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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SUMTER COUNTY
Court of Common Pleas
R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2021-CP-43-00099
Appellate Case No. 2025-000630

Robert Allen Andrews,..... Respondent,

v.

City of Sumter and Sumter Police Department,..... Appellants.

RETURN TO RESPONDENT’S MOTION TO DISMISS

Pursuant to Rule 240 of the South Carolina Appellate Court Rules, Appellants City of Sumter (the “City”) and Sumter Police Department (the “Police Department”) submit this Return to the Motion to Dismiss filed by Respondent Robert Allen Andrews. Contrary to Respondent’s position, the orders on appeal are not run-of-the-mill interlocutory discovery orders. Instead, by deeming that seventeen (17) separate requests for admission to the City were admitted under Rule 36, SCRCF, the orders below decide substantial matters relating to the claims and defenses in this case, strike out portions of Appellants’ answer, and effectively prevent this case from being litigated on the merits. Thus, the orders are immediately appealable under S.C. Code Ann. § 14-3-330(1) and -330(2), and dismissal is improper. Further, the Court should deny Respondent’s

request for sanctions pursuant to Rule 269, SCACR. As the discussion below demonstrates, Appellants take this appeal to secure a trial on the merits, not to delay proceedings.

BACKGROUND

I. Respondent's claims against Appellants

Respondent is the owner and operator of “Andrews Small Engine,” a business located at 203 S. Main Street in the City of Sumter. This lawsuit arises from charges that were filed against Respondent after he drove his vehicle across a neighboring property, 130 S. Harvin Street, owned by the City. Specifically, on or about May 18, 2019, Respondent was observed driving across and damaging new turf in an open area abutting the City water department building.

Respondent does not deny driving across the City's lot. Instead, he asserts that he possessed a prescriptive easement across the City's property consisting of a “rear entrance” to his business. Respondent claims that because he, as well as vendors and customers, used the rear entrance since he purchased his property in 1988, a prescriptive easement existed in his favor. Compl. at ¶ 8. Respondent never recorded his supposed property interest prior to the City purchasing the 130 S. Harvin Street property and beginning construction on the City water department building in 2018.

Respondent claims that, during the spring of 2019, the City and the Police Department engaged in a “coordinated effort . . . to manufacture a criminal case against” him. Compl. at ¶ 14. Respondent alleges that those efforts involved a Police Department agent surveilling the area and taking a video of Respondent driving across the City's property. *Id.* On or about May 28, 2019, the municipal court issued a warrant for Respondent's arrest: No. 2019A4320100378, Malicious injury to animals, personal property, injury value \$2,000 or less, a violation of S.C. Code Ann. §

16-11-510(A). The same day, Respondent turned himself in and was released on a \$2,125.00 bond.

Approximately a year later, in May 2020, Respondent and the City reached an agreement concerning the charges and Respondent's desire for additional property to access his business. On May 26, 2020, the City sold Respondent an easement to access his business, referred to by the parties as the "side entrance," for \$20,000. Concurrently, Respondent's criminal charges were dropped and expunged, and Respondent's bond payment was refunded.

In this lawsuit, Respondent asserts causes of action against both Appellants for abuse of process, defamation, and civil conspiracy. Respondent also asserts a cause of action against Appellant Police Department for false imprisonment.¹ Appellants deny both liability and damages.

II. Procedural history and the orders on appeal

Respondent filed this lawsuit on January 22, 2021. Along with the summons and complaint, Respondent purports to have served separate sets of interrogatories, requests for production, and requests for admission on the City and the Police Department on January 27, 2021. A single cover letter addressed to both Appellants accompanied each service package. **Exhibit A** – Cover Letter and Service Package. Troublingly, the cover letter stated that the package contained discovery requests "for both the City and the Police Department." *Id.* Apparently, unbeknownst to Appellants, the packages actually contained *separate* discovery requests to the City and the Police Department. Additionally, service on the City was supposedly accomplished via personal service on Carol Kirkland, an administrative assistant for the City.

¹ Respondent's malicious prosecution claim against the Police Department was dismissed under Rule 12(b)(6), SCRCF, on June 11, 2021.

The undersigned law firm was retained on behalf of both Appellants and provided the package served upon the Police Department.² Ex. A. On February 22, 2021, Appellants filed an answer to Respondent’s complaint. In the answer, Appellants asserted that the summons and complaint were not properly served upon Appellants. Answer at ¶ 31. The same day, consistent with their understanding that a single set of discovery responses had been served on the City and the Police Department, Appellants served “Defendants’ Responses to Plaintiff’s First Set of Requests for Admissions.” **Exhibit B** – Responses to Requests for Admissions.

On April 9, 2021, Appellants served a single set of responses to Respondent’s interrogatories and requests for production on behalf of the City and the Police Department. On April 20, 2021, Respondent’s counsel wrote a Rule 11 letter to Appellants discussing perceived deficiencies in Appellants’ discovery responses. Importantly, the letter did not raise any issue with Appellants’ joint response to the interrogatories and requests for production. In fact, the letter failed to inform Appellants that Respondent purported to serve separate discovery requests on the City and the Police Department. Nor did the letter directly state that Respondent believed responses to a set of requests for admission purportedly served on the City were overdue. Instead, the letter simply contained a footnote stating that “Plaintiff would note that he was only served responses to *Plaintiff’s Initial Requests for Admission to Defendant Sumter Police Department RTAs#1-14.*”

On May 6, 2021, Respondent filed a motion to compel. Like Respondent’s previous correspondence, the motion to compel did not raise any deficiencies with respect to Appellants’ joint discovery responses or otherwise put Appellants on notice that Respondent claimed to have

² Again, the cover letter for that service package was addressed to both the City and the Police Department and stated that it contained discovery responses “for both the City and the Police Department.”

served separate discovery requests on the City and the Police Department. The motion simply requested “an Order compelling Defendants to fully and adequately respond to the Plaintiff’s outstanding discovery requests by a date certain, curing all noted deficiencies.” The circuit court held a hearing on Respondent’s motion on August 30, 2021.

On September 14, 2021, the circuit court notified the parties that it was granting the motion and instructed Respondent’s counsel to prepare a proposed order. **Exhibit C** – Email Correspondence. On September 22, 2021, Respondent’s counsel circulated a copy of the proposed order, which incorporated a request for production specific to the City relating to employee personnel files. Counsel for Appellants promptly responded that he was unaware of any such request, as the request for production in his possession asked only for “personnel files for any agent/employee of the City of Sumter Police Department[.]” *Id.* Counsel for Respondent, via an email sent at 7:28 p.m. on September 22, 2021, responded by providing counsel for Appellant with copies of the separate requests for production to the City and the Police Department. Counsel for Respondent did not provide Appellants with any other separate discovery requests. At 8:25 p.m., counsel for Appellants responded and explained “[w]e only have one set of RFPs, one set of INTs, and one set of RFAs.” *Id.* Importantly, counsel for Appellants also stated, “**I do not have a copy, and have never seen a copy** until you emailed them to me at 7:28 pm this evening, **of any discovery specific to the City of Sumter.**” *Id.* (emphasis added). Despite the unequivocal statement that Appellants were not in possession of discovery requests specific to the City (other than the requests for production provided at 7:28 p.m.), Respondent did not provide Appellants with copies of the interrogatories or requests for admission to the City that were purportedly served along with the summons and complaint.

Instead, in the face of Appellants' lack of awareness concerning requests for admission to the City, Respondent chose to remain silent for nearly two more years. On June 26, 2023, Respondent filed a motion in limine and, for the first time, provided a copy of the requests for admission to the City and clearly informed Appellants of his contention that the requests for admission were overdue. **Exhibit D** – Requests for Admission to the City. In the motion in limine, Respondent argued that because the requests for admission to the City were never responded to, they were deemed admitted under Rule 36(a), SCRCP.

After being put on notice of the requests for admission to the City, Appellants responded by filing a motion to withdraw or amend the admissions on July 10, 2023. Pursuant to Rule 36(b), SCRCP, Appellants argued that amendment would subserve the presentation of the merits of the action and would not prejudice Respondent in maintaining his action. Appellants also argued that relief was warranted because service of process on the City was deficient and because of the confusion created by Respondent purporting to serve separate discovery requests on the City and the Police Department under a single cover letter. Appellants also filed a motion for summary judgment on July 10, 2023. In the motion for summary judgment, Appellants argued that Respondent's claim of a prescriptive easement failed as a matter of law. Appellants further argued that each of Respondent's causes of action failed.

The circuit court held a hearing on Respondent's motion in limine and Appellants' motion to amend/withdraw and motion for summary judgment on January 29, 2024. On August 9, 2024, the circuit court entered an order granting Respondent's motion and denying Appellants' motions. As to the requests for admission, the circuit court determined the requests were properly served on the City as indicated in an affidavit of service filed on February 2, 2021. The circuit court further found that the City "failed to carry its burden of demonstrating that the presentation of the merits

of this action will be subserved by withdrawal or amendment,” and that Respondent would be “prejudiced in maintaining his action on the merits by amendment or withdrawal.” Accordingly, the circuit court ruled that “Requests for Admission Nos. 1-17 to Defendant City are deemed ADMITTED.” The circuit also denied Appellants’ motion for summary judgment in the August 9, 2024 order. The circuit court determined a reasonable jury could find that Respondent possessed a prescriptive easement. The circuit court further determined material questions of fact existed to preclude summary judgment on Respondent’s claims for false imprisonment, abuse of process, defamation, and civil conspiracy.

On August 19, 2024, Appellants filed a motion to alter or amend pursuant to Rule 59(e), SCRCP, asking the circuit court to reconsider the August 9 order. On March 19, 2025, the circuit court denied Appellants’ motion to reconsider. Appellants filed their notice of appeal from the circuit court’s August 9, 2024, and March 19, 2025, orders on April 2, 2025. Respondent moved to dismiss this appeal the same day.

APPEALABILITY STANDARD

“The determination of whether a trial court’s order is immediately appealable is governed by statute.” *Morrow v. Fundamental Long-Term Care Holdings, LLC*, 412 S.C. 534, 537, 773 S.E.2d 144, 145 (2015). Although an appeal ordinarily may be pursued only after final judgment, *Hagood v. Sommerville*, 362 S.C. 191, 194, 607 S.E.2d 707, 708 (2005), section 14-3-330 provides appellate courts with jurisdiction to review certain categories of intermediate—or interlocutory—orders. *See EnerSys Delaware, Inc. v. Hopkins*, 401 S.C. 615, 617, 738 S.E.2d 478, 479 (2013) (noting “an order must fall within one of the enumerated subsections [of 14-3-330] to be immediately appealable”). Two such categories of intermediate orders that are immediately appealable are orders “involving the merits” under section -330(1) and orders “affecting a

substantial right” under section -330(2). “[A]n order that is not directly appealable will nonetheless be considered if there is an appealable issue before the [c]ourt and a ruling on appeal will avoid unnecessary litigation.” *Watson v. Underwood*, 407 S.C. 443, 459, 756 S.E.2d 155, 163 (Ct. App. 2014) (citation omitted).

ARGUMENT

I. The orders on appeal are subject to immediate review.

In his Motion, Respondent advances two arguments respecting appealability. He contends the circuit court’s August 9, 2024, and March 19, 2025 orders are not appealable because (1) the denial of summary judgment is not appealable and (2) discovery orders are not appealable. Appellants are mindful of these general appealability rules. *See Ballenger v. Bowen*, 313 S.C. 476, 477, 443 S.E.2d 379, 380 (1994) (holding an order denying a motion for summary judgment is not appealable); *Grosshuesch v. Cramer*, 377 S.C. 12, 30, 659 S.E.2d 112, 122 (2008) (holding that discovery orders, *in general*, are not immediately appealable). However, these rules do not operate to preclude an immediate appeal of the circuit court’s orders in this situation.

Assessing appealability, the Court’s role “is not constrained by how the order is styled.” *Morrow*, 412 S.C. at 539, 773 S.E.2d at 147. Rather, “an appellate court should look to the effect of an interlocutory order to determine its appealability[.]” *Thornton v. S.C. Elec. & Gas Corp.*, 391 S.C. 297, 304, 705 S.E.2d 475, 479 (Ct. App. 2011); *see also Morrow*, 412 S.C. at 538, 773 S.E.2d at 146 (“By its nature, the question of whether an order is immediately appealable is determined on a case-by-case basis.”). Here, performing that analysis, it is clear that the orders deeming 17 requests for admission as admitted are subject to immediate review. With the requests admitted, several key aspects of the litigation relating to Respondent’s claims and Appellants’ defenses have been “conclusively established” for the duration of the case. Rule 36(b), SCRPC.

