plaintiff and a professional person. She will testify about the plaintiff's anxiety and upset over the years, and the effect of the acts and conduct of the defendants on the plaintiff.

j. Ursula Pallares, [REDACTED], Columbia, South Carolina 29205: This is the plaintiff. A copy of her affidavit is attached.

2. SET FORTH A LIST OF PHOTOGRAPHS, PLATS, SKETCHES OR OTHER PREPARED DOCUMENTS IN POSSESSION OF THE PARTY THAT RELATE TO THE CLAIM OR DEFENSE IN THE CASE.

a. Incident reports of complaints of barking dogs.

b. Arrest warrants for complaints of barking dogs.

c. Petition and order for mental examination, and reports of examiners.

- d. **Complaint of Sharon Steiner for restraining order and attachments.**
 - e. **Complaint of Lisa Maseng for restraining order and attachments.**
 - f. **Copy of petition circulated by plaintiff regarding the issue of the dogs.**
3. SET FORTH AN ITEMIZED STATEMENT OF ALL DAMAGES, EXCLUSIVE OF PAIN AND SUFFERING, CLAIMED TO HAVE BEEN SUSTAINED BY THE PARTY.
- a. **Attorneys' fees and costs:** The plaintiff incurred about \$800.00 in attorneys' fees and costs in defending against the defendants' meritless claims.
4. LIST THE NAMES AND ADDRESSES OF ANY EXPERT WITNESSES WHOM THE PARTY PROPOSES TO USE AS A WITNESS AT THE TRIAL OF THE CASE. FOR EACH EXPERT WITNESS WHOM THE PLAINTIFF PROPOSES TO USE IN THE TRIAL OF THIS CASE, STATE (A) THE SUBJECT MATTER ON WHICH THE EXPERT IS EXPECTED TO TESTIFY; (B) THE SUBSTANCE OF THE FACTS AND OPINIONS TO WHICH THE EXPERT IS EXPECTED TO TESTIFY; (C) A SUMMARY OF THE GROUNDS FOR EACH OPINION; AND (D) LIST OF ALL CASES IN WHICH THE EXPERT HAS GIVEN DEPOSITION TESTIMONY AND TRIAL TESTIMONY.
- a. **Kathleen A. Ryan, Ph.D., 1135 Carter Street, Columbia, South Carolina 29204:** This is a psychologist who was one of the examiners designated by the mental health division of the probate court for Richland County to examine the plaintiff, on application of the defendants. A copy of her report to the court is attached. She is expected to testify consistent with her report that the plaintiff was not mentally ill. As an examining psychologist, she is a so-called fact expert.
- b. **Dr. Tanya Dillihay, M.D., Columbia Area Mental Health Center, 2715 Colonial Drive, Columbia, South Carolina 29204:** This is a physician also designated by the probate court to examine the plaintiff, on application of the defendants. A copy of her report to the court is attached. She is likewise expected to testify that the plaintiff was not mentally ill. As an examining physician, she is also a so-called fact expert.

The plaintiff has not retained an expert for the trial of this case. Plaintiff will timely supplement her answer to this interrogatory in the event such experts are retained.

5. FOR EACH PERSON KNOWN TO THE PARTIES OR COUNSEL TO BE A WITNESS CONCERNING THE FACTS OF THE CASE, SET FORTH EITHER A SUMMARY SUFFICIENT TO INFORM THE OTHER PARTY OF THE IMPORTANT FACTS KNOWN TO OR OBSERVED BY SUCH WITNESS, OR PROVIDE A COPY OF ANY WRITTEN OR RECORDED STATEMENTS TAKEN FROM SUCH WITNESSES.

See plaintiff's answers to Interrogatory Number One (1), above, and statements provided in response to the interrogatory.

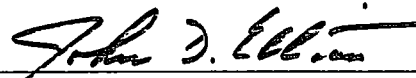
6. SET FORTH THE SPECIFIC FACTUAL BASIS WHICH SUPPORTS, INCLUDING BUT NOT LIMITED TO, ANY ACTS AND/OR OMISSIONS ON THE PART OF THE DEFENDANT MASENG WHICH CONSTITUTE THE ESSENTIAL ELEMENTS OF THESE FOLLOWING CAUSES OF ACTION: (A) MALICIOUS PROSECUTION; (B) ABUSE OF PROCESS; (C) INVASION OF PRIVACY; (D) INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS; (E) CIVIL CONSPIRACY.

The plaintiff objects to this interrogatory, including its subparts, on grounds it requests mixed questions of law and fact, and are more susceptible of response through other means of discovery, including deposition or other testimony, witness statements and the like, in addition to the discovery provided with these responses. Moreover, the request is overbroad and burdensome.

7. IF THE PLAINTIFF HAS SEEN A PHYSICIAN AND/OR PSYCHOLOGIST AND/OR PSYCHIATRIST AS A RESULT OF HER ALLEGATION OF EMOTIONAL DISTRESS, SET FORTH THE NAMES AND ADDRESS OF ANY TREATING PHYSICIAN/PSYCHOLOGIST/PSYCHIATRIST WHO HAS TREATED THE PLAINTIFF AND THE DATES TREATMENT BEGAN AND SET FORTH IF THE PLAINTIFF IS STILL UNDER TREATMENT AND SET FORTH A STATEMENT OF ALL MEDICAL COSTS INVOLVED AS A RESULT OF ANY TREATMENT PROVIDED THE PLAINTIFF.

The plaintiff has not seen any such person on a professional basis. See answer to Interrogatory No. One, (i), regarding Dr. Stacy Brennan. She is a so-called fact expert, to the extent she may have opinions on the degree to which the plaintiff has been affected by the acts and delicts of the defendants.

The plaintiff will supplement her answers to the foregoing interrogatories seasonably as discovery progresses and counsel is able to adequately investigate the facts underlying the plaintiff's claims.



JOHN D. (JAY) ELLIOTT

Attorney for the Plaintiff

1122 Lady Street - Fifth Floor

Post Office Box 607

Columbia, South Carolina 29202

Phone: (803) 252-9236

Fax: (803) 799-2079

E-Mail: jayel@mindspring.com

Columbia, South Carolina

March 24th, 2008

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

IN THE COURT OF COMMON PLEAS

Ursula R. Pallares)

Civil Action No.: 07-CP-40-6289

Plaintiff,)

vs.)

AFFIDAVIT OF CHRISTINE OVERTURF

Sharon Ray Seinar and)

Lisa A. Maseng,)

Defendants.)
_____)

PERSONALLY appeared before me Christine Overturf, who being duly sworn, deposes and says as follows:

1. I am Christine Overturf. I am 56 years of age. I reside at [REDACTED] Avenue, Columbia, South Carolina. I have lived there for about twenty-five (25) years.

2. I am familiar with the activities of Sharon Seinar and Lisa Maseng in the neighborhood, particularly with regard to their numerous complaints about Ursula Pallares.

