

STATE OF SOUTH CAROLINA

) IN THE COURT OF COMMON PLEAS

COUNTY OF HORRY

) FIFTEENTH JUDICIAL CIRCUIT

) CASE NO.: 2023-CP-26-02424

Mother Doe and Father Doe, Individually And )  
as the Parents and Natural Guardians of Jane )  
Doe, a minor, )

*Plaintiffs,* )

**ORDER GRANTING PLAINTIFF'S  
REQUEST FOR PROTECTIVE ORDER**

v. )

Palmetto Preschool & Learning Center, LLC, )

*Defendant.* )

**RECEIVED**  
**May 02 2025**  
**SC Court of Appeals**

THIS MATTER came before the Court on February 24, 2025, upon Plaintiff's Motion for Protective Order. THE COURT, having considered the Motion, the briefs in support of and in opposition to the Motion, the exhibits attached to the briefs, the arguments of counsel at the hearing, and the applicable law, concludes that the Motion should be GRANTED for the reasons set forth below.

**FACTS**

This case arises out of the alleged sexual assaults of Jane Doe, a minor child, while she was a student at Defendant Palmetto Preschool & Learning Center, LLC ("Palmetto Preschool"). Jane Doe is currently 11 years old. Mother and Father Doe enrolled Jane Doe in Defendant Palmetto Preschool's summer camp program in June 2020 and its remote learning program beginning in September 2020 when she was six years old. [Mother Doe Dep. 18:4-19:17, Nov. 15, 2024]. On or about August 27, 2020, Jane Doe told Mother Doe that another minor child enrolled at Defendant Palmetto Preschool sexually assaulted Jane Doe. [Mother Doe Dep. 23:22-24:5, Nov. 15, 2024].

Plaintiff's Complaint was filed on April 18, 2023. Plaintiffs are the parents of the minor Jane Doe. Notably, the minor Jane Doe is not a party to the case and has not been identified as a witness by the Plaintiff. Defendant Palmetto Preschool requested Jane Doe's deposition on September 18, 2024. Counsel for the parties discussed the request on October 1, 2024. Plaintiff asserted that Jane Doe would be subject to a particularized harm if the deposition took place.

Defendant offered accommodations as follows:

- (a) Working with Plaintiffs and their counsel to conduct the deposition in a place that is most comfortable and conducive for Jane Doe;
- (b) Agreeing to a reasonable time limit so as not to keep Jane Doe in her deposition any longer than necessary;
- (c) One or both of Jane Doe's parents being present for the deposition;
- (d) The counselor being present for the deposition if the parents choose;
- (e) Taking breaks necessary to accommodate Jane Doe's reasonable needs;
- (f) Allowing the option to suspend the deposition in the event of an emergency with the caveat that the parties can re-open the deposition at a later time if necessary; and
- (g) Allowing a remote deposition if this makes Jane Doe more comfortable.

(See Def.'s Mem. in Opp., 8-9)

Plaintiff asserted that Defendant had not met its burden in demonstrating that the deposition was necessary at this time and would not schedule the deposition. Thereafter, the instant motion was filed by the Plaintiff seeking a protective order.

### ANALYSIS

Plaintiffs seek a protective order pursuant to South Carolina Rule of Civil Procedure 26(c). For good cause shown, the Court, in its discretion, may issue a protective order to shield litigants from "annoyance, embarrassment, oppression, or undue burden by expense." Rule 26(c), SCRPC; *see also Keyes v. Lenoir Rhyne College*, 552 F.2d 579 (4th Cir. 1977) (explaining the