Thus, as Appellants will now show, the orders are subject to immediate review under S.C. Code Ann. § 14-3-330(1) and -330(2).

A. The circuit court's orders involve the merits and are appealable under -330(1).

An order “involves the merits” and is therefore immediately appealable under § 14-3-330(1) when it “finally determines some substantial matter forming the whole or a part of some cause of action or defense.” *Mid-State Distributors, Inc. v. Century Importers, Inc.*, 310 S.C. 330, 334, 426 S.E.2d 777, 780 (1993) (cleaned up). Here, by deeming the requests for admission to the City as admitted, the orders conclusively established several threshold issues central to Respondent's claims and Appellants' defenses. Review of the requests for admission that were the subject of the circuit court's order makes this clear. *See* Ex. D (requests for admission).

Requests 1 and 2 establish that Respondent did not commit the offense(s) for which he was charged.

1. Admit that Allen Andrews never maliciously injured animals, personal property, i.e., S.C. Code § 16-11-510.
2. Admit that Allen Andrews never maliciously injured tree, house or trespassed upon real property, i.e., S.C. Code § 16-11-520.

As noted above, on or about May 28, 2019, the municipal court issued a warrant for Respondent's arrest: No. 2019A4320100378, Malicious injury to animals, personal property, injury value \$2,000 or less, a violation of S.C. Code Ann. § 16-11-510(A). As Respondent alleges in his complaint, the Police Department later contemplated charging Respondent under S.C. Code Ann. § 16-11-520(A) (trespass upon real property of another), prior to the dismissal and expungement of Respondent's charges. In deeming requests for admission 1 and 2 admitted, the circuit court's order conclusively established that Respondent did not violate either § 16-11-510 or § 16-11-520. In doing so, the order determined a threshold issue forming a part of Respondent's cause of action for false imprisonment. *See Jones v. City of Columbia*, 301 S.C. 62, 64, 389 S.E.2d

662, 663 (1990) (“The essence of the tort of false imprisonment consists of depriving a person of his liberty without lawful justification.”). The order also eliminated a defense otherwise available to Appellants in opposing Respondent’s defamation claim. *See Beckham v. Sun News*, 289 S.C. 28, 30, 344 S.E.2d 603, 604 (1986) (explaining that truth is an affirmative defense to a defamation claim).

Requests 3, 4, 5, and 6 establish that Respondent possessed a prescriptive easement over the City’s property via the “rear entrance.”

3. Admit that Allen Andrews (personally and through his customers and vendors) had used the rear-entrance to his property continuously and uninterrupted for more than twenty (20) years.
4. Admit that Allen Andrews’ use of the rear-entrance to his property was identifiable as a rear-entrance.
5. Admit that Allen Andrews’ use of the rear-entrance of his property as referenced in the complaint was adverse under claim of right.
6. Admit that Allen Andrews had a legal right to access his property located at 203 S. Main Street, Sumter, South Carolina through the rear of the property.

An integral part of both Respondent’s claims and Appellants’ defenses in this matter is whether Respondent obtained a prescriptive easement over the City’s property. Respondent contends that because he possessed such an easement, he was wrongfully arrested for driving over the City’s property. Respondent further contends Appellants pursued charges against him for the ulterior purpose of forcing him to purchase a property right that Respondent already possessed. Of course, Appellants contend that because Respondent did not possess a prescriptive easement, it was proper to arrest Respondent after he drove over and damaged the City’s property.

To establish a prescriptive easement under South Carolina law, the claimant must prove by clear and convincing evidence: “(1) the continued and uninterrupted use or enjoyment of the right for a period of 20 years; (2) the identity of the thing enjoyed; and (3) the use [was] adverse under

claim of right.” *Simmons v. Berkeley Elec. Coop., Inc.*, 419 S.C. 223, 229, 797 S.E.2d 387, 390 (2016) (citation omitted). Requests 3, 4, and 5 establish each of these elements. And, if there was any doubt, request 6 further establishes that Respondent “had a legal right to access his property” via the rear entrance. Plainly, the orders on appeal involve the merits because they conclusively establish that Respondent possessed a prescriptive easement.

Requests 8 and 9 establish that the City requested that the Police Department investigate Respondent for an ulterior purpose.

8. Admit that the City of Sumter never complained to law enforcement that Andrews’ use of the rear-entrance to his property was criminal and/or harmful conduct until after Andrews refused the City’s offers to purchase his property.
9. Admit that the City of Sumter requested the City of Police Department investigate Andrews as a result of Andrews’ refusal to sell his property to the City.

Respondent’s abuse of process cause of action requires him to prove “an ulterior purpose and a willful act in the use of the process not proper in the regular course of the proceeding.” *Whitfield Const. Co. v. Bank of Tokyo Tr. Co.*, 338 S.C. 207, 223, 525 S.E.2d 888, 897 (Ct. App. 1999) (citation omitted). Requests 8 and 9 establish that the City asked the Police Department to pursue criminal charges against Respondent after he refused to sell his property. That is an “ulterior purpose” supportive of Respondent’s abuse of process claim. Thus, the circuit court’s order involves the merits because it establishes facts that prove a necessary element of one of Respondent’s causes of action.

Requests 12 and 13 establish that Respondent did not cause any damage when he drove over the City’s property.

12. Admit that Andrews’ conduct did not damage the City’s property on May 18, 2019.
13. Admit that there was never any repair work needed by the City for any damage alleged to have occurred on May 18, 2019 to the City’s property.

Like requests 1 and 2, these requests establish key facts integral to the claims and defenses surrounding Respondent's false imprisonment and defamation causes of action. Namely, requests 12 and 13 conclusively establish that Respondent did not damage the City's property, thus eradicating part of the basis for Respondent's arrest warrant. *See* Compl. ¶ 16 (discussing sworn affidavit stating that Respondent caused approximately \$1400 in damage to the City's lot); S.C. Code Ann. §§ 16-11-510 (malicious injury to personal property), -520 (malicious injury or trespass upon real property). Again, these admissions support Respondent's false imprisonment claim by establishing that the arrest warrant was invalid and preclude Appellants from maintaining truth as an affirmative defense to Respondent's defamation claim.

Requests 11, 15, and 16 establish that the City utilized criminal proceedings against Respondent for an ulterior purpose.

11. Admit that the City of Sumter requested that Andrews agree not to pursue any civil claims in order to have the criminal charges against him dismissed.

15. Admit that the City was aware an agreement had been reached to resolve the property dispute and dismiss the criminal charges for \$15,000.

16. Admit that the City decided to renege on the agreement to resolve the property dispute for \$15,000 and instead demanded \$20,000.

These requests establish that the City utilized criminal proceedings against Respondent for two ulterior purposes: to preclude Respondent from pursuing civil claims against the City and to encourage Respondent to purchase an easement from the City. Once again, these requests prove a necessary element of Respondent's abuse of process claim, which requires Respondent to prove an ulterior purpose not proper in the regular course of the proceeding. *See Whitfield Const.*, 338 S.C. at 223, 525 S.E.2d at 897.

As the above discussion demonstrates, the circuit court’s orders conclusively establish numerous “substantial matter[s] forming the whole or a part of some cause of action or defense” and therefore involve the merits under section 14-3-330(1). *Mid-State Distributors*, 310 S.C. at 334, 426 S.E.2d at 780. Namely, the orders establish necessary elements of several of Respondent’s causes of action and preclude Appellants from raising certain affirmative defenses. Additionally, the orders conclusively establish that Respondent possessed a prescriptive easement over the City’s property via the rear entrance—a threshold issue relating to the propriety of the charges brought against Respondent. As such, the circuit court’s orders effectively operate as a grant of partial summary judgment to Respondent on several key issues. *See* Rule 56(a), SCRPC (“A party may move for summary judgment, identifying each claim or defense—or *the part of each claim or defense*—on which summary judgment is sought.” (emphasis added)); *Link v. Sch. Dist. of Pickens Cnty.*, 302 S.C. 1, 6, 393 S.E.2d 176, 179 (1990) (holding an order granting partial summary judgment is immediately appealable).

Further, the circuit court’s orders are immediately appealable under this Court’s decision in *Cooke v. Palmetto Health Alliance*, 367 S.C. 167, 624 S.E.2d 439 (Ct. App. 2005). *Cooke* involved an immediate appeal from the circuit court’s interlocutory ruling that Cooke was not a statutory employee of Palmetto Health Alliance (“Hospital”) when he was injured. The Hospital appealed the circuit court’s ruling, and Cooke argued the order was not immediately appealable. This Court disagreed, holding the circuit court’s order involved the merits under section 14-3-330(1). Specifically, the Court held the order was appealable because it “finally determined a substantial matter forming a part of the Hospital’s defense[.]” 367 S.C. at 174, 624 S.E.2d at 442.

Here, Appellants have demonstrated that the circuit court's orders determine several substantial matters forming a part of both Respondent's claims and Appellants' defenses. Accordingly, the Court should find that the orders involve the merits and are immediately appealable under section 14-3-330(1).

B. The circuit court's orders affect a substantial right and are appealable under -330(2).

Under section 14-3-330(2), an order affects a substantial right and is appealable if it "strikes out an answer or any part thereof." "An order affects a substantial right by striking a pleading if the order removes a material issue from the case, thereby preventing the issue from being litigated on the merits, and preventing the party from seeking to correct any errors in the order during or after trial." *Thornton*, 391 S.C. at 304, 705 S.E.2d at 479. The orders here meet that test for appealability because they strike out portions of Appellants' answer, removing numerous material issues from the case and preventing those issues from being litigated on the merits.

In deeming the requests for admission as admitted, the circuit court's orders effectively strike out the portions of Appellants' answer denying the following allegations in Respondent's complaint.

- Paragraphs 6-8 (alleging that Plaintiff possessed a prescriptive easement over the City's property via the rear entrance)³
- Paragraph 14 (alleging that the City began a coordinated effort with the Police Department to manufacture a criminal case against Plaintiff)
- Paragraph 20 (alleging Appellants requested that Plaintiff agree not to pursue any civil claims in exchange for the dismissal of the criminal charges)
- Paragraph 25 (alleging Plaintiff could not be guilty of malicious injury to personal property under S.C. Code Ann. § 16-11-510)

³ These allegations were denied by Paragraph 4 of Appellants' answer.

- Paragraphs 26 and 27 (alleging Appellants agreed to dismiss the criminal charges for \$15,000 and later reneged and demanded \$20,000)
- Paragraphs 29 and 30 (alleging Plaintiff did not cause any damage to the City's property)
- Paragraph 32 (alleging Plaintiff was arrested on warrants that falsely claimed Plaintiff had caused malicious injury to animals and/or personal property and/or caused \$1400 damage)
- Paragraphs 38 and 48 (alleging Appellants threatened criminal prosecution to secure a release of civil liability, the purchase of an easement, and additional purchase funds)
- Paragraph 42 (alleging Appellants falsely accused Plaintiff of a crime)
- Affirmative Defense Fifteen (asserting truth as a defense to the defamation cause of action)

Although Appellants denied the foregoing allegations in their answer, these allegations are now conclusively established in Respondent's favor for the remainder of the litigation. Accordingly, Appellants will not be permitted to litigate the merits of several material issues in the case, including but not limited to, (i) whether Respondent possessed a prescriptive easement over the rear entrance, (ii) whether Respondent damaged the City's property, (iii) whether Respondent committed the offenses he was charged with, (iv) whether Appellants pursued criminal charges against Respondent for improper reasons. Accordingly, the circuit court's orders affect a substantial right by striking portions of Appellants' answer that are material and prevent litigation on the merits. *See* S.C. Code Ann. § 14-3-330(2); *Thornton*, 391 S.C. at 304, 705 S.E.2d at 479.

Looking beyond the way the circuit court's orders are "styled," *Morrow*, 412 S.C. at 539, 773 S.E.2d at 147, the Court should conclude the orders below are immediately appealable. As Appellants have explained, the orders conclusively decide numerous material issues central to the claims and defenses in play, strike out portions of Appellants' answer, and prevent the issues from

being litigated on the merits. Notably, the orders also severely prejudice the Police Department by conclusively establishing these material issues, even though the Police Department denied many of the same requests for admission that the circuit court ultimately deemed admitted. *See* Ex. B. This appeal should proceed so that Appellants may challenge the circuit court’s errant determination that presentation of the merits would not be subserved by allowing Appellants to amend the admitted requests for admission.⁴

II. The Court should deny Respondent’s request for sanctions.

Pursuant to Rule 269, SCACR, the appellate court may impose sanctions where an appeal “is frivolous or taken solely for the purposes of delay, or is not in compliance with these Rules.” In his Motion, Respondent requests the imposition of such sanctions, claiming that Appellants pursued this appeal for the “improper purpose of delaying, yet again, this case being tried before a Sumter County jury.” Mot. at 14. In support of that position, Respondent argues that “Appellants know their appeal is improper,” as Appellants’ counsel have previously been involved in other interlocutory appeals. Mot. at 12, 14. Respondent further argues that the timing of Appellants’ notice of appeal suggests the appeal was taken to delay trial. Mot. at 14.

Respondent falls woefully short of demonstrating that this appeal was taken with the goal of delaying proceedings, much less that the appeal was taken “solely for the purposes of delay.” Rule 269, SCACR. The discussion above makes clear that Appellants pursue this appeal to

⁴ Appellants’ appealability arguments focus on the portions of the circuit court’s orders discussing the requests for admission to the City. Appellants recognize that the portion of the order denying Appellants’ motion for summary judgment is not immediately appealable. However, Appellants respectfully request that the Court also review the circuit court’s summary judgment ruling because there is another appealable issue before the Court. *See Hite v. Thomas & Howard Co.*, 305 S.C. 358, 360, 409 S.E.2d 340, 341 (1991) (“[A]n order that is not directly appealable will nonetheless be considered if there is an appealable issue before the Court and a ruling on appeal will avoid unnecessary litigation.”), *overruled on other grounds by Huntley v. Young*, 319 S.C. 559, 462 S.E.2d 860 (1995).

preserve their right to litigate this case on the merits rather than being bound by sweeping admissions that would operate to prevent a jury from deciding the issues on the evidence presented at trial.

Respondents' arguments to the contrary are without merit. Respondent need not point to other cases to attempt to show Appellants' familiarity with the rules governing appealability. Appellants and the undersigned acknowledge those rules, including the "general" rule that discovery orders are not immediately appealable. *Grosshuesch*, 377 S.C. at 30, 659 S.E.2d at 122. However, Appellants rely on the case law recognizing that appealability is "determined on a case-by-case basis," *Morrow*, 412 S.C. at 538, 773 S.E.2d at 146, and Appellants would not take this appeal if they did not believe that the order is appealable under section 14-3-330.

Finally, Respondent's argument about the timing of Appellants' notice of appeal also fails to reveal any improper conduct. Appellants served and filed their notice of appeal on April 2, 2025—14 days after the circuit court's order denying their motion to reconsider. *See* Rule 203(b)(1), SCACR (providing a notice of appeal must be served within 30 days after receipt of notice of the order and a motion to alter or amend stays the time for appeal). Although Appellants acknowledge the appeal was taken shortly before the April 7 trial roster, that result was unavoidable in light of the timing of the circuit court's March 19, 2025 order and the scheduling of the roster. Again, however, Appellants do not pursue this appeal to delay proceedings; Appellants pursue this appeal with the goal of obtaining a trial on the merits.

CONCLUSION

For the foregoing reasons, the Court should deny Respondent's Motion in its entirety.

Respectfully submitted,

SMITH, ROBINSON, HOLLER,
DUBOSE & MORGAN, LLC

s/ Frederick N. Hanna, Jr.

David C. Holler, SC Bar #64312

Alexander W. Atkinson, SC Bar #103854

Frederick N. Hanna, Jr., SC Bar #104659

126 N. Main Street

Post Office Box 580

Sumter, South Carolina 29151

(803) 778-2471

david.holler@smithrobinsonlaw.com

alex.atkinson@smithrobinsonlaw.com

fred.hanna@smithrobinsonlaw.com

Attorneys for Appellants

April 14, 2025
Sumter, South Carolina

WUKELA LAW FIRM

Steve Wukela, Jr.
Benjamin D. Moore
Christi B. McDaniel
Stephen J. Wukela
Patrick J. McLaughlin
Pheobe A. Clark
Frank C. Swaggard

403 Second Loop Road
P.O. Box 13057
Florence, SC 29504-3057

January 22, 2021

(843) 669-5634
FAX (843) 669-5150

City of Sumter
c/o Deron McCormick, City Manager
P.O. Box 1449
21 N. Main Street
Sumter, SC 29150

Sumter Police Department
c/o Chief Russell F. Roark, III
P.O. Box 1119
335 N. Lafayette Dr.
Sumter, SC 29150

**RE: Robert Allen Andrews v. City of Sumter and City of Sumter Police Department,
 Civil Action No. 2021-CP-43-00099**

Dear Mr. McCormick and Chief Roark,

Please find enclosed for service a *Summons and Complaint* for the City of Sumter and City of Sumter Police Department. You have thirty (30) days to respond the Summons and Complaint.

Enclosed for service are also *Interrogatories and Requests for Production of Documents* for both the City and the Police Department. Pursuant to Rule 33(a) and Rule 34 (b) of the South Carolina Rules of Civil Procedure, you have 45 days to answer the Interrogatories and Requests for Production.

Enclosed for service are also *Requests for Admission* for both the City and the Police Department. Pursuant to Rule 36(a) of the South Carolina Rules of Civil Procedure, you have 45 days to respond to the Requests to Admit or they will be deemed admitted.

Please forward these documents to your respective insurance carriers and attorneys.

With kind, regards, I am

Yours truly,
WUKELA LAW FIRM

PATRICK J. MCLAUGHLIN

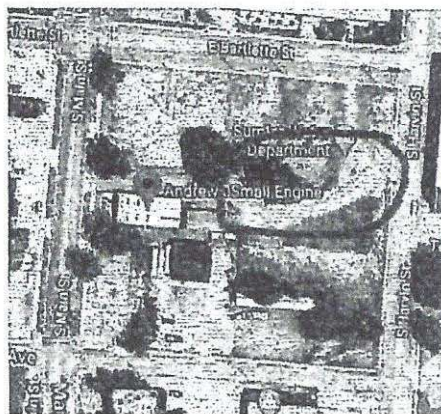
PJM/hkm
Enclosures

through its servants, agents and/or employees who were operating within the course and scope of their officially assigned and/or compensated duties.

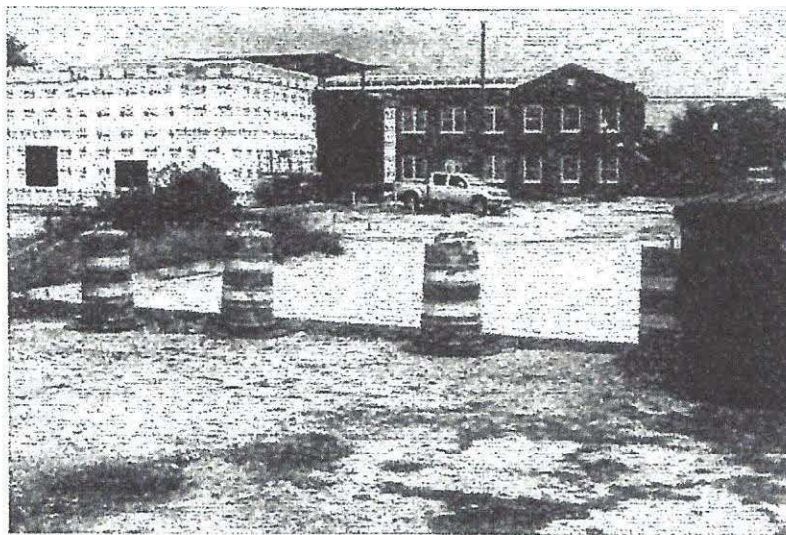
4. Venue in this Court is proper, as the most substantial acts and omissions giving rise to the causes of action occurred in Sumter County, South Carolina.

FACTUAL ALLEGATIONS

5. On or about March 1988, the Plaintiff purchased real property located at 203 S. Main Street in Sumter, South Carolina (hereinafter "property") and began operating Andrews Small Engine at the location.
6. Plaintiff is informed and believes that the previous owner of the property had regularly used a rear entrance to the property from S. Harvin Street. This rear entrance was an important feature when the Plaintiff purchased the property given the nature of his business. His customers often bring their small engine machines in to be repaired and use trailers to do so and he gets deliveries of equipment on large trucks. That made the dual entrance of the property vital and necessary to his business.
7. Throughout the life of his business operation at the property, the Plaintiff, his customers and vendors regularly used the rear entrance to the property from S. Harvin Street to the point that its use was clearly and obviously defined in Google Maps overhead images:



8. The Plaintiff is informed and believes that the marked and defined continued use of the rear-entrance by he and his customers for more than twenty (20) plus years created a prescriptive easement and/or an easement by implication for his property's use of the rear entrance.
9. That the City began purchasing the surrounding land around the property.
10. That in or about March 2017, the City offered the Plaintiff \$250,000 for the property.
11. Within weeks of the \$250,000 offer being declined by the Plaintiff, the City offered \$430,000 for the property. The Plaintiff declined that offer.
12. In or about July 2018, the City began construction on a new City Water department building located at 130 S. Harvin St. In doing so, the City began blocking the Plaintiff's rear entrance to his property. This included pouring a curb and putting up orange construction barrels:



13. Upon consultation with legal counsel, the Plaintiff continued to use his rear entrance, as he had for years, driving over the grass and around his blocked off rear entrance.
14. The Plaintiff is informed and believes that at some point during the spring of 2019, the City began a coordinated effort with SPD to manufacture a criminal case against the Plaintiff. These efforts involved using surveillance cameras at the Water Department to surveil the Plaintiff and culminated in SPD agent/employee Joe Lane being ordered to surveil and video

record the Plaintiff using his rear entrance in order to fabricate a criminal charge against the Plaintiff.

15. On or about May 28, 2019, the Plaintiff was informed that there was a warrant for his arrest and he could turn himself in. The Plaintiff turned himself in that day by reporting to Sumter County Detention Center. The Plaintiff was handcuffed and driven around to the front of the building, taken in and processed for Warrant No. 2019A4320100378, Malicious injury to animals, personal property, injury value \$2,000 or less, a violation of S.C. Code §16-11-0510(A).

16. That the sworn affidavit narrative provided by SPD's Lane on the arrest warrant states:

That on May 18, 2019 in the city/county of Sumter, one Robert Allen Andrews did willfully, unlawfully and maliciously do damage value \$2,000 or less to the property of victim, City of Sumter, located at 130 Harvin St., Sumter, SC, by driving a vehicle registered to the defendant over the newly sodded lot causing approximately \$1400 in damage to the lot. The defendant was observed by several witnesses, including Law Enforcement officer J. Lane. Law Enforcement will attest to same.

17. On or about May 28, 2019, the Plaintiff went before Sumter County Magistrate Judge Larry Blanding. Despite having no prior criminal record, being charged with a misdemeanor property crime that carried no more than thirty (30) days and/or a fine of not more than \$1000, having turned himself in, being a life-long resident of Sumter, having substantial familial and business ties to the community for decades and there being absolutely no evidence that the Plaintiff posed any flight risk or danger to the community, the Plaintiff was not afforded his statutory right to a personal recognizance bond pursuant to S.C. Code §17-15-10. Instead, bond was set at \$2,125 cash or surety.

18. Given the time of day that Plaintiff's bond was finally set, and representations made by the staff at the Sumter County Detention Center, Plaintiff was forced to scramble to secure the

assistance of a friend to get the cash for his bond up to the detention center and filed in time for him to be released without having to be incarcerated overnight. Plaintiff is informed and believes that this was barely accomplished within the time deadline for him to be released on May 28, 2019.

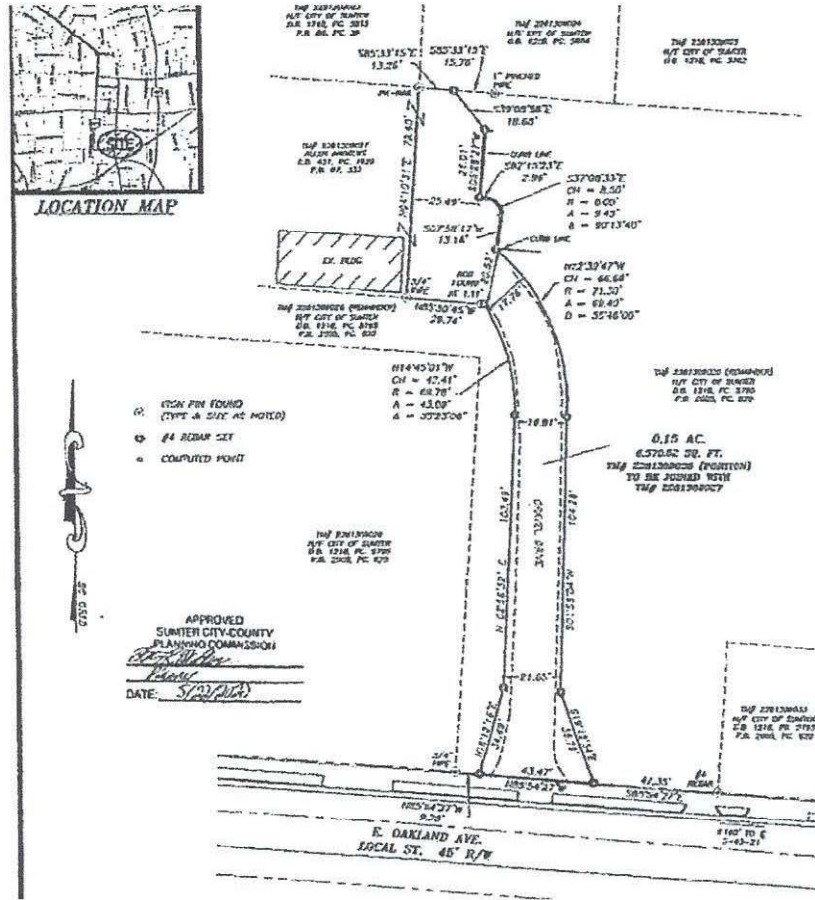
19. Due to the pending criminal charge, the Plaintiff was forced to retain the services of legal counsel, hiring attorney Marvin E. "Chip" McMillian, Jr. to defend him. The Plaintiff had to pay Attorney McMillian \$3,500 for that representation. As part of that representation, Attorney McMillian demanded a jury trial and filed Rule 5/*Brady* motions on behalf the Plaintiff.
20. Subsequent to the above, around the time of a roster meeting (which the Plaintiff believes occurred in early February 2020), Attorney McMillian and Russell F. Roark, III, the Chief of SPD, had a discussion wherein Chief Roark proposed an offer to resolve the criminal charges against the Plaintiff. That offer was for the Plaintiff to pay \$1400 to reimburse the City for the "damages" he had caused and execute a document stating the Plaintiff may or may not have caused damage and would not pursue any civil claims against the City/SPD and in exchange, the charges would be dismissed and his bond refunded. Chief Roark stated that there would be no more offers if this deal was not accepted.
21. The Plaintiff declined that offer under the belief that not only had he committed no crime, but that there had been no damage to City property. Plaintiff is informed and believes that information was relayed to Chief Roark by Attorney McMillian.
22. The Plaintiff is informed and believes that after receiving the information above about there actually not being any damage, Chief Roark subsequently offered to dismiss the charges and

refund the bond if the Plaintiff would execute a document stating the Plaintiff may or may not have caused damage and would not pursue any civil claims against the City/SPD.

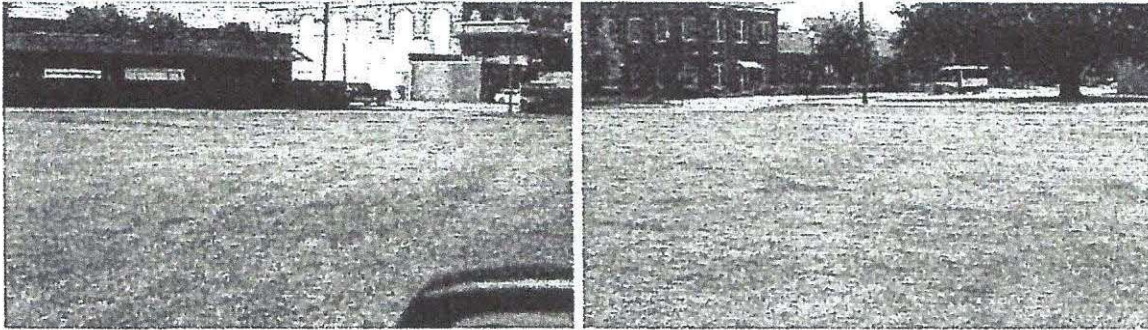
23. The Plaintiff declined that offer under the belief that not only had he committed no crime, but that there had been no damage to City property.
24. The Plaintiff is informed and believes the prosecution of his case was assigned to John Meadors, former Deputy Solicitor for the Third Judicial Circuit.
25. The Plaintiff is informed and believes that he appeared in court several times for appearances/the trial of his case. At one of these appearances, the City/SPD acknowledged they had charged the Plaintiff with a charge not supported by their own alleged facts, as he could not be guilty of malicious injury to animals or other personal property pursuant to S.C. Code §16-11-510(A) under the alleged facts. Instead of just dropping the charges and acknowledging that there had been no crime or damage to anything, the City and SPD continued the prosecution, informing the Court that they intended to pursue prosecution of the Plaintiff under another charge (believed by Plaintiff to be S.C. Code §16-11-520(A), Malicious injury to tree, house; trespass upon real property, injury value \$2000 or less).
26. The Plaintiff is informed and believes that the City made additional offers to him. One such offer was that if the Plaintiff would pay \$15,000.00 to purchase property for a rear entrance, and grant the city a right-of-first refusal should he ever sell his property, the charges would be dropped and his bond would be refunded. Plaintiff agreed with that offer.
27. Within about a week of accepting the \$15,000 offer, the Plaintiff was informed that it would now cost him \$20,000 to resolve the matter as had been previously proposed by the City. In other words, having seen that the Plaintiff was willing to pay \$15,000 to obtain the property

for the rear-entrance and dismissal of the criminal charges, the City decided to extort an additional \$5,000 out of him with the threat of continued prosecution.

28. Feeling forced to take the deal or face continued criminal prosecution, the Plaintiff acceded and paid \$20,000 to purchase from the City property for a rear entrance and dismissal of the criminal charges against him. This purchase was memorialized via a tax map rendering:



29. The Plaintiff is informed and believes that no damage was done to any real property by the alleged criminal conduct as evidenced by the fact that the City/SPD could never produce any proof of such damage and/or repair bills. In fact, the photographic evidence produced by the City/SPD does not show any such damage, let alone the \$1400 worth of damage claimed by Chief Roark in his initial offer to the Plaintiff and as sworn to on the arrest warrant:



30. The Plaintiff is informed and believes that the damage he was alleged to have caused (damage to grass) has actually been caused numerous times by the City itself, who has repeatedly driven on/parked heavy vehicles on the same grass that they alleged the Plaintiff damaged.

FOR A FIRST CAUSE OF ACTION

Common law claim of false arrest/imprisonment against Defendant SPD for the unlawful seizure, restraint, arrest and detention of the Plaintiff

31. The Plaintiffs incorporate by reference all previous allegations of fact and law as if repeated herein.
32. Defendant SPD is vicariously liable for the acts of their agents/employees acting within the course and scope of their employment. Defendant SPD, through their agents/employees, intentionally restrained the Plaintiffs' movement without lawful authority constituting the tort of false imprisonment and/or intentionally restraining the Plaintiff without probable cause and for arresting the Plaintiff without probable cause constituting the tort of false arrest. Specifically, but not limited to the fact that FCSO arrested and intentionally restrained the Plaintiff on warrants which falsely claimed the Plaintiff had caused malicious injury to animals and/or personal property and/or caused \$1400 damage.
33. As a direct and proximate cause of this illegal detention the Plaintiffs suffered damages as hereinafter set out.

FOR A SECOND CAUSE OF ACTION
Malicious Prosecution against Defendant SPD

34. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
35. Defendant SPD is vicariously liable for the acts of their agents/employees acting within the course and scope of their employment. Defendant SPD, through their agents/employees, maliciously prosecuted the Plaintiff. Specifically, but not limited to, the willful acts as described above of obtaining and serving arrest warrants based on false allegations against the Plaintiff; arresting him on those warrants, which demonstrates the institution or continuation of judicial proceedings against Plaintiff, at the insistence of Defendant SPD; that the proceedings were terminated in the Plaintiff's favor; that there was malice in instituting such proceedings; that there was a lack of probable cause; and that the Plaintiff suffered injury and damages as a result.
36. As a direct and proximate cause of this malicious prosecution, the Plaintiff suffered damages as hereinafter set out.

FOR A THIRD CAUSE OF ACTION
Abuse of Process against Defendants SPD and City

37. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
38. Defendants City and SPD are vicariously liable for the acts of their agents/employees acting within the course and scope of their employment. Defendants City and SPD, through their agents/employees, intentionally brought criminal charges and arrested the Plaintiff instituting criminal process against the Plaintiff. Defendants City and SPD then urged the continuation of that process for an ulterior purpose. Specifically, but not limited to, the willful acts as

described above in attempting to use the threat of criminal prosecution and conviction to secure:

- a. a release/waiver of civil liability, which is an improper purpose;
- b. the purchase of property for a rear-entrance, for which the Plaintiff arguably already had a legal right to, which is an improper purpose;
- c. the right-of-first refusal if the Plaintiff in the future wishes to sell his property, which is an improper purpose;
- d. the original \$15,000 purchase price for a rear-entrance, for which the Plaintiff arguably already had a legal right to, as well as the additional \$5,000 extracted after the Plaintiff had already agreed to the \$15,000 price.

39. As a direct and proximate cause of this abuse of process, the Plaintiff suffered damages as hereinafter set out.

FOR A FOURTH CAUSE OF ACTION
Defamation per se against Defendants City and SPD

40. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.

41. Defendants City and SPD are vicariously liable for the acts of their agents/employees acting within the course and scope of their employment.

42. The acts and conduct described above constitute false statements made by Defendants City and SPD, accusing the Plaintiff of a crime. As such, the statements are defamatory on their face.

43. The false and defamatory statements were published by Defendants City and SPD to third parties and made part of public records.

44. There was fault on the part of Defendants City and SPD in publishing these statements as they did so with knowledge of their falsity and/or reckless disregard as to whether or not they were true.
45. As a direct and proximate cause of this defamation, the Plaintiff suffered special harm as hereinafter set out, caused by the publication of the false statements and/or the conduct would be actionable irrespective of any special harm.

FOR A FOURTH CAUSE OF ACTION
Civil Conspiracy against Defendants City and SPD

46. The Plaintiff incorporates by reference all previous allegations of fact and law as if repeated herein.
47. Defendants City and SPD are vicariously liable for the acts of their agents/employees acting within the course and scope of their employment.
48. Defendants City and SPD, through their agents/employees, combined with agents/employees the Third Circuit Solicitor's Office for the purpose of injuring the Plaintiff, causing special damages to the Plaintiff. Specifically, but not limited to:
- a. the willful acts as described above in attempting to use the continued threat of criminal prosecution and conviction against the Plaintiff as leverage to extort waivers of civil liability;
 - b. the willful acts as described above in attempting to use the continued threat of criminal prosecution and conviction against the Plaintiff as leverage to extort cash payment for an easement when the Plaintiff arguably had a legal right to an easement given the long-time, continued use of the rear entrance;
 - c. the willful acts as described above in attempting to use the continued threat of criminal prosecution and conviction against the Plaintiff as leverage to extort an

additional cash payment for purchase of real property after the Plaintiff had already accepted the offer to purchase for \$15,000;

d. such other conduct as may be discovered and proven at trial.

49. As a direct and proximate cause of this civil conspiracy, the Plaintiff suffered damages as hereinafter set out.

DAMAGES

50. That as a direct and proximate cause of the negligent, reckless, willful and wanton conduct of the Defendants as described above, the Plaintiffs have suffered actual and consequential damages, including but not limited to:

- a. Physical Injury;
- b. Emotional Injury;
- c. Psychological Injury;
- d. Mental Anguish and Distress;
- e. Apprehension and Anxiety;
- f. Out-of-Pocket Expenses;
- g. Pain and Suffering;
- h. Attorney Fees and Court Costs in Defending the Criminal Charges; and,

51. Special harm due to the defamatory conduct of the Defendants, including but not limited to:

- i. Injury to Reputation and Standing in the Community;
- j. Embarrassment;
- k. Personal Humiliation;
- l. Mental Anguish and Suffering;

m. Wounded Feelings Caused by Injury to Reputation;

52. Special harm due to conspiring with each other in prolonging and continuing the criminal prosecution against the Plaintiff for improper purposes and extorting additional cash payment from the Plaintiff as described above.

53. Such other and further relief as a jury or the Court may deem appropriate.

WHEREFORE having fully set forth the grounds of his complaint Plaintiff asks this court to award compensatory damages in an appropriate amount and such other and further relief as this court deems just and proper.

WUKELA LAW FIRM

s/Patrick J. McLaughlin

PATRICK J. MCLAUGHLIN

S.C. Bar No.: 73675

P.O. Box 13057

Florence, SC 29504-3057

Telephone: 843-669-5634

Facsimile: 843-669-5150

Email: patrick@wukelalaw.com

KENT LAW FIRM

s/John L. Furse

JOHN L. FURSE

SC Bar No.: 102713

P.O. Box 117

Manning, South Carolina 29102

Phone: (843) 433-5368

jack@shaunkentlaw.com

ATTORNEYS FOR THE PLAINTIFF

Florence, SC
January 22, 2021

STATE OF SOUTH CAROLINA)
COUNTY OF SUMTER)
Robert Allen Andrews,)
Plaintiff,)
vs.)
City of Sumter and City of Sumter)
Police Department,)
Defendants.)

IN THE COURT OF COMMON PLEAS
THIRD JUDICIAL CIRCUIT

C/A NO.: 2021-CP-43-00099

**PLAINTIFF’S STANDARD AND FIRST
SET OF INTERROGATORIES TO
DEFENDANT CITY OF SUMTER
POLICE DEPARTMENT**

**TO: DEFENDANT CITY OF SUMTER POLICE DEPARTMENT AND THEIR
ATTORNEY**

The following Interrogatories are served upon you pursuant to Rule 33 of the South Carolina Rules of Civil Procedure. They are to be answered by you fully, in writing, under oath, and within the time provided by the South Carolina Rules of Civil Procedure, unless such time is extended by agreement or order from the Court.

INSTRUCTIONS

- A. These interrogatories seek all information known to or reasonably available to the Defendant(s), including without limitation, information known or available to any of their agents, employees, investigators, representatives of any kind, and all persons acting on their behalf, including, but not limited to, their attorneys.
- B. The pronouns “you” and “your” refer to the Defendant(s) to whom these Interrogatories are addressed and their employees, agents, representatives, and/or attorneys.
- C. These interrogatories are continuing in nature so as to require you to file supplemental answers at any time that you should obtain further or different information.

- D. "Document" means any handwritten, typewritten, printed, emailed, recorded, or graphic matter, however produced or reproduced, whether or not in the possession, custody or control of the Defendant(s), and whether or not claims to be privileged against discovery on any ground, including, but not limited to, reports, records, lists, memoranda, correspondence, telegrams, schedules, photographs, sound recordings, ledgers, books of account, catalogues, checks, check stubs, brochures, and written statements of witnesses of other persons having knowledge of the pertinent facts.
- E. Unless otherwise indicated, these interrogatories refer to the time, place, and circumstances of the occurrences mentioned or complained of in the pleadings.
- F. "Identify" or "identification" when used in reference to an individual person, means to state his/her full name, his/her present address, his/her present business address, and his/her present or last known position and business affiliation.
- G. "Describe" or "description," (i) when used in reference to persons or members of a class, means to identify each individual person or member of a class; and (ii) when used in reference to a document, means to state the following as to each document:
1. the nature and contents thereof;
 2. the date thereof;
 3. the date the document was executed if different from the date it bears;
 4. the name, address, and position of the author or signer;
 5. the name, address, and position of the addressee, if any;
 6. the present location thereof and the name, present address, and position of the person or persons having present custody thereof; and
 7. whether the document has been destroyed and. If so, with regard to such destruction: (a) the date thereof; (b) the reason therefore; and (c) the identity of the person or persons who destroyed the documents.

**STANDARD INTERROGATORIES APPROVED BY THE SOUTH CAROLINA
SUPREME COURT UNDER RULE 33(b), SCRPC**

S1. Give the names and address of all persons known to the Defendant 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 who has possession of such statements.

S2. Set forth a list of photographs, plats, sketches, or other prepared documents in possession of the Defendant that relate to your defense in this case.

S3. This Standard Interrogatory is not applicable as an interrogatory question to the Defendants.

S4. Set forth the names and addresses of all insurance companies which have liability insurance coverage relating to the claim and set forth the number or numbers for the policies involved and the amount or amounts of liability coverage provided in each policy.

S5. This Standard Interrogatory is not applicable as an interrogatory question to the Defendants.

S6. List the names and addresses of any expert witnesses whom the Defendant proposes to use as a witness at the trial of the case.

S7. For each person known to the Defendant or counsel to be a witness concerning the facts of this 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 witness.

S8. If Defendant is improperly identified, give the proper identification and state whether counsel will accept service of an amended summons and pleading reflecting the correct information.

INTERROGATORIES

1. For each witness you intend to call to testify on your behalf about any matters relevant to the issues in this case, identify the individual and describe the matters on which he/she will testify.
2. Identify all exhibits that you intend to use at the trial of this case.
3. For each expert witness you identified in response to Standard Interrogatory S6, identify the expert's field of expertise, describe his/her professional experience, present employer and position, the subject matter on which the expert is to testify, and, in detail, describe the substance of the findings and opinions to which the expert is expected to testify and a summary of the grounds for each, and attach a copy of all reports received from each expert.
4. If you contend that the Plaintiff(s), or anyone acting on their behalf, made an admission against their interests, state and describe this admission, including when and where the admission was made and identifying all persons who heard it.
5. If you contend that any person or entity acted or failed to act in a way which caused or contributed to the occurrence, identify that person or entity, state the facts upon which you believe that such person's actions or inactions caused or contributed to the occurrence, and identify all persons having knowledge of any of these facts.
6. State whether any report, claim and/or investigation was made/conducted involving the incident giving rise to the complaint, laying out the specifics such as who, what, when, where, why, and how any report, claim and/or investigation was made/conducted.
7. Please identify all communication accounts held by the Defendant and any Defendant employee/agent names as a witness at all times relevant to the matters complained of in the Complaint. Such a list should include all telephonic accounts, numbers utilized by said

witness (mobile and landline phones and pagers), all email accounts, all mailing addresses, all internet service providers. For each account/number listed, provide the service provider, named account holder, and billing address.

8. Please identify with specificity all communications between Sumter Police Department and the City of Sumter and/or any of its agents/employees about the Plaintiff and/or the criminal case and/or property dispute giving rise to this complaint. Such identification would include the who, what, when, where, and why of the communication.

9. Please describe with specificity the who, what, when, how, and why of the decision to bring criminal charges against the Plaintiff. Such description should include who was involved in this decision, when the decision process began, upon what information the decision was based, when the actual decision to dismiss was made, who made it, how and when it was communicated to the Plaintiff and/or his criminal defense counsel, how and when it was communicated to the Clerk of Court, how and when it was communicated to Sumter Police Department, and how, when, and to whom it was communicated to any other individuals/entities/agencies that the Defendant knows about.

10. Please describe with specificity the who, what, when, how, and why of the decision to surveil the Plaintiff's property located at 203 South Main Street. Such description should include who was involved in this decision, when the decision process began, upon what information the decision was based, what internal Sumter Police Department Policy was used to justify this decision, and how, when, and to whom it was communicated to any other individuals/entities/agencies that the Defendant knows about.

11. Please identify with specificity all communications between Sumter Police Department and/or any of its agents/employees and Solicitor Finney and/or any of his

agents/employees, including Assistant Solicitor John Meadors, about the Plaintiff and/or the criminal case giving rise to this complaint. Such identification should include the who, what, when, where, and why of the communication.

12. Please identify with specificity all communications between Sumter Police Department, City of Sumter, and/or any of its agents/employees and Judge Blanding and/or any of his agents/employees about the Plaintiff and/or the bond hearing in the criminal case giving rise to this complaint. Such identification should include the who, what, when, where, and why of the communication.

13. Please describe with specificity the factual basis by which the alleged damage caused by the Plaintiff that led to his arrest was assessed and valued. This description should include what facts the determination/assessment/valuation was based on, how those facts were obtained, by who those facts were obtained, what investigation was done to test the validity of those facts, what contradictory facts and evidence were considered and who was involved in making the ultimate decision that led to the assessment/valuation of the damage allegedly caused by the Plaintiff.

14. Please describe with specificity the factual basis by which the Plaintiff was identified as being involved in the alleged criminal conduct that led to the Plaintiff's arrest. This description should include what facts the determination/identification was based on, how those facts were obtained, by who those facts were obtained, what investigation was done to test the validity of those facts, what contradictory facts and evidence were considered and who was involved in making the ultimate decision that led to the criminal charges being brought against the Plaintiff.

15. Please describe with specificity any and all statements made at any time by any witness, complainant, victims, co-Defendants and/or informants that identified the Plaintiff as having participated in the criminal conduct as charged and/or complained of the Plaintiff. Such description should include the who, what, when, where, and why of the statement(s), identify how it was communicated/reported, identify who was present to witness its communication/reporting, describe what was done to check the validity of the statement, identify what evidence/facts were known to the State to contradict the statement/question its credibility and identify when the State ruled out the validity/credibility of the statement, the reason for that decision and who made that decision.

16. Please describe with specificity any and all offers made to the Plaintiff to resolve the criminal case against him. This would include any communications and/or discussions had by any agent/employee of the Sumter County Solicitor's Office, Sumter Police Department, and/or the City of Sumter.

17. Please describe with specificity any knowledge SPD had as to the plans the City of Sumter had to develop the Plaintiff's property located at 203 South Main Street.

18. Please describe with specificity any knowledge SPD had about any and all offers made by the City of Sumter to purchase the Plaintiff's property. Such description should include the who, what, when, how and why of the offers.

19. Please describe with specificity any knowledge SPD had about any and all evaluations the City had as to the value of the Plaintiff's property. This would include both formal and informal evaluations.

20. Please describe with specificity the surveillance investigation that was conducted on the Plaintiff's property. This should include the means by which the surveillance was

conducted, who conducted the surveillance, who requested the surveillance, who approved that request, the purpose of the surveillance and the specific dates and times at which the surveillance occurred, and the findings of the surveillance.

21. Please describe with specificity every interview, meeting, proffer session, and/or interrogation that was conducted with Plaintiff and/or witnesses, informants, and/or victims for the criminal case giving rise to this civil case. This should include the who, what, when, where, how, and why of any such event.

22. If your response to any of the Plaintiff's Requests for Admission is anything other than an unqualified admission, please state with specificity the basis for not providing an unqualified admission. E.g., state and identify the discovery (document, witness, etc.) which supports the response you did provide.

23. Identify by name and address all persons who assisted in the preparation of your Answers to these Interrogatories, including those persons consulted for pertinent information.

YOU WILL PLEASE TAKE NOTICE that these Interrogatories are continuing, and you are hereby required to file supplemental answers thereto in the event any additional information pertinent to the Interrogatories comes to your attention at a later date. **Further, pursuant to Rule 33, SCRCF, please see the attached Rule 33 verification, which should be executed and returned with your answers to these Interrogatories.**

WUKELA LAW FIRM
s/Patrick J. McLaughlin
PATRICK J. MCLAUGHLIN
S.C. Bar No.:73675
P.O. Box 13057
Florence, SC 29504-3057
Telephone: 843-669-5634
Facsimile: 843-669-5150
Email: patrick@wukelalaw.com

Florence, SC
January 22, 2021

KENT LAW FIRM
s/John L. Furse
JOHN L. FURSE
SC Bar No.:
P.O. Box 117
Manning, South Carolina 29102
Phone: (843) 433-5368
jack@shaunkentlaw.com

2. Provide a copy of any and all written and recorded statements taken from or produced by Plaintiff, Defendant or any witnesses, whether written or recorded, which relate in any way to the matters complained of in the Complaint.
3. Provide a copy of any and all insurance policies which have coverage related to the claim.
4. Provide a copy of any and all documents received as a result of a subpoena during the course of this litigation.
5. Provide a copy of any and all documents and tangible things which you might seek to introduce as exhibits for impeachment or demonstrative purposes at the trial of this case.
6. Provide a copy of any and all reports, opinions, correspondence, memorandum or other documentation provided to the Defendant or Defendant's attorneys from any expert consulted or retained by the Defendant in this litigation.
7. If you have a report from an expert witness, produce a copy of the same. Produce a complete copy of said expert witness' file; including but not limited to all memorandum, reports, correspondence, records and other documents said expert has considered with respect to this claim; and an up-to-date curriculum vitae for each expert witness.
8. Please provide a copy of any and all communications that in any way reference the Plaintiff, the investigation and/or criminal prosecution of the Plaintiff's criminal charges.
9. Provide a copy of any and all writings/documents/manuals/policies/procedures/digital files/electronic entries that are referenced, listed, described and/or relied upon or consulted by the Defendant or Defendant's counsel in the Defendant's Answers to the Plaintiff's Interrogatories (including all supplements thereto) and responses to Plaintiff's Requests for Admission.

10. Provide a full and complete copy of the case file for the Plaintiff. Such should include any and all notes, recordings, documents, data compilations, logs, video, audio and digital files/recordings and archived communications whether such communications be preserved hard-copy or digitally.
11. Please provide a copy of any contract between the City of Sumter Police Department and any individual and/or agency for the prosecution of criminal charges in magistrate and municipal courts.
12. Please provide a copy of any personnel files for any agent/employee of the City of Sumter Police Department referenced at all in the complaint and/or in your discovery responses.
13. If a claim of privilege is made concerning any of the above requests, please identify the statement, document, or item as to subject, date, to whom, from, or by whom, and an explanation as to why privilege is claimed.

WUKELA LAW FIRM
s/Patrick J. McLaughlin
Patrick J. McLaughlin
P.O. Box 13057
Florence, SC 29504-3057
Telephone: 843-669-5634
Facsimile: 843-669-5150
Email: patrick@wukelalaw.com

KENT LAW FIRM, LLC
s/John L. Furse
John L. Furse
P.O. Box 117
Manning, SC 29102
Telephone: 803-433-5370
Facsimile: 803-433-5298
Email: jack@shaunkentlaw.com

Florence, SC
January 22, 2021

Attorneys for the Plaintiff

An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested present a genuine matter for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

South Carolina courts recognize the importance of good faith when it comes to discovery. *See Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 473, 674 S.E.2d 154, 162 (2009) (defining “substantial need” under trade secrets act as, in part, a good faith basis that testimony based on or evidence derived from trade secret information will be admissible at trial); *Hundley v. Rite-Aid of South Carolina, Inc.*, 339 S.C. 285, 304, 529 S.E.2d 45, 55 (Ct. App. 2000) (in upholding discovery sanctions against a defendant while specifically finding defendant’s counsel acted in good faith in their attempt to comply with discovery); Rule 11 SCRPC (requiring an affirmation that all motions filed will contain an affirmation that the party has “attempted in good faith to resolve the matter contained in the motion”).

Often, in an effort to avoid having to respond to requests for admission, parties will seek to nitpick the language used in the request to absurd levels. To avoid such an absurd result, good faith has to include reason and common sense. To the extent there are any legitimate concerns about the definitions of words/terms used in the requests above, those concerns can easily be handled by qualifying a response to include the party’s own definition of a questioned term. *See McCoo v. Denny’s Inc.*, 192 F.R.D. 675, (D. Kan. 2000) (The party objecting to discovery as vague and ambiguous has the burden to show such vagueness or ambiguity. A party responding to discovery requests "should exercise reason and common sense to attribute ordinary

definitions to terms and phrases utilized in interrogatories." If necessary to clarify its answers, the responding party may include any reasonable definition of the term or phrase at issue).

"In reviewing the tenets of Rule 36(a), our courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party's pleadings." Scott v. Greenville Hous. Auth., 353 S.C. 639, 646, 579, S.E.2d 151, 154-155 (Ct. App. 2003), citing Hatchell v. Jackson, 290 S.C. 256, 349 S.E.2d. 407 (Ct. App. 1986). In Scott, the South Carolina Court of Appeals explained that:

The purposes of the rule is to save time and limit the issues in the case.

The rules function is to define and limit the matters in controversy between the parties.

Through such definition and limitation, admissions promote both efficiency and economy in resolving disputes. If a point is conceded, litigants need not expend effort in investigations concerning it nor incur expense in presenting evidence to prove it. Judicial administration is also aided. Admissions reduce the time required to try a case. Indeed, they often make summary judgment possible. Finally, admissions encourage litigants to evaluate realistically the hazards of trial, and thus tend to promote settlements.

The rule is intended to expedite trial and to relieve the parties of the cost of proving facts that will not be disputed at trial, the truth of which is known to the parties or can be ascertained by reasonable inquiry.^{8A} Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* §2552 (2d ed. 1994) (footnotes omitted); see also Langer v. Monarch Life Ins. Co., 966 F.2d. 786, 803 (3d. Cir. 1992) ("Rule 36 serves two vital purposes, both of which are designed to reduce trial time. Admissions are sought, first to facilitate proof with respect to issues that cannot be eliminated from the case, and secondly, to narrow the issues by eliminating those that can be.").

Some Federal courts have held that requests for admissions are not objectionable merely because they go to ultimate facts or other issues that must be proven by the plaintiff. See, e.g., Cereghino v. Boeing Co., 873 F. Supp. 398, 403 (D. Or.

1994) (holding “a request for admission under Rule 36, and a resultant admission, are not improper merely because they...relate to an ‘ultimate fact,’ or prove dispositive of the entire case.”). Scott at 649 - 650, 156.

Pursuant to Rule 37(c) of the South Carolina Rules of Civil Procedure, if a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admission thereafter proves the genuineness of the document or the truth of the matter, he may apply to the court for order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney’s fees.

1. Admit that Allen Andrews never maliciously injured animals, personal property, i.e., S.C. Code §16-11-510.
2. Admit that Allen Andrews never maliciously injured tree, house, or trespassed upon real property, i.e., S.C. Code §16-11-520.
3. Admit that there was no probable cause to arrest Allen Andrews for maliciously injuring animals, personal property, i.e., S.C. Code §16-11-510.
4. Admit that there was no probable cause to arrest Allen Andrews for maliciously injuring tree, house, or trespassing upon real property, i.e., S.C. Code §16-11-520.
5. Admit that Allen Andrews had a legal right to access his property located at 203 S. Main Street, Sumter, South Carolina through the rear of the property.
6. Admit that the City of Sumter Police Department investigated Allen Andrews at the request of the City of Sumter as a result of Andrews’ refusal to sell his property to the City.
7. Admit that the Sumter Department of Water video cameras were used to surveil Allen Andrews’s property located at 203 S. Main Street, Sumter, South Carolina.

8. Admit that Sumter Police Department Officer Joe Lane was a narcotics officer at the time that he conducted this investigation and arrested Allen Andrews.
9. Admit that the City of Sumter Police Department was instructed to bring criminal charges against Allen Andrews by the City of Sumter.
10. Admit that there was no evidence to support the \$1,400.00 of damage alleged in the arrest warrant's affidavit.
11. Admit that the affidavit used to support the arrest warrant issued against Allen Andrews falsely claimed Andrews had maliciously damaged animals, personal property causing approximately \$1400 in damage.
12. Admit that the City of Sumter Police Department had ex parte communications about Allen Andrews and/or his case with Judge Blanding prior to Andrews' bond hearing.
13. Admit that Andrews did not damage the City's property on May 18, 2019.
14. Admit that it is wrong to institute criminal charges and proceedings to gain leverage in a property dispute.

WUKELA LAW FIRM
s/Patrick J. McLaughlin
Patrick J. McLaughlin
P.O. Box 13057
Florence, SC 29504-3057
Telephone: 843-669-5634
Facsimile: 843-669-5150
Email: patrick@wukelalaw.com

KENT LAW FIRM, LLC
s/John L. Furse
John L. Furse
P.O. Box 117
Manning, SC 29102
Telephone: 803-433-5370
Facsimile: 803-433-5298
Email: john@shazunkentlaw.com
Attorneys for the Plaintiff

Florence, SC
January 22, 2021

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)
)
)
Robert Allen Andrews,)
)
)
vs.)
)
City of Sumter and Sumter Police)
Department,)
)
)
Defendants.)
_____)

**IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT**

C/A NO.: 2021-CP-43-00099

CERTIFICATE OF SERVICE

I **HEREBY CERTIFY** that the Plaintiff's First Set of Interrogatories, Requests for Production of Documents, and Requests to Admit were served upon the following by process server to:

Sumter Police Department
c/o Chief Russell F. Roark, III
Post Office Box 1119
335 N. Lafayette Drive
Sumter, SC 29150

KENT LAW FIRM, LLC
19 South Mill Street
Post Office Box 117
Manning, SC 29102
(803) 433-5368

By: Jaycie N. Wisor
Jaycie N. Wisor

Manning, South Carolina
January 25, 2021

SMITH ROBINSON

Forward thinking. Results driven.

Smith Robinson Holler DuBose and Morgan, LLC

COLUMBIA 2530 Devine Street, Columbia, SC 29205
P: 803.254.5445 F: 803.254.5007

SUMTER 126 N. Main Street, Sumter, SC 29151
P: 803.778.2471 F: 803.778.1643

CAMDEN 935 Broad Street, Camden, SC 29020
P: 803.432.1992 F: 803.432.0784

Reply To: Daniel C. Plyler
Columbia Office

February 22, 2021

Patrick J. McLaughlin, Esquire
Wukela Law Firm
Post Office Box 13057
Florence, South Carolina 29504-3057

John L. Furse, Esquire
Kent Law Firm
Post Office Box 117
Manning, South Carolina 29102

RE: Robert Allen Andrews v. City of Sumter and City of Sumter Police Department
Civil Action Number: 2021-CP-43-00099
Claim Number: SF-21-0077-0001
Date of Incident: May 18, 2019
Our File Number: 2200-0011

Dear Counsel:

Please find enclosed herewith and served upon you **Defendants' Responses to Plaintiff's First Set of Requests for Admissions** in regard to the above matter.

If you have any questions, please do not hesitate to give me a call.

Very truly yours,

SMITH ROBINSON



Daniel C. Plyler

DCP/mss
Enclosure

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SUMTER)	C/A NO.: 2021-CP-43-00099
)	
Robert Allen Andrews,)	
)	
Plaintiff,)	
)	DEFENDANTS' RESPONSES TO
vs.)	PLAINTIFF'S FIRST SET OF
)	REQUESTS FOR ADMISSIONS
City of Sumter and City of Sumter Police)	
Department,)	
)	
Defendants.)	
_____)	

**TO: PATRICK J. MCLAUGHLIN, ESQUIRE, AND JOHN L. FURSE, ESQUIRE,
ATTORNEYS FOR PLAINTIFF**

Pursuant to SCRCP 36, Defendant responds to Plaintiff's First Set of Requests for Admission, as follows:

REQUEST #1:

"1. Admit that Allen Andrews never maliciously injured animals, personal property, i.e., S.C. Code §16-11-510."

RESPONSE #1:

Denied.

REQUEST #2:

"2. Admit that Allen Andrews never maliciously injured tree, house, or trespassed upon real property, i.e., S.C. Code § 16-11-520."

RESPONSE #2:

Denied.

REQUEST #3:

“3. Admit that there was no probable cause to arrest Allen Andrews for maliciously injuring animals, personal property, i.e., S.C. Code §16-11-510.”

RESPONSE #3:

Denied.

REQUEST #4:

“4. Admit that there was no probable cause to arrest Allen Andrews for maliciously injuring tree, house, or trespassing upon real property, i.e., S.C. Code §16-11-520.”

RESPONSE #4:

Denied.

REQUEST #5:

“5. Admit that Allen Andrews had a legal right to access his property located at 203 S. Main Street, Sumter, South Carolina through the rear of the property.”

RESPONSE #5:

Defendants deny that Plaintiff had a “legal right” to cross their property in the manner he did in order to enter his property in the manner which he did.

REQUEST #6:

“6. Admit that the City of Sumter Police Department investigated Allen Andrews at the request of the City of Sumter as a result of Andrews' refusal to sell his property to the City.”

RESPONSE #6:

Denied.

REQUEST #7:

“7. Admit that the Sumter Department of Water video cameras were used to surveil Allen Andrews's property located at 203 S. Main Street, Sumter, South Carolina.”

RESPONSE #7:

Denied.

REQUEST #8:

“8. Admit that Sumter Police Department Officer Joe Lane was a narcotics officer at the time that he conducted this investigation and arrested Allen Andrews.”

RESPONSE #8:

Defendants would admit that Officer Joe Lane is a City of Sumter employee assigned as an Investigator and/or Detective as part of the City’s Police Department. Further responding, and by way of explanation, Defendant would admit that Officer Joe Lane’s duties include, in addition to investigating other crimes, the investigation of narcotics activities.

REQUEST #9:

“9. Admit that the City of Sumter Police Department was instructed to bring criminal charges against Allen Andrews by the City of Sumter.”

RESPONSE #9:

Denied as stated. Further responding, and by way of explanation, Defendants assert that charges were brought against Plaintiff after he was observed, repeatedly and intentionally, driving his vehicle over the City’s newly sodded lawn and newly installed irrigation systems.

REQUEST #10:

“10. Admit that there was no evidence to support the \$1,400.00 of damage alleged in the arrest warrant's affidavit.”

RESPONSE #10:

Denied.

REQUEST #11:

“11. Admit that the affidavit used to support the arrest warrant issued against Allen Andrews falsely claimed Andrews had maliciously damaged animals, personal property causing approximately \$1400 in damage.”

RESPONSE #11:

Denied.

REQUEST #12:

“12. Admit that the City of Sumter Police Department had ex parte communications about Allen Andrews and/or his case with Judge Blanding prior to Andrews' bond hearing.”

RESPONSE #12:

Denied.

REQUEST #13:

“13. Admit that Andrews did not damage the City’s property on May 18, 2019.”

RESPONSE #13:

Denied.

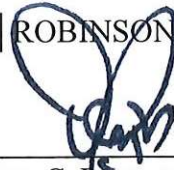
REQUEST #14:

“14. Admit that it is wrong to institute criminal charges and proceedings to gain leverage in a property dispute.”

RESPONSE #14:

Defendants would admit that it would be wrong to institute criminal proceedings and/or charges for the sole reason of gaining leverage in any civil dispute.

SMITH | ROBINSON



DANIEL C. PLYLER
2530 Devine Street
Columbia, SC 29205
T: 803-254-5445
F: 803-254-5007
Daniel.Plyler@SmithRobinsonLaw.com

Counsel for Defendants

Columbia, South Carolina
February 22, 2021

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF SUMTER)	C/A NO.: 2021-CP-43-00099
)	
Robert Allen Andrews,)	
)	
Plaintiff,)	
)	CERTIFICATE OF SERVICE
vs.)	
)	
City of Sumter and City of Sumter Police)	
Department,)	
)	
Defendants.)	
_____)	

The undersigned employee of Smith Robinson Holler DuBose and Morgan, LLC, attorneys for the Defendants, does hereby certify that service of the **Defendants' Responses to Plaintiff's First Set of Requests for Admissions** in the above-captioned action was made upon all counsel of record by placing same in the United States Mail, first class postage prepaid, at the below listed address clearly indicated on said envelope this the 22nd day of February, 2021, addressed as follows:

Patrick J. McLaughlin, Esquire
Wukela Law Firm
Post Office Box 13057
Florence, South Carolina 29504-3057

John L. Furse, Esquire
Kent Law Firm
Post Office Box 117
Manning, South Carolina 29102



Melissa S. Segear

From: [Daniel Plyler](#)
To: [Patrick McLaughlin](#); "[Cothran, Ralph F. Jr., Law Clerk \(Kimberly Land\)](#)"
Cc: [Taylor Richardson](#); [Myra Watson](#); [Murrell Smith](#); [Samantha Sanders](#)
Subject: RE: 2021cp4300099; Andrews v. City of Sumter
Date: Wednesday, September 22, 2021 8:37:01 PM
Attachments: [image004.png](#)
[image005.png](#)

Dear Judge Cothran and all:

I apologize for the multitude of emails, but I have corresponded with Mr. McLaughlin since my email referenced below, and I am writing to apologize and explain. In his emails to me tonight, he asserted that he had served separate sets of Requests for Production, one on the City of Sumter specific to the City of Sumter, and one on the City of Sumter Police Department specific to the City of Sumter Police Department. He then provided an affidavit of service from a process server indicating service on the City and the City's Police Department separately, and copies of those two sets of Requests for Production.

I made a detailed review of my firm's file on this case before sending my earlier email, and after receiving Mr. McLaughlin's subsequent correspondence, I made a second review of the file. I also had my associate, Samantha Sanders who handled the majority of the discovery in this case, to search the file and see if we had more than one set of Requests for Production. We do not. My firm only ever received the Requests for Production specific to the City of Sumter Police Department, and that is the document I emailed earlier and referenced below.

I have no reason to doubt Mr. McLaughlin's assertion that he served these two different sets of Requests for Production, but my office only received the one. Tomorrow I will be looking into the issue with the clients to try and figure out why that other set of Requests for Production were not sent to my firm.

I write to apologize to Mr. McLaughlin and to apologize for any confusion I may have created with my earlier email. I should have waited to speak with him before bringing this issue to the Court, but I was concerned the Order might get signed before that could be accomplished, and based on the records in my file I saw an issue I thought warranted attention. Based on the information he has now provided, I withdraw that concern and apologize for reacting quickly.

I would still like the opportunity to provide an alternative, *proposed* Order for the Court's consideration. While my concern about a misrepresentation by Plaintiff specific to Request for Production numbered 12 is withdrawn, the explanation I am providing that caused the confusion would appear to warrant less severe language in the Order, and there are other places in the Order where I have similar concerns regarding the severity of the language proposed that I would like the chance to address.

Thank you in advance.

Sincerely,

Daniel C. Plyler

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Smith Robinson Holler DuBose and Morgan, LLC

www.SmithRobinsonLaw.com

Daniel C. Plyler

Attorney at Law

E: daniel.plyler@smithrobinsonlaw.com **Columbia Office**
P: 803.254.5445 2530 Devine Street
C: 803.331.3328 Columbia, SC 29205
F: 803.254.5007

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From: Daniel Plyler

Sent: Wednesday, September 22, 2021 6:01 PM

To: Patrick@wukelalaw.com; 'Cothran, Ralph F. Jr., Law Clerk (Kimberly Land)' <rcothranlc@sccourts.org>

Cc: trichardson@wukelalaw.com; 'Mira Watson' <mwatson@wukelalaw.com>; Murrell Smith <murrell@smithrobinsonlaw.com>; Samantha Sanders <Samantha.Sanders@smithrobinsonlaw.com>

Subject: RE: 2021cp4300099; Andrews v. City of Sumter

Dear Judge Cothran:

I am still reviewing Plaintiff's proposed Order, and am working to provide a revised version for your consideration. During my review thus far, I have discovered something that is extremely concerning to me. At the hearing of this matter I represented to you that the City had objected to producing the personnel files requested without a confidentiality Order because the personnel files requested were for law enforcement officers and members of the City's Police Department. In the proposed Order, Plaintiff suggests that the Request for Production in question actually asked for production of personnel files for certain "City of Sumter/City of Sumter Police Department" employees. That representation and suggestion can be found on page 6 of the proposed Order. Here is a screenshot of same:

-RFP#12. Please provide a copy of any personnel files for any agent/employee of the City of Sumter/City of Sumter Police Department referenced at all in the complaint and/or in your discovery responses. Defendant is willing to produce the requested documentation but only after the entry of a mutually agreeable confidentiality order.

In oral argument to the Court, Defendants explained it is their standard practice not to produce the personnel files of police officers without a protective order/agreement.

Setting aside the fact that the Defendants also failed to produce copies of personnel files for the numerous agents/employees they identified who are not members of law enforcement, the standard practice of withholding discoverable information without a protective order has no basis in the rules. There are simply no employment-based exceptions to discovery contained within the South Carolina Rules of Civil Procedure.

What is concerning to me, Your Honor, is that the actual Request for Production in question, number 12, did not request any personnel files other than those for the City of Sumter Police Department employees. I have attached Plaintiff's Requests for Production that were served upon the Defendants hereto for your reference on this point. Furthermore, here is a screenshot from that document specifically showing Request for Production numbered 12:

12. Please provide a copy of any personnel files for any agent/employee of the City of Sumter Police Department referenced at all in the complaint and/or in your discovery responses.

There is much about the proposed Order that bothers me both professionally and personally as I believe it is NOT a fair and accurate portrayal of what has actually occurred throughout discovery in this case, and that it is drafted to purposely try and cast dispersions upon myself, my firm, and my clients that are wholly unwarranted. None is more blatant than the example I am currently including regarding Request for Production numbered 12. Plaintiff is trying to suggest to this Court and your Honor that I misrepresented information about our discovery response and our

request for confidentiality in open Court, when in actuality it is Plaintiff that is blatantly misrepresenting what was actually requested from Defendants versus what Plaintiff now seeks to have this Court compel produced in this case.

Again, I ask for time to review the proposed Order in detail, make requested revisions, and provide a proposed Order myself for your consideration.

Sorry to even have to bother you with this issue, but I take the matter very serious when it appears that someone is trying to suggest to the Court that I have somehow been less than honest.

Sincerely,

Daniel C. Plyler

SMITH ROBINSON

Forward thinking. Results driven.

Smith Robinson Holler DuBose and Morgan, LLC

www.SmithRobinsonLaw.com

Daniel C. Plyler

Attorney at Law

E: daniel.plyler@smithrobinsonlaw.com Columbia Office
P: 803.254.5445 2530 Devine Street
C: 803.331.3328 Columbia, SC 29205
F: 803.254.5007

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From: Patrick@wukelalaw.com <Patrick@wukelalaw.com>

Sent: Wednesday, September 22, 2021 2:08 PM

To: 'Cothran, Ralph F. Jr., Law Clerk (Kimberly Land)' <rcothranlc@sccourts.org>

Cc: Daniel Plyler <Daniel.Plyler@smithrobinsonlaw.com>; trichardson@wukelalaw.com; 'Mira Watson' <mwatson@wukelalaw.com>

Subject: RE: 2021cp4300099; Andrews v. City of Sumter

Kimberly:

Attached is the proposed order in word format.

Please let me know if you have an trouble accessing the file.

Thanks.

Patrick

From: Cothran, Ralph F. Jr., Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>

Sent: Wednesday, September 15, 2021 2:44 PM

To: Patrick@wukelalaw.com; 'Daniel Plyler' <Daniel.Plyler@smithrobinsonlaw.com>

Subject: RE: 2021cp4300099; Andrews v. City of Sumter

Thank you!

Kimberly Land

**Law Clerk for the
Honorable R. Ferrell Cothran, Jr.
3rd Judicial Circuit**
Phone: 803-435-2450
Clarendon County Court House
P.O. Box 32
3 West Keitt Street
Manning, South Carolina 29102

From: Patrick@wukelalaw.com <Patrick@wukelalaw.com>
Sent: Wednesday, September 15, 2021 2:32 PM
To: Cothran, Ralph F. Jr., Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>; 'Daniel Plyler' <Daniel.Plyler@smithrobinsonlaw.com>
Subject: RE: 2021cp4300099; Andrews v. City of Sumter

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

Kimberly:

I will email a word doc to you and Daniel once I get a chance to draft it and will not e-file anything unless/until I receive such instruction from you/Judge Cothran.

Thanks.

Patrick

From: Cothran, Ralph F. Jr., Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>
Sent: Wednesday, September 15, 2021 2:01 PM
To: Daniel Plyler <Daniel.Plyler@smithrobinsonlaw.com>
Cc: patrick@wukelalaw.com
Subject: RE: 2021cp4300099; Andrews v. City of Sumter

Good afternoon,

Mr. McLaughlin, Please email the proposed order first so it can be viewed by everyone.

Thank you,

Kimberly Land

**Law Clerk for the
Honorable R. Ferrell Cothran, Jr.
3rd Judicial Circuit**
Phone: 803-435-2450
Clarendon County Court House
P.O. Box 32
3 West Keitt Street
Manning, South Carolina 29102

From: Daniel Plyler <Daniel.Plyler@smithrobinsonlaw.com>
Sent: Tuesday, September 14, 2021 5:55 PM
To: Cothran, Ralph F. Jr., Law Clerk (Kimberly Land) <rcothranlc@sccourts.org>
Cc: patrick@wukelalaw.com
Subject: Re: 2021cp4300099; Andrews v. City of Sumter

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

I would request the opportunity to review the proposed order before it is submitted please.

Daniel C. Plyler

Sent from my iPhone

On Sep 14, 2021, at 5:11 PM, Cothran, Ralph F. Jr., Law Clerk (Kimberly Land) <rcothranlc@sccourts.org> wrote:

Good afternoon,

Judge Cothran has GRANTED you Motion to Compel. Please prepare a proposed order holding attorney's fees in abeyance and efile it with the Clerk of Court.

Please let me know if I can be of any other assistance.

Warm regards,

Kimberly Land
**Law Clerk for the
Honorable R. Ferrell Cothran, Jr.
3rd Judicial Circuit**
Phone: 803-435-2450
Clarendon County Court House
P.O. Box 32
3 West Keitt Street
Manning, South Carolina 29102

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**From:** [Daniel Plyler](#)  
**To:** [Patrick McLaughlin](#)  
**Cc:** [Taylor Richardson](#); [Myra Watson](#); [Murrell Smith](#); [Samantha Sanders](#)  
**Subject:** RE: 2021cp4300099; Andrews v. City of Sumter  
**Date:** Wednesday, September 22, 2021 8:25:30 PM  
**Attachments:** [2021-01-22 Ltr from McLaughlin serving Complaint and discovery, 1.pdf](#)

---

Patrick:

I have pulled our file and looked at all the documents we have been provided. We only have one set of RFPs, one set of INTs, and one set of RFAs. The attached PDF is exactly what my firm was provided. It is a cover letter from you, the three discovery requests I mentioned, and a Certificate of Service. Those documents are only addressed to the City of Sumter Police Department. I do not have a copy, and have never seen a copy until you emailed them to me at 7:28 pm this evening, of any discovery specific to the City of Sumter.

I have no idea how that happened, but I have no reason to doubt your service documentation. We were not “combining” our responses to avoid sending two sets of responses, we made the responses on behalf of both Defendants to the only set of discovery we had in our files.

I am going to look further into this tomorrow with the client, and see if they received this other set and just did not provide it to us, but I have looked and have had my associate Sam Sanders look and we do not have that other set in our files.

On a related note, I previously asked for a call from you about this case, and never received a response. While you mentioned in your argument at Court that this is not “personal” some of the arguments made have been received by me as personal. I always try to handle cases zealously, but not take them personal, and I appear to be failing in that regard in this particular case. As a result, I have asked my law partner, Murrell Smith, to take over handling this case and he has agreed to do so. Murrell will be making a notice of appearance in the next few days. I will continue to work to resolve these discovery disputes, but then will step aside and let Murrell handle the matter. Given that he is from Sumter, it seems like a good fit.

I will respond to my own email that I sent earlier, and alert all recipients to the issue you have raised. I will let them know that my office did not have a copy of two separate sets of discovery requests, and that we only had the set that mentions the Police Department, but that you have shared with me a second set that is addressed directly to the City, and that I have no reason to doubt your proof of service on the City of same. That said, since my firm was never provided a copy of those discovery requests, I was unaware of their existence.

I’ll let them know I apologize for any confusion, and for reacting so quickly, and that I should have waited to hear from you before responding.

I trust that will resolve any issue between us on the matter, but let me know if you believe otherwise.

Sincerely,

Daniel C. Plyler

E: daniel.plyler@smithrobinsonlaw.com Columbia Office  
P: 803.254.5445 2530 Devine Street  
C: 803.331.3328 Columbia, SC 29205  
F: 803.254.5007

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**From:** Patrick@wukelalaw.com <Patrick@wukelalaw.com>  
**Sent:** Wednesday, September 22, 2021 7:28 PM  
**To:** Daniel Plyler <Daniel.Plyler@smithrobinsonlaw.com>  
**Cc:** trichardson@wukelalaw.com; 'Mira Watson' <mwatson@wukelalaw.com>; Murrell Smith <murrell@smithrobinsonlaw.com>; Samantha Sanders <Samantha.Sanders@smithrobinsonlaw.com>  
**Subject:** RE: 2021cp4300099; Andrews v. City of Sumter

Daniel:

It would certainly not be unheard of for me to make a mistake. God knows I make plenty.

So I pulled out the file to make sure what discovery requests were served and what discovery responses were received.

As you can see from the attached requests for production and affidavits of service, the Plaintiff served requests for production on both the City and City of Sumter Police Department.

While you chose to combine some of your discovery responses, you only produced responses to requests for production under "City of Sumter."

Since the actual served requests show the Plaintiff requested production of the personnel files of agent/employees of **both**, I combined the two within the proposed order, **just as I had in the Rule 11 letter dated April 20, 2021**, which was exhibit 6 to the motion to compel.

As you are aware, we have received no personnel files of any city or city police agent/employee that has been identified, so I believe the proposed order to accurately reflect the requests that were made by the Plaintiff, the **only** response we have received from the Defendants and the way the deficiency was presented to the Defendants through the Rule 11 letter and to the Court through the inclusion of the Rule 11 letter as an exhibit to the motion.

I can only assume you did not realize that the Plaintiff had in fact requested both, the only response we had received was the one reflected in the order, and the Defendants had never produced any personnel files of any identified agent/employee of the City or City Police Dept.

Since you have already sent the below email to Judge Cothran on this issue, I will allow you the opportunity to inform the Court accordingly.

Thanks.



admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested present a genuine matter for trial may not, on that ground alone, object to the request; he may, subject to the provisions of Rule 37(c), deny the matter or set forth reasons why he cannot admit or deny it.

South Carolina courts recognize the importance of good faith when it comes to discovery. *See Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 473, 674 S.E.2d 154, 162 (2009) (defining “substantial need” under trade secrets act as, in part, a good faith basis that testimony based on or evidence derived from trade secret information will be admissible at trial); *Hundley v. Rite-Aid of South Carolina, Inc.*, 339 S.C. 285, 304, 529 S.E.2d 45, 55 (Ct. App. 2000) (in upholding discovery sanctions against a defendant while specifically finding defendant’s counsel acted in good faith in their attempt to comply with discovery); Rule 11 SCRCP (requiring an affirmation that all motions filed will contain an affirmation that the party has “attempted in good faith to resolve the matter contained in the motion”).

Often, in an effort to avoid having to respond to requests for admission, parties will seek to nitpick the language used in the request to absurd levels. To avoid such an absurd result, good faith has to include reason and common sense. To the extent there are any legitimate concerns about the definitions of words/terms used in the requests above, those concerns can easily be handled by qualifying a response to include the party’s own definition of a questioned term. *See McCoo v. Denny’s Inc.*, 192 F.R.D. 675, (D. Kan. 2000) (The party objecting to discovery as vague and ambiguous has the burden to show such vagueness or ambiguity. A party responding to discovery requests "should exercise reason and common sense to attribute ordinary definitions to terms and phrases utilized in interrogatories." If necessary to clarify its answers, the responding party may

include any reasonable definition of the term or phrase at issue).

“In reviewing the tenets of Rule 36(a), our courts have repeatedly found that failure to respond to requests for admissions deems matters contained therein admitted for trial, regardless of whether the admission concerns a matter responded to in a party’s pleadings.” Scott v. Greenville Hous. Auth., 353 S.C. 639, 646, 579, S.E.2d 151, 154-155 (Ct. App. 2003), citing Hatchell v. Jackson, 290 S.C. 256, 349 S.E.2d. 407 (Ct. App. 1986). In Scott, the South Carolina Court of Appeals explained that:

The purposes of the rule is to save time and limit the issues in the case.

The rules function is to define and limit the matters in controversy between the parties.

Through such definition and limitation, admissions promote both efficiency and economy in resolving disputes. If a point is conceded, litigants need not expend effort in investigations concerning it nor incur expense in presenting evidence to prove it. Judicial administration is also aided. Admissions reduce the time required to try a case. Indeed, they often make summary judgment possible. Finally, admissions encourage litigants to evaluate realistically the hazards of trial, and thus tend to promote settlements.

The rule is intended to expedite trial and to relieve the parties of the cost of proving facts that will not be disputed at trial, the truth of which is known to the parties or can be ascertained by reasonable inquiry.<sup>8A</sup> Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* §2552 (2d ed. 1994) (footnotes omitted); *see also Langer v. Monarch Life Ins. Co.*, 966 F.2d. 786, 803 (3d. Cir. 1992) (“Rule 36 serves two vital purposes, both of which are designed to reduce trial time. Admissions are sought, first to facilitate proof with respect to issues that cannot be eliminated from the case, and secondly, to narrow the issues by eliminating those that can be.”).

Some Federal courts have held that requests for admissions are not objectionable merely because they go to ultimate facts or other issues that must be proven by the plaintiff. *See, e.g., Cereghino v. Boeing Co.*, 873 F. Supp. 398, 403 (D. Or. 1994) (holding “a request for admission under Rule 36, and a resultant admission, are not improper merely because they...relate to an ‘ultimate fact,’ or prove dispositive of the entire case.”).

Scott at 649 - 650, 156.

Pursuant to Rule 37(c) of the South Carolina Rules of Civil Procedure, if a party fails to admit the genuineness of any document or the truth of any matter as requested under Rule 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the

matter, he may apply to the court for an order requiring the other party to pay him the reasonable expenses incurred in making that proof, including reasonable attorney's fees.

1. Admit that Allen Andrews never maliciously injured animals, personal property, i.e., S.C. Code §16-11-510.
2. Admit that Allen Andrews never maliciously injured tree, house or trespassed upon real property, i.e., S.C. Code §16-11-520.
3. Admit that Allen Andrews (personally and through his customers and vendors) had used the rear-entrance to his property continuously and uninterrupted for more than twenty (20) years.
4. Admit that Allen Andrews' use of the rear-entrance to his property was identifiable as a rear-entrance.
5. Admit that Allen Andrews' use of the rear-entrance of his property as referenced in the complaint was adverse under claim of right.
6. Admit that Allen Andrews had a legal right to access his property located at 203 S. Main Street, Sumter, South Carolina through the rear of the property.
7. Admit that the City of Sumter was aware of Andrews' use of the rear-entrance to his property prior to making offers to purchase Andrews' property.
8. Admit that the City of Sumter never complained to law enforcement that Andrews' use of the rear-entrance to his property was criminal and/or harmful conduct until after Andrews refused the City's offers to purchase his property.
9. Admit that the City of Sumter requested the City of Police Department investigate Andrews as a result of Andrews' refusal to sell his property to the City.
10. Admit that the City of Sumter had ex parte communications about Andrews and/or his case with Judge Blanding prior to Andrews' bond hearing.

11. Admit that the City of Sumter requested that Andrews agree not to pursue any civil claims in order to have the criminal charges against him dismissed.
12. Admit that Andrews' conduct did not damage the City's property on May 18, 2019.
13. Admit that there was never any repair work needed by the City for any damage alleged to have occurred on May 18, 2019 to the City's property.
14. Admit that the City has on several occasions prior to and after May 18, 2019, allowed vehicles to drive on and park on the same grass area that they alleged was damaged by Andrews driving a vehicle on it.
15. Admit that the City was aware an agreement had been reached to resolve the property dispute and dismiss the criminal charges for \$15,000.
16. Admit that the City decided to renege on the agreement to resolve the property dispute for \$15,000 and instead demanded \$20,000.
17. Admit that it is wrong to manufacture criminal charges to gain leverage in a property dispute.

Respectfully submitted by,

WUKELA LAW FIRM  
s/Patrick J. McLaughlin  
PATRICK J. MCLAUGHLIN  
S.C. Bar No.:73675  
P.O. Box 13057  
Florence, SC 29504-3057  
Telephone: 843-669-5634  
Facsimile: 843-669-5150  
Email: [patrick@wukelalaw.com](mailto:patrick@wukelalaw.com)

KENT LAW FIRM  
s/John L. Furse  
JOHN L. FURSE  
SC Bar No.:  
P.O. Box 117  
Manning, South Carolina 29102  
Phone: (843) 433-5368  
[jack@shaunkentlaw.com](mailto:jack@shaunkentlaw.com)

Florence, SC  
January 22, 2021

**RECEIVED**

**Apr 14 2025**

**SC Court of Appeals**

THE STATE OF SOUTH CAROLINA  
In The Court of Appeals

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APPEAL FROM SUMTER COUNTY  
Court of Common Pleas  
R. Ferrell Cothran, Jr., Circuit Court Judge

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Case No. 2021-CP-43-00099  
Appellate Case No. 2025-000630

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Robert Allen Andrews,..... Respondent,

v.

City of Sumter and Sumter Police Department,..... Appellants.

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**PROOF OF SERVICE**

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I, the undersigned paralegal of the law offices of Smith, Robinson, Holler, Dubose & Morgan, LLC, do hereby certify that on April 14, 2025, I have served all counsel in this action with a copy of the pleading(s) hereinbelow by emailing a copy to each attorney listed below using their primary email address listed in the Attorney Information System pursuant to Rule 262 of the South Carolina Appellate Court Rules and the April 24, 2024 Amended Order of the South Carolina Supreme Court.

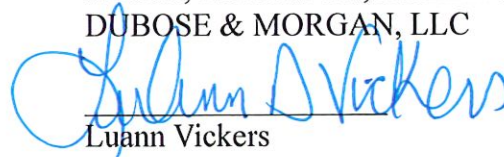
- Documents Served:** Return to Respondent’s Motion to Dismiss  
Exhibit A – Cover Letter and Service Package  
Exhibit B – Responses to Requests for Admissions  
Exhibit C – Email Correspondence  
Exhibit D – Requests for Admission to the City  
Proof of Service

**Counsel Served:** Stephen J. Wukela, SC Bar #68351  
Patrick J. McLaughlin, SC Bar #73675  
Post Office Box 13057  
Florence, South Carolina 29501  
(843) 669-5634  
stephen@wukelalaw.com  
patrick@wukelalaw.com

*Attorneys for Respondent*

Respectfully submitted,

SMITH, ROBINSON, HOLLER,  
DUBOSE & MORGAN, LLC



Luann Vickers

April 14, 2025  
Sumter, South Carolina