3. Routinely, after Sharon Seinar or Lisa Maseng contacted officials at the city of Columbia to lodge complaints about some alleged code violation by Ursula Pallares, they would come to my house to look out the window in order to watch city officials meet with Ms. Pallares. It was during one of these episodes that I heard Mrs. Seinar say she would do whatever it took to get Ms. Pallares out of the neighborhood.

4. The house between Ms. Seinar and Ms. Pallares was up for sale. Ms. Seinar expressed to me her desire to buy the house saying she did not want the wrong people of the wrong color to be living next door to her.

5. Ms. Seinar would regularly refer to Ms. Pallares as a "Mexican." I am familiar with Ms. Pallares' ethnic origin. She is a citizen of the United States, having been born here. Despite my correcting Ms. Seinar about what I considered to be a slur about Ms. Pallares, she persisted in calling her a Mexican.

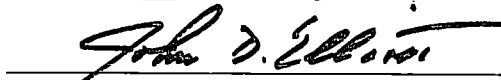
6. I have seen and observed Lisa Maseng take photographs of Ms. Pallares as I stood out with Ms. Pallares in her driveway, as recently as June of this year.

7. I have known Ms. Pallares for about thirteen (13) years. I have seen her go from being a very strong person to breaking down and crying uncontrollably due to the relentless attacks made upon her by Sharon Seinar and Lisa Maseng.


CHRISTINE OVERTURF

SWORN TO and Subscribed Before

Me this 4th day of August, 2008


_____(L.S.)
Notary Public for South Carolina
My Commission Expires 8-03-10

- 98 -

Mylott, Marc

From: Mylott, Marc
Sent: Thursday, April 27, 2006 7:39 AM
To: [REDACTED]
Cc: Coble, Bob; Sinclair, Anne; Austin, Charles Sr.; Gantt, Steven; Turner, Dana; Ruff, Julie; Lucius, Connie; Chambers, Johnathan; Kennett, Billy; Eikner, Carlton; Gober, Elizabeth
Subject: RE: [REDACTED] 4/27/06 Update

[REDACTED] as we understand, below are the issues you've raised most recently and our findings related thereto . . .

1. Brick wall. Prior to construction, Ms. Pallares applied for and received a permit. The wall complies with the Zoning Ordinance.
2. Bricks etc. in ROW. Following a written notice of violation, these items were removed from the ROW last week and stacked on Ms. Pallares' property. Ms. Pallares abated this violation within the short timeframe allowed her. Building materials related to construction may be stored on private property.
3. Banner/Billboard in backyard and tarps as "fences". Any text on the banner along the north side of the property has been so modified that it is not legible; as such, this item is not a sign. We do not prohibit the use of tarps as screening devices. And any fence or fence-like device located outside of the regulatory setback requirement (such as the 5-foot sideyard setback requirement) may rise to a height higher than what would otherwise be permitted within that setback.
4. Roof. Carlton Eikner has discussed the roof with Ms. Pallares and she intends to fix it. Mr. Eikner is arranging an inspection of the roof to determine whether or not the conditions constitute a violation or are aesthetic in nature.
5. Previous Court Order. We contacted Municipal Court regarding Docket #7577 on 6/30/04 -- City of Columbia vs. Ursalla Pallares. This case was "nol prossed" on 9/10/04 -- which means the City did not prosecute that case. As such, there would be no judicial order. Such actions on the part of code enforcement inspectors were common before I became the director -- essentially, the code enforcement inspector would drop the charge(s) when a property owner abated the violation(s) just prior to court. Obviously, this practice placed inspectors in the precarious and admittedly arbitrary position of choosing when to proceed with prosecution or dropping a case. With no clear guidelines for such a decision, I stopped this discretion. Any case that rises to the level of requiring the issuance of a summons will be heard in court, except that cases may be "nol prossed" upon suggestion of legal counsel.

In closing, I suspect that you are disappointed with the above report. However, while you may choose not to keep or otherwise adorn your property in the same manner as Ms. Pallares, she has abated the minor code violation (items in the ROW) and is not breaking any others laws (notwithstanding the outcome of an inspection of the back roof). Earlier this week, [REDACTED] wrote that it is time for "resolution, intervention and mediation", but please understand that we do not play that role -- especially mediation. From our perspective, either the property has a violation -- and we will seek to have it abated -- or it does not. If you have an issue with Ms. Pallares which you believe requires a mediation process or is somehow negotiable, you may wish to seek the assistance of an agency that specializes in such a function.

We will advise you of the outcome regarding the roof as soon as possible . . . best regards,
Marc

-----Original Message-----

From: Mylott, Marc
Sent: Monday, April 27, 2006 3:58 PM
To: [REDACTED]
Cc: Coble, Bob; Sinclair, Anne; Austin, Charles Sr.; Gantt, Steven; Turner, Dana; Ruff, Julie; Lucius, Connie; Chambers, Johnathan

ARREST WARRANT

K- 134747

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

COLUMBIA

THE STATE

against

Address: [REDACTED]

Phone: SSN:

Sex: Race: Height: Weight:

DL State: DL#:

DOB: Agency ORI#:

Prosecuting Agency: CITY OF COLUMBIA

Prosecuting Officer: THOMAS B

Offense: NUISANCE ANIMAL

Offense Code: 14-76

Code/Ordinance Sec. 14-76

This warrant is CERTIFIED FOR SERVICE in the

☐ County/ ☐ Municipality of

COLUMBIA. The accused is to be arrested and brought before me to be dealt with according to law.

Signature of Judge

(L.S.)

Date:

RETURN

A copy of this arrest warrant was delivered to defendant

on 09/21/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

COLUMBIA

Personally appeared before me the affiant [REDACTED] who being duly sworn deposes and says that defendant [REDACTED] did within this county and state on 09/21/06 violate the criminal laws of the State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of [REDACTED]) in the following particulars:

DESCRIPTION OF OFFENSE: NUISANCE ANIMAL

I further state that there is probable cause to believe that the defendant named above did commit the crime set forth and that probable cause is based on the following facts:

ON 9/25/05 AT 4:00 PM [REDACTED] COLUMBIA SC, THE AFFIANT STATED THE DEF'S DOG WAS CONTINUOUSLY BARKING AT THE REAR OF THE ABOVE ADDRESS FOR HOURS. UPON ARRIVAL AT THE INCIDENT LOCATION, THE P/D OBSERVED THE DOG CONSTANTLY BARKING CAUSING A DISTURBANCE IN THE NEIGHBORHOOD.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of

COLUMBIA

Affiant's Address 727 S. BOWEN ST

COLUMBIA SC 29205

Affiant's Telephone 803-733-1111

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that on [REDACTED] defendant [REDACTED] did violate the criminal laws of the State of South Carolina (or ordinance of [REDACTED]) ☐ County/ ☐ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: NUISANCE ANIMAL

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 09/21/06

[REDACTED]

(L.S.)

Ministerial Recorder

Judge Code: 14-76

Judge's Address CITY OF COLUMBIA, SC

MUNICIPAL COURT, 614 N. 14TH ST, COLUMBIA

Judge's Telephone

Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY

-100

ARREST WARRANT

K- 134746

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
COLUMBIA

 THE STATE
against

Address: [REDACTED]
 COLUMBIA, SC 29205
 Phone: _____ SSN: _____
 Sex: ☐ Race: ☐ Height: 5'06" Weight: 240
 DL State: _____ DL #: _____
 DOB: _____ Agency ORI#: SC04204100
 Prosecuting Agency: CITY OF COLUMBIA
 Prosecuting Officer: WHITE A
 Offense: NUISANCE ANIMAL
 Offense Code: NAC
 Code/Ordinance Sec. 4-7D

This warrant is CERTIFIED FOR SERVICE in the
☐ County/ ☐ Municipality of
 COLUMBIA. The accused
 is to be arrested and brought before me to be
 dealt with according to law.

Signature of Judge

(L.S.)

Date: _____

RETURN

A copy of this arrest warrant was delivered to
 defendant [REDACTED]
 on 09/01/06

Signature of Constable/Law Enforcement Officer

RETURN WARRANT TO:

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
COLUMBIA

AFFIDAVIT

 Form Approved by
 S.C. Attorney General
 April 21, 2003
 SCCA 618

Personally appeared before me the affiant [REDACTED] who
 being duly sworn deposes and says that defendant [REDACTED]
 did within this county and state on 09/04/2006
 State of South Carolina (or ordinance of ☐ County/ ☐ Municipality of COLUMBIA)
 in the following particulars:

DESCRIPTION OF OFFENSE: NUISANCE ANIMAL

I further state that there is probable cause to believe that the defendant named above did commit
 the crime set forth and that probable cause is based on the following facts:

ON 1/04/05 AT 427 [REDACTED] COLUMBIA SC, THE AFFIANT STATED THE
 DEF'S DOB WAS CONTINUOUSLY BARKING AT THE REAR OF THE ABOVE ADDRESS
 FOR HOURS. UPON ARRIVAL AT THE INCIDENT LOCATION, THE P/D OBSERVED
 THE DOB CONSTANTLY BARKING CAUSING A DISTURBANCE IN THE NEIGHBOOR
 HOOD.

Signature of Affiant

STATE OF SOUTH CAROLINA

☐ County/ ☐ Municipality of
COLUMBIA

Affiant's Address 327 E. ADVENTURE CT
 COLUMBIA SC 29205
 Affiant's Telephone 2545124

ARREST WARRANT

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR MUNICIPALITY OR ANY CONSTABLE OF THIS COUNTY:

It appearing from the above affidavit that there are reasonable grounds to believe that
 on 09/04/2006 defendant [REDACTED]
 did violate the criminal laws of the State of South Carolina (or ordinance of
☐ County/ ☐ Municipality of COLUMBIA) as set forth below:

DESCRIPTION OF OFFENSE: NUISANCE ANIMAL

Having found probable cause and the above affiant having sworn before me, you are empowered and directed to arrest the said
 defendant and bring him or her before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to
 the defendant at the time of its execution, or as soon thereafter as is practicable.

Sworn to and subscribed before me

on 09/04/2006

[REDACTED]

[REDACTED] (S.)

Ministerial Recorder

Judge Code: 4-20015

Judge's Address CITY OF COLUMBIA, SC
 MUNICIPAL COURT, P.O. BOX 644 29205

Judge's Telephone _____

 Issuing Court: ☐ Magistrate ☐ Municipal ☐ Circuit

DEFENDANT COPY

FILED

STATE OF SOUTH CAROLINA)

IN THE PROBATE COURT

COUNTY OF RICHLAND)

2007 MI40 0703

07 JUN -7 PM 3:30

EX PARTE)

SHARON SEINAR)

Petitioner,)

AMY W. McCULLOCH

PROBATE JUDGE

NOTICE OF PETITION
FOR EXAMINATION

NOTICE OF HEARING

NOTICE OF RIGHT TO COUNSEL

IN THE MATTER OF:)

Ursula Pallares,)

An Alleged Mentally Ill Person)

TO: Ursula Pallares, An Alleged Mentally Ill Person.

You are hereby notified that on May 18, 2007 a Petition was filed in the Probate Court for Richland County, South Carolina, alleging that you, Ursula Pallares are a mentally ill person in need of involuntary commitment for treatment.

ORDER FOR EXAMINATION

YOU ARE THEREFORE ORDERED to submit to an examination by two Court Appointed examiners. This examination will take place at **Columbia Area Mental Health Center 2015 Marion Street, , Columbia, SC at 11:00 AM on June 18, 2007.**

If you fail to appear for the examination, the Court will require a law enforcement officer to take you into custody for a period not to exceed twenty-four hours during which time you will be examined.

IT IS FURTHER ORDERED that DILLIHAY, TANYA C., MD, a licensed physician and HIGGINS, JOHN, MSW are appointed as designated examiners to perform the examination and report their findings to the Court.

NOTICE OF HEARING

YOU ARE FURTHER NOTICED that a hearing will be held on your case on June 21, 2007 at 09:00 AM at William S. Hall Institute 1800 Colonial Drive, Conference Room G, Columbia SC. THIS IS YOUR OFFICIAL NOTICE.

YOU ARE NOTIFIED that you have the right to be represented by Counsel in this proceeding. You can hire an attorney to represent you in this proceeding. YOU ARE FURTHER NOTIFIED that if you do not hire an attorney to represent you, this Court will appoint an attorney for you.



Director of Commitment Division
Richland County Probate Court

Columbia, South Carolina
June 7th, 2007

PAGE 1

I, THE UNDERSIGNED EXAMINER, having been directed by Probate Court Order to do so, have examined the above-named person, considered previous hospitalization records and am of the opinion that the said individual:
(Check appropriate boxes.)

Lacks sufficient insight or capacity to make responsible decisions with respect to his/her treatment;

There is a likelihood of serious harm to self or others:

(1) ☐ INVOLUNTARY HOSPITALIZATION IS RECOMMENDED.

(2) ☐ INVOLUNTARY OUTPATIENT TREATMENT IS RECOMMENDED.

My recommendation is based on the following symptoms and specific examples of behavior:

(See reverse side which must be completed.)

All Information MUST be typed or clearly printed.

-103-

II. ☒ IS NOT MENTALLY ILL to such an extent that involuntary treatment is presently required.

My recommendation is based on the following observations and opinions:

Ursula Pallares does not appear to be mentally ill. She stated that 2 neighbors have been making allegations about her. Several allegations re her dog, items in her yard & other issues cited by the city of Columbus have been rectified. She reported taking pictures of the neighborhood as background location information for her attorney to assist her in dealing w/ the harassment. She has worked as a volunteer at Provena Hospital in the past & currently is self-employed as an interior designer, artist & translator. She denied all psychiatric symptoms & history. Her father was a psychiatrist at SCSH, now retired.

My recommendation for additional treatment on a voluntary basis is:

<u>Kath A. Ryan</u>	<u>Psych</u>		
SIGNATURE OF DESIGNATED EXAMINER	DEGREE	MEDICAL OR PROFESSIONAL LICENSE NO.	
<u>Kathleen A. Ryan</u>		<u>754-9763</u>	
TYPED OR PRINTED NAME OF DESIGNATED EXAMINER		PHONE NUMBER	
<u>1135 Carter St</u>	<u>Columbus</u>	<u>Rich</u>	<u>29204</u>
STREET ADDRESS	CITY	COUNTY	ZIP

NOTE: (1) "Mentally ill person" means a person afflicted with a mental disease to such an extent that, for his own welfare or the welfare of others or of the community, he requires care, treatment or hospitalization;

(2) "Likelihood of serious harm" means because of mental illness there is (1) a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior and serious harm to them or (3) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that the person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community;

All Information MUST be typed or clearly printed.

- II. ☒ IS NOT MENTALLY ILL to such an extent that involuntary treatment is presently required.

My recommendation is based on the following observations and opinions:

49 y.o. divorced female who denies any current mood or
 possible serious paranoia, no obsession, no STK. A hx.
 of any illness or substance abuse. Reports a domestic issue
 involving neighbors, she denies, stabbing / denies any threats.
 Has documented clearing her by going, reports they took
 pictures when going to court, placed tarp for privacy, now has
 planted trees. Gave references of Dr. Steve Brown + Dr. Tony
 Sauter; friends.

My recommendation for additional treatment on a voluntary basis is:

- follow up as needed
- has an attorney working on several issues

SIGNATURE OF DESIGNATED EXAMINER

DEGREE

MEDICAL OR PROFESSIONAL LICENSE NO.

T. Dilligan

PHONE NUMBER

STREET ADDRESS

CITY

COUNTY

ZIP

NOTE: (1) "Mentally ill person" means a person afflicted with a mental disease to such an extent that, for his own welfare or the welfare of others or of the community, he requires care, treatment or hospitalization;

(2) "Likelihood of serious harm" means because of mental illness there is (1) a substantial risk of physical harm to the person himself as manifested by evidence of threats of, or attempts at, suicide or serious bodily harm; (2) a substantial risk of physical harm to other persons as manifested by evidence of homicidal or other violent behavior and serious harm to them or (3) a very substantial risk of physical impairment or injury to the person himself as manifested by evidence that the person's judgment is so affected that he is unable to protect himself in the community and that reasonable provision for his protection is not available in the community;

All Information MUST be typed or clearly printed.

STATE OF SOUTH CAROLINA

COUNTY OF Richland

IN THE PROBATE COURT

EX PARTE:

Sharon Seinar / Lisa Maseng
Petitioner

PETITION FOR JUDICIAL ADMISSION

IN THE MATTER OF:

(PART D)

Ursula Pallares

An Alleged Mentally Ill Person

The undersigned respectfully shows to the Court:

1. That Ursula Pallares who is presently found or residing at407 [REDACTED] Street, Columbia Richland
Street or Route City County

South Carolina, is according to the information and belief of the undersigned, mentally ill, and because of this condition, should be so adjudged and treated. The reasons for this belief are as follows:

(Strike either a. or b., whichever is incorrect)

a. That said person has been examined by a designated examiner whose certificate is set out within, who states that said person is mentally ill and should be hospitalized or treated.

b. That said person has refused to be examined by a designated examiner; and that the following facts are set forth as the basis of undersigned's belief that said person is mentally ill; (state facts, not mere conclusions).

CONSTANTLY TAKING PICTURES OF THE NEIGHBORS FAMILY + FRIENDS, FOLLOWING NEIGHBORS WITH IN HER CAR WHERE THEY GO. STAYS OUTSIDE APARTMENTS AROUND HER CAR, STANDING BARRIERS AROUND THE SIDE + BACKYARD, PARKING CAR WITH HEADLIGHTS ON NEIGHBORS HOME. CONSTANTLY FOLLOWING NEIGHBORS WHEN THEY ARE WORKING IN THE NEIGHBORHOOD. SQUATTING IN THE BACKYARD TAKING PICTURES OF NEIGHBORS. STAYING @ THE NEIGHBORS HOME TAKING FOR PROLONGED PERIODS OF TIME. OVERLY OBSERVED BY NEIGHBORS + THEIR FAMILY ACTIVITIES. NEIGHBORS HAVE BEEN GETTING PROGRESSIVELY WORSE OFF. THE PAST 4/2/07.

2. That below are set out the names and addresses of those interested in or related to the alleged mentally ill person, these being his or her:

Spouse _____ Address _____
Husband or Wife

Legal Guardian _____ Address _____

Nearest Other Relative or Friend _____

Relationship _____ Address _____

3. WHEREFORE, the undersigned petitioner prays that the Court inquire into the condition of said person and adjudge him or her to be mentally ill, and order hospitalization for him/her in a South Carolina mental health facility for care and treatment or take such action as may be legally proper.

Dated this 15th day ofMAY, 2007at Columbia, South Carolina.Sharon Seinar / Lisa Maseng
Petitioner's Signature
Columbia, S.C. 29205 Columbia, S.C. 29205
AddressNeighbors

Relationship to Alleged Mentally Ill Person

NOTE: Pursuant to Section 44-17-510, and Section 44-23-10(21), S. C. Code, 1976, as amended, Petitioner must be a parent, guardian, spouse, adult next-of-kin, or nearest friend. If person is presently a patient of a public or private mental institution, petitioner may be the Superintendent of that institution.

NOTE: This Petition shall be served on the person and his attorney and, if no attorney, then on him and a member of his immediate family.

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE MAGISTRATES COURT
CIVIL CASE # 2007CV40106 1667

PLAINTIFF

ADDRESS

CITY

STATE

ZIP

TELEPHONE

VS

DEFENDANT

ADDRESS

CITY

STATE

ZIP

TELEPHONE

COMPLAINT & MOTION
FOR
RESTRAINING ORDER

DEFENDANT'S
COPY

COMPLAINT

1. The Harassment or Stalking occurred in

(COUNTY)

(STATE)

2. Plaintiff alleges that the following conduct occurred by the defendant on the times, dates and places listed below, and such conduct falls within the definition of:

(☒) HARASSMENT (Sec. 16-3-1700 (A)), or (☐) STALKING (Sec. 16-3-1700 (B) or (C)).

3. On 1/20, at 1:00 o'clock, PM, at See attached sheet (STREET ADDRESS)
which is in _____ County, _____, the conduct complained of occurred where
(STATE)
the defendant: _____

On _____, 20____, at _____ o'clock, _____ M., at _____ (STREET ADDRESS)
which is in _____ County, _____, the conduct complained of occurred where
(STATE)
the defendant: _____

On _____, 20____, at _____ o'clock, ____ M., at _____

(STREET ADDRESS)

which is in _____ County, _____, the conduct complained of occurred when
(STATE)
the defendant: _____

(State details of harassment/stalking and other facts and circumstances upon which relief is sought above.
Attach additional sheets if necessary.)

MOTION

4. Plaintiff requests: (Check one or more)

- ☒ a. That the defendant be temporarily enjoined from abusing, threatening to abuse, or molesting the plaintiff or members of the plaintiff's family.
- ☒ b. That the defendant be temporarily enjoined from entering or attempting to enter the plaintiff's place of residence, employment, education or other location.
- ☒ c. That the defendant be temporarily enjoined from communicating or attempting to communicate with the plaintiff in a way that would violate Article 17, Chapter 3, Title 16 of the 1976 South Carolina Code of Laws, as amended.

SWORN TO AND SUBSCRIBED BEFORE ME }

THIS 21st DAY OF June, 2007 }

Judy A Kader }

Notary Public for South Carolina }

My Commission Expires: 4-16-2015 }

[Signature]
Signature of Plaintiff or Person Filing on Behalf
of Plaintiff

NOTICE TO DEFENDANT: YOU HAVE THE RIGHT TO EMPLOY COUNSEL TO REPRESENT YOU.

PROOF OF SERVICE

Personally appeared before me _____, who, being duly sworn, says that he served the within Complaint & Motion for Restraining Order / Summons / Rule to Show Cause (circle all which apply) on the within named defendant personally by leaving with _____ a copy of the same at _____ in said County and State on the _____ day of _____, 19____, and that deponent is not a party to this proceeding.

Sworn to before me this _____

day of _____, 19____.

MAGISTRATE

Encounters with Ursula

DATE	TIME	2006 INCIDENTS
7/2/06	8:50 AM	Ursula walks towards the middle of the street while taking off her gloves trying to block my way. I slow down and veer to the right side of the street to go around her. She wanted to continue to try and speak with me but I was on my way to work and did not want to get into a discussion with her for I knew it was futile and the exchange would be fraught with unpredictable consequences as experienced in the past.
7/3/06	2:20 PM	Came home to take my dog Alex to the Vet. Ursula was in the front yard and get the usual glaring look. I wave hello at her and go home.
7/3/06	8:40 PM	Ursula stops working in her front yard and turns to glare at me with arm draped on shovel. I say, "Hello Ursula" and walk on to Sharon's house to walk her dogs.
7/3/06	9:30 PM	Walking home to my house from Sharon's house... Ursula is hosing down her white car, sees me and stops spraying her car. She again puts her hand on her hip and proceeds to give me her usual glaring look of contempt but this time she aims the spray nozzle towards me while mumbling something. She then proceeds to turn away and at the same time she sprays the hose at full force just missing me by the time I cross the street and step on the sidewalk. I said, "keep it up Ursula" while continuing to walk home.
7/7/06	7:00 PM	Just returning home from a long walk with my dogs. I had just rescued an abused dog a few days earlier to come home and live with me and was introducing her to her new surroundings and neighbors along the way. All in all, it was a pleasant evening until I neared my home. We were walking on the sidewalk towards my house. I could see that Ursula was speaking with my next door neighbor in my neighbor's front yard. They were just a few feet from the edge of the sidewalk. We continued on in our obedience training and stayed on the sidewalk for we were just one house away from home. Ursula turned towards us as we approached. Her expression was dower and menacing. Her posture was rigid and her arms folded high and tightly across her ample frame. She radiated such hatred that my new dog actually cowered behind me and was reluctant to pass by her. I managed to talk my dog through her fears within close proximity of Ursula. Ursula did not say a word - just stared.
DATE	TIME	2007 INCIDENTS
4/29/07	12:45 PM	My parents stopped by my house to visit me and parked in front of my closed gate. Ursula stops what she is doing to race to the corner of her front yard to water indiscriminately as she tried to overhear what we were saying. I took them on a tour of my yards to point out the new landscaping work that had been completed. All the while she stood in the same position, watering, and staring at us. Twenty minutes later, my parents concluded their visit with a fond chat and praise regarding what I had accomplished. Ursula hadn't deviated from her earlier stance, stare, or activity. If I didn't know better, that portion of Ursula's yard should be so soggy from the excessive watering while she continued her threatening paranoid behavior. Neither my parents nor I acknowledged her. I was too tired from working in my yard all morning to do that.

-///-

5/3/07	12:25 PM 12:50 PM	Came home for lunch. Parked my car in the driveway while I went out to the street to bring in my trash can and recycling bin. I looked up and Ursula was staring at me with a menacing look. I said "Hello Ursula" and she continued her cold stare and said nothing. Left home to return to work. Ursula continued her menacing stare at me as I proceeded to back out of my driveway. Feeling threatened, I addressed her as I stopped my car in the street directly across from her and said "Bye Ursula. You have a good day now." She continued her malicious stare and remained mute.
5/8/07	5:20 PM	I arrived home from work and stopped my car in front of my gate to unlock & open it. In getting out of my car to unlock my gate, I felt Ursula seething glare at me. When I looked down the street, my feeling was affirmed. There Ursula stood with her hands on her hips in a mute malicious stare at me. Feeling fed up with this behavior, I walked down the middle of the street towards her. I stopped in the middle of the street approx. 22 feet from her. I said to Ursula, "Ursula, do you have something that you want or need to say to me?" She said nothing and continued her stare and defiant posture towards me. I continued, "Ursula, if you don't need anything, why do you continue to watch me and stare at me?" Nothing. I continued, "Well, I want you to know that I am tired of you doing that and that I don't appreciate you staring at me when I am talking to my friends and family in my driveway or yard. I don't like you taking pictures of me either and I want all of it to stop! And if you don't stop doing that, I will have to take actions to make it stop." At that point, Ursula spoke by saying, "Thank you for that threat!" Then she started mumbling something else as I was walking away. I was almost back at my driveway when I turned back around and walked towards the same position that I was in the street before and said, Lisa: "Ursula, that was not a threat that was a request" Ursula: "No, no. Thanks. That's all I need." Lisa: I just want you to stop staring at me...(she cut me off in mid-sentence) Ursula: "Don't talk to me. I told you not to speak to me." Lisa: "Oh, let me be clear on this point – I can't speak to you but you can glare and stare at me all you want? Ok. That's it." At that point, I locked my gate and got back in my car and drove to the police station off of Garners' Ferry behind Big Lots and spoke with Officer H.F. Delage and his partner (803-343-8733/or 803-545-3500) about the situation at length. They said that they could have her arrested and thrown in jail for harassment but I declined on the basis that it was such a harsh remedy for the situation but agreed that if Ursula's behavior continued that I would call him. I left the station after approx. 30 minutes had transpired.
5/10/07	11:00 AM	As I backed my car out of my driveway, taking my dogs with me to run errands, I noticed that Ursula was in her front yard. As we drove past her, she jumped up from a seated position and moved quickly out of her yard, off of the curb to stand in front of her car. She stood there with one hand on her hip and the other on the front of her car watching me with a menacing mute stare.

5/16/07	1:25 PM	I drove home to meet with my landscaper who already had his crew hard at work when I got there. I stopped to unlock my gate and was aware that Ursula had stopped her "busy work" in the front yard to watch me with her intent glaring stare. After I had parked the car and spoke to the crew, I walked out to speak with the landscaper at his truck which was parked on S. Ravenel facing towards Rosewood. Ursula did not move from her frozen stance and remained glaring at me throughout my conversation with the landscaper which lasted approx. 15 minutes. Ursula leaned against her rake/shovel the entire time as she was glaring at me.
	5:25 PM	Again, coming home from work driving down my street, I saw Ursula and another neighbor standing on the street in front of Ursula's house talking. As I approached, the other neighbor walked away and Ursula turned to face me and rotated her stare and posture as I drove by into my driveway. Her posture was familiar now - a mute, menacing glare complemented by a rigid posture. Only change in the posture was where she placed her hands - on her hips, folded arms tightly folded across her chest, gripping yard utensils to prop her up.
6/18	5:36	Ursula was driving on the left side of the road heading towards me in my car. As I was going around a parked car to continued down the road to my house, Ursula sped up and purposely crossed my path and passed me inches away from my car. AS she passed me in her truck, she gave me her usual hateful stare.

Ms. Futures, although short in stature, is ample in size. Her continued noticeable presence near mine and my dogs is of great concern to me. Her obsessive interest in my activities and whereabouts is annoying. The state of her deplorable living conditions has necessitated visits from the City Code Enforcement Officers on numerous occasions. Sometimes those visits were due to neighbors reports to rectify the situation and other times they were follow up visits. Either way, Ursula retaliated against me and another neighbor, Sharon Reimer with seething hateful stares/glances, physical advancements, or other measures as earlier stated. It has been recommended by the police to have her shown in jail for harassment but I have thus far been reluctant to take such drastic measures.

My neighbor Sharon Seim^{my} 1 appealed to Emergency
Mental Health Services to have her reviewed for any
mental health imbalances and ~~admit~~^{went} through that process.
Today we found out that Lisa was not found
mentally ill and the case was dismissed. At the
junction, I can only ascertain that her actions
towards me are that of malice. Hence, I am
fearful of further retribution from her.

I just want her to stop her intimidation
tactics that have the potential to escalate to
something more egregious such as bodily harm.

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

2007CV401061667
CIVIL CASE NUMBER
IN THE MAGISTRATE'S COURT

SUMMONS
(RESTRAINING ORDER)

Lisa Ann Maseng

~~107 South Ravenel Street~~

Columbia, SC 292053950

PLAINTIFF(S)

VS.

Ursula R Pallares

~~107 South Ravenel Street~~

Columbia, SC 29205-3949

DEFENDANT(S)

TO: Ursula R Pallares, DEFENDANT:

The above named Plaintiff having filed a Petition for Restraining Order, copy attached.

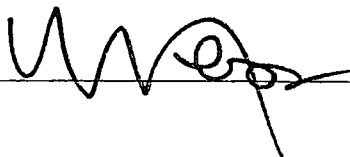
YOU ARE HEREBY SUMMONED TO APPEAR before the:

RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209

on 7/31/2007 at 10:30 AM to show cause why the Restraining Order prayed for by the Plaintiff should not be made.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.

JUDGE



Please be advised, the court shall assess a filing fee, \$80.00, against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.

July

5,

115
~~105~~

2007

ORIGINAL DOCUMENT
BLUE INK

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

IN THE MAGISTRATES COURT
CIVIL CASE # 2007CV40106 1668

PLAINTIFF

ADDRESS

CITY

STATE

ZIP

TELEPHONE

VS

DEFENDANT

ADDRESS

CITY

STATE

ZIP

TELEPHONE

COMPLAINT & MOTION
FOR
RESTRAINING ORDER

DEFENDANT'S
COPY

COMPLAINT

1. The Harassment or Stalking occurred in Richland (COUNTY), SC (STATE)

2. Plaintiff alleges that the following conduct occurred by the defendant on the times, dates and places listed below, and such conduct falls within the definition of:

(☒) HARASSMENT (Sec. 16-3-1700 (A)), or (☒) STALKING (Sec. 16-3-1700 (B) or (C))

3. On _____, 20____, at _____ o'clock, ____ M., at see attached form

which is in _____ County, _____ (STREET ADDRESS), the conduct complained of occurred when

the defendant: On going obsessive concern regarding my relationship with a top city official.

On _____, 20____, at _____ o'clock, ____ M., at _____

which is in _____ County, _____ (STREET ADDRESS), the conduct complained of occurred when

the defendant: _____

- 1- Beginning in 2006 Ms. Pallares would sit across from my home photographing me as I walked my dogs, arriving & leaving my home, walking to my neighbors. She also walks up to my driveway and records license tags of various vehicles at my home.
- 2- April 22 - See attached form about Rosewood Dairy Bar.
- 3- Fall of 2006 photographs my son as he is waiting on a ride to school. She does this from her yard & across the street from my home, I am not home!
- 4- 10-16-06 - Followed me in her car.
- 5- 12-29-06 - Stands in threatening manner ~~across~~ as I walk to neighbors home.
- 6- 2/10/07 - follows me in her vehicle as I walk my dogs on foot.
- 7- 2-2-07 - followed as I walked to Rosewood school to meet a friend.
- 8- 3-3-07 - drives by my home slowly staring as I work in my front yard. Her windows are dark.

tinted, so I can not see what she may have inside her vehicle. Just can see a shadow looking my way.

9- 5-12-07 continued to photograph me walking - she was crouched down in her bushes.

10 6-16-07 stands angrily out in the street & stares at me for 8-10 minutes as I clean my yard.

I am afraid for my safety & more so the safety of my children in my absence. She is becoming more aggressive & paranoid seeming. She verbally attacked Councilman Rickenmann because he appointed me to the "Climate Protection Action Committee" for the City of Cella.

She is large in stature & could cause damage to me & my children. My daughter is a new driver. I am concerned that if she does the same to her she may be frightened & wreck her car.

- She has followed me other times as I left my home, but I do not have dates.



Rosewood Dairy Bar

3003 Rosewood Drive
Columbia, SC 29205
803.252.1662
email: traviscreech@aol.com

5-1-06

From my point of view, on April 22, 2006
Mrs. Seinar purchased a icecream cone from our establish-
ment. She decided to sit outside and enjoy her cone. An-
other young lady who was already eating inside of our din-
ing room came outside and began taking pictures of Mrs.
Seinar and her vehicle. Mrs. Seinar then got up from the
picnic table and asked the young lady to stop taking pic-
tures. She then finished her cone, went to the restroom
and left the premises.

General Manager,

Travis Creech Sr.
Travis Creech Sr.

- 119 -
~~- 109 -~~

STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND

2007CV401061668
CIVIL CASE NUMBER
IN THE MAGISTRATE'S COURT

**SUMMONS
(RESTRAINING ORDER)**

Sharon Ray Seinar
[REDACTED]

Columbia, SC 292053947

PLAINTIFF(S)

VS.

Ursula R Pallares
[REDACTED]

Columbia, SC 29205-3949

DEFENDANT(S)

TO: Ursula R Pallares, DEFENDANT:

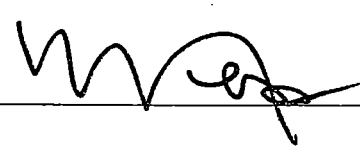
The above named Plaintiff having filed a Petition for Restraining Order, copy attached.

YOU ARE HEREBY SUMMONED TO APPEAR before the:

**RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, SC 29209**

on 7/31/2007 at 10:30 AM to show cause why the Restraining Order prayed for by the Plaintiff should not be made.

IF YOU FAIL TO APPEAR, the relief prayed for by the Plaintiff may be granted.


JUDGE

Please be advised, the court shall assess a filing fee, \$80.00, against the nonprevailing party in an action for a restraining order. The court may hold a person in contempt of court for failure to pay this filing fee.

July

3,

2007

- 120 -
~~110~~

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

2007V401061668
CIVIL CASE NUMBER

ORDER OF DISPOSITION

SEINAR

Sharon Ray Seninar

121 South Ravenel Street
Columbia, South Carolina 29205
1.803.254.5124

2:00pm

PLAINTIFF(S)

Vs

Ursula Pallares

121 South Ravenel Street
Columbia, South Carolina 29205
None Provided

Attorney John Elliott
1122 Lady Street - 5th Floor
Post Office Box 607
Columbia, SC 29202
1.803.252.9236

Restraining Order

DEFENDANT(S)

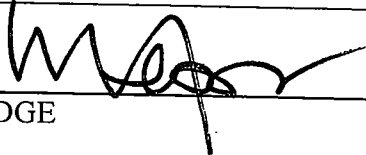
IT IS ORDERED that the above referenced civil case shall reflect a disposition of:

- ☐ Settled
- ☐ Dismissed
- ☐ Default Judgment
- ☐ Find for the Plaintiff for Summons and Complaint
- ☐ Find for the Plaintiff for Restraining Order
- ☒ Find for Defendant
- ☐ Transferred to another Court

On Tuesday, September 25, 2007, the party/parties to this action presented testimony and arguments. Based on the above information and findings of fact, an award was made to the Plaintiff/Defendant in the amount of \$ _____, plus filing fees of

\$ _____, for a total of \$ _____.

IT SO ORDERED


JUDGE

RICHLAND COUNTY Lykesland Magistrate
1403 Caroline Road
Columbia, South Carolina 29209
PHONE: 1.803.576.2500
FAX: 1.803.576.2504

121
111

WARNING NOTICE OF VIOLATION

The Municipal Code of the City of Columbia, SC, Sections 8-31, 8-32, 8-33, 8-34, 8-35, 8-301, 8-302, 8-303, 8-304 and 8-305, prohibits the following accumulations:

VIOLATION

Lots and premises are required to be properly cut and cleared of all overgrowth, undergrowth, trash, debris, vines, weeds, and rank vegetation. This includes hedge rows, ditches, fences, and around trees. Such accumulations of growth or debris have been found to be a health detriment by the City of Columbia.

FAILURE TO COMPLY WITH NOTICE

If the person, to whom the notice is directed, fails to comply with the City Ordinance(s) within (10) days after such notice is served, accumulations may then be removed by a duly authorized agent of the City, and the cost of doing so shall become a lien upon the property affected and shall be collected in the same manner as municipal taxes are collected.

According to the property ownership records, you are the owner of the property located at: 407 [REDACTED]

NAME: URSULA R. PALLARES

ADDRESS: 407 [REDACTED] ST COLUM, SC 29265

T.M.S. NUMBER: 13501-03-09

ISSUED NOTICE: 1-26-05

NOTICE EXPIRES: 2-9-05

REMARKS: Please remove all discarded items from driveway

IF NO ACTION HAS BEEN TAKEN WITHIN TEN (10) DAYS, YOU MAY BE SUBJECT TO THE PENALTIES PRESCRIBED FOR VIOLATIONS OF THIS ORDINANCE.

DATE: 1-26-05

ISSUING OFFICIAL: C.E. Eikne

CITY INSPECTIONS DEPARTMENT (803) 545-3430

- 122 -

POLICE

INCIDENT REPORT

INFORMATION ONLY

CASE NUMBER

NCIC

INQ. ENTD.

05-10528

INCIDENT TYPE NUISANCE ANIMAL ACC		COMPLETED ☒ YES ☐ NO	FORCED ENTRY ☐ YES ☒ NO	PREMISE TYPE Residence	UNITS ENTERED	TYPE VICTIM ☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Relig. Orgn. ☐ Soc./Public ☐ Other ☐ Unknown ☐ Police Off.
INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER) 407 [REDACTED] ST.		ZIP CODE 29205		WEAPON TYPE		
INCIDENT DATE 4-5-05	24 HR. CLOCK 1935	TO	DATE 4-5-05	24 HR. CLOCK 1940	LOCATION NO. 616	
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE) SAME		RELATIONSHIP TO SUBJECT ACG		RESIDENT ☒ YES ☐ NO	RACE J B O U	SEX W F
ADDRESS AS VICTIM		CITY Columbia		STATE SC	ZIP CODE 29205	LOCATION NO. 616
VICTIM'S NAME (LAST, FIRST, MIDDLE) FEINAR-SHARON		RELATIONSHIP TO SUBJECT ACG		RESIDENT ☒ YES ☐ NO	RACE J B O U	SEX W F
HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		
ADDRESS 407 [REDACTED] ST.		CITY Columbia		STATE SC	ZIP CODE 29205	LOCATION NO. 616
VISIBLE INJURY (VICTIM) ☐ YES ☐ NO ☐ EXPLAIN		COMPLAINT OF ANY NON-VISIBLE INJURIES: ☐ YES ☒ NO				
VICTIM (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☒ UNK		DRUGS: ☐ YES ☐ NO ☒ UNK		TYPE:		
TWO-MAN VEH. ☐		ONE-MAN VEH. ☒		DETECTIVE/PL. ASMT. ☐ OTHER ☐		
ALONE ☒		ASSISTED ☐		*J—This Jurisdiction. S—State. O—Out of State. U—Unknown.		
☐ SUSPECT		NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE
☐ RUNAWAY		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		ETH.	DATE OF BIRTH	HEIGHT
☐ WANTED		ADDRESS		STATE	ZIP CODE	LOCATION NO.
☐ VARRANT		CITY		DATE/TIME OF OFFENSE		
☐ ARREST		SUBJECT (NO. 1) USING: ALCOHOL ☐ YES ☐ NO ☒ UNK		ARRESTED NEAR OFFENSE SCENE ☐ YES ☐ NO		DATE/TIME OF ARREST
☐ JAIL		DRUGS: ☐ YES ☐ NO ☒ UNK		TOTAL # ARRESTED		
☐ COMMONS		TYPE:		DATE/TIME OF OFFENSE		
DAY OF THE WEEK		HOW REPORTED		A—OFFICER DISPATCHED ON CALL		
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COLUMBIA POLICE
SC0400100

SUPPLEMENTAL INCIDENT REPORT

CASE NUMBER

05-10528

NOIC
IND. ENTD.☒ ORIGINAL
REPORT
☐ MODIFIED
ORIGINAL☐ SUPPLEMENTAL
REPORT
☐ CASE STATUS
CHANGE☐ ADDITIONAL
VICTIMS
☐ ADDITIONAL
OFFENDERS☐ ADDITIONAL
STOLEN PROPERTY
☐ ADDITIONAL
RECOVERED PROPERTY

PAGE 2 of 2 PAGES.

VICT/SUBJ. ID-OVERFLOW	☐ COMPLAINANT	NAME (LAST, FIRST, MIDDLE) Pollare S. Ursula		VICTIM RELATIONSHIP TO SUBJECT: #1 Aca #2 #3			RESIDENT D O U	RACE H	SEX F	AGE 48	D.O.B. -	ETH. W	
	☐ VICTIM #	HEIGHT 506	WEIGHT 240	HAIR BLK	EYES BRN	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
VICT/SUBJ. ID-OVERFLOW	☐ SUBJECT #	ADDRESS 46 [REDACTED]		CITY Columbia	STATE SC	ZIP CODE 29205	LOCATION NO. 146	DAY PHONE 799-7854		EVENING PHONE			
	☐ RUNAWAY	☐ VICTIM NO.	VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLAMT. ☐ ALONE		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED		
VICT/SUBJ. ID-OVERFLOW	☐ WANTED	EXPLAIN:		SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES ☐ TYPE: UNK		DRUGS: ☐ NO ☐ YES TYPE: UNK					
	☐ WARRANT	NAME (LAST, FIRST, MIDDLE)		VICTIM RELATIONSHIP TO SUBJECT: #1 #2 #3			RESIDENT J S O U	RACE	SEX	AGE	D.O.B.	ETH.	
VICT/SUBJ. ID-OVERFLOW	☐ ARREST	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.							
	☐ JAIL	ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.	DAY PHONE		EVENING PHONE			
VICT/SUBJ. ID-OVERFLOW	☐ SUMMONS	☐ VICTIM NO.	VISIBLE INJURY: ☐ NO ☐ YES		COMPLAINT OF NON-VISIBLE INJURIES: ☐ NO ☐ YES		VICTIM USING ALCOHOL: ☐ NO ☐ YES ☐ UNK		☐ TWO-MAN VEHICLE ☐ DETECTIVE/SPLAMT. ☐ ALONE		☐ ONE-MAN VEHICLE ☐ OTHER ☐ ASSISTED		
	☐	EXPLAIN:		SUBJECT NO. : USING ALCOHOL: ☐ NO ☐ YES		USING DRUGS: ☐ NO ☐ YES ☐ TYPE: UNK		DRUGS: ☐ NO ☐ YES TYPE: UNK		J - This Jurisdiction. S - State. O - Out of State. U - Unknown			
NARRATIVE	WHILE REPORTING OFFICER WAS TALKING TO THE SUBJECT THE DOG WAS HEARD BARKING FOR ALMOST THE ENTIRE TIME. (THIRTY MINS. TO AN HOUR)												
VEH/GUN/ETC.	STATUS		TYPE		VIN AND/OR LICENSE NO.		BOAT HULL NO. AND/OR REG. NO.						
	☐ STOLEN	☐ VEHICLE	☐ RECOVERED	☐ GUN	☐ FOUND	☐ BOAT	☐ TOWED	☐ LICENSE PLATE	☐ SUSPECT	☐ SECURITIES/BONDS, STOCKS	☐ VICTIM	☐ ARTICLE	
PROPERTY EST.	YEAR OF REGISTRATION		YEAR OF EXPIRATION		YEAR		MAKE		TYPE				
	MODEL		STYLE		COLOR		BRAND NAME		CALIBER				
PROPERTY EST.	NIC NO.		DENOMINATION		ISSUER		SECURITIES DATE		MISCELLANEOUS				
	TYPE (GROUP)		SUBJECT IDENTIFIED		SUBJECT LOCATED		S.F. 47		ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED ☐		ARRESTED UNDER 18 ☐ EX-CLEAR UNDER 18 ☐		
PROPERTY EST.	STOLEN		DAMAGED		BURNED		RECOVERED		SEIZED				
	SON FOR EXCEPTIONAL CLEARANCE 1. ☐ OFFENDER DEATH 2. ☐ NO PROSECUTION 3. ☐ EXTRADITION DENIED 4. ☐ VICTIM DECLINES COOPERATION 5. ☐ JUVENILE - NO CUSTODY		REPORTING OFFICER'S		DATE		UNIT NUMBER		APPROVING OFFICER		DATE		
PROPERTY EST.	FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER		4/6/05		8719		RECORDS		FORM 2:81		

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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Richland County
In the Court of Common Pleas

Casey L. Manning, Presiding Judge

Case No. 2007-CP-40-6289

Ursula R. Pallares.....Appellant,

v.

Sharon R. Seinar and Lisa Maseng.....Respondents,

CERTIFICATE OF COUNSEL

Counsel certifies that the Record on Appeal, including its supplement, comply with Rule 210(g) of the South Carolina Appellate Court Rules and contains all material proposed to be included in the record, to the exclusion of any other material.


JOHN D. (JAY) ELLIOTT
Attorney for Appellant

Columbia, South Carolina

February 19th, 2013

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FEB 20 2013

SC Court of Appeals

STATE OF SOUTH CAROLINA

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CERTIFICATE OF SERVICE

Counsel certifies that the Record on Appeal was served on counsel for all parties by depositing a copy of the same in the United States Mail, postage prepaid, and addressed as follows, on the 22nd day of August, 2012:

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Columbia SC 29211-1209

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SC Court of Appeals