scope of a protective order lies within the discretion of the trial judge). A party requesting a protective order carries the initial burden of showing “a particularized harm which will be caused by allowing the discovery.” *Hollman v. Woolfson*, 384, S.C. 571, 578, 683 S.E.2d 495, 498 (2009). “If the person requesting a protective order shows a particularized harm which will be caused by allowing the discovery, the opposing party has the burden of showing the information sought is “relevant and necessary to the case.” *Id.* (citing *Laffitte v. Bridgestone Corp.*, 381 S.C. 460, 674 S.E.2d 154 (2009)). In determining whether a protective order is necessary, the trial judge must weigh the factors of whether the information sought is “relevant and necessary” against any particularized harm the opposing party may suffer. *Id.* In determining if the information is necessary, the party seeking the information must “demonstrate with specificity exactly how the lack of information will impair the presentation of the case on the merits to the point that an unjust result is a real, rather than merely possible, threat.” *Id.* The trial court must determine whether there are reasonable alternatives available to discover the information. *Id.*

As evidence of particularized harm, Plaintiff’s provided the Court with Ms. Myer’s affidavit in which she opined that Jane Doe would suffer a substantial likelihood of severe emotional trauma if she is deposed. “Client often internalizes situations and may feel that she has done something wrong if forced to relive this experience.” [Aff. Shavonne Myers, Nov. 6, 2024]. Furthermore, “this will likely cause her to regress and her negative behaviors that she presented with at the beginning of treatment may return. I feel that this experience will be detrimental to my client’s well-being.” *Id.* The Court finds Plaintiffs have shown particularized harm to Jane Doe if she were deposed. Therefore, Defendant Palmetto Preschool must show the information sought in the deposition is relevant and necessary to the case. *Hollman, supra.*

With regard to the relevance and necessity of Jane Doe's deposition, Defendant Palmetto Preschool argues that her testimony is "foundational" to the Plaintiff's claims that there were two incidents in the bathroom between "Defendant (sic) and another minor and that these incidents amounted to "sexual assault." In furtherance of this argument, Defendant Palmetto Preschool claimed there are no witnesses to the events, despite its 30(b)(6) witness Amber Rogers previously testifying that Ms. Annable walked in while the perpetrator's hands remained in Jane Doe's pants.

Defendant Palmetto Preschool further argued, "[a]ll of the other actions alleged by Plaintiffs, including Mother Doe's concerns with how Defendant handled the alleged abuse, depend on Jane Doe's allegations that she was abused." This argument is without merit. Plaintiff's allegations are premised upon Defendant Palmetto Preschool's actual or constructive knowledge of the risk posed by the perpetrator child and its alleged failure to protect her from the same. Defendant Palmetto Preschool has failed to establish how, without Jane Doe's testimony, the presentation of the case on the merits is so impaired that an unjust result is a real, rather than merely a possible, threat. *Hollman, supra*.

Plaintiff's counsel offered the deposition of Shavonne Myers, L.C.P. Ms. Myers, a licensed clinical psychologist, interviewed Jane Doe after the incidents. A deposition of Ms. Myers is a reasonable alternative to discover the information sought from Jane Doe. Further, representatives of Defendant have already interviewed Jane Doe. The notes and corresponding video do not appear to have been preserved. Therefore, if such information is unavailable the fault may rest with Defendant.

The Court has reviewed the applicable law, the legal briefs submitted by all parties, the exhibits to Plaintiff's Memorandum in Support of their Motion, and considered the arguments of

counsel. The Court finds that the issuance of a protective order is proper and necessary at this time as the Plaintiffs have met their burden regarding Jane Doe's particularized harm, and Defendant Palmetto Preschool has not met its burden in demonstrating the deposition is necessary or that there is no reasonable alternative to discover the information. Further, the offered accommodations are insufficient to avoid the particularized harm which would likely result from the deposition. Therefore, in its discretion, the Court concludes that Plaintiff's Motion for Protective Order is GRANTED.<sup>1</sup>

**AND IT IS SO ORDERED!**

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The Honorable Dale E. Van Slambrook  
Circuit Court Judge

March \_\_\_\_\_, 2025

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<sup>1</sup> All findings of fact and conclusions of law indicated in this Order are made for the purpose of ruling on this motion